LOHAN, Mr. DONOHUE, Mr. BOLAND, and Mr. BADILLO):

H. Res. 791. Resolution declaring the sense of the House with respect to a prohibition of extension of credit by the Export-Import Bank of the United States; to the Committee on Banking and Currency.

By Mr. ICHORD (for himself, Mr. BELL, Mr. BURLESON of Texas, Mr. WON PAT, Mr. CONLAN, Mr. COCHRAN, Mr. BYRON, Mr. TOWELL of Nevada, Mr. SHOUP, Mr. SYMMS, Mrs. COLLINS, of Illinois, Mrs. HOLT, Mr. GILMAN, Mr. YOUNG of Alaska, Mr. LEGGETT, Mr. MARTIN of North Carolina, Mr. COTTER, Mr. STEELE, Mr. FASCELL, Mr. THOMPSON of New Jersey, Mr. BLACKBURN, Mr. CRANE, and Mr. STEELMAN):

H. Res. 792. Resolution declaring the sense of the House with respect to a prohibition of extension of credit by the Export-Import Bank of the United States; to the Committee on Banking and Currency.

By Mr. TEAGUE:

H. Res. 793. Resolution to provide funds for the further expenses of the investigations and studies authorized by House Resolution 253; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

336. By the SPEAKER: A memorial of the House of Representatives of the Commonwealth of Massachusetts, relative to construction of the Lincoln-Dickey Dam in Maine; to the Committee on Appropriations.

337. Also memorial of the Legislature of the State of Oklahoma, relative to the shortage of hay baling wire; to the Committee on Banking and Currency.

338. Also, memorial of the Legislature of the State of Oklahoma, relative to the date for the observance of Veterans' Day; to the Committee on the Judiciary.

339. Also, memorial of the Legislature of the State of Oklahoma, relative to the interest and discount rate for Federal-State water development projects; to the Committee on Public Works.

SENATE—*Monday, January 28, 1974*

The Senate met at 12 o'clock noon and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

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

Our Father God, as we turn again to waiting tasks, give to all who labor in this Chamber the wisdom, humility, and charity sufficient for the day. Through the toiling hours, in tense and testing times, keep our hearts and minds attuned to Thy spirit. Strengthen our weakness, calm our anxieties, save us from cynicism. May faith in Thee allay all fear. When we have done faithfully the work Thou givest us to do, may we leave the result to Thy higher judgment, and take supreme satisfaction in having served the Nation to the utmost and moved forward Thy coming kingdom.

We pray in His name, who is Lord and Master. 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., January 28, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. ROBERT C. BYRD 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, January 24, 1974, be dispensed with.

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

ATTENDANCE OF SENATORS

Hon. JESSE HELMS, a Senator from the State of North Carolina, Hon. JOHN SPARKMAN, a Senator from the State of Alabama, Hon. THOMAS J. MCINTYRE, a Senator from the State of New Hampshire, Hon. JOHN V. TUNNEY, a Senator from the State of California, and Hon. HOWARD W. CANNON, a Senator from the State of Nevada, attended the session of the Senate today.

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, 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.

AMTRAK

Mr. MANSFIELD. Mr. President, ever since the advent of Amtrak and the significant reduction in passenger train service in many areas of the Nation, my able colleague, Senator LEE METCALF, and I have been attempting to convince Amtrak officials that they made a mistake in reducing service to a 3-day a week basis on the old Northern Pacific Railroad or the southern route. This route serves the most populous part of the State. The passenger demand is there and, in many cases, Amtrak has been unable to provide the service.

I am delighted to report that Amtrak has now agreed with Senator METCALF and me and that effective May 19 of this year they will begin daily rail passenger service on the southern Montana route. What happens after the summer season will depend on patronage during this period. There is no question in my mind that this passenger service will be utilized to the fullest if the service is provided in an efficient and competent manner.

Mr. President, I ask unanimous consent to have printed at this point in my remarks a letter from Senator METCALF and me and one from Amtrak responding to it.

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

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, D.C., November 21, 1973.

Mr. ROGER LEWIS,
President, Amtrak,
Washington, D.C.

DEAR MR. LEWIS: We are informed that the Amtrak passenger trains serving the southern route in Montana are booked to capacity during the coming Christmas holidays. Advance reservations promise that travel will be heavier this year than last. We would be grateful if you would immediately investigate the situation and advise what steps Amtrak contemplates to secure additional cars to meet the expected demand.

Additionally, we feel it is particularly appropriate again to raise the issue of expanding the present three-day service to a seven-day service. Passenger ridership has been on the increase and will no doubt continue to expand as travelers seek alternatives to the private automobile. Would it not be wise to begin planning for an expansion of rail service that will surely be necessary in this time of gasoline shortages?

Your early response will be appreciated.

Very truly yours,

MIKE MANSFIELD,
LEE METCALF,
U.S. Senate.

AMTRAK,
January 18, 1974.

HON. MIKE MANSFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MANSFIELD: Thank you for your letter of November 21, 1973, to Mr. Roger Lewis, which you sent jointly with Senator Lee Metcalf expressing your interest in seeing additional equipment operated through the Christmas holiday period on the Hiawatha trains and requesting that Amtrak take another look at the question of daily passenger service on the southern Montana route.

Early in December 1973, your office was provided an outline of the additional equipment that would be operated on both the northern and southern Montana trains through the past holiday period. In the meantime Amtrak had been continuing to examine the feasibility of daily rail passenger service on the southern Montana route. Effective May 19, 1974, Amtrak will begin daily service from Chicago to Seattle on the North Coast Hiawatha route. This service will be operated on a trial basis through the summer, but

as Amtrak has seen in the past, when given an opportunity to use an attractive rail passenger service the people of Montana have responded.

Kindest regards,
Sincerely,

ROBERT C. MOOT,
Vice President, Government Affairs.

Mr. MANSFIELD. Mr. President, In addition, I wish to take this opportunity to compliment the Interstate Commerce Commission for the order issued at the end of 1973 ordering Amtrak and the other railroad passenger trains to upgrade their equipment, services, reservations, and timetables comparable to that now available from the commercial airlines. I agree that there is no reason that these same services cannot be offered by our Nation's railroads; it may take a little more effort and a little more dedication.

CAMBODIANS CAN MANAGE THEIR OWN AFFAIRS

Mr. MANSFIELD. Mr. President, in the week prior to the opening of the 2d session of the 93d Congress, I received a cablegram from Prince Norodom Sihanouk, Chief of State of the Kingdom of Cambodia and President of the United National Front of Cambodia. A second cablegram was received under date of January 21. Copies of these cablegrams have been forwarded to President Richard M. Nixon and Secretary of State Henry Kissinger.

The Prince states in the course of his first telegram that

The Cambodians . . . be left to manage their own affairs.

The second cablegram states,

The current regime in Phnom Penh survives by the will of the United States and not by the will of the Khmer people.

The situation in Cambodia today is a tragedy involving innocent people who have had and have no interest in the war which has been waged for the past several years. What we are witnessing is a civil war in which Khmers kill Khmers. A war which is totally unnecessary. A war which the Cambodians, themselves, could and should bring to a conclusion. And a war in which all outside assistance from all countries should be refused until this struggle is brought to an end.

There is a deep desire on the part of Prince Norodom Sihanouk to once again establish friendly relations with the United States, despite all that has happened, and it would be my strong belief that the best thing this Nation could do would be to allow the Cambodian people, themselves, to settle their own differences, plan their own future and be allowed to live in peace. We have no business in Southeast Asia and the best thing that we could do would be to withdraw completely from that area, including our 35,000 personnel and 250 planes in Thailand, and allow the nations therein to work out their own future in their own way, and on the terms of their own people.

Mr. President, I ask unanimous consent that the texts of the rough translations of the cablegrams be incorporated at this point in the RECORD.

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

FIRST CABLEGRAM TRANSLATION

Senator MANSFIELD,
Senator FULBRIGHT,

Respected Senators, permit me to reveal to you what the Government of Lon Nol in Phnom Penh is going to ask next of the U.S. Government. It will ask for re-intervention in the affairs of Cambodia with U.S. tactical and strategic air power under the false pretext that the offensive now underway on the part of the armies of the Cambodian National Front of which I am the President is "an aggression of North Vietnamese Communists and the Viet Cong." I have the honor to affirm to you with complete sincerity and loyalty that the armed offensive against the armies of the Phnom Penh regime is purely a Cambodian affair and operation in which the North Vietnamese and the South Vietnamese National Liberation Front have absolutely no part.

The American correspondents who have followed the military situation on the spot in Cambodia have ignored the orders of the Lon Nol Government which insist that they describe, in their cables, that the current offensive as well as the entire war in Cambodia is the work of North Vietnam. The UPI and AP cables have made no mention since 1973 of North Vietnamese and Viet Cong. Since 1973 the UPI and AP have spoken only of the Khmer Rouge and of the Cambodian insurgents who do not accept the anti-constitutional, anti-national and anti-popular regime of Lon Nol. Respected Senators, as you have both stated so many times, the United States ought not to become reinvolved in the war in Cambodia and the Cambodian problem ought to be left entirely to the Cambodians.

The United States has already given a maximum chance of survival to the regime of its well-loved proteges, Lon Nol, Sirik Matak, Cheng-Heng, Longboret, Sosthene-Fernandez, in granting this year $370-million of military aid and about $250 million of economic aid. The level of aid is colossal and without precedent in the history of aid grants of great powers to small countries.

More recently, that is to say, since January 4, 1974, the new government in Phnom Penh of which Mr. Longboret is Prime Minister has affirmed to the entire world, through the Minister of Information, Mr. Thinh Hoanh, that "the government of the Khmer Republic does not envisage asking for a new intervention by the U.S. Air Force even if the situation continues to deteriorate. We have sufficient means to defend ourselves and we can also count on the people."

Respected Senators, you know that even if the U.S. Air Force intervenes again in Cambodia the United States can never force the Cambodian people or their FUNU, their GRUNC, their FAPLNC and their legal chief of state, Nordom S. Sihanouk to their knees.

A new intervention of the United States Air Force can only bring about the two following terrible results: First, the horrible suffering and irreparable devastation of poor little Cambodia and her population which does not deserve to be inflicted in this fashion by a great nation; second, the gulf between the Cambodian people and the American people will become so large and so deep that it will never again be able to be bridged. The future relations between the people of our two countries will be irreparably compromised.

In conclusion, I solicit, through you, the intersession of the Congress and the Government of the United States, to the end that the Cambodians will be left to manage their own affairs, and the U.S. Air Force will not again be sent to Cambodia to destroy our poor little country and kill our people and the Cambodian patriots. Please, accept, Senators, my thanks and my highest esteem.

NORODOM SIHANOUK,
Chief of State of the Kingdom of Cambodia and President of the United National Front of Cambodia.

SECOND CABLEGRAM TRANSLATION

Addressed to:
Senator MANSFIELD and
Senator FULBRIGHT

Esteemed Senators: Permit me to present for your information and for that of the Congress of the United States the public position taken recently by the students of Phnom Penh. It is set forth in an Agence France Presse dispatch from Phnom Penh. Here are the principal passages of the dispatch, citing the virulent communique issued by the students at the Faculty of Letters of Phnom Penh on Wednesday. With this Communique, the students broke the prudent silence which they had observed with regard to the Khmer political situation. They go far beyond the position expressed Saturday by a respected Cambodian, M. Son Sann. The latter had demanded the voluntary departure of Marshal Lon Nol in order to accelerate the process of negotiation with the other side. In their communique, the association of students emphasized:

"If one wishes the people to gain . . . one ought not to demand the departure of a minor and insignificant individual. What is necessary is the departure of the fistfull of men who caused the misery of the people . . . the departure of the entire institutional arsenal and the suffocating political administration which stands only by the grace of the aid of ignoble strangers."

The association, which represents the majority of some two thousand students in Letters, expressed the judgment in the communique that the Cambodian conflict is "a civil war juxtaposing, on one side, the armed peasants and, on the other, the prilliveged minorities allied with well-known vultures." The communique affirms that "to throw out oppression, there is no other way except radical struggle."

Thus, Senators, you see, that the students of Phnom Penh, who but a short time ago flattered the Phnom Penh Republic, condemns it today unequivocally, confirming thereby all that I have had the honor to bring to your attention: First; that the group of Lon Nol, Sirik Matak, In Tan, Cheng Heng, Long Boret, whom President Nixon is maintaining in power at all costs is seen to be rejected by Khmer patriots, even those who do not belong to FUNC. Second, the current regime in Phnom Penh survives by the will of the United States and not by the will of the Khmer people. Third, the armed struggle conducted by FUNC against that government is solely the work of the Khmer people and, in particular, of the Khmer peasants. I hope that one day in the near future, President Nixon will see fit to end his aid to this regime of Cambodian traitors and will choose soon to become the friend of the FUNC and the GRUNC which are the incarnation of the real Cambodia.

Highest esteem,

NORODOM SIHANOUK *of Cambodia.*

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the assistant Republican leader wish to be recognized at this time?

Mr. GRIFFIN. No, Mr. President.

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

LEGAL SERVICES DEBATE

Mr. BIDEN. Mr. President, although the Senate had substantial debate last month on the legal services bill, it was not able to enact any legislation because of a filibuster which prevented the mat-

ter from coming to a vote. I am hopeful that the Senate will overcome this obstacle shortly. Final enactment of this reform measure is urgently needed.

Surely there can be no disagreement as to the purposes of this legislation: To provide equal access to our system of justice by providing quality legal assistance to those unable to afford adequate legal counsel. As a lawyer, I am deeply committed to the American system which entrusts our basic values to the rule of law. It, therefore, follows that if this Nation is to work out all problems in accordance with those laws, which, as a legislator, I hope will represent sane and rational policies, I feel that it is equally a part of our duty to provide the means for all our citizens to participate in that system.

I am already on record in support of S. 2686 because I feel it represents a workable compromise that will provide much-needed legal aid to the economically disadvantaged, but at the same time establish some guidelines for the operation of local legal aid programs and their staffs. Since opposition to the present legislation, as I understand it, centered mainly on criticisms of specific past programs, during the recess I inquired into the Delaware experience to try and evaluate the proposed program in terms of our local situation and in order to reaffirm my support for this legislation.

In Delaware, legal assistance to the poor is provided by the community legal aid society. Our program is now statewide and serves some 4,000 clients per year, at a cost of less than $70 per client. The legal aid program has received the strong support of all elements of the organized bar, of county government in each county in the State, and the State itself.

The work of the Community Legal Aid Society has helped to resolve community as well as individual problems. At present, the society is representing a residents association, as well as many individual residents of substandard housing.

These clients are living in inadequate rural dwellings that are structurally unsafe, lacking in adequate sanitary facilities, or hazardous because of unsafe heating arrangements. The society, together with the Sussex County Community Action Agency, is working with the Farmers Home Administration to obtain low-interest loans for its clients. These loans will enable them to bring their homes up to decent and sanitary standards. At least, we hope and believe it can be done.

Also, during the last year, several cases were handled involving involuntary commitment to State mental institutions and juvenile commitment to State homes.

In one case, a habeas corpus petition was filed on behalf of an individual who was committed to the Delaware State Hospital without counsel, apparently because of a representation by counsel representing the other spouse that the client had expressed suicidal wishes and the court's opinion that the individual could not rationally present her case. In deciding the petition, the superior court ruled that although a court had the right to make an emergency commitment based on conduct before it, in such a situation counsel must be appointed immediately. The court then assigned the staff attorney for Legal Aid who had been handling the case to represent the client and ordered her release unless the family court held a hearing by a specific date. Counsel immediately filed an application for the appointment of an independent psychiatrist, which application was granted, and at the hearing date the client was released.

I cite this and the other examples I am about to indicate to point out that there are regular every day affairs that involve life and death situations for the poor in which they would be unable to gain such representation were it not for the Legal Aid Society.

Far-reaching issues in the juvenile area are also being handled by Legal Aid. Cases have raised such questions as whether commitment to a juvenile home in the absence of counsel and over the objection of the parent is permissable, or whether commitment without counsel upon the complaint of the parent that the child is uncontrollable raises questions of conflict of interest between parent and child and whether or not the parent may waive the juvenile's constitutional rights.

Of crucial value to the individual was a lawsuit recently settled arising from the breakup of a common-law marriage. The client, having held herself out as legally married, incurred debts and purchased a house in joint names, had a child with her common-law husband, and when the relationship terminated, the client was forcefully evicted from the house. Issues ranging from custody, visitation, and support, to partition of real property, and dividing of personal property were successfully negotiated by the Legal Aid attorney so that the parties were able to resolve their difficulties.

Again, were it not for the Legal Aid Society, this would not have been able to have been done. Someone, most assuredly, would have had his or her rights violated because of not knowing what the rights in fact were.

These cases are typical of the work performed by Legal Services lawyers all around the country. As a recent report from the General Accounting Office made clear, the great bulk of casework by these lawyers involves legal problems arising from housing, domestic relations, employment, and consumer grievances. The typical client is not a young revolutionary, seeking protection for the obscenities he prints in an underground paper. The typical client is an old man, barely literate, about to be evicted from his home.

While specific cases of abuse in the Legal Services program may be found, the program itself is clearly essential. As President Nixon himself reminded us last summer, in another context—

It would be a tragedy if we allowed the mistakes of a few to obscure the virtues of most.

Obviously, he was not referring to the legal aid program, but I think the same rule should be applied with regard to legal aid.

The Legal Services program involves 2,500 lawyers in 900 neighborhood law offices. Chief Justice Burger recognized that "this program attracts young, idealistic lawyers, and sometimes they have more zeal and adrenalin than judgment and skill." But I cannot imagine that this fact could be used to defeat the fundamental right to counsel of so many poor people in this Nation.

Both to the society as a whole, and the individuals concerned, the services performed by Legal Aid are worthwhile far beyond the costs involved. The support which S. 2686 would provide such organizations is essential. I urge my colleagues to invoke cloture on this debate and to enact legislation to allow for the continued operation of Legal Services programs. We should not become mired in a debate as to whether or not, on one particular date, in one particular county, a young revolutionary was in fact represented by the Legal Aid Society, or whether or not any legal aid money was spent representing some young person who wanted to exercise his or her right to use an obscenity in an underground paper.

I think we cannot lose our perspective here. We should address ourselves to the fundamental question of whether or not we, as a society, are going to provide the mechanism by which the poor and the disadvantaged can take advantage of the rule of law to which we pay so much lipservice.

MESSAGES FROM THE PRESIDENT

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

THE AMERICAN VETERAN TODAY—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. HASKELL) laid before the Senate the following message from the President of the United States which was referred to the Committee on Veterans' Affairs. The message is as follows:

To the Congress of the United States:

Yesterday, January 27, 1974, marked the first anniversary of the date on which the United States troops ended hostile action against the enemy in Vietnam and began the long-sought disengagement from the longest war in our Nation's history.

It is particularly fitting that today, a year later, we should focus our attention on what has been done—and what remains to be done—to repay the debt America owes to those who served.

There are twenty-nine million living American veterans today—men and women who have given military service to their country. Nearly 7 million of them are Vietnam-era veterans. We owe these men and women our best effort in providing them with the benefits that their service has earned them. Accordingly I will request $13.6 billion in spending for veterans' benefits and services in my new budget, an increase of $5.9 billion over the comparable 1969 request.

THE AMERICAN VETERAN TODAY

On the whole, the situation of the American veteran today is a good one.

The average veteran has a higher income, more education, and better health than non-veterans of the same age. He or she is a vital, productive member of the civilian community—a national asset in peace as well as in war.

The years since 1969 have marked important progress for the American veteran. Between 1969 and 1975, outlays for veteran pension programs will have increased from $2.2 billion to $2.9 billion, covering 2.4 million beneficiaries, while compensation for service-connected disabilities or death will have increased from $2.7 billion to $3.9 billion. The benefits we pay to our veterans should continue to reflect the generous appreciation of the American people.

Since 1969, 4.1 million veterans have financed their educations under the GI bill. Of those, 2.7 million are Vietnam-era veterans. The rate at which Vietnam-era veterans have participated in the GI bill training exceeds that of any previous GI bill. At the same time, the number of veterans assisted through guaranteed mortgage loans has increased by 46 percent.

In the last year alone, it was my pleasure to sign into law two major measures benefitting veterans and their dependents. The final form of both pieces of legislation was the result of close cooperation between the legislative and executive branches, and I wish to take this opportunity to repeat my thanks to the Congressional leaders and committee members who helped us arrive at the desired results.

The Veterans Health Care Expansion Act of 1973 was a landmark measure. It provides major improvements in and expansion of medical and nursing care for veterans and extends treatment benefits to certain dependents of veterans.

The National Cemeteries Act of 1973 consolidated the bulk of veterans cemeteries and set up a National Cemetery System within the Veterans Administration and improved related benefits and services. Based on a study authorized by the act, I intend to submit further proposals for improving the cemetery system.

Improved veteran health care has also taken the form of greater flexibility in treatment and more numerous treatment facilities as evidenced by:

—16 new outpatient clinics and 663 new specialized medical services;

—Strengthened affiliation of 106 VA hospitals with 89 medical schools; and

—Consolidation of medical regions and the strengthening of regional management to provide faster responses to problems at individual hospitals.

A vigorous program of modernization and construction has also played an important part in improving veterans health care. Ten new or replacement hospitals have already been established and five more replacement hospitals are being designed or are under construction. In the period 1970–75 the ratio of staff to patients in VA hospitals will have been increased by over 30 percent. We have added over 25,000 full time personnel to the medical departments of the veterans hospitals since 1969, and my budget proposals for fiscal year 1975 will provide for an additional 7,600 medical personnel.

Veterans Administration hospital construction funding in fiscal 1975 will reach an all-time high of $276 million and, when these funds are brought to bear, the VA will be in the midst of its greatest program of hospital construction in history.

As I look forward to proposing my National Health Insurance plan—to make more and better health care available to all Americans—it will be more than ever important to take the VA's health care system into consideration. It is my strong view that it should continue as a system, under VA, to insure the proper care of eligible veterans. The Veterans Administration now operates the largest civilian medical care system in the world. It is only fitting that it remain one of the best.

NEW INITIATIVES TO PROVIDE FOR OUR VETERANS

Two important Administration initiatives in veterans affairs should receive the attention of the Congress in its coming session.

(1) PENSION REFINEMENTS TO HELP THE NEEDIEST

In the field of pensions, Administration proposals will benefit one million veterans and 1.3 million survivors of veterans in economic need due to age, disability or loss of a breadwinner. Although VA pensions have been increased by 27 percent since 1969, some of the most needy are least provided for under the current structure. Many needy veterans and their wives receive less money from the pension system than they would from welfare and no automatic adjustment is provided for increases in the cost of living. There are other inequities as well.

As I mentioned in my message to the Congress on national legislative goals on September 10, 1973, refinement of the Veterans Administration pension program is necessary. The program has so many problems that it cannot be corrected unless the entire framework of the program is restructured.

I regard the following principles as vital to a realistic and equitable VA pension program, and I will propose legislation to achieve these goals:

—VA pensioners should have some regularized way of receiving cost-of-living adjustments in VA pension payments tied to the automatic increases now available to social security recipients.

—The VA pension program should be structured to assure that additional income flows to the neediest pensioners. This objective would involve raising VA payments to those pensioners who receive less total income than adult welfare recipients under recent amendments to the Social Security Act. In addition, a family's total income should be considered in determining the amount of pension needed.

—Veterans and widows should be treated equally with regard to income and pension payments.

(2) INCREASE IN EDUCATION BENEFITS

The cost of living is also a problem for those veterans now taking advantage of the GI bill to further their training or education. They need additional help if their allowances are to keep pace with inflation. There are 2.1 million current beneficiaries of the GI bill, most of them Vietnam-era veterans. Payments to each trainee have increased sharply—by 1975 they will be more than double the level of 1969. To help meet the rising cost of living, my budget will request an additional $200 million to provide an 8 percent increase in education benefits in 1975.

INCREASING PRIVATE EMPLOYMENT OF VETERANS

No group of veterans is more in the minds and hearts of Americans today than those who have recently returned from Vietnam and our Nation's longest war. Beyond the readjustment problems faced by veterans of past wars, this Administration has recognized that the Vietnam-era veteran faces special challenges in re-entering a highly complex and competitive civilian society. We have done our best to help him meet those challenges.

Of particular importance have been our efforts in the field of employment. In 1970, for example, more than a million veterans left the Armed Services and entered the civilian economy. By October of that year, the unemployment rate for Vietnam-era veterans had grown very serious. This led to the launching of the Administration's job placement efforts which have so far helped 2.2 million returning veterans to find jobs. The unemployment rate for Vietnam-era veterans, which once far exceeded that of the general public, was reduced from a high of 11 percent in early 1971 to 4.4 percent by the end of 1973. Both Government and the private sector—through Jobs for Veterans and the National Alliance of Businessmen—played a part in this remarkable success story. We intend to continue these efforts. In fiscal year 1974 our goal is to place 1.2 million additional veterans in jobs or training programs.

PAYING TRIBUTE TO ALL AMERICAN VETERANS

The tangible benefits extended to our veterans such as medical assistance, education grants and pensions are only one of the ways that America should repay her debts to the men and women who have served her well. We should also accord them a high degree of respect and appreciation in our everyday contacts with them. And we should set aside certain days each year to commemorate their heroic deeds.

In 1974, there should be at least two occasions on which we pay special honor to those who have served in the Vietnam conflict.

One such commemoration was held yesterday, January 27, the first anniversary of the Vietnam ceasefire. I officially proclaimed that day as National MIA Awareness Day. There are still 1,300 Americans missing and unaccounted for in Southeast Asia, and there are more than 1,100 American casualties whose bodies have never been recovered. Their experiences, as well as those of their relatives and loved ones, have been a wrenching sacrifice that deserves special recognition. That is why we set aside a special day dedicated to these Americans and to their families.

In honoring the missing and fallen in

the Vietnam conflict, we should also remember the countless others who served and survived that war. Last month I was pleased to sign into law a joint resolution of the Congress authorizing me to proclaim March 29th of this year as "Vietnam Veterans Day". It is appropriate that we choose that date—the first anniversary of the return of all of our POWs—as an occasion to honor all of the veterans of the Vietnam era.

We will honor those Vietnam veterans once again later in the year on Veterans Day itself, an observance which gives us the opportunity to pay tribute not only to the seven million who served during the Vietnam era but also to the 22 million other men and women who have proudly worn the American uniform in years before.

For most Americans, Veterans Day is traditionally associated with November 11th of each year. That was the day more than half a century ago when an historic and dramatic ceasefire was achieved in the First World War.

Legislation approved in 1968, however, changed the traditional observance of Veterans Day from November 11 to the fourth Monday of each October. That change, while well intended, has stirred up considerable confusion and not a small amount of resentment. In many places—including the Tomb of the Unknowns in Arlington National Cemetery—there are now dual observances of Veterans Day, while in others, observances are held not in October but on November 11.

Thirty-one State legislatures have now enacted resolutions declaring that within their jurisdictions November 11th will be officially observed as "Veterans Day." In addition, all of the major veterans organizations have indicated their strong support for returning to the November 11th observance.

In view of the confusion which has arisen and in view especially of the position taken by the veterans themselves, I believe it would be wise to repeal the 1968 change in the Veterans Day observance. I therefore urge the 93d Congress, as part of its effort to honor our veterans, to enact legislation restoring November 11th as the official date for the entire Nation to commemorate Veterans Day.

As we celebrate Veterans Day this year, let us do so with the hope that the 29 million Americans who have served in our Armed Forces represent our last generation of veterans and the last of America's wars. May we never forget that we will only be worthy of the blessings of peace and freedom they have won for us for as long as we continue to honor them, and may we do everything we can to repay our boundless debt to them.

RICHARD NIXON.

THE WHITE HOUSE, *January 28, 1974.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. HASKELL) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

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

INTERNATIONAL CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

Mr. WILLIAM L. SCOTT. Mr. President, I take this time to discuss the genocide treaty scheduled to come before us later today. Certainly, I can understand the leadership feeling an obligation to schedule the treaty for consideration after it has been on the calendar for several months. Yet, Mr. President, the treaty has not been ratified even though it was agreed to in the United Nations more than two decades ago. Frankly, I do not believe the necessary two-thirds vote of the Senate will be obtained, and I doubt the wisdom of letting it take up the time of the Senate when we have important national business to consider.

This Nation prides itself on due process; notice and an opportunity to be heard; a trial before a jury of one's peers; presumption of innocence until proven guilty. It seems contrary to the American system of justice for one to be subject to trial before an international tribunal outside the territorial limits of this Nation. Yet, article VI of the treaty permits trial "by such international penal tribunal as may have jurisdiction."

Every Member of the Senate is opposed to any effort to exterminate any national, ethnic, racial, or religious group—but this treaty refers to causing mental harm to them. There is some vagueness in this. It refers to the physical destruction in "whole or in part" of members of the group. Would this include murder of an individual? Would that be an international crime rather than a domestic one? Would it include mental harassment? Among the punishable acts are "direct and public incitement to commit genocide." Would this conflict with the constitutional guarantee of freedom of speech or freedom of the press?

Mr. President, this treaty is effective in time of war or peace; the acts are punishable at home or abroad; persons accused are subject to extradition. It is a very vague treaty. Article II refers to preventing births and forcibly transferring children from one group to another. Does this include birth control measures? Does it include the busing of children to obtain racial balance? During World War II, if a soldier had said, "We will have to kill all of the Japanese on this island, or they will kill us," would that have been public incitement to commit genocide under article III? This is a proposal that is subject to a multitude of interpretations and should be defeated for that reason alone.

As you know, Mr. President, vagueness is a serious violation of one of the most important premises of our American legal system; that a person must know with certainty that his actions fall within legal prohibitions as being criminal acts. Another example of the rampant vagueness throughout the treaty is found in article II subparagraph (C) which defines genocide as being or "inflicting conditions of life calculated to bring about its physical destruction." No attempt is made in the convention itself or in the report of the Foreign Relations Committee to define or give by example the meaning of what is meant by the words "conditions of life calculated to bring about its physical destruction." It appears to me that this vague language used throughout the treaty would lead to a myriad of charges being brought by disenchanted groups interested in embarrassing the American Government.

This treaty would make the specified acts international crimes punishable by imprisonment or fines or both. As a result of ratification the treaty would become a criminal law enforceable in this country and beyond its boundaries. It is required in our country that criminal statutes be strictly construed and any ambiguity be resolved in favor of the defendant. There is no doubt in my mind that a criminal law enacted by a legislature in this country containing similar language as found in the Genocide Convention would be declared invalid because of its vagueness.

I believe this treaty would be an infringement upon the basic constitutional right of our citizens to be put on notice of what activity is a crime and what activity is not. It is said that a treaty cannot be valid if it infringes upon the Constitution, that there are limits, therefore, to the treatymaking power, and that one such limit is that what an act of Congress could not do unaided, in derogation of the power of the Constitution, a treaty cannot do. It is apparent to me that this treaty if approved would be a serious derogation of a constitutional right. There is American case law to support this position: *United States* v. *Samples*, D.C. Mo., 258 F. 479 and *Missouri* v. *Holland*, 252 U.S. 416 where the right of the courts to invalidate a treaty in a proper case has been apparently recognized.

It is interesting to note that the American Bar Association has refused to support the treaty. It is doubtful whether a person tried before an international tribunal envisioned in the treaty would be accorded all the constitutional safeguards which are guaranteed to a person charged with domestic crimes in the United States. The genocide convention does not, moreover, indicate the penalties or punishments which will be applied to those who commit the various crimes.

Our ratification of the treaty would have no binding force on other nations and could not effectively prevent potential genocide in another national state. The Genocide Convention in this sense, although an international agreement in form, does not really deal with an international problem. The treaty attempts to make uniform domestic criminal laws for all parties to it. International agreements are not, however, the proper means for the American people to regulate their internal affairs. We have clearly established constitutional processes by which our Federal and State legislative bodies enact laws to regulate our domestic affairs.

Mr. President, there was an interesting article a few days ago in the Wall Street Journal which comments on various aspects of this treaty and undoubtedly would be of interest to other Senators.

Therefore, I ask unanimous consent that it be inserted in the RECORD at this point.

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

SENATE IS DUE TO VOTE ON A TREATY SOON—ONE SUBMITTED IN 1949

(By Arlen J. Large)

WASHINGTON.—Anyone dialing LI 3-1776 here the other day could hear a voice warning of a treaty being "pushed by *aliens* to help destroy our American culture and serve the devious ends of hostile forces carefully planted in our midst!"

The tape-recorded message was from the right-wing Liberty Lobby. The subject was one of Washington's more ancient controversies: ratification of the Genocide Convention, or treaty, first submitted to the Senate by President Truman in 1949 and since endorsed by Presidents Kennedy, Johnson and Nixon.

Now, after 25 years of fitful legal argument, the question of ratification finally is headed for its first Senate vote in the next week or two. Proponents say they have a good chance to get the required two-thirds majority, making the treaty against the international crime of genocide part of U.S. law.

A meaningless law, some say. And in the fine old tradition of acrimony surrounding the treaty, others say a "subversive" pact.

In theory, the federal government could then jail anybody who commits acts "with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such." But the theory hasn't been applied anywhere in the world. Nobody in the 75 nations that already are parties to the treaty has yet been prosecuted for genocide.

HEAVY SYMBOLISM

What gets people stirred up about the treaty is its heavy symbolism, producing reactions that are, perhaps, more interesting than the treaty itself. Involved are attitudes about the United Nations, atrocities against Jews by Hitler, racial sensitivities and all those aliens with "foreign ideologies."

Stirred up on moral grounds are treaty proponents who have little real expectation that it will lead to jailing genocidists. "Even the most ardent advocates of the Genocide Convention have over the years conceded it might be difficult to enforce, but it carries great moral significance around the world," says Hyman Bookbinder, head of the American Jewish Committee's Washington office.

Stirred up in a structured, senatorial way is William Proxmire of Wisconsin, who has made the treaty's ratification one of his many pet crusades. From 1967 on, Sen. Proxmire has been putting a pro-ratification speech into the Congressional Record every day the Senate is in session. Usually the speech is just handed to a clerk instead of being declaimed on the floor; nonetheless, it's the longest-running daily series of insertions in the record in the memory of Capitol oldtimers.

"The problem is to avoid being reptitious," says one of the several Proxmire aides given the rotating job of comprising the daily essay.

The search for usable genocide material has driven the Proxmire authors back to deploring "the butchery by the Assyrian armies, the utter destruction of Cartharginian people by the Romans, the pillaging of the hordes of Attila and of Genghis Khan."

Sometimes Sen. Proxmire dwells on a main affirmative argument for U.S. adherence to the treaty: the added leverage it supposedly would give American diplomats objecting to cruel treatment of people elsewhere in the world. U.S. behind-the-scenes pressure to halt tribal warfare in the African country of Burundi last year was "ineffectual," perhaps because foreigners "detect an element of hypocrisy" in this nation's refusal to ratify the genocide treaty, one Proxmire speech said.

Mostly, though, Mr. Proxmire and other proponents have been kept busy explaining defensively what the treaty wouldn't require of Americans.

THE ERVIN CRUSADE

This has been necessary because of objections raised by formidable people like Sen. Sam Ervin, who has made opposition to the treaty one of his many pet crusades. The North Carolina Democrat has several complaints about the way the treaty defines these five forms of genocide:

"Killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; forcibly transferring children of the group to another group."

Because of complaints by Sen. Ervin and others that the term "mental harm" is too vague, the State Department has endorsed an "understanding" that this category be defined as "permanent impairment of mental facilities." Sen. Ervin says such a change doesn't help much.

Another Ervin objection involves federal prosecution of a killer accused of genocide, which would have priority over an ordinary state charge of murder. If a federal jury decided that the murderer didn't have the required "intent" to commit genocide against a target group, it would have to acquit him of the federal charge. "In such a case," the Senator says in a typical Ervinism, "the accused would go unwhipped of justice unless he was placed upon trial a second time in a state court."

The State Department dismisses the problem by denying that federal prosecutors would try to pin a genocide rap on ordinary murderers. Treaty backers also deny that the treaty would force Americans to be shipped to foreign countries or an international court for trial or that it would stimulate new waves of charges in the United Nations about the treatment of blacks in this country.

Nevertheless, some groups see great, if sometime unspecified, danger in the treaty. Liberty Lobby Chairman Curtis Dall, the man on the telephone recording, says any Senator who votes for it "can be accused of blatant subversion." The American Coalition of Patriotic Societies testified before the Senate Foreign Relations Committee that ratification would "subject our people and our nation to the judgment of alien powers." A spokesman for the National Socialist White People's Party told the committee that the treaty would "rob white Americans of the most fundamental right of racial self-defense."

The treaty was drafted after World War II, mainly in response to Hitler's calculated extermination of European Jews. The late Raphael Lemkin, a Polish professor, coined the word "genocide" to denote crimes against an entire race or nationality as distinct from crimes against individuals. The UN General Assembly approved the treaty by a unanimous vote in 1948, and it went to member countries for ratification.

Although U.S. representatives had played a big role in its drafting, the treaty fast ran into trouble in this country. The American Bar Association's house of delegates voted in 1949 against supporting it, strongly influencing the decision of the Senate Foreign Relations Committee to pigeonhole it the following year. The treaty went into two decades of deep freeze.

The ABA's opposition was said to spring from wariness about international treaties having the force of domestic criminal law. Specifically, some Southerners were suspicious of UN sponsored treaties in the area of human rights in those days before Congress itself became a fount of legislation protecting American blacks.

"Yet that's the hangover that persists," says Jerome Shestack, a Philadelphia lawyer. "There are some conservatives who still hate the treaty without remembering their original reason for hating it."

In 1970, Mr. Shestack headed an ABA panel that recommended a reversal of the 1949 position. Its report made the dual argument that the treaty would have little impact at home ("nothing in the history of the United States since the early Indian wars quite adds up to genocide within the meaning of this convention") while being helpful diplomatically ("our friends are confused, our enemies delighted, at continued United States hestitation about the convention").

But the ABA house of delegates again spurned the treaty, by a close vote of 130 to 126. A new objection had arisen: The treaty might subject U.S. war prisoners to prosecution for genocide by North Vietnam, although ratification supporters replied that such propaganda trials could be staged whether the treaty was ratified or not.

The ABA's opposition, however, was more than offset by President Nixon's 1970 request that the Senate ratify the treaty as a mark of "international order based on law and justice." The Senate Foreign Relations Committee approved ratification that year and again in 1971 and 1973, but floor action was postponed until the beginning of this year's session. To reach a vote on ratification, the treaty's backers admit they may have to overcome a filibuster.

If the treaty is ratified, a follow-up statute approved by a majority of both houses, would still be necessary to authorize federal prosecution of alleged genocidal acts in the U.S.

Mr. WILLIAM L. SCOTT. Now, Mr. President, the thrust of my remarks are that genocide, as commonly understood, never has and never will be committed in this country. But no benefit will occur from our ratification of a vague agreement that will mean different things to different people. It will not prevent other nations from committing the crime as practiced during World War II in Germany.

Individual Senators will give different meaning to the proposal. It is a bad treaty that should not be ratified. I venture to hope that the Senate will not spend much time on this proposal when important national problems confront us and urge the leadership to pull the measure when it becomes apparent that the two-thirds vote necessary for ratification will not be obtained.

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

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 5 minutes.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

PROGRAM

Mr. MANSFIELD. Mr. President, the Senate will recall that on Thursday last, we reached an agreement that a final vote would occur on the conference report on the National Energy Emergency Act of 1973 at 4:30 p.m. on Tuesday, January 29, unless some earlier disposition is made of the conference report by the adoption of some other motion.

It is my belief that most Senators, if not all, were of the opinion that any votes which would occur tomorrow afternoon would occur around the hour of 4:30. So, just to make the record straight and to make my understanding of the agreement very clear, I would anticipate that the vote to recommit—and there will be a vote to recommit made on one side or the other—would occur somewhere in that general vicinity, and on that basis I think all Senators would be on notice and no Senators would be caught short.

I make this statement for the RECORD.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. ROBERT C. BYRD) laid before the Senate the following letters, which were referred as indicated:

REPORT RELATIVE TO POLICY REGARDING THE INDIAN OCEAN AREA

A letter from the Assistant Secretary for Defense for Legislative Affairs, transmitting, pursuant to law, a confidential report relative to policy relating to the Indian Ocean area (with an accompanying report). Referred to the Committee on Armed Services.

DELIVERIES OF EXCESS DEFENSE ARTICLES

A letter from the Assistant Secretary of State transmitting, pursuant to law, a report on deliveries of excess defense articles during the first quarter of fiscal year 1974 (with an accompanying report). Referred to the Committee on Foreign Relations.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Issues Related for Foreign Sources of Oil for the United States" (with an accompanying report). Referred to the Committee on Government Operations.

REPORT ON FINANCING OF POSTSECONDARY EDUCATION

A letter from the Chairman of the National Commission on the Financing of Postsecondary Education transmitting, pursuant to law, a report entitled "Financing Postsecondary Education in the United States" (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

REPORT OF THE CIVIL SERVICE COMMISSION

A letter from the Chairman of the Civil Service Commission transmitting, pursuant to law, a report covering two positions which have been established within the Commission in addition to the number of positions authorized by sections 5108, title 5, United States Code (with an accompanying report). Referred to the Committee on Post Office and Civil Service.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, without amendment:

S. 2606. A bill for the relief of Grant J. Merritt and Mary Meritt Bergson (Rept. No. 93-665).

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. DOLE (for himself, Mr. COOK, Mr. CURTIS, Mr. BARTLETT, Mr. TALMADGE, Mr. HELMS, Mr. MCGOVERN, Mr. CLARK, Mr. NUNN, Mr. MANSFIELD, and Mr. BENTSEN):

S. 2894. A bill to terminate the Emergency Daylight Saving Time Energy Conservation Act of 1973. Referred to the Committee on Commerce.

By Mr. DOLE:

S. 2895. A bill to amend the Economic Stabilization Act of 1970 to stabilize the price of propane. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. CLARK (for himself, Mr. BENTSEN, Mr. MANSFIELD, Mr. HELMS, Mr. Moss, Mr. COOK, and Mr. NUNN):

S. 2896. A bill to terminate the Energency Daylight Saving Time Energy Conservation Act of 1973. Referred to the Committee on Commerce.

By Mr. KENNEDY:

S. 2897. A bill to amend the Internal Revenue Code by increasing the personal exemption from $750 to $850, and for other purposes. Referred to the Committee on Finance.

By Mr. SPARKMAN (for himself and Mr. TOWER) (by request):

S. 2898. A bill to modify reserve requirements of member banks of the Federal Reserve System; to extend such requirements to other institutions that accept demand deposits or certain other types of deposits; to authorize Federal Reserve banks to extend credit to such institutions; and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. ABOUREZK:

S. 2899. A bill to amend the Clayton Act to preserve and promote competition among corporations in the production of oil, natural gas, coal, oil shale, tar sands, uranium, geothermal steam, and solar energy. Referred to the Committee on the Judiciary.

By Mr. MONTOYA:

S. 2900. A bill to improve the safety of motor vehicle fuel systems. Referred to the Committee on Commerce.

By Mr. ALLEN:

S. 2901. A bill to change the date of Veterans Day from the fourth Monday in October to November 11. Referred to the Committee on the Judiicary.

By Mr. CANNON:

S. 2902. A bill for the relief of Miss Clemence Castillo; and

S. 2903. A bill for the relief of Dr. Lok Yee Kung. Referred to the Committee on the Judiciary.

By Mr. BURDICK (by request):

S. 2904. A bill to improve judicial machinery by amending subsection (g) of section 1407, chapter 87, title 28, United States Code, to exempt actions brought by the Securities and Exchange Commission under the Federal securities laws from the operation of that section, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. CHILES (for himself and Mr. HUDDLESTON):

S. 2905. A bill to terminate the Emergency Daylight Saving Time Energy Conservation Act of 1973. Referred to the Committee on Commerce.

By Mr. MONDALE:

S. 2906. A bill to amend the Internal Revenue Code of 1954 to permit taxpayers to utilize the deduction for personal exemptions as under present law or to claim a credit against tax of $200 for each such exemption. Referred to the Committee on Finance.

By Mr. BENTSEN:

S. 2907. A bill to amend the General Education Provisions Act to provide that funds appropriated for applicable programs for fiscal year 1974 shall remain available during the succeeding fiscal year and that such funds for fiscal year 1973 shall remain available during fiscal years 1974 and 1975. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself, Mr. COOK, Mr. CURTIS, Mr. BARTLETT, Mr. TALMADGE, Mr. HELMS, Mr. MCGOVERN, Mr. CLARK, Mr. NUNN, Mr. MANSFIELD, and Mr. BENTSEN):

S. 2894. A bill to terminate the Emergency Daylight Saving Time Energy Conservation Act of 1973. Referred to the Committee on Commerce.

Mr. DOLE. Mr. President, I am today introducing a bill on behalf of myself and Mr. COOK, Mr. CURTIS, Mr. BARTLETT, Mr. TALMADGE, Mr. HELMS, and Mr. MCGOVERN. I think an almost identical measure was introduced by the distinguished majority leader and the distinguished Senator from Iowa (Mr. CLARK).

The bill would bring some daylight into the picture and lead us out of the darkness by repealing the present winter daylight saving time provision. There has been widespread evidence that it really has not saved any energy. It has caused great inconvenience and in some cases hazard. It appears to me that the better part of wisdom might be outright repeal. The bill would not change the existing provisions for daylight saving. As everyone knows the winter daylight saving time measure was passed with only brief hearings and little in-depth study. In the bill in one section we ask the Department of Interior to make a study to see whether or not energy has been saved.

It seems to me that as we look at the problems that have been created with reference to schoolchildren alone all across this country, not just in the Midwest or in rural areas but all across the country, I think we can admit it was a mistake to believe we could save energy in the first place and perhaps after the 2-year study we will be in a position to take more responsible action. This bill would simply end daylight saving time on the first Sunday after its enactment and restore the Nation to the position it was in before the recent law was passed. We still could have daylight saving time in the summer months when the evidence is it saves a significant amount of energy.

Mr. President, the year-round daylight saving time act—Public Law 93-182, enacted during the 1st session of the 93d Congress—is a classic example of the Congress legislating blindfolded.

Passed with only brief hearings and little indepth study, there was no solid, factual evidence presented that having schoolchildren, their parents, and most of the working world groping around for an extra hour in winter morning darkness would do anything to save energy. A number of experts—both in and out of Congress—weighed in with

their profound opinions that winter daylight time might save as much as 2 percent of our total energy requirements. But they did not present any real evidence—at least to my satisfaction—that having to turn on more lights in the morning and run furnaces an extra hour earlier during the coldest part of the day was going to save anything.

OPPOSITION TO THE BILL

In fact, they really admitted that they did not have any idea of the effects of winter daylight time by writing into the bill a 2-year study to tell us, after the fact, what really happened.

Therefore, I voted against the bill, not because I am against programs to conserve energy, but because it just did not seem that a convincing case had been made for the law's effectiveness.

TRAGIC EFFECTS

The first reports on the law's effects are at best inconclusive in terms of energy saved. But unfortunately the laws effects are tragic in terms of injuries and deaths—particularly of schoolchildren in the early morning hours.

A preliminary check with the Kansas City Power & Light Co. revealed little early evidence that winter daylight savings time had had any appreciable effect. However, other conservation measures had apparently brought about a 5.7-percent drop in electric power requirements.

After spending the first 3 weeks of winter daylight time in Kansas, I became more convinced than ever that its hardships, inconvenience, and real hazards are too great to justify its continuation.

Therefore, I am introducing a bill to repeal winter daylight saving time and undo what Congress never should have done in its burst of haste and poorly considered action.

RESTORE NATION TO PREVIOUS STATUS

This bill would end winter daylight time on the first Sunday after its enactment and restore the Nation to the position it was in before the law was passed. We will still have daylight saving time during the summer when adequate evidence exists that it does in fact save significant amounts of energy.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD following my remarks.

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

S. 2894

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That notwithstanding the provisions of section 7 of the Emergency Daylight Saving Time Energy Conservation Act of 1973 such act shall terminate at 2 o'clock antemeridian on the first Sunday which occurs after the date of enactment of this act.

Mr. COOK. Mr. President, the ostensible purpose of the year-round daylight saving time law which became effective January 6, 1974, of this year was to have the entire Nation share in the energy problem. Regretfully, early studies of the impact of year-round daylight studies reflect that perhaps Congress, in its eagerness, failed to fully consider the ramifications of its actions.

Daily headlines read, "Florida—Seven Children Killed in Early Morning Waiting for Bus"; "Minneapolis, Minn. School Board Reports—Incidence of Sexual Assaults on Young Children Higher During Weeks of Daylight Savings Time Than Ever Before"; "Virginia, Morning Accident—Fractured Skull"; Enfield, Conn., Woman Killed"; "Student Injured by Bus"; "Los Angeles—One Death Publically Attributed to DST". "South Carolina—One fatality—Crossing Guard."

In effect, these sad headline articles reflect that daylight saving time is a dubious benefit especially when no showing has been made that an appreciable amount of energy is being conserved. Admittedly, it is difficult when considering all the variables of weather, conservation efforts, and holiday structuring for the appropriate officials to determine if an actual saving has occurred. Preliminary surveys conducted by utility officials show that only a fractional percentage of electricity is actually being saved.

To my way of thinking, the saving of a small percentage fraction of utility output can in no way compare with the loss of human life—such as has occurred during this period of winter daylight saving time. Therefore, I heartily join with the Senator from Kansas (Mr. DOLE) in offering a repealer to the Emergency Daylight Saving Time Energy Conservation Act of 1973.

Mr. HELMS. Mr. President, I am delighted to join the distinguished majority leader (Mr. MANSFIELD), the distinguished Senator from Kansas (Mr. DOLE), the distinguished Senator from Kentucky (Mr. COOK), and others, in calling for repeal of the Daylight Saving Time measure, which passed this Senate on December 4, 1973, by a vote of 68 to 10.

I was one of the 10 senators, Mr. President, who voted against this measure (H.R. 11324). Needless to say, Mr. President, I am comforted that the judgment of that minority of 10 has now been vindicated. On the other hand, I am distressed that it required the deaths of numerous schoolchildren, in predawn school bus accidents, to strike the necessary alarm among the people of this country, sufficient to provoke a public demand that the DST measure be repealed.

I criticize no Senator, Mr. President. Those who voted for year-round daylight saving time did so in perfectly good faith, still, I think there is a message inherent in this matter which this Senate ought not to ignore—a reminder that this Senate ought not to act precipitously in matters of great concern and importance.

I trust that we may now move quickly to remedy the error made on December 4, 1973. I am a cosponsor of both bills introduced today to repeal the year-round daylight saving time legislation, thus restoring DST to only that period of the year previously in effect. I reiterate that I hope this Senate will act quickly to correct its error, made in haste back in December.

By Mr. DOLE:

S. 2895. A bill to amend the Economic Stabilization Act of 1970 to stabilize the price of propane. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. DOLE. Mr. President, in my travels across Kansas during the holiday recess, the first and most recurrent issue addressed by constituents was the high cost of propane. The complaints ranged from a general objection to the fact that propane costs had increased in some instances by more than 400 percent in less than a year, to requests for an explanation of the enormous discrepancy in propane prices across the State. Often I was presented with receipts proving that it was costing Kansas families as much as $130 a month to heat their homes due to the high propane costs, and I had unconfirmed reports of monthly bills exceeding $200 for home heating.

In investigating this matter and discussing the issue with the Federal Energy Office, I found general agreement that the rapid increase in propane prices was not caused by a shortage of the commodity nor by increased costs in its production, but rather was the result of a loophole in the Cost of Living Council guidelines which permit a high percentage of the added cost of the total refining process to be passed through to propane even though propane represents but a small portion of the end product of the refining processes, I feel that this is unfair and inequitable and am offering legislation which would help rectify the injustices done to the propane users and dealers.

The legislation I am proposing would solve the problem by providing that effective the date of enactment no refiner could charge more for propane than his January 1, 1973 price, plus a percentage of the increases on cost of refining—which have incurred since that time. The added cost which could be passed through to propane, however, would only be those cost increases which are related to the production of propane. Since that propane which is produced from crude oil represents less than 5 percent of the byproduct refining per barrel of crude, the added costs of production passed through to propane should be less than 5 percent of the total increase in the cost of refining that barrel of crude. Much of the actual propane production, however, is not associated with the refining process. It comes from natural gas, and the actual cost of producing it, if anything, should rise even less than that for crude oil production.

Unfortunately, in the past the proportionate passthrough the costs to the various byproducts of crude oil has not been observed. Due to provisions in the CLC guideline, the increased costs to the refiner could be passed through to any byproduct. In addition, gasoline, home heating oils, and diesel fuels were given preferential treatment. The net result was that the largest portion of the added costs of refining were being passed through to propane. The higher costs of crude were placed almost entirely on the shoulder of the propane consumer. The prices of gasoline, diesel, and home heating oils were held down by the fact that the refiner could pass the additional costs incurred in producing these products to propane. I feel this is unfair to the propane dealer and consumer. It is unfair to the Midwest where the greatest use of propane for home heating purposes is concentrated.

My bill would rectify this inequity. It would not only prohibit the passthrough of unrelated refining costs to propane, but it would also roll back prices by permitting the sale of propane from the date of enactment at a price which reflects the January 1, 1973, price plus the portion of the added cost of refining crude that has been incurred since that time and which is attributable directly to the production of propane. The January 1, 1973, base price period was selected, because at that time the majority of the companies were selling propane at the same base price, 5.13 cents a cubic foot. By using this base price, the adjusted price of propane from various companies would, in the end, be nearly equal with differences attributable only to the different costs of operation of each company.

The need for the bill is obvious. On January 1, 1973, a distributor in Kansas could obtain propane for slightly over 5 cents a gallon. By December of 1973, it was costing the distributor as much as 25 cents a gallon. The costs of production have not increased that much nor does there appear to be a shortage of propane. More than two-thirds of propane supply comes from natural gas, a commodity which is in short supply, but the availability of which was not affected drastically by the Arab embargo. During my travels in Kansas, I received reports of millions of gallons of propane being stored around the State. Thus, it appears the high propane prices are the result of a loophole in the Cost of Living Council regulations, and since governmental action is responsible for the problem, I feel prompt legislative action is justified to remedy it.

The bill I am proposing would merely return propane to its fair market level. It does not interfere with the free market system, but attempts to remove the distortion which has resulted from artificial controls. It would make propane available to the consumer at a fair market price. By adjusting the price of propane sold by a refiner after the date of enactment, it will prevent undue hardship on any sector of the economy. It is my understanding that LP gas dealers and brokers have a small supply on hand, so the only parties which might be injured by the drop in prices would be businesses who have bought large quantities for use at the higher prices, and speculators who have been hoarding supplies.

Mr President, the need for this legislation is obvious. Propane consumers cannot afford to pay $130 a month merely to heat their homes. Many of the elderly in particular who are dependent on fixed incomes just cannot continue to pay these prices, but propane is their only heat source. We must get propane down to a reasonable level and remedy the inequities that have resulted from past regulations, and I urge my colleagues to join in support of this measure.

I would also like to comment on a related matter which I feel deserves explanation. During my travels across Kansas I was contacted by many LP gas dealers who themselves face severe hardship due to the high propane costs. Contrary to popular belief, the LP dealer is losing rather than making money due to the higher prices since his margin is controlled. Thus, in addition to facing the wrath of irate customers whom he services, he must also face the prospects of going out of business unless something is done to control propane prices.

Since the margin the dealer can charge on propane is controlled to a large degree, he does not make any greater profit selling propane at 39 cents a gallon than he did when it sold at 11 cents a gallon. Yet, while his profit margin is fixed, his volume of business has shrunk due to policies. His overhead costs—the costs of delivery—continue to increase and as a result his profits have been drastically reduced. In addition, many of his prior customers are converting to other fuels due to the abnormally high cost of propane. These are customers he can never regain even if propane prices later are reduced. The net result is that unless some action is taken, LP gas dealers, especially many of the dealers in rural areas, will go out of business. So the LP dealers, although much maligned, face a severe problem of their own which can only be resolved through lower propane prices.

Mr. President, I ask unanimous consent to have printed in the RECORD a comparison of prices charged to most Kansas propane bulk dealers on January 1, 1973, with those charged January 21, 1974, together with the text of the bill.

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

COMPARISON OF PRICES CHARGED TO MOST KANSAS PROPANE BULK DEALERS ON JANUARY 1, 1973, WITH THOSE CHARGED JANUARY 21, 1974

January 1, 1973 charge of 5.13 cents per gallon and freight charges (1–3 cents gallon). Price to no dealer varied more than 1 cent per gallon from this figure. On January 21, 1974, charges less (1–4 cents per gallon freight) were as follows:

Company:	Per gallon
Phillips	22.5
American	21.9
Cities	19.65
Conoco	23.0
Exxon	17.19
Mobil	25.8
Skelgas	10.4
Sun	22.5
Texaco	18.27
Warren	22.5
Diamond	22.2
Signal	18.3
Sid Richardson	17.5
Wanda	25.19
Arco	17.13
Northern	14.85
Union Texas	12.12

S. 2895

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203 of the Economic Stabilization Act of 1970 is amended by adding at the end thereof the following new subsection:

"(k) Upon the enactment of this subsection, the President or his delegate shall issue an order—

"(1) stabilizing the wholesale and retail prices of propane at their respective market price levels on January 1, 1973; and

"(2) permitting adjustments in such prices to reflect cost increases or decreases which are related to the production and distribution of propane, and which are, or have been, incurred after January 1, 1973."

By Mr. CLARK (for himself, Mr. BENTSEN, Mr. MANSFIELD, Mr. HELMS, Mr. MOSS, Mr. COOK, and Mr. NUNN):

S. 2896. A bill to terminate the Emergency Daylight Saving Time Energy Conservation Act of 1973. Referred to the Committee on Commerce.

Mr. CLARK. Mr. President, the Senator from Montana (Mr. MANSFIELD) and I today have introduced a bill to terminate the Emergency Daylight Saving Time Act.

Recent events have pointed clearly to the need for a reassessment of the switch to daylight saving time.

When we agreed to change to year-round daylight saving time in December, it was in the midst of great concern about the severity of the energy crisis and predictions of cold homes and no gasoline.

Daylight saving time seemed like a quick way to save energy—with little or no cost to anyone. But the cost can be very high. Several schoolchildren in Florida have been killed in the dark, as we heard just minutes ago, and there are many more examples of hardship, injury, and inconvenience.

Another reason for passing daylight saving time was its potential for joining people together in an effort to save energy. My experience in Iowa has indicated that it is doing anything, but joining people together. It is creating more anger and frustration than any other single energy conservation measure.

I just spent most of this month traveling from county to county throughout the State of Iowa, holding some 25 separate meetings, where people came and talked about the problems of the country. The energy situation in general and DST in particular came up more than any other issue.

Original estimates late last year were that we might save 1 to 3 percent of our energy. Now that appears to be an exaggeration. The Federal Power Commission indicates that there is probably only about a 0.2-percent saving of energy consumption from daylight saving time. A report on energy savings from DST is not expected until June. So, we still do not have any figures on how much has been saved in the last 3 weeks.

But the results are already in on the dangers it can cause.

We should recognize that we may have made a mistake with emergency DST, and that is why I am introducing this bill today to repeal it. This bill will give us a vehicle to reexamine the evidence both for and against year-round daylight saving time. We may well have acted precipitately.

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

Mr. CLARK. I yield.

Mr. MANSFIELD. Mr. President, I am delighted to join with the distinguished Senator from Iowa (Mr. CLARK), the distinguished Senator from Kansas (Mr. DOLE), and the distinguished Senator

from Kentucky (Mr. COOK), and other Senators who are interested in the matter of daylight saving time at this time of the year.

May I say I agree wholeheartedly with what the Senator from Iowa has just said, because what applies to the State of Iowa applies equally to the State of Montana.

The bill which we have introduced repeals daylight saving time. Fundamentally, daylight saving time demonstrated that—

First. This swiftly passed remedy to meet the problem of energy conservation has raised an even more significant crisis.

Second. The increased jeopardy to young schoolchildren in the predawn, predaylight hours of the weekday demonstrates the utter failure of year-round daylight saving time. Furthermore, if my memory of Mr. William Simon's testimony is correct, he stated that he doubted any energy was being saved. The distinguished Senator from Iowa states that perhaps 0.2 percent has been saved, but that certainly is not to be compared with the jeopardy in which the lives of youngsters have been placed.

It is asked: Why not change the school day to a later sun-up period? It cannot be done simply because households where there is only one parent or where both parents work would find infants and youngsters left completely alone and unattended—a situation potentially as bad as that which exists.,

This bill would end daylight saving time year-round that was enacted to meet in part the energy crisis. It will be repealed upon its enactment. Schools across the land would then operate only during daylight hours.

If transportation companies need time to readjust their schedules, the Committee on Commerce should take note of that. However, nothing should delay enactment of this repealer, because, in addition to what we have noted in our own particular States, I must say I have been appalled by what Governor Askew said, to the effect that since daylight saving was inaugurated in that State on January 6, eight children have been killed, because of coming in contact with trailers, trucks, or automobiles.

So I would hope, along with my colleague, that the Commerce Committee would give this matter the most immediate and expeditious consideration.

I thank the distinguished Senator from Iowa.

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

Mr. CLARK. I yield.

Mr. DOLE. I agree with remarks of the Senator from Iowa and the majority leader. One way they tried to cope with this problem was by changing the school hours. That added to the inconvenience and confusion, so instead of one problem we had two or three. One could take the choice of taking his children 1 hour earlier, taking the children to work with him, or parents could go to work and then come back for their children. It has not worked well in our State. Some schools have changed the hours to 1 hour later. Some have not. So what we have is chaos in many areas.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. DOLE. I hope that we can work with the Senator from Iowa and other Senators so that we can repeal year-round daylight saving as quickly as possible.

Mr. COOK. Mr. President, the time of the Senator from Iowa having expired, may I just continue this matter?

During the debate on the original passage, this Senator's remarks, which are in the RECORD, I would like to state again relative to the question raised by the distinguished majority leader. I consulted with one school board in my State that has 500 school buses, and approximately 80,000 children that are picked up at varying times in the morning, such as 7:30, 7:45, 8, 8:15, and 8:30—at 15-minute intervals. I asked the officials if they could change the school hours.

They said they could, but then what they would be doing would be, instead of putting all of their 500 school buses on the road, at 3, 3:15, and 3:30 in the afternoon, it would be at, for example, 4:15, 4:30, 4:45, and so on, putting them on the highways when people are coming back from work. So it would take those buses 1 hour to 1 hour and a half longer to discharge the children in the evening than it otherwise would. Consequently, if we changed the hour so that youngsters could go to school in daylight, we would be imposing an additional 1 hour to 1 hour and a half additional use of fuel for 500 buses in the afternoon, which would include also all the automobiles that had to stop every time a big red school bus stopped.

So the argument that it could be summarily changed did not hold merit then, it does not hold merit now, because we would be increasingly utilizing fuel. We would not be decreasing the use of fuel.

I thank the Senator for raising the question relative to transportation and relative to school hours.

Mr. NUNN. Mr. President, I ask unanimous consent that I may be listed as a cosponsor of the daylight saving bills introduced by the Senator from Iowa (Mr. CLARK) and the Senator from Kansas (Mr. DOLE).

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

Mr. COOK. Mr. President, I ask unanimous consent that I be listed as a cosponsor of the bill introduced by the Senator from Iowa (Mr. CLARK).

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

Mr. HELMS. Mr. President, I ask unanimous consent that I be listed as a cosponsor on the bill introduced by the Senator from Iowa (Mr. CLARK).

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may be listed as a cosponsor of the bill of the Senator from Kansas (Mr. DOLE).

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

Mr. CLARK. Mr. President, I ask unanimous consent that I be listed as a cosponsor of the bill of the Senator from Kansas (Mr. DOLE).

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

REPEAL OF DAYLIGHT SAVING TIME

Mr. NUNN. Mr. President, it has become quite clear that congressional approval of daylight saving time on a year-round basis was a mistake. In the State of Florida, there have already been several predawn accidents resulting in the deaths of eight school-age children. Reports of similar tragedies can be found in newspapers throughout the country.

Last fall, I joined Senator MARLOW COOK of Kentucky in sponsoring a bill that would have established daylight saving time for the period between Memorial Day and September 30 each year. The rest of the year all America would be on standard time. This legislation was ignored by Congress in the rush to implement daylight saving time. The Senate was rushed into passage of this legislation by its advocates which claimed a 2 percent savings of our national energy requirements. However, the proponents of this measure were never able to offer conclusive evidence to support their contentions. I discounted these claims of fuel savings and voted against the daylight saving time bill which unfortunately, is now in effect.

While I have received many letters from constituents complaining of the new law, none have expressed their concern with more candor than the children affected by it.

I commend to the Congress the following letters from the second grade class of Mrs. Ellen Feinberg at Morris Brandon school, Atlanta, Ga.:

DEAR MR. NUNN: I think that children that are walking to school need to ride in the buses at 9:00 in the morning and they might save gas and ride the buses. So think about it please.

Sincerely,

RORY JOHNSON.

DEAR MR. NUNN: We do not like Daylight Saving Time. We do not like going out on dark mornings. It is dangerous. Like if you go by the bushes somebody will grab you.

Sincerely,

PATRINA DENISE ASHLEY.

DEAR MR. NUNN: Why do we have Daylight Saving Time? We have to use more energy. We have to wait for our buses in the dark. It's not fun at all. It's dangerous. You might hurt yourself. You might get kidnapped. I liked it how it was.

Sincerely,

THOMAS COGBURN.

DEAR MR. NUNN: I do not like Daylight Saving Time. I get mixed up when I wake up in the morning. When I wake up I think it is still night but it's not—it's morning. I don't like getting up in the dark. We have to use a little more electricity, but we don't use much electricity we have an hour extra hour.

Sincerely,

SANDY DRAPER.

DEAR MR. NUNN: We do not like Daylight Saving Time. We do not like going out on dark mornings.

From,

KEN ALTMAN.

DEAR MR. NUNN: I think we should ride instead of walk to school. We are just wasting electricity. I don't think children should wait for buses in the dark.

Sincerely,

MEREDITH STONE.

DEAR MR. NUNN: I don't like Daylight Saving Time because I can't see where I'm going.

TRAE FACENTE.

DEAR MR. NUNN: I don't think you are saving energy. We do not like Daylight Saving Time. We do not like going out on dark mornings.

Sincerely,

KIM ROBINSON.

DEAR MR. NUNN: It is dangerous in the mornings. Some children have to wait for buses. Some children have to walk to school. And people have to get up in the dark in the morning and it burns energy. I don't like Daylight Saving Time.

Sincerely,

RUTH TRAVIS.

DEAR MR. NUNN: I don't think getting up in the dark is good because you have to turn on all the lights and heat because it's dark. If it was old time we would not have to turn on all the lights, the sun would up. And I don't think it is safe for children to walk in the dark.

Sincerely,

JILL BONNER.

DEAR MR. NUNN: I don't like riding to school with the lights on because it is dangerous. The bus driver can have a jam up.

From,

JOHN ARMOUR.

DEAR MR. NUNN: I think we would be saving more energy because if we went to school at 9:00 to 4:00.

Sincerely,

KENT MASON.

DEAR MR. NUNN: There are some good things and bad things in getting up in dark. Children get to play more. But it is dangerous to go to school in the dark and getting up in the dark. If you were the first to get up, you have to turn on the lights. It uses more energy. That doesn't help. I think we should of stayed at the old time. We do not like Daylight Saving Time.

Sincerely,

NEAL HEERY.

DEAR MR. NUNN: I do not like Daylight Saving Time. I think people like me should be able to write to you. When people get up in the morning they have to turn most of their lights on. Do you think that is saving energy?

Sincerely,

REESE HARMAN.

DEAR MR. NUNN: I do not like Daylight Saving. I was walking to the bus stop and I tripped over a rock. And if you tripped over a rock and if there was a little rock in front of it you could hurt yourself.

Sincerely,

DAVID WALKER.

DEAR MR. NUNN: We do not like Daylight Saving Time. We do not like going out on dark mornings. We do not like waiting at bus stops in the dark. It isn't fun. We used to have pine cone battles at the bus stop. Because of you, we can't!

JOE DOUGHERTY.

DEAR MR. NUNN: I do not like Daylight Saving Time. I bet you don't either. I got a reason why. You could be asleep and wake up and look out the window and find that it was still night but it was really morning. And you go back to sleep. Then you wake up again and look at the clock and see it is late. And you could be in a carpool and it would be harder to see. Don't you think?

Sincerely,

JOHN CARROLL.

DEAR MR. NUNN: I do not like the idea of saving energy. It's not much help. Some people have to walk and might get hurt, while others may run over people by accident and it is dangerous for people who drive.

Sincerely,

JACK CALHOUN.

DEAR MR. NUNN: I think Daylight Saving is bad. I don't like going to school in darkness. So I think children that walk in the dark to school is really dangerous. I think Daylight Saving is really! really! bad. And I don't like the dark. We do not like Daylight Saving Time. We do not like it.

Sincerely,

TERESA HALEY.

Mr. NUNN. Senators DICK CLARK and MARLOW COOK have introduced separate legislation today which would repeal the emergency provision of the Daylight Saving Time Act of 1973. Their bills, which I have cosponsored, would return the Nation to the provisions of the Uniform Time Act of 1966, which established daylight saving time from the last Sunday of April to the last Sunday of October.

With daylight saving time in effect less than 30 days, Members of Congress are witnessing the tragic results of this legislation. I am hopeful that the Senate and Congress will consider the detrimental and dangerous effect of this legislation and will support these new efforts to pass corrective legislation.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the bill that was introduced by the Senator from Iowa (Mr. CLARK) and the bill introduced by the distinguished Senator from Kansas (Mr. DOLE) calling for the repeal of daylight saving time be held at the desk for the remainder of the day.

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

By Mr. KENNEDY:

S. 2897. A bill to amend the Internal Revenue Code by increasing the personal exemption from $750 to $850, and for other purposes. Referred to the Committee on Finance.

TAX CUT TO STIMULATE THE ECONOMY

Mr. KENNEDY. Mr. President, I send to the desk a bill to increase the personal exemption in the Federal income tax from its present level of $750 to a new level of $850, retroactive to the 1973 tax year. The bill is identical to the amendment I offered last week on the Senate floor, which was accepted by a strong 53-to-27 majority of the Senate, before it was recommitted as part of the overall bill to the Finance Committee.

The purpose of the amendment is to offset the increase in the cost of living since the personal exemption was last increased in 1971, and to provide a needed fiscal stimulus for the economy, so that we may avert the imminent danger of a recession.

The biggest danger facing the Nation today is an energy-induced recession in 1974. The problem was clear before the Arab oil embargo last October, but it has become a crisis as the oil shortage worsened. Early last fall, the administration was already talking of a "soft landing" for the economy in 1974, but the sudden new crisis over energy has made a "crash landing" much more likely. Economists are virtually unanimous now in predicting a recession, with 6 to 8 percent unemployment, in 1974. Already, the unemployment rate is creeping up.

No one can miss those early warning signals of recession. Annual real growth in GNP dropped precipitously from well over 3 percent in the third quarter of 1973 to little more than 1 percent in the fourth quarter, an ominous sign that recession is imminent and that growth will be zero or negative in the early quarters of 1974. And to the extent there was any growth at all in the final quarter of 1973, it was caused largely by businesses still producing goods, even though sales were dropping off. Does anyone seriously believe that business will go on producing goods while sales keep falling? Even this relatively minor aspect of growth will vanish if things go on as they are today.

The figures on unemployment tell the same story. The increase from 4.5 percent in October to 4.9 percent in December is an increase of 10 percent. How can we stand by, when hundreds of thousands of workers are being laid off, and when millions more are newly worried about their jobs and about their families' future?

The classical economic remedy for a recession is a tax cut, to stimulate the economy. Once before, in the early 1960's, Congress used a tax cut to pull the economy out of an economic tailspin, by stimulating growth and eliminating the effects of a recession and a long period of stagnation. Thanks to that wise action, we got the country moving again, and the Nation enjoyed the longest sustained period of real economic growth and prosperity without inflation in our history.

That same principle can work well again today. If we can get more purchasing power into the hands of consumers to stimulate the economy, we can blunt the recession before it takes hold. And at the same time, we can help offset the impact of high food and fuel costs in every family's budget.

The best prompt dose of fiscal stimulus is through the Tax Code, and that is the purpose of the bill I am proposing. A $100 increase in the personal exemption, from $750 to $850, would provide $3.5 billion in new consumer purchasing power, as a badly needed shot in the arm for our sick economy. Its impact can be felt at once. By making it retroactive to tax year 1973, people filing their returns between now and April 15 will benefit immediately, and the Nation will be the winner.

At the same time, such a fiscal stimu-

lus to blunt the impact of recession will in no substantial way retard our fight against inflation. To a large extent, the inflation that exists today is already locked in by pressures of the past, and it is confined largely to the areas of food and fuel. Fiscal policy by Congress cannot do anything to curb that inflation now. What fiscal policy can do is to prevent a recession on top of inflation.

It is erroneous to argue that a tax cut now will contribute to inflation. Unlike 1969, where inflation was a serious problem in many sectors of the economy, inflation is out of hand in only two areas today—food and fuel. What we need as our anti-inflation policy is a pinpointed attack on those two areas, not a blunderbuss attack that stops the rise in the price of food and gasoline by throwing people out of work and making them too poor to eat or drive their cars. What we need is strict price controls on food and a more rational approach to agriculture policy, especially in the area of wheat exports. We do not have to put the whole economy through the wringer, in order to stop the upward march of prices on food and fuel alone.

To be sure, a small portion of this new consumer spending will find its way into food and gasoline, the only two important areas where inflation today is a serious problem. But the real advantage of a tax cut in so many other areas of the economy where recession, not inflation, is the problem, far outweighs the disadvantage of any increased spending for food and fuel. The administration has other tools to control inflation here, if only it will use them. Congress may not be able to legislate economic competence in the administration's management of the economy, but at least Congress can act now to try to prevent a serious recession in 1974, especially when the warning signs are so obvious.

The bulk of the increment in consumer spending produced by this legislation will go into areas where the economy is already sagging, and where recession is now an imminent threat. In fact, the proposal means extra employment for workers, extra income for families, and extra profits for business in all of the areas now facing serious dangers of layoffs, economic hardship, idle plant capacity, and all the other distressing consequences of recession.

Relief like this is needed now for millions of workers and their families, hard hit to keep up with the cost of living. In 1973, for the first time in modern history, prices went up faster than wages. From December 1972 through December 1973, prices rose by 8.8 percent, but hourly wages rose by only 6.7 percent. Almost invariably in the past, there has been a 2–3 point differential between prices and wages, but it has always been the other way around—wages surpassing prices because of normal increases in productivity. But in 1973 the pattern was reversed. Prices outran wages, with extremely serious consequences for every working man and woman.

By increasing the personal exemption, Congress can help offset the impact of today's continuing inflation for American families. The cost of living has risen by 13 percent since the personal exemption was increased to $750 in 1971. By raising the exemption to $850, an increase of 13 percent, Congress can set the exemption precisely at the level it should now have if the inflation of the past 2 years is taken into account.

In the Tax Reform Act of 1969, Congress enacted progressive increases in the personal exemption, raising it from the pre-existing level of $600 where it had been since 1948. The increases were as follows:

1970	$625
1971	650
1972	700
1973	750

In the Revenue Act of 1971, Congress accelerated the increases and established a level of $675 for 1971 and $750 for 1972, where it remains today.

Since December 1971, the Consumer Price Index has risen from 123.1 to 138.5, for an overall 2-year gain of nearly 13 percent. The increase in 1973 alone was nearly 9 percent. A rise in the personal exemption from $750 to $850 is an increase of slightly over 13 percent, which thus almost exactly offsets the rise in the cost of living since Congress last acted. Of course, to offset anticipated inflation in 1974, the personal exemption would have to exceed $850.

I recognize that questions will arise as to the best approach to provide the tax stimulus that is needed. Perhaps the relief can be keyed to provide more assistance to the lowest income groups and those on fixed income, who are hardest hit by rising prices and rising unemployment. Perhaps the relief can be "finely tuned" to provide tax incentives for the particular domestic industries where the impact of the energy crisis and the coming recession will be greatest.

But because the personal exemption is widely accepted and widely understood in our tax laws, I believe it offers us the best avenue for giving the economy the broad across-the-board stimulus needed today. It will provide urgently needed relief to taxpayers in all income classes, and, as the accompanying table indicates, the vast majority of the relief will go to low- and middle-income groups, with fully 80 percent of the tax relief concentrated among persons with incomes of $20,000 a year or less. I ask unanimous consent that the table to which I have just referred be printed at this point in the RECORD.

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

REVENUE EFFECT OF INCREASING THE PERSONAL INCOME TAX EXEMPTION FROM $750 TO $850

[Based on income levels for 1972 calendar year]

Adjusted gross income	Number of returns with tax decrease (thousands)	Number of returns made nontaxable (thousands)	Decrease in tax liability (millions)	Distribution of tax decrease: Percent	Distribution of tax decrease: Cumulative, percent
0 to $3,000	3,221	533	45	1.3	1.3
3,000 to $5,000	7,746	557	184	5.2	6.5
5,000 to $7,000	8,737	353	310	8.8	15.3
7,000 to $10,000	12,229	130	616	17.4	32.7
10,000 to $15,000	15,595	14	1,059	30.0	62.7
$15,000 to $20,000	7,557	4	624	17.7	80.4
$20,000 to $50,000	5,305	(1)	582	16.5	96.9
$50,000 to $100,000	449	(1)	88	2.5	99.4
$100,000 and over	102	(1)	22	.1	99.5
Total	60,940	1,592	3,531	99.5	99.5

[1] Less than 500.

Mr. KENNEDY. Mr. President, it is rare that tax relief is also sound fiscal policy for the economy. And it is also rare that Congress itself can take the sort of positive action capable of keeping the economy on an even keel, without the need for elaborate bureaucratic machinery or implementation by the executive branch. But we have such an opportunity today, and we cannot afford to miss it.

My hope is that both the Senate and the House of Representatives will give prompt consideration to the need for this sort of immediate tax stimulus to the economy, in order to keep the current economic downturn from materializing into the recession that economists now foresee for 1974.

Mr. President, I ask unanimous consent that the text of the bill may be printed in the RECORD.

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

S. 2897

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

SEC. 2. (a) Effective with respect to taxable years beginning after December 31, 1972—

(1) section 151 of the Internal Revenue Code of 1954 (relating to allowance of personal exemptions) is amended by striking out "$750" wherever it appears, and inserting in lieu thereof "$850";

(2) section 6012(a)(1) of such Code (relating to persons required to make returns of income) is amended by striking out "$750" wherever it appears and inserting in lieu thereof "$850", by striking out "$2,050" wherever it appears and inserting in lieu thereof "$2,150", and by striking out "$2,800" wherever it appears and inserting in lieu thereof "$3,000"; and

(3) section 6013(b)(3)(A) of such Code (relating to assessment and collection in the case of certain returns of husband and wife) is amended by striking out "$750" wherever it appears and inserting in lieu thereof "$850" and by striking out "$1,500" wherever it appears and inserting in lieu thereof "$1,700".

(b) Effective with respect to wages paid on or after the 30th day after the date of enactment of this Act, the table contained in section 3402(b) of such Code (relating to percentage method of withholding) is amended to read as follows:

"Percentage Method Withholding Table

"Payroll period	Amount of one withholding exemption
Weekly	$16.35
Biweekly	32.69
Semimonthly	35.41
Monthly	70.83
Quarterly	212.50
Semiannual	425.00
Annual	850.00
Daily or miscellaneous (per day of such period)	2.25."

By Mr. SPARKMAN (for himself and Mr. TOWER) (by request):

S. 2898. A bill to modify reserve requirements of member banks of the Federal Reserve System; to extend such requirements to other institutions that accept demand deposits or certain other types of deposits; to authorize Federal Reserve Banks to extend credit to such institutions; and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

RESERVE REQUIREMENTS OF BANKING INSTITUTIONS ACCEPTING DEMAND DEPOSITS

Mr. SPARKMAN. Mr. President, I am introducing today for myself and the senior Senator from Texas (Mr. TOWER), by request, legislation submitted by the Federal Reserve Board to apply reserve requirements to certain institutions which offer demand deposit or NOW account services to their customers but which are not members of the Federal Reserve System.

The purpose of the bill, as explained by Chairman Arthur F. Burns, is to provide for better management of our Nation's money and credit, and to establish a more equitable system of reserve requirements among institutions offering similar deposit services.

In order to avoid placing a burden on smaller, State-chartered banks, the bill exempts from reserve requirements the first $2 million of net demand deposits and NOW accounts at nonmember institutions. The effect of this exemption is to remove from the bill's coverage about 3,300 small State-chartered banks.

Taking account of the fact that vault cash may be counted in meeting the reserve requirements, Chairman Burns estimate that "only about 38 percent of present nonmember banks would be subject to reserve requirements set by the Federal Reserve that exceeded their own existing vault cash holdings." Also, under Chairman Burns' recommendations the required reserves would be phased in over a period of 4 years, at the rate of 20 percent of the total requirement each year, so the nonmember institution would have 4 years to meet its full reserve requirement.

Chairman Burns indicates that under the bill nonmember institutions which bear Federal Reserve reserve requirements will have access to the Federal Reserve's discount window, subject to regulations to be issued by the Board. This contrasts with the present provisions of law which allow such access only under highly unusual circumstances and under relatively restrictive conditions. Another provision in the legislation requires the reporting of data on deposit liabilities by member and nonmember institutions subject to the reserve requirements.

Mr. President, I am well aware that the subject matter of the Board's proposal is highly controversial within the commercial banking industry and is becoming so among depository institutions generally. In fact, the senior Senator from Texas (Senator TOWER) and I introduced a bill, S. 2591, the Financial Institutions Act of 1973, last fall which takes the contrary position on this issue. We have introduced these bills in order to further our goal of providing a forum within which to explore and analyze all points of view so as to develop the best legislation for our country.

The extent to which the effectiveness of the implementation of monetary policy will be enhanced as a result of this particular bill will be thoroughly explored. We shall also analyze the ramifications for the dual branching system.

Most depository institutions in the United States exist in a unique structure which allows a choice between State or Federal charters. This dual chartering structure generally has worked well. It has contributed to an effective system of financial institutions in the United States, and it has received deservedly strong support from the public, from the various States, and from the Congress.

Some will see the Federal Reserve Board's proposal as a dangerous challenge to the continued existence of the dual banking system, although I know Chairman Burns believes that the bill submitted today will in no way undermine our present system. The place to consider such an important issue is here in the Congress, and it is with that conviction that Senator TOWER and I are introducing the Board's proposal today.

Mr. President, I now ask unanimous consent to include in the RECORD immediately following my remarks the texts of the letter Chairman Burns has addressed to me transmitting the Board's bill and the bill as submitted.

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

CHAIRMAN OF THE BOARD OF GOVERNORS,
FEDERAL RESERVE SYSTEM,
Washington, D.C., January 25, 1974.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Banking, Housing and Urban Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: The Board of Governors herewith submits for Congressional consideration legislation that would extend reserve requirements set by the Federal Reserve System to nonmember institutions—commercial banks, mutual savings banks, savings and loan associations and the like—to the extent that such institutions issue demand or other types of deposits that perform a checking account function. The proposed bill also makes certain other revisions in related Federal Reserve powers, including a widening of the permissible range of reserve requirements and expanded authority for the Federal Reserve Banks to lend directly to nonmember institutions encompassed by the extended reserve requirement system. The Board strongly recommends adoption of the proposed legislation.

The purposes of the proposed legislation are to make the nation's monetary system more responsive to Federal Reserve actions, to facilitate better management of money and credit, to provide a more equitable system of reserve requirements for financial institutions offering similar deposit services, and to permit Federal Reserve credit assistance to a broader range of financial institutions when and as they come under unusual liquidity pressures. At the same time, it should be noted that the bill does not require membership in the Federal Reserve System on the part of State commercial banks or other nonmember institutions, nor does it contemplate any change in present supervisory arrangements.

BACKGROUND

The principle that underlies the proposed legislation is simple and straightforward—namely, that equivalent cash reserve requirements should apply to all deposits that effectively serve as a part of the public's money balances, whether held at member banks, nonmember banks or other financial institutions. Recent growth of nonmember banks and recent efforts by nonbank depository institutions to evolve new arrangements for money transfers make adoption of this principle a matter of some urgency.

Proposals for uniform reserve requirements are not new. Comparable reserve treatment for member and nonmember banks was embodied in the recommendations of a Congressional committee chaired by Senator Douglas in 1950, repeated in 1952 in the recommendations of a Congressional committee chaired by Congressman Patman, endorsed by the Commission on Money and Credit in 1961, reaffirmed by the President's Committee on Financial Institutions in 1963, and urged again in the 1971 report of the President's Commission on Financial Structure and Regulation.

Since 1964 the Board has repeatedly urged the application of reserve requirements set by the Federal Reserve to nonmember banks as well as member banks. In 1970 the Board requested that such reserve requirements be placed on deposits subject to withdrawal by check at all financial institutions. By 1972 the rapid evolution of the financial system made it clear that reserve requirements set by the Federal Reserve would need also to be extended to so-called NOW (negotiable order of withdrawal) accounts, which serve a function similar to demand deposits.

A main benefit to be derived from the legislation proposed by the Board is that it would buttress the basic role of reserve requirements in the functioning of monetary and credit policy. Before the Federal Reserve System was founded, reserve requirements were imposed by legislation at the national and State levels as a means of protecting bank liquidity. That philosophy was reflected in the original structure of reserve requirements established for Federal Reserve member banks. Higher requirements were set for reserve city banks than for country members, and still higher requirements were imposed on central reserve city banks. Vestiges of that initial structure remain, even today.

Required reserves, however, have not proved in practice to be an important source of operating liquidity for banks, except as they can be used within the weekly reserve accounting period to absorb large fluctuations in check clearings. The reserves required to back deposits cannot be withdrawn

to finance a rise in loan demand, and they are available to supply only a small portion of the funds needed to accommodate deposit losses. The essential function of reserve requirements today is not to provide liquidity, but to serve as a fulcrum for monetary policy—that is, to provide a known and controllable base through which the reserve-supplying and reserve-absorbing actions of the Federal Reserve can affect the supply of money and credit.

To achieve good management over the supply of money and credit, reserve requirements must be met by holding assets which are outside the payments stream and whose aggregate volume is under the control of the Federal Reserve. Whatever their role may be in protecting bank liquidity, the reserve requirements set by the various States do not meet this test.

State-determined reserve requirements on nonmember banks vary from one jurisdiction to another, ranging for net demand deposits around the level of reserve requirements set by the Federal Reserve. More important, however, is the form in which these reserves are held. State requirements can be satisfied not only by the holding of cash but also in a number of other ways—for example, by holding deposits with other banks or by holding interest-bearing securities. Holdings in the last two forms do not contribute to the monetary policy function of reserves, since the funds so used remain available to finance additional deposit and credit expansion. When a nonmember bank satisfies all or part of its State reserve requirement by holding deposits at a member bank, that member bank is of course required by the Federal Reserve to hold cash reserves at a Federal Reserve Bank or in the bank vault against these deposits in the same way as for any of its deposits. But, in this case, the size of cash reserve held by the member bank is quite small relative to the initial deposit at the nonmember bank. The minor degree to which deposits in nonmember institutions are indirectly backed by reserves that satisfy reserve requirements of the Federal Reserve—as well as the lack of uniformity in reserve requirements among the States—complicates the task and reduces the precision of monetary control. Thus, the principal thrust of the proposed legislation is to change the form in which nonmember banks may hold their reserves—that is by meeting Federal Reserve regulations with respect to vault cash and reserve balances held with Federal Reserve Banks.

The task of monetary policy is complicated because shifts in deposits between member banks and nonmember institutions alter the relationship between reserves under the control of the Federal Reserve and the nation's deposits. For example, if the Federal Reserve is attempting to restrain monetary growth during an inflationary period, it will be providing bank reserves more slowly. If the public's preferences for deposits at nonmember institutions as compared with member banks were unchanged, the increase in the nation's bank deposits and money supply would be about in line with the slower growth in bank reserves. But if the public is at the same time shifting deposits into nonmember banks—as has often occurred, and to a large and unpredictable extent—there would be a greater monetary expansion than desired. This would happen because deposits at nonmember institutions require less cash reserves than at member banks, and thus the total of deposits that could be supported by the available total of cash reserves would be enlarged.

The growing dimension of this problem can be indicated statistically. Since 1960 the demand deposit component of the nation's money supply held at nonmember banks has grown by 164 per cent, while such deposits held at member banks have grown by only 61 per cent. By the end of 1973, about 25 per cent of demand deposits in the money supply were held at nonmember banks.

Not only are the demand deposits at nonmember banks growing more rapidly than at member banks, but the available evidence indicates that deposit growth at nonmember banks has varied much more from year to year than at member banks. This is shown in the attached Table I. The more erratic growth rates at nonmember banks compound the difficulties of monetary control under the prevailing reserve structure.

The net increase in the number of nonmember banks is shown in Table 2. Overall since 1960, about 750 banks have left the Federal Reserve System through withdrawal or mergers. About 140 State-chartered banks have elected to join the System since 1960. Just over 1,700 others receiving new State charters chose to remain outside the System. The increase in relative importance of both the number of nonmember banks and their deposit holdings has accelerated since 1968, with growth particularly rapid in the past three years.

The main reason for this trend toward avoidance of Federal Reserve membership is the earnings loss that banks conclude they suffer in meeting Federal Reserve requirements. Banks must forego earning assets to build up a reserve balance in the Federal Reserve. That reserve balance pays no interest, although member banks do receive some services from the Federal Reserve.

The potential development at thrift institutions of savings accounts with transfer features similar to checking accounts poses a new risk of slippage in monetary control. In 1973, experimentation with NOW accounts was authorized by the Congress under certain regulatory conditions in two States. These accounts in important degree are capable of substituting for demand deposits, since, unlike ordinary savings or time accounts, depositors can make payment to third parties on the basis of withdrawals in the form of transferable or negotiable instruments. It may well come to the point where the average householder makes a sizable share of his ordinary payments through these accounts. Under present law, these accounts are not subject to reserve requirements set by the Federal Reserve, except at member banks. But in the two States affected, all kinds of depository institutions are authorized to issue these accounts.

Recent trends in nonmember demand deposits and in the development of NOW accounts surely presage a continued, and perhaps accelerated, growth of money-type deposits at nonmember financial institutions. No one can be certain at what exact point this growth will make control over monetary aggregates ineffective, but erosion of the reserve base progressively weakens the reliability of our present monetary instruments.

The proposed legislation extends reserve requirements set by the Federal Reserve only to accounts which are directly employed in making money payments—that is, to demand deposits and to savings accounts with third party payment features. The proposal does not recommend applying Federal reserve requirements to time and savings deposits other than NOW accounts. These deposits do in some degree serve a money-like function, but they are not highly active deposits. Also, under present conditions, there do not appear to be frequent, or large-scale, shifts of funds back and forth between demand and time (or savings) accounts. Shifts among demand deposits, NOW accounts, and other time deposits could become more prevalent in the future, however.

The proposed legislation is not intended to alter the existing chartering options for banking institutions, to favor or disadvantage different types of institutions, or to change the balance among supervisory authorities. State-chartered institutions may continue either to join the Federal Reserve System or not, as they choose. Whether they do or do not—and it is anticipated that many would remain outside the System—they would become subject to reserve requirements set by the Federal Reserve on demand deposits and on NOW and similar savings accounts.

Thus, the specific proposals have been drawn in such a way as to achieve more precision in monetary control and more equity in competition without altering the diversified banking and financial structure that now serves the country. Key specific proposals, and their purposes, are indicated below.

PROVISIONS OF THE PROPOSED LEGISLATION

Apart from exemptions of importance to small nonmember institutions, the bill proposes that every institution receiving demand deposits be required to maintain reserves as determined by the Board of Governors of the Federal Reserve System in a ratio of not less than 5 per cent nor greater than 22 per cent of such deposits. With regard to interest-bearing deposits from which the depositor is allowed to make withdrawals by negotiable or transferable instrument, the reserve requirement range would be from 3 per cent to 20 per cent, as determined by the Board.

Institutions covered would include member and nonmember banks and savings and depository institutions generally. Also included would be U.S. located, foreign-owned banking institutions that accept demand deposits. This would encompass institutions chartered under State or Federal law and owned by foreign individuals or by foreign banks and U.S. branches of foreign banks. All of these institutions would be required to hold reserves on demand deposits or NOW accounts at Federal Reserve Banks or in the form of vault cash.

The proposed range of reserve requirements for demand deposits is slightly wider than the present range of requirements permitted by law. The present range of net demand deposits is from 7 per cent to 22 per cent. The Board's effective reserve requirements are currently graduated by size of deposit, so that smaller banks have lower reserve requirements than larger banks with generally more active accounts.

A wide range within which the Board can set reserve requirements permits maximum flexibility in the use of the reserve requirement instrument. The structure of reserve requirements can be more readily keyed to the size of bank, with reserve requirements graduated by size of deposit. Moreover, with reserve requirements applicable to both member and nonmember institutions, it would be practical for changes in reserve requirements to be utilized more frequently as an instrument of policy. This instrument has the advantage of permitting monetary policy to affect the reserve position of all banks immediately and thus to attain a prompt change in bank credit availability. In the past, use of the reserve requirement instrument has been quite limited, in part because it applied only to member banks and changes would therefore tend to distort existing competitive relationships between member and other banks.

The lower range of reserve requirements proposed for savings accounts with third-party tansfer privileges would permit lower reserve requirements on these accounts than on demand deposits with full checking account powers. Whether there should be such a reserve requirement differential, and the extent of it, would depend on experience with NOW accounts and, in particular, with the degree to which they begin to assume the function of active money. At present the Federal Reserve cannot set reserve requirements on such accounts at nonmember institutions. Reserve requirements on NOW accounts at member banks in the two States where they currently can be offered are the

same as the reserve requirement on ordinary savings deposits at member banks.

The Board recognizes that uniform reserve requirements may impose some burden on nonmember institutions, depending on the level at which requirements are set and on the extent to which they are not satisfied by existing vault cash holdings. This is so because under the proposed legislation, more of the assets of such institutions may need to be held in noninterest-bearing form.

In recognition of this possible impact on the earnings of nonmember institutions, the legislation includes a provision which effectively exempts the first $2 million of the total of net demand deposits and NOW accounts at these institutions from reserve requirements set by the Federal Reserve. For nonmember banks, which hold sizeable amounts of time and savings deposits in addition to their demand accounts, the average size of institution below which there will be a total exemption from reserve requirements set by the Federal Reserve is on the order of $4 million. Nonmember institutions this small are very numerous, but they hold so little of the nation's demand deposits (only about 2½ per cent) that their exemption from reserve requirements of the Federal Reserve would not be a significant handicap for monetary policy.

Given this exemption provision, only about 38 per cent of present nonmember banks would be subject, under the proposed legislation, to reserve requirements that exceeded their own vault cash holdings. Assuming prevailing reserve requirements of the Federal Reserve on demand deposits, the excess of required reserves over vault cash for all nonmembers taken together is estimated to aggregate about $2.3 billion, or less than 1½ per cent of their total resources.

As a further measure to ease any burden on nonmember financial institutions from the transition to uniform requirements, the required reserves on demand deposits over $2 million existing at the time of enactment of the legislation would be phased in over a 4-year period—at the rate of 20 per cent of the total requirement per year, so that by the fifth year the bank would be meeting the full reserve requirement. Any increase in deposits above those existing at time of enactment would, however, be immediately subject to the full reserve requirement. The latter provision is essential because it would promptly permit more effective control by the Federal Reserve over the rate at which the nation's money supply increases.

Nonmember institutions and their communities would also benefit from a provision that permits Federal Reserve credit to be made available to institutions that maintain reserves with Federal Reserve Banks, subject to such limitations as the Board may by regulation prescribe. Under present law, credit to nonmembers is extended only in highly unusual circumstances, and under restrictive conditions as to the type of collateral that may be accepted by the Federal Reserve Bank. The proposed legislation would make it possible for nonmember institutions to have greater access to the Federal Reserve discount window, particularly at times of strong pressures on their liquidity positions. In developing regulations governing such borrowing, however, it would be fair and proper for the Board to give recognition to the remaining differences in the amounts of reserves held at Federal Reserve Banks as between member and nonmember institutions.

The legislation does not propose extension to nonmember institutions of reserve requirements on time and savings deposits apart from NOW accounts. The Board proposes, however, that the lower end of the permissible range within which those requirements can be set for member banks be reduced from the present 3 per cent to 1 per cent, with the upper end remaining at 10 percent. This change would provide needed flexibility in the administration of reserve requirement policy, since the reserve percentage for passbook savings accounts has been at the permissible minimum for a number of years. Whether and to what extent the Board might use this additional latitude would depend on the evolving structure of the deposit system and the impact that various kinds of deposits are judged to have on public behavior with regard to spending and saving.

The legislation also contains a provision that would require reporting of deposit liabilities by member and nonmember institutions subject to reserve requirements set by the Federal Reserve. This information is needed for monitoring purposes and will permit comparative analysis of the various financial institutions as the proposed reserve structure goes into effect.

I and other members of the Board would be pleased to discuss these proposals more fully with you and other members of your Committee. I urge that you consider scheduling public hearings on the matter at an early date.

Sincerely yours,

ARTHUR F. BURNS.

Attachments.

TABLE 1.—MEMBER AND NONMEMBER DEMAND DEPOSIT COMPONENTS OF THE MONEY SUPPLY

4th quarter	Member		Nonmember	
	Amount [1] (billions)	Growth [2] (percent)	Amount [1] [3] (billions)	Growth [2] (percent)
1960	$96.2	0.4	$20.1	1.3
1961	99.2	3.1	21.0	4.2
1962	99.2	0	22.1	5.3
1963	102.0	2.9	23.6	6.6
1964	105.7	3.6	25.2	7.1
1965	109.0	3.1	27.1	7.4
1966	110.4	1.3	28.2	3.9
1967	117.7	6.6	30.2	7.1
1968	125.3	6.5	33.4	10.9
1969	128.1	2.2	36.5	9.0
1970	135.2	5.5	38.4	5.3
1971	142.1	5.1	43.1	12.3
1972	149.9	5.5	49.1	14.1
1973	154.6	3.1	53.0	7.9

[1] Average of daily figures, not seasonally adjusted.
[2] 4th quarter to 4th quarter annual rate of growth.
[3] Nonmember data are based on the ratios of member to nonmember deposits at call dates and are interpolated between such dates.

TABLE 2.—NONMEMBER BANKS COMPARED TO ALL COMMERCIAL BANKS

	As of Dec. 31		Percent of demand deposits in money supply at nonmembers (December average)
	Nonmember banks number	Percent of number of all commercial banks	
1960	7,300	54.2	17.2
1961	7,320	54.5	17.5
1962	7,380	55.0	18.1
1963	7,461	55.0	18.7
1964	7,536	54.8	19.4
1965	7,583	54.9	19.9
1966	7,620	55.3	20.2
1967	7,650	55.8	20.3
1968	7,701	56.3	21.0
1969	7,791	57.0	22.1
1970	7,920	57.9	22.1
1971	8,056	58.4	23.3
1972	8,223	59.0	24.6
1973	[1] 8,426	[1] 59.6	25.4

[1] As of Nov. 30.

S. 2898

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

SHORT TITLE

SECTION 1. This Act may be cited as the Reserve Requirements Act of 1974.

RESERVE REQUIREMENTS FOR MEMBER BANKS AND OTHER INSTITUTIONS

SEC. 2. The last sentence of subsection (b) of section 19 of the Federal Reserve Act (12 U.S.C. 461) is designated as paragraph (6) and that part of such subsection (b) that precedes such sentence is amended to read as follows:

"(b)(1) Every institution that receives demand deposits shall maintain reserves against such deposits in such ratio, not less than 5 per centum nor more than 22 per centum, as may be determined by the Board.

"(2) Every institution that receives interest-bearing deposits from which the depositor is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons (referred to in this Act as 'negotiable order of withdrawal accounts') shall maintain reserves against such deposits in such ratio, not less than 3 per centum nor more than 20 per centum, as may be determined by the Board.

"(3) Notwithstanding the foregoing provisions, for each institution that is not a member bank or a corporation operating or organized under section 25 or section 25(a) of this Act there shall be no required reserves against the first $2 million of its net demand deposits or of its negotiable order of withdrawal accounts or of a combination of both.

"(4) Every member bank shall maintain reserves against its time deposits and its savings deposits (other than negotiable order of withdrawal accounts) in such ratio, not less than 1 per centum nor more than 10 per centum, as may be determined by the Board.

"(5) Every institution that receives demand deposits or offers negotiable order of withdrawal accounts shall make reports concerning its deposit liabilities and required reserves at such times and in such manner and form as the Board may require."

CREDIT TO NONMEMBER INSTITUTIONS

SEC. 3. Section 13 of the Federal Reserve Act is amended by adding at the end thereof the following new paragraph:

"Each Federal Reserve Bank may make advances to any nonmember institution in its district that maintains reserves as prescribed by section 19(b) of this Act with due regard to the proportion of its assets held as such reserves and subject to such limitations as the Board may by regulation prescribe."

CONFORMING AMENDMENTS

SEC. 4. Subsection (c) of section 19 of the Federal Reserve Act is amended by striking "member bank" and inserting "institution"; by striking "of which it is a member" and inserting "of the Federal Reserve district in which its head office is located or such other Federal Reserve Bank as the Board may designate"; and by striking "such bank" each time it appears and inserting "such institution". Subsection (f) of that section is amended by striking out "a member bank" and inserting "an institution" and by striking out "such member bank" and inserting "such institution". Subsection (g) of that section is amended by striking out "member banks" and inserting "institutions". Section 11(e) of the Federal Reserve Act, relating to reclassification of reserve cities, is repealed.

TRANSITION PROVISIONS

SEC. 5. With respect to any institution, other than a corporation operating or organized under section 25 or section 25(a) of the Federal Reserve Act, that is not a member of the Federal Reserve System and was not a member on January 31, 1974, the reserve against its base demand deposits otherwise required by reason of the enactment of this Act shall be reduced by 80 per centum during the first calendar year that begins after its enactment, 60 per centum during the second year, 40 per centum during the third year, and 20 per centum during the fourth year. For the purposes of this section,

the term "base demand deposits" mean that portion of an institution's demand deposits that does not exceed the average daily amount of its demand deposits during the calendar month immediately preceding the date of enactment of this Act.

SEC. 6. This Act shall take effect on the first day of the first calendar year beginning after the date of its enactment.

By Mr. ABOUREZK:

S. 2899. A bill to amend the Clayton Act to preserve and promote competition among corporations in the production of oil, natural gas, coal, oil shale, tar sands, uranium, geothermal steam, and solar energy. Referred to the Committee on the Judiciary.

Mr. ABOUREZK. Mr. President, I am introducing a bill that will make it illegal for oil companies to own or control alternate forms of energy such as coal, oil shale, tar sands, uranium, geothermal steam, and solar energy. The importance of this legislation, I believe, can be attested to by the fact that the American people are currently at the mercy of these major oil companies and are being forced to pay monopoly prices for their energy needs.

The major oil companies are able to charge monopoly prices because they control the exploration, production, transportation, refining, and distribution of petroleum in the United States, if not the entire world. Every day my office receives letters from citizens who are outraged that Congress has consistently refused to take action against this giant oil oligopoly. While it may be difficult to eliminate the major oil companies' control over petroleum and natural gas, it certainly is not so difficult to stop these companies from gobbling up America's remaining energy resources.

Moreover, on January 23, the Washington Post reported that the Interior Department's Bureau of Land Management sold the first Federal lease for geothermal steam resources to the Shell Oil Co. for $4.5 million. The Post reported that a private project in the Geysers area "where Union Oil Co. and Magma Power Co. drilled for the live steam is expected to produce two-thirds of the electrical energy needed for the city of San Francisco by the end of 1975."

The Post report also disclosed that a number of other oil companies engaged in the bidding. These companies included Signal, Union, Standard of California, and Getty.

Recently, for example, the Interior Department leased a 5,000-acre oil shale tract in northwestern Colorado to the Gulf Oil Corp. and the Standard Oil Co. of Indiana who jointly submitted a high bid of $210 million. Most of the other companies who bid on the tract were also major integrated oil companies, including such well-known names as Sun Oil Co., Marathon Oil Co., Atlantic Richfield, Ashland, and others.

Oil shale reserves have had a long and complex history. In 1970 an author named Chris Welles wrote a book, "The Elusive Bonanza," detailing how the major oil companies together with the Federal Government have been preventing the development of shale oil until such time as the major oil companies are ready to develop it themselves. Welles argued in the introduction to his most fascinating book that—

Though this deposit has never been commercially exploited to any meaningful extent, the evidence is overwhelming that production of shale oil would not only be profitable but a good deal more profitable than exploration for and production of new domestic reserves of crude oil.

Welles went on to point out that—

The federal government, which as owner of over 80 percent of the Colorado shale has broad powers to determine its use, has docilely acquiesced to the oil industry's point of view.

In another book, former Senator Paul Douglas described how for years the Interior Department failed to investigate and prosecute possible false claims on numerous acres of oil shale land by private speculators, many of whom were fronting for the major oil companies. One such speculator was a man named Merle Zweifel. According to Senator Douglas—

Some believe that certain oil companies are behind Zweifel and are using his claims to prevent any oil shale development until it is convenient for them to engage in it. The loss of Middle Eastern or Venezuelan oil would, for example, accelerate such a development, as would the growing exhaustion of the domestic fields and further technical progress in the methods of extracting oil from the shale.

Senator Douglas also urged that if the oil companies do begin to develop shale oil, that they should not receive any kind of depletion allowance. He argued that—

In the case of oil drawn from shale owned by the people through their government, the argument is entirely false. It is the government's asset, not the oil companies', that will be depleted, and to compensate private producers who are not owners for this would be highway robbery.

Perhaps, we might consider eliminating the depletion allowance on all energy resources and minerals produced on Federal lands for this very reason.

Unfortunately, for many years the U.S. Department of the Interior has translated the public interest to mean that what is good for the major oil companies is good for the country. The policies of the Interior Department with respect to energy resources on Federal lands have consistently benefited the major oil companies to the detriment of the rest of the American people. As a result, over the years, the Department of the Interior has contributed to the increasing domination over America's energy resources by a handful of powerful major oil companies.

As recent evidence in congressional hearings and in Federal Trade Commission studies indicates, the free market in oil and natural gas does not exist. For all intents and purposes the marketplace is not workably competitive. The results of this lack of competition for America's economy have been disastrous—elimination of competition, fixed prices, reduced supply, corruption of government, and other sordid improprieties and illegalities. In recent years, the major oil companies, which make their plans years in advance, have been feverishly investing their American taxpayer-subsidized capital in competitive fuels—such as coal, oil shale, tar sands, uranium, geothermal steam, and solar energy technology. They are also involved in various stages of research and development of coal gasification, and liquefaction and nuclear technology. In short, the major oil companies are in the process of monopolizing all forms of energy in the United States.

Competition has been the lifeblood of our economic system. Monopoly is the destruction of competition. It distorts the economy and corrupts government. A strong interfuel competitive marketplace is a necessity for this country's economic health and political survival. Congress must not capitulate to the greedy and arrogant demands of the major oil companies, who have shown us that not only are they more concerned with their own profits, but that they will operate against the public interest without the slightest moral misgivings.

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

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

S. 2899

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 "Interfuel Competition Act of 1974."

SEC. 2. That the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12ff), is amended by inserting after section 7 the following new section:

"SEC. 7A. (a) It shall be unlawful for any oil company—

"(1) to acquire any coal, oil shale, tar sands, uranium, geothermal steam, and solar energy asset after the enactment of this section, or

"(2) to own or control any coal, oil shale, tar sands, uranium, geothermal steam, and solar energy asset after the expiration of three years after the enactment of this section.

"(b) Each oil company which owns or controls any coal, oil shale, tar sands, uranium, geothermal steam or solar energy asset shall, within one hundred and twenty days after the enactment of this section, file with the Attorney General and the Chairman of the Federal Trade Commission such reports respecting its coal, oil shale, tar sands, uranium, geothermal steam and solar energy assets as they may by regulation require and it shall be the duty of the Attorney General and Chairman of the Federal Trade Commission to immediately examine such reports.

"(c) It shall be the duty of the Attorney General and/or the Chairman of the Federal Trade Commission to commence a civil action for appropriate relief, including a permanent or temporary injunction, whenever any person violates subsection (a) or (b). Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance.

"(d) Any person knowingly violating the provisions of this Act shall upon conviction be punished by a fine of not to exceed $100,000 or by imprisonment not exceeding ten years, or both, in the discretion of the court. A violation by a corporation shall be deemed to be also a violation by the individual directors, officers, receivers, trustees, or agents of such corporation who shall have authorized,

ordered, or done any of the acts constituting the violation in whole or in part.

"(e) For purposes of this section—

"(1) The term 'oil company' means any corporation engaged in the production or refining of petroleum and includes any affiliate of such corporation.

"(2) The term 'coal, oil shale, tar sands, uranium, geothermal steam or solar energy asset' means—

"(A) any asset used for the mining, drilling, exploration, production or sale of coal, oil shale, tar sands, uranium, geothermal steam and solar energy, or

"(B) any stock in any corporation which engages in (or an affiliate of which engages in) the mining, drilling, exploration, production, or sale of coal, oil shale, tar sands, uranium, geothermal steam and solar energy.

"(3) The term 'acquisition' includes acquisition of control.

"(4) The term 'control' includes actual or legal power or influence over another person, whether direct or indirect, arising through direct or indirect ownership of capital stock, interlocking directorates or officers, contractual relations, agency agreements, or leasing arrangements.

"(5) An affiliate of a corporation is any other corporation which (directly or indirectly) controls, is controlled by, or is under common control with such corporation."

By Mr. MONTOYA:

S. 2900. A bill to improve the safety of motor vehicle fuel systems. Referred to the Committee on Commerce.

Mr. MONTOYA. Mr. President, the legislation which I am introducing today concerns motor vehicle fuel tank safety standards. The bill has two basic provisions. First of all, it would advance, by 1 calendar year, the effective date of the Federal standards proposed by the National Highway Traffic Safety Administration in August 1973. Second, it would require that all supplemental fuel tanks which are added to a vehicle after its original sale meet standards which provide for at least as much safety as that provided by original equipment standards.

The magnitude of the dangers involved in unsafe fuel tanks, the existence of available technology to remedy tank deficiences and the seeming reluctance on the part of the Department of Transportation to implement safety standards in an expeditious fashion provide persuasive evidence of the necessity for this legislation.

Currently the only safety standard applying to fuel tanks involves a frontal collision test—at a speed of 30 miles per hour—which each vehicle sampled must undergo with a maximum allowable fuel loss from its tank of 1 ounce per minute, with fuel loss measured for a 15 minute period.

The standards proposed by the National Highway Traffic Safety Administration in the August 20, 1973 Federal Register would set a maximum allowable fuel loss of 1 ounce per minute when a vehicle is tested under specified impact and rollover conditions. The proposed standards for passenger car fuel tanks include static and dynamic rollover tests as well as a 30-mile-per-hour rear end crash test, a 30-mile-per-hour angular frontal crash test, and a 20-mile-per-hour lateral crash test. All of these proposed standards are due to take effect as of September 1, 1976, except for the dynamic rollover test which does not go into effect until September 1, 1977. The legislation which I am introducing today would move these effective dates up 1 year to September 1, 1975 and September 1, 1976 respectively. This would mean that 1977 and 1978 model year cars would have to meet these standards.

The importance of fuel tank safety standards can only be understood when one considers the frightening statistics compiled by the Department of Transportation. The Department estimates that fires in traffic accidents account for somewhere between 2,000 and 3,500 deaths annually. Moreover, the Presidentially established National Commission on Fire Prevention and Control, in its report of last year, estimated that more than 450,000 fires occurred in motor vehicles in 1971. In fact, motor vehicle fires each year cause almost 35 percent of all fire deaths in the United States. A large percentage of these deaths are caused by fires resulting from gasoline leaking from fuel tanks.

All that it takes to cause a deadly fire in the presence of spilled gasoline is a spark from one of many possible sources—from the car's electrical or exhaust system, a burning tire, a lighted cigarette, a broken power line, or the scraping of metallic vehicle parts along the pavement. Thus it is clear that in reality we have had a fuel crisis for a long time: a fuel crisis represented by the threat of gasoline splashing from ruptured fuel tanks, ready to serve as fuel not for cars but rather for a raging and lethal inferno.

The report of the National Commission on Fire Prevention and Control is worth citing:

> Since gasoline spillage is a common cause of vehicle fires, the location, construction and security of fuel tanks are important design features for fire safety. The most severe losses, in terms of both life and property, occur from fires following rear end collisions. Next in importance are rollover accidents, followed by front end collisions.

Thus it is very important that the proposed standards, which include both rear end and rollover crash tests, take effect 1 year earlier as proposed in this legislation.

The death toll resulting from traffic accident fires is inexcusably high, especially in light of the fact that the technology exists to remedy the design defects which allow excessive leakage from fuel tanks. The National Commission on Fire Prevention and Control came to this conclusion when it stated:

> The indications, then, are that motor vehicles, especially cars, are not as safe as modern technology would allow. Improvements could be made in design and materials, without significant additional costs.

Testimony last year before the House Subcommittee on Commerce and Finance also indicated that the answers to fuel tank hazards are well known. Dr. William Haddon, Jr., currently President of the Insurance Institute for Highway Safety and formerly first Director of the National Highway Traffic Safety Administration, the agency in the Department of Transportation which is responsible for the establishment of auto safety standards, explained that there are several feasible and practical solutions currently available.

One possible approach is to build a structure around the tank in such a way that impact forces are less likely to reach it with violence sufficient to cause rupturing, tearing, and dislocation. In tests conducted by the Insurance Institute for Highway Safety the structure surrounding the fuel tank proved flimsy and provided little protection at all. Tanks themselves could also be made more rugged so that they could withstand impacts without rupturing. In addition, designed-in threats to the integrity of gas tanks could be avoided by the removal of sharp bolts, ridges, and other hardware from positions adjacent to the tank. Fuel lines, filler pipes, and vent lines also could be designed and constructed in ways that make them far less likely to break during impact.

Moreover, in the event of a rupture in the fuel tank, better insulation and placement of electrical wires can reduce the likelihood of a fire starting. And there are also design approaches to stop the exploding gasoline from erupting into the passenger compartment. One of the most reasonable of these approaches is the installation of fire walls. These fire walls have been built into the fronts of cars for decades, but are found on the rear ends of only a few vehicles now sold in the United States.

The technology exists but it has not been put into effect because of the reluctance on the part of the Department of Transportation and its National Highway Traffic Safety Administration to issue adequate and timely safety standards which would require the use of this technology. The National Traffic and Motor Vehicle Safety Act of 1966 granted the Department of Transportation the authority to issue motor vehicle safety standards. Yet there is still no standard presently in effect which would require automobile fuel tanks to withstand a rear end collision with only a minimal amount of leakage. Nor are there currently in effect any standards for side or rollover impacts. According to the proposed standards proposed by the Department of Transportation last August passenger cars would not be subject to rear end collision tests until September 1, 1976. And, of course, it is precisely this type of rear end collision which most frequently causes fuel tank leakage and the resultant fire hazards.

The only fuel tank integrity test which presently exists involves frontal collisions. And since the vast percentage of automobiles have their fuel tanks in the rear, the result is that fuel tanks are not required to be very durable or strong and thus not very safe.

The Department of Transportation has received numerous reports indicating that fire-producing deficiencies in vehicle design are killing many people each year. The National Transportation Safety Board in its report on a 1969 multiple-vehicle collision involving fires on the New Jersey Turnpike, recommended that "the National Highway Traffic Safety Administration and the Automobile Manufacturers' Association

initiate programs leading to the development of automotive fuel tank systems which will minimize the escape of fuel in collisions." This same agency issued a report in 1971 stressing that there had been "no significant reduction of vehicle fires in recent years."

Within the National Highway Traffic Safety Administration over the past several years, there has been received report after report involving accident related fires. These accident investigation reports were designed to prevent future deaths and injuries. Dozens of them blame ruptured fuel systems and fires for accident casualties.

A National Transportation Safety Board study conducted in 1971 contained an appendix entitled "The Continuing Problem of Vehicle Fires." It said in part:

As long as motor vehicles use liquid combustible fuels, the hazard of fire will persist. But this hazard can be materially reduced by attacking both the spillage of fuel and the common ignition sources, since combustion requires both a readily ignitable fuel and ignition.

Therefore, two main goals need to be considered in a systems approach to this problem:

A. The limiting of fuel spillage . . . at present, fuel-system components seem to be among the most vulnerable of all vehicle subsystems in terms of design, construction and placement, when vehicles are involved in crashes; and

B. Better management of electrical ignition potentialities . . . Both of these approaches are well within the state of the art and should require only direction and development to meet realistic performance parameters.

Some of the most recent data providing persuasive evidence of the need for speedy action in setting fuel tank standards came from tests conducted by the Insurance Institute for Highway Safety in April, 1973. The Institute conducted six rear end crash tests with 1973 cars. Despite the fact that these crashes occurred at speeds less than 40 miles per hour, the results were leaking fuel tanks. Each crash produced either fire, or one of fire's prerequisites, namely spilled gasoline. In short, each crash had the potential of becoming a flaming and very deadly inferno.

Unfortunately, the Department's responses to these alarming reports and statistics have been either too little or too late or both. In October 1967, the Department of Transportation issued an advance notice of proposed rule making announcing its plan to set a standard to require "lateral and read-end longitudinal collision tests, prevention of fuel spillage due to rollover, puncture resistant fuel tanks, and protection of fuel lines and fittings." Then on January 17, 1969, the National Highway Traffic Safety Administration issued a notice of proposed rule making, which, if enacted would have required a rear end impact test effective January 1, 1970. No action was taken on this proposal. On August 24, 1970, the National Highway Traffic Safety Administration, "recognizing that the present requirements are narrow in scope," issued another notice of proposed rule making which included rear end collision test requirements more stringent than those proposed in 1969. The agency stated that "the requirements, if implemented, would significantly reduce the likelihood of fuel spillage fires."

And yet the standard requiring rear end collision tests is now not due to take effect until September 1, 1976, a full 7½ years after the only other standard presently applicable, the frontal collision test, came into effect.

Further illustration of the National Highway Traffic Safety Administration's intransigence is provided by a comparison of the actions taken by the agency with the deadlines and timetables set forth in the agency's own program plan books. The first "Program Plan for Motor Vehicle Safety Standards," published in September 1970, proposed March 1971 as the issue date of the standard on fuel system integrity specified in the August 1970 notice. The effective date of that standard was to have been January 1, 1972. The second program plan book, published in October 1971 moved the dates back even further with a proposed issue date of March 1, 1972 for the rule and an effective date of September 1, 1976, for the standard.

As can be seen from the above data, the National Highway Traffic Safety Administration's actions with regard to fuel system integrity safety standards may well rank as one of the foremost instances of bureaucratic delay in recent history. Meanwhile thousands of people every year continue to die on our Nation's roads and highways as a result of this unjustified delay. A postponement of the effective date of a rear-end collision standard until September 1976 would represent a 4-year, 9-month delay past the date proposed in August 1970; a 6-year, 9-month delay since the date proposed in January 1969; and an incredible delay of over 8 years since the National Highway Traffic Safety Administration first announced its intention to devise a fuel system standard covering rear-end collisions.

Mr. President, the legislation which I am introducing today calls for only a modest 1-year speedup in the effective date of the proposed safety standards regarding rear-end crash tests, lateral crash tests, angular frontal crash tests, and static and dynamic rollover tests. This bill would put these standards into effect in 1975 and 1976, depending on the standard and the class of vehicle, instead of on the 1976 and 1977 dates proposed by the National Highway Traffic Safety Administration. This is a limited but very important step which represents the least we can do to accelerate the pace of establishing adequate auto safety standards.

The rationale behind the second part of this legislation, that pertaining to safety standards for supplemental fuel tanks, is the belief that standards for supplemental fuel tanks should provide for just as much safety as that provided by original equipment standards. This part of the legislation is especially important in light of the current fuel shortage and the increasing tendency for people to install supplemental fuel tanks in order to be able to store more gasoline. At present there are no safety standards applicable to supplemental tanks which are not available as factory options. The increased use of these tanks makes the establishment of safety standards even more imperative.

I think it is clear that we simply cannot in good conscience allow such a long time for these safety standards to become effective. As the Insurance Institute for Highway Safety has indicated, if the standards go into effect as proposed. It would still be well into the 1980's before three-fourths of the cars on the road have the full protection called for in the proposed standards. If some 2,000 to 3,500 people died each year in airplane crashes as a result of faulty fuel tanks, would we see a similarly casual attitude on the part of Government officials toward remedying the situation? I doubt it. We owe it to the millions of drivers of this country to insure that adequate automobile safety standards are implemented as soon as possible. The legislation introduced today is a necessary step in this direction.

Mr. President, I ask unanimous consent to have printed in the RECORD following my remarks the text of the bill as well as three items prepared by the Insurance Institute for Highway Safety: First, a table entitled "Fuel Systems: Present and Proposed," second, a fact sheet entitled "Federal Motor Vehicle Safety Standard No. 301: Anatomy of a Delay," and third, a table giving the "summary of results of the 1973 moderate speed front-into-rear crash tests." It should be pointed out that the legislation introduced today would advance by 1 calendar year the effective dates for the proposed standards listed in the first table.

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

S. 2900

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the motor vehicle safety standards with respect to fuel system integrity, proposed by the National Highway Traffic Safety Administration in Docket numbered 73-20, notice 1, 38 Federal Register 160 at page 22417, to be effective as of September 1, 1976, and September 1, 1977, shall be effective, with any modification prior to final promulgation, as of September 1, 1975, and September 1, 1976, respectively.

SEC. 2. Section 402 of title 23 of the United States Code, relating to State highway safety programs, is amended by inserting at the end thereof the following:

"(1) State vehicle inspection programs pursuant to this section shall include provisions to provide assurance that any supplemental fuel tank installed in a motor vehicle after manufacture meets safety standards promulgated by the Secretary for the purpose of this subsection and providing that any such supplemental tank is at least as safe as fuel tanks installed in such vehicle at the time of manufacture."

FUEL SYSTEM TESTS: PRESENT AND PROPOSED

	Effective dates		
		Other vehicles	
	Passenger cars	Under 6,000 lbs	6,000 to 10,000 lbs
Fuel spillage not to exceed 1 ounce per minute after tests as follows:			
Adopted:			
30 mi/h frontal barrier crash	In effect	Sept. 1, 1976	Sept. 1, 1976
Static roll-over (following frontal crash)	Sept. 1, 1975	do	do
Proposed:			
Static roll-over (following frontal crash)			Sept. 1, 1977
30 mi/h rear moving barrier crash	Sept. 1, 1976	Sept. 1, 1976	Do.
30 mi/h angular frontal barrier crash	do	Sept. 1, 1977	Do.
20 mi/h lateral moving barrier crash	do	do	Do.
Static roll-over (following each impact test)	do	Sept. 1, 1976	Do.
Dynamic roll-over	Sept. 1, 1977	Sept. 1, 1977	Do.

FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 301: ANATOMY OF A DELAY

1966.—Sept. 9, 1966, President Lyndon B. Johnson signs National Traffic and Motor Vehicle Safety Act, providing first federal authority for motor vehicle safety standards.

Advance Notice of Proposed Rulemaking issued for Federal Motor Vehicle Standard No. 301, Oct. 6, 1966, to cover fuel tank integrity.

Notice of Proposed Rulemaking issued, Nov. 30, 1966, proposing no loss of fuel greater than one ounce per minute after a 30 mph frontal fixed barrier impact to take effect Sept. 1, 1967.

1967.—Standard No. 301 adopted, Jan. 31, 1967, effective Jan. 1, 1968.

Advance Notices of Proposed Rulemaking issued to extend to rear-end and side collisions. Oct. 10, 1967, as well as extention to multipurpose passenger vehicles, trucks, buses and motorcycles.

1968.—Standard No. 301 takes effect, Jan. 1, 1968, as it turned out, the only protection required in this area for the next 7½ years.

1969.—Notice of Proposed Rulemaking issued, Jan. 17, 1969, for no fuel leakage after panic stop from 80 mph effective Oct. 1, 1969. Also, a 20 mph rear-end moving barrier test proposed to be effective Jan. 1, 1970.

1970.—Notice of Proposed Rulemaking issued, Aug. 24, 1970, extending and modifying test requirements, to take effect Jan. 1, 1972. Additional test proposed to take effect Jan. 1, 1973.

1971.—October 1971, NHTSA delays proposed effective date to Sept. 1, 1976.

1972.—No action.

1973.—Insurance Institute for Highway Safety reveals its new crash-test research at Congressional hearing, May 29, 1973, showing designed-in deficiencies leading to leaking gasoline and fire ever in moderate-speed rear-end impacts in new cars.

Rep. John E. Moss (D-Calif.), chairman of the hearings, writes Transportation Secretary Claude S. Brinegar, May 31, 1973, based on IIHS testimony, rejecting explanations for previous delay.

Center for Auto Safety writes NHTSA seeking amendment to Standard No. 301, June 6, 1973, citing IIHS film results.

June 12, 1973, Acting NHTSA Administrator promises action on stronger fuel tank standards "around Aug. 1, 1973."

Rep. Moss writes Secretary Brinegar again, Aug. 3, 1973, in stronger letter, demands action by Aug. 15, 1973.

Department of Transportation issues new test requirements to strengthen Standard No. 301, Aug. 15, 1973, adopting one previous proposal and proposing others (see chart on page 3) to take effect Sept. 1, 1975–77.

INSURANCE INSTITUTE FOR HIGHWAY SAFETY—SUMMARY OF RESULTS, 1973 MODERATE SPEED FRONT-INTO-REAR CRASH TESTS

Moving car	Parked car	Speed (miles per hour)	Gas Leakage	Fire
1973 Plymouth Fury III.	1973 Chevrolet Vega.	39.8	Yes; Vega.	Potential.
1973 Datsun 610	1973 Ford Pinto.	38.5	Yes; Pinto.	Potential.
1973 Ford Galaxie 500.	1973 AMC Ambassador	37.2	Yes; Ambassador.	Do.
1973 Volkswagen Beetle.	1973 Plymouth Fury III.	38.8	Yes; Fury.	Initiated.
1973 Chevrolet Impala.	1973 GM Opel 1900.	36.4	Yes; Opel.	Potential.
1973 AMC Gremlin.	1973 Toyota Corona.	39.8	Yes; Corona.	Spontaneous.

Note: In addition to the moderate speed front-into-rear crashes of 1973 vehicles tabulated above, in an earlier pilot test a 1959 Oldsmobile 98 was crashed into the rear end of a 1964 Mercury Comet at 39.2 mi/h. Spontaneous ignition occurred.

By Mr. ALLEN:

S. 2901. A bill to change the date of Veterans Day from the fourth Monday in October to November 11. Referred to the Committee on the Judiciary.

VETERANS DAY SHOULD BE RETURNED TO NOVEMBER 11 OF EACH YEAR

Mr. ALLEN. Mr. President, I introduce today a bill to amend title 5 of the United States Code to return observance of Veterans Day to November 11, its traditional date of observance. While I was not a Member of this distinguished body at the time Public Law 90–363 was enacted by the 90th Congress, I am informed that none of the major veterans organizations had an opportunity to testify on this legislation in either the House or Senate nor were they aware that the measure had been amend to change the observance of Veterans Day from November 11 to the fourth Monday in October until after the hearings were closed and the bill favorably reported by the House Judiciary Committee. Given the opportunity, I believe that all of the veterans organizations would have testified in opposition to the measure. This belief is based on a telegram from the American Legion's national legislative director, Herald Stringer, which was read into the RECORD May 7, 1968, by Congressman Whitener in the House of Representatives when H.R. 15951 was debated on the floor. The telegram reads as follows:

At a meeting last week The American Legion's National Executive Committee adopted a resolution opposing that portion of H.R. 15951 which would change the dates for observing Memorial Day and Veterans Day. The date of these national holidays are established by tradition and are rich in patriotic meaning.

Neither should be arbitrarily changed simply to produce economic benefit. Your efforts in opposition to this proposal are deeply appreciated.

H.R. 15951 passed the House on May 7, 1968. It was favorably reported without amendments by the Senate Judiciary Committee on June 21, 1968. I am informed that most of the major veterans organizations asked for an opportunity to testify in opposition to the change in the date of observance for Veterans Day before it was reported, however, no further hearings were held and it passed the Senate June 24. It was approved by the President as Public Law 90–363 on June 28, 1968, and the Monday holiday observances commenced in the year 1971.

Mr. President, I believe it is obvious that this legislation may have been enacted in haste and some of the people most concerned with the holiday changes were neither consulted nor given an opportunity to register their opposition. Certainly the major veterans organizations should have been given this opportunity with respect to Veterans Day. After all, who has a better right to recommend when their day will be observed than the veterans themselves?

Observance of Veterans Day on the fourth Monday in October commencing in the year 1971, has proven to be so unpopular that 31 of the States which had previously changed their laws to conform with the Federal act subsequently reconsidered and enacted legislation to return the observance of Veterans Day to November 11.

I should like to place in the RECORD at this point in my remarks a list of the 31 States whose legislatures have restored to November 11 the traditional and rightful date for observing Veterans Day:

VETERANS DAY TO NOVEMBER 11

[Effective date]

Alaska, 1973.
Arizona, 1973.
Arkansas, 1973.
California, January 1, 1974.
Connecticut, 1973.
Florida, May 17, 1973.
Georgia, January 1972.
Illinois, 1973.
Indiana, 1971.
Idaho, February 15, 1973.
Iowa, November 11, 1974.
Kansas, November 1976.
Louisiana, 1973.
Maine, 1974.
Michigan, 1973.
Missouri, September 22, 1973.
Nebraska, 1973.
New Hampshire, 1973.
New Mexico, 1974.
North Carolina, 1974 (Law March 5, 1973).

North Dakota, 1973 (Law July 1, 1973).
Oregon, 1973.
Pennsylvania, 1973.
South Carolina, 1974.
Tennessee, 1973.
Vermont, 1974.
Virginia, 1973 (Law January 1, 1973)
Washington State, 1973.
West Virginia, 1972.
Wyoming, 1973 (Law May 25, 1973)
Wisconsin, 1974, (November 28, 1973).

In addition, two States, namely, Mississippi and Oklahoma, never changed their laws to conform with the Federal law in this respect. I might add that more than 18 million of our 29 million veterans still living reside in the 33 States that will observe Veterans Day on November 11 in 1974. Also, in the upcoming session of the legislature of my home State of Alabama, legislation will be introduced to restore the Veterans Day observance. This contraindicates popular support for the continued Federal observance of Veterans Day on the fourth Monday of October as now required by Public Law 90–363.

The change in the date for Federal observance of Veterans Day has resulted in the lessening of its patriotic significance. In the 17 States that have thus far not returned to the traditional date of observance, most of the veterans' organizations and other patriotic groups will nonetheless continue to observe Veterans Day on November 11. This will result in 2 days of observance; one for Federal employees and on the other day by the other citizens. Perhaps this is an overstatement, Mr. President, for the reason that commencing in 1971 few of our public schools and business establishments observe either date. Many of the schools now remain open and the department stores seize upon both occasions for sales promotional purposes, thus reducing both dates to insignificance.

Of more than 38 million men and women who have served in the Armed Forces of the United States since our Nation's inception, more than 29 million are still living. They, together with their families, represent about 50 percent of our total population. Certainly no other national holiday honors so many for their contribution to our Nation's welfare.

Veterans Day was founded in the great outpouring of relief, patriotism, prayerful thanksgiving, and unrestrained joy which marked the end of World War I. In the year 1926, November 11 was officially designated "Armistice Day" and in 1938 Congress enacted legislation making it a national holiday. In 1954 the Congress gave the day its broader designation of "Veterans Day" to include veterans of World War II and all other wars.

I might add, Mr. President, that the overwhelming support for changing existing law to restore the observance of Veterans Day to November 11 is shared by the Congress. Several of my distinguished colleagues have already introduced bills or joint resolutions calling for this change and in the other body some 44 measures, many with multiple cosponsors, have also been introduced. Must we wait until all 50 States have made the change before we act to reflect the demonstrated wishes of the preponderance of our Nation's population? I hope not.

Certainly no other single group of our citizens are more deserving in this honor than our Nation's veterans, who have fought so gallantly in at least five major wars this century. These veterans know that our great American heritage, founded upon freedom, has never been and never will be free of pain, free of struggle and free of individual and collective effort. The least we can do is respect their wishes and return the observance of Veterans Day to November 11.

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

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

S. 2901

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, Veterans Day shall be celebrated as a legal public holiday on November 11 of each year.

SEC. 2. Section 6103(a) of title 5, United States Code, is amended by striking out—

"Veterans Day, the fourth Monday in October." and inserting in lieu thereof—

"Veterans Day, November 11."

By Mr. BURDICK (by request):

S. 2904. A bill to improve judicial machinery by amending subsection (g) of section 1407, chapter 87, title 28, United States Code, to exempt actions brought by the Securities and Exchange Commission under the Federal securities laws from the operation of that section, and for other purposes. Referred to the Committee on the Judiciary.

AMENDING JUDICIAL PROCEDURE IN CERTAIN SEC ACTIONS

Mr. BURDICK. Mr. President, I am introducing today at the request of the Securities and Exchange Commission a bill to amend section 1407 of title 28 of the United States Code. That section, enacted by Congress in 1968, created a procedure for consolidated trial proceedings for cases in which two or more actions involving one or more common questions of fact are pending in different judicial districts. The purpose of the bill I am introducing would be to exempt actions brought by the Commission under Federal securities laws from the operation of section 1407. The Securities and Exchange Commission is of the considered opinion that enactment of this bill is very essential to permit it to provide adequate protection of the public interest and the interest of investors in securities through expeditious enforcement of the Federal securities laws which it administers.

On two occasions recently, the Judicial Panel on Multidistrict Litigation, acting under section 1407, ordered SEC injunctive suits consolidated for pretrial purposes with private damage suits which arose out of the same set of facts. The effect of these consolidated orders has been to delay significantly the Commission's action in seeking prompt injunctive relief to prevent violations of Federal securities laws. In one case, involving National Student Marketing, Inc., a complaint was filed in February of 1972 by the SEC in the district court of the District of Columbia. Meanwhile, other private actions involving National Student Marketing were filed in the southern district of New York, the southern district of Ohio, and the northern district of Texas. In April, motions for consolidation were filed with the Judicial Panel on Multidistrict Litigation. Oral argument on consolidation was held in June, but no order was rendered by the judicial panel until December of 1972. The effect of this action was to delay for nearly a year the enforcement action of the Commission.

The need for placing civil injunctive actions instituted by the U.S. Government on a different footing from private civil litigation was recognized by the Congress when it enacted Public Law 90–296 which added section 1407 to title 28 of the United States Code and which provides for consolidation of civil actions involving multidistrict litigation. In paragraph (g) of section 1407, it excluded from the operation of the bill antitrust actions in which the United States is the complainant. The Senate committee report stated with respect to this exclusion:

This limitation was requested by the Department of Justice and concurred in by the Coordinating Committee and the Judicial Conference of the United States, on the basis that consolidation might induce private plaintiffs to file actions merely to ride along on the Government's cases. Government suits would then almost certainly be delayed, often to the disadvantage of those injured competitors who would predicate damage actions on the outcome of the Government's suit. . . .

Mr. President, I believe there is a strong case for providing that injunctive actions brought by the Securities and Exchange Commission should be exempt from pretrial consolidation requirements under section 1407 and placed on the same footing as actions brought by the Department of Justice to enforce antitrust laws in order to insure effective protection to the investing public.

I ask unanimous consent that the text of the bill be included in the RECORD at this point.

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

S. 2904

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (g) of section 1407, chapter 87, of title 28 of the United States Code, is amended to read as follows:

"(g) Nothing in this section shall apply to—

"(1) any action in which the United States is a complainant arising under the antitrust laws. 'Antitrust laws' as used herein include those Acts refererd to in the Act of October 15, 1914, as amended (38 Stat. 730; 15 U.S.C. 12), and also include the Act of June 19, 1936 (49 Stat. 1526; 15 U.S.C. 13, 13a, and 13b) and the Act of September 26, 1914, as added March 21, 1938 (52 Stat. 116, 117; 15 U.S.C. 56); but shall not include section 4A of the Act of October 15, 1914, as added July 7, 1955 (69 Stat. 282; 15 U.S.C. 15a);

"(2) any action brought by the United States Securities and Exchange Commission, including any action brought under the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15

U.S.C. 78a et seq.), the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.), the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.), the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.), or the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.)."

By Mr. CHILES (for himself and Mr. HUDDLESTON):

S. 2905. A bill to terminate the Emergency Daylight Saving Time Energy Conservation Act of 1973. Referred to the Committee on Commerce.

Mr. CHILES. Mr. President, we all know that the United States faces a serious energy crisis. As the days grew shorter this fall and the Nation moved into deep winter, the Congress passed the daylight saving time bill in an effort to save energy by shifting an additional clock hour of daylight from early morning to early evening when human activity is more concentrated. News of the predawn traffic deaths of eight Florida schoolchildren prompts me, however, to introduce today, along with Senator HUDDLESTON, a bill to repeal that act and urge the Congress to support a switch off of daylight saving time, making the effective date of the repeal the day after enactment.

It now appears the Congress acted too hastily in this legislation. Figures do not conclusively show that significant energy savings result from this new law. In fact the only concrete result has been the danger imposed on schoolchildren waiting for schoolbuses in the dark and the inconvenience caused to many parents, farmers, and businessmen. I agree with Governor Askew of Florida that it is far more important to protect the lives of our schoolchildren than to save any amount of energy. Our energy supply may be limited. We all may need, in the days and months ahead, to change many things in our everyday life for the sake of better energy use and conservation. But our children are our most precious natural resource of all and any step we can take to increase their safety must surely be taken. I believe the tragic deaths and injuries in Florida as well as other States oblige us to act quickly to turn the DST law around.

There were many reasons presented at the time which argued effectively for the action the Congress took. Many Congressmen knew the new law would inconvenience some people, but hoped that work and school schedules could be adjusted to help those adversely affected by early morning darkness resulting from DST. But no argument remains effective in the light of the loss of life suffered in Florida and elsewhere. It is my feeling that this law must be reconsidered in light of these tragic events and I sincerely hope my colleagues will see fit to give our proposal their early and favorable action before yet another tragedy occurs.

Mr. HUDDLESTON. Mr. President, the bill we are introducing is quite simple. It would repeal the provisions of the Emergency Daylight Saving Time Energy Conservation Act of 1973 (Public Law 93–182). The provisions provided for the use of daylight saving time on a year-around basis, rather than just during the April–October period when it is normally in effect. Under the terms of the proposed legislation, we would still observe daylight saving time during the summer period, but not during the remaining parts of the year. This bill would become effective at 2 a.m. 2 days following enactment.

During consideration of the emergency daylight saving time conservation bill in December, I opposed its enactment. The legislation allowed adjustments in time zones—time zones which did not appear by accident or through some frivolous action. These zones were, instead, established after long and extensive hearings, first by the Interstate Commerce Commission and, more recently, by the Department of Transportation. There were public hearings in which all aspects of the zones were examined and analyzed.

Yet, in December, these zones were disrupted—and disrupted with no firm idea of the energy savings which would result. At the most, the use of daylight saving time will make a minimum contribution to the conservation of energy and, in many States, it is exacting an unacceptable toll in doing that. In Florida, eight schoolchildren have been killed in accidents while awaiting schoolbuses in the early morning darkness resulting from daylight saving time. In many areas, farmers are forced to labor additional hours in the dark, making their daily routine more difficult and forcing them to use additional energy at a time when the number of American dairy farmers is decreasing.

For 3 weeks now, we have endangered the lives of our schoolchildren, disrupted the working day of our farmers, hindered commerce, and inconvenienced the public in general—all in the vague hope that we are saving energy.

And, still we do not know that we are saving energy. Indeed, the use of daylight saving time has encouraged the use of additional energy in certain cases, as workers get up in the coldest part of the day, as parents drive their children to school rather than permit them to take the bus or as a person decides to drive rather than wait in the dark for public transportation.

I believe now as I did then that the action taken in December was the wrong action, and I believe we should move to rectify the mistake that was made.

Our citizens are doing much to meet the energy crisis. They are, I believe, willing to do what needs to be done. But, at a time when they are being asked to turn down their thermostats and restrict their driving, they should not be further inconvenienced by a requirement whose conservation value is yet unproven.

By Mr. MONDALE:

S. 2906. A bill to amend the internal Revenue Code of 1954 to permit taxpayers to utilize the deduction for personal exemptions as under present law or to claim a credit against tax of $200 for each such exemption. Referred to the Committee on Finance.

THE $200 OPTIONAL TAX CREDIT TO AID FAMILIES HEAD OFF RECESSION

Mr. MONDALE. Mr. President, I am today introducing legislation that would cut nearly $200 a year from the average family's tax bill by allowing taxpayers to take a $200 credit for themselves and each of their dependents instead of the existing $750 personal exemption.

This is the first of a series of bills I will be introducing to support and strengthen American families.

This new $100 credit would be optional. Anyone who wished to continue using the existing $750 exemption could do so. However, because the $200 credit would be subtracted directly from the final tax bill, it would be worth more in tax savings than the $750 exemption to almost all families earning $20,000 or less.

A family of four earning $8,000 a year would have $236 under this plan, while a family of the same size earning $15,000 would have $117.

Large families, of course, would save more. A family of six with an income of $8,000 a year would save $322, while a family of six earning $15,000 a year would save $187.

I ask unanimous consent that a series of tables showing the tax savings for families of various sizes at different income levels be printed in the RECORD at the conclusion of my remarks.

NEEDED TO MAKE UP FOR INFLATION, HIGHER TAXES

The relief this new tax credit would bring to low- and middle-income families is desperatley needed after the runaway inflation and higher taxes of 1973. The average working American was on an Alice-in-Wonderland treadmill last year. He had to work harder and harder just to stay in the same place.

A study just released by the Joint Economic Committee, for example, shows that a family with a budget of $12,614 had to pay an extra $1,168 just to maintain their 1972 living standards in 1973. In addition, that same family had to pay $281 more in social security and income taxes during 1973, a 15-percent increase.

The JEC study shows that low-income consumers were especially hard hit by last year's inflation—the worst in 25 years—since they had to spend more on necessities like food, housing, and fuel, where price increases were greatest. The price of food alone went up more than 20 percent last year, for example, while gasoline was up 19 percent and fuel oil and coal 45 percent.

Consumer prices as a whole went up 8.8 percent last year, while most workers were held to the administration's 5.5 percent wage guidelines. Not surprisingly, then, real spendable earnings—weekly pay adjusted for increases in prices and taxes—went down 3 percent during the year.

Another factor eating away at workers' paychecks was the little-understood inflation tax. When paychecks go up workers are no better off economically—they are just keeping even. But those wage increases put them into higher marginal tax brackets, and a bigger percentage of their income is taken in taxes—leaving them worse off. This inflation tax added about 8 or 9 percent to the average family's tax bill last year.

The new optional $200 credit I am pro-

posing would help make up for this erosion in real family incomes.

NEEDED TO HEAD OFF RECESSION

The economy is headed into a recession, if we are not in one already.

Real GNP—total output corrected for inflation—rose at an annual rate of only 1.3 percent in the last quarter of 1973, and the outlook is for an actual decline in growth in the first half of this year.

This is the classic definition of a recession, and it could mean unemployment of 6 to 8 percent or higher—as many as 3 million additional Americans without jobs.

One of the most important factors in this threatened recession, economists say, will be a decline in consumer spending. With family budgets squeezed by higher prices for food and fuel, and higher income and social security taxes, consumers will have less real income to spend. Growing fear of unemployment and general economic uncertainty will put a further damper on consumer spending.

The best way to stimulate consumer spending and head off this impending recession is with a tax deduction. It worked in the early 1960's, and it can work again today.

But the administration—diverted by predictions of greater inflation in 1974—is apparently once again readying its standard Draconian remedy—a highly restrictive Federal budget, with a full employment surplus as high as $10 billion.

This is the wrong economic medicine. The inflation predicted for 1974 will be largely concentrated in food and fuel, and there is little that can be done about these prices by putting the economy through a recessionary wringer.

A tighter Federal budget will simply add a recession to the existing inflation.

The $200 optional tax credit I am proposing today would help to deal with the threat of recession by pumping $6.5 billion into the economy over the next year, directed toward those who have been hardest hit by rising prices.

Nearly $5 billion of the total amount of tax relief under this proposal—78 percent—would go to those earning between $5,000 and $15,000 a year. Another 12 percent would go to those making less than $5,000. By concentration 90 percent of the tax relief on those making less than $15,000, the proposal not only helps those most in need, but also provides the greatest amount of stimulus to our lagging economy.

Families in these income brackets must spend all—or more than all—of their income on everyday necessities, and have little left over to save. The tax relief they receive, therefore, will be immediately pumped back into the economy in the form of increased consumer spending. Only 1 percent of the relief under this proposal would go to those making more than $20,000, who tend to save a much larger percentage of their additional income rather than spending it.

I ask unanimous consent that a table showing the total distribution of tax relief by income category be printed in the RECORD at the conclusion of my statement.

To the extent it is required by economic conditions, the $6.5 billion revenue loss from this proposal can be recouped in later years by a tax directed toward the excess profits of the oil industry, together with long-overdue reform of foreign and domestic tax loopholes.

NEEDED FOR GREATER TAX EQUITY

This new optional $200 tax credit plan would also be a significant step toward greater tax equity and fairness.

Hearings on American families before the Subcommittee on Children and Youth—which I chair—have demonstrated the unfairness of the existing $750 exemption. While it is designed in large part to help families raise their children, it discriminates strongly against low- and moderate-income families.

The $750 exemption for dependents is much more valuable for the wealthy than it is for average Americans. It provides the most help to those who need it least, and the least help to those who need it most.

For those in the highest 70-percent bracket—making $200,000 a year and more—each $750 exemption is worth $525 in reduced taxes. But for someone in the lowest 14-percent bracket making around $5,000 a year, each $750 exemption is worth only $105 in reduced taxes.

I believe we need a more carefully structured approach. As I discussed earlier, last year's inflation hit low- and middle-income Americans the hardest, since they had to spend more on necessities like food, fuel, and housing, where price increases were greatest.

Furthermore, as I also discussed earlier, a proposal like the $200 optional credit which concentrates relief on those making less than $15,000 will stimulate the economy more effectively than proposals which concentrate more relief on the well to do, who tend to save more and spend less.

Mr. President, I ask that the text of the legislation appear in the RECORD at this point, along with the tables mentioned earlier and the text of a speech I made today at the Women's National Democratic Club discussing the proposal.

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

S. 2906

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by redesignating section 42 as 43, and by inserting after section 41 the following new section:

"SEC. 42. PERSONAL EXEMPTIONS.

"There shall be allowed to an individual, as a credit against the tax imposed by this chapter for the taxable year, $200 multiplied by the number of personal exemptions provided that individual under section 151 for that taxable year."

(b) Section 151 of such Code (relating to allowance of deductions for personal exemptions) is amended by adding at the end thereof the following new subsection:

"(f) Election to Take Credit in Lieu of Deduction.—This section shall not apply in the case of a taxpayer who, for the taxable year, elects to take the credit against tax provided by section 42 (relating to credit against tax for personal exemptions). The election shall be made in such manner and at such times as the Secretary or his delegate prescribes by regulation.".

(c) The table of contents for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 42. Personal exemptions.
"Sec. 43. Overpayments of tax.".

SEC. 2. The amendments made by this Act apply with respect to taxable years beginning after December 31, 1973.

TAX SAVINGS FROM MONDALE PROPOSAL

[Assumes personal deductions of 15 percent of income]

Adjusted gross income	Present tax	Tax with $200 credit	Tax saving
MARRIED COUPLE WITH 4 DEPENDENTS			
$5,000	0	0	0
$6,000	$28	0	$28
$8,000	322	0	322
$10,000	620	$290	330
$12,500	1,024	758	266
$15,000	1,435	1,248	187
$17,500	1,903	1,779	124
$20,000	2,385	2,340	45
MARRIED COUPLE WITH 2 DEPENDENTS			
$5,000	$98	0	$98
$6,000	245	0	245
$8,000	569	$333	236
$10,000	905	690	215
$12,500	1,309	1,158	151
$15,000	1,765	1,648	117
$17,500	2,233	2,179	54
$20,000	2,760	2,740	20
MARRIED COUPLE WITH 1 DEPENDENT			
$5,000	$208	0	$208
$6,000	362	$153	209
$8,000	706	533	173
$10,000	1,048	890	158
$12,500	1,463	1,358	105
$15,000	1,930	1,848	82
$17,500	2,416	2,379	37
$20,000	2,948	2,940	8
MARRIED COUPLE WITH NO DEPENDENTS			
$5,000	$322	$169	$153
$6,000	484	353	131
$8,000	848	733	115
$10,000	1,190	1,090	100
$12,500	1,628	1,558	70
$15,000	2,095	2,048	47
$17,500	2,604	2,579	25
$20,000	3,135	3,135	0
SINGLE PERSON			
$5,000	$491	$433	$58
$6,000	681	637	44
$8,000	1,100	1,078	22
$10,000	1,530	1,515	15
$12,500	2,059	2,059	0
$15,000	2,630	2,630	0
$17,500	3,249	3,249	0
$20,000	3,915	3,915	0

"Breakeven" points

(Adjusted gross income level at which the optional $200 tax credit is worth the same as the $750 personal exemption.)

Type of tax return and adjusted gross income level:	
Married couple with four dependents	$21,764.71
Married couple with three dependents	21,274.51
Married couple with two dependents	20,784.32
Married couple with one dependent	20,294.12
Married couple with no dependents	19,803.92
Single person	12,500.00

DECREASE IN TAX LIABILITY UNDER MONDALE PROPOSAL (BASED ON CALENDAR YEAR 1972 INCOME LEVELS)

Adjusted gross income class	Percent of returns in each income class [1]	Number of returns with tax decrease (thousands)	Decrease in tax liability (millions)	Percent of total decrease
$0 to $3,000	23.1	3,220.5	$165.8	2.6
$3,000 to $5,000	13.4	7,745.8	626.4	9.7
$5,000 to $7,000	11.9	8,736.8	983.3	15.2
$7,000 to $10,000	16.9	12,229.1	1,763.0	27.2
$10,000 to $15,000	19.6	15,045.2	2,280.8	35.3
$15,000 to $20,000	8.7	6,881.2	599.3	9.3
$20,000 to $50,000	5.9	1,017.6	$51.3	0.8
$50,000 to $100,000	.5	1.8	.2	
$100,000 and over	.15	.4	.1	
Total	100.15	54,878.5	6,470.1	100.1

[1] In calendar year 1971 (1972 data unavailable).

REMARKS OF SENATOR WALTER F. MONDALE

I would like to talk today about something that we all take for granted . . . the American family.

There is nothing more fundamental to the wellbeing and future of a nation than the health of its families.

Urie Bronfenbrenner, Professor of Human Development and Family Study at Cornell University put it best:

"It is no accident that in a million years of evolution we have emerged with a particular form for the raising of children and it is the human family."

Few Americans would disagree with that statement. Yet American families have come under increasing pressures in recent decades . . . as the pace of change has quickened . . . and life has become more impersonal And I'm afraid we are often better at paying lip service to the importance of families and children than we are at protecting the opportunities and options they need to succeed.

In the nearly nine years that I've spent in the Senate, I think I've spent as much time as anyone else there working on the problems of children especially disadvantaged children—and their families.

As a member of the Hunger Committee, and of the Education, Health, Poverty, Migratory Labor and Indian Education Subcommittees. I have struggled with the problems of preschool education, discrimination, health care, malnutrition and all the rest.

Like many of you, I've not only tried to read about the problems and listen to the experts. I've tried to see children and their families where they live and to listen to them. I have visited children who have been the victims of child abuse and seen the scars of their burns and beatings. I have talked to families who have lost a child through the unexplained tragedy of crib death. I have seen migrant mothers with their ricket ridden infants . . . and the empty eyes of Navajo children in federal boarding schools thousands of miles from their homes.

And the longer I work on specific problems and programs, the more convinced I am that we need to step back and take a look at the condition and health of American families as a whole.

We're beginning to take that look in a series of hearings by the Subcommittee on Children and Youth, which I chair. We are listening to some of the nation's most thoughtful, experienced observers of the family . . . Margaret Mead . . . Bob Coles . . .Urie Bronfenbrenner. . . Ed Zigler and experts from the Census Bureau. And we are listening to families directly.

We're finding that many families in this country are strong and healthy. Most are coping very well with the increasing pressures. But there are warning signals which we cannot ignore.

Today one out of every six American children lives in a single parent home.

Teenage alcoholism and drug abuse are growing problems.

Suicide among young people is increasing geometrically . . . it is now the second leading cause of death for young American between ages 15 and 24.

Delinquency is so pervasive that experts now predict that one out of every nine youngsters will have been to juvenile court by age 18.

And child abuse . . . most of which is inflicted on children by their own parents . . . is a widespread and apparently growing problem among all social and economic groups.

When we step back and take that long view, one fact emerges above all of the others, It is not just the families of the poor who are facing these increasing pressures although the poor often feel them most. These symptoms strike families from every background. Even in affluent homes . . . where a decent meal and a warm place to sleep are taken for granted . . . in too many cases, the cocktail hour has replaced the family hour . . . and watching television has often become the most common form of family activity.

The cold fact is that parents from all backgrounds are spending less and less meaningful time with their children. Urie Bronfenbrenner told us about one study which measured the amount of time a group of fathers spent interacting with their infants. The result is shocking . . . an average of 37 *seconds* per day.

Then he told us about a marvelous new product that could reduce this time even more for both mothers and fathers. It is called the cognition crib. He read its brochure to us:

"The crib is, the pamphlet said, equipped with tape recorders that can be activated by the sound of the infant's voice . . . Frames built into the sides of the crib permit insertion of programmed play modules for sensory and physical practice. The modules come in sets of six, which the parent is encouraged to change every three months so as to keep pace with the child's development."

These modules include six soft plastic faces . . . and something called ego building mirrors.

* * * * *

We simply cannont continue to ignore what is happening to American families. And I don't think it's enough just to blame the parents when something goes wrong. Responsibility to provide our children with a supportive upbringing *must* rest on those of us who are parents. But we have to realize that it is very hard to be a good parent in America, and it is getting harder every day.

Some of the difficulty stems from the dramatic changes in our society over the last century . . . toward giant cities . . . an economy based increasingly on giant corporations . . . and mass communication

But we must recognize, as well, the fact that in a whole host of different ways . . . unwittingly and often without even thinking about it . . . government policies are placing destructive burdens on families.

Perhaps the strongest message from our hearings concerned the need for financial security . . . and the growing economic squeeze facing so many American families.

Consider for a moment the tremendous pressure that run-a-way inflation has placed on so many American families . . . especially the working families who pay the largest share of taxes and bear the major burdens of making our economy run. Last year, the cost of living in this country rose almost 9% . . . the largest increase in over 25 years. Supermarket prices jumped 22%. Gasoline prices went up over 18% . . . fuel oil and coal over 44% . . . and we are told that there is no end in sight.

The recent study by the Joint Economic Committee shows that a family earning $12,000 a year lost over $1,000 in purchasing power last year because of inflation . . . and paid almost $300 in additional social security and income taxes. This inflation hits low income and working Americans . . . and large families . . . especially hard . . . because they must spend more on necessities like food, housing and fuel where price increases have been the greatest.

Incredibly, the 1968 dollar is now worth only 77c. And the long slide won't stop there.

Listen to what this means in human terms. Bob Coles, the Harvard Child Psychiatrist who has worked so closely with families, shared the following statement with our Subcommittee. The factory worker he talked with put it this way.

"Work, I have plenty of it—so much that it's my whole life. I work my regular shift, then I work overtime—whether I want to or not.

"Like I say to my wife, it's a bind, because we need the money, just to keep our heads above the water, but it means that I practically never get to see the kids, except on Sunday, and then I'm so tired I can barely do anything but sleep and eat and get ready for the next week. My wife is working too, she has to—or else we'd be drowning in bills. As it is, with the two of us working, we're still in trouble.

"I feel like a guy running hard just to keep in the same position. And let me tell you, it makes a difference at home: my wife feels it, and so do the kids."

Families like this one have borne the full brunt of this Administration's economic mismanagement.

The Nixon inflation—the worst since World War II—has slashed into their budget for food, clothing and health.

And they suffered even more when the Administration tried to control inflation with high unemployment and the highest interest rates since the Civil War. Family breadwinners lost their jobs, and millions of middle income families could no longer afford to buy homes.

And now the Administration seems intent on going down this same futile road again. Their standard solution to soaring inflation is to throw the economy into a recession with a highly restrictive Federal budget.

According to Budget Director, Roy Ash, next year's Federal budget will show a full employment *surplus* of at least $5 billion. This is a prescription for a deeper recession and soaring unemployment, and it's more bad news for American families.

Some of the witnesses at our hearings suggested we adopt a children's allowance or family allowance . . . to help families cope with these economic pressures. They pointed out that most Western democracies including Canada and France have this kind of system.

The fact is our country already has what

could be called a children's alolwance or a family allowance. It is hidden in our income tax system and called the personal exemption. The problem is that the exemption provides the most help to those who need it least . . . and the least help to those who need it most. Because the size of your benefit depends on the tax bracket you are in, this $750 personal exemption provides up to $525 of tax relief for individuals in families making over $200,000 . . . but only about $150 in tax relief for individuals in the average American family.

This combination of inflation . . . high interest rates . . . restrictive federal budgets . . . and what might be called an upside down family allowance is placing tremendous pressures on American families.

And it is dangerous economic policy as well. I fear that the squeeze of higher costs and higher taxes on the budgets of working Americans could well lead to reduced consumer demand, economic recession and increased unemployment.

That is why I am introducing today legislation to cut about $200 a year from the average family's tax bill. My proposal will pump roughly $6½ billion into our economy over the next year and be directed to those who have been hit hardest by rising prices. And it will be a major step toward greater tax equity and fairness for average families.

Under my plan, each taxpayer will have the option of taking a $200 credit for themselves and each of their dependents . . . or continuing to use the existing $750 exemption. Because the $200 credit would be subtracted from the final tax bill, it would be worth more in tax savings than the $750 exemption to almost all families earning $20,000 or less.

A family of four, earning $8,000 a year would save $240 a year under this plan, while a similar family earning $15,000 would save $117.

And my proposal would provide even greater relief for larger families . . . the very ones who have been hit the hardest by inflation. A family of six, earning $10,000, for example would save about $330 a year under my bill.

In the first year, my bill will add a much needed stimulus to our economy in an effort to head off unemployment and recession. In later years, revenues from a tax directed toward the excess profits of the oil industry . . . together with reform of some of the most intolerable tax loopholes . . . will more than make up for the loss in tax revenues.

I believe there is a consensus developing about the need for this kind of measure. Just last week, for example, the Senate tentatively adopted and then rejected a $100 increase in the personal exemption. This would have provided about $3½ billion in tax relief. I supported that amendment because it was a good beginning toward tax relief. I am proposing a somewhat different plan—an optional credit—which provides more relief, and targets it on the families that need it most.

Our economic and tax policies are only one example of governmental policies that place pressure on families.

Our programs for families under strain sometimes unnecessarily break up families by encouraging placement of children in foster homes or institutions.

Over half our States have Welfare laws which require an unemployed father to leave his family if his wife and children are to be eligible for assistance.

Our public housing and urban renewel policies have too often destroyed neighborhoods and communities . . . or built huge new high rise slums.

And the transfer policies of our armed services clearly need to be reconsidered in terms of their impact on families and children.

Government policies like these need to be examined in terms of their impact on families. In addition to the bill I am proposing today, I hope to introduce a number of legislative proposals in coming weeks to support and strengthen American families.

I will propose a family impact statement . . . modeled in part after the environmental impact statement . . . designed to assess and anticipate in advance the effect of governmental policies on families. And I will offer family strengthening legislation as well in the areas of day care and child development . . . public service employment . . . and an increased minimum wage.

Proposals such as these could bring some long over-due support and relief to American families, but they will clearly only be part of the answer. The government doesn't have and shouldn't pretend to have the entire solution to the problems affecting American families. In some areas, changes in government polices could be very helpful.

But I certainly don't want a national policy of what I call Big Brotherism . . . in which the Federal government assumes that it knows best how children should be raised and how families should be structured.

We're learning, rather painfully, that government has an additional impact beyond its specific programs and policies. Those of us in public life are examples for many Americans. . . we do help set a moral tone for the nation and its families. And anyone who looks at the current moral and ethical mess in Washington must pray that not a single family ever adopts those standards as their own.

Bob Coles put it well: He pointed out the way in which a generation of children is being affected by the seemingly endless revelations surrounding Watergate:

"We would do well, he told us, to think about the sensitivity and responsiveness of children to the kinds of widespread and blatant and cynical corruption not only affected this Government but has also affect American families.

"When, Coles continued, those children and those parents who rear them can fall back on nothing but the kind of pervasive hypocrisy and two-faced preaching, that on one hand exhort law and order and on the other hand demonstrate lawlessness and corruption . . . then I say the American family is as jeopardized as it possibly can be. Because children watch television, and they read, and their parents read and watch television . . . and they all know what is happening about them."

I think Bob Coles issued a challenge to all of us who care about the strength of our nation and therefore the health of American families. He said in conclusion:

"So the Federal government cannot only do something about attempting to give working people and would-be working people of this country a better deal, but it can in very fundamental ways show by its own integrity a whole generation of families what it really does mean to be an American."

By Mr. BENTSEN:

S. 2907. A bill to amend the General Education Provisions Act to provide that funds appropriated for applicable programs for fiscal year 1974 shall remain available during the succeeding fiscal year and that such funds for fiscal year 1973 shall remain available during fiscal years 1974 and 1975. Referred to the Committee on Labor and Public Welfare.

CARRYOVER OF EDUCATION FUNDS

Mr. BENTSEN. Mr. President, for some time I have been concerned that the Congress and the Office of Education have not allowed our local school districts to engage in effective, long-range planning. Too often, we pass appropriations bills late in the fiscal year, giving the school districts no adequate time to react. Too often, the bureaucracy does not explain changes in the law until well after the deadlines established by Congress for doing so. The result has been that officials must tread a thin line on their budgets; they cannot be assured of funds for staff or services, and, as a consequence, must engage in elaborate guesswork to plan their programs for the year.

Last year, for example, we had problems with the funding under title I of the Elementary and Secondary Education Act. The Office of Education did not notify the school districts until very late in the year that 1970 census figures would be used in determining allocations. As a result, many districts, particularly in rural areas, found that their title I funds had been cut by as much as 50 percent. Then Congress nearly compounded the problem by considering a new formula, allowing each school district to receive at least 85 percent of last year's funds, which would have taken funds from the urban districts.

During the debate on that continuing resolution, I offered an amendment on the floor which would have guaranteed every school district 100 percent of last year's title I funding and would have also allowed the districts that had received gains to retain those gains. Although that amendmet was narrowly defeated, an acceptable substitute was eventually adopted which assured that each State would receive 100 percent of what it received in fiscal 1973. Now there is a new problem affecting school district planning, and it involves, not only title 1, but a wide range of Federal funds for education.

Until July 1, 1973, there was a provision in Federal law which allowed education funds appropriated in one fiscal year to carry over into the next year. That enabled school districts to have some degree of assurance that they could engage in orderly planning, and that they would not have to expend funds released late in the year in a hasty and careless manner.

Recently, however, the administration released some $500 million in impounded fiscal 1973 funds for education. If some form of carryover provision were still in law, those funds could be expended in an orderly manner, but, under present circumstances, it well may be that the funds will have to be spent before June 30 of this year.

In addition, fiscal 1974 funds, which have already been appropriated, could lapse on June 30 of this year, without a provision enabling them to be spent in fiscal 1975 as well.

The amendment I introduce today will accomplish two purposes: First, it will allow the recently released impounded funds to be spent either this year or during the fiscal 1975; and second, it will allow funds appropriated for fiscal 1974 to be spent either this year or in fiscal 1975.

Mr. President, I believe this amendment is urgently needed. If school districts do not know by March whether their funds will carry over into the next

fiscal year, they may be forced to fire staff and cancel projects. We do not want to pile uncertainty on uncertainty. We want to encourage long-range planning rather than guesswork. And we cannot wait for the final passage of the new Elementary and Secondary Education Act, for that will throw us too late into the school year.

Let us give some rational directions to our school administrators and pass this amendment into law.

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

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

S. 2907

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 414(b) of the General Education Provisions Act is amended by inserting "(1)" before "Notwithstanding", by striking out "subsection" and inserting in lieu thereof "paragraph", by striking out "1973" and inserting in lieu thereof "1974", and by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this paragraph, any funds from appropriations for the fiscal year ending June 30, 1973, to carry out programs to which this title is applicable which are made available during the fiscal year ending June 30, 1974, shall remain available for obligation and expenditure during the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975."

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 847

At the request of Mr. ROBERT C. BYRD (for Mr. NELSON), the Senator from Rhode Island (Mr. PASTORE) was added as a cosponsor of S. 847, a bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize safety design standards for school buses, to require certain safety standards be established for school buses, to require the investigation of certain school bus accidents, and for other purposes.

S. 1017

At the request of Mr. JACKSON, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 1017, the Indian Self-Determination and Educational Reform Act of 1973.

S. 2657

At the request of Mr. Moss, the Senator from Delaware (Mr. ROTH) was added as a cosponsor of S. 2657, a bill to provide scholarships for the dependent children of public safety officers who are the victims of homicide while performing their official duties, and for other purposes.

S. 2782

At the request of Mr. PROXMIRE (for Mr. MANSFIELD), the Senator from Wyoming (Mr. MCGEE) was added as a cosponsor of S. 2782, a bill to establish a national energy information system, to authorize the Department of the Interior to undertake an inventory of U.S. energy resources on public lands and elsewhere, and for other purposes.

S. 2789

At the request of Mr. MCGOVERN, the Senator from Massachusetts (Mr. BROOKE), the Senator from Iowa (Mr. CLARK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Indiana (Mr. BAYH), the Senator from California (Mr. TUNNEY), the Senator from North Dakota (Mr. YOUNG), the Senator from New Jersey (Mr. CASE), the Senator from New Mexico (Mr. MONTOYA), the Senator from New York (Mr. JAVITS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. MANSFIELD), the Senator from Michigan (Mr. HART), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. MUSKIE), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Washington (Mr. MAGNUSON), and the Senator from Florida (Mr. GURNEY) were added as cosponsors of S. 2789, the Vietnam Veterans GI Bill of Rights.

S. 2801

At the request of Mr. PROXMIRE, the Senator from Colorado (Mr. DOMINICK), the Senator from South Dakota (Mr. ABOUREZK), and the Senator from Wyoming (Mr. MCGEE) were added as cosponsors of S. 2801, a bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements and for other purposes.

S. 2875

At the request of Mr. HATHAWAY, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2875, a bill to amend the State and Local Fiscal Assistance Act of 1972 to exempt any unit of local government which receives not more than $5,000 for the entitlement period from the requirement that reports of use of funds be published in a newspaper.

SENATE CONCURRENT RESOLUTION 65—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO PEACE THROUGHOUT THE WORLD

(Referred to the Committee on Foreign Relations.)

Mr. PACKWOOD (for himself, Mr. CLARK, Mr. HART, Mr. HARTKE, Mr. HUGHES, Mr. MCGEE, Mr. MCGOVERN, Mr. MOSS, and Mr. PELL) submitted the following concurrent resolution:

S. CON. RES. 65

RIGHT TO PEACE RESOLUTION

Resolved by the Senate (the House of Representatives concurring),

It is the sense of the Congress that:

1. A world without war is possible.

2. In such a world nations will rely for their external protection on world institutions strong enough to stop any nation from making war, capable of assuring peaceful and just settlements of international disputes and reliable enough to be entrusted with such powers.

3. It is the policy of the United States to initiate and to implement with other nations practical steps consistent with our commitment to the United Nations for the expeditious realization of such institutions.

RIGHT TO PEACE RESOLUTION

Mr. PACKWOOD. Mr. President, in his address to the delegates to the 28th General Assembly of the United Nations, Secretary of State Kissinger stated:

The U.S. has made its choice . . . We strive for a world in which the rule of law governs and fundamental human rights are the birthright of all. Beyond the bilateral diplomacy, the pragmatist agreements and dramatic steps of recent years, we envisage a comprehensive, institutionalized peace—a peace which this organization is uniquely situated to foster and to anchor in the hearts of men.

I bring Secretary Kissinger's remarks to the attention of the Senate because they relate most particularly to legislation I introduce today on behalf of myself and eight of my Senate colleagues. The "Right to Peace" resolution expresses a sense of the Congress that a world without war is possible. Further, it declares that in such a world nations will rely for their external protection on world institutions strong enough to stop any nation from making war, capable of assuring peaceful and just settlements of international disputes and reliable enough to be entrusted with such powers. And, finally, it asserts that it is the policy of the United States to initiate and to implement with other nations practical steps consistent with our commitment to the United Nations for the expeditious realization of such institutions.

The "Right to Peace" resolution is the end product of many months of drafting and discussion by the members of the World Order Strategy Committee of the Members of Congress for Peace through Law, of which I am vice-chairman. Congressman DRINAN, who chairs the committee, is introducing identical legislation today in the House of Representatives.

The principle objective of the resolution is to draw attention to our belief that Hobbes no longer prevails, that war is not innate to human nature. Thus, the first statement of the resolution is a flat contradiction of that premise and an affirmative declaration that a world without war is possible. We believe this to be an essential restatement of mankind's capability to live together in peace on earth, and a critical precondition to the survival of humanity.

Mr. President, if the United States, in fact, has made its choice, then the propagation of this assumption that a world without war is possible needs to be heard in open sessions of our Government. We introduced the "Right to Peace" resolution today with the hope that it will prompt the responsible congressional committees in both Houses to move expeditiously to hold public hearings, thus generating a broad-based exchange on the merits of, as well as the potential vehicles which could be utilized in the search for, world peace through law.

It has become painfully apparent in the past few months that any conflict amongst nations of the world as a profound effect on the whole of the global community. This world needs a lot of things, but one of the things it needs most urgently is an institution which can prevent one nation from making war on its neighbor. If that alone could be achieved, it would be one of the most

significant steps forward in mankind's history. I firmly believe that this should be one of the expressed goals of the United States and I, therefore, urge my colleagues to support the "Right to Peace" resolution.

Mr. President, I ask unanimous consent that the remarks of the distinguished former Supreme Court Justice Arthur Goldberg in support of the resolution, and an article outlining the history of the Members of Congress for Peace through Law be printed at this point in the RECORD.

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

ADDRESS BY THE HONORABLE ARTHUR J. GOLDBERG, MEMBERS OF CONGRESS FOR PEACE THROUGH LAW, NOVEMBER 8, 1973

I want to commend this group of members of Congress for their work in behalf of world peace through the rule of law.

This may seem to some to be utopian and, indeed, all agree that this will not be achieved today—or even tomorrow. But achievement of world peace through law may, in the long run, be the highest realism.

It is becoming more and more evident that wars are no longer tolerable, and nuclear wars not even conceivable.

My own view of the matter is that we must persist, as the members of Congress are doing, in seeking to establish the rule of law as the basis for settlement of international disputes. This is a matter of highest priority as is evident from the recent war in the Middle East which tragically involved both the parties to the conflict and also brought the two great super-powers, the United States and the Soviet Union, into confrontation.

When I left the Supreme Court to enter on my new duties at the United Nations, I made a statement which may have sounded to some like a mere rhetorical flourish, but it was entirely serious. The statement was that I was moving from one area dedicated to the rule of law to another dedicated to the same principle; and that, to my mind, the effort to bring the rule of law to govern the relations between sovereign states—the central effort of the United Nations—is the greatest adventure in history.

These beliefs come naturally to me from a lifetime in the law and in the pursuit of the just resolution of conflicts through due process. The rule of law among nations is obviously more difficult than here at home; but it is even more necessary, and we have ample proof that it is possible—indeed in some measure it is an accomplished fact.

I am well aware that there are other views of this subject, even among people who have wide experience of diplomacy and world politics. We hear it said that what nations really respect is not law but political power. Besides, we are told, this is an age of revolutions, of deep splits of values between East and West and between North and South. And since law derives from values, this revolutionary era is said to be going through what one distinguished critic calls "a withdrawal of the legal order," in which sheer power is more decisive than ever in international affairs, and laws, especially that of the United Nations, has become little more than mockery.

My own reading of the facts leads me to a very different conclusion, as I shall explain in a moment. But before specifically discussing international law, I would first like to make three observations about laws in general.

First, we must beware of framing the argument in such a way that law and power become antithetical. In real life, law and power operate together. Power not ruled by law is a menace; but law not served by power is a delusion. Law is thus the higher of the two principles; but it cannot operate by itself.

My second broad point is that law cannot be derived from power alone. Might does not make right. On the contrary, law springs from one of the deepest impulses of human nature. No doubt the contrary impulses to fight and dominate often prevail; but sooner or later law has its turn. In one of the decisive moments in the history of law, King John thought he could impose his arbitrary will by force; but the barons who mustered superior force preferred to substitute an agreed rule—Magna Carta—for any man's arbitrary will. Thus, the King became subject to the law, and new proof was given of the strong human impulse toward law and the peace that law brings. In American history, this impulse has been especially strong from the beginning, and found its highest expression in our written Constitution.

My third point flows from the second. Because law responds to a human impulse, it rests on much more than coercion. Law must have the police power, but it is by no means synonymous or coterminous with police power. It is much larger in its conception and in its reach. It builds new institutions and it produces new remedies. It tames the forces of change and keeps them peaceful. People obey the law not only of fear of punishment but also because of what law does for them: the durability and reliability it gives to institutions; the reciprocity that comes from keeping one's word; and the expectation, grounded in experience, that the just process of law will right their wrongs and grievances. All the police power in creation could not long uphold a system of law that did not meet these affirmative expectations.

Our hope for world peace depends on our ability to extend to the international sphere a dual concept of law, both creative and coercive.

This extension of law into the international realm is not going to be achieved in one great Utopian stroke of the pen. In the United Nations Charter, and in age-old norms of international law, the community of nations already has a set of fundamental rules which do not need to be rewritten so much as they need to be observed. Our task, therefore, is to make greater use of existing machinery and existing norms—to build on them and to broaden out the areas of international relations that are susceptible to them.

To keep the matter in perspective, let us first recall that the areas of international law and order are already very broad—and they are constantly broadening to fit the emerging common interests of nations. Without law, international mail would not be delivered; shortwave broadcasts would drown each other out; ships and aircraft would collide in the night; international business contracts could be violated with impunity, travellers would lack the protection of their governments; infectious diseases and insect pests would cross frontiers all the time; and even diplomats—who are supposedly full-time practitioners of power politics—would be unable to carry on their business. And to this body of law, we have recently added the Antarctic Treaty, the Test Ban Treaty, the Space Treaties, the Nuclear Non-Proliferation Treaty and the agreements consummated and, hopefully, to be consummated as a result of the SALT negotiations.

Many functions of the international order are so familiar as almost to be taken for granted. Some of them long antedate the United Nations. But it would be a great mistake to underrate them or to dismiss them as merely "technical" and "non-political." They are bridges of common interest among nations, and the sum of these common interests is one of the great unseen inhibitors of political conflict and international violence.

There are still some who dream of an international Utopia in which a few civilized states could use their power to settle the affairs of the world, much as the major powers of Europe did in the century after the Congress of Vienna. But we should remember that when the rule of the concert of Europe finally fell apart, world war ensued. This happened in great part because, in large areas of the world, the international order of the nineteenth century did not redress grievances but merely submerged them—until in our own century they erupted in revolution and world war.

The world law we should seek should be different. It should extend impartially to white and black, north and south, old and new. It will still be imperfect; it will still depend for its effectiveness on the willingness of the stronger nations to put their power at its service. But it should embrace in a spirit of equality all the races and cultures of the world—and it could address itself to the real troubles of mankind: poverty, inequality, and the deprivation of rights. If it does, it will surpass even the hundred years' peace of the Congress of Vienna, which was based on the subjection of impotence of half the world's peoples.

Our nation derives its great influence in the world not only from great physical power but also from the fact that our basic law and our national outlook are premised on the equality and dignity of all men. The way to peace in this turbulent age is to keep to that national vision; to work with all our might for the establishment of a structure of law that will be reliable and just to all nations. For though law alone cannot assure world peace, there can be no peace without it. Our national power and all our energies should operate in the light of that truth.

PARLIAMENTARIANS FOR PEACE

(By Sandford Z. Persons)

The date of July 15, 1959 may never appear in future world history books, but it is a date which has had an effect on history and continues to do so.

At eight o'clock that morning, 15 Members of the United States Congress met for breakfast in the Senate Wing of the Capitol. They met at the invitation of Democrat Senator Joseph S. Clark and Republican Representative Charles O. Porter. The purpose of the breakfast was to consider forming an informal group in the Congress to be called Members of Congress for World Law.

The group which met that morning included Republicans and Democrats from both Houses and thus established the pattern for the only bipartisan and bicameral organization in the Congress.

In addition to the 15 Members of Congress, two special guests were present at that breakfast: Charles S. Rhyne, prominent U.S. attorney, past President of the American Bar Association, and father of the World Peace Through Law Center in Geneva, and Einar Rorstad of Oslo, Norway, who was then Secretary General of En Verden, the Norwegian Federalist organization, and Executive Secretary to the Norwegian Parliamentary Group for World Federation.

At meeting's end, it was moved by Senator Jacob K. Javits and seconded by Representative James G. Fulton that they start Members of Congress for World Peace Through the Rule of Law. The motion was adopted unanimously and Senator Clark was elected Chairman.

1959–1966 PERIOD

During the next seven years, the group held several meetings each year to which interested Members of Congress came. There

were no membership dues, no staff, no office, and only minimal structure. They met privately with such leaders as Christian A. Herter, then Secretary of State; Lord Clement Attlee, former Prime Minister of Great Britain; President Habib Bourguiba of Tunisia; Dean Rusk, then Secretary of State; John J. McCloy; and William C. Foster, then Director of the United States Arms Control and Disarmament Agency.

1966 REORGANIZATION

By 1966, the informal group was becoming less active and badly needed to be reinvigorated. During the summer, Senator Clark invited Joan McKinney, then Executive Director for the Philadelphia World Federalists, to come to Washington and place her proposals for an independent office and staff before some of the past leaders.

At a small luncheon, it was decided to adopt Miss McKinney's proposals and to hire her as Executive Director, provided she could find the funds. She did, thanks to a few anonymous donors who had the wisdom and the vision to understand and appreciate the potential of such an organization of Members of Congress.

In October, 1966 Joan McKinney arrived in Washington, D.C., rented an efficiency apartment, and opened the first independent office of a bipartisan, bicameral congressional organization in the history of the United States Congress.

THE FORMATIVE YEARS

Twelve Members of Congress comprised the initial group which wrote the By-Laws, established a $10 annual dues, and shortened the name to Members of Congress for Peace through Law (MCPL).

The purpose, as stated in the By-Laws, is "to coordinate Congressional concern for world peace into specific action for the development of international cooperation, a strengthened United Nations and other steps necessary for the achievement of general and complete disarmament under enforceable world law. The purpose is politically nonpartisan."

The By-Laws also spelled out the essential ground rules which have contributed so importantly to MCPL's growth:

"A. Membership in this organization is open to all members of Congress, both of the Senate and the House of Representatives.

"B. All Members shall favor the general purposes of the organization, but shall be free to join in any specific action or not, as they may individually decide."

The first officers of MCPL were: Senator Joseph S. Clark—Chairman, Rep. F. Bradford Morse—Vice Chairman, and Rep. Robert W. Kastenmeier—Secretary-Treasurer.

During 1967, the first Steering Committee was formed consisting of 14 members: Senators Joseph S. Clark, John Sherman Cooper, Jacok K. Javits, Robert F. Kennedy, Eugene McCarthy, and George McGovern, and Representatives Jonathan B. Bingham, Donald M. Fraser, James G. Fulton, Robert W. Kastenmeier, Patsy T. Mink, F. Bradford Morse, Benjamin S. Rosenthal, and Richard S. Schweiker.

The members selected a wide range of foreign policy issues for group study and action: Comprehensive Nuclear Test Ban, Increased East-West Trade, Non-Proliferation Treaty, Peace with Honor in Vietnam, Permanent UN Peace Force, Space Treaty, US-USSR Airlines Agreement, and the US-USSR Consular Treaty.

During the first year, MCPL members, together with some non-MCPL Members, (68 House and 18 Senate cosponsors) introduced resolutions calling for US support for a permanent UN Peacekeeping Force, developed a position statement for a negotiated Vietnam settlement, presented a statement in support of UN efforts to reduce tensions in the Middle East signed by 44 members, and supported the US-USSR Consular Treaty which won by only 3 votes in the Senate.

They also initiated the first Senate colloquy in opposition to the deployment of anti-ballistic missiles (ABMs), worked for adoption of UN Human Rights Conventions, supported the Treaty on Peaceful Uses of Outer Space, and made a special trip to New York to consult with Ambassador Arthur J. Goldberg and top officials of the United Nations.

By the end of 1967, MCPL had 68 members, 21 Senators and 47 Representatives, from both parties.

During 1968, work was continued on the issues still pending. Meetings were held with key US officials and with key spokesmen from other countries. In May, the full membership of MCPL was invited to meet with 7 eminent Soviet citizens for an exchange of views. The Soviet visitors had come to the United States as guests of the American Friends Service Committee. The group also met earlier with Lord Caradon of the United Kingdom to gain his views of the dangers and hopes at the UN and the slow progress toward international authority.

At the opening of the 91st Congress in January, 1969, MCPL had its first changing of the guard. In keeping with its bipartisan and bicameral policy, the chairmanship went from a Democratic Senator to a Republican Representative, F. Bradford Morse of Massachusetts. Two Senate Vice Chairmen were elected, Republican Mark O. Hatfield and Democratic Senator George McGovern. Representative Kastenmeier was reelected Secretary-Treasurer and former Senator Clark, who was defeated in the 1968 election by Richard S. Schweiker, was elected Honorary Chairman.

Under Chairman Morse's leadership, during the 91st Congress (1969–1970), MCPL formed working committees to explore various areas and recommend action to the full membership. The organization had now grown to 89 members who wanted action, so it was decided that the most effective way to look into a range of issues and determine what action to take was to set up issue committees on which those most keenly interested could serve. Committee chairmen were selected on the basis of interest, knowledge, and ability. All members were asked to volunteer to serve on the committee or committees which interested them.

In the spring of 1969, a Military Spending Committee was established under the chairmanship of Senator Mark O. Hatfield and a knowledgeable physicist, Dr. Henry Myers, was retained as a Consultant to MCPL to staff the Committee's efforts. This brought the staff to a grand total of two full-time persons and one consultant.

Fifteen members asked to serve on the Military Spending Committee. At the first meeting, it was decided to focus attention on nine aspects of military spending. One or more members volunteered to research each of these aspects and to prepare a report with recommendations.

The work of this Committee resulted in analytical reports on: Advanced Manned Strategic Aircraft, Continental Air Defense, Safeguard, ABM, Attack Aircraft Carriers, the F–14, Main Battle Tank (MBT–79), Chemical and Biological Weapons, Military Weapons, Military Manpower, and Procurement. These reports might be considered a turning point in Congressional attitudes toward military spending. For the first time, Members of Congress, most of whom were not members of the Senate or House Armed Services Committees which oversee the Department of Defense budget, undertook to educate themselves sufficiently on some aspects of the military budget so that they could form independent judgments and could effectively question some of the recommendations of the Armed Services Committees. Since the reports of MCPL's Military Spending Committee were sent to all Members of Congress, for the first time other Members had easily understandable, credible information and recommendations which they could employ to reach an independent judgment.

During 1969, MCPL also formed committees on the United Nations, the World Court, East-West Trade, the Middle East, Southeast Asia, US-China Relations, World Development, and Arms Control and Disarmament.

On July 1, 1969, Sandford Z. Persons became Staff Consultant to the United Nations and World Court Committees. Following successful fundraising dinners in Washington and Baltimore that fall, two other Staff Consultants were hired, Ronald L. Tammen to serve the Military Spending and Arms Control and Disarmament Committees and William J. Montwieler to serve the East-West Trade and Southeast Asia Committees. Additionally, three outside persons were retained as Consultants to the Middle East, US-China Relations, and World Development Committees. Since Dr. Myers had completed his assignment with the Military Spending Committee, this brought the staff to an all time high of five full-time staff and three part-time consultants and a budget of $127,926.

During the 2nd Session of the 91st Congress in 1970, these committees met with varying frequency, gathered information, consulted knowledgeable outside experts, and formulated proposals for action. On August 12, 1969, 80 members, 21 Senators and 59 Representatives, wrote Secretary of State William P. Rogers urging United States inititatives to strengthen the peacemaking and peacekeeping abilities of the United Nations to their fullest. They expressed their support for the recommendations of the National Policy Panel Report of the United Nations Association of the USA entitled "Controlling Conflicts in the 1970s." The Secretary's reply was later analysed and discussed at a UN Committee luncheon with Assistant Secretary of State for International Organization Affairs, Samuel de Palma.

On November 7, 1969, 57 Members wrote Secretary of State Rogers to express their support for the request of UN Secretary General U Thant that the United Nations be granted reasonably free use of the facilities of the International Telecommunications Satellite (INTELSAT).

On May 1, 1970, 70 members joined in a letter to President Nixon urging United States leadership in the peaceful settlement of international disputes by mediation, arbitration, and adjudication and proposing specific steps to increase the work of the World Court.

On August 20, 1970, 45 members wrote Secretary of State Rogers to express their support for the US Oceans Policy set forth by President Nixon. They commended the Administration for "its bold, dramatic, and innovative effort at this historic moment to make the wealth of the oceans the property of mankind" and urged that international agreement be reached as soon as possible.

During 1970, MCPL's full membership on its committees met with such persons as Robert S. McNamara, President of the World Bank; Sir Robert Jackson; Assistant Secretary of State for the Middle East Joseph J. Sisco; Dr. Ralph E. Lapp, arms critic; Philip C. Jessup, former US judge on the World Court; Dr. Arthur Larson; Undersecretary of State Elliot Richardson; Ambassador Sharaf of Jordan; Harrison Salisbury of the *New York Times;* UN Ambassador Charles W. Yost; Paul G. Hoffman; UN Secretary-General U Thant; Alvin Hamilton of Canada; Ambassador Rabin of Israel; Christian A. Herter, Jr.; and Professor Louis B. Sohn of the Harvard Law School.

SECOND CHANGING OF THE GUARD

On January 25, 1971 at the opening of the 92nd Congress, MCPL held its annual meeting and elected new officers and a new Steering Committee. The Chairmanship shifted back to the Senate with the election of Republican Senator Mark O. Hatfield. Democratic Representative Robert W. Kastenmeier

and Republican Charles W. Whalen, Jr. were elected Vice-Chairmen. Democratic Senator Alan Cranston was elected Secretary-Treasurer.

Upon recommendation of a review committee, the number of committees was reduced, several being logically combined. To head the four major committees, Senator Hatfield appointed Senator William Proxmire Chairman and Representative Ogden R. Reid Vice Chairman of the Military Spending, Arms Control and Disarmament Committee, Senator Charles McC. Mathias, Jr., Chairman and Representative Don Edwards Vice Chairman of the United Nations and International Law Committee, Representative Gilbert Gude Chairman and Senator Alan Cranston Vice-Chairman of the World Environment and International Cooperation Committee, and Senator Walter F. Mondale Chairman and Representative John C. Culver Vice Chairman of the World Trade and Development Committee. He also named Representative Paul N. McCloskey, Jr., Chairman of an ad hoc Southeast Asia Committee and Representative Patsy T. Mink, Chairman of an ad hoc US-China Relations Committee.

At this meeting, members also honored and bade farewell to Joan McKinney, who retired on January 31, 1971 as Executive Director. Joan was presented a scroll to "The First Lady of MCPL" paying tribute to her for "her vision, courage, patience, inspiration and enthusiasm and her uncompromising commitment to peace." Soon thereafter, Sandford Z. Persons was appointed by Senator Hatfield and approved by the Steering Committee as Executive Director. The staff was now four full-time persons and no outside consultants and the budget adopted for fiscal year 1971 was $91,248.

The Military Spending Committee decided to focus on four military items susceptible to criticism and reductions: The Navy's Undersea Long-Range Missile System (ULMS), the Air Force's Airborne Warning and Control System (AWACS), the Navy's Carrier-Based Fighter Plane (F–14) and the Navy's Nuclear Attack Aircraft Carrier (CVN–70).

On April 10, 1971, the report on ULMS was released at a well attended press conference. The report was the combined work of three Senators and eight Representatives of both parties. Much of the work on the other items was done behind the scenes in an effort to present the Committee's findings and recommendations to members of the Armed Services Committees of the Congress.

On April 26, 1972 Senator John Stennis, Chairman of the Senate Armed Services Committee, announced cuts totalling $418,000,000 in the military budget. The cuts were identical to four major MCPL recommendations.

The World Environment and International Cooperation Committee held meetings with the three top US officials in the environmental field: Russell Train, Christian A. Herter, Jr., and William Ruckelshaus and with Professors Francesco di Castro of Chile, Bertrum Pfeiffer of Montana, and Arthur Westing of Vermont. From these meetings came action; a House of Representatives resolution favoring a $100 million international environmental fund, one supporting the UN Stockholm Conference, and bills in both Senate and House urging funds for a study of the environmental consequences of modern weapons technology in South East Asia.

The United Nations and International Law Committee met with Secretary of State William P. Rogers and his top aides to indicate their support for funding UN peacekeeping efforts and forces. This Committee also worked on such issues as the US dues to the International Labour Organization, Rhodesian chrome, and the move to reduce the US share of the UN regular budget to 25%.

The World Trade and Development Committee worked cooperatively with other interested groups in the Congress to hold the line against increasing protectionist sentiment. They met with key officials and non-governmental experts and organized three discussions of American trade policy on the House floor.

The South East Asia Committee initiated an April 12 letter to the President signed by 62 members expressing grave concern over the escalation of bombing and asking him to announce the size, purpose, and costs of future military action. Then on April 21, 81 Members of Congress asked to meet with the President at the White House to discuss ending US involvement in the war in South East Asia. A White House assistant replied that the time was not foreseen when the President could find time for the meeting requested.

On June 24, 1971, Representative Patsy T. Mink, Chairman of MCPL's US-China Relations Committee testified before the Senate Foreign Relations Committee. She described the work of her Committee during 1970 and listed the 24 MCPL members who had associated themselves with the thrust and conclusions of her final paper which urged opening relations with the Peoples' Republic of China long before ping-pong and the President's trip.

In February, 1972 MCPL formed its newest committee called the World Order Strategy Committee. Senator Hatfield asked Representative Robert F. Drinan (D-Massachusetts) to head this unique effort within the Congress to look at US foreign policy in terms of its contribution to world order. Three Senators and eleven Representatives agreed to serve and the Committee held six hearings. Addressing themselves to seven fundamental questions posed by the Committee, the following persons testified: Hans J. Morgenthau, John Kenneth Galbraith, Norman Cousins, Robert Tucker, Richard Barnett, and C. Maxwell Stanley.

On April 25, 1972, MCPL's full membership honored Paul G. Hoffman, former Administrator of the UN Development Program, and his successor, Rudolph A. Peterson, at a luncheon on Capitol Hill. They also took this occasion to honor and bid farewell to MCPL's former Chairman, Representative Bradford Morse, who resigned his seat in Congress to succeed his distinguished predecessor Ralph Bunche as United Nations Under-Secetary for Political and General Assembly Affairs. It was a proud day for MCPL to have this man of energy and vision, a politician and diplomat of consummate skill, one of MCPL's greatest leaders, give up his safe seat in the House of Representatives after more than 11 years of service to devote his unique talents to the very purposes of MCPL—furthering international cooperation and strengthening the United Nations.

A GLIMPSE OF THE FUTURE

In January of 1973, a few days after the Inauguration of the President on January 20, MCPL members will elect new officers and a new Steering Committee for the 93d Congress (1973–74). The Chairmanship will now pass to a Democrat in the House of Representatives, thus completing the first full cycle of bipartisan, bicameral leadership.

As the 92nd Congress ends on January 3, MCPL's membership stands at an all time high of 133 members, 32 Senators and 101 Representatives. This means almost exactly 25% of the 535 Members of the United States Congress.

Last November's elections will leave MCPL's Senate membership on January 3 at 32, since the five Senators in MCPL who ran for re-election all won and the two did not run will be offset by two House members of MCPL who won Senate seats. In the House of Representatives, MCPL will lose 12 members, seven who did not run and five who lost their race for reelection. There is good reason, however, to expect that several of the new Senators and a substantial number of the new Representatives will join MCPL upon invitation from its Membership Committee. If this occurs, MCPL's membership may well exceed 133 in the new Congress.

Thus there is every reason to believe that MCPL will continue to be a force for peace and for change in the years ahead. Why? Because MCPL helps Members of Congress to work together on world issues which concern them, without binding any one of them to any one policy or approach. Because MCPL provides a vehicle for bringing Democrats and Republicans and Senators and Representatives into a cooperative working relationship. Because MCPL helps its members obtain information, views and expertise that they want and need to forward their own beliefs. Because MCPL strengthens the voice and vote of its members through numbers. Because MCPL has its own full-time staff and office independent of any members and either party which provides a professional secretariat for all MCPL members. Because MCPL looks for talent, interest, and ability, regardless of party or seniority, in selecting its leaders.

There is much talk today in the United States of Congressional reform and of reasserting the Constitutional role of Congress. Both are desperately needed. In the midst of this talk, Members of Congress for Peace through Law goes quietly forward, dealing with neither topic explicitly, but actually *being* a part of the answer through its very *existence!*

ACHIEVEMENTS OF MEMBERS OF CONGRESS FOR PEACE THROUGH LAW

1968—Full membership of MCPL met with seven eminent Soviet citizens for an exchange of views.

1969—Prepared first analysis of defence spending ever made by Members of Congress outside the formal Committees, and recommended substantial budget cuts.

1969—Eighty MCPL Members joined in signing a letter to Secretary of State Rogers urging improved United Nations peacekeeping machinery and a stand-by force of 20,000 to 25,000 men.

1969—Initiated and led the long Congressional fight against the anti-ballistic missile.

1970—Hosted a luncheon to honour UN Secretary General U Thant and the UN's 25th Anniversary before the President's State Dinner at the White House.

1970—Fifty-seven MCPL Members endorsed free use of INTELSAT by the United Nations (later approved).

1971—Provided leadership to Congressional critics favoring cancellation of the B–1 supersonic manned bomber. The multi-million dollar program was subsequently cancelled.

1971—Conducted the most thorough exploration of US–China relations in the Congress.

1972—Held meetings with top US officials in the environmental field which led to a House of Representatives Resolution favouring a $100 million international environmental fund and a study of the environmental consequences of modern weapons technology in South East Asia.

1972—Organized a unique effort within the Congress to examine US foreign policy in terms of its contribution to world order.

WHAT MCPL MEMBERS HAVE SAID

BY SENATOR VANCE HARTKE

Now, in this new age, is the time for heuristics—a word we shall hear increasingly, for it means the development of new ideas. The old notions of Napoleon's day or World War II, or even of our own day of Vietnam, will no longer do. The world has grown too small, too interdependent, too demanding of the living-together brotherhood whose present reality cannot separate

us further from Africa, Asia, the depressed and needy. For we see in their disaffection our own limitations increased; we see that truly, in a vibrant phrase, freedom is indivisible. Where in 1776 we fought for freedom, by 1976 we must see to it that no one must fight for freedom, that its peace and pursuit of happiness can be won by the efforts of goodwill.

But goodwill of itself can do nothing. It needs organization, leadership, the application of brain and ingenuity, of technology and morality, on a scale such as we have never before attempted. It is this which serves as my vision for the Department of Peace which I propose. It is appropriate that we inaugurate such a dream in this Human Rights Year.

BY SENATOR ALAN CRANSTON

The seating of the Peoples Republic of China in the United Nations is long overdue. Since the most populous nation on earth has now been offered membership, a major step toward universality of representation has at last been taken and an injustice lasting 22 years has been rectified. The United Nations could not pretend to tackle the world's problems as long as its membership did not include the government of the 800 million people of the Chinese Mainland who comprise one-fifth of the world's population.

BY SENATOR MARK HATFIELD

One of the characteristics of the nuclear age is the increasing inability to effectively achieve political aims through the use of military force. We once lived in a world where military supremacy assured political supremacy. But today, with a capacity for destruction several times over resting in the hands of the major powers, military supremacy has far less of a political advantage. What advantage is it if we can kill the Russian population 10 times over, but they can only kill us six times over?

The truth we are discovering is that political stability and international security are the function of political and economic rather than military factors. Political stability—or peace—can seldom be imposed for long by one country over another through the mere use or threat of its military power.

SENATE RESOLUTION 247—SUBMISSION OF A RESOLUTION AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE SELECT COMMITTEE ON NUTRITION AND HUMAN NEEDS

(Referred to the Committee on Rules and Administration.)

Mr. McGOVERN (for himself and Mr. PERCY) submitted the following resolution:

S. RES. 247

Resolved, That Section 3 of Senate Resolution 50, Ninety-third Congress, agreed to February 22, 1973, be amended by striking out 255,000 and inserting in lieu thereof $275,000.

DEEP SEABED HARD MINERALS ACT—AMENDMENT

AMENDMENT NO. 946

(Ordered to be printed and referred to the Committee on Interior and Insular Affairs.)

Mr. METCALF (for himself, Mr. JACKSON, Mr. BIBLE, Mr. FANNIN, Mr. HANSEN, and Mr. STEVENS) submitted an amendment intended to be proposed by them jointly to the bill (S. 1134) to promote the conservation and orderly development of hard mineral resources of the deep seabed, pending adoption of an international regime relating thereto.

LEGAL SERVICES CORPORATION ACT—AMENDMENTS

AMENDMENT NO. 947

(Ordered to be printed and to lie on the table.)

Mr. CURTIS submitted an amendment intended to be proposed by him to the bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the Legal Services Program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

AMENDMENT NO. 949

(Ordered to be printed and to lie on the table.)

Mr. McCLURE submitted an amendment intended to be proposed by him to the bill (S. 2686) supra.

MIDAIR COLLISION AVOIDANCE ACT OF 1973—AMENDMENT

AMENDMENT NO 949

(Ordered to be printed and referred to the Committee on Commerce.)

Mr. MOSS submitted an amendment intended to be proposed by him to the bill (S. 1610) to amend the Federal Aviation Act of 1958 to require the installation of airborne, cooperative collision avoidance systems on certain civil and military aircraft, and for other purposes.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 887

At the request of Mr. WILLIAM L. SCOTT, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) was added as a cosponsor of Amendment No. 887 intended to be proposed to the bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the Legal Services Program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

NOTICE OF WHEAT AND FEED GRAINS SITUATION HEARINGS

Mr. HUDDLESTON. Mr. President, I wish to announce that the Subcommittee on Agricultural Production, Marketing and Stabilization of Prices of the Senate Committee on Agriculture and Forestry will hold a 1-day hearing on Monday, February 4, 1974, in room 3302 of the Dirksen Senate Office Building on the current wheat and feed grain situation.

Both U.S. Department of Agriculture officials and public witnesses, including representatives of producers, the grain trade, millers and bakers have been invited to testify.

Mr. President, due to the current conflicting statements and projections that are being made about continued availability of wheat and feed grain supplies in the United States between now and the end of this marketing year, Senator HENRY BELLMON and I felt that our subcommittee should make every effort to immediately ascertain what the facts are concerning this vital matter.

It is one thing for our Nation to run short of a key resource such as petroleum, but it is quite another thing if we run out of one or more of our key food staples such as wheat or feed grains.

The margin for error in estimating the available supply of these food commodities is very small today. An objective and careful analysis of this situation is essential if we are to avoid a panic condition developing in the marketplace.

While USDA continues to reassure both U.S. consumers and foreign buyers that the United States will not run out of wheat or other grains during the balance of this year, other knowledgeable experts are predicting a dangerously low supply situation. Wheat prices currently are at all-time highs, and how much higher they may go over the next several months no one seems to know.

In addition to analyzing the current supply-demand situation on grains, I hope we will also have an opportunity in these hearings to examine what can be done to assure a more stable price and supply situation in the future.

NOTICE OF HEARINGS ON ADDITION TO NATIONAL WILD AND SCENIC RIVERS SYSTEM

Mr. JACKSON. Mr. President, I wish to announce hearings by the Public Lands Subcommittee of the Interior and Insular Affairs Committee on S. 2439, a bill to amend the Wild and Scenic Rivers Act of 1968 designating a segment of the New River as a potential component of the national wild and scenic rivers system.

The hearing will be held on February 7, 1974, at 1:30 p.m., in room 3110, Dirksen Senate Office Building. Those who wish to testify or submit a statement for inclusion in the hearing record should contact Steven P. Quarles at 5-2656.

HEARING ANNOUNCEMENT ON CALIFORNIA DESERT NATIONAL CONSERVATION AREA

Mr. JACKSON. Mr. President, I wish to announce hearings by the Public Lands Subcommittee of the Interior and Insular Affairs Committee on S. 63, a bill to establish the California Desert National Conservation Area.

The hearing will be held on February 19, 1974, at 10 a.m., in room 3110, Dirksen Senate Office Building. Those who wish to testify or submit a statement for inclusion in the hearing record should contact Steven P. Quarles at 5-2656.

ADDITIONAL STATEMENTS

COMMITTEE ON PUBLIC WORKS REPORTS ON ACTIVITIES IN 1973

Mr. RANDOLPH. Mr. President, during the first session of the 93d Congress the Committee on Public Works developed several major legislative proposals

that were subsequently enacted into law. The committee's workload during 1973 was increased because of matters remaining from the previous year, as a result of Presidential vetoes and for other reasons. Therefore, some of our activities during the past year were a continuation of work initiated in 1972.

At the end of the past year, this backlog of legislation had been virtually eliminated and substantial progress had been made on new matters begun during the past 12 months. This record was achieved with the cooperation of all committee members and their willingness to devote necessary time and energy to the vital matters before us. This included a total of 68 days of legislative and oversight

Six new members joined the committee and subcommittee meetings.

Six new members joined the committee at the beginning of the 93d Congress. Each of them was assigned responsible duties within the committee structure and each joined with the other members in making important contributions to our work.

The Federal-Aid Highway Act of 1973 occupied more of the committee's time and energy than any other single matter. Extensive attention was also given to environmental problems, particularly the implementation of new programs of air and water pollution control. Questions relating to automobile emission standards were considered during hearings in both the spring and fall and a staff report was prepared. The committee was deeply involved in provisions of energy legislation as they relate to matters within our jurisdiction. A major water resources bill was assembled during 1973 and was passed by the Senate in the first days of the second session.

Mr. President, I review, in detail, the work of the Committee on Public Works during 1973 by subcommittees:

SUBCOMMITTEE ON AIR AND WATER

The Subcommittee on Air and Water Pollution, chaired by Senator Edmund S. Muskie, is responsible for legislation and oversight activities in the Committee on Public Works relating to air and water pollution, solid waste management and resource recovery, control of noise, and other matters affecting the environment. During 1973, the Subcommittee conducted 28 days of public hearings and 20 executive sessions relating to Subcommittee matters.

Auto emission standards established pursuant to the Clean Air Act Amendments of 1970 were extensively examined during 14 days of hearings beginning in April and ending in November. Witnesses included the Administrator of the Environmental Protection Agency, the National Academy of Sciences, and representatives of auto companies, catalyst manufacturers, and oil industry. The question of compliance with the standards as prescribed under the law was considered during 9 executive sessions.

On December 4, the Committee reported S. 2772, which extends for an additional year the interim auto emission control requirements for model year 1975 as prescribed by the Administrator of EPA in April 1973. The effect of this amendment to the Clean Air Act is to postpone for one year the 1975 statutory standards for hydrocarbons and carbon monoxide established under the 1970 Amendments. This legislation passed the Senate on December 17, by a vote of 86–0.

Concurrent with Senate action on the auto emissions question, the House Committee on Interstate and Foreign Commerce developed similar legislation as part of emergency legislation. During House-Senate Conference Committee consideration, agreement was reached which would extend the 1975 interim standards for one year and give the EPA Administrator authority to grant an additional year's extension of standards for hydrocarbons and carbon monoxide with the establishment of interim standards for model year 1977. Congress adjourned on December 22 without completing action on the emergency energy legislation.

In addition to public hearings on auto emissions, the staff of the Subcommittee on Air and Water Pollution submitted a report to the Committee in October on the impact of the standards. In June, the Committee entered into a contract with the National Academy of Sciences to review the health data on which the air quality standards are based. A preliminary report from NAS was received in October, and the final report is due in August. The Committee also contracted with the Academy to examine the costs and benefits of compliance with the auto emission standards. An interim report was submitted in December, and the final report is due in August.

In the early fall, it became apparent that many areas of the country would experience shortages in clean fuels during the winter months. The Subcommittee held a hearing on September 18 with Governor John Love, then Director of the Energy Policy Office, to determine what, if any, impact, the use of high sulfur fuels in stationary sources might have on the implementation of the Clean Air Act. Subsequently, a bill, S. 2680, was introduced which would authorize temporary suspensions of emission limitations or compliance schedules applicable to stationary sources which could not get clean fuel. Suspensions could not be granted if public health would be endangered. Long-term compliance schedules would be revised for those sources which switch permanently to other fuels only where contractual commitments for clean-up equipment have been made.

This legislation was the subject of Subcommittee hearings on November 12. Following one executive session, it was ordered reported and subsequently added as an amendment to the Senate emergency energy bill and was accepted by the Senate on November 15 by a vote of 83–2. The House-Senate Conference Committee on the energy legislation agreed to a stationary source emergency fuel section which included provisions similar to those passed by the Senate. The Congress adjourned without taking final action on this legislation.

Other aspects of the Clean Air Act were examined during public hearings in 1973. The non-degradation policy of the Act was the subject of a hearing on July 24, and the transportation plan proposed by EPA for the Los Angeles Basin was the subject of a hearing in Riverside, California, on November 16.

A bill, S. 1776, introduced in May, amended the Federal Water Pollution Control Act to extend for an additional year the pilot operator training program for waste water treatment plants. After one executive session, the Committee reported the bill with technical amendments, and on June 28, S. 1776 passed the Senate. The House accepted the Senate bill, and added to it the provisions of Senate Joint Resolution 158, passed by the Senate on October 11, after two executive sessions, which increased the authorization under the Federal Water Pollution Control Act for reimbursement to agencies which initiated construction on waste treatment plants between 1966 and 1972 but did not receive the maximum authorized Federal grant. The Resolution also provided for an extension of the deadline for filing applications for reimbursement and authorized advanced payments of reimbursement funds. S. 1776 was signed into law on December 28, as P.L. 93–207.

The Federal Water Pollution Control Act requires Congressional approval of a formula for the allocation of funds authorized for the construction grant program. In October, the Environmental Protection Agency transmitted to Congress the 1973 Needs Survey, estimating costs of all needed publicly owned treatment works. This survey, which was to serve as the basis for an allocation formula for fiscal year 1975 construction grants, was the subject of two days of hearings, at which the EPA and State and local officials testified. After consideration during three executive sessions, the Committee reported S. 2812 with a recommended formula on December 13. Similar legislation was developed in the House, and on December 21, S. 2812 passed both Houses. S. 2812 was signed into law on January 2, 1974, and is P.L. 93–243.

In late March, the Subcommittee held three days of hearings on the Environmental Protection Agency's budget request and its adequacy to implement the programs within its jurisdiction. After evaluating testimony from officials of EPA, State and local officials, and citizen groups, the staff submitted a report to the Committee in June analyzing the budget request. The staff report was subsequently submitted to the Appropriations Committee while considering the EPA budget.

On August 1, the Committee held a hearing to consider the nomination of Russell E. Train to be Administrator of the Environmental Protection Agency. After one executive session the same day, the Committee favorably reported the nomination to the Senate. The nomination was confirmed on September 11.

On February 26, the Subcommittee held a hearing on several bills dealing with deepwater ports and their potential impact on the environment. Testimony was heard from Senators sponsoring the bills, officials of interested coastal States and a representative of the Army Corps of Engineers. Subsequent to that hearing, a special ad hoc subcommittee on deepwater ports was established including members from the Public Works, Interior and Commerce Committees. No action has yet been taken by that subcommittee.

On April 2 and 3, the Subcommittee held hearings on the impact of growth on the environment. Several academicians appeared at those hearings to discuss the economic, social and environmental impacts of uncontrolled growth.

On September 24, the Committee held joint hearings with the Commerce Committee on noise pollution. Testimony was received on several reports that had been submitted on various aspects of noise pollution control.

SUBCOMMITTEE ON ECONOMIC DEVELOPMENT

The United States Federal Budget published in January, 1973, contained a recommendation that two programs under the jurisdiction of the Subcommittee on Economic Development chaired by Sen. Joseph M. Montoya, receive no new program funds as of fiscal year 1974. The two programs recommended for phase out were the Economic Development Administration and the Title-V Regional Action Planning Commission. A third program under the jurisdiction of the Commission, would continue as authorized. The purpose of all these programs is to provide a national effort in strengthening the structural base of the economically distressed areas of the country.

As an alternative to these two economic development programs recommended for phase out, the Administration offered a different set of programs and presented as their objectives: improving the efficiency of rendering needed public services, eliminating duplication, and providing greater decision-making authority to localities, communities and states. Under the Administration's pro-

posal, the Department of Agriculture under the Rural Development Act would take over most of the responsibilities now held by the Economic Development Administration. Grant provisions under the Environmental Protection Agency were suggested as further alternatives to Economic Development Administration programs. The Small Business Administration would take over the Economic Development Administration's business loan and loan guarantee program.

A series of special revenue sharing proposals were also put forward to take the place of current programs.

The Subcommittee had strong reservations concerning specific aspects of the Administration's proposals and felt further that a one-year extension of existing economic development programs was essential in order to gain a better grasp of the role of public works in economic, regional, and national growth policies and to provide for a smooth transition into any new development program. On January 18, therefore, a bill (S. 467) was introduced to extend for one year at existing authorization levels the programs administered by the Economic Development Administration and by the Regional Commissions. Hearings on S. 467 were held on February 21. Testifying against extension and presenting the Administration's alternative was Secretary of Commerce, Frederick B. Dent. Six witnesses, including Governor Patrick J. Lucey of Wisconsin and Governor Francis Sargent of Massachusetts, testified in favor of the one-year extension.

In executive session, the Subcommittee adopted H.R. 2246 as a substitute for S. 467 but reduced total authorizations from $1.2 billion to $635 million. The reduction was made in a spirit of cooperation with the President and reflected the Subcommittee's awareness of the need to combat inflation. The full Committee in executive session reduced authorizations even further to $362.5 million. This reduction was made in order to save the programs by minimizing the possibility of a Presidential veto. The bill as recommended by the Committee was passed by the Senate on May 8 by a record vote of 81 to 6. In conference with the House, authorizations were adjusted to $430 million, with $200 million for public works and development facility grants under Title I; $55 million for public works and development facility loans under Title II; $35 million for technical assistance, research, and planning under Title III; $45 million for growth centers and economic development districts under Title IV; and $95 million for Regional Action Planning Commissions under Title V. The bill, H.R. 2246, was reported out of conference on June 5, passed by the Senate on June 6, and became Public Law 93-46 on June 18.

In addition to the $430 million in authorizations for fiscal year 1974, Public Law 93-46 continued for an additional year, to June 30, 1974, the moratorium on the designation of economic development districts and provided 100-per cent funding for administrative expenses to Indian tribes under Title III of the Act. The Act also required submission to Congress of two reports. The first report, prepared by the President's Inter-Agency Economic Adjustment Committee, was submitted to Congress in August and outlined the government's program in assisting communities adversely affected by recently announced defense facility and activity realignments. The second report, by the Secretary of Commerce and the Office of Management and Budget, is to examine current and past federal efforts to secure balanced national economic development and recommend possible improvements.

The Subcommittee's investigations of and experiences with current regional and economic development programs show that the national effort to achieve balanced and sustained growth can be enhanced by new public works-development legislation. In order to formulate new legislation, the Subcommittee held 15 days of public hearings in communities throughout the United States in 1971. Building upon these hearings and upon seven years of experiences with existing programs, the Subcommittee introduced a new public works-development bill in the Senate on March 21, 1972. This bill (S. 3381) outlined the establishment of a national development program through planned public works investment. The basic structure of the program would be a working partnership of Federal, State, and local governments, organized in multi-state commissions. Hearings on S. 3381 were held in Washington, D.C. on April 18, 20, 25, 26, and 27, 1972, with testimony from 38 witnesses. This legislation with certain technical changes was reintroduced as S. 232 on January 6, 1973.

Hearings on the public works-development legislation and additional suggestions presented to the Subcommittee by interested persons demonstrate the need for additional investigation and study of the role of public investment in economic and regional development and national growth policy. Until adequate legislation is formulated and enacted, the Subcommittee believes that the current national effort to provide needed assistance to disadvantaged areas should not cease.

Subcommittee on Water Resources

The Water Resources Subcommittee organized for the opening session of the 93rd Congress with a new chairman, five other new members and a new name.

The new title was picked by vote of the parent Public Works Committee whose members decided it more aptly described the overall functions of the unit than had the previous designation of Subcommittee on Flood Control-Rivers and Harbors.

Senator Mike Gravel of Alaska was appointed chairman. Other Subcommittee newcomers included Senator Quentin Burdick of North Dakota, transferring from the Interior Committee; and Senators Dick Clark of Iowa, Joseph Biden of Delaware, William Scott of Virginia and James McClure of Idaho, all beginning their first terms.

Legislative activity started much earlier than usual as a result of the President's disapproval of S. 4018, the Flood Control Act of 1972, after Congress had adjourned for the year.

Since no chance was afforded for an effort to over-ride the veto, the Public Works Committee decided to report a new bill identical to the conference report on S. 4018 with the exception of number and date changes so that it could be acted on without delay and sent to the White House to see whether it would be rejected under circumstances permitting an over-ride effort.

In keeping with that plan, a clean bill (S. 606) was reported to the Senate on January 29 and was adopted on February 1.

When the House decided to draft its own legislation instead of acting on S. 606, the Water Resources Subcommittee began to set the stage for a second bill.

It scheduled six days of hearings in April and early May and one day in early June in Washington on new proposals which had been submitted subsequent to adoption of S. 606. In addition, it held one-day hearings in May in Indiana and in September in Louisiana to determine if projects there should be considered for inclusion in the bill.

Following staff and Corps of Engineer briefings, the subcommittee began mark-up sessions in early November and on November 30 completed work on what was to become S. 2798, the Water Resources Development and River Basins Monetary Authorization Act.

In its final form and as reported December 10 by the Public Works Committee, the bill combines various features of S. 606, of H.R. 10203, the bill fashioned in the House of Representatives and adopted October 16, and of some of the proposals offered in the Senate subsequent to consideration of S. 606.

Total cost of the legislation is estimated at $1.28 billion, of which about $780 million is attributable to river basin authorizations under Title II and about $508 million is authorized in connection with projects and provisions outlined in Title I. The Title I figure is substantially less than the approximately $593 million which had been proposed for similar purposes in the conference report on S. 4018. Had the latter measure not been vetoed, it would have been the most modest omnibus flood control bill since 1948.

Aside from its low price tag, the bill is noteworthy for the major and significant policy changes which it establishes.

Heading the list are provisions for two-stage project authorization allowing for congressional project review after the first phase; for a system for deauthorization of outmoded and inactive Corps projects for which no construction money has been alloted for at least eight years; and, finally, for use of higher interest-discount rates under the Water Resources Council formula for evaluation of future projects but barring its application to those authorized in, or prior to, S. 2798.

This bill was the first legislation considered by the Senate this year and was passed on January 22.

Aside from the hearings bearing on current legislation, Chairman Gravel conducted a week of hearings in Alaska during August for the Subcommittee to assess the state's water resources development needs for the future and to determine what guideline changes are necessary to qualify needy by sparsely-populated areas for Federal civil works projects.

In other actions during the year, the subcommittee approved nine watershed proposals submitted by the Soil Conservation Service under provisions of Public Law 83-566 and one project for construction by the Corps of Engineers under authority of Section 201 of the 1965 Flood Control Act.

A total of 32 resolutions were adopted during the year which would authorize the Chief of Engineers to initiate studies of existing projects to determine if modifications are appropriate in the interests of flood control, navigation, and beach and streambank erosion control.

Finally, under a new policy initiated during the year, the Subcommittee cleared eight separate bills naming civil works projects in honor of selected individuals, whereas such designations had previously been included as provisions within omnibus legislation. They include:

New Hope Dam and Lake, North Carolina for former Senator B. Everett Jordan.

Trotters Shoals Dam and Lake, Georgia and South Carolina, for the late Senator Richard B. Russell.

Texarkana Dam and Reservoir, Texas, for Congressman Wright Patman.

Beaver Dam, Arkansas, for the late Congressman James W. Trimble.

Chartiers Creek Project, Pennsylvania for late Congressman James G. Fulton.

Mansfield Lake, Indiana, for former Congresswoman Cecil M. Harden.

Buchanan Dam and Lake, California, for the late E. V. Eastman.

A Central and Southern Florida Flood Control District structure for the late W. Turner Wallis.

Subcommittee on Transportation

In 1973, the Senate Transportation Subcommittee spent considerable time developing and working for passage of the Federal Aid Highway Act of 1973. In the previous

Congress, legislation had been passed in both Houses and an extensive Conference was held resulting in a compromise one-year extension of the highway program; however, the legislation failed of enactment on the final day of the session, when the House was unable to summon a quorum to vote on the measure.

On January 23, a comprehensive, new highway bill was introduced by the Chairman of the Transportation Subcommittee, Senator Lloyd Bentsen, and joined in by several members of the Public Works Committee. Hearings were scheduled early in the year, to expedite early consideration. On February 7, 8, 15, and 16, the Subcommittee received testimony from over forty witnesses, representing a wide range of viewpoints. The Subcommittee reported its bill in late February, and the full Committee ordered the bill reported on March 1. Debate followed in the Senate on March 14 and 15, and the bill was passed, with amendments, on March 15.

On February 19, Senator Bentsen, along with eight members of the Public Works Committee, introduced the Highway Safety Act of 1973. Two days of hearings were held on March 13 and 14, with testimony being received from sixteen witnesses. The Full Committee reported this separate safety measure on April 6.

On May 9, the Senate and House conferees had their initial meeting on the Federal Aid Highway Act and the Highway Safety Act. Those meetings spanned the period from May 9 through July 20, and included some 29 Conference sessions. On August 1, the Conference Report was agreed upon by the full Senate, and the Federal Aid Highway Act of 1973 was signed into law by the President on August 13 as Public Law 93–87.

The Federal Aid Highway Act of 1973, which also includes provisions of the Highway Safety Act, contains approximately $20 billion in authorizations from the Highway Trust Fund and general revenues for highway construction, safety, and mass transit. In addition, amendments to the Urban Mass Transportation Act add $3 billion in capital expenditures for mass transit from general revenues.

Public Law 93–87 extends time for completion of the Interstate System until June 30, 1979, increases the Federal share payable on account of any non-Interstate project from 50 to 70 percent with respect to all obligations incurred after June 30, 1973, and contains, for the first time, authorization for urban system funds to be used for mass transit. Up to $200 million in urban funds can be used for the purchase of buses in fiscal 1975, and the entire $800 million in urban funds can be used, at local option, for rail or bus mass transit in fiscal 1976.

On December 11, 1973, the Subcommittee held the first in what is planned to be a series of hearings on "Transportation and the New Energy Policies," receiving testimony from witnesses representing the Administration, the highway construction industry, the motor bus owners, Amtrak, the Institute for Rapid Transit, the trucking industry, the Teamsters Union, and the independent truckers. Questions discussed included: (1) the future of the highway construction program, as it will be implemented following the passage earlier this year of the Federal Aid Highway Act of 1973; (2) the questions surrounding the President's proposals for different speed limits for cars, trucks, and buses, and the House-passed bill, which set a national speed limit of 55 miles per hour; (3) the capacity of mass transit to handle the increased load of passengers resulting from lower supplies of gasoline for highway use; (4) the priorities which should be established for fuel allocation among the various modes of transportation; (5) the difficulties we anticipate in moving foodstuffs and other essential goods to market; and (6) other economic dislocations which may result from adjustments required in transportation policies.

From these activities came consideration and approval of legislation establishing a uniform national speed limit which became law late in the year.

SUBCOMMITTEE ON DISASTER RELIEF

During the last three years the nation has been subjected to very severe and extensive damage from an unprecedented number of floods, tornadoes, earthquakes and other natural causes. In that short period of time the President has issued 111 major disaster declarations, more than one-fourth the number (409) of all those declared during the last 21 years.

More important than their frequency, perhaps, is the fact that several of these catastrophic events had devastating effects on highly populous areas and resulted in very high losses. Damages inflicted by the San Fernando earthquake (1971), Hurricane Agnes (1972), and repeated widespread flooding in the Mississippi Valley (1973) alone undoubtedly will total $5 or more billion in overall damages.

At the same time Federal expenditures for disaster relief have increased significantly. New and expanded types of benefits, both for the public and private sectors, were provided by the 1970 comprehensive disaster relief act which became effective only a few weeks before the San Fernando earthquake. Moreover, amendments to the Act adopted in 1971 and 1972 added greately to the costs of disaster assistance made available to State and local governments, to private non-profit medical and educational facilities, and to individuals and families.

Although data is not yet complete, total direct Federal outlay for disaster assistance during the last three years has exceeded $2.4 billion, less than half of which ($1.1 billion) was for programs administered by the Office of Emergency Preparedness and its successor agency, the Federal Disaster Administration. The rest was for such items as cancellation or forgiveness of portions of SBA and FHA disaster loans, repair and reconstruction of Federal-aid highways, and non-reimbursed disaster related expenditures of the Army Corps of Engineers. This does not include the very sizable additional cost in subsizided interest rates which the Federal government has contracted to absorb for the uncancelled balance of more than a half-million SBA and FHA disaster loans made since 1971.

Because of the recent upsurge in the number and extent of major disasters, and in order to review the operation of programs authorized by the Disaster Relief Act of 1970 and amendments thereto, the Committee on Public Works reinstated the Subcommittee on Disaster Relief at the beginning of the 93rd Congress. Under the chairmanship of Senator Quentin Burdick, the Subcommittee in 1973 conducted an intensive evaluation of the adequacy and effectiveness of Federal disaster assistance legislation and administration.

Beginning in March, field hearings were held in four cities which suffered severe losses in major disasters: Biloxi, Mississippi (March 24); Rapid City, South Dakota (March 30–31); Wilkes-Barre, Pennsylvania (May 11–12); and Elmira, New York (June 1–2). Members and staff were able also to inspect several damaged areas, to talk with many disaster victims, and to observe first-hand the level of rehabilitation and reconstruction of homes, businesses and public facilities. In addition, hearings were held in Washington (Sept. 11–13) on S. 1840, an Administration-sponsored disaster assistance bill, and on five other measures then pending before the Committee: S. 753; S. 1267; S. 1297; S. 1847; and S. 2265.

More than 300 witnesses testified during ten full days of hearings and nearly 90 others submitted statements for the record, which totaled more than 2,800 pages. Among those who appeared before the Subcommittee were several members of Congress and of State legislatures, numerous State and local officials directly involved in the administration of disaster assistance, representatives from private relief organizations and other interest groups, and many private citizens. The hearings provided the Subcommittee with a valuable overview of Federal disaster programs and produced a variety of interesting and useful suggested changes in legislation and administration.

The Subcommittee has been preparing a bill to update and revise the 1970 Disaster Relief Act. This measure will incorporate some of the proposals made by S. 1840 and other pending bills as well as certain concepts advocated by members as a result of information obtained from the hearings and other sources. It is expected that this bill will be considered by the full Committee shortly and will be reported to the Senate early in this session.

SUBCOMMITTEE ON BUILDINGS AND GROUNDS

The Subcommittee on Buildings and Grounds, Chaired by Senator Dick Clark, came into being as the result of the Legislative Reorganization Act of 1946. Since that time the scope of activities conducted by the Public Buildings Service of the General Services Administration, for which the Subcommittee has primary responsibility, has become increasingly complex. Its activities are governed by a number of public laws, executive orders and Federal regulations.

A major Subcommittee activity in 1973 was the developing of improved procedures for expediting the evaluation of building prospectuses and conducting oversight reviews. Assistance on this effort was received from the Congressional Research Service.

These improvements comprise disciplined methods of compiling and evaluating project data, to assist in determining relative merits of a proposal, and also the exercise of more systematic and consistent oversight activity. During 1974, the Subcommittee intends to perfect these new procedures in order to more effectively review all aspects of the General Services Administration's construction activities.

Among important legislative activities of the Subcommittee during 1973 was the expediting of a bill, H.R. 5857, which authorized an appropriation to Interior Department for completion of the National Visitor Center in Washington, D.C. This became Public Law 93–62 on July 6, 1973.

Another was S. 1759, amending the Public Building Amendments Act of 1972 to authorize additional funds for the operation and maintenance of non-performing arts functions of the Kennedy Center, which was signed into Public Law 93–67 on July 10, 1973.

Further, S. 2079 was introduced and passed in the Senate, amending the Federal Property and Administrative Services Act of 1949 to exempt Federal Courts from certain requirements, imposed by Public Law 92–313, which pertain to space acquisition.

S. 1618 became Public Law 92–183 on December 17, 1973, designating a building at Reston, Virginia as the John Wesley Powell Federal Building, honoring an early Director of U.S. Geological Survey. S. 2503 was also signed into Public Law 93–187 on December 17, designating a building in Dallas, Texas, the Earle Cabell Federal Building, in honor of a former member of the House of Representatives and resident of that city. S. 2178 authorized that a building in New Orleans, Louisiana be named for the late Representative Hale Boggs.

Senate Joint Resolution 169 was passed, authorizing a study to determine the feasibility of installing suitable equipment outside the Capitol Building to facilitate pro-

duction of a sound and light show, featuring historical events.

The Subcommittee met 11 times to discuss proposed legislation and other matters. In addition, formal conferences were conducted at various times with officials of General Services Administration, General Accounting Office, Department of Interior, District of Columbia, Capitol Architect's Office, Pennsylvania Avenue Development Corporation, and Congressional Research Service. Numerous meetings were also held with staff representing other government agencies and the private sector.

A public hearing was held on February 5 on the proposed construction of three Social Security Administration Payment Centers. Hearings were held on May 16 to receive testimony relating to H.R. 5857 and S. 1759, which pertained to the National Visitor Center and Kennedy Center, respectively. Hearings were held on June 18 and 19, at which testimony was given on Value Engineering as a cost and quality control procedure. Another hearing pertaining to the National Visitor Center was conducted on November 13. Acquisition of Square 757 in the District of Columbia was discussed at a public hearing held on November 20. Hearings also were conducted in connection with proposed building prospectuses, on October 8 and December 14, respectively.

During 1973, four resolutions were initiated, directing that surveys be conducted to determine the need for Federal buildings in Palmer and Sitka, Alaska; Columbia, Maryland; and Minot, North Dakota.

During the past year the Subcommittee reviewed the approved 28 prospectuses for buildings with a total estimated cost of $295,526,157 which includes $50,605,940 requested to correct cost overruns for 14 previously authorized projects. Of the remainder, 9 were new building prospectuses totaling $166,639,674, three were for building alterations totaling $11,759,000, and two were for new leases totaling $2,565,000 annually.

COMMITTEE FILM PROGRAM

The two films on air and water pollution which the Committee makes available for public showing continue to be extremely popular.

During 1973, requests for the films, "Ill Winds on a Sunny Day" and "Troubled Waters" were shown a total of 1,335 times to 46,000 people. This almost doubles the number of people who viewed the films in 1972.

RICHARDSON DILWORTH

Mr. HUGH SCOTT. Mr. President, for Philadelphia, the loss of Richardson Dilworth will be immeasurable. He served that city with a love and dedication which will be impossible to duplicate.

An editorial in Friday's Philadelphia Inquirer describes Richardson Dilworth as a man of "unwavering faith in the capability of the urban environment and its peoples not merely to survive but to prosper and to provide a climate for zestful, constructive living." I heartily concur in this assessment of this outstanding public servant and distinguished human being.

Mr. President, I ask unanimous consent that this editorial be printed in its entirety in the RECORD.

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

[From the Philadelphia Inquirer, Jan. 25, 1974]

RICHARDSON DILWORTH GAVE THIS CITY A ZEST FOR LIFE

Richardson Dilworth was the consummate Philadelphian of his time—in the noblest sense. He most certainly will rank among the distinguished Philadelphians of all time in love for his city and service to it.

His death at 75 deprives our community and the nation of a man who achieved extraordinary success as a practicing public servant and played an inspiring role in the urban renaissance in America when many were ready to write off the cities as a lost cause.

To recite the record of Mr. Dilworth in office—as assistant city solicitor, city treasurer, district attorney, mayor and school board president—is to chronicle only one dimension of a wonderfully warm and exciting human being. He got things done partly because he was an able administrator who surrounded himself with associates of exceptional talent—but even more so because he held strong convictions about the bright future of cities, especially Philadelphia. He had unwavering faith in the capacity of the urban environment and its peoples not merely to survive but to prosper and to provide a climate for zestful, constructive living.

Philadelphia was Mr. Dilworth's adopted city but he soon came to love it with a passion rarely equaled by natives. Born in Pittsburgh, he was 28 when he arrived here as a young lawyer in 1926. Although his interest in politics and his close poltical association with Joseph S. Clark had firmly been established in the 1930s, it was not until after World War II that the Clark-Dilworth reform movement took the city by storm and swept Republicans out of offices they had held since the 19th century.

It was the street corner campaigning of Dick Dilworth that caught the public fancy and gave reformers the momentum they needed to get into office. He was at his oratorical best in the give-and-take of dialogue with voters in the informal setting that sidewalk conveniently provided.

The legacy of the Clark-Dilworth decade in the mayor's office—1952–62—is highly visible in the center-city rennaissance from Penn Center and the Parkway to Independence Mall and Society Hill. No less important, these two dynamic mayors demonstrated the practicality of the new City Charter as an effective instrument of good government under capable leadership.

Reform was again the keynote in Mr. Dilworth's six-year tenure as president of the Board of Education. He fought tenaciously for increased local and state funding to finance higher teacher salaries, new school construction and academic innovation.

As a municipal and educational reformer, Mr. Dilworth was right for his time but he sometimes was far ahead of his time—as in the 1950s when he advocated better U.S. relations with Red China and in the 1960s when he espoused regional approaches to metropolitan problems through closer city-suburban cooperation.

The multi-dimensional personality of Mr. Dilworth had to be known to be fully appreciated. His keen wit was his greatest charm He was a man who enjoyed life tremendously and was able to laugh at his own foibles as well as those of others. He combined the manners of a cultured, courteous gentleman and the down-to-earthness of a salty politician in delightful blend. He was an entertaining conversationalist and an attentive listener, an all-too-rare combination.

Richardson Dilworth will be missed with greatest sadness by his family and legion of friends. But he will be missed also by countless thousands who knew him only as a never-say-quit reformer who believed in action as well as words and was extraordinarily adept in the use of both.

Despite his successes, he did not live to see all of his grand, sometimes precocious, always exciting dreams for Philadelphia fulfilled. That task remains. To get on with it would be this city's greatest tribute to Richardson Dilworth.

THE DEFEAT OF IDA REPLENISHMENT

Mr. KENNEDY. Mr. President, last Wednesday, the House of Representatives, by a vote of 248 to 155, rejected increased U.S. participation in the International Development Association—IDA. Had this bill passed, it would have authorized a U.S. contribution of $1.5 billion during the next 3 years to the fourth replenishment of IDA funds.

Many Members of this Chamber have been critical of U.S. bilateral foreign aid. But far fewer have been critical of multilateral aid, and fewer still of the role that IDA plays in economic development. Its funds do not involve the United States or other countries in the internal affairs of developing countries; nor do its funds go to countries that are on the verge of becoming developed, or to large capital projects that are more show than substance.

In the words of Robert McNamara, President of the World Bank Group of which IDA is a part, its funds go to the "poorest of the poor"—both to countries that cannot qualify for regular World Bank loans at commercial rates of interest, and to projects best designed to help people who have next to nothing.

The United States has played an important role in setting up and funding IDA. Some critics have argued that we contribute too much and, accordingly, the United States has negotiated a reduction in our contribution for the next replenishment, from 40 to 33 percent of the total.

Even more important, the international negotiations that produced the new formula were a complex affair, involving an exchange of pledges by many donor countries. As the longstanding leader in supporting IDA, what we do is critical to the whole effort to get many nations to sustain and increase their contributions. By rejecting our role in IDA, therefore, the House has placed the entire effort in jeopardy. It will be small wonder if other developed states renege on their commitments, illustrating once again that most unfortunate but most iron law of economics: that the poor shall come last.

I am mindful of a new argument that was introduced into the House debate: That the oil-producing countries are now in a better position to provide development assistance; and that in view of the energy crisis they should be called on to take up the slack, either through loans or through reduced oil prices for poor countries.

Mr. President, it is true that several of the major oil-producting states now earn far more money than they can spend on their own development. It is true that they have surplus funds that could usefully be used for the development of other states, both in the Middle East and elsewhere. On December 6, I proposed to the Senate a series of measures designed to promote the flow of oil from these states. Among these measures was the need for us to encourage oil-producing states to share their new wealth with the have-not states and peoples of the world.

This would, indeed, be a happy development. However, despite the creation of development banks by oil exporting

states—and despite last week's pledge of $200 million in 1-percent loans for African countries—these efforts are only just beginning.

A role for the oil-producing states in helping the poor countries will not take place in a vacuum. It will only take place if there is an international climate that supports greater social justice in the world, and that holds the development of poor countries to be important.

We can encourage the oil-producing states to make more of their wealth available where it is needed most, but we can do this only if we demonstrate a willingness to do our part. This means bringing the oil-producing states fully into the world economy, where they will feel increased responsibility to play a constructive role. And this means continuing to set an example of concern.

Psychologically, this is a critical time. In many developing countries, the growing economic power of the oil-exporting countries has been greeted with loud approval, even by countries that are suffering from increased oil prices. This shift in economic power has even been called a "Russo-Japanese War in Economics," in reference to the first major defeat of a white Western power by an Asian one in modern times. Thus there is a real risk of further divisions between rich and poor countries in the world, with increasing pride on the part of poor countries alienating opinion in the industrial states.

For the survival and progress of the world economic system, it is essential that these divisions between rich and poor do not increase, or we all will suffer.

It is regrettable, therefore, that the administration, which sponsored the IDA legislation, so conspicuously failed to support it in the Congress. At the very time that the House was preparing to scuttle our IDA contribution, the Secretary of the Treasury was attending the Committee of Twenty meeting in Rome, appealing to the oil-producing states and others to work together in solving the energy crisis.

Now his words mock themselves, as the administration has failed to demonstrate that we in the United States are prepared to join in cooperation with others, as a means for securing their cooperation in return.

In part, this simply represents the ineffective handling of foreign economic issues in the administration, where competing agencies and officials undercut one another and fail to coordinate the policies of the United States. But in part it also reflects a failure of attitude. Today, there can be only one attitude to guide us in the future of our economic relations with other countries. It is to accept our involvement in the outside world; to accept the interdependence of nations; and to reassert our leadership in creating a climate that will permit cooperation rather than conflict in international economic relations.

Mr. President, for all these reasons, the rejection by the House of the IDA replenishment will have consequences far beyond the immediate issue involved. It was a demonstration of our failure to understand the demands of cooperation in changing times; and it was a measure of how far we have to go in shaping institutions of world trade that will help us, because they help all nations. Not only the developing countries will suffer from this vote, therefore, but also the United States and other developed countries will suffer as well.

Our intentions are being tested—toward development, toward seeking an international resolution of the energy crisis, and toward building a new economic world that will benefit all nations during the remainder of this decade. We must not fail this test.

Mr. President, I ask unanimous consent to print in the RECORD an editorial from the Washington Post of January 25, 1974.

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

[From the Washington Post, Jan. 25, 1974]

CRISIS OF AID

The House vote denying new funds for development aid is the shocking but logical result of the world economic crisis created by the oil price increases. In recent years, the margin of congressional tolerance for aid, whether given straight to the recipients or channeled through the international development agencies, has been extremely thin. That margin utterly disappeared in the wake of the oil price increases, whose cost to the poor countries more than wipes out the foreign funds they could expect to get for development. Why should the United States help the poor, the Congress asked, when the money will merely be passed on to the oil producers? This argument ignores not only the poor countries' desperate needs but the political and moral interest of the United States in continuing participation in development. But it provided Congress with the excuse it needed to say no.

So it was that House Republicans voted by almost 3 to 1 not to contribute the proposed $1.5 billion over four years to the World Bank's easy-money branch, the International Development Association (IDA), which helps the poorest of the poor. Democrats opposed the administration bill too, though by a lesser edge. Since other donor countries will likely seize on the American example to justify their own retreat, the House vote means in effect that the whole carefully negotiated $4.5 billion IDA package may go down the drain. Donor support for the regional development banks now also comes into deep jeopardy.

The administration's reaction to the reversal is indicative of the general confusion generated by the energy crisis. It had worked long and carefully before October to reduce the American share in IDA from 40 per cent to a more palatable 33 and to nourish congressional support. It argued, correctly, that without American leadership in IDA, the basic structure of international development assistance would crumble. What the administration failed to do, however, was to crank the post-October turmoil into its political thinking on aid. After the House vote on Wednesday, the Secretaries of State and Treasury scolded the Congress as though nothing had changed. They displayed no hint of awareness that the basis of political support for aid has been shredded. Whether it can be restored, though unquestionably worth the effort, is problematical. Congress, listening to rumbles of voter discontent at home, is hardly in the mood to heed appeals to do the statesmanlike thing.

The problem of presidential leadership aside, the root trouble is that in Congress' eyes—and not only in its eyes—it is now the Arabs and other oil producers and not the United States and its Western partners who have the extra cash which can be put to use for development. This is, as we say, a shortsighted view, but it is liable to be the controlling view until the oil producers start showing some responsibility for the massive blows they have struck against their friends, the poor. So far the producers have been brutal. They have not only hurt their friends but have refused to consider means of relief, such as a two-tier price system. The blow must be particularly galling to those African nations which, at Arab bidding, broke relations with Israel during the October war.

Already it is becoming clear that the deepest effects of the war lie not in terms of political relations in the Mideast but in terms of a fundamental change in relations between the world's consumers and producers of natural resources. In turn, this bids to render inadequate, if not entirely obsolete, the whole mechanism by which capital and technology have been transferred from "rich" countries to "poor" countries at least since World War II. The World Bank, the regional development banks and the various national aid programs have made up a large part, the official part, of this transfer mechanism. But the terms on which it will continue its operations must now be reappraised. This is a large task that will take many minds, many nations, many years. The shock of the House vote is just one early indication of the need to get the process under way.

NATIONAL STATUS OF FARMERS

Mr. DOLE. Mr. President, the general public has an increased understanding of agriculture these days. Consumers better understand the production costs farmers face in the prices of fuel, fertilizer, equipment and other essential materials.

NATIONAL BENEFIT

But we still have a long way to go to get full public understanding of the meaning of the increased output from our Nation's farms. Agricultural production benefits the entire country and every American citizen. It may not be widely known, for instance, how much farmers have done to help counteract inflation over the years. Farm output has set a record for each of the last 3 years. This record production helps account for the fact that the food dollar still goes further in getting quantity and quality than for other commodities.

The public is not fully aware that farmers' productivity per man hour has been increasing at twice the rate in industry. Farmers do not go on strike for higher wages. They are staying on the job and are working hard. Their work days are unusually long and at least 6 days to a week.

The schoolchildren who are growing up with affluence all around them are not learning as they might that farm output and efficiency have released 95 percent of the people from the land and the basic need to produce food. And our children are unaware that this 95 percent of the population is thus able to work at something else, creating the great affluence, the culture, the medical services, and the recreation and comforts that make this Nation such a mecca of affluence.

INTERNATIONAL POSITION

There are many who are not aware that in a time when this Nation's industries find it more and more difficult to sell their products in international com-

petition, against the efficiency of foreign competition, U.S. agriculture is meeting the challenge. In the first 10 months of this year, we were able to sell a record $13.6 billion of agricultural products—exceeding food imports by a trade surplus of $6.8 billion. This overcame the $6.6 billion deficit in nonagricultural trade, and provided valuable foreign exchange with which to buy badly needed energy, other vital materials, and consumer goods.

ECONOMIC FACTS

This year during the fuss over food prices many people learned about the economics of food production. They learned how controls can hamper production, not increase it. They also learned that farmers are like other people—that they need to get a decent return to stay in business to make the capital investments necessary to assure us all of having a plentiful food supply in the future.

Right now, people are learning one of the basic fundamentals of the food situation—the rule that when farm prices go up, they usually come down later. But when other prices go up, they usually stay up. For example, between the middle of August and this month, farmers' corn prices fell 21 percent; fed steer prices dropped 32 cents; hog prices fell 34 percent; and soybean prices are down 37 percent. I challenge my colleagues to find any other group in the American economy who has taken this kind of a cut in the price of their products.

If farmers are going to produce fully in 1974 they need to be able to see the prospect of reasonable returns from their work and investments. They need assurances that they can get fertilizer and the fuel necessary to plant the crop, take care of it, harvest it, dry it, and move it to market.

These things are not fully understood by the nonfarm public. The recent national survey by the Facer group, made up of the six national professional agricultural communicator organizations, shows the challenge that is before us to communicate more effectively with the nonfarm public.

But let me say that things are much better than they were. We have made great progress in the last year or two in getting a better understanding of these vital matters.

LEADER FOR AGRICULTURE

One of the reasons has been the increased interest in food and food prices. Another reason has been that we have had a Secretary of Agriculture who has been traveling the length and breadth of this land talking eloquently and frankly with the American public.

Secretary of Agriculture Butz has been the most effective spokesman that agriculture has ever had. Not only does he know the agricultural situation from his great depth of background, but he can explain it simply, directly and in an interesting fashion.

Secretary Butz has been a tireless worker in his 2 years in office as Secretary of Agriculture. It was 2 years ago that this body confirmed his appointment—after some lengthy discussion, I might add. In those 2 years, Secretary Butz has put a new spring in the step of the Department of Agriculture. He has worked effectively for a better understanding of agriculture. He has fought effectively against ill-conceived action that would harm farmers, and would lead to food shortages for consumers instead of adequate food supplies. He has brought new hope, and more well-deserved income, to farm people.

As one indication of Secretary Butz's effectiveness as a spokesman for food and agriculture in that 2-year period of time, he has held 169 scheduled press conferences in all parts of the country. He has had 165 scheduled individual interviews with the press, and he has made 265 scheduled speeches. When you include 121 individual radio presentations, this comes to a total of 720 scheduled public information activities in those 2 years.

Anyone who has had an active role in public office can appreciate the energy, vitality, and dedication it takes to keep up that pace of public appearances.

In addition, Secretary Butz has met often with committees of the Senate and of the House. And, of course, there have been the demands of running the U.S. Department of Agriculture in a time of rapid change.

I am sure that you join me in this salute to a dedicated and competent Cabinet official who has performed so magnificently during the last 2 years.

With the continued challenges and difficulties facing American agriculture, we need a man like him to provide continued leadership and support for our farmers. A big job remains to be done in bringing about a better understanding between agriculture and consumers and we need all the help we can get.

SENATE LOSES DEDICATED AND EFFICIENT SERVICES OF STEWART E. McCLURE—RETIRES AFTER 24 YEARS OF PRODUCTIVE SERVICE

Mr. RANDOLPH. Mr. President, when the 1st session of the 93d Congress adjourned last month the Senate lost, through the retirement of Stewart E. McClure, the services of one of its most dedicated and able staff members. For 16 years, on two different occasions, he served as staff director of the Senate Committee on Labor and Public Welfare.

It is traditional in the Congress that staff members function in virtual anonymity. Those of us who are Members of the Senate and House of Representatives occupy the public spotlight, but the growing complexities of Government are such that we must have staff support of high quality if we are to adequately exercise our responsibilities.

For more than 24 years, Stewart McClure provided the kind of staff work that is essential to the effective functioning of Congress. On the occasion of his retirement it is eminently right to remove from him the cloak of anonymity and to recognize the contributions he has made to representative government in the United States.

Mr. President, when I became a Member of the U.S. Senate in November of 1958, one of the first callers I received was Stewart McClure who came to welcome me and to discuss my appointment as a new member of the Committee on Labor and Public Welfare. In the intervening years I have come to know him well and to admire him greatly as an extremely able Senate staff member as well as a conscientious and compassionate human being.

As a native of the State of Iowa, it was perhaps fitting that Stewart McClure began his Senate career as administrative assistant to a Senator from that State, the late Guy M. Gillette with whom I enjoyed a cherished friendship. He served in that capacity from 1949 until 1955. He was then appointed staff director of the Committee on Labor and Public Welfare by former Senator Lister Hill, who was assuming the chairmanship of the committee. From 1969 to 1971, Stewart served as a member of the professional staff of the Committee on Public Works and then returned to his previous position to complete his Senate career.

Mr. President, these are the chronological facts of Stewart's tenure on the Senate staff. Such a brief summary obviously does not reveal the full extent of his contributions. His impact on the legislative process has been considerable and it came about during a period in which congressional responsibilities have grown rapidly. This growth is reflected in the fact that the staff of the Committee on Labor and Public Welfare has grown from 14 persons when Stewart McClure first assumed its direction to more than 100 today.

This expansion of staff would be meaningless if its energies were not channeled in productive directions, particularly on a committee with such direct impact on the daily lives of the American people. Several innovations in both committee organization and staff utilization were developed during Stewart McClure's tenure. In 1959, a special Subcommittee on the Aging was created. I was privileged to be a member of that subcommittee and to participate in an extensive series of hearings throughout the country to assess the particular needs of our elderly citizens. From these inquiries came the impetus that resulted in the enactment of the medicare program, a significant breakthrough in providing medical care. From this work also came the creation in the 87th Congress of the Special Committee on Aging as a separate entity.

In the early 1960's a Special Committee on Unemployment conducted exhaustive studies and as a result of its findings a standing subcommittee on this subject was created within the Committee on Labor and Public Welfare. I was privileged to be the first chairman of that subcommittee.

These two instances are indicative of the breadth and scope of the Committee on Labor and Public Welfare in the area of humanitarian concerns, an area particularly attuned to the sensibilities of Stewart McClure.

Mr. President, this talented individual

has also been active outside the formal structure of the Congress. His concern for his country and its form of government involved him in activities that led to the creation of the Fair Campaign Practices Committee and the National Committee for an Effective Congress.

During the 2 years Stewart McClure labored with the Committee on Public Works his talents and experience were utilized in legislative areas of pressing concern. He was the professional staff member for our Subcommittee on Economic Development and, as such, directed staff work on legislation pertaining to the Appalachian Regional Commission and the Economic Development Administration. He also was responsible for important staff work during the development of the Disaster Relief Act of 1970 which, for the first time, created the mechanism for a Federal response to natural disasters.

Mr. President, it is indicative of the energy and wide-ranging interests of the man that Stewart McClure will not be inactive although he is formally retired from Senate service. Indeed, I would have been surprised had he chosen the rocking chair over continued constructive involvement in public affairs. Stewart's broad experience and his intellectual capacity will make him a valuable contributor to the cause of better government.

Mr. President, Stewart McClure holds great respect for our former colleague, Lister Hill, with whom he was so closely associated for 14 years. That this feeling is reciprocal is indicated in a letter I recently received from Senator Hill. I ask unanimous consent that this letter be printed in the RECORD.

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

MONTGOMERY, ALA.,
December 13, 1973.

Senator JENNINGS RANDOLPH,
Senate Office Building,
Washington, D.C.

MY DEAR JENNINGS: I want to thank you for your letter, but I must tell you that I regret to see Stewart McClure retire. He has been such a fine and able public servant. In fact, in all my 46 years in the House and Senate I never knew a finer one. He is so able and could always write such a spendid report on legislation, and he was a beautiful speech writer. He was not only a man of great ability but one of great dedication and integrity, and his departure is indeed a loss to the Senate and to our country. Please convey to him my affectionate regards and all my good wishes for a happy and rewarding future.

With deep appreciation for your letter and with many thanks for your services to our country,

Sincerely your friend,

LISTER HILL.

THE REVEREND JAMES LUKE GOODWIN

Mr. THURMOND. Mr. President, the Reverend James Luke Goodwin, a devout and dedicated man of God who served as minister of the First Presbyterian Church in Aiken, S.C., for 23 years, died last week. Characteristically, he was performing a service that had been part of his clerical stewardship at the time he was stricken.

In preparation for a marriage ceremony at his church, this beloved minister suffered the heart attack which ended his life. He had known of the vulnerability of his heart since an earlier attack, but chose to continue the ministry which his life represented.

Throughout the years since 1951, when Mr. Goodwin arrived in Aiken, he was a dynamic force in the community, absorbing the distresses of his flock, and counseling the wisdom of the ages. His words were both inspirational and fluent and his grasp of the Christian role was imparted with clarity.

In addition to the eloquence of his message, however, he was also a man of action in the cause he espoused. Service to people through a host of outlets was his way. For example, he had been instrumental in activities of the Salvation Army and the Red Cross, among others. Yet, his greatest efforts were with individuals who could count on the strength of his support. He was one of the ministers who officiated at our wedding when Mrs. Thurmond and I were married December 22, 1968, and later, he christened our two children. We, as thousands whose lives he touched, have always held him in the highest esteem and affection.

The congregation and community which he served have lost an outstanding inspiration and friend. However, the Christian principles that he taught and demonstrated in his daily life have left a legacy of understanding which will serve the spiritual and human needs of those he loved.

Mr. President, I extend my deepest sympathy to his devoted and lovely wife, Mrs. Sally Moorhead Goodwin; his two daughters, Mrs. Lynn Periano of Augusta, Ga., and Miss Kate Goodwin of Aiken; his son, James Allan Goodwin of Davidson, N.C.; his sister, Mrs. Roy C. Ryan of Moundsville, W. Va., and his brother, Earl Goodwin of Wheeling, W. Va.

Mr. President, at the time of his death a number of articles and editorials appeared about the life of Reverend Goodwin. I ask unanimous consent that four of these articles be printed in the RECORD at the conclusion of my remarks. They are as follows: "Services Scheduled Today for Rev. J. Luke Goodwin," the Aiken Standard, Aiken, S.C., January 21, 1974; "Rev. Luke Goodwin, Aiken Minister Dies," the Augusta Chronicle, Augusta, Ga., January 21, 1974; "The Reverend James Luke Goodwin," the Aiken Standard, Aiken, S.C., January 21, 1974; and "James Luke Goodwin," the Augusta Chronicle, Augusta, Ga., January 23, 1974.

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

[From the Aiken Standard, Jan. 21, 1974]

SERVICES SCHEDULED TODAY FOR REV. J. LUKE GOODWIN

The Rev. James Luke Goodwin, 56, who has been minister of First Presbyterian Church in Aiken since 1951, died Saturday just prior to a wedding at which he was scheduled to officiate.

Mr. Goodwin had been in ill health for over a year when he suffered a heart attack. He died in Aiken County Hospital.

Memorial services will be held this afternoon at 5:30 o'clock in the First Presbyterian Church with the Rev. Jerry Robinson officiating.

Mr. Goodwin was a native of Wheeling, W. Va., a graduate of Finley College, Ohio, and a 1948 graduate of Yale Divinity School.

After serving as a chaplain in the Army from 1944–47, he was associate pastor of the First Presbyterian Church, Jacksonville, Fla., from 1948 to 1951, when he became pastor of the First Presbyterian Church in Aiken. He was past chairman of the board of trustees of the South Carolina Home at Montreat, N.C., and served on various committees on the Presbytery and Synod levels of the church.

Active in the Aiken Community, he served on the advisory board of the Aiken Salvation Army, was a past president of the Aiken Rotary Club and a past chairman of the Aiken County chapter, American Red Cross.

Surviving are: his widow, Mrs. Sally Moorhead Goodwin; two daughters, Mrs. Lynn Periano, Augusta, Miss Kate Goodwin, Aiken; one son, James Allan Goodwin, Davidson, N.C.; one sister Mrs. Roy C. Ryan, Moundsville, W. Va., and one brother, Earl Goodwin, Wheeling, W. Va.

Memorial contributions may be made to the Heart Fund or the First Presbyterian Church.

Friends may call at the residence or at George Funeral Home.

[From the Augusta Chronicle, Jan. 21, 1974]

REV. LUKE GOODWIN, AIKEN MINISTER DIES

AIKEN.—The Rev. James Luke Goodwin, 56, of 347 Hillcrest Road, S.W., Aiken, pastor of the First Presbyterian Church, died Saturday in the Aiken County Hospital.

Memorial services will be held today at 5:30 p.m. in the First Presbyterian Church with the Rev. Jerry Robinson officiating.

The Rev. Goodwin was a native of Wheeling, W. Va., a graduate of Finley College, Ohio, and a 1948 graduate of Yale Divinity School.

After serving as a chaplain in the Army from 1944–47, he was associate pastor of the First Presbyterian Church, Jacksonville, Fla., from 1948 to 1951, when he became pastor of the First Presbyterian Church in Aiken. He was past chairman of the board of trustees of the South Carolina Home at Montreat, N.C., and served on various committees on the Presbytery and Synod levels of the church.

The Rev. Goodwin also served on the advisory board of the Aiken Salvation Army, was a past president of the Aiken Rotary Club and a past chairman of the Aiken County Chapter, American Red Cross.

Survivors include his widow, Mrs. Sally Moorhead Goodwin; two daughters, Mrs. Lynn Periano, Augusta and Kate Goodwin, Aiken; one son, James Allan Goodwin, Davidson, N.C.; one sister, Mrs. Roy C. Ryan, Moundsville, W. Va., and one brother, Earl Goodwin, Wheeling, W. Va.

Memorial contributions may be made to the Heart Fund or the First Presbyterian Church.

Friends may call at the residence.

George Funeral Home, Aiken, is in charge.

[From the Aiken Standard, Jan. 21, 1974]

THE REVEREND JAMES LUKE GOODWIN

The Rev. J. Luke Goodwin died Saturday as he prepared to perform a marriage service at the First Presbyterian Church, where he had served as pastor for 23 years.

He had suffered a heart attack about eight years ago and after a second major attack last spring had been advised by his physicians to retire. Fully warned of the gravity of his condition and with the knowledge that he could "go at any time" unless he drastically curtailed all his activities, Mr. Goodwin elected to continue to minister to his congregation.

His death came as no real surprise to those closest to him, but the shock to the whole Aiken community is no less severe.

Few ministers in Aiken's history have made so strong an imprint on the character of our city as Mr. Goodwin. When the First Presbyterian Church chose him as its minister the membership stood at less than 300. While all churches of the city have grown in the two decades that followed the coming of the Savannah River Plant, the Presbyterians have witnessed an unusual renewal of vigor that was evidenced several years ago in the dedication of a new million-dollar physical plant. The membership now exceeds 1,000.

Many newcomers to Aiken were attracted by the intellectual qualities of the sermons that emanated from the pulpit of the First Presbyterian Church. With a voice and style of delivery that were incomparable, Mr. Goodwin presented sermons that reflected great care and much study in the preparation. He read avidly and found inspiration in both sacred and secular literature, and especially in the works of nature.

He related Christianity to the major issues that Christians face in modern times. He had the soul of a poet and a magnificent gift with words, flavored by a fine sense of humor. He possessed a social nature that made him at home in any surroundings.

Those who knew him best also knew that he was a deeply compassionate man, who bore on his shoulders the sufferings of his congregation. He had served with valor as a chaplain in World War II. War was real to him; he had seen many young men die on the battlefield, and the recollection was enough to bring tears to his eyes even 30 years later.

To die in his clerical robes in the service of his Maker was Mr. Goodwin's choice, and this he realized. He left behind a devoted family, a congregation and a community that mourn his passing and a church that stands today stronger than ever.

The Aiken Standard extends its deepest sympathy to those who grieve him.

[From the Augusta Chronicle, Jan. 23, 1974]

JAMES LUKE GOODWIN

Relatively few persons have wielded the influence for good that the Rev. James Luke Goodwin exerted during the 20 years of his pastorate at the First Presbyterian Church of Aiken.

A kind and compassionate man for whom the problems of others became his, the Rev. Mr. Goodwin served not only his own parishoners, but counseled a whole generation of young people, giving no thought to denominational lines, to color or to creed.

By every standard, Luke Goodwin was an ecumenical man who played no favorites. Rather, he was a friend to all, a frequent adviser over the years to members of Aiken's winter colony and, as well, to delinquent youths for whom help was constantly sought by Aiken's law enforcement officials.

An Army chaplain during World War II, the Rev. Mr. Goodwin served his fellows in a variety of constructive ways—on various church boards and through civic organizations.

Eight years ago, and again last spring, he suffered heart attacks. Orders from his physicians to curtail his activities were ignored. He wanted to die, he told friends, in full stride.

Last Saturday, as he donned his robe in preparation for a wedding ceremony he was to perform, a third heart attack took his life, and the Rev. James Luke Goodwin, who had so many friends and had served his fellow man so well, died at the age of 56—in his beloved church, and in full stride.

All mankind is the loser.

RESULTS OF QUESTIONNAIRE IN STATE OF MAINE

Mr. HATHAWAY. Mr. President, in October, I sent out a questionnaire to 140,000 residents of Maine asking for their views on the pressing issues facing the State of Maine as well as the rest of the Nation at that time. More than 14,000 people responded, a return rate in excess of 10 percent, which is quite good for a questionnaire of this sort. I have completed tabulating the results and would like to share this information with my colleagues.

I would like to emphasize that at the time the questionnaire was put together and sent out, the energy shortage had not reached the critical stages which developed, at least in part, from the cutoff of Arab oil exports to the United States. In a visit to Maine earlier this month I learned that the fuel shortage was certainly the No. 1 concern of the people I talked with. This point should be kept in mind when reading the results of this questionnaire, particularly in evaluating the responses to the last question where the respondents ranked the issues they believed to be most critical.

I ask unanimous consent that the questionnaire results be published in the RECORD at the end of this statement.

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

RESULTS OF HATHAWAY QUESTIONNAIRE

1. Are you in favor of withdrawing American military personnel and their dependents presently stationed in foreign countries?

Yes	51.4
No	35.1
Undecided	13.5

2. Do you favor legislation protecting the claimed right of newsmen not to reveal the identity of their sources?

Yes	59.4
No	35.5
Undecided	5.1

3. Are you willing to pay higher prices and/or taxes to help solve the problems of air and water pollution?

Yes	53.1
No	36.2
Undecided	10.7

4. Is the Volunteer Army more acceptable to you than the draft even though it requires higher pay to attract sufficient volunteers?

Yes	60.3
No	31.4
Undecided	8.3

6. Should the owners of guns be required to register them?

Yes	64.2
No	32.2
Undecided	3.6

7. Do you believe that the Office of Economic Opportunity should continue to administer the Nation's antipoverty programs?

Yes	35.4
No	37.6
Undecided	27.0

8. Do you believe that revenue sharing should be eliminated so that Federal grants can be tied to specific projects and uses?

Yes	37.4
No	41.9
Undecided	20.7

9. Should the President be able to withhold funds appropriated by Congress?

Yes	20.8
No	74.0
Undecided	5.2

10. Do you believe that members of the executive branch should be able to use "executive privilege" as a reason for refusing to testify before congressional committees?

Yes	18.2
No	77.2
Undecided	4.6

11. Do you favor public financing of campaigns for elections to Federal offices, that is, the President, Vice President, Senators, and Representatives?

Yes	56.2
No	34.7
Undecided	9.1

12. Do you favor continuing efforts to increase U.S. trade with Russia and the People's Republic of China?

Yes	61.4
No	25.8
Undecided	12.8

13. Are you in favor of Federal controls on wages and prices?

Yes	45.2
No	42.0
Undecided	12.7

14. List in their order of importance (by placing numbers 1 through 8 after each) the issues you believe are most critical at the present time:

[In percent]

	1	2	3	4	5	6	7	8
(a) Encouraging industry to Maine	12.6	11.0	12.7	9.2	11.2	11.4	9.4	2.8
(b) Rural health care	4.4	11.2	10.7	19.6	15.9	12.9	4.4	1.6
(c) Transportation	2.3	5.9	6.4	7.5	9.4	14.8	23.7	8.5
(d) Restoring confidence in government	36.4	13.6	7.1	6.4	5.6	5.5	7.1	1.9
(e) Care for aging	6.4	16.7	22.0	15.1	11.2	6.4	2.3	1.7
(f) Public housing	2.0	5.9	11.0	10.4	13.8	14.7	14.1	3.7
(g) National defense	14.7	16.7	10.4	8.3	8.9	9.4	11.4	4.2

Note: "Other issues" suggested by the respondents varied widely with no issue predominant.

RICHARD FOLSON CLEVELAND

Mr. MATHIAS. Mr. President, many tributes to Richard Cleveland and to his accomplishments have been offered since his death on January 10. Few will be, however, more concise, yet more eloquent, than that of Dr. Richard D. Weigle, president of St. John's College. Dr. Weigle has justly called Mr. Cleveland "a great man, a wise counselor, and a firm friend."

Mr. Cleveland's service to St. John's College is one among many examples of the proof that he gave through his life that a man may be a public servant without holding public office. Through the profession of law and through many significant organizations, Richard Cleveland did lead a lifetime dedicated to public service and countless Americans today benefit from his efforts. All of these and all of his friends joined St. John's College in bowing its head at the time of his death. I ask unanimous consent that

Dr. Weigle's statement be printed in the RECORD.

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

JANUARY 10, 1974.

RICHARD FOLSOM CLEVELAND

St. John's College mourns the death of Richard Folsom Cleveland, great and good friend, who served for over forty years as a member of its Board of Visitors and Governors. Mr. Cleveland died at his home in Baltimore in the early hours of Thursday, January 10, 1974, following a long and lingering illness. He was in his seventy-seventh year.

Son of President and Mrs. Grover Cleveland, Richard Cleveland graduated from Princeton and entered upon a distinguished career in the law. He became a partner in the firm of Semmes, Bowen, and Semmes for the balance of his life. Generally recognized as one of Baltimore's first citizens, he gave of himself unselfishly in civic and community activities. The last notable service he rendered was as delegate to the Maryland Constitutional Convention in the late 1960's.

From the early 1930's Richard Cleveland had an abiding interest and concern for St. John's College, whose Board he chaired for two decades. He was one of those responsible for introducing the New Program in liberal education in 1937. Then in 1945 he led the successful defense of the College against the efforts of the United States Navy to expand the Academy at the expense of the St. John's campus.

From a personal point of view, I recall with gratitude and affection that it was Richard Cleveland who approached me about assuming the St. John's presidency in the summer of 1949. Over the years he has been a tower of strength and a source of wise counsel as Board Chairman and as a loyal friend. His dedication to the educational ideals of St. John's College was complete. The College sought to recognize in some small measure his invaluable contributions to its well-being by designating him both Honorary Fellow and Honorary Visitor and Governor.

St. John's College bows it head in tribute to a great man, a wise counsellor, and a firm friend. The members of the College community on both campuses extend their deepest sympathy to his wife and the other members of his family.

RICHARD D. WEIGLE, *President*.

PROLIFERATION OF SURFACE NUCLEAR POWERPLANTS

Mr. ROBERT C. BYRD. Mr. President, on September 20, 1973, I asked the Chairman of the Atomic Energy Commission seven questions in a brief speech on the Senate floor. At the same time, I wrote a letter to Dr. Ray in which I repeated those questions, which dealt mainly with my concern for reports I had heard that surface emplaced nuclear powerplants constituted a potential danger to the security of the United States. In addition, I asked reassurance that other reports concerning the possible hazards to life and property in the event of an accident at a nuclear powerplant were groundless.

I have received detailed replies to my questions from the Chairman of the Atomic Energy Commission, and I ask unanimous consent that Dr. Ray's letter to me and the replies to my questions that accompany it be printed in the RECORD.

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

U.S. ATOMIC ENERGY COMMISSION,
Washington, D.C., September 24, 1973.

Senator ROBERT C. BYRD,
U.S. Senate.

DEAR SENATOR BYRD: Chairman Ray has received your letter of September 20 stating your concerns with regard to proliferation of surface nuclear power reactor plants in the United States.

She has requested the staff to assemble the material that will respond to the questions in your letter so that the Commissioners may respond promptly.

Sincerely,

PAUL C. BENDER,
Secretary of the Commission.

U.S. ATOMIC ENERGY COMMISSION,
Washington, D.C., October 17, 1973.

Hon. ROBERT BYRD,
U.S. Senate.

DEAR SENATOR BYRD: I am writing in response to your letter of September 20, 1973, in which you enclosed several questions on the safety of nuclear power.

My fellow Commissioners and I appreciate the spirit in which you asked the questions and the fact that you have given us this opportunity to present the information on which we base our judgments and carry out our responsibility to protect the health and safety of the public. As you observed in your letter, it is important that the "American people be assured, if certain allegations as to the potential danger of these plants to the national security are indeed groundless".

I have attempted to answer each of your questions in a straight-forward manner. The information provided in these responses should make it clear that these allegations are without basis in fact.

If you wish further information please do not hesitate to let me know.

Sincerely,

DIXY LEE RAY, *Chairman.*

Enclosure: Response to Questions.

RESPONSE TO QUESTIONS

1. Is the vast R&D expenditure undertaken by the United States in the field of commercial nuclear power justified in the light of what some experts claim is the very limited availability of uranium?

This is really two separate questions:

How vast are the civilian nuclear power R&D expenditures of the U.S.?

How limited is uranium availability?

The answer to the first question is relatively easy to provide. During the last 25 years through FY 1973 the Government has spent about $1.5 billion on the development of Light Water Reactors (LWR). How big this expenditure is can be gauged against the commitment of private industry to build commercial nuclear power plants. As of September 1, 1973, the private sector has in commercial operation, under construction, or on order a total of 171 LWR plants with a designed capacity of approximately 161,000 MWe and representing an investment of more than $60 billion. Thus compared to the industrial base which it has generated, government R&D expenditures on civilian nuclear power can hardly be considered "vast."

The second question deals with the availability of uranium which certain "experts claim is very limited." The facts belie this claim. The cumulative demand for U_3O_8 through the year 2000 can be fulfilled from presently known resources without any drastic economic penalty. Three factors will act to increase sharply resource availability in the future:

We are likely to find considerably more low-cost uranium as exploration intensifies.

As fossil fuel prices continue to rise and with possible improvements in mining and milling technology, higher cost uranium resources whose location is already known will become competitive.

Eventual commercialization of breeder reactor technology will further increase the energy available from known resources by 50 to 70 times.

This likely increase in availability of uranium means that the energy available to the Nation from nuclear fuels will last many centuries even if extremely high rates of growth in usage are assumed. It is not correct, therefore, to allege that we will run out of nuclear fuels in the near future.

2. Just how "unlikely" is an "unlikely accident", as described by the AEC and is the AEC completely satisfied that every possible safety precaution is being taken *at all times* in the commercial power reactor plants that soon will number almost 100 all over the United States?

This question also consists of two parts: (1) How "unlikely" is an accident which could affect the public health and safety, and (2) How satisfied is the AEC that every possible safety precaution is always taken?

In almost two thousand reactor years of operating experience with military and commercial power reactors, there has not been a single accident affecting the public health and safety. On the basis of current reactor design, construction and operating requirements, technical experts have estimated that the likelihood of an "unlikely" accident with serious consequences to the public is on order of one in a million reactor years. These figures, it should be recognized, are not precise ones. The Commission has undertaken an independent study, directed by Professor Norman Rasmussen of MIT, to provide detailed quantitative estimates of the probability of severe reactor accidents and their consequences. Should the results of this study show that the risks are greater than expected, you can be sure that the Commission will take the steps necessary to reduce them to an acceptable level.

The Commission is, of course, satisfied that power reactors which meet its strict design, construction and operating requirements afford the necessary protection to the health and safety of the public.

On the other hand, we cannot be so "completely satisfied" that we cease to improve our understanding of nuclear power reactors or that we fail to see that all reasonable precautions are taken. The Commission conducts its own vigorous safety research and development program. In addition, the operating experiences of commercial reactors are being continually monitored by our Regulatory staff. Both of these activities increase our depth of knowledge and enable us to attain greater precision in the margins of safety under which we permit operation.

3. Is the AEC confident that the security plans against plants by enemies of this nuclear reactor plants by enemies of this Nation, are totally adequate to prevent a disaster of almost inconceivable magnitude?

4. Are the AEC and the Administration satisfied that in the event of war, this proliferation of surface nuclear reactor plants *does not present a target for demolition by enemy action, the successful completion of which would cause a population loss so devastating that defense of the United States would become meaningless?*

Questions three and four center on the vulnerability of surface nuclear power plants to attack by foreign or domestic enemies. I will deal with the issue of surface plants in my answers to the next questions. For the moment let me concentrate on the issue of vulnerability regardless of site.

The first step in assessing vulnerability is to determine the attractiveness of the target to potential enemies. An attractive target is one which enables the enemy to inflict a great amount of damage with only a small

amount of effort or risk. Viewed in this light nuclear power plants make very unattractive targets for either a saboteur or a foreign enemy. They are massive physical structures which are not easily damaged by conventional methods. Moreover, even if seriously damaged a nuclear plant would constitute far less of a threat to the public's health and safety than would a number of other possibilities which do not need to be mentioned. A nuclear plant, therefore, is likely to rank quite low on a saboteur's list of priorities.

The situation is much the same when we consider vulnerability to enemy attack. A surprise attack on U.S. nuclear power plants with conventional weapons is simply not a credible threat. It would risk nuclear retaliation yet it would inflict far less damage to the population, the economy or the war-making capability of the U.S. than would attacks on many other targets.

Much the same is true if we stretch our imaginations far enough to conceive of a nuclear attack on a nuclear plant. The level of damage thus inflicted would be considerably less than could be visited on other targets. Moreover, it should be recognized that in the event of a nuclear attack, the hazard from the nuclear warhead itself dwarfs any hazard from the nuclear plant.

Notwithstanding the above, applicants for operating licenses of nuclear power plants have submitted to the AEC for review their programs of industrial security measures to protect against industrial sabotage in the proposed plants.

During the construction and throughout its operating life time, the plant and all protection procedures are subject to periodic review by competent inspectors to insure that a high level of security control is maintained. All such plants are located within fences and guarded security areas and liaison is maintained with the local and state police officials.

Nuclear power plants simply do not offer an especially attractive target for attack. As such it can hardly be alleged that their existence poses some new and significant threat to our national security.

5. Has the A.E.C. ever considered placing a moratorium on the construction of surface nuclear reactor power plants, with their obvious vulnerability, and insisted that all such nuclear reactor plant construction be underground?

6. Have the additional costs of underground construction vis-a-vis surface construction been a controlling factor in the construction and location of these facilities, to the possible jeopardy of the lives and property of the American people?

It is not clear whether questions five and six refer to protecting the American people from the consequences of enemy action or whether they refer primarily to economic considerations. Studies of underground siting concepts over a number of years have indicated that the cost of such siting is not decisively greater than for above ground sites. Typically, underground siting would not be expected to add a cost penalty greater than 15% to 30% to the capital costs of a facility. Such added cost would not be considered a controlling factor if there were concomitant benefits.

These same studies, however, have found no real or significant safety advantages to underground siting. The advantages and disadvantages of underground siting nevertheless are reexamined periodically as new technology develops and as more information becomes available. We plan, for example to take another look at this question in the near future.

If the questions refer to protecting the public from the consequences of enemy attack, they should be answered in the context of the answers to the previous set of questions. As was pointed out such attacks are not particularly credible since they would be difficult to mount successfully and would produce less damage than would attacks on alternative targets. The assertion therefore, of the "obvious vulnerability" of nuclear plant is wholly unwarranted.

7. Would the Atomic Energy Commission and the Administration oppose or support repeal of the Price-Anderson Amendment to the Atomic Energy Act?

In connection with the expiration of the Price-Anderson Act in August 1977, the Atomic Energy Commission is currently engaged in a comprehensive study which focuses on the complete spectrum of alternative approaches for the post-1977 period. The Commission is currently reviewing all aspects of the Act. The alternative approaches under consideration range from retention of the present system without change through possible modifications of the indemnity system, to permitting the present statute to expire with the responsibility assumed by the nuclear industry for financial risk from any accident.

To assist us in our study, the Commission staff has held discussions over the last several months with representatives of the utility, nuclear supply, and insurance industries. Additional meetings have been scheduled with these representatives as well as with interested members of the public not associated with these industries who might advance other viewpoints. In a manner as significant and as complex as this, we think it important that representative groups be consulted so that we may have the benefit of their views before advancing any legislative proposal to Congress.

While an early legislative submission to Congress on the Price-Anderson Act is desirable, any proposal on our part must be as solidly based as possible and take appropriate account of consultations and studies which are now underway. Repeal of the Act prior to the completion of such activities would be premature at best. We expect these activities to be completed early in 1974 and we intend to make legislative proposals at the earliest possible date thereafter.

NATIONAL FOOD POLICY

Mr. McGOVERN. Mr. President, I recently had the pleasure of speaking at the National Food Policy Conference in Hershey, Pa. This meeting was a vital step in reaching a solution to a problem which, because of the dedication of such people as the conference participants, we as Americans may never have to face in its full severity—lack of food.

I commend the conference planners, not only on their foresight in convening the meeting at this time, but on their selection of Bishop Edward E. Swanstrom as an opening speaker. As executive director of the Catholic Relief Service, Bishop Swanstrom has been close to the food problem and has seen the suffering it causes. He has taken the lead and worked diligently to identify and eliminate the gravity of this crisis that so many Americans have yet to recognize or take seriously. His words helped set the tone of the Food Policy Conference, and I would like to share them with my colleagues. I ask unanimous consent that they be printed in the RECORD.

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

TOWARD A NATIONAL FOOD POLICY

If this were to be a sermon, I would take as my text that supplication which most certainly has stormed the heavens more often than any other in the history of mankind. How often we have heard it. ". . . Give us this day our daily bread . . ." For food, and its adequacy to feed the world's millions, always a matter of primary concern to man, is perhaps today a matter of even more vital national and international importance than ever before.

Witness this conference itself and the broad scope of leadership it has attracted. Most of all, ponder the task which the conference has set for itself, namely, as a first step toward the formation of an international food policy, an attempt to hammer out a national food policy for America and to sponsor its dissemination through all available media to our fellow citizens in all walks of life and, in particuar, to those public servants at local, state, regional and national levels to whom we have entrusted the welfare of our country.

This conference is meeting at a truly crucial time. The written and spoken word these days centers about the energy crunch, the dimensions of which we Americans are just beginning to realize. (It is said our air conditioning equipment alone consumes more energy than eight hundred million humans consume for all purposes.)

We meet at a time when our scientific and technical knowledge thrusts us ever closer to the stars, and yet our public morals appear determined to sink equally as far into a morass of godless materialism with almost similar velocity. We are gathered at a time when faith in our national institutions has fallen to an all-time low; a time when fear and uncertainty, fed by an apparently endless raid on the family pocketbook, are on the rise; a time when more and more Americans seem only too willing to escape the world's problems and seek solace instead in the television tube. Perhaps most significantly of all, we meet at a time when weather, population growth and increasing affluence are combining to increase alarmingly the dependence of more and more of the peoples of this world upon the North American bread basket.

It is well, then, that this conference intends to come to grips with the problem of the world's food supply and America's role in allaying world hunger. In fact, the overriding challenge to this conference may well be to halt our country's drift toward isolationism and to once again assume its former role of responsible world leadership.

We have improved our performance in the art of power politics and there is no doubt that this is tremendously important on a short-term basis to the stilling of the guns and the halting of the slaughter of the battlefield. But I am talking about returning to that kind of societal world leadership which deals not with power but with people and which alone can chart for mankind the way to lasting peace with liberty and justice for all.

There is no doubt in my mind that the blessed abundance of our land, wisely administered, demands that America reassume its role of leadership by engaging in a new and even more determined war against that hunger which will afflict hundreds of millions of the world's poor unless a determined and concerted attack upon it is mounted now. And there is no time to waste! The fundamental importance of food to mankind's very survival can brook no delay.

Startling statistics, as you well know, abound. It is estimated that two-thirds of the world's population suffers from malnutrition. Millions live on the verge of starvation. An estimated 10,000 deaths each day are attributable directly either to the lack of enough food to sustain life or of the right kind of food. Malthusian prophecies are increasing in number. Starvation on a massive scale within the next decade is being predicted unless something is done to prevent it.

There are, however, and thank God, some encouraging signs on the horizon. The growing emphasis on a people-oriented U.S. foreign aid program, for instance. The increasing confidence in the ability of the private agency not to usurp the fundamental role of governments, to be sure, but, nevertheless, to make a significant contribution toward improving the quality of life in the developing world. Then, too, there is a growing realization of the necessity of not only boosting global food production to meet immediate demands, but to replenish depleted reserves—in a word, "a world food security policy" as Dr. Boerma, Director General of FAO expressed it a few weeks ago in a meeting of the organization in Rome.

More and more knowledgeable Americans are coming to the realization that we may have to voluntarily agree on a national food tithe and set aside a specific amount of our national production for supplementing the meagre diet of others. We are increasing the acreage before being devoted to the production of grains. We are talking less and less about developing world markets for our foods and more and more about how to transfer the essentials of our own food technology so that others may increase local food production to the end that dependency upon our own capacity will be lessened.

In his speech at the recent meeting of the World Bank and the International Monetary Fund in Nairobi, Robert McNamara, the President of the World Bank, highlighted these same priority needs. He pointed out that the growth taking place in developing countries is not reaching the poor and set a target of increased production on small farms. He said, "There is no viable alternative to increasing the productivity of small scale agriculture if any significant advance is to be made in solving the problems of absolute poverty in the rural areas." To that I say Amen.

With the rural populations of most developing countries running as high as 80 or 90 percent of the total population, an emphasis on increased productivity by small farmers will improve the conditions of a majority of the populations of Third World countries and will constitute an important attack on the world food shortage.

In our deliberations over the next two days, we will have the opportunity to review the dimensions of the problem of world food supply and to study America's role in food production and distribution. The part the relative nutritive value of foods will play in meeting world food needs, for instance. The problems of population growth and of the allocation of adequate energy to insure maximum food production in this all-too-suddenly energy-shortage conscious world.

We are going to study the amount of land presently being utilized for food production at home and overseas, and perhaps those additional resources which can, if necessary, be devoted to this purpose, as well. We will be looking at the signal importance of water to food production. Perhaps we may even look into the possibility of a renewed attempt to develop an economical method of desalinating water so that this huge resource of the seas can be utilized in this way. Experts will be treating the international aspects of a food policy for America, its economic implications and those competitive interests which will most certainly affect it.

In short, we will be looking at the problem of feeding ourselves and as many as possible of the hungry of the world (and encouraging others to do likewise) in all its implications, including the political, the social, the economic and cultural.

In this process, we will need to take a good look at our own national priorities and we will have to urge similar priorities upon others. Food and all its aspects is so fundamental to human survival that, in essence, we will, in attempting to formulate a national food policy, be examining our national conscience at the same time. We will need, of course, to relate our proposed food policy to a global food policy, for no one or several nations have the right to control the world's food supply without recognizing and discharging their responsibility for its prudent use for the benefit of all mankind.

And, ladies and gentlemen, may I ask you with all sincerity at my command, to remember above all throughout the discussions at this conference, that behind every statistic and fact which may be related or developed in the next two days, there is the spectre of massive human starvation; that what we ultimately propose and what we urge upon our leaders and fellow citizens as well as the world community, can actually and literally save countless lives, to say nothing of adding immeasurably to the peace and stability of the world.

Will this conference lend truth to the words of this verse which appeared way back in 1966 in Punch, the provocative British publication?

> In countless back alleys,
> No cradle or bed,
> A million sweet children
> Cry out to be fed.
>
> Rich nations, as distant
> As stars in the sky,
> Look down on their hunger
> And heave a sad sigh.
>
> "We'll send you our leavings,
> If any," they say,
> "But we, too, are starving
> On three meals a day."

Or will these meetings result in the issuance of a call to all Americans to support a policy based upon the responsible and compassionate sharing with others of the fruits of America's agricultural prowess?

"America, America. God shed his grace on thee."

America, America. Appreciative of His gifts, reasoned, responsible, just and compassionate let the thoughts and actions of this conference on national food policy be.

RAIL PASSENGER TRANSPORTATION

Mr. JAVITS. Mr. President, I would like to call to the attention of my colleagues an editorial appearing in the Washington Post last Thursday, January 24, highlighting the need for more and better rail transportation service. Since the energy crisis began, Amtrak has been deluged with an overabundance of passengers and requests. Not only has Amtrak been unable to provide seats for all the potential passengers on established routes, but Amtrak has also been unable to provide any service at all to areas in great need of rail service.

Foremost among these areas are recreation communities that are not within easy automobile commuting distance of a large metropolitan area. Large portions of our country are heavily dependent on recreation and tourism for their economic survival. Rail passenger service is essential for many of these areas if they are to withstand the effects of the immediate fuel shortages.

But I would not be speaking out for long-term commitments to rail service if I believed the effects of the fuel shortage are short term only. Even if we can develop self-sufficiency in energy within a decade it will be necessary for us to make some major changes in our lifestyle and habits. One of the easiest methods for change is to employ mass transportation for travel to recreation areas, areas where in the past we would drive to, leave our car in the parking lot for the duration of our stay, and then drive home.

Our Nation presently has one of the least developed systems of rail passenger service in the Western World. It is high time we began to correct this deficiency with a major Federal commitment to such service.

I ask unanimous consent that the editorial referred to be printed in its entirety in the RECORD.

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

[From the Washington Post, Jan. 24, 1974]

RAILROADS AND PASSENGERS

Last fall, Amtrak, which is supposed to entice people back to the pleasures of railroad travel, began to set up a computerized, national telephone reservation system of the kind the airlines have used for years. The system's capacity seemed sufficient for five years. Then, on November 19, the President proclaimed the energy crisis, gasoline and jet fuel supplies seemed threatened, people took to the rails, and, what with the Christmas holidays, the new reservation system was jammed by the sudden, overwhelming demand for seats. As a result, it still can be somewhat annoying to reserve an Amtrak railroad ticket.

And that pretty well illustrates our passenger train dilemma. Amtrak, with the help of airline and travel agency experts, seems to have done a good, slow, difficult but conscientious job of keeping rail travel from going the way of the stage coach. From 1945 until Amtrak was launched in May 1971, the railroads had steadily lost 15 per cent of their passengers every year. Now they are regaining 11 per cent every year. This is due to a number of visible improvements.

Amtrak, first of all, consolidated the passenger runs across the country to a bare minimum. Some cities, such as Cleveland, are not served by passenger trains at all. Next Amtrak began to improve the cars. Only half of the existing 3,000 cars were considered salvageable. The other half are being refurbished at the rate of first 48 and lately 70 cars a month. New diesel locomotives have been put in service or ordered. The Chicago-St. Louis run has a whole new train, made in France.

Personnel has been retrained. There is now a nationwide timetable. Many cities have downtown ticket offices and some have had their railroad stations cleaned and repainted. Three new stations—at Jacksonville, Fla., Springfield, Mass., and Cincinnati, Ohio—have been built. There has even been some modest innovation. Some of the long distance trains have passenger representatives to help make people comfortable and some, like the Montrealer, include recreation cars that offer games and movies and have a piano player along for entertainment.

The Interstate Commerce Commission, furthermore, is about to issue new customer service standards for passenger railroads that will insist on proper luggage handling, a fair reservation system and punctual performance. Under the new rulings, railroads can be fined for being late.

But like the new reservation system, all these gains are likely to be overwhelmed by the new demand on railroad travel created by the energy crisis. There is not enough equipment to handle a sudden increase in passengers. It will take years to build additional cars and locomotives, particularly since Amtrak rightly insists on new, up-to-date designs and engineering rather than reordering obsolete models. The refurbishing program can, of course, be accelerated. But there is as yet little incentive and less money to get the railroads ready for the new pas-

senger rush. Amtrak accomplished what it did against the odds of reluctant railroad managements and a budget that paid only for the barest necessities.

What we now need, and urgently, is rapid passenger service expansion and improvement. We need to spread such innovations as auto trains, so people can take their cars, packed with luggage and camping equipment, on the same train on which they ride to their vacation sites—from Washington to Denver, say, or from San Francisco to Seattle. But the expansion and improvements need money. Congress, having already insisted on better high-speed train service between Washington and Boston, should now make a further substantial investment in railroad travel. It seems essential not only to help the railroads, but also to help the tourist industry, in fact the entire economy, survive the energy crisis in reasonably good health.

MAHARISHI INTERNATIONAL UNIVERSITY

Mr. TUNNEY. Mr. President, I would like to call to the Senate's attention the existence of a new and innovative California institution of higher education, Maharishi International University. The goal of MIU is to provide an education which gives intellectual knowledge while simultaneously expanding the ability of the individual to absorb knowledge and utilize his or her full creative potential. This university represents a unique educational concept having profound significance not only for the field of education but for all of society. The techniques and programs which MIU offers to mankind deserve careful consideration and, therefore, I ask unanimous consent for inclusion in the RECORD a statement of the university's goals and programs.

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

MAHARISHI INTERNATIONAL UNIVERSITY

I. HISTORY

Maharishi International University was established in 1971 under the laws of the State of California as a nonprofit educational institution with teaching programs leading to the baccalaureate and doctoral degrees. The decision to establish Maharishi International University (MIU) arose directly from the enthusiasm of faculty, administration, students and parents at more than 600 college and university campuses in the United States who had witnessed the enlivening results of engaging in the practice of the Science of Creative Intelligence (SCI) as taught by Maharishi Mahesh Yogi. By the end of 1973, more than 300,000 Americans had participated in such programs with an additional 16,000 beginning each month.

The first credit-bearing course in the Science of Creative Intelligence was offered at Stanford University in 1970. Since then, similar credited courses have been offered at more than thirty American universities including Yale, Harvard and the University of California at Berkeley. The profound benefits of the knowledge and practice of the Science of Creative Intelligence and the validation of these benefits by physiological, psychological and sociological research conducted at leading universities and research institutes have provided a vision of possibility for the fulfillment of systems of education everywhere.

In the summer of 1971, the first Symposium on the Science of Creative Intelligence was held at the Amherst campus of the University of Massachusetts and was attended by internationally acclaimed research scientists, scholars and educators. These men and women, in response to the success of the symposium and the overwhelming national recognition of the Science of Creative Intelligence, determined to create a new university, dedicated to the highest ideals of education and named to honor the founder of SCI, Maharishi Mahesh Yogi.

II. RELEVANCE

The major question posed by educators and the public in relation to the process of higher education has been: What is the proper role of the institution of higher learning in society today? Maharishi International University provides a unique answer to this question—education is complete only when men and women everywhere are provided simultaneously with knowledge and the ability to use their full creative potential. MIU accomplishes this by teaching the traditional academic disciplines along with the study of the Science of Creative Intelligence.

The Science of Creative Intelligence is an interdisciplinary study, drawing upon the arts and sciences, which gives understanding of the nature, growth and development of creative intelligence in life. While MIU offers to its students the full range of academic disciplines, the Science of Creative Intelligence reveals to the student the interrelationship of all knowledge as an expression of intelligence and creativity. In this way, academic understanding is never isolated from personal experience.

The practical aspect of this science is Transcendental Meditation (TM), a simple, natural mechanical technique which enables students to experience directly and to develop the full range of this potential. The practical benefits of this technique have attracted the attention of scientists in the United States and Europe. Their research has demonstrated that Transcendental Meditation produces a unique state of the nervous system characterized by profound physical rest together with heightened mental alertness. This practice leads to greater mental and physical stability, efficiency and increased energy for purposeful activity. In addition, further studies have shown that practitioners of the technique exhibit a significant increase in intelligence and learning ability.

Further, the MIU education is not limited to walls of a single campus or the needs of a specific age group. MIU has designed programs that bring the advantages of higher education to all members of society, independent of the constraints of occupation or geographic location, economic situation or ethnic background. In addition to the main MIU campus in Goleta, California, MIU teaching centers in every major American city will present these courses through closed circuit color instructional television, and through the facilities of public broadcasting the value of the MIU education will soon be available to every home.

III. THE IMPLEMENTATION OF A WORLD PLAN

Maharishi International University feels that the contributions of its unique curriculum should not be limited to one geographic area, but should be made available in all parts of the world. Therefore, the University has implemented a World Plan to establish 3,600 World Plan teaching centers internationally, one for each one million population, to teach the Science of Creative Intelligence at every level of education, to train teachers of the Science of Creative Intelligence and to offer basic MIU courses for undergraduate and graduate degrees. Through this plan MIU aims to accomplish the following seven goals:

(1) to develop the full potential of the individual.

(2) to improve governmental achievements.

(3) to realize the highest ideal of education.

(4) to eliminate age-old problems of crime and all behavior that brings unhappiness to the family of man.

(5) to maximize the intelligent use of the environment.

(6) to bring fulfillment to the economic aspirations of individuals and society; and

(7) to achieve the spiritual goals of mankind in this generation.

Mr. TUNNEY. Mr. President, in conclusion, I hope that this information will serve to introduce to my colleagues in the Senate the programs and direction of this important new institution. Maharishi International University's global vision and far reaching goals are to be commended. I believe that they deserve our careful consideration.

UKRAINIAN INDEPENDENCE DAY

Mr. JAVITS. Mr. President, January 22 marks the 56th observance of Ukrainian Independence Day, which was originally proclaimed by the Ukrainian Central Rada in January 1918. Unfortunately, true Ukrainian political independence was short-lived, and the Ukraine was quickly submersed into the U.S.S.R.

However, the Ukraine continues as a culturally distinct region of the Soviet Union with its own language, literature, and heritage, which have remained despite the persistent efforts of the Soviet regime to repress them. The most recent manifestations of Soviet repression of Ukrainian nationalism are the imprisonment of several Ukrainian dissenters in the Potma Camp for political prisoners, the continuing harassment of Ukrainian Jews, which appears to be even more severe than in other regions of the Soviet Union, and the destruction of Ukrainian cultural and historic treasures such as the Ukrainian Orthodox Church of the Epiphany in Zhytomyr, Ukrainian S.S.R.

In our search for détente with the Soviet Union, we must not allow to go unnoticed the aspirations for self-expression of the people of the Ukraine. To omit our expressions of concern would be a betrayal of freedom and the human spirit.

THE VIETNAM GI BILL OF RIGHTS

Mr. McGOVERN. Mr. President, it is exactly 1 year ago today that the Vietnam peace agreement went into effect. That agreement brought to an end a massive American involvement that saw over 7 million young men enter the Armed Forces. Over 2½ million of them served in the war zone. Fifty thousand died. Twenty-five thousand came home without arms or legs. And hundreds of thousands came home expecting to find a better life than the one they had when they left.

It is no secret by now that these men have faced disappointment and disillusionment in the past year. A Veterans' Administration study revealed that one out of five returning GI's is experiencing "serious and prolonged readjustment problems."

There can be no doubt that a major part of these problems has been caused

by the unwillingness of the Congress and the administration to recognize the need to provide adequate educational and job training opportunities. In addition to fighting in a bitter and unpopular war, the young veteran has been burdened with the indifference of a nation known for its generosity.

No one is going to argue with the fact that this country owes a huge debt to our young veterans, Mr. President. But we must realize that our commitment goes beyond recognition days and wooden plaques and paper awards. What the young veteran needs is the tools to improve his own life here at home. These tools can only come from a college education or a vocational training program, or a decent job opportunity that takes into account the skills he learned in the service.

Our commitment to these young men must be measured in dollars and cents. Surveys conducted by the Educational Testing Service and the National League of Cities in the past year show that the present level of GI bill benefits is not adequate to pay for the kind of education and training it takes for young GI's to compete in today's job market. It is an unrefutable fact that education costs have risen three times as fast as GI bill benefits in the past 25 years.

The Senate now has before it a bill which would close the gap for thousands of young veterans. On December 7 of last year, I joined with Senators MATHIAS, DOLE, and INOUYE, to introduce S. 2789, the Vietnam veterans GI bill. It is a distinct, and I think unique, opportunity for me to work on this piece of legislation with my colleagues from Maryland, Kansas, and Hawaii. I doubt that any one of us would be in the U.S. Senate today if it were not for the World War II GI bill. Each of us served in that war and each of us were able to further our education after the war with the aid of a tuition payment and a subsistence allowance furnished by the Congress through the VA.

Altogether, 21 Senators and 65 Congressmen enrolled in college after World War II with the benefit of the GI bill. That same program also helped produce 450,000 engineers, 360,000 teachers and hundreds of thousands of professionals in the fields of medicine, law and science. Perhaps most striking of all, the money invested in that program was turned back to the Treasury seven times over in increased tax revenues.

The solution for the present gap in benefit levels is simple and, on the face of all the evidence, almost incredibly inexpensive. While the World War II program included both a subsistence allowance and a tuition payment, the present program includes only a monthly subsistence allowance. The ETS study made the point that a variable tuition payment plan is needed to provide help to veterans who live in States where the cost of public education is considerably higher than the national average. That is precisely what is proposed by this legislation.

The national average for a 4-year public institution is slightly above $400. The Vietnam veterans' GI bill would require the veteran to pay the first $400, but would provide up to $600 more to cover the remainder of his tuition costs. Out of a total yearly tuition cost of $1,000, the veteran would pay $400 and the VA would pay $600. If the tuition were higher than $1,000, the veteran would have to pay the first $400 and any cost above $1,000.

A simple illustration comparing the States of New York and California provides the best argument for this type of tuition payment. While the average tuition payment in New York a 4-year public institution is in the area of $800 to $1,000, the same education costs a California native less than $400 in his own State and 37 percent of the California veterans have been able to use the GI bill while only 21.6 percent of the New York veterans have enrolled in the program. In fiscal year 1972, California veterans used $302 million in GI bill benefits while New Yorkers used $99 million.

The per year cost of this tuition payment program is estimated to be in the area of $200 to $300 million. That seems a very small price to pay when consideration is given to the needs of the eligible young men and the ultimate benefits to the entire country. It is almost pitiful when considering the reported request of the Defense Department for $99 billion during fiscal year 1975, an increase of 15 percent over fiscal year 1974. If the past record of the Congress is any yardstick, chances are good that the Defense Department will get a large share of that increase inspite of the efforts of those of us who feel that figure is extremely high. Needless to say, the Congress is going to suffer credibility pains if we pass over a simple increase for young veterans in the same session we boost the military budget by billions.

I would not want this bill to be interpreted as a simple increase in benefits, Mr. President, because it is much more than that. The intent of this measure is to give the opportunity for an education or vocational training to men who are not now enrolled under the GI bill. This bill speaks to the disadvantaged veterans, the black, Puerto Rican, and Mexican American veterans, the underprivileged and disabled veteran who, up to now, could not afford to attend school or learn a trade because the benefits simply are not adequate. We want to increase the rate of participation in States like New York, Ohio, and Pennsylvania up to the level it is in California.

It is for that reason that we have included provisions expanding the college work-study program, extending the eligibility period from 8 to 10 years, providing an accelerated subsistence provision, and creating a Vietnam Veterans Communication Center to improve outreach counseling.

When the bill was originally introduced, we had already received the support of Senators HUGH SCOTT, MCGEE, ABOUREZK, METCALF, HATHAWAY, TAFT, CHURCH, MONDALE, GRAVEL, RIBICOFF, and JACKSON as cosponsors. Today it gives me a great deal of personal satisfaction to announce that 17 more of my Senate colleagues have asked to be listed as cosponsors on S. 2789. Added to the original list announced on the date of introduction, it brings our total to 32 named supporters including myself and Senators MATHIAS, DOLE, and INOUYE.

Mr. President, I ask unanimous consent that the following Senators be added as cosponsors to S. 2789: Senators BROOKE, CLARK, HUMPHREY, BAYH, TUNNEY, YOUNG, CASE, MONTOYA, JAVITS, KENNEDY, MANSFIELD, HART, MOSS, MUSKIE, SCHWEIKER, MAGNUSON, and GURNEY.

Mr. DOLE. Mr. President, an article appeared recently in the New York Times which provides a valuable insight into present veterans education benefits. The author of this article, Senator DANIEL INOUYE, has expressed an observation shared by every World War II veteran whose son served in the Vietnam era and is now attending college. The observation is simply this: veterans educational assistance now is not equivalent to what it was in the post-World War II period. And it is high time we give the Vietnam-era veteran the help he needs and deserves.

NEED FOR ACTION

Senator INOUYE and I both received educational benefits under the more adequate GI bill provisions of the post-World War II era. He and I both speak for the importance of the educational assistance we received. His article is an expression of this and it is unfortunate that the same cannot be said for the present GI bill. Together, we have helped introduce a Comprehensive Educational Benefits Act for veterans of the Vietnam war period which would go a long way toward rectifying the current inadequate amount of Federal aid to this group of young men and women. Through its provisions, veterans of the recent war will be able to gain the education they so justly deserve and which they so greatly need in view of the high cost of college-level education today.

The widespread, nonpartisan support this legislation has received within the Congress and the public at large indicates a general recognition of the problem. It now remains for us to provide a solution to the problem. Our bill, S. 2789, is designed to do this.

INVESTMENT IN THE FUTURE

As concerned Americans working to correct the inadequacies of the current system, we can indeed look with pride upon the sound investment that is being made in our Nation's future. As Senator INOUYE has appropriately noted, we can most effectively insure a better future for our country by giving our veterans a fair chance now to develop their capabilities to the fullest extent. With this opportunity, our Vietnam era veterans will hopefully be better educated and will be able to contribute more successfully to the well-being of their families and to the strength of their Nation in the future.

Mr. President, I ask unanimous consent that this article entitled "A Fair Deal for Vietnam Veterans" be printed in the RECORD.

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

[From the New York Times, Jan. 23, 1974]

A FAIR DEAL FOR VIETNAM VETERANS

(By DANIEL K. INOUYE)

WASHINGTON.—One year ago today, President Nixon announced we had achieved "peace with honor" in Vietnam as a cease-fire agreement was reached. He called on us to be proud of the two and a half million young Americans who served in Vietnam. Later in his State of the Union message the President asserted: "A grateful nation owes its servicemen and women every opportunity it can open to them when they return to civilian life. The nation may be weary of war, but we dare not grow weary of doing right by those who have borne its heaviest burdens."

When I returned home from World War II, like millions of other veterans, I was able to go to the college of my choice under the G.I. bill of rights. A "grateful nation" provided for my tuition, books and fees at the University of Hawaii and George Washington University Law School and a monthly subsistence allowance of $115. With my disability pension of about $200 and my wife's salary, our income was about $800 a month. I don't think many students could have matched that, and such high living was a new experience for us.

Seven million World War II veterans used the G.I. bill. The lives of each of us were changed by the opportunities provided to us. I do not believe I would be in the Senate today without having been a beneficiary of the bill.

Unfortunately, the homecoming of the Vietnam veteran is far different. President Nixon's words ring hollow in the ears of hundreds of thousands of Vietnam veterans who can't find work and can't afford to go to school. These brave young soldiers who gave up the comfort of peaceful homes and years of economic and educational advancement to answer a call to duty are denied benefits or receive benefits not at all comparable to those received by veterans of World War II and Korea.

The Administration has fostered the illusion that today's veteran is as well-treated as his father was. He is not. Presidential impoundment of funds designed to aid student veterans and Administration opposition to increased educational benefits despite misleading rhetoric, has caused the Vietnam veteran to feel that he fought the wrong war at the wrong time.

Today's veteran is eligible for a lump sum of $220 per month or $1,980 for each academic year. Out of this he must pay for tuition, fees, books and living expenses. Two separate studies, by the prestigious Educational Testing Service for the Veterans Administration and by the Special Veterans Opportunity Committee for the National League of Cities and the United States Conference of Mayors, have documented that present benefits are inadequate.

The Vietnam veteran has less purchasing power for fours years in college than did the veteran of World War II after adjustments are made for cost-of-living increases. He is priced out of the private-college and graduate-school market. Unless he lives in a state with a large number of community colleges or inexpensive four-year public colleges, it is unlikely he can afford a college education. A young veteran attending an average four-year public institution falls $700 to $2,000 short of the amount needed to pay for tuition, books, fees and living expenses each year.

The unemployment rate among Vietnam veterans, especially minority and undereducated veterans, remains consistently high. The veteran is squeezed from both ends: Because he lacks education and training he cannot get a job; yet without a job to supplement inadequate G.I. benefits, he cannot get training or an education. Part-time jobs are not available. And as the energy-crisis job cutbacks have begun, the Vietnam veteran who lacks training and seniority has been the first to be fired. Present state and Federal job programs for ex-servicemen just don't do enough to offset depressed job markets.

All the men who fought in World War II and Korea returned as heroes. But Vietnam was the war nobody liked, and everybody now wants to forget. Yet although we disagreed over the motives, methods and purpose of American involvement in that tragic war, I believe the great majority of Americans agree that the Vietnam veterans deserve something better than what they are getting.

Over a fourth of the Senate has joined in co-sponsoring the proposed comprehensive Vietnam era veterans education benefits act. The legislation would bring educational, job and monetary benefits for Vietnam veterans to a level more equal to the benefits enjoyed by veterans of previous wars.

"All we want is the chance that the guys got who didn't have to go," said a returned veteran. It will be a national tragedy if those young Americans who did go to Vietnam, many as involuntary draftees, are now denied the opportunity to be trained and educated to their fullest capabilities because this nation has grown weary of doing right by those who did its fighting.

Mr. MATHIAS. Mr. President, 1 year ago today, the Vietnam cease-fire went into effect, marking the end of the direct involvement of American fighting men in that war-torn land. In the weeks and months that followed, the last of our troops and prisoners came home—returning from the longest and most controversial war in our Nation's history—and joined the swelling ranks of the more than 6 million Vietnam-era veterans we count among our citizens today.

From the vantage point of this first anniversary, Mr. President, we can all look back with the deepest gratitude and relief that our men are no longer involved in that seemingly eternal Indochinese conflict. Indeed, with our own troops now home safely, and a year's time already passed to cushion our memories, it must be tempting for many of us—citizens and members of this body alike—simply to want to close the books on that chapter in American history and forget the troubled past.

But for too many Americans, the books cannot be closed—the men who fought, whose civilian lives and education were disrupted by service in our Armed Forces; these Americans still face a conflict for survival, albeit of a more subtle nature.

Returning to civilian life, they find not a hero's welcome, but ambivalence and averted eyes. They hear rhetoric about a grateful nation, but they seek in vain for jobs. The unemployment level among Vietnam-era veterans is nothing short of a national disgrace. And when they seek to turn to higher education, they find tuition and other costs skyrocketing with such acceleration that in many States, college is now available only to those with independent financial resources.

The World War II GI bill, Mr. President, allowed millions of Americans who served their country to receive a higher education which would have otherwise been denied them. I count myself among those who could not otherwise have gone to college, and I am told that roughly a quarter of the Members of this body similarly went to college on the GI bill.

But what about today's veteran and today's GI bill? In order to help answer that question, the Congress enacted an amendment I introduced to the 1972 Veterans Readjustment Assistance Act—Public Law 92-540—which instructed the Veterans' Administration to provide for an independent study to determine whether educational benefits for Vietnam-era veterans are comparable with those which were available to World War II and Korean war veterans.

That study, conducted by the Educational Testing Service, was completed last fall and concludes that today's veteran is being clearly short-changed when compared to his earlier counterparts. And while the VA continues to claim that educational benefits have kept pace with the overall cost of living since World War II, the ETS study explicitly concludes that the real value of the educational benefits available to today's veteran is substantially less, primarily because of soaring cost of tuition, fees, books and supplies. These are costs which have increased far more steeply than the overall cost of living, as any current student, or parent of students, can easily testify.

The most crucial of these variables is the extraordinary range of tuition costs, between States and within each State. The VA, for example, contends that the average tuition cost for public higher education nationally is about $400; and further, that a veteran paying such an average tuition is in roughly the same financial position as an average World War II veteran.

Even if this is true, however, it offers little solace to the millions of veterans living in States where the tuition costs for public education are above average. In my own State of Maryland, for example, the tuition for the University of Maryland is $698, and will rise to $748 next year. This means that after books and fees are paid for, today's veteran attending the University of Maryland will have about $115 per month left from his GI bill benefits with which to feed, clothe and house himself, or a little over $25 a week on which to live—hardly an adequate level.

Furthermore, the University of Maryland is by no means alone in its high tuition cost. The major public universities in California, Connecticut, Illinois, Indiana, Michigan, Minnesota, New Jersey, Ohio, Pennsylvania, and Rhode Island all charge more than $640 per year for tuition.

At this time, Mr. President, I ask unanimous consent to print in the RECORD the following table specifying tuition costs at State colleges and universities throughout the Nation.

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

TABLE A.—RESIDENT AND NONRESIDENT UNDERGRADUATE TUITION RATES AT STATE COLLEGES AND UNIVERSITIES, 1973–74 ACADEMIC YEAR. (WHERE DIFFERENT, 1972–73 TUITION RATES IN PARENTHESIS)

	Undergraduate tuition and/or required fees	
	Resident	Nonresident
ALABAMA		
Ala. A&M U	$280(270)	$630(520)
Auburn U	525(450)	1,050(900)
U. of Alabama	510	1,020
Alabama State U	405(345)	630(570)
Florence State U	470(450)	470(450)
Livingston University	439(430)	612(603)
U. of Ala.—Huntsville	525	1,050
U. of Montevallo	360	570
U. of South Alabama	579	867
ALASKA		
U. of Alaska	472(402)	1,072(1,002)
ARIZONA		
Ariz. State U	320	1,210
U. of Arizona	411	1,301
Northern Arizona U	330(304)	995(969)
ARKANSAS		
U. of Arkansas, Fayetteville	400	930
U. of Arkansas, Pine Bluff	400	1,000
Arkansas Polytechnic College	410	940
Arkansas State U	400	700
Henderson State College	400	800
Southern State College	410	680
State College of Arkansas	410	920
CALIFORNIA		
U. of California, System	644	2,144
Cal. Maritime Academy	1,380(1,080)	1,680(1,380)
Cal. St. Polytechnic U.:		
Pomona	163	1,156
San Luis Obispo	165	1,300(1,100)
California St. Colleges:		
Bakersfield	39	1,100
Dominguez Hills	146(143)	1,256(1,253)
San Bernadino	157	1,270
Sonoma	140	1,345(1,250)
Cal. St. Universities:		
Chico	166(160)	1,276(1,270)
Fresno	168	1,278
Fullerton	160	1,270
Humboldt	163	1,399(1,273)
Long Beach	164	1,369(1,274)
Los Angeles	165	1,236(1,110)
Northridge	164	1,145
Sacramento	160	1,110
San Diego	161	716
San Francisco	164	1,110
COLORADO		
Colorado State U	778(570)	2,069(1,759)
U. of Colorado, Boulder	593(576)	1,959(1,895)
Adams State College	471(456)	1,446(1,431)
Fort Lewis College	433(418)	1,337(1,283)
Metropolitan St. College	330(333)	1,080(1,062)
Southern Colo. St. Coll	474(450)	1,489(1,389)
U. of Northern Colo	427(402)	1,303(1,200)
Western St. Coll. of Colo	358(349)	1,003(1,315)
CONNECTICUT		
U. of Connecticut	715(655)	1,715(1,555)
Central Conn. St. Coll	570	1,410
Southern Conn. St. Coll	524	1,424
Western Conn. St. Coll	450	1,350
DELAWARE		
Delaware St. C	355(345)	930(920)
U. of Delaware	585(475)	1,560(1,350)
DISTRICT OF COLUMBIA		
District of Columbia Teachers Coll	70	1,082
Federal City College	132	852
FLORIDA		
Fla. A&M U	570	1,620
Florida State U	570	1,620
U. of Florida	570	1,620
Florida Atlantic U	570	1,620
Florida Technological U	570	1,620
U. of North Florida	570	1,620
U. of South Florida	570	1,620
U. of West Florida	570	1,620
GEORGIA		
Fort Valley St. C	387(382)	927(922)
Georgia Inst. of Tech	534	1,419
U. of Georgia	539(519)	1,259(1,239)
Albany State College	435	975
Armstrong State College	$405(390)	$945(930)
Augusta College	400(390)	940(930)
Columbus College	396	936
Georgia College	423	963
Georgia Southern Coll	367(361)	787(781)
Valdosta State College	429(387)	969(792)
West Georgia College	417	957
HAWAII		
U. of Hawaii	223(233)	733(743)
IDAHO		
U. of Idaho	380(356)	1,280(1,156)
Boise State College	356	1,296
Idaho State U	276(373)	1,126(1,123)
Lewis-Clark St. College	240	840
ILLINOIS		
Southern Illinois U	579	1,437
U. of Ill., Chicago Circle	636	1,626
U. of Illinois, Urbana-Champaign	686	1,676
Eastern Illinois U	599(691)	1,445(1,437)
Governors State U	585	1,650
Illinois State U	611(585)	1,272(1,246)
Northeastern Illinois U	476(520)	1,322(1,366)
Northern Illinois U	603(574)	647(617)
Sangamon State U	472(447)	1,133(1,110)
Southern Illinois U. at Edwardsville	589(584)	1,447(1,442)
Western Illinois U	561(558)	1,407(1,404)
INDIANA		
Indiana U	682(650)	1,560(1,490)
Purdue U	700	1,600
Ball State U	630	1,260
Indiana State U	660(600)	1,260(1,110)
IOWA		
Iowa State U	600	1,332(1,230)
U. of Iowa	620	1,350(1,250)
U. of Northern Iowa	600	1,100(1,000)
KANSAS		
Kansas State U	526(746)	1,316(1,066)
U. of Kansas	544(486)	1,334(1,076)
Fort Hays Kansas St. Coll	475(407)	970(802)
Kan. St. Coll. of Pittsburg	390	885(785)
Kansas St. Teachers Coll	394(386)	889(781)
Wichita State U	536(459)	1,327(1,060)
KENTUCKY		
Kentucky State U	455(395)	985(911)
U. of Kentucky	480(405)	1,210(1,120)
Eastern Kentucky U	420(360)	950(875)
Morehead State U	420(380)	950(896)
Murray State U	425(365)	955(881)
North'n Kentucky St. Coll	420(360)	950(876)
Western Kentucky U	420(360)	950(876)
LOUISIANA		
La. St. U	320	950
Southern U	284	914
Grambling College	332	782
Louisiana Tech U	334(318)	964(948)
McNeese State U	290(285)	530(525)
Nicholls State U	302	932
Northeast Louisiana U	292(270)	922(900)
Northwestern State U	302(294)	932(924)
Southeastern Louisiana U	165	480
MAINE		
Maine Maritime Academy	600	1,350(1,200)
U. of Maine:		
Augusta	400	1,400
Farmington	400	1,400
Fort Kent	430	1,430
Machias	400	1,300
Presque Isle	400	1,400
MARYLAND		
U. of Maryland, College Park	698(639)	1,698(1,439)
U. of Md., Eastern Shore	345(320)	695(620)
Bowie State College	570(450)	1,020(655)
Coppin State College	520(335)	970(685)
Frostburg State College	636(420)	1,086(770)
Morgan State College	651(460)	1,051(835)
St. Mary's Coll. of Md	470(460)	720(710)
Salisbury State College	721	1,179(954)
Towson State College	546(436)	996(886)
U. of Md., Baltimore Cty	560(500)	1,560(1,300)
MASSACHUSETTS		
U. of Mass	520(469)	1,320(1,069)
Boston St. College	369(318)	669
Fitchburg St. College	$300(250)	$600
Framingham St. College	300(250)	600
Massachusetts Coll. of Art	403(353)	705(703)
North Adams St. College	357(302)	652
Salem St. College	400(350)	800(700)
Southeastern Mass. U	420(370)	700(650)
Westfield St. College	300(250)	600
Worcester St. College	395(345)	695(645)
MICHIGAN		
Mich. St. U	720(675)	1,620(1,530)
U. of Michigan:		
Freshman-Soph	800(696)	2,600(2,260)
Junior-Senior	904(696)	2,800(2,260)
Wayne St. U	704(668)	1,893(1,857)
Central Michigan U	550(510)	1,240(1,110)
Eastern Michigan U	565	1,353
Grand Valley St. College	517(480)	1,305(1,224)
Northern Michigan U	495	1,260
Oakland U	602(557)	1,562(1,502)
Saginaw Valley College	510(450)	1,290(1,200)
Western Michigan U	540	1,140
MINNESOTA		
U. of Minn	592(550)	1,522(1,456)
Bemidji St. College	453(416)	827 (788)
Mankato St. College	333(307)	580 (555)
Moorhead St. College	333(307)	508 (555)
St. Cloud St. College	330(308)	578 (555)
Southwest Minn. St. Coll	453(416)	824 (787)
Winona St. College	477(438)	873 (834)
MISSISSIPPI		
Alcorn A&M C	400	1,000
Mississippi State U	506	1,106
U. of Miss	516	1,116
Alcorn A & M College	400	1,000
Delta St. College	434(428)	1,034(1,028)
Miss. St. Coll. for Women	474(465)	1,074(1,065)
Miss. Valley St. College	400	1,000
U. of Southern Mississippi	320	920
MISSOURI		
Lincoln U	370(350)	640(620)
U. of Missouri	540	1,540
Central Missouri St. U	315(300)	915(900)
Harris Teachers College	205	NA
Missouri Southern St. Coll	300	710
Missouri Western St. Coll	340	720
Northeast Missouri St. U	280	760
Northwest Missouri St. U	310(300)	600(800)
Southwest Missouri St. U	300	900
MONTANA		
Mont. State U	476(471)	1,376(1,318)
U. of Montana	487(471)	1,387(1,318)
Eastern Montana Coll	450(445)	1,350(1,292)
Montana Coll. of Mineral Science and Technology	378(375)	1,278(1,223)
Northern Montana Coll	430(413)	1,330(1,260)
Western Montana Coll	434(432)	1,334(1,280)
NEBRASKA		
U. of Nebraska	484	1,210
Kearney State Coll	505(403)	865(711)
U. of Neb. at Omaha	600(492)	1,508(1,218)
Wayne State College	555(443)	915(751)
NEVADA		
U. of Nevada	519	1,719
NEW HAMPSHIRE		
U. of New Hampshire	983(1,033)	2,233
Keene State College	617	1,450
Plymouth St. Coll. of the U. of New Hampshire	714	1,547
NEW JERSEY		
Rutgers U	725	1,310
College of Medicine and Dentistry of New Jersey:		
New Jersey Dental Sch	1,188	1,838
New Jersey Med. Sch	1,135(1,125)	1,775
Rutgers Medical Sch	1,200(1,250)	1850(1900)
Graduate Sch. of Biomedical Sci	635	805
Glassboro St. College	535	1,070
Jersey City St. Coll	636	1,171
Montclair St. Coll	679	1,339
Newark Coll. of Engineer	632	1,216
Ramapo Coll. of N.J	674	1,209
Stockton St. College	666	1,201
Trenton State College	640	1,175
NEW MEXICO		
New Mexico State U	466	1,296
U. of New Mexico	456	1,284
Western New Mexico U	333	900

TABLE A.—RESIDENT AND NONRESIDENT UNDERGRADUATE TUITION RATES AT STATE COLLEGES AND UNIVERSITIES, 1973–74 ACADEMIC YEAR, (WHERE DIFFERENT, 1972–73 TUITION RATES IN PARENTHESIS)

	Undergraduate tuition and/or required fees	
	Resident	Nonresident
NEW YORK		
City U. of New York	$70	$620
Cornell U. (statutory)	1,350(1,200)	1,950(1,800)
State U. of New York:		
Fresh-Soph	750(740)	1,175(1,165)
Junior-Senior	900(890)	1,400(1,390)
Queens College of City U. of New York	138	1,338(1,038)
State U. of New York:		
Empire State College	900(786)	1,468(1,234)
Maritime College	800[600]	1,300 900]
St. U. of N.Y. Colleges:		
Brockport	890[740]	1,390[1,165]
Buffalo	887[737]	1,387[1,162]
Fredonia	800[650]	1,300[1,075]
Geneseo	800[650]	1,300[1,075]
New Paltz	875[725]	1,375[1,150]
Old Westbury	800[650]	1,300[1,075]
Oneonta	800[650]	1,300[1,075]
Oswego	800[650]	1,300[1,075]
Plattsburgh	800[650]	1,300[1,075]
Potsdam	895[885]	1,395[1,385]
	[745(735)]	[1,170(1,160)]
Purchase	650	1,075
Utica/Rome	800	1,300
NORTH CAROLINA		
N.C. A&T U	542(525)	2,075(2,074)
N.C. State U	474(427)	2,034(2,002)
U. of North Carolina	439(422)	1,997
Appalachian St. U	485(467)	2,070(2,067)
East Carolina U	438(423)	2,004
North Carolina Central U	443(421)	2,043(2,021)
Pembroke St. U	389(390)	1,730
U. of N.C. at Wilmington	368(396)	1,923(1,936)
Western Carolina U	169(166)	691(699)
Winston-Salem St. U	490(472)	1,875(1,872)
NORTH DAKOTA		
N. Dak. St. U	435	1,164
U. of N. Dak	456	1,184
Dickinson S. College	415(406)	952(943)
Mayville St. College	305	852
Minot St. College	400	937
Valley City St. College	405(396)	942(933)
OHIO		
Kent St. U	804	2,004
Miami U	780	1,980
Ohio State U	750	1,800
Bowling Green St. U	780	1,179(1,143)
Central St. U	663(648)	1,188(1,173)
U. of Akron	705	1,605
U. of Toledo	780	1,935
Wright St. U	780(750)	1,680(1,650)
Youngstown St. U	630(570)	1,200(1,050)
OKLAHOMA		
Langston U	337	832
Oklahoma State U	456	1,236
U. of Okla	448	1,200
Central St. U	340	835
East Central St. College	348	843
Northeastern St. College	352(345)	847(840)
Northwestern St. College	332(327)	827(822)
Oklahoma College of Liberal Arts	335	830
Southeastern St. College	355	835
Southwestern St. College	330	825
OREGON		
Oreg. St. U	451(425)	1,633(1,484)
U. of Oregon	566(534)	1,748(1,593)
Eastern Oregon St. College	549(519)	1,392(1,239)
Southern Oregon College	549(513)	1,392(1,233)
PENNSYLVANIA		
Pennsylvania St. U	900(885)	2,100(1,986)
Temple U	1,050(970)	1,950(1,870)
U. of Pgh	1,012(982)	2,002(1,972)
Bloomsburg St. Coll	750(700)	1,500(1,400)
California State College	820(770)	1,570(1,470)
Cheyney State College	415(780)	1,576(1,470)
Clarion State College	750(700)	1,380
East Stroudsburg St. Coll	840(790)	1,470
Edinboro State College	750(700)	1,380
Indiana U. of Pennsylvania	750(700)	1,500(1,400)
Kutztown State College	750(700)	1,380
Lincoln U	1,018(1,418)	1,718(1,418)
Lockhaven State College	750(700)	1,380
Mansfield State College	NA(760)	NA(1,450)
Millersville State College	750(700)	1,500(1,380)
Slippery Rock State Coll	750(700)	1,500(1,380)
RHODE ISLAND		
U. of Rhode Island	$761	$1,661
Rhode Island College	490	1,175
SOUTH CAROLINA		
Clemson U	$640	$1,340
S.C. State C	480	960
U. of South Carolina	570	1,280
Francis Marion College	410	910
Winthrop College	560(470)	1,220(1,130)
SOUTH DAKOTA		
S. Dak. St. U	596(510)	1,337(1,132)
U. of S. Dak	554(500)	1,259(1,076)
Black Hills State College	525(455)	1,058(874)
Dakota State College	550(488)	1,017(936)
Northern State College	397(345)	390(765)
U. of South Dakota at Springfield	492(436)	1,024(856)
TENNESSEE		
Tennessee State U	351	1,161(1,071)
Austin Peay State U	318	1,128(1,038)
East Tennessee State U	378	1,188(1,113)
Memphis State U	348	1,068(948)
Middle Tennessee State U	358	1,168(1,078)
U. of Tennessee:		
Chattanooga	416(396)	1,226(1,116)
Martin	414(390)	1,224(1,110)
TEXAS		
Prairie View A&M U	198	1,422
Texas A&M U	288(279)	1,368(1,359)
Texas Southern U	346(284)	1,422(1,364)
Texas Tech. U	292(290)	1,444(1,442)
U. of Houston	266(256)	1,346(1,336)
U. of Texas, Austin	378(267)	1,458(1,347)
Angelo St. U	300(280)	1,380(1,360)
East Texas St. U	322(250)	1,402(1,330)
Midwestern U	120	1,200
North Texas St. U	170(152)	710(692)
Sam Houston St. U	276	1,356
Southwest Texas St. U	270(218)	1,350(1,298)
Stephen F. Austin St. U	280	1,360
Texas A&I U. Kingsville	270(190)	1,350(1,270)
West Texas St. U	280	1,360
UTAH		
U. of Utah	480	1,155
Utah St. U	4.3(438)	963(948)
Weber State College	405	810
VERMONT		
U. of Vermont	1,088(1,086)	2,688(2,536)
Castleton St. College	720	1,850
Johnson St. College	720	1,850
Lyndon St. College	720	1,850
VIRGINIA		
U. of Virginia	622(597)	1,447(1,372)
Virginia Poly Inst. & State U	627	1,227
Virginia State C	690	1,150(950)
George Mason College	690(640)	1,410(1,360)
Longwood College	585(500)	935(850)
Madison College	652(647)	1,077(1,072)
Mary Washington Coll	792(762)	1,547(1,517)
Old Dominion U	470	870
Radford College	480(462)	879(861)
Virginia Commonwealth U	590(540)	1,190(1,080)
WASHINGTON		
U. of Washington	564	1,581
Washington St. U	564	1,581
Central Washington St. Coll	495	1,359
E. Washington St. Coll	495	1,359
Evergreen St. Coll	495	1,359
W Washington St. Coll	495	1,359
WEST VIRGINIA		
W. Virginia U	310	1,140
Bluefield State College	242(240)	992(990)
Concord College	240	990
Fairmont State College	242(232)	992(982)
Marshall U	282	1,082
Shepherd College	280	1,030
West Liberty State College	270(250)	1,020(1,000)
W.Va. Institute of Tech	277(260)	1,027(1,010)
West Virginia State Coll	250	1,000
WISCONSIN		
U. of Wisconsin—Madison:		
Freshman-Soph	573(558)	1,906
Junior-Senior	628(558)	2,006(1,906)
U. of Wisconsin:		
Eau Claire	$604(528)	$1,846(1,673)
La Crosse	611(535)	1,853(1,680)
Oshkosh	602(526)	1,844(1,671)
Platteville	620(544)	1,862(1,689)
River Falls	627(537)	1,869(1,680)
Stevens Point	519(518)	1,717(1,663)
Stout	604(528)	1,846(1,673)
Superior	610(534)	1,852(1,679)
Whitewater	607(531)	1,849(1,676)
WYOMING		
U. of Wyoming	411	1,377

Sources: National Association of State Universities and Land-grant Colleges and American Association of State Colleges and Universities.

Mr. MATHIAS. My colleagues will note that tuition costs fluctuate vastly within each State and between States. This fact led the ETS study to three crucial conclusions, as follows:

(a) The accessibility of postsecondary education for the Vietnam Conflict veteran is a function of not only his military service but also his particular state of residence. The effectiveness of the benefits is directly related to the availability of low-cost readily accessible public institutions. The current veteran seeking to use his educational benefits finds that equal military service does not provide equal readjustment opportunities with respect to attendance at postsecondary schools. This is particularly true of institutions of higher education.

(b) It appears that the states are subsidizing the cost of education for veterans of the Vietnam Conflict as compared with earlier subsidization by the Veterans Administration. Since higher costs of education appear to reduce participation, this is a significant factor in determining whether the veteran in a particular state will participate in education.

(c) Current benefit levels, requiring as they do the payment of tuition, fees, books and supplies and living expenses provide the basis for "unequal treatment of equals." To restore equity between veterans residing in different states with differing systems of public education some form of variable payments to institutions to ameliorate the differences in institutional costs would be required.

The consequences of these inequities, Mr. President, are quite predictable. A veteran living in Pennsylvania, for example, where tuition costs range from $750 to $1,000, has no realistic opportunity to attend college without substantial outside financial support. On the other hand, a veteran in California has a range of public colleges and universities to attend with tuition below $200.

Not surprisingly, VA figures show that California, with its highly developed, low-cost public college and university system, has educated a larger portion—37 percent—of its eligible veterans under the GI bill than any other State in the Nation; and that States such as New Jersey, Ohio, Pennsylvania, Indiana, and Vermont—with some of the highest tuition levels in the land—have the lowest participation rates for veterans under the GI bill.

At this time, I ask unanimous consent

to print in the RECORD a table prepared by the ETS study—page 40—which ranks each State in order of the participation level of veterans within it under the GI bill.

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

TABLE B.—VIETNAM-ERA VETERAN GI BILL ENROLLMENT IN JUNIOR AND 4-YEAR COLLEGES BY STATES BASED ON PARTICIPATION RATES

	April 1973 Vietnam Era veteran population	Percent ever in college under GI bill
1. California	756, 000	37. 0
2. North Dakota	15, 000	36. 6
3. Arizona	64, 000	34. 2
4. New Mexico	32, 000	31. 0
5. Oregon	81, 000	30. 0
6. Idaho	22, 000	29. 3
7. Utah	40, 000	29. 0
8. Washington	142, 000	28. 9
9. Wyoming	11, 000	28. 9
10. South Dakota	15, 000	28. 7
11. Hawaii	29, 000	28. 5
12. Colorado	85, 000	27. 7
13. Oklahoma	91, 000	26. 3
14. Kansas	69, 000	26. 2
15. Florida	224, 000	26. 1
16. Montana	24, 000	26. 1
17. Texas	355, 000	25. 7
18. Nebraska	44, 000	25. 2
19. Michigan	266, 000	23. 0
20. Wisconsin	130, 000	22. 1
21. Alabama	93, 000	21. 9
22. North Carolina	142, 000	21. 9
23. Missouri	147, 000	21. 6
24. Illinois	321, 000	21. 6
25. New York	478, 000	21. 3
26. Minnesota	133, 000	21. 2
27. Mississippi	46, 000	21. 1
28. Maryland	139, 000	21. 1
29. Louisiana	97, 000	20. 9
30. Tennessee	119, 000	20. 4
31. Rhode Island	34, 000	20. 1
32. Arkansas	53, 000	19. 9
33. Massachusetts	188, 000	19. 8
34. Connecticut	95, 000	19. 4
35. Iowa	83, 000	19. 2
36. Virginia	158, 000	19. 4
37. Delaware	20, 000	18. 9
38. West Virginia	46, 000	18. 5
39. South Carolina	80, 000	18. 4
40. Nevada	20, 000	17. 6
41. Maine	30, 000	17. 5
42. Georgia	152, 000	17. 3
43. New Jersey	208, 000	17. 0
44. New Hampshire	28, 000	16. 9
45. Ohio	336, 000	16. 8
46. Pennsylvania	357, 000	16. 4
47. Kentucky	87, 000	16. 4
48. Alaska	12, 000	18. 0
49. Indiana	167, 000	14. 3
50. Vermont	14, 000	14. 2

Source: Derived from Veterans' Administration, DVB, IB 24–73–3. Appendix table 13.

Mr. MATHIAS. I believe that these two tables viewed together, Mr. President, clearly demonstrate that cost of tuition is probably the single most important barrier to fuller use of the GI bill, and that veterans who happen to live in States with high-cost public education do indeed receive "unequal treatment of equals."

To remedy this situation, the Comprehensive Vietnam Era Educational Benefits Act which the Senator from Kansas (Mr. DOLE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Hawaii (Mr. INOUYE) and I introduced last month includes a crucial tuition provision designed to ease this inequity. Under our provision, up to $600 in additional tuition costs above the $400 national "average" would be directly paid for by the VA; in this way, veterans attending schools with tuitions above $400, but less than $1,000, would suffer no greater personal financial sacrifice than those attending lower-cost colleges and universities.

I am gratified that nearly one-third of the Members of this body are already on record in cosponsorship of this crucial piece of legislation. If enacted, we may at least have taken some substantial preliminary steps toward redeeming the pledge of a "grateful Nation" to remember and honor the contribution and sacrifice of those whose lives were disrupted, and often risked, in service to their fellow citizens.

REVAMPING CALIFORNIA'S STATE CONSTITUTION

Mr. TUNNEY. Mr. President, California continues to go through the difficult process of revamping its bulky State constitution. Since 1964, Orange County Superior Court Judge Bruce W. Sumner has worked tirelessly as chairman of the Constitutional Revision Commission to simplify and modernize the basic document of California governance.

While the life of the commission has now expired, I am most hopeful that a successor commission will soon be created and that Judge Sumner can again be persuaded to serve as its chairman.

Judge Sumner, who served several terms in the California Assembly, was twice elected presiding judge by his fellow jurists and commands the respect and affection of members of both political parties throughout the State of California.

At this point, I ask unanimous consent that the article, "Our Bulky Constitution—Is Pruning Season Over?", from the December 1973 California Journal be printed in the RECORD.

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

OUR BULKY CONSTITUTION—IS PRUNING SEASON OVER?

(By Dennis Campbell)

WHATEVER HAPPENED TO REVISION?

(If Bruce Sumner's smile brightened November 7th, voters who rejected Governor Reagon's tax initiative can take the credit. Sumner, a former member of the Assembly and now an Orange County superior court judge, objected to writing a tax limitation into the California Constitution and using 5,700 words to do it. Sumner was chairman of the Constitution Revision Commission, which spent nine years and $2.8 million attempting to simplify the Constitution. Proposition 1, Sumner declared, was "in direct contradiction to the goals of the whole revision process."

(What were those goals and why do they remain unfulfilled?)

While school segregation and the San Francisco Panama-Pacific Exposition of 1915 have little in common, they illustrate the beauty of the United States Constitution and the beast in the California Constitution. The U.S. Supreme Court ruled school segregation unconstitutional in 1954 merely by reinterpreting the same language in the federal Constitution used by the court 60 years earlier to justify segregation if educational facilities were "separate but equal". For an event of somewhat lesser social and political impact, Californians authorized state support for the Panama-Pacific Exposition not by statute or court ruling but by a 14,500-word constitutional amendment.

These examples represent a pattern typical of each constitution. The U.S. Constitution has changed and grown with the times simply by the courts' finding new meanings in its original 7,000 words. The California Constitution, on the other hand, has ballooned from 14,000 words on its adoption in 1879 to 80,000 words in 1964. The increase resulted from 360 amendments. The result, complained Phil S. Gibson, former chief justice of the California Supreme Court, is a constitution that is "cumbersome, unelastic and outmoded. . . . It is not only much too long, but it is almost everything a constitution ought not to be."

EASY TO AMEND

In the early 1960s, about 74 percent of the state Constitution dealt with matters more commonly covered by statute. California's first Constitution was relatively free of such material. But the Constitution of 1879 was drafted at a time when the Legislature was responding more to vested interests than to the public. Consequently, the framers included in their document many laws that the Legislature had failed to enact. Some of those laws still remained in the Constitution 10 years ago.

Hiram Johnson opened the way for more statutory material when he became Governor. In 1911-12, his successful campaign to secure for California the right to legislate directly via the initiative, referendum and recall made it possible to amend the Constitution by a majority vote of the people, just as Governor Reagan hoped to do last month.

The unusual frequency of amendment in California has been attributed to existence of the initiative. But only 23 of the Constitution's first 360 amendments were achieved by initiative. More likely, political scholars suggest, rapidly changing social and economic conditions in the state put extraordinary strains on a Constitution already impossibly detailed and inflexible. Attempts to deal with the resulting problems by amendment, they say, only made the Constitution more detailed and rigid, leading in turn to even more amendments.

By the 1960s, the pressure to do something about a Constitution that seemed destined to keep on growing and expanding reached a peak. The Constitution Revision Commission was not the first attempt to modernize the document, but it was the most successful. Voters rejected proposals to establish constitutional conventions in 1898, 1914, 1920 and 1930. In 1934, the public surprised lawmakers by approving a convention, but the legislature—made uneasy by the social unrest of the time—failed to pass the law required to call the convention. The Legislature had made a unilateral attempt to revise the Constitution in 1929, and again in 1947, but neither effort had significant impact on pruning its size or reducing its complexity. In 1962, voters approved another attempt to revise the Constitution, and the following year the Legislature created the Constitution Revision Commission.

THREE GOALS

It was a mixed group that undertook that mandate, working without pay and supported by a small staff. At one point in its nine-year life, the commission's membership consisted of 17 lawyers, 11 business executives, 10 educators, 8 executive directors of associations and organizations, 6 members of the Legislature, 4 housewives, a newspaper editor and a physician.

"We had three broad goals," recalls Paul Mason, parliamentarian for the commission, "We wanted a reasonably concise Constitution that established basic political concepts, outlined the organizational frame-work of government, and limited the power of state government. We had to develop that from an 80,000-word document that was full of obsolescence, irrelevancy and contradiction.

"A constitution with that much verbiage makes it too difficult to use. When you do find what you're looking for, you may have to get a lawyer to unravel its meaning. Most important, a constitution with so much detail is too slow to respond to social change."

The commission did manage to trim the Constitution to 49,000 words. It deleted a massive amount of language that had slipped in at the turn of the century, but half of the commission's proposals have not been acted on by the Legislature or offered to the voters for consideration. Orange County Superior Court Judge Bruce Summer, who became commission chairman in 1964, fears that many of those proposals may die in the Legislature.

The failure of the commission to achieve a higher ratio of success stems from three factors:

The commission and the Legislature miscalculated the public's willingness to accept a massive package of revisions in 1968.

The Legislature appears to have lost interest in the revision project.

Special interests have stalled action in key areas.

SOME SETBACKS

The commission had a heady success with its first offering of revisions in 1966. A proposal dealing with the legislative, executive and judicial branches was approved by 73 percent of the voters. Sixteen thousand words were struck from the Constitution. A second revision package was prepared for the 1968 ballot, this proposal even more encompassing than the first. But a revision affecting education, local government, state institutions, public utilities, corporations, land and civil services fell more than 700,000 votes short of approval.

The commission attributed the rejection to a case of too much, too soon. Consequently, separate proposals regarding local government, public utilities and corporations, state institutions and land-use exemptions, and civil services went on the June 1970 ballot. Only the local government revision was approved. The civil service proposal was approved in November 1970, and revisions dealing with suffrage, the Legislature, water, land and certain obsolete materials passed last year.

But many of the significant issues that made the 1968 ballot—the proposals concerning education and public utilities among them—have not been given a second opportunity by the Legislature.

WANING INTEREST

Each commission proposal submitted to the voters must be approved by a two-thirds majority of the Legislature. The lawmakers may dispute that they have lost interest in revision but the pace at which commission proposals have been considered has slowed in the last three years—and for two reasons. First, there has been a large turnover in the Legislature since the revision project was begun, and many of the new faces may lack both familiarity with the commission's goals and commitment to their fulfillment. Second, legislative interest in revision peaked in 1966 after passage of a commission proposal that removed constitutional restrictions on legislators' pay.

"I think it is fair to say," Judge Sumner said, "that most of the members of the commission feel that revision doesn't have the same interest on the part of the Legislature that it did at the time we were dealing with the legislative article. We should have held up on the legislative article until we got consideration on all these other areas that are equally important. There just hasn't been a close enough look at what we presented."

The lack of commitment to the goals set for the commission is attested to by the fact that, since 1971, legislators have proposed 451 constitutional amendments of their own. To the relief of Judge Sumner, few of those have cleared committee any more handily than the commission's leftover proposals.

ADVOCATE NEEDED

The reluctance of special interests to support constitutional revision was no surprise. Indeed, special interests made up a large part of the commission's membership. Because the Constitution deals in such detail with so many areas of business and political life in California, opposition to change has been widespread. A constitutional tax exemption to certain businesses, for example, is far more valuable than one granted by statute. A statute can be changed virtually overnight by the Legislature; a constitutional amendment involves a cumbersome process ending with a vote of the people.

Prospects for the balance of the commission's proposals are not bright. For one thing, there no longer is a commission staff available to lobby for the proposals in the Legislature. "I'm convinced," says Judge Sumner, "that the proposals of the commission could be adopted and could be accepted. What we need is a strong advocate who would present them and take the time to go into them."

Time is something else that is working against the commission's proposals. The education proposal, some legislators say, has become dated in the five years since it was first offered. Obsolescence is an argument likely to be heard with increasing frequency against the remaining revisions.

The commission's work, however, is far from dead. Judge Sumner believes that much has been accomplished, but he conceded a year ago that some proposals stand little chance of surviving the political realities of the Legislature. "There are some commission recommendations in sensitive areas such as taxes and exemptions that may be too controversial to be adopted, but, regardless, an important chapter has been written in California constitutional law. This is true not only because half of our Constitution has been revised, but because of the public attention given to controversial areas in our constitutional law."

And four major revisions remain alive—a declaration of rights, revenue and taxation, recall of public officers, and motor-vehicle taxation. All repose in legislative committees. One or more of them could be approved in time for the 1974 ballot.

There is another hope as well for those who would further renovate the California Constitution. At a recent hearing in San Diego, the Assembly Constitutional Amendments Committee discussed the need for a revision commission that might meet every five or ten years to review the Constitution. The committee, noted Chairman Alex Garcia, now "is the only overseer of our state Constitution." When Assemblyman Garcia called the San Diego hearing to order, he expressed hope that it would produce a clearer idea of how the committee might protect the Constitution.

The resurrection of the Constitutional Revision Commission was the idea that emerged.

LESS IS MORE

A new commission would find plenty of work remaining. The California Constitution remains no more than half revised after the first commission's pruning. It still provides, for example, constitutional status for the authority of the California State Bar, county school boards and local public utilities, for the guarantee of free textbooks for school children, for the exemption of church parking lots from taxation, and for prohibiting railroads from giving free passes to public officials.

With such matter removed to statute, if retained at all, the state's still-bulky basic legal document would assume much more of the austere beauty—and greater flexibility—of the model on which it was based.

NATIONAL CANCER ACT AMENDMENTS OF 1974

Mr. JAVITS. Mr. President, the bill I introduced with Senator KENNEDY last week, S. 2893, will continue the advances made against the dread killer disease, cancer. This national commitment to the conquest of cancer grows out of legislation Senator KENNEDY and I introduced in 1971, which laid the groundwork for the enactment into law of the "National Cancer Act of 1971" (Public Law 92-218).

This measure will assure that cancer research continues within the NIH and maintains its separate budget—at an increased level of $2,765 million over the next 3 years—to insure the necessary top priority to fulfill our national commitment to launch a meaningful attack on cancer.

I believe that we must continue—at an increased rate—an intensive and sustained program of cancer research on all fronts. We must also seize hold of our scientific insights and advances and exploit them to their fullest potential. We can most effectively achieve this desired goal by moving forward with the establishment of cancer research and demonstration centers of excellence.

Unfortunately, under existing law these centers for clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer are limited to 15. Therefore, the bill I introduce today with Senator KENNEDY would eliminate this limitation. Action which would be in accordance with the recommendation of the National Cancer Advisory Board and the President's cancer panel.

Other proposed changes—including the increased funding authorization levels—required by our "National Cancer Act Amendments of 1973" also represent the views of the National Cancer Advisory Board, concurred in by the President's cancer panel, and a matter of public record. I would urge the administration to adopt them as their official recommendation and submit to Congress its own substantially identical legislative proposal; regardless of what may be the views of the Office of Management and Budget.

I would urge the President to continue his commitment to the conquest of cancer, evidenced by his signing into law the "National Cancer Act of 1971" and by his 1971 state of the Union message where he said:

The same kind of concentrated effort that split the atom and took man to the moon should be turned toward conquering this dread disease.

"GIANT PATRIOT"—A DANGEROUS EXPERIMENT

Mr. ABOUREZK. Mr. President, I wish to associate myself with the remarks of the distinguished majority leader of January 24 in regard to "Operation Giant Patriot," the recently announced plan to conduct demonstration launches of Minuteman II missiles from operational silos next winter. Although the program is designed to demonstrate the effectiveness of the deterrent represented by Minuteman II, there is little rationale for launching the missiles from bases deep in the heartland of the United States. This was the reason for constructing Vandenburg Air Force Base along the coast in the first place—to eliminate the possibility of having the potentially dis-

astrous falling debris from falling out over any of the Western States.

Although the first sequence of launches is scheduled for Wing I at Malmstrom Air Force Base in Montana, several accounts have stated that the second series is scheduled to be fired from the missile wing at Ellsworth Air Force Base in my State of South Dakota, as early as the winter of 1975–76. With the potential hazards of such an operation, I cannot think of a more questionable program than this.

If, as reports have indicated, the second series of launches would be fired from Ellsworth, we can expect to encounter falling debris over Salt Lake City, Pocatello, Idaho, or even Yellowstone National Park—assuming maximum efficiency of the launch in the first place. With anything less, the outcome could be disastrous. Even the Air Force has admitted that the amount of debris which would have to be jettisoned is extensive. Approximately 2½ tons—the mass of at least two American automobiles—will fall to the Earth under the flight path of one missile. Adding up the total sequence of eight missile launches, we can expect 20 tons of debris falling from the sky—something like a whole railcar of flaming autos falling and demolishing anything within its range. With these flaming fireballs impacting in forest land, the prospect of fires is almost inevitable. Because of the eminent danger of fires, falling debris, and explosions, evacuation and relocation of people near the flight path is already a foregone conclusion.

It is incredible, Mr. President, to hear the Air Force talk of a "minimum of inconvenience" in describing the operation. Less than 10 years ago, we all witnessed very vividly the results of similar tests. During the same Minuteman tests as are now proposed, three of the four test missiles failed to perform completely all of the launch requirements. Yet, the goals set for those tests were not nearly so ambitious as the launches which are now planned.

Aside from the question of safety, there are other extremely significant problems which demand to be addressed. At a time of unprecedentel domestic priorities which cry for funding, there is no question that this country can ill afford the $26.9 million cost of this poorly conceived program We have an effective testing program already underway at Vandenburg Air Force Base, and the difference in firing them from locations outside of Vandenberg is negligible. Furthermore I have learned that the possibility exists whereby the silo used for this costly operation may not be used again. If these operational silos may not be used again, there should be absolutely no question that the cost and investment involved would be absolutely prohibitive.

Mr. President, there seems to be little question that this whole program is nothing more than a product of the new Schlesinger hard-line policy toward the Soviet Union. It is little wonder that other powers strive with the same aggressiveness to accomplish new heights in this insane race for arms superiority.

I strongly urge this Congress to stand up and say "No" to the Defense Department on this most questionable program. The lives and well-being of thousands of people who would be affected by this are worth far more than learning about the inconsequential difference between launching a missile from Malstrom or Ellsworth and launching at Vandenburg.

A WORTHWHILE TRIP

Mr. GOLDWATER. Mr. President, rather than try and write an introduction to the paper I want to submit to the RECORD, I am going to use what the publisher of the Armed Forces Journal International used in introducing the article:

A WORTHWHILE TRIP

There was the usual criticism of an alleged "boondoggle" when it was announced last month that a 21 man subcommittee of the House Armed Services Committee, headed by Rep. Samuel S. Stratton (D–NY), would visit the Middle East on a fact finding tour. The Special Committee visited Israel from 17–20 Nov. and visited Egypt from 21–24 Nov. The U.S. Congressmen talked with government and military leaders in both countries and produced what may be the most valuable military report ever produced by a Congressional committee. The first hand review of opposing military strategy and weapon systems so soon after hostilities is unprecedented and produce information that will be of great use in dealing with American military posture. An unclassified version of the committee report is reproduced in full and AFJ considers it of high interest.

I ask unanimous consent that this most interesting article on the House Armed Services Committee's visit be printed in my remarks.

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

CONGRESS FILES AN EXTRAORDINARY REPORT: THE MIDDLE EAST WAR

A WORTHWHILE TRIP

There was the usual criticism of an alleged "boondoggle" when it was announced last month that a 21 man subcommittee of the House Armed Services Committee, headed by Rep. Samuel S. Stratton (D-NY), would visit the Middle East on a fact finding tour. The Special Committee visited Israel from 17–20 Nov. and visited Egypt from 21–24 Nov. The U.S. Congressmen talked with government and military leaders in both countries and produced what may be the most valuable military report ever produced by a Congressional committee. The first hand review of opposing military strategy and weapon systems so soon after hostilities is unprecedented and produced information that will be of great use in dealing with American military posture. An unclassified version of the committee report is reproduced in full and AFJ considers it of high interest.

WEAPONS SYSTEMS

There has been a tendency in the press to paint the Soviets as 10 feet tall because of what their weapons systems did in the October War. To some degree this tendency has been fostered by the Department of Defense in its reports to Congress on Soviet weapons and on Soviet actions in the Middle East.

The subcommittee learned some important lessons on its visits to the Middle East which bear repeating.

Some general comments first, then some specific observations:

GENERAL COMMENTS: WEAPONS SYSTEMS AND THE LESSONS OF THE OCTOBER WAR

An important thing for our committee to consider in assessing the lessons of the October War is what elements of the equation would be present and what might be missing in situations involving our own forces.

What the Soviets gave the Arabs was not sophistication, but proliferation. It was the vast number of weapons provided the Arabs rather than any exceptional technical capability that took a toll.

It is important to ask ourselves what the lesson is for our military. In a confrontation of equal tactical, technical and fighting ability, at what point does a great advantage in quantity overcome an advantage in quality?

An important consideration for the United States is what one must consider in supplying our own forces. In recent years the debates in Congress on weapons systems have had a curious phenomenon. The attacks on defense spending have concentrated on the big, expensive strategic systems—the Trident, the B–1 and such. In the end, the Congress has rarely reduced the funds for these major strategic systems. However, a climate has been created that has held expenditures for the less fashionable, conventional weapons to the minimum.

CONVENTIONAL WEAPONS INVENTORIES

We have continued to develop technically superior conventional weapons (although these developments have sometimes met with great resistance) but we have not supplied U.S. forces with conventional weapons in quantities matching Soviet forces. If the decision is made to resupply the Israeli forces at anywhere near the number they request and those supplies are taken out of inventory, the U.S. forces could end up with shortages in some areas of conventional weapons. Perhaps the United States has concentrated so heavily in developing weapons for the future that not enough effort has been given to producing already adequate systems.

For example, the Israelis lost around [deleted] tanks. Subtracting what they can repair and put back in use and what they can use of captured Arab tanks, they indicate a net loss of approximately [deleted]. They complain that they are assured of getting only [deleted] replacement tanks from the United States. Since they want to more than replace their losses and, out of their desire to increase firepower, want to substantially increase their tank forces right away, they would like a great many more tanks than we have indicated we are prepared to furnish them. It is interesting to note that at present there is only one producer of tanks in the United States for the U.S. Army and the present production rate is 30 tanks a month or 360 a year. To furnish the Israelis [deleted] tanks would mean giving them more than [deleted] production at our present authorized rate without any provisions for even replacing the tanks that we have taken out of inventory.

Certainly one of the lessons of the October War is that the technical advantage that some systems can provide, such as antitank missiles and accurate air-to-ground missiles, can provide an important edge on the battlefield.

Equally important is the need to consider a preponderance of less expensive weapons in place of highly sophisticated, very expensive systems which we can only produce in limited quantity. The Israelis expressed the belief that the Soviets can produce the Sagger antitank missile for $1,000 a piece. The U.S. TOW missile is far more accurate than the Sagger but far more expensive. The subcommittee wonders whether adequate thought has been given by our military forces as to whether, at the price we can afford to pay, we should provide a mix of weapons to assure adequate numbers for the battlefield.

The Russians very skillfully provided SAM defenses in astounding numbers to the Arabs to use in place of air-to-air defenses. There is evidence that at the beginning of the war

the Arabs declined to use their air forces to any great extent and instead preferred to rely on SAM systems to counteract the Israeli air forces. The Israelis ignored the lesson of North Vietnam.

It is worth asking whether our armed forces, while they spent an enormous amount of time developing effective measures to defeat SAM's from the air, have thought adequately about the effectiveness of SAM systems for their own defense. The number of air-defense units provided for our forces in Europe, for example, cannot begin to compare with the numbers of the Warsaw Pact nations, even though the Warsaw Pact has numerical superiority in aircraft. Our Hawk is not as mobile as the SAM–6. While both our Hawk and Nike Hercules are very accurate, they are limited in the number of aircraft they can engage. The SAM–D system, which has been under development for some years, is far superior to any system known to be in the inventory of any country. But it is still many years away from deployment. The surface-to-air defense of our own forces is something that should be studied more fully by the full committee.

The Israelis referred to this as the most modern war and stressed to the subcommittee how much the United States could learn about Soviet armament. The Israelis also pointed out that in all phases of the war the ratio was at least 3 to 1 or 4 to 1 against them. They stressed that in the past Israel has closed the gap with superior planning and tactics and better equipment. But they did not have all of those advantages this time. The U.S. equipment was superior, but the Russian equipment was in massive quantities—so much so that it threatened to tip the balance against them. They also admit that at the beginning of the war the Arabs were aided by high morale in their attacking forces.

Each side insisted that the other got the latest weapons from its allies.

The Israelis point out that the Egyptians and Syrians got T–62 tanks and some airplanes not given to Soviet satellites in Eastern Europe and got the SA–6 missile that was never given to North Vietnam. The Egyptians got the Scud missile which can reach Tel Aviv, from Egypt, Russian Foxbat aircraft (MIG–25) arrived in Egypt near the end of the war.

By contrast, the Israelis say they have problems with U.S. policy because it provides them only replacements and the Americans are very reticent on the most sophisticated equipment. They also complain that, in contrast to the Arabs, they have not had all of their losses replaced. (For example, they lost [deleted] aircraft and have gotten [deleted] replacements.)

The Israeli Air Force commander said the Russians had delivered the variable-wing SU–20 aircraft to the Arabs and said this was the latest Soviet strike aircraft.

The commander also stated that the Russions had given the Arabs TU–16 aircraft with the Kelt missile. The Israelis originally thought this was given to the Arabs to frighten the 6th Fleet, but later decided this was not correct. It was indicated that one Kelt missile, which has a range that could take it to Tel Aviv, was fired toward Israel but was shot down. It is not clear what the target was.

By contrast, both Mr. Sadat and the Egyptian War Minister, Gen. Ahmad Ismail, insisted that the Soviets have later versions of the SA–6 and that Egypt was provided "primitive versions" of the SA–6 and other weapons. Mr. Sadat said he knew this because his officers train in Russia and had seen better models. This may be true. On the other hand, it may be that Mr. Sadat is led to believe this because the American equipment he has seen is superior and he naturally assumed the Russians were holding back.

General Ismail, when asked the question, frankly said that U.S. equipment is good but it has competition; that the United States is better in some things, the Soviets in others.

Mr. Sadat placed much emphasis on the fact that we have provided our most sophisticated weapons to the Israelis. When Mr. Nedzi asked him to name them specifically, he mentioned "smart bombs" and Maverick. He mentioned the Maverick on several occasions, emphasizing that we have never used it ourselves.

MILITARY LESSONS OF THE WAR FOR THE ISRAELIS

The Israelis were candid in admitting that they were, to a degree, surprised by the Arab attack. They were aware of the Arab actions of moving troops but misread Arab intentions. When the Arabs moved aircraft forward, they assumed it was to be in the defensive cover of the SAM missiles. When the Russians evacuated Damascus and other areas, they thought it was because the Soviets desired to have no part in the Arab action. Actually they now conclude it was just the opposite—the Russians had prepared everything and were leaving as action commenced.

One of their major conclusions concerning air forces is that they must have more pilots and more aircraft in reserve. They insist they need more aircraft in storage regardless of the number of pilots.

The Israeli Air Force commander had a very negative attitude toward the helicopter and said it was only useful if it could fly at night below [deleted]. He referred to it as a "cluth weapon" and said that in the daytime it "did not have a right to exist." However, it must be remembered that his air force is used to fighting in open plains and desert. The Israelis have used helicopters to transport supplies since the ceasefire, including providing hot meals to men at the front.

The Isreali Navy indicated that it had four major needs: minesweepers, ASW capability, support ships so that its patrol craft can stay longer out of port, and the new Navy PHM hydrofoil boat.

The Israelis feel they need standoff weapons. They particularly mentioned that they would like to have the Lance missile. In order to be useful to them in such a situation, the Lance missile would have to have a conventional warhead. It is interesting to note the House Armed Services Committee for several years has supported and urged development of a conventional warhead for Lance but has been opposed by the General Accounting Office and other Congressional Committees, and the Lance to date has been limited to a nuclear warhead. Tests are continuing on a conventional warhead. The Lance is the U.S. Army's longest-range surface-to-surface missile with a range of approximately [deleted] kilometers.

The Israelis are convinced they must prepare for the future by developing a great deal more firepower. They say their doctrine must be based on firepower because they will always be outnumbered in manpower.

ISRAELI PREPAREDNESS

The chief of staff of the Israeli armed forces, General Elazar, said they had seen the Arab preparation for war but did not believe they would attack. He got the warning at 4:00 a.m. on the fateful day that an attack was coming. The information said the attack would come at 6:00 p.m. The Israelis started their mobilization at 10:00 a.m. Mrs. Meir told us she made the decision not to preempt so the world would know that the Arabs started the war this time.

The Syrians and Egyptians attacked simultaneously at 2:00 p.m., achieving a level of coordination they had not demonstrated in the past.

Along the Syrian front the attack came in three places with three infantry divisions and 2,100 tanks. At the time the attack started, the Israelis said they had 180 tanks in position; the odds against them, therefore, were as much as 12 to 1. The Egyptians attacked across the canal with five infantry divisions, two mechanized divisions, two armored divisions and 2,640 tanks. The Israelis had three brigades, including a training brigade at the Egyptian front at the time.

The Israelis actually had one unexpected advantage because the Arabs attacked on Yom Kippur. On that day all Israelis were either at home or at synagogue, and it was thus easier to contact them than would have otherwise been the case. Many rabbis announced in the synagogue that men would report to their units following services.

After the original bridgehead on the eastern side of the canal, it was assumed that there would be a big armor attack by the Egyptians. The Israelis decided to contain the armor attack, destroy as many assets as possible and then counterattack.

Historically there have been three bases of Israeli military strength: a good air force, good armor and rapid mobilization capability.

This time, the Arabs had SAM's to counterattack the good air force, incredible quantities of antitank missiles to counteract the good armor, and a surprise attack that took effect before the Israelis could mobilize.

The Syrians launched a hundred aircraft and tried to hit command posts, troop concentrations and other main points within the Israeli lines; but the Israeli Air Force intercepted their planes and prevented many from getting through.

AIR-TO-AIR COMBAT AND U.S. AIR-TO-AIR MISSILES

The Israelis reported very good success in air-to-air combat with the Sidewinder missile, which is not new to the Israeli inventory.

The Israeli pilots used mostly Sidewinder or an Israeli-made missile in air-to-air combat. They also had success with the Sparrow missile from a range of up to [deleted] miles. However, they apparently did not use Sparrow much as Israeli training calls for pilots to get as close as possible in air-to-air combat.

However, while these missiles apparently performed well, a lot of the Israeli success was due to their skill in air-to-air combat.

In previous wars the Israelis, in seeing an attack about to come, have used preemptive strikes to knock out the opposing air forces and disrupt the enemy plans. As previously mentioned, this time the political leadership of the country made the decision not to preempt.

The commander of the Israeli Air Force, Major General Peled, said the Egyptians had learned three things since 1967. These are (1) the necessity for adequate surveillance systems to pick up incoming aircraft, (2) the effectiveness of ground-to-air defenses resulting in the most intense such system imaginable and (3) the dispersal and hardening of aircraft sites.

The subcommittee saw some of the very substantial looking aircraft shelters Egypt had built at Fayid Air Base on the west bank of the Suez Canal.

Now for observations on particular Soviet and American weapons systems:

SA–6

The accuracy of, and damage inflicted by the SA–6 was exaggerated by the press. We now know from a study of the missile itself by our military that the major advantage of the SA–6 is that it is mobile, more so than our ground-to-air missiles.

The SAM defenses of the Arabs caused problems because at the beginning of the war the Arabs had the initiative and the Israeli forces on the ground were greatly outnum-

bered in men and tanks. Because of this, the Israeli Air Force had to begin immediately to perform close-support missions, ignoring the defenses thrown up against them, instead of their usual strategy of suppressing antiaircraft defenses first.

Even so, the number of planes lost to the SA–6 was less than reading the newspapers would lead one to believe.

Israel lost only 9 F–4s to SAMs of all types, It lost the same number of F–4s to antiaircraft fire.

The SAM–6 presents the problem that reconnaissance is difficult, particularly in an area with many tanks. Strike must be made in minutes after missile launch or launcher target is lost.

General Peled recommended as the answer to SAM–6, and/or SAM proliferation, a standoff missile. He mentioned Condor but undoubtedly is not aware of its cost.

HAWK

We heard very little about the Hawk; although in answer to questions, the Israelis said it was very effective.

There is a suspicion that it was not used very much because Israeli planes took on enemy planes as a first defense.

Of the Arab aircraft losses, estimated by the Israelis at [deleted], [deleted] Egyptian aircraft and [deleted] Syrian aircraft were lost to ground-to-air fire. It is not known how many of those were Hawk missiles.

TOW

The TOW missile was shipped to Israel toward the end of the conflict but was not used in combat. (During a briefing of the committee within the week before the trip, a Defense Department briefing officer was asked how the TOW performed in the war and replied that it had been reported that it had done quite well.)

On receiving the TOW, the Israelis remarked that it was only useful 50 percent of the time since it was a daylight, line-of-sight weapon. The Israelis, in trying the weapon out, made a modification to one of their present night sights, involving a $10 item, fired the missile in three practice night firings, and on the third shot hit the target.

We have asked that full information on this be provided to us. In view of the considerable expense the Army has gone to to develop a night sight for TOW, the information should make for fruitful questioning during next year's authorization hearings.

MAVERICK

The Maverick air-to-ground missile which we supplied the Israelis made a great impression in the war. Unlike the TOW, the Maverick was used by the Israelis. They reported excellent results. The targets were tanks and bunkers. The Maverick can pierce the Armor of the heaviest Soviet tank.

The Egyptians were quite aware of its capabilities. President Sadat mentioned the Maverick on several occasions. The leaders of both countries showed a high degree of knowledge about the weapons systems that the United States has under development.

AIRLIFT

The Israelis, whose efficiency is everywhere evident, expressed astonishment at the efficiency of the American airlift and were especially lavish in their praise of one C–5A. The Israelis said our airlift and resupply effort was much more efficient that the Soviet's but the Soviets provided a lot more to their allies.

The Israelis were impressed, however, by the willingness and the ability of the Soviets to resupply rapidly. For example, they gave this illustration: On one particular day it was noticed that there were no SAM's being fired against them after 11:00 a.m. That afternoon they picked up Soviet aircraft arriving in Syria. The next day there was no shortage of SAM's among the Arab forces on the Syrian front.

TRUCKS

The Israelis are somewhat perplexed by the fact that they are unable to impress upon our military the importance of their need for trucks. In the list of equipment they requested as soon as the war started was a request for a great many trucks, but the Department of Defense did not comply, undoubtedly assuming that trucks were of a low priority.

It happened that the Israelis had determined that keeping a vast reserve of trucks was not economical and, therefore, their civilian trucks are kept in reserve like civilian citizens; and when the armed forces are mobilized, as in this case, [deleted] percent of the nation's trucks are mobilized. The result is a severe effect on the attempts to continue the economy of the country, particularly in the service areas, because of the shortage of trucks.

Basically, the Israelis requested 5- and 10-ton regular Army trucks. Subsequently, they requested specifically 10-ton diesel motor trucks.

THE T–62

The subcommittee examined numerous pieces of captured Russian equipment, including the T–62 tank, the presence of which received so much attention in the early days of the war. The T–62, as indicated, was cited as an example of equipment the Soviets gave the Arabs that it had never given to the European satellites.

The T–62, which is lefthand loaded, has fuel cells mounted outside, which increase its vulnerability. It also appears to have a fuel cell inside directly behind the gunner.

While this is the first time the T–62 has appeared in combat, the tank was actually placed in production back in 1961. It appears to be inferior to the American M–60A1 tank.

USE OF RESERVISTS

While there was insufficient time to go into depth on the Reserve system in the Israeli armed forces, we did learn that every able-bodied citizen of Israel is required to serve in the armed services—males for a maximum of 36 months of active service and 24 months for females. Upon completion of this service, men continue to participate in the Reserve until reaching age 49 and women till age 30, with waivers for those with children. Women are not used in combat. On completion of active service, male conscripts are assigned to a first-line Reserve unit until the age to 40 to 41.

While perhaps certain lessons could be learned which might apply to the American system of Reserves, this is a matter for the Military Personnel Subcommittee to explore in the future. We would recommend to the subcommittee that it make an in-depth study of the system of Israeli Reserves.

It is obvious that the geographic situation and the motivation of reservists present different factors than we have in the United States. Usually a reservist is located no more than 200 miles from the actual war zones, and certainly protecting one's own homeland from extinction serves as an extremely high motivating force. That the Israeli system of Reserves was successful is shown by the fact that while Reserve units are regularly expected to be mobilized in 24 hours and in place on the battlefield within 48 hours, in the Yom Kippur War of 1973 some of the Reserve units were actually participating in the fighting less than 18 hours after receiving the call.

Since the majority of the Israeli armed forces are in the Reserve, any extended mobilization severely affects the national economy.

The subcommittee was told that reservists in Israel, who are primarily in the Army, train for 35 days per year plus 3 days a month.

NAVAL ENGAGEMENTS

The Israeli Navy fought 10 engagements with Arab naval units and won 10.

The Arabs had Soviet Osa boats firing Styx missiles with a range of 25 kilometers. The Israelis had Saar boats firing their own Gabriel missile with a range of [deleted] miles.

OLD POLICY AND ENERGY NEEDS

The subcommittee did not visit the major oil-producing states as part of its mission, but members took the occasion of the discussions with Egyptian leaders to express the hope that Arab oil policy would not be such as to cause retaliatory economic measures in world trade or to cause a backlash of resentment by the American people.

The subcommittee would note also that the October War hastened the arrival of the inevitable crunch in the world oil supply. The need to develop alternative energy resources should have been evident without this war.

The subcommittee speaks below of the need for nuclear power for the U.S. fleet. But it is also necessary to develop other resources for domestic use, and in this regard the subcommittee believes Congress should examine the level of research on solar energy, the only unlimited energy source in the universe.

SHIPS AND OIL

The Committee on Armed Services has in the past consistently urged nuclear propulsion for naval vessels because of its operational advantages—the virtually unlimited range such power gives a ship. Now nuclear propulsion has become a must because of logistic realities. In addition to the danger of a shortage of oil for ships, the rising cost of oil when available has made scrap paper out of past comparative cost estimates for nuclear and conventional power.

The wisdom of the committee's past position has been borne out by time, and the committee should question carefully the construction of further oil-powered ships where the technology exists to make them nuclear powered.

EGYPTIAN MILITARY SITUATION

For a number of fairly obvious reasons, including the still somewhat delicate relations between our two countries and the fact that the United States provided heavy resupplies for Israeli defense forces, the information picked up by the subcommittee on Egyptian military operations and equipment was considerably less than what we received from the Israeli military. Nevertheless, because of the long gap in Egyptian-American relations; the fact that no military representatives are attached to the U.S. Mission in Cairo; and the fact that few, if any, U.S. military officials have visited Egypt in recent years, this visit of a military-oriented committee perhaps offers the United States some of the first on-the-spot information relating to Egyptian military affairs. In those circumstances even brief and casual observations by members of the subcommittee and accompanying staff and escort personnel may be of considerably more value than might otherwise be the case.

There is no question but that Egyptian military leaders regard their crossing the Suez Canal as a very important military operation. Indeed, they regard it as a very impressive and historic military victory, comparable to the German breaching, or bypassing of the Maginot line in World War II. And a carefully prepared booklet, replete with full color photographs, setting forth details of their crossing, was presented to every member of the subcommittee during its visit to the front.

The Egyptian generals went to great length to tell the subcommittee how they maneuvered their troops into position for the surprise attack and the extensive steps taken to camouflage those movements. They took

great pride in being able to achieve a surprise attack. They also told us of the hours and years spent training to cross the Suez Canal and overcome the strong fortifications which the Israelis had built.

In addition to the crossing itself as a manifestation of improved Egyptian combat capabilities, there is no doubt but that the cover and deception operation, which managed to conceal these intentions from the Israelis over a fairly significant period of time, was even more impressive. The Egyptian officers did not go into great detail in discussing these deception procedures, but they referred to them with great enthusiasm.

Israeli sources indicate they were aware of Egyptian troop movements on the west side of the canal, but assumed these were regular army training maneuvers. Yet the Egyptians were able to move substantial numbers of troops, perhaps 70,000 or 80,000, plus substantial tanks and trucks, into the canal area undetected. In view of the heavy emphasis which the Egyptians placed on Israeli bombing of homes and apartments in Port Said, an area that was well protected by SAM sites as well as dummy SAM sites, it seems possible that the Israelis assumed the buildings of Port Said were being used to hide Egyptian troops destined for further cross-canal operations.

Also contributing somewhat to the cover may have been the large earthenworks constructed by the Egyptians along the west bank of the canal. These not only provided high observation and firing points across to the Israeli side, but also provided cover for vehicles and personnel. In between these high points, the lower banks were in many places, honeycombed with tunnels and firing positions.

At the time of the October 6 canal crossing by the Egyptians, the Israelis told us, the Egyptians also dropped commandos by parachute deep behind Israeli lines on the east bank. The Israelis confessed puzzlement over this action since no effort was ever made to link up with these parachute troops and no effort was ever made to recover them. But Egyptian officers discussing this action said it was part of the cover and deception plan of the crossing, designed to confront the Israelis all at once with Egyptians attacking "from all directions." In that way, the Egyptian officers said, the Israelis would be unnerved and in particular would not know where the main thrust was coming from.

The extent of military preparations in Egypt is awesome. From Cairo to the Suez Canal the subcommittee saw endless emplacements of missiles and columns of tanks, trucks and other military equipment. There was not a kilometer between Cairo and the Canal that had not been fortified. Also, the subcommittee noted great dispersal of tanks, trucks and other equipment, much of it dug into the sand in partial revetments. Extensive trenching in the sand was also noted.

It was made clear the Egyptians believe that time was on their side during these peace negotiations because they have a large standing Army and would be paying their soldiers whether or not they were at the front. On the other hand, the Egyptians believe Israel is hard pressed to maintain their forces in a state of readiness since the majority of their troops come from the Reserves who have a regular place in the business and industrial life of that country.

The importance of the effect on Arab pride is one of the factors in the situation that can hardly be fully grasped until one visits Egypt. Egyptian leaders were deeply conscious of past defeats and of derisive world opinion of their soldiery. President Sadat spoke repeatedly and with great feeling of the "humiliation" his Army had suffered at the hands of Israel as the result of the Six-Day War.

The Arab leaders feel their soldiers have regained their pride through the success of their initial attack. Their soldiers showed superior discipline and morale compared to what they exhibited in the past. It would appear to be impossible for the Arab leaders to go to a peace conference without the feeling that their forces had redeemed themselves on the battlefield.

The Egyptians are extremely proud of the American equipment captured from the Israelis. During the subcommittee visit to Cairo, tanks and other captured weapons were being rolled into a downtown park where they could be seen by Egyptians. We were told an exhibit of this equipment was scheduled to be opened sometime in early December.

Israeli officers claimed that Soviet planning for the Egyptian operation had extended as far down as the battalion level. This was denied by the Egyptians. The subcommittee saw no evidence of Russian troops or personnel during its visit.

In discussing the implementation of point 2 of the cease-fire agreement—withdrawal to the October 22 lines, the major sticking point in the Kilometer 101 talks—General Ismail, Egypt's Minister of War, told the subcommittee that Egyptian aerial photography proved that on October 22 the Israeli forces on the west bank of the canal moving southward had reached only about halfway down Great Bitter Lake. This same photography showed that these forces advanced further on October 23 and by October 24 had reached the outskirts of Suez City, where they finally came to a halt, he said.

The subcommittee received no information from the Egyptians as to the extent of Soviet resupply to Egypt after October 6.

ISRAELI VIEWS REGARDING THE $2.2 BILLION AID-FOR-ISRAEL LEGISLATION

The importance of the $2.2 billion proposed aid-to-Israel legislation to the Israeli government was made very clear to the subcommittee from the outset.

We were informed that the Israeli Defense Ministry had asked the United States for a total of $2.75 billion in arms shipments as a result of the October War. But the administration had asked Congress for only $2.2 billion. At that juncture Israel had received only about $800-$900 million. Where was the rest? Why had it not been delivered? What was the hold-up?

The subcommittee members explained that we were aware that not all of Israel's requests had been met, but believed the shortfall was due at least in part to the fact that America was still proceeding on a policy of only replacing Israeli losses on a 1-to-1 basis. No decision had yet been made as to whether additional shipments should be authorized beyond this amount, and if so to what extent.

Israeli leaders conveyed their strong feeling that American policy should be geared to furnish Israel weapons not merely to replace those lost in the war, but to match Soviet shipments of new weapons to the Arab countries since the war, where in most cases totals far exceeded those on hand earlier.

Subcommittee members pointed out that the best chance for full funding of the $2.2 billion lay in stressing that a satisfactory settlement in the Middle East could best be assured by restoring a military balance in the area.

Also designed to reinforce a plea for speedy enactment of the $2.2 billion legislation was a briefing received from the Ministry of Finance. Statistics were cited to underscore Israel's need for financial help. The 1967 war, for example, cost about $100 million per day; the 1973 war cost them over $250 million per day, or a total cost of about $6 billion. Total defense imports in 1973 to date amounted to $1.8 billion, or 11 times more than in 1966, and represented one-third of the total of all 1973 imports into Israel: Forty percent of the GNP, we were told, was being spent on defense in 1973; if such a rate was applied to the U.S. GNP, our annual defense budget would amount to $450 billion. In addition, we were informed, Israel's total foreign debt amounts to $5 billion, or $1,500 per capita. Repayment of charges on this debt run to $800 million a year, which equals one-half of Israel's total reserve currency. As an example of the tax burden on Israeli citizens, a man who earns $1,000 a month has a take-home pay, after taxes, of $450 a month.

For all these reasons, we were advised, Israel not only needs the full $2.2 billion, but would strongly like to have it all extended as a grant rather than as a loan.

THE CHANCES FOR A PERMANENT PEACE SETTLEMENT

Essentially the mission of our subcommittee was military, not diplomatic. Yet the fact is that the Middle East situation represents a very close intermingling of military and diplomatic considerations that cannot be considered apart from one another. For example, the October War was initiated, it would appear, primarily in an effort to force a fresh political effort to alter the status quo line-up in that area. In this it certainly appears to have succeeded. Similarly, the overall Israeli defense effort, especially the dash across to the west bank of the Canal to cut off the Egyptian Third Army was designed to provide increased leverage to preserve as much of Israel's pre-October War position as possible. Indeed, America's current effort to encourage a satisfactory political settlement is motivated primarily by a sincere desire to avoid a constant recurrence of Middle Eastern wars that could ultimately lead to a face-to-face military showdown between the Soviet and ourselves.

Thus it follows that the most urgent business for the United States in the Middle East at this time is to achieve a negotiated settlement that would be acceptable to all the parties and would have a good chance of stability into the foreseeable future.

Given the long and involved history of hatred and suspicion between Jews and Arabs, such a settlement is not easy undertaking. But there are a number of elements in the present situation that appear to offer hope.

First, is the military situation itself. Neither side won an overwhelming victory in this war, and neither side suffered a crushing defeat. The Egyptians did much better militarily than expected. To this extent they have wiped out what they feel were the "humiliations" of the Six Day War and thus they are now much better able to come to a peace table as equals. At the same time, the Israelis have paid heavily for their military advances. Although the Israelis believe their heavy initial losses during early days of the war could have been minimized by a preemptive strike, they recognize clearly that they cannot simply continue to fight such wars periodically into the indefinite future. Both Mrs. Meir and General Dayan emphasized to us their desire for the establishment of peace and their belief that Jews and Arabs can and should live side by side in the Middle East in conditions of peace and mutual respect.

At the same time the subcommittee's 2-hour session with President Sadat in Cairo demonstrated to us a similarly very persuasive desire for a political and diplomatic settlement between the parties concerned. Mr. Sadat told us he was prepared to accept the existence and survival of Israel. He reminded us that he had been the first head of an Arab state to declare his willingness to make peace with Israel. But he needs something concrete from the U.S. to show for this willingness. He said his only desire was to be able to build up the economy of his own country and to reduce the heavy burden of armaments. The Speaker and members of the People's Assembly emphasized their desire to start a new page in U.S.-Egyptian relations.

The fact that Israeli and Egyptian generals have been meeting with considerable good will and some success at Kilometer 101 would suggest that a start has already been made in this direction towards effective face-to-face negotiations between Jews and Arabs—for the first time in over 20 years.

Sadat and his generals recognize that the present cease-fire lines impose a heavy burden on Israel in terms of continued mobilization, which she can sustain over any extended period only at a heavy cost to her civilian economy. Thus Israel too is under considerable pressure to get some satisfactory political solution worked out quickly.

What, if anything, can we say as to the specific terms of a settlement once a peace conference gets underway? Obviously, as in all such complex clashes of interest, any satisfactory solution must involve some give and take on both sides, with the result that a final settlement is unlikely to be totally satisfactory to either side. At least the shape of such a settlement could be gained from piecing together various positions from the remarks of President Sadat, Mrs. Meir, and top military people.

From Mr. Sadat's point of view it is important to recover the Sinai for Egypt and reopen the Suez Canal. For the Egyptians the fact that they crossed the canal represents a major psychological victory. Hence, it would seem unlikely that the Egyptians would agree to give up that east bank area which they now control. Sadat insists at this stage he wants all the Sinai back. But he also said he was willing to consider a disengagement of combatant forces (under the terms of paragraph 2 of the cease-fire agreement), as he put it, "in the depths of the Sinai."

Mrs. Meir, for her part, indicated that Israel would not insist on retaining "all of the Sinai" in any peace agreement, provided that Sharm el Sheik could remain under some form of Israeli control and some suitable corridor out of that area could be provided to Israel.

The Golan Heights and the Palestine refugee problem appear to present much greater hurdles for both sides, but again we found indications of a willingness to compromise.

The problem of Jerusalem is particularly difficult because of the strong religious feelings involved.

Sadat also emphasized two other points. Once disengagement of the military forces is completed, he said he could have the Suez Canal open and operating in 4 months: And he added, "Remember that your real interest is here in this area. We have a message for you; we don't want you to have a cold winter!"

As a further sign of his interest in friendly relations, he advised us that his new ambassador would soon be on the way to the U.S. Later in our stay we met that gentleman, Ambassador Ashraf Ghorbal, a former Egyptian official in the U.N. and a graduate of Harvard.

One final point. Mrs. Meir went out of her way to reject very strongly the proposal of a U.S. guarantee for Israel. She said it implied for the borders being suggested for Israel must be less defensible, and thus had somehow to be made up for in another way. In other words, it seems clear that any settlement finally agreed to cannot be based on mutual confidence alone but must recognize Israel's need for "defensible" borders, either "buffer" or demilitarized zones of some kind to prevent surprise attack.

Obviously, there is not yet full agreement on all these complicated and sensitive points. And yet, as can be seen, there are areas of potential agreement between the parties and for the first time in 20 years face-to-face conversations between the parties have been underway.

If the two countries can talk and make progress at Kilometer 101 on military issues, might they not also be able to do the same on political issues in Geneva? To this extent the picture does offer some ground for hope. So, as the Secretary of State has said, we may, indeed, be closer to peace in the Middle East than at any time in the past 20 years.

ISRAEL'S WAR DEAD—HALF OF MIAMI

Revised Israeli casualty figures released in mid-December (but not reported in U.S. press) show 2,812 dead during Yom Kippur War, 30% more than the 1,854 dead announced early in November.

On the basis of relative population, Israel lost in 2½ weeks what for the U.S. would have been half the population of Miami or Wyoming. Had U.S. suffered casualties on a similar scale, nation would be reeling under the shock of having Hartford, Conn., Madison, Wisc., Fresno, Calif., Baton Rouge, La., Tacoma, Wash., Salt Lake City, Utah, or Warren, Michigan, wiped out in 18 days.

Arab nations have not released their casualty figures.

WHO DO YOU BELIEVE?—THREE SIDES TO TOW STORY

A credibility gap has surfaced about Hughes Aircraft Company's TOW antitank missile and the Yom Kippur War. There are three "authoritative" versions of the story:

Israel used TOW in combat.

Israel got TOW, but too late to use them in combat.

Israel never did get TOWs during the October 6–22 fighting.

Within a week of a special House Armed Services Subcommittee's departure for the Middle East in late November, it asked a Defense Department briefing officer how the TOW performed in the war and was told that "it had been reported that it had done quite well."

But after the committee returned, it reported that "The TOW missile was shipped to Israel toward the end of the conflict and was not used in combat."

No wonder the intelligence community works so much overtime.

FINANCING HIGHER EDUCATION

Mr. PELL. Mr. President, there has been some recent discussion in academic journals concerning the question of who should bear the burden of financing higher education. Various private groups have issued statements adopting one position or another.

As chairman of the Subcommittee on Education, I have noted this debate and believe that it is a healthy discussion, for it focuses in the mind of the American public the questions of whether the education of our citizenry is a private matter, or a public matter—is there a role for private institutions in the future of higher education or not? Ultimately what will happen to higher education if we approach it on a piecemeal basis? Therefore, it was with interest that I read a statement on tuition policy issued by the American Council on Education, which is considered to be one of the major spokesmen on academic higher education.

Mr. President, I ask unanimous consent for this article to be inserted in the RECORD at this point.

One of the problems many of us see in discussing this question is bringing all the available information together and interrelating it. A very fine paper has been written by Howard R. Bowen, Association of American Colleges. He opens with a historical discussion of higher education, the Federal role, and what appear to be basic theses of the six major studies now being spoken about. The Bowen paper is a fine outline of the issues. I believe it will be helpful to my colleagues as they attempt to understand the debate which is now occurring in the field of higher education and ask uanimous consent that it be printed in the RECORD.

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

FINANCING HIGHER EDUCATION: THE CURRENT STATE OF THE DEBATE

(By Howard R. Bowen)

The perennial debate on the financing of higher education has been unusually spirited in the past five or six years. It may now be reaching a climax. Literature on the subject has been multiplying and no less than six major reports by eminent national groups have recently been issued. Also, controversy is heating up, especially over the frequent proposals that tuitions in public institutions should be raised and that students should be financed—more than in the past—through loans.

I have been asked to analyze and comment on the six recent reports. These include (in alphabetical order) reports of the Carnegie Commission, CED, National Board on Graduate Education, National Commission on the Financing of Postsecondary Education, National Council of Independent Colleges and Universities, and the Special Task Force of HEW chaired by Frank Newman.[1]

When Dr. Eldon Smith invited me to present my paper, he made a quite irresponsible promise. He said, "I want to give you a free hand as to what you will cover. . . . Your paper could be an objective, critical review or a subjective, personalized reaction. . . . And you may take as much time as you need." Despite this opening, I shall try not to take advantage of your patience, but I might as well admit right from the start that the size of the subject does call for a bit more time than I would usually request.

My plan is to deal with the subject in three stages: First, to provide some historical perspective on how we got where we now are; then to present the major themes and broad implications of the six reports (being careful not to get mired down in technical details); and finally to present some of that "subjective, personalized reaction" which Eldon Smith said would be in order. In case I should get out of bounds, the distinguished panel of expert discussants will keep me in check.

1. HIGHER EDUCATIONAL FINANCE BEFORE WORLD WAR II

World War II was a kind of watershed in the financing of higher education. Before the war, the theory and practice of higher educational finance had been quite settled.

The finance of students was primarily a responsibility of parents, and of students themselves through part-time earnings. Scholarships and loans were in use but were not prevalent or major forms of student support. Working one's way through college was the accepted and respected mode of student aid.

The finance of institutions, on the other hand, was largely a responsibility of "society" as represented by state government, churches, and private donors. The federal government was involved only marginally and corporations almost not at all. An accepted pre-war dogma, scarcely debated, was that tuitions should be low to encourage attendance of young men and women of all social classes. Tuitions and fees in state institutions averaged about $100 a year or

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a little more. Private tuitions were about 2½ or 3 times public tuitions—as compared with five times today.

2. POST-WAR CHANGES

Immediately after World War II, the GI Bill brought new vigor to higher education and opened up opportunities to young men and women far beyond previous expectations. But the GI Bill was short-lived. When the GI's left college, around 1950, higher education lapsed back into a period of poverty, and remained in a depressed state until the late 1950's. But after 1957, when the nation was aroused by the launching of Sputnik, some spectacular changes occurred:

1. Grants to students, based on a systematic means test, rather than on scholarship, became common, especially among the private colleges.

2. The use of loans in financing students was expanded sharply.

3. With the increasing number of married students, a legacy of the GI period, spouses became a major source of support for students.

4. The federal government became a growing supplier of funds for both grants and loans to students.

5. The federal government became an important contributor to institutions through a wide array of grants, contracts, and loans designated chiefly for research, training, and buildings.

6. Philanthropic foundations grew in numbers and resources.

7. Profit-making corporations became patrons of higher education.

8. Colleges and universities became more aggressive and professional in their fund raising.

9. State and local governments greatly increased their appropriations to public institutions; some established state scholarship programs, and some made grants to private institutions.

10. Tuitions were raised year after year by both public and private institutions. The percentage increase in tuitions averaged about 5 percent a year for public and 7.5 percent for private institutions. Educators were amazed that these tuition increases called forth so little reaction from patrons.

The chief effect of these changes was to infuse vast amounts of new money into higher education, some for institutional support and some for student aid. With this new money, the dramatic growth of enrollments was possible. Surprisingly, however, these changes did not alter very much the pattern of institutional support. The shares of total income derived constant over the decade following Sputnik. For example, in public institutions, tuition income as a percentage of total educational funds, increased from 15 percent in 1957–8 to 17 percent in 1967–8, and for private institutions from 55 percent to 57 percent. Moreover, the rise in expenditures per student just about kept pace with per capita disposable income. In other words, the standard of living in colleges and universities was rising at about the same rate as the standard of living in families.

3. PROPOSALS FOR FEDERAL INSTITUTIONAL GRANTS

By 1967, when the process of rapid growth and expansion had continued for just about a decade, financial strain began to set in. Institutions had pushed existing sources of revenue as hard as they could, but enrollments were still growing and costs were still rising. So educators began to cast about for still more revenue. Then attention turned to the possibility of institutional grants from the federal government. The American Council on Education.[3] The Association of American Colleges,[3] The Association of American Universities,[4] and the National Association of State Universities and Land Grant Colleges,[5] all went on record in 1967 or 1968 in favor of institutional grants. The common plea was to retain all the then existing forms of federal aid, and add institutional grants—the new money to be distributed according to formulas yet to be devised.

The proposal for institutional grants was based on three tacit assumptions. One was that expenditures would continue to rise rapidly because of growing enrollments and rising costs. Another was that, though federal categorical aid was desirable, it did little to meet the basic operating costs of institutions and unrestricted funds were needed as well. The third assumption was that a steady rise of tuitions would be on principle socially harmful.

The search then began for suitable formulas that might be used to distribute institutional aid. Many were proposed. Even I devised such a formula, and the booklet in which it was contained [6] became one of the very first publications of the Carnegie Commission. Indeed, the Commission gave considerable attention in its early years to federal institutional aid.[7]

The conclusion I draw from this history is that as late as four or five years ago the academic community was overwhelmingly in favor of low tuitions, was alarmed at the prospect of having to raise tuitions year after year in the future, and saw general institutional support from the federal government as the best answer.

4. NEW APPROACHES

But around 1968, during the discussion of institutional grants, some new concepts were beginning to get a hearing. One of these was that a major goal of new federal programs should be to encourage needy and lower middle-income students to attend college. It was argued that federal aid should be primarily in the form of grants and loans to low-income students and that institutional aid should be in the form of added cost-of-education allowances to assist those institutions accepting needy students. This was the burden of the Rivlin report which was prepared in the last months of the Johnson administration and issued in January of 1969.[8] This idea eventually became the underlying theme of the Higher Education Amendments of 1972. This act represented a major decision to the effect that general funds from the Federal government would flow to education primarily through grants to students rather than through grants to institutions.

In the early 1970's, other more radical lines of thought were emerging. Some were advanced by those who had become disillusioned by campus unrest, some by public officials who wanted to bring costs under control, and some by economists who presented technical arguments. In general, with variations in detail, the critics converged on three proposals.

The first proposal was that higher education could and should be more efficient. The seemingly endless escalation of costs should be slowed down. Some of the critics argued that higher education was becoming over-expanded—that it was trying to educate more people than could benefit. Some argued that higher education had gone out of balance in that too much was being spent on graduate study, research, and esoteric specialties, and not enough on undergraduate education. And some argued that efficiency could be improved through mechanical technology, better use of building space, new academic calendars, larger classes, etc. From this line of argument arose the demand for cost analysis and measurement, program budgeting, and accountability—all of which are lively topics today.

A second proposal that came on strongly after 1970 was that the support of state colleges and universities should come relatively more from tuitions and relatively less from taxes. The high tuition idea was adopted by some on the pragmatic ground that additional funds were needed and that tuitions were the only potential source. It was argued that because of the turn of public opinion against the academic world, the intensified competition for existing tax monies, and the political resistance to tax increases, the old sources could no longer be expanded.

But the idea of high tuitions was advocated by others, including many economists, on principle. Some argued that both equity and efficiency would be promoted if the higher education "industry" were operated without public subsidy along the lines of the free market with tuitions covering the full cost of instruction.[9] Equity would then be assured because those benefiting would pay for services received and well-off families would no longer get unneeded subsidies. Efficiency would be assured because only those educational services would be produced which student-consumers thought worth paying for. To attract paying customers, institutions would be motivated to offer excellent education, and to meet market competition they would have to be efficient. Charles Carter, the distinguished economist and Vice-chancellor of the University of Lancaster, derisively called this scheme the "jam factory" theory of higher education.

Other economists, taking a less radical approach, advocated more maderate increases in tuitions. Their aim was to capture some of the subsidies now being received by high-income families and use them to support low-income students and to augment institutional budgets. This is the basic philosophy underlying several of the recent reports we are considering today.

A third new idea was that long-term loans of substantial amount should be used regularly for the financing of students. Almost everyone agreed that a generous system of student aid is essential to keep access and opportunity open. Some argued that the aid should be wholly or largely in the form of grants financed largely from public funds.[10] But many others thought long-term loans should be a major source of financing for low and middle income students. Only through a system of loans combined with high tuitions would government be relieved significantly of the cost of higher education and new sources of funds tapped. And so a great deal of effort was devoted to inventing long-term student loan schemes that would be tolerable to students, that would be politically and morally acceptable, and that would give relief to the public exchequer. To date, the nation is still a long way from an adequate loan program as defined by advocates of heavy borrowing, but efforts continue.

The approach to higher educational finance through high tuitions and student loans was seen to have an important collateral effect. It would narrow (or even close) the tuition gap between public and private institutions and help to correct the unfavorable competitive position of the private sector. Thus, educators in the private sector were occasionally tempted to advocate high *public* tuitions and student aid through loans. However, on the whole, educators in the private sector were quite restrained in their political activities especially as many of them sincerely favored low public tuitions.

To conclude, the basic issues in the recent debate are clearly those relating to efficiency, levels of tuition, long-term student loans, and the competitive position of the private sector. However, several other secondary issues have emerged. These are:

1. Should student aid, whether in the form of grants or loans, be fully portable so that students would bring their aid, and possibly also cost-of-education allowances, to the institutions of their choice? Or should the aid be dispensed by the institutions?

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2. What will be the effects of the recent lowering to 18 of the age at which young people reach the majority? How will it affect the administration of a means test in the allotment of student aid? And how will it affect the administration of a means test in the allotment of student aid? And how will it affect the definition of in-state residence?

3. Should tax incentives for charitable giving, and property tax exemptions of colleges and universities, be curtailed, held steady, or expanded?

4. How should the growing programs of adult education be financed with respect to both institutional costs and student support?

5. THE RECENT REPORTS

So much for the historical background. Let me now turn to the six recent reports, all of which are in my judgment worthy contributions to the discussion of higher educational finance. I should warn you that not all of the reports have been published and I have not had access to the latest revisions. If I am guilty of misinterpretation, I hope that members of the discussion panel will set me straight.

All are remarkably restrained and moderate in their recommendations. In spirit, they are incremental. For example, no one of them argues for zero tuitions or for full-cost pricing or any other sharp break from past practice. Some recommend that even the moderate changes be phased in over a period of years. Nevertheless, these documents do point in the direction that the system is already moving. If they influence policy, they will hasten trends that are already evident.

I shall not summarize the reports one by one, or outline them in great detail. And I shall not quibble over statistical discrepancies and ambiguities of which there are some. I shall try to concentrate on the major issues which are few in number and conceptually quite simple. The first is efficiency.

A. *Efficiency.* Two of the documents stressed institutional efficiency. I refer to the reports of CED and the National Commission. The Carnegie group did not dwell on efficiency, only because one of their earlier reports was specifically directed toward this subject.[11] The CED report contained an extended discussion on strengthening internal governance and management as a way to improve efficiency. I found this section of the report rather homilectical in tone and not very fresh or provocative. I appreciated, however, its concern for academic considerations in dealing with matters such as faculty tenure, faculty and student participation in governance, and mechanical aids to teaching. This was no crude "managerial" approach to higher educational administration.

The National Commission emphasized the controversial area of cost analysis and unit cost measurement. These concepts were presented as keys to both efficiency and accountability. The Commission had been instructed in its enabling legislation to develop national uniform standards for calculating costs per student. The implication of the directive was clear. In the future, institutions would be expected to compute their costs for purposes of internal management and report their costs for purposes of assessing overall institutional efficiency. The CED group also advocated cost analysis.

The prospect of mandatory cost analysis and cost reporting has been worrisome to many educators. Some of the worry stems from the belief that colleges and universities are unified entities producing many products, and that joint costs cannot readily be assigned to particular outputs. More of the worry stems from a deep concern that measurement of cost will be grossly misleading unless there is corresponding qualitative assessment of the product. So, it is feared, with ample justification I think, that spurious cost figures may be used by funding agencies to beat down the quality of instruction wherever it rises above the average.

The question of cost analysis was also considered by the National Board on Graduate Education. The problem of allocating costs is especially vexing in complex universities with graduate programs. The report of the Graduate group contained an illuminating essay on cost analysis by Professor Frederick E. Balderston of Berkeley. He pointed out that in principle, even if technical problems could be overcome, no single uniform cost figure would be appropriate for all kinds of decisions. Different cost concepts would be needed for different purposes.

The National Commission during its deliberations heard all of these worries and concerns about costs many times and took cognizance of them. But in the end they recommended that cost analysis be pursued as a tool for improving efficiency in higher education.

My own view of the cost question is that educators must be increasingly concerned about cost analysis and should be developing more meaningful cost data. They must accept the fact that public concern about costs is legitimate and desirable. The past habit of measuring quality in terms of inputs instead of outputs, which implies that greater expenditures invariably lead to higher quality, is no longer acceptable. What must be done is to find better measures not only of cost but also of output. Neither of these concepts, standing alone, tells us anything about efficiency. Efficiency is measured as a ratio between cost and output. Meanwhile, we educators must do our best to achieve public understanding of certain obvious facts: (1) meaningful cost measurements are technically difficult; (2) output measurements are vastly more difficult; and (3) meaningful measurements of efficiency will never be wholly quantifiable and will always be partly judgmental.

I should like to offer one other comment on institutional efficiency. This is that concerned outsiders—such as businessmen and legislators—are prone to underrate the present efficiency of higher education and to exaggerate the gains that are feasible without unwarranted sacrifice of quality. I felt that the CED report was by implication unrealistic in its estimate of the amount of gain likely to be achieved through better management. Critics sometimes forget that higher education has on the whole long been a depressed industry and that it has recently been squeezed through a pretty tight wringer. There is not much fat. It is true that some institutions might make one-time cuts in cost per student of as much as five percent without serious damage to quality. Some might even manage to do this several years in a row. But no institution can do this year after year. As suggested in the Carnegie Commission report, The More Effective Use of Resources (1972), a reasonable goal for efficiency-improvement is to cut the annual increase in real cost (after allowance for inflation) by one percentage point. Instead of increases in real costs as in the past of three percent a year, an institution might, with sustained effort, reduce that rate of increase to two percent a year.[12] Such a saving is well worth striving for, but it will not solve many of the financial problems of higher education.

B. *Tuitions and Student Aid.* The central financial recommendation of several of the reports is that the tuitions of public institutions should be gradually raised, *provided* adequate aid for low and middle income students is made available.

The Carnegie Commission proposed a gradual and very modest increase of public tuitions over a ten-year period to one-third of educational costs (with an exception for community colleges) and a slowing of the rise in private tuitions to no more than the growth of per capita disposable income. On the whole, the Carnegie report is quite moderate and generally favors continuation of the present system of finance rather than abrupt change. The CED report made a much more drastic recommendation that public tuitions be raised over five years (ten years in the case of community colleges) to half of educational costs. The CED report incidentally recommended that in the accounting for colleges and universities depreciation on capital assets should be included in the costs. The net of their proposal, then, is that tuitions might rise to perhaps 55 percent of instructional costs as conventionally defined.

The National Commission did not make specific recommendations for change in the financing of higher education, but rather analyzed various alternative proposals from the standpoint of their costs and social effects. The Commission report, nevertheless, confirms the CED and Carnegie views that student aid based on a means test is a more effective way of increasing access than the same expenditures used to lower tuitions. The report of the Task Force of the National Council of Independent Colleges and Universities also analyzes alternatives. The favored one would involve a moderate rise in public tuitions. The Newman report is not specific about financial details, but does emphasize that students rather than governments should be the vehicle for transporting funds to institutions, and so the implication is clear that tuitions should be raised. The Newman report may be the most radical of all in its financial implications.

Collectively, these reports offer abundant testimony from able and public-spirited groups to the effect that tuitions should be raised in the public sector of higher education. And all of the reports state or imply that a collateral benefit will be to narrow the tuition gap between the public and private sectors.

The tuition proposals of the Carnegie Commission contained one notable feature: namely, that tuitions should be graduated by level of education—lowest for freshmen and sophomores, next highest for juniors and seniors, and highest for graduate and professional students. The ratio for the three groups would be about 1 to 1.5 to 3. They proposed this kind of graduation for both public and private institutions. The purpose, of course, would be to keep opportunity open at the beginning of college careers, and to impose high tuitions and heavy borrowing only when students had become well established. It is a way of increasing tuitions without raising the barriers at entry to college. This proposal raises some philosophical questions about the allocations of expenditures among the various levels of instruction and about the unity of the university. And it raises practical questions about potential effects on attrition with stepped-up tuition after two years or four years, and about competitive relationships between the private and public sector. If the plan applied to both private and public institutions as proposed, it could greatly widen the dollar gap between private and public tuitions for advanced students.

If there is one thing on which all elements of higher education are agreed, it is that opportunity should be opened and encouragement given to low-income students. All of the reports agree specifically or by implication that grants to low-income students should be expanded. For example, the Carnegie Commission recommended full funding of the Basic Opportunity Grants. The National Board on Graduate Education recommended three types of graduate fellowships to be granted in modest numbers: those based on merit, those designed to meet specific manpower requirements of national im-

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portance, and those designed for minority groups and women.

The CED and Carnegie reports were also explicit in recommending extension of the student loan system. They would emphasize long-term loans of large amount with income contingent features. The reports recognized, however, that the nation is a long way from overcoming the problems of technique and capital supply needed for the massive loan system they envision. The report of the National Board on Graduate Education was especially articulate on the danger of modifying a financial system for graduate students on the basis of a proposed loan system which simply does not yet exist.

The reports suggest that student aid, including both grants and loans, should be portable in the sense that students would receive their allotments independently of the institutions they chose to attend. This portability would presumably widen student choice of institutions and would motivate colleges and universities to cater to the needs and wishes of students. Portable student aid would be especially potent if accompanied by cost-of-education allowances as is frequently suggested. The Newman report especially emphasizes portability of student aid. In my judgment, the subject of portability raises some serious questions about institutional autonomy and has not yet received the attention it deserves. While student influence over institutions can be recommended within reason, there is something also to be said for the integrity, inner-direction, and academic freedom of institutions. In the current debate, these considerations tend to be ignored. The Newman report was eloquent on academic freedom and institutional autonomy but saw the state as the chief threat and students with portable funds as the liberators. I am not so sure the matter is this simple.

C. *Private Institutions.* Let me now consider the special problems of private institutions. All of the groups were concerned about the future strength and health of the private sector. All expressed appreciation of the contributions made by private institutions to the nation, and indeed to public higher education as well. However, most of the reports dealt with the private sector in a rather incidental fashion. Both the CED and Carnegie groups recommended state aid to private institutions. The CED report was quite explicit in recommending general institutions based on enrollment, the amount per student to be adjusted by types of institution according to instructional costs and amount of income from private sources. In this respect, the CED report is a throwback to the discussions of the 1960's. The Carnegie group recommended state aid in the form of capitation grants to institutions or grants to students attending private institutions. The Carnegie group noted favorably the experimentation with programs of this type now going on in many states, and implied that such programs should multiply and expand. The Newman report, with its emphasis on student aid, suggested that needy students attending private institutions should receive extra grants to help defray high tuitions. The underlying idea in all these reports was to find a way to narrow the dollar tuition gap and improve the competitive position of the private institutions.

The CED report strongly emphasized the importance of charitable giving to higher education and urged (p. 75) that "existing tax incentives for voluntary support of higher education be maintained and . . . expanded . . ." In my judgment, this is a recommendation of great importance and should not be passed over lightly.

As one would expect, the report of the National Council of Independent Colleges and Universities was devoted primarily to the private sector. It recounted the importance of private institutions to American society, explained the mounting financial problems, pointed to the importance of strengthening tax incentives for charitable giving, and then presented several financial options involving varying amounts of aid to needy students. One of these options was to raise public tuitions. Another was to establish a "tuition-offset plan" under which "the state or federal government would pay for each student enrolled in a private institution an amount equal to part or all of the difference between tuitions and average educational cost in public institutions." The payment could be made directly to the student or to the institutions. Another proposal was a compromise similar to the CED Carnegie plans in which public tuitions would be raised moderately and partial tuition-offsets would be paid to the private sector. In addition, the report suggested direct institutional grants from the state or federal government for capital purposes.

The Independent Colleges report alluded to, but did not develop, an issue that was overlooked in the other reports: namely, that adequate aid to private education may require federal as well as state support. Both the CED and Carnegie reports had indicated that support of private institutions should be a responsibility of the states. The problem with this solution is that many private institutions are national or regional in outreach and draw only a fraction of their students from the home state. But programs of state aid are usually confined to in-state institutions and in-state students. It would be possible, of course, for states to make grants with respect to state residents whenever they attended college, and a few states have done this. However, a truly national system of aid to private higher education probably needs the intervention of the federal government either by directly sponsoring the program or by providing matching grants to the states.

D. *Graduate Education and Research.* Many discussions of higher educational finance are confined to undergraduate instruction. The important functions of graduate and professional education, research, and public service are virtually ignored. Of the reports under consideration, only three dealt with this subject—National Board on Graduate Education, Carnegie, and Newman.

The report of the National Board noted the rapid disappearance of federal fellowship and training programs, the leveling-off of federal funds for research (especially for basic research), the unpredictable fluctuations of federal support, federal preoccupation with transient categorical programs, and federal irresponsibility for the welfare and continuity of institutions. The Board called for restoration of some fellowships and traineeships and the development of practicable and adequate student loan programs. They raised many issues regarding the future of basic research and its role in the advancement of our culture and our economy. They recommended institutional aid for graduate study by funding relevant sections of the Higher Education Amendments of 1972, and they cautioned against excessive reliance on manpower forecasts as a basis for educational planning.

The Carnegie Commission, as part of its step-tuition program, advocated tuitions three times as high for post-baccalaureate students as for freshmen and sophomores. The Commission was, however, somewhat ambiguous about this proposal as it might affect students seeking the Ph.D. They also recommended that the federal government assume responsibility for graduate and professional education and research and significantly increase its support "if the nation is to remain in the vanguard of scientific and technological developments." [13] In a previous report, the Commission had recommended a massive program of federal fellowships for doctoral candidates together with cost-of-education supplements of $5,000 each.[14] These fellowships would be awarded to students already in course and would not be portable. And in another previous publication, the Carnegie Commission had recommended that federal grants for university-based research be increased annually in proportion to the growth of GNP.[15] The Newman group, on the other hand, recommended a massive program of portable graduate fellowships with companion grants over and above tuition of $2,000 to the institutions selected by the students.

E. *Recurring and Lifelong Education.* The Newman and Carnegie reports pointed to a current blindspot in the financing of higher education: namely, that no adequate provision is being made to finance recurring or lifelong education or the students (mostly adults) involved in such education. No solutions were offered; the problem was merely identified.

F. *Summary of the Reports.* Let me now recapitulate. Waiving many variations, details, and nuances, the six reports are saying:

1. The efficiency of higher education should be improved.

2. Tuitions of public institutions should be raised to perhaps a third or even half of instructional costs.

3. Access should be available to all qualified students. Student aid should be extended in the form of grants to low-income students and loans to low- and middle-income students.

4. Loans should become a more prominent part of the student aid program. Practical long-term loan programs should be invented and adequate capital to fund them should be raised.

5. Student aid should be portable.

6. Private institutions should be assisted by any of several types of tuition offsets which would have the effect of narrowing the tuition gap, and possibly by institutional grants.

7. Tax incentives for charitable giving should be strengthened.

8. Federal fellowships and traineeships for graduate students should be restored at least in part, and basic research should be supported at rising levels.

9. Ways of financing lifelong and recurring education should be developed.

Of these recommendations, those pertaining to tuitions and student loans are, of course, the most important and have attracted the most attention and reaction. In their 1973 autumn meetings, both the American Association of State Colleges and Universities and the National Association of State University and Land Grant Colleges strongly objected to the tuition proposals and reaffirmed the historic American policy of low tuitions and minimal use of student loans. The Carnegie and CED reports also evoked considerable adverse editorial reaction from newspapers across the country, including such leading papers as the *New York Times, Washington Post Christian Science Monitor,* and *Minneapolis Star.* Labor unions as well indicated opposition. In the remainder of my remarks, I shall try to share with you my own views on the recommendations contained in these reports.

Concluding comments

As I have indicated, the six reports are all moderate and gradual in spirit. If any one were adopted, higher education would not be instantly or radically transformed either for the better or the worse. Indeed, tuitions in public institutions have been rising so rapidly in the last two years that the recommendations of the Carnegie Commission are already becoming a reality. But these reports do try to set a new course. That course is toward higher tuitions, large

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grants based on means tests for millions of persons, and possibly heavy indebtedness for many. What are the consequences of this line of development in the long run? I must confess to some uneasiness.

For more than a century in this country, efforts have been made to encourage young people of all classes to go to college. Higher education has been regarded both as a form of personal opportunity and as a source of major benefit to society. The accepted view—seldom challenged as late as three or four years ago—has been that higher education ought to be open to all the most generous terms. This was the historic idea underlying the founding of hundreds of private colleges, the land grant movement, the establishment of public urban institutions, the GI Bill, and the community college movement. Why, at this stage in our history, when we still have the task of bringing millions of young people—many from ethnic minorities—into the main stream of American life and when there is so much educational work to be done for all classes, including adults, why are we striking out in a new direction? Have we been misguided over the years and are we just now realizing our errors? Or are we about to commit a colossal blunder?

The financing of higher education is not merely a matter of technique to be decided by experts; it is a matter of educational and social values. My misgivings have to do with values.

A. *The Widening and Deepening of Learning.* First among my values is the widening of learning for persons of all ages, both sexes, and all ethnic and economic backgrounds, and at the same time the deepening of learning for everyone. By learning I mean humanistic, scientific, and vocational education of many varieties. Such learning is a powerful means. It is the base of our culture, the foundation of our economy, a source of good citizenship and civic responsibility, a way toward the solution of social problems, and a major influence toward humanizing individuals. Learning is also an end in itself. It is fun to learn and good to know. The great spread of learning that has occurred in the past century is far from complete. Our ignorance overwhelms our knowledge and our folly vastly exceeds our wisdom.

Learning occurs in many ways, by no means all of it through educational institutions. But institutions have an indispensable role in facilitating the process, not only for millions of persons of ages of 18 to 22, but for persons of all ages. Formal education is destined to be a recurring lifelong experience. The traditionally sharp separation of life into three stages—education in youth, work in middle years, and retirement in old age—is likely to be radically altered.

Under these conditions who can say that the philosophy of the Morrill Act or of the Community College movement is passé? Who can say that higher education should not continue to be available at low cost to insure ready access and encouragement for persons of all ages and conditions? Who can argue that high tuitions, means tests, and long-term loans are really conducive to the widening and deepening learning? [16]

B. *Academic Freedom.* Another cherished value, which is virtually unmentioned in the reports on finance, is academic freedom. It consists in part of the right and duty of individual professors to seek and speak the truth. More broadly, it includes significant inner direction for colleges and universities as institutions. It means that the academic community should have an influential voice—based on professional judgment—in deciding what to teach, how to teach, what academic standards to maintain, what lines of research and scholarship to pursue, what to publish, and whom to employ as professors. Academic freedom in this sense is always in jeopardy, but in the past decade has been subject to unprecedented erosion from growing political influence and increasing reliance on funds earmarked for purposes prescribed from outside.

Academic freedom calls for a system of finance with diverse sources including substantial funds that are not earmarked and for which institutions are not too beholden. The proposal to raise tuitions might tend to diversify the sources of support in public institutions and enhance academic freedom. On the other hand, the proposal would move higher education along the path toward the market price or "jam factory" system of finance. If carried too far, it might impair the inner integrity of universities as institutions.

C. *Means Tests and Debt.* Another of my values, this time a negative one, is distaste for the means test and for loading heavy indebtedness upon young people. I recognize the importance of grants based on need, and loans, in a balanced system of student aid. It is when large amounts of money are involved that I become apprehensive. The means test is essentially undemocratic, bureaucratic, arbitrary, and open to evasion. Moreover, it may be unworkable if young people, who attain their majority at age 18, become emancipated from their parents.

For our society to require its young people to go heavily into debt represents a less than generous attitude toward our youth. Even from the economic point of view, long-term loans make little sense. The social cost of providing and receiving an education must be borne at the time the education occurs. It cannot be transferred to the future. The repayment of debt is only a transfer payment, having little underlying economic significance except an unpredictable effect on the distribution of income. It would seem more businesslike to finance the costs when they are incurred rather than to go through the red tape of making and repaying loans. Still another difficulty with heavy loans is unfairness as between generations. Those of us of the present middle and older generations received our education without heavy indebtedness. We are in effect saying to the next generation, "We got ours; now that your turn has come, you can get your education on the cuff."

What I am suggesting is not elimination of all grants based on a means test or of all student loans. I am counseling that we should go slowly in raising tuitions to a level that will demand heavy use of these devices. I think this will put an unbearable and unnecessary strain both on higher education and on our society.

D. *Equity.* Still another value is equity. The largest single cost of higher education is the time and foregone income of students. This, together with the incidental expenses of higher education (not counting board and room), place at least two-thirds of the total cost on the student and his family. Institutional costs are of the order of only one-third of the total. In view of the fact that education yields substantial social benefits as well as private benefits to students, it would seem that a major portion of the institutional costs might equitably be borne by society, that is, government and philanthropy. This was a conclusion of the Carnegie Commission and largely explains the moderation of their recommendations.[17] Incidentally, the Carnegie Commission is one of the few groups which has openly faced the issues of foregone income and social benefits of higher education.

E. *Preserving the Private Sector.* Another of my values is preservation of the dual private-public system of higher education. This, of course, requires strengthening of the private sector which in my judgment is in great jeopardy. The private sector is important because it contributes diversity and leadership. Through the diversity it contributes, the higher educational system serves the needs of more people and offers more choices than could a purely public system. Through the leadership given by many private institutions, the nature of academic excellence is demonstrated, academic standards are set, the ideal of liberal learning is kept alive and flourishing, a living example of academic freedom is provided, and a fruitful source of innovation and experiment is maintained. The example, the mere presence of the private sector, is a factor in the freedom and advancement of the public sector and serves as a brake on onerous public control. I would vigorously deny that private institutions have a monopoly on diversity or leadership, but I would argue with equal vigor that the whole higher educational system is stronger for its duality.

There is no doubt that raising the tuitions of public institutions would help the private colleges and universities. But I do not believe that such tuition increases are the best way of helping them. For survival, the private institutions must first of all live up to the ideals of diversity and leadership. They must be useful to society in special and demonstrable ways. Second, they need a system of finance that will narrow the tuition gap and at the same time will preserve their privacy. This system of finance has already been invented and tried out. It now needs perfecting and developing. It consists of tuition offsets from government. The tuition offsets may be in the form of grants to private institutions or they may be in the form of grants to students attending private institutions. More than thirty states are experimenting with various forms of tuition offsets and more are considering them. These programs are quite varied. They include tuition scholarships with amounts adjusted to need, grants to disadvantaged students based on need, grants of fixed amount without a means test to students attending private colleges, grants of fixed amount to private institutions for each student enrolled, etc. There is urgent need for further development of these plans and more realistic funding. There is need also for federal intervention partly to encourage the states to establish adequate plans and partly to bring about reciprocity among the states so that students may be covered who attend private (or public) colleges located outside their home states.

Another important part of the financial solution for the private sector is to strengthen the incentives for charitable giving to education. This would include retaining present federal and state tax incentives and adding something comparable to the plan, proposed by Alan Pifer,[18] which would increase both the effectiveness and the equality of income tax deductions for charitable giving. There is need also, for liberalizing property tax exemptions for private institutions. The present trend in many states is to narrow these exemptions.

With these options open, I see no reason why it should be thought essential to the private sector that public tuitions be raised or why acrimonious controversy between the public and private sectors should be allowed to fester. Such controversy can only be harmful to the cause of higher education as a whole. This solution does require a kind of compact between the public and private sectors. The private sector is called upon to support low public tuitions, and the public sector to support tuition offsets.

F. *Adequacy of Finance.* Another value is adequacy of finance. The several reports we have been discussing have rightly given this high priority. Some have taken as a basic assumption that society is not going to sustain high education adequately under traditional methods of finance. They have asked how limited public and philanthropic

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funds could be "targeted" so that they could be stretched as far as possible. They have suggested that by raising tuitions and providing long-term loans, the middle and upper income groups could be made to pay for more of their own education. And the funds thus acquired could be used for student aid to the poor and for institutional support. The plan is a not-too-subtle scheme to take from the middle class and give to the poor.

I would raise three questions. First, is the assumption valid that funds from conventional sources will fall short? I am not so sure it is valid, at least for the long run. More about that in a moment. Second, if tuitions are raised and loans expanded will governments and donors correspondingly reduce their effort? I think this is distinct likelihood. Third, is there a risk that the recommended high tuition will not be accompanied by the adequate program of student aid which everyone says must be part of the package? I think the risk is high as indicated by the fact that aid is far from adequate for present levels of tuition.

In short, I am a skeptic about high tuition proposals from the point of view of adequacy. I think higher education might do better if the basic financial responsibility remained clearly with government and philanthropy. However, I cannot deny that to find adequate resources is a serious problem. The several reports have faced this problem candidly. I do not assert that they are dead wrong. I only express doubt.

G. *Conclusion.* I shall conclude on a note of optimism—not because every scenario should have a happy ending—but because I think there is a basis for a genuinely hopeful outlook for the long run.

I believe that higher education is not doomed to be a sick and depressed industry, lapsing into a position of ineffectual poverty. I believe it will, or can, be a buoyant growth industry. I have pointed out the vast amount of educational work to be done if we are to widen and deepen education as we should do. In my opinion, the time will soon come when we can get on with this task on an unprecedented scale. Our economy is clearly reaching the end of its insane preoccupation with producing physical things at the cost of plundering our national resources, fouling our environment, and cluttering our lives. As consumers, we shall be shifting our emphasis more and more to human services that enrich our lives and do not pollute. As producers, we shall be changing our emphasis in the development of productive powers from physical capital to human abilities. Higher education will obviously have a critical role. It is a purveyor of human services that are highly valued in their own right, and it is a basic instrument for investment in human abilities.

With this outlook, we should not take for granted that the fate of higher education is retrenchment and impoverishment. The time is right for the planning of wholly new levels of achievement in higher education. The financial policy that fits this future is one that will activate the widening and deepening of higher education. It is a policy of moderation—moderate public tuitions, moderate use of grants based on means tests, moderate use of loans for student aid, partial tuition offsets to keep private higher education competitive, and positive incentives for private philanthropy.

I suspect that current thinking about higher educational finance, as exemplified in the six reports, grows out of depression mentality and a short-range perspective. In my judgment, these reports have not taken account of the enormous opportunities that lie ahead as our society shifts from the production of things to the provision of services, and to the building of a great culture. Nor have they really faced a future in which education might be truly open to persons of all ages and conditions, in which education would be rationed on the basis of desire to learn and achievement in learning; not by tuitions, means tests, and willingness to go into debt.

If we are concerned about the possibility that upper income families may receive subsidies, let us deal with that problem through the tax system, by requiring everyone to pay a fair share of the general tax burden, not by trying to convert the educational system into a device for redistributing income.

What we now need is still another study group who will break away from depression mentality and short-term considerations, who will explore the vast educational horizons of the learning society, and who will produce a financial plan commensurate with the educational work to be done.

FOOTNOTES

[1] Carnegie Commission on Higher Education, *Higher Education: Who Pays? Who Benefits? Who Should Pay?* New York: McGraw-Hill Book Company, June 1973.

Committee for Economic Development, *The Management and Financing of Colleges.* New York: CED, October 1973.

National Board on Graduate Education (sponsored by Conference Board of Associated Research Councils), *Policy Alternatives Toward Graduate Education.* Washington, D.C.: 1974.

National Commission on the Financing of Postsecondary Education, *Financing Postsecondary Education in the Last Quarter of the Twentieth Century.* Washington, D.C.: U.S. Government Printing Office, 1974.

National Council of Independent Colleges and Universities, *Financing of Postsecondary Education with Special Referenec to the Private Sector.* (Unpublished preliminary report.) Copies available on request from the Council, 1818 R St., NW, Washington, D.C. 20009.

Special Task Force to the Secretary of HEW, *National Policy and Higher Education* (Newman Report). Washington, D.C.: Department of HEW, October 1963.

[2] *The Federal Investment in Higher Education,* American Council on Education, 1967; *Federal Programs for Higher Education,* American Council on Education, 1969.

[3] *Federal Institutional Grants for Instructional Purposes,* The Association of American Colleges, 1968.

[4] *The Federal Financing of Higher Education,* The Association of American Universities, 1968.

[5] NASULGC strongly supported the Miller bill.

[6] *The Finance of Higher Education,* Carnegie Commission on Higher Education, 1968.

[7] Donald A. Wolk, *Alternative Methods of Federal Funding for Higher Education,* Carnegie Commission on Higher Education, 1968; *Institutional Aid: Federal Support to Colleges and Universities,* 1972; *Quality and Equality: New Levels of Federal Responsibility for Higher Education,* 1968.

[8] *Toward a Long-range Plan for Federal Financial Support for Higher Education: A Report to the President.* Washington, D.C.: Department of HEW, January, 1969.

[9] Milton Friedman, "The Higher Schooling in America," *The Public Interest,* Spring 1968, 108–112.

[10] W. Lee Hansen and Burton A. Weisbrod, "A New Approach to Higher Education Finance," in M. D. Orwin (editor), *Financing Higher Education: Alternative for the Federal Government.* Iowa City: American College Testing Program, 1971, 117–142.

[11] *The More Effective Use of Resources: An Imperative for Higher Education.* New York: McGraw-Hill Book Company, 1970.

[12] See also Howard R. Bowen, "Can Higher Education Become More Efficient?" *Educational Record, Summer* 1972, 199–200.

[13] Higher Education, Who Pays? Who Benefits? Who Should Pay? *op. cit.,* p. 107.

[14] *Institutional Aid.* New York: McGraw-Hill Book Company, 1972, p. 83.

[15] *Quality and Equality.* New York: McGraw-Hill Book Company.

[16] It is sometimes said that if higher education is made too freely available, too many people will attend or will stay too long. In the interests of learning, I am willing to risk this result, especially because there are effective brakes on overutilization. These are the hard work involved in formal learning, the foregone income, and the sacrifice of time for recreation and other pursuits.

[17] *Higher Education: Who Pays? Who Benefits? Who Should Pay? op. cit.,* pp. 49–53, 71–87.

[18] "Revitalizing the Charitable Deduction," in *Annual Report,* Carnegie Corporation of New York, 1972, 3–12. Under this proposal, every taxpayer, whether or not he itemizes his deductions, would either be given a 50 percent tax credit for his charitable gifts or allowed to file under the present system, whichever would benefit him more. The Pifer plan would have the effect of expanding philanthropic giving by increasing incentives in the middle and lower income brackets and at the same time of improving the equity of the tax system.

ACE Statement on Tuition Policy

The American Council on Education is deeply committed to two fundamental positions. The first is that all those qualified and seeking postsecondary education have access to a broad range of opportunities; second, that the quality of postsecondary education in America is directly related to the healthy co-existence of public and private institutions. Recent debates about desirable levels of tuition in public institutions have threatened to pit these two essential propositions against each other. This will inevitably lead to policy conflicts in which the cause of postsecondary education can only suffer.

Private higher education needs substantial help if it is to survive—including help from public sources. ACE is committed to the task of seeking solutions to the present financial plight of the private sector. The best way to help private institutions is not to raise tuition at public institutions. To the contrary, it is to follow the example of every other civilized nation in the world that has enjoyed historically a mixture of public and private colleges and universities: to provide a basic public support for a part of the cost of educating students in private institutions. A judicious mixture of student loans, scholarships and fellowships, and cost-of-instruction grants—the costs shared by our state and national governments—can save our private institutions without driving already burdened middle-income students away from our great public colleges and universities.

Public postsecondary education must be relatively low-tuition education if this segment of our system is to perform its social function. Therefore, it is not sound on general grounds to convert public education to high tuition education, and it is particularly inappropriate to raise levels of tuition in public institutions to assist private education. The doleful effect of raising tuition and fees in public institutions will be to heighten the financial barrier to access for all but the wealthy. Instead of imposing higher tuition in public institutions as a means of sustaining private institutions, States should exert every reasonable effort to restrain tuition increases in public institutions while expanding support for students, and for both public and private institutions.

ACE feels it necessary to make a public statement at this time because many state legislatures are presently considering tuition increases in public institutions. In defense of these pending actions, state authorities are citing the tuition recommendations of the reports of the Carnegie Commission on Higher Education in June 1973, and the Commit-

tee on Economic Development in October 1973. ACE believes that their conclusions on tuition increases are seriously misguided. The Carnegie Commission report, *Higher Education: Who Pays? Who Benefits? Who Should Pay?*, advocates increasing tuitions at public institutions over the next ten years to a level of one-third instructional costs. This position was, however, tempered with a recommendation that a relatively low-tuition policy be maintained for the first two years of higher education.

Far more drastic is the report of the Committee on Economic Development, *The Management and Financing of Colleges*. CED argues that tuition charges should be increased over the next five years at four-year institutions, and over the next ten years at two-year institutions, until they constitute one-half of instructional costs.

In essense, what both these reports are saying is that already hard-pressed middle-income families should bear an even heavier educational burden than they are now carrying.

ACE is convinced that the net effect of these recommendations, if carried out, would be disastrous. They would turn both middle- and lower-income students away in droves from higher education. They would force an increasing number of students to limit their educational choices or to incur even heavier burdens of debt. They would not induce more students to attend high-tuition private institutions. To the contrary, they would set in motion a series of popular attitudes increasingly hostile to all higher education—public and private. ACE believes that sound public policy should be based on careful analysis of the costs and benefits of higher education including the relationship between tuition levels and educational choices.

The Carnegie Commission and the CED argue that a disproportional share of the benefits of public support of higher education go to middle and upper income families and that it would be more equitable to raise tuitions and offset the increased tuitions with increased assistance for low-income families.

The assumption on which these proposals rest, namely, that lower-income students would be helped by rising state and federal opportunity grants and/or by institutional fellowship resources that would offset higher tuition costs is tenuous indeed. Existing pledges to help low-income families are woefully underfunded. Hard pressed college administrators are far more likely to use additional revenues to cover existing operating or capital deficits rather than enlarging scholarship funds, and middle-income taxpayers are not likely to support increased taxes for higher education if their children are excluded from the benefits.

A much better way to achieve a fairer distribution of the benefits of higher education is to keep tuitions low and work harder to broaden access.

The Congress has already taken a giant step toward the attainment of the twin goals of equalization of opportunity and diversification of options in its enactment of the Education Amendments of 1972. The promise of that landmark legislation awaits fulfillment through funding action by the Administration and the Congress.

DAYLIGHT SAVING TIME LAW NEEDS REEVALUATION

Mr. HRUSKA. Mr. President, this past weekend I read with interest a report that the distinguished majority leader intends to support the repeal of year-round daylight saving time. Since this energy-saving proposal went into effect eight bills have been introduced in the House of Representatives which call for its repeal. Similar legislation has been introduced in the Senate.

When the issue of year-round daylight saving time was debated in the Senate last year, most of us were fully aware of the fact that people in the Middle West have never liked the idea of daylight saving time. I shared their concern and skepticism about the proposition.

It was because of this skepticism that I thoroughly reviewed the hearing record of the Senate Commerce Committee. Testimony before that committee revealed that substantial fuel oil savings could be achieved by such a move. Some estimates went as high as 150,000 barrels a day. It was on that basis, Mr. President, that I decided to join the overwhelming majority of Senators by casting my vote in favor of daylight saving time.

As proponents acknowledged, however, there is no hard evidence that substantial fuel savings will result. With no prior experience on which to base such evidence, the experts were relying on educated guesses.

The act provides for continuing year-round daylight saving time through this winter and next with congressional review to follow.

Mr. President, I think such an evaluation by the Congress can be made much sooner. I intend to place in the RECORD following my remarks a copy of the letter I wrote last week to the distinguished chairman of the Senate Commerce Committee (Mr. MAGNUSON). In that letter I call upon the chairman to hold hearings later this year to carefully examine the operation of the Emergency Daylight Saving Time Energy Act of 1973.

It is appropriate for us to continue on daylight saving time for this winter. This will provide us with the basis for studying whether substantial energy savings have resulted. Then we go to the period when the country is normally on daylight saving time. By midsummer we should have some pretty hard evidence to gage how much energy was saved. On the basis of that evidence, we can judge whether we want to go through another winter on daylight saving time.

During debate on the bill, the chairman of the committee stated that daylight saving time would remind us of our daily "obligations to conserve the Nation's precious energy resources." I think by midsummer we should have a pretty good idea whether we are paying too high a price for that reminder.

Mr. President, the Members of this body have a very real responsibility to determine these facts and soon. Of utmost importance to me is the fact that a lot of our children are going to school in the dark. For those children in rural areas, this often means waiting for the bus in the predawn hours. I think parents of such children have every right to be concerned. When the safety of their children is involved, they have every right to expect the Congress to proceed to a speedy compilation of statistical evidence and an analysis of those statistics. Certainly, if in the first 4 months of this year, we see that fatalities and injuries to our schoolchildren have increased, then I for one do not think we have to continue this experiment for another year.

The people of my State have joined other Americans in making many sacrifices to meet the energy crisis. They are entitled to know exactly and without delay if these sacrifices are worth the cost especially in those instances when the health and well-being of our young people are at stake.

I now ask unanimous consent to have a copy of my letter to Chairman MAGNUSON printed into the RECORD together with a resolution sponsored by the Nebraska Legislature calling upon the Congress to reevaluate daylight saving time.

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

JANUARY 24, 1974.

Hon. WARREN MAGNUSON,
Chairman, Senate Commerce Committee, Washington, D.C.

DEAR MR. CHAIRMAN: The purpose of this letter is to urge that the Senate Committee on Commerce schedule hearings later this year to examine carefully the operation of the Emergency Daylight Saving Time Energy Act of 1973.

The Committee last month favorably reported this legislation to the full Senate where it was approved by a vote of 68 to 10.

During the hearings, the transcripts of which I have thoroughly reviewed, there was testimony that substantial fuel oil savings would be achieved. Some estimates were as much as 150,000 barrels a day.

But throughout the testimony of the proponents of year-round Daylight Saving Time, there was an acknowledgement that no really hard figures exist, simply because there was no experience on which to base such data.

The Act provides for continuing year-round Daylight Saving Time through this winter a next.

It is my suggestion that your Committee conduct an inquiry this summer, after there has been time to evaluate the operation of the scheme through the first four months of this year. It is my understanding that the Department of Transportation plans to have the results of an evaluation available sometime in June.

As was acknowledged at the time the Senate considered the measure, my effort which would help to meet the energy crisis was worth trying. It was also recognized in your remarks during debate on the bill, Mr. Chairman, that, "Additionally it will remind each of us daily of our obligations to conserve the Nation's precious energy resources."

The question which I urge your Committee to consider later this year is whether that daily reminder is worth the cost. The committee by mid-summer should be able to make a sound judgment on whether there have been significant energy savings. As you know, a great many Americans, and particularly those in the rural areas, such as you and I represent, have serious doubts this is the case.

But even more importantly, it seems to me, is the question which recurs in letter after letter I receive from Nebraskans and that deals with the safety of children on their way to school in the hours of darkness.

I would like to quote to you from a letter from Sarah Sieler of Norfolk, Nebraska, who wrote to me:

"In some parts of the country this (Daylight Saving Time) may be good, but the mornings are very dark here. We have to turn on more lights in the morning to get ready for work or school. Our parents have to drive us to school because it is too dark for us to walk or ride our bikes. That wastes

gasoline. We have to use more electricity than normally."

It is my suggestion that the Committee collect statistics on the number of fatalities and injuries to school children during the first four months of this year. That will be a most significant factor to weigh against projected savings in petroleum.

I realize that the Committee considered whether a four-month test would be adequate and it was concluded that it would not. My purpose is to urge re-thinking of that point. Surely the weight of this argument rests with its proponents and they should either demonstrate that the danger and inconvenience to millions of Americans is justified or we should revert to the former system.

I freely acknowledge that like a majority of the Senate, I accepted the idea that the year-round system was worth trying in order to conserve energy. I still believe that is the case, but I do not believe we should continue the experiment for another full year. We should know before next October, when daylight time would normally end, whether it is worth doing.

It is true, of course, that any state which wishes not to participate in the program can opt out. The Nebraska Legislature voted to participate. But only a few days after that vote, 31 of the Legislature's 49 members filed a Resolution calling upon the Congress to reevaluate its (DST) program "in the interest of rural America," citing hardships to the farm population, the danger to school children and the economic loss to Nebraskans. A copy of that Resolution is attached.

I would appreciate your consideration of this request.

With kind personal regards,

Sincerely,

ROMAN L. HRUSKA,
U.S. Senator.

LEGISLATIVE RESOLUTION 92

Introduced by DeCamp, 40th District.

Whereas, on December 15, 1973, the President of the United States signed into law PL 93–182 calling for day daylight savings time on a national basis; and

Whereas, the farm population of the State of Nebraska works from sunrise to sunset and as a result of PL 93–182 will be deprived, at the end of each day, of necessary shopping and social recreation time; and

Whereas, the school children of Nebraska will be forced to walk to school, or wait for buses, in the hours of darkness; and

Whereas, PL 93–182 will result in economic loss to many Nebraskans.

Now, therefore, be it resolved by the members of the Eighty-Third Legislature of Nebraska, second session:

1. That the Legislature of Nebraska hereby goes on record as opposing PL 93–182 and hereby petitions the Congress of the United States to reevaluate its program in the interest of rural America.

2. That a copy of this resolution be sent to the President of the United States, to members of the Nebraska delegation in Congress, and to the Governor of the State of Nebraska.

CERTIFICATE

I, Vincent D. Brown, Clerk of the Legislature, do hereby certify that the foregoing resolution was filed with the Legislature on January 2, 1974, and that in accordance with the rules thereof, and within five days thereafter, the following names were attached to said resolution.

Barnett, 26th District; Burbach, 19th District; Carpenter, 48th District; C. Carsten, 2nd District; F. Carstens, 30th District; Chambers, 11th District; Clark, 47th District; Dickinson, 31st District; Duis, 39th District; Epke, 24th District; Goodrich, 20th District; Hasebroock, 18th District; Kelly, 35th District; Kennedy, 21st District; Keyes, 3rd District; Kime, 43rd District; Kremer, 34th District; R. Lewis, 38th District; Mahoney, 5th District; Maresh, 32nd District; Moylan, 6th District; Murphy, 17th District; Rasmussen, 41st District; Richendifer, 16th District; Schmit, 23rd District; Simpson, 46th District; Stromer, 36th District; Stull, 49th District; Waldron, 42nd District; Warner, 25th District; Wiltse, 1st District.

SKYLAB AND SPACE SHUTTLE

Mr. MOSS. Mr. President, as the Skylab IV astronauts enter the final phase of their astounding mission of 85 days in orbit, thus bringing the Skylab program to an end, I think it is appropriate to reflect on the importance of this highly successful program to space leadership of this Nation and to the orderly transition to our next major step in space, the Space Shuttle program.

Dr. James C. Fletcher, Administrator of NASA, has written an article for the January 1974, issue of Government Executive magazine entitled, "Are Skylab and the Space Shuttle Worth the Investment?"

Mr. President, I highly recommend this thoughtful article to all who would like to know where we stand in our space program, and I ask unanimous consent that it be printed in the RECORD.

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

ARE SKYLAB AND THE SPACE SHUTTLE WORTH THE INVESTMENT?

(By Dr. James C. Fletcher)

I have been asked by Government Executive to answer the question: Are Skylab and the Space Shuttle worth the investment? In my mind there is no doubt about it. Skylab most certainly has been worth the investment, and the Shuttle—together with the manned Spacelab module to be funded, designed, and built in Europe—most certainly will be. I doubt if there has ever been a Government program more carefully defined, whose cost estimates were more scrupulously determined, and whose cost benefits were more extensively analyzed in advance than the Shuttle program.

Skylab and the Shuttle are two separate programs, but they are closely linked. Skylab is an experimental space station, an intermediate step in the progression from Apollo technology to routine operations in Earth orbit for science and for practical benefits. Skylab was not intended to be a continuing program. It will end when the third crew, launched into orbit on November 16, returns to Earth. But the results of these three missions should have a profound and beneficial effect on America's future in space for many years to come.

APOLLO RESULTS

What has Skylab cost?

The total runout costs of the Skylab program through the end of FY 1974 will be about $2.6 billion. This includes R&D funding for Skylab and the predecessor program (known as the Apollo Applications program) going back as far as FY 1966. It also includes the cost of the Apollo spacecraft and the Saturn launch vehicles built in, but not used for, the Apollo program.

For this investment the nation received:

An orderly transition from the Apollo era of lunar exploration in the 1960s to the Shuttle/Spacelab era of the 1980s and 1990s, in which we will stress scientific and practical uses of manned and automated spacecraft in Earth orbit.

A continuation of the U.S. leadership in manned space flight established in Apollo.

Proof of man's ability to live and work effectively in space for long periods—up to 85 days at least (if the last mission goes as scheduled) and probably indefinitely.

Clear demonstration that men can perform valuable services in Earth orbit as observers, scientists, engineers, and repairmen. (The ability of the first Skylab crew to repair damage done to the space station during launch literally saved the entire program from failure.)

A great wealth of new scientific information about the Sun and its nuclear processes—information simply not obtainable from ground-based observations.

Convincing new evidence of the value of Earth observations from space by both men and automated spacecraft. (This supplements the work of our first unmanned Earth Resources Technology Satellite, the highly successful ERTS–1.)

Reinforcement of our ability to encourage international cooperation in space. Our decision to proceed with Skylab was essential to our being able to participate in the Apollo-Soyuz Test Project at reasonable cost and undoubtedly strengthened Russian interest in cooperating. Skylab also played an important role in stimulating European interest in funding and developing the manned Spacelab module.

Evidence of the feasibility of manufacturing new products of great value in the weightless environment of space, opening up a completely new field of space activity with very promising possibilities.

And, most important of all, confirmation that we are really on the right track in proceeding now to develop the Space Shuttle and the manned Spacelab module for intensive use in Earth orbit in the 1980s and 1990s.

Everything that we have done in Skylab was necessary for future progress in space. It was good management to learn all of these things now, while we had the Apollo hardware, momentum, and industrial base. I also believe the Skylab team has taken another giant leap for mankind comparable to the first step upon the Moon or the first satellite in Earth orbit.

As originally planned in the 1960s, the Skylab experience was expected to lead directly to the development of large, permanent manned space stations in Earth orbit. I believe that everything we have learned in Skylab has shown the great potential of such stations and the eventual need for them. But we realized several years ago that it would not be feasible, in this decade, to begin simultaneously to develop a large space station and also a Space Shuttle to supply the station and rotate crews and scientific personnel.

INTERIM STATION

Also, as we proceeded with the Shuttle design studies, we realized that the Shuttle together with the manned Spacelab module would serve very effectively as an interim space station for missions of short duration (seven to 30 days) and also be a thoroughly superior system for launching, servicing, and retrieving all automated satellites, large and small, NASA or non-NASA.

So what has evolved, from years of intensive planning and the Skylab demonstrations, is an optimized approach to using Earth orbit in the 1980s and 1990s, for science and practical benefits, at reasonable cost. I think we have provided an excellent example of effective, adaptable, relevant long-range planning by Government, industry, and the scientific community in a vital area of advanced technology. We have, in short, found the key for keeping America in space in the decades ahead and making it pay.

In defining the Space Shuttle, we made a successful effort to hold down the cost of development. This means we can bring the Shuttle to operational status in this decade and maintain a balanced program

within an annual budget for all of NASA of around $3.3 or $3.4 billion, in 1971 dollars.

This balanced program includes space science and applications programs in Earth orbit (which in turn are necessary to develop productive payloads for the Shuttle and Spacelab module); a strong effort to continue unmanned exploration of the planets on a logical, step-by-step basis; and a substantial annual investment in aeronautical research.

The cost of the Shuttle development effort was estimated in early 1972 at about $5.15 billion in the 1972–1978 period (including development, test, and procurement of two Shuttle Orbiters and two Shuttle Boosters), plus $0.3 billion for the facilities needed for Shuttle development, test launch, and landing. Another $1 billion will be spent in 1979–1980 for refurbishing the first two Orbiters and for procurement of three more Orbiters and for the first production line Boosters.

This makes a total investment of $6.45 billion to bring the Shuttle into operational use in 1980. An additional investment of around $1.6 billion will probably be required during the 1980s for improved upper stages to take payloads to higher orbits than the Shuttle can reach; for facilities at Vandenberg Air Force Base in California which are needed for Shuttle flights in polar orbit; and for other items. Thus the total estimated cost of Shuttle development and additional investments in the period 1972–1990 came to about $8 billion. Allowing for inflation since 1972, this estimate still stands.

To determine what our return on this investment will be (in terms of savings compared with the cost of using present launch vehicles), we needed to make some rather detailed assumptions of how many payloads, and what kinds of payloads, will be launched by the Shuttle in the 1980–1991 period.

Our latest assumptions are set forth in a planning document called *The 1973 NASA Payload Model: Space Opportunities 1973–1991.* It describes in some detail the most likely payloads we could send to the planets or Earth orbit between now and 1991 without significant increases in our annual budget.

According to the *1973 NASA Payload Model,* 986 payloads would be handled by the Shuttle in the 12-year period 1980–1991. This includes 507 NASA payloads and 175 payloads listed as non-NASA and non-DOD. (The Department of Defense has its own payload model for the period. It is estimated that about 31% of total Shuttle payloads in the period will be DOD payloads.) The number of payloads might seem large to some but because of the high efficiency possible with the Shuttle, these can all be flown with less cost to NASA and DOD than current budgets.

Of the 986 tentative payloads in the *1973 NASA Payload Model,* 336, or roughly one-third, will be carried in the manned Spacelab module. These are called sortie payloads. Forty-four of them would be carried on 30-day flights, the remaining 242 on seven-day flights. These figures are important to indicate the extensive use we expect to make of the Spacelab module beginning in 1980.

(It should be pointed out that the number of Shuttle launches will be much less than the number of payloads. More than one payload will be orbited on most flights; and some of the payloads mentioned in the above totals are "service calls" to satellites already in orbit, or are payloads being returned to Earth.)

We have carefully compared the cost of orbiting this many payloads using present launch vehicles (or improved versions) and using the Space Shuttle. And we find that by using the Shuttle we can save an average of more than $1 billion per year over the 12 year period from 1980–1991. This compares quite favorably with the total Shuttle investment from 1972 to 1991 of around $8 billion.

This substantial saving is possible because of three main factors: the cost of putting payloads in orbit with the reusable Shuttle will be somewhat less than the cost of using expendable one-way rockets; the cost of designing and building payloads for launch by the Shuttle will be *much* less; and the versatile Shuttle will make it possible to service and resupply payloads in orbit, repair them, and retrieve them for return to Earth for refurbishment and reuse. I will describe each of these three.

The Shuttle will take off vertically, like a rocket, but will land on a runway like an airliner. It is being designed for quick turnaround and for reuse 100 times or more, perhaps 500 times.

The Space Shuttle has three main parts: the Shuttle Orbiter itself; a large external fuel tank which carries the liquid hydrogen and liquid oxygen burned by the Orbiter's engines; and two solid-fuel booster rockets to assist the Orbiter on take-off.

The Orbiter is completely reusable. The external fuel tank will be jettisoned just before the Orbiter reaches orbital velocity and will impact in a remote ocean area. The two booster rockets will fall into the ocean near the launch site and will be recovered for reuse.

The Shuttle Orbiter will have plenty of cargo room and lifting capacity. The cargo compartment will be 15 feet in diameter and 60 feet long. Loads weighing up to 65,000 pounds can be carried.

This means that Shuttle payloads will not have to be rigorously designed to save every possible inch or ounce, as at present. They can be designed instead for easy assembly, check out, and repair. They can use many more standard parts which have already been tested in the space environment and which are much cheaper and easier to procure than custom-made parts.

Moreover, since the ride into space in the Shuttle will be much smoother than on present rockets, payloads need not be so ruggedly built. And they can also be more simply built and "packaged" because they will be deployed and checked out in orbit by the Shuttle crew. They can be repaired on the spot if necessary (for example, if antennas or solar cell panels fail to unfold properly) or returned to Earth for repair.

It will be a completely new ball game for payload designers when the Shuttle begins operations—and for scientists who have often had to work for years adapting their instruments and experiments to the size and weight constraints, and who have sometimes seen years of effort lost because of a minor malfunction caused by the launch regime or revealed only when the payload became weightless.

But the advantages of the Shuttle go far beyond just getting less expensive payloads into the proper orbit in working condition, important as this is. Because the Shuttle, piloted by its crew will be quite maneuverable in orbit, it can rendezvous with payloads already in place to re-supply them, adjust or repair them, pick up film and data, or bring them back to Earth. This capability for bringing large unmanned observatories and laboratories back to Earth for refurbishment will greatly reduce their cost and thereby expand their use.

We did not realize when we set out to design a reusable Shuttle that one of its chief benefits would be reusable payloads. But that is the way it has worked out. The Shuttle's up-and-down capabilities have made it feasible to plan such payloads as a 120-inch optical telescope which can see, it is hoped, to the ends of the universe.

I can sum up this section on Shuttle savings by saying there is nothing mysterious or miraculous about them. They are the result of advanced technology being thoughtfully applied. The Shuttle simply takes advantage of 10 or 15 years of Apollo technology and experience, and updates and adapts it to practical use in Earth orbit. The Shuttle is the sort of normal, logical technological advance we should be making in many areas of our economy and national life.

I will summarize the benefits we expect from the Shuttle, as I did for Skylab:

As just explained, the Shuttle will save more than $1 billion per year in launch costs and payload costs.

The Shuttle is also much more versatile than present rockets. It is a transportation system to orbit, in orbit, and back to Earth. With the Spacelab module as a payload, it will also facilitate a wide variety of manned operations and scientific work in space at reasonable cost.

It will be a great boon to scientists and other users because it will greatly reduce the lead time and cost of preparing their experiments and permit them to accompany their experiments to orbit when necessary. (Any person in good health will be able to stand the moderate three "G" forces generated during Shuttle launch and reentry. And the Spacelab will have a "shirtsleeves" environment.)

The Shuttle wipes out the longstanding argument whether we should emphasize man's role in space or automated spacecraft. The Shuttle makes it highly advantageous to use both men and machines.

The Shuttle will be used for both science and practical benefits in Earth orbit. It will open up new opportunities such as space manufacturing.

The Shuttle will give us a space rescue capability at all times and at reasonable cost.

The Department of Defense has important uses for the Shuttle and strongly supports its development by NASA.

The Shuttle calls for significant advances in aerospace technology. For example, Shuttle use of hydrogen as a fuel is an important step toward what has been glowingly described as the low-pollution, high-energy "hydrogen economy" of the future. Global transports of the future may draw on other Shuttle-advanced technology.

Like Skylab, the Shuttle initiative of the United States greatly encourages and facilitates international cooperation in space. This has already been demonstrated by the European readiness to invest $300 to $400 million in Spacelab module design and development. Opportunities for expanded international use of the Shuttle and Spacelab are literally unlimited.

The Shuttle is the key to America's bright future in space. There is no substitute for it as the lead project and focal point for developing space technology and space uses in this decade.

We have made hard decisions—and correct decisions—in giving the Shuttle priority. We have designed it well. I am sure this country will be as proud of the Shuttle as it was of Apollo. And the benefits should be much greater over a longer period of time.

If anyone still has doubts about the reality of these benefits, I suggest he consider the implications of the recent European decision to commit more than $300 million to Spacelab development. As I said in recent Congressional testimony, this decision follows extensive and careful evaluation and indicates a growing consensus among the foreign scientific establishments that space exploration is entering a mature phase that will yield significant benefits on a routine basis. The affirmative European decision on Spacelab, after confirmation by their own competent independent technical personnel, represent a conviction at the highest levels of their governments that there will be large returns from the Shuttle.

IMMEDIATE SAVINGS

We have only been knocking on the door of space with today's rockets. The Shuttle will open the door wide. With the Shuttle, Earth orbit will become a new home and work place for man, just as the land, and the oceans, and the airways are today. The covered wagon and the railroads were not just transportation systems of their day—they helped earlier generations of Americans open a continent. In similar fashion, the Space Shuttle will open the new realm of near-Earth space for all mankind.

And what is that worth in terms of 1971 dollars? It is difficult to say, of course, but it seems clear to me that it will be worth the investment we plan to make in the Shuttle ($8 billion over two decades) many times over. And I would not like to contemplate the real cost to our society of not accepting this challenge.

The Shuttle will produce immediate savings when it comes into use; but it is essentially a long range investment.

For example, we could not begin to think of obtaining solar power from collectors in space without the Shuttle; we cannot hope to unlock the still hidden energy secrets of the Sun and stars without improved space observatories launched by the Shuttle; we cannot hope to develop the tools for better management of natural resources and protection of our environment on a global scale without manned and unmanned Earth observatories launched and serviced by the advantages of a "hydrogen economy" in the future unless we are willing to support such important steps toward that future as the hydrogen-fueled Shuttle.

In short, there is no new frontier in space for America and for mankind without the Shuttle.

All of our cost/benefit studies show the Shuttle a very worthwhile investment. Even if they did not, I would say we should build it. We cannot run spaceship Earth without it.

NASA's belief in the Space Shuttle has been shared by the President and by a strong bipartisan majority in the Congress. We are now moving into Shuttle development, and moving along well. With continued support from the American people, the Shuttle era will open on schedule, and space will be open to us, too. The future is promising for both mankind and technology.

"THE ADVOCATES" DISCUSS FEDERAL OIL AND GAS CORPORATION

Mr. HRUSKA. Mr. President, last Thursday evening, the popular National Educational Television program, "The Advocates," discussed, as the final program in a three-part series on the energy shortage, the question: "Should the Congress create a Federal oil and gas corporation to compete with private industry?"

The Advocates were former Senator Fred Harris of Oklahoma who argued for such a corporation and former Under Secretary of the Treasury Charles Walker who argued against. Witnesses for the proposition were Senator STEVENSON, of Illinois, and Lee White, former Chairman of the Federal Power Commission. Witnesses against the proposition were C. Jackson Grayson, dean of the School of Business at Southern Methodist University and former Chairman of the Price Commission, and John Swearingen, chairman of the board of Standard Oil of Indiana.

For those of us deeply committed to the notion that the United States is founded on the free capitalism system and who have great difficulty understanding that the Government can operate an industry better than can free enterprise, it was not much of a contest: The "no's" won overwhelmingly.

But there are, obviously, those who think othewise, even among the membership of the U.S. Senate.

Therefore, Mr. President, in order that the Senate and the readers of the CONGRESSIONAL RECORD can have the benefit of this stimulating discussion, I ask unanimous consent to have printed in the RECORD a transcript of the program as broadcast on the evening of January 24.

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

ANNOUNCER. Good evening, ladies and gentlemen, and welcome to The Advocates, the PBS fight-of-the-week. Tonight's debate is coming to you from Boston's historic Faneuil Hall. Moderator Evan Semerjian has just called tonight's meeting to order.

EVAN SEMERJIAN. Good evening and welcome to The Advocates. Tonight we present the final program in our series of three debates dealing with the energy crisis. Our question examines whether a major industrialized nation such as ours should rely entirely on private industry to meet its crucial energy needs or whether government should play an active role in energy production. Specifically, our question is this: Should Congress create a federal oil and gas corporation to compete with private industry?

Advocate Fred Harris says yes.

FRED HARRIS. Oil and gas shortages and high prices and high profits have gone hand-in-hand with too little competition. Here with us tonight to say what can be done about it are Senator Adlai Stevenson of Illinois and Mr. Lee White, former chairman of the Federal Power Commission.

[Applause]

SEMERJIAN. Thank you. Advocate Charls Walker says no.

CHARLS WALKER. What we need most today to solve our energy problem is greater supply, and soon. A federal oil and gas company can neither produce nor encourage that supply. Private industry can. And to prove this tonight I have with me as witnesses Mr. C. Jackson Grayson, Dean of the School of Business at Southern Methodist University; Mr. John Swearingen, chairman of the board, Standard Oil, Indiana.

[Applause.]

SEMERJIAN. Thank you. First, I'd like to welcome back our two advocates, Fred Harris is an author and former United States senator from Oklahoma, and Charls Walker was Deputy Secretary of the Treasury in the first Nixon administration and is now a Washington consultant. We'll begin our debate in just a moment, but first a word of background on tonight's issue.

The proposal for a federal oil and gas company to develop energy resources on public lands was first made in 1969 by Lee White, the outgoing chairman of the Federal Power Commission. It took the form of legislation last fall in a Senate bill sponsored by Adlai Stevenson III of Illinois. In the intervening years, Americans have begun to experience fuel shortages for the first time since World War II. Some blame the problem on overregulation by government, while others blame the oil companies and a lack of government involvement. In the words of its sponsors, a federal oil and gas company would secure adequate supplies at reasonable costs to the consumer and provide a yardstick against which the public could measure the costs of private oil production.

The government would be empowered to develop up to 20% of the gas and oil on public lands. These include roughly 700 million acres in the West and one billion acres off shore on the continental shelf. The rest of the public lands could be leased to private companies who would compete with the government-run company.

And now to the cases. Senator Harris, why should Congress create a federal oil and gas corporation to compete with private industry?

FRED HARRIS. Thank you, Mr. Semarjian. The free enterprise idea is the basic strength of the American economy. But today in the oil industry, free enterprise and competition don't operate freely because the oil companies, the big oil companies have too much control. They work together in production, in refining, and in marketing.

Many Americans today, probably most Americans, are having trouble buying heating fuel or filling up their cars with gasoline and paying for it, if they can, but oil companies profits are up. They fight environmental measures and they enjoy all sorts of special tax privileges. They get away with this because you and I allow it to be done, even though we, on our public lands, own the vast majority of the still-remaining oil and gas reserves.

It's like it used to be with electricity. That was a monopoly, and what did we do in that case? We did just the kind of thing that we propose tonight. We want to set up a federal oil and gas corporation to develop and manage up to 20% of the public lands, to buy competitively in the world crude oil market, and to sell to independent refiners who are now being, as you know, squeezed out of business.

That's nowhere near a total answer, but it's one essential step. America can have a competitive and pluralistic oil and gas system, and here to tell us how that can be done is Senator Adlai Stevenson of Illinois.

[Applause]

HARRIS. Senator Stevenson has been holding hearings on oil and gas policy.

Senator, why is the oil and gas industry different from other industries in America, and why do we need your federal oil and gas corporation?

Senator ADLAI STEVENSON. It's the nation's largest industry. It's a heavily concentrated industry. The major oil companies within this industry control the production of oil. They control the production of gas. They control the refining. They control the pipelines. They control now increasingly the marketing of petroleum products, having taken advantage of the shortage to cut off supplies to the remaining competition in the industry, the independent marketers. It's concentrated. It's vertically integrated. It acts through joint ventures, through exchange agreements, through interlocking boards of directorates. It acts in league with foreign governments. But what makes the . . .

HARRIS. May I just say on that that with that kind of control—I believe over 50% of the crude oil production is controlled by eight companies; over 50% of marketing of gas is controlled by eight . . .

Senator STEVENSON. Oh, it's much more than that. 93% of oil production is controlled by the 20 largest oil companies. The largest eight companies control 69% of the nation's uncommitted gas reserves.

HARRIS. Now you were about to say, then, something about its unique quality, in addition to that.

Senator STEVENSON. Well, you see degrees of concentration in various industries, but there is no industry more vital than this industry. It's the commodity of this industry that makes it unique. That commodity is essential to every farm, every home, every business, every public service, even the nation's defense. I think that, more than anything else, the essentiality of that commodity—energy. And in these times of short supply, when a heavily concentrated industry can extort almost any price . . .

HARRIS. Well, are they profiteering from this kind of non-competitive control?

Senator STEVENSON. Well, we estimate in the Senate Commerce Committee that income is flowing from consumers to producers and marketers of oil at an annualized rate of about $25 billion in 1973. That's a very conservative estimate.

Now, Mr. Swearingen has been asked and said that the price of gasoline in the United States will rise 10 or 15 cents in 1974. For every penny, for every one cent that this industry increases the price of gasoline, the cost to the consumer goes up by one billion dollars; 10 to 15 cents, 15 billions. And that's just for gasoline, just one of many commodities marketed by this industry.

HARRIS. Well, what do you propose, then tonight, that we do about that?

Senator STEVENSON. I want to preserve the free enterprise system, but any nation with its sanity would recognize at this point that it cannot leave itself to the whims of one industry. No other nation in the world does so, only this nation. This is also the nation's most pampered industry. It enjoys tax credits against royalties that it pays to foreign governments. It enjoys a depletion allowance. It has until recently enjoyed import quotas. And in spite of it, in spite of all the incentives and benefits this pampered industry has received from its government, it has left the country in a lurch; it has left us without sufficient refining capacity, without sufficient domestic production, and now with very, very high prices, as well as the shortages.

Now, a federal oil and gas corporation would serve several purposes. One, it would . . .

SEMERJIAN. Make this very brief, Senator.

Senator STEVENSON. . . . go into the public domain to develop the public oil and gas resources, and that's where most of them are. And the naval petroleum reserves alone, it was estimated just this week by the Deputy Director of the Office of Naval Petroleum Reserves, there is $240 billion worth of oil. I want to see that oil developed for the benefit of the oil—of the public, the owners of that oil, and not for the benefit of companies which are fattening on a crisis that they helped create. And I also want to see a free enterprise system maintained, and this corporation would bring competition to this industry and head off the days when nationalization or regulation of the industry come about.

SEMERJIAN. All right, Senator, let's go to Mr. Walker now, who I think is eager to ask you some questions.

WALKER. Senator Stevenson, you would agree, would you not, that as far as domestic energy is concerned, the number one problem, the number one goal of public policy is to get an adequate supply of fuel flowing to the people who need it at the lowest reasonable price as soon as possible? Is that correct?

Senator STEVENSON. Yes, plus, of course, conservation measures and others. But that's certainly important.

WALKER. All right, now we will get back a little bit later to your allegations about monopoly and concentration in the industry. They are allegations. I regret that you didn't get to describe your bill a little bit more because I want to talk to you about the bill and what it would do with respect to this problem that confronts the American people. But one of its central provisions, is it not, is to provide authority, or what I will call, instead of the federal oil and gas company, FOGCO, if you don't mind. It provides authority for that corporation to preempt the most promising 20% of federal petroleum leases, leases on federal land. Now, the experts tell us that the recoverable oil on such tracts is probably within that 20% limit, and the other 80% may well be worthless.

Now, isn't it quite clear that this authority for your national oil company is, in effect, to take the cream off the top and as a result, be a tremendous disincentive for private petroleum companies to bid for developing the remaining 80% that's not all that good?

Senator STEVENSON. Judging from the profits of the industry, they're trying to be plenty of incentives in the future to bid on public properties and the price could come down if we adopted what we call royalty bidding—I'm sure you're familiar with it—instead of the present cash bonus system. There'll be plenty of incentives. And besides, why shouldn't the cream of the crop, the best leases be developed for the benefit of their owners?

WALKER. What would the incentive for Mr. Swearingen's firm come from to bid on a tract a land on which the probability is there's no petroleum? I mean the federal oil and gas company would have it all by itself.

SEMERJIAN. When you're referring to Mr. Swearingen's firm, what are you referring to?

WALKER. Standard, Indiana.

Senator STEVENSON. Well, you've put your finger on one of the problems. The oil and gas industry knows far more about what the government owns in the way of oil and gas resources than the government does. Like most everything else, it controls the facts in this industry. This corporation would give the government a means of going into the public domain and finding out what is there before it's leased out or given away to the oil and gas industry.

WALKER. Senator, I hate to press this point, but I'm trying to find out if not, doesn't this 20% off-the-top skimming of the cream mean that competition for public lands will be reduced? And if that is indeed the case, which seems obvious to me, doesn't it means that FOGCO will have the lands, it will take it over five years to get going, and what will it do? Just sit on the oil for that five years while the people need it?

Senator STEVENSON. Mr. Walker, somewhere between 60 and 70 percent of the nation's oil and gas resources are in the public domain. Of that enormous resource, only now about 2% is leased out. There's going to be plenty of oil and gas resources in the public domain for this corporation and for private industry.

WALKER. And you and I know why that hasn't been leased out. In other words, the federal government over the years, the past 10 or 20 years, has been very, very slow indeed in putting these lands up for auction, these offshore lands. That's one of the major problems. The oil companies have been eager to do it, but Uncle Sam hasn't been willing to put it out there.

Senator STEVENSON. No, and I think we should move faster, and in this case not for the benefit exclusively of the oil companies, but for the benefit also of the American public.

WALKER. We agree that we should move faster. Now, FOGCO gets this 20%. They don't have the facilities; they don't have the geologists; they don't have the necessary wherewithal to develop it. They either sit on it for a period of several years till they develop, or, it seems to me, while unemployment is rising, the economy's getting worst off, or they hire the private firms to come in and do the job for them, correct?

Senator STEVENSON. Yes, there'll be plenty of public resources available for exploration by the industry, and to the extent the public corporation developed, it would, to start with at least, do it under contract with private companies.

WALKER. But these are the firms that you say are in a highly concentrated, monopolistic, collusive industry that engages in joint ventures and exchange agreements, and by the nature of the case, they would be the ones that are developing this.

Now, your colleagues in the Senate. . . .

Senator STEVENSON. No, sir; I'm talking about drilling companies, the geological services. I'm not talking . . .

WALKER. The oil industry.

Senator STEVENSON. . . . necessarily. But it could enter into joint ventures with Exxon. But services would be granted, in most cases, by other companies, drilling companies . . .

WALKER. In other words, you recognize the value of a joint venture in your bill and so it's okay, but it's not okay if it's done between—done on the outside.

SEMERJIAN. Let's go back to Mr. Harris for a question.

HARRIS. Senator Stevenson, isn't it one of the points that this federal oil and gas corporation could sit on known reserves while a company would have to produce them, and we could use foreign oil when we could get it and save ours?

Senator STEVENSON. It would become a supplier of last resort in a sense. It would sit on them. It would go in and develop these properties, drill the wells so that they were available when they were needed. As it is now, where the oil companies in some cases go in and drill them and they sit on them waiting for higher prices, this company would make oil and gas available for the public whenever it was needed, including for the nation's defense.

SEMERJIAN. Okay, Mr. Walker, back to you.

WALKER. We need those wells now, Senator. But we've heard charges tonight from you about excessive profits, manipulated shortages, monopolistic practices. What provisions of the FOGCO bill restrict profits of the oil companies or make interlocking directorates illegal and so on?

Senator STEVENSON. No, it is not addressed to the illegality of interlocking directorates. They are already made illegal by the Clayton Act and I have sought enforcement of that law by the Justice Department.

WALKER. Then it's not addressed to the here and now.

Senator STEVENSON. It could, in addition to creating competition in the production of oil, also go into the refining. If it was necessary to go into the refining of oil in order to supply independent marketers in competition with the majors, it could do that. It could create competition at the production, at the refining and also at the marketing levels.

WALKER. And it may be 10, 15, 20 years down the road we would begin to see some benefits for the poor consumer who can't fill up his car now or heat up his home now, today, this year.

Senator STEVENSON. Maybe two or three.

SEMERJIAN. All right, thank you, Mr. Walker. Senator, I want to thank you very much for being with us tonight.

[Applause]

HARRIS. Senator Stevenson has pointed out the kind of lack of competition there is in oil and gas, but it goes even further than this. The major oil companies also have special relationships with the big banks, like Chase Manhattan. These big banks and the big oil companies, such as Standard Oil of Indiana, interlock and interwine almost like spider webs. You, as the consumer, have very little chance against that kind of cooperation, rather than the kind of competition that we believe in, and our next witness in that regard is Mr. Lee White.

[Applause]

HARRIS. Mr. White is the former chairman of the Federal Power Commission and now chairman of the Energy Task Force of the Consumer Federation of America.

Mr. White, we used to think that America was oil rich. Are we now oil poor?

LEE WHITE. No, we've got an awful lot of oil and gas in the United States. The oil is somewhere in the order of 500 billion barrels, and we use less than 50 billion a year. We have somewhere around 2000–2400 trillion cubic feet of natural gas, and last year we used about 22 trillion. So, you see, we do have plenty of oil and gas. Our trick is to find it and to get it out and to the people.

HARRIS. What portion of that—those vast

reserves are owned on the public lands, our lands?

WHITE. Well, we don't know for sure, but the figure is certainly over 50%, probably close to 75%.

HARRIS. Who's the authority for that?

WHITE. These are government figures. It comes from the Geodetic Survey, and I think there is no serious dispute. There are a range of estimates—but that's—we can accept that, I believe.

HARRIS. Well now, if we have these kind of vast reserves right here in America, a big part of which you and I own, the public owns, why haven't—take natural gas, for example. Why haven't those reserves been developed and delivered?

WHITE. Well, there's more than one reason, but I'll give you a couple of very important reasons, in my view. One of them's already been alluded to, and that is a very poor job of leasing the federal property. The managers, the government, holding it for the people who own it, has simply not been good at it. And secondly, our tax policy has made it very, very attractive for the multinational corporations, the big ones, the giants—Exxon, Gulf, Texaco—to go abroad. And so, you see, we have drilling in the Middle East, Indonesia, off the coast of Ecuador, the North Sea, but we really need a lot of drilling in the United States.

HARRIS. What about the idea which you've proposed, and is our proposition tonight, the federal oil and gas corporation? Is that a radical or new idea, where you've got this lack of competition in an energy field?

WHITE. There may be some people who think it's radical, but I've got to tell you, it's fairly old.

HARRIS. Would that be primarily the oil companies?

WHITE. If I were in the oil business, I might think it was kind of radical. Forty years ago, TVA came into being, and it's done an excellent job. It was born in controversy and is not free of controversy now, but it's very efficient.

We've got 3,000 municipally owned electric systems across the United States. The people own the system; the people buy the electricity from it. We've got a thousand that are owned rurally by cooperatives in those most sparsely settled areas of the United States. And I don't think there's anything startling about it. In fact, we know full well that if the federal government hadn't assisted the people in rural areas with electric cooperatives back in the 1930s, it would have taken decades before they would have been fully electrified, as they are now.

So there's nothing really terribly innovative or startling about it. Moreover, it's being done in almost every major country of the world.

HARRIS. That gave us a pluralistic system in electricity. They got a small portion of it and some competition, and that's what we're talking about here.

WHITE. A lot of competition, and I think it's benefited everybody.

HARRIS. What about—the other side says it will take too long to get this federal oil and gas corporation going and develop new oil. What about that?

WHITE. Well, I think Mr. Walker's got a point. I don't know how to turn the clock back, and we'd started four years ago, we'd only have four years less to get to fruition. I think we ought to get started right away. It is not a panacea. There's no question about it. There are many other approaches that also ought to be considered. This is not mutually exclusive of other ideas.

HARRIS. It's not a total answer, but it's one step that you feel is essential.

WHITE. I think it's very essential.

HARRIS. Thanks, Mr. Harris. Mr. Walker, your witness.

WALKER. Mr. White, of course from our old textbook days, we know that electricity and other utilities are so-called natural monopolies, which is quite a different thing from the oil business. But we need this oil now. People are losing jobs. They're going out of work because we don't have enough fuel.

You've said publicly that this country must be prepared to face an energy deficit for the next 10 years. That varies a little with what you were saying when you were the head of FPC, but you've said that recently. Obviously, you believe this shortage is real. If so, do you agree that prices will rise in the next 10 years because of that shortage, even with FOGCO enacted?

WHITE. Yeah, I think that surely they will rise, but I think that there ought to be a controlled rise in the sense that they ought to be related to the cost of production. The thing that bugs people in the country today is that the prices have shot through the ceiling and we don't believe it costs more to produce the oil that we are using.

WALKER. Well, let's get back to this 20% issue that I'm afraid I didn't get too far with with Senator Stevenson in trying to find just what the implication of that is in the legislation. And as a matter of fact, in the hearings in December, Senator Stevenson stated that he might reconsider the 20% skimming of the cream off the top—that's my phrase. He didn't use that phrase—and maybe a random 20%. Let me ask you this. You are against nationalization of the oil industry?

WHITE. Certainly.

WALKER. But it is not true, then, with the 20% cream-of-the-top skimming provision, with no private company being able to bid on public land, that you have de facto nationalization for development of the public oil lands?

WHITE. No, I don't think so. I think one of the mistakes you've made is to assume that a maximum is also the absolute requirement. I don't know what that corporation will do. It will depend upon who is operating it, and I don't know that that corporation will necessarily take the top. It may . . .

WALKER. Well, wait a minute now. The legislation says 20% now; and we're debating the bill. Are you backing away?

WHITE. No, no.

WALKER. Would you go down to five?

WHITE. It says not to exceed.

WALKER. Would you buy random 20%? You know what I mean by random 20%?

WHITE. Yeah, I know what you mean by random. No, what I think I would prefer to do is—be to leave it to the administrators to determine how it wants to be done. And don't forget, this operation is going to be out in the public. We're going to have congressional committees.

SEMERJIAN. Excuse me for just one minute, Mr. Walker, would you explain what you mean by a random 20%?

WALKER. A random 20% would mean that you [technical difficulties] between FOGCO and the private companies. That's the way I would interpret a random 20%.

SEMERJIAN. Is that how you understood it, Mr. White?

WHITE. That's the way I understood it. That's right.

WALKER. And you're saying, then, that this bureaucrat—and believe me, they're good people. They work hard. But you're willing to delegate this decision to the head of FOGCO, a $42,500-a-year-man, to say whether it's 20, 19, 18 or 1?

WHITE. No, I think I'd let the Congress on it, too. This is going to be a public operation. This is going to be in a goldfish bowl. And I don't think that if this organization comes into being that it's going to kind of just float and decisions will be made in the dark. One of the benefits of this operation is that it will be public. We will know what it costs to produce oil and gas, and that's what we're striving for.

SEMERJIAN. Excuse me for just one second. Let me ask you something to clarify your position, Mr. White. You're in favor of the federal oil and gas corporation, I take it, because you don't think there's enough competition in the oil and gas industry. Is that right?

WHITE. Well, that's one of the reasons. There are others, yes.

SEMERJIAN. Is that the primary reason?

WHITE. It used to be the primary reason. I think the way that things are going today, there is one that is rivaling it, and that is the need to have a government agency which will take reserves and have them available so that when King Faisal turns off the spigot, I'd like to have somebody available to turn on a spigot. We ought to be willing to have a government agency, not a private corporation like Mr. Swearingen's, but a government agency that will find our reserves that the people of this country own and hold them for a time when we need them.

SEMERJIAN. But this proposal involves competition by a government organ against private companies. Isn't that right?

WALKER. Exactly. And we're trying to argue that it's unfair competition, de facto nationalization, and what it's boiled down to is that some bureaucrat that heads up this agency will have the power of life and death as to whether it's de facto nationalization. This is what I gather from your testimony.

SEMERJIAN. Is that your question?

WALKER. That's what I gather from your testimony. Am I correct?

WHITE. Not quite. You're wrong.

WALKER. Not quite, I'm wrong. Okay. Show me where I'm wrong.

SEMERJIAN. All right, let's go to Mr. Harris.

HARRIS. The present situation is that a few corporate executives make that decision purely for private profit, don't they?

WHITE. That's right. And there's nothing wrong with that. That's the way it's supposed to be.

HARRIS. Sure, but we think there ought to be a public interest involved here as well, don't we?

WHITE. Somebody ought to be looking for oil and gas because we need it, not to maximize profit.

SEMERJIAN. Let's go back to you, Mr. Walker.

WALKER. Mr. White, I repeat a question I gave to Senator Stevenson. It's awfully important, the allegations there. We've heard charges tonight about excessive profits, manipulation, shortages, monopolistic practices. Does FOGCO directly in any way, in the draft that I have seen and you have seen, correct these practices?

WHITE. No.

WALKER. Thank you very much.

SEMERJIAN. You can have another question if you want it, Mr. Walker.

WALKER. No, I'm perfectly satisfied.

SEMERJIAN. All right. Well, thanks very much, Mr. Harris, for being with us tonight—Mr. White.

[Applause.]

SEMERJIAN. We have Mr. Harris right here. Go ahead.

HARRIS. I wish the other side would tell us how you nationalize public property. These reserves are ours already.

The rich giant oil companies, like Standard Oil of Indiana and others, they fight enforcement or strengthening of the antitrust laws, they fight measures to protect the environment, they fight efforts to make them pay their fair share of taxes, they want more and more profits, less and less taxes, while they gobble up more and more of this property that's already ours, these public lands with these vast oil and gas reserves. That belongs to us. You and I ought not to let them get away with it.

[Applause.]

SEMERJIAN. Thank you. For those of you in our audience who may mave joined us late, Senator Harris and his witnesses have just presented the case in favor of Congress creating a federal oil and gas corporation to compete with private industry. And now for the case against. Mr. Walker, the floor is yours.

WALKER. Thank you very much, Mr. Moderator. FOGCO is suggested as a yardstick to measure the performance of private oil companies, but it will be years before it can do that job, and even then, it will distort the picture while in fact discouraging development of our valuable resources. The federal government had a lot to do with getting us into this mess in the first place, and FOGCO can not only not solve these problems, it will make them worse.

Our U.S. private oil companies, on the other hand, have a long-term record that is unmatched in the world for bringing this nation plentiful energy at low prices, so much that we became wastrels of energy. They can produce what we need now to protect your job and your standard of living. This proposed national oil company cannot.

Now make no mistake about it, the stakes are very high. They involve no less than your job, the value of the dollars in your pocket, your standard of living, whether you can get oil for your car, fuel to heat your home. To help prove this case tonight I call as my first witness Mr. C. Jackson Grayson.

[Applause.]

WALKER. Mr. Grayson is Dean of the School of Business at Southern Methodist University and former chairman of the Price Commission in Phase II.

Dean Grayson, the proponents of the Stevenson bill argue that the public owns the petroleum resources on public land and therefore it is only common sense that the public, through the government, should develop and market those resources. Why shouldn't we rely on private industry to do the job? Why should we rely on private industry to do the job?

C. JACKSON G. GRAYSON. Well, the question really is does the public have an interest? Certainly the public has an interest. The public has an interest in all public and private corporations. All private corporations have public charters. The question that we're concerned with tonight is what's the best way to get these oil and gas reserves the quickest and the cheapest, and the private enterprise system, I think, has proven that's the best way.

WALKER. Well, that's all very good if the private industry is truly competitive, but we've heard a great deal tonight to the effect that the petroleum industry is so concentrated that it almost deserves the description of being a monopoly. What do you think about that?

GRAYSON. Well, one, concentration doesn't equal monopoly. We have a lot of concentrated industries in this nation. We have automobiles; we have steel; we have rubber tires; we have coal, meat-packing—a number of concentration [sic]. And concentration doesn't mean that we have monopoly.

Now, we looked at this in the Price Commission when I was chairman, and we found that the price increases in the nation were the lowest for the concentrated industries and were higher for the unconcentrated industries. The thing to look at is performance. What are the profits? That'll tell you whether there's a monopoly. If there's a monopoly, you'll have monopoly profits.

The profit record of the oil industry is lower than all manufacturing industries combined in the country for the last 10 years, bordering on 7% return in 1972.

WALKER. 7% on capital. Well, let's be specific. Although Senator Stevenson would allow joint ventures in his bill, he's severely joint ventures and exchanges agreements in private industry. Would you comment on that?

GRAYSON. Well, joint ventures are a natural way for the industry to conduct operations.

WALKER. What is a joint venture?

GRAYSON. A joint venture is where several companies join together to go into a very risky venture, such as the pipeline, or very high-risk lease or anything else. It's a natural way to do business, and I think the Stevenson bill would even say let's do that also in this company.

WALKER. The proponents of FOGCO argue that on the one hand the private petroleum companies are understandably and profitably motivated to make a profit for their stockholders, but that FOGCO would be solely motivated to serve the public. Is making a profit inconsistent with serving the public interest?

GRAYSON. I hope not or our system will change from free enterprise to one of national socialism. Profits serve the public interest. The profits are there to help drive the system. That's free enterprise. Profits encourage risk-taking, they encourage efficiency, and I think that they will—and get the capital that's necessary. If we don't have profits, you don't have the money to go out and find out the oil and gas, which is what we desperately need.

WALKER. Dean Grayson, you're testifying as a general expert tonight on the business system and economics, and you have your Washington background also, but you've studied this bill and heard the views presented. Do you agree that FOGCO can do this job depicted?

GRAYSON. I don't think it can do the job that it's been represented to do. I think it's going to have a difficult time operating in the goldfish bowl that was described. They're going to be subject to all kinds of political pressures. I know because I was in Washington. People are going to be at them as to where to locate this refinery—in the East or the West or the South.

Think about the man who has to make the decision in this corporation to drill a $10 million, perhaps, dry hole. He's going to have risk-avoidance behavior, and you need risk-taking if you're going to go out and get the supplies.

WALKER. In connection with oil companies as such, what about the experience abroad—these people have made quite a case about foreign-owned oil companies—what about the experience abroad and foreign ownership of business in general?

GRAYSON. The record is poor compared to this country. This nation has the highest gross national product of any nation in the world, and the private enterprise system helped put it there. We have the highest standard of living, and private enterprise put it there.

Now, in records with petroleum, take a look at the world and see what the petroleum industries have done in other nations. Yes, other nations have petroleum industries. The one in Italy is on the borderline of being bankrupt. The one in France does not have a good record—$560 million shortfall. Who did the Arabs send for to come develop their oil? Us. Who did they come in Russia? Russia sent over to the United States. Why? Because the expertise is generated in this country. The North Sea is largely developed by the American private enterprise system.

SEMERJIAN. All right, thanks very much. Let's go to Mr. Harris.

HARRIS. First of all, Dean Grayson, just on that last point, you say the American oil companies dominate Russia's and everybody else's oil business. It seems to me that's exactly our case. We need a little bit of competition here.

GRAYSON. I don't think they dominate Russia's system yet.

[Laughter and applause.]

HARRIS. You say they've got to come and get our expertise. I don't mean they dominate the system, as you quite well know I didn't mean that. You say they've got to come get our expertise. They're dependent upon the American oil companies.

GRAYSON. Because this is where some of the expertise is, so it's a natural resource.

HARRIS. But I want to ask you something more serious. You wrote last month in the Harvard Business Review something I agree with very strongly, and that is what we ought to have is more competition and less government regulation and less dependence on that, but you also said—you can change your mind on this—consciously and unconsciously, businessmen themselves are adding to the probability of greater centralization by seeking ways to reduce market competition.

That's true, isn't it?

GRAYSON. That's true. Sometimes businessmen themselves are going to seek too much government protection, and every time the government gets into an operation, generally speaking, it results in higher prices.

HARRIS. Now, you said a while ago, too, that in the oil industry you weren't alarmed about the concentration, but you said last month that you didn't know about that and our internal studies did not provide—well, he says this, it said it's still unclear—you weren't convinced just last month—still unclear whether large corporations have sufficient power to control markets, reduce competition, and administer prices. You say it's unclear. We think there's evidence. And you said we did not have sufficient time to make a full study of this issue.

GRAYSON. Of the entire spectrum of all industries in the U.S., what I've said a minute ago is that I find the general bulk of the price increases were at the low end on the concentrated industries.

SEMERJIAN. Dean Grayson, let me ask you a question to clarify something. I take it you're against the proposal for a federal oil and gas company as a means of improving competition. Am I right?

GRAYSON. Yes, I am.

SEMERJIAN. Let's assume for a moment that there isn't as much competition in the oil and gas industry as there should be. How would you improve competition in the industry?

GRAYSON. One, I'd get the government as far out of the industry as you can. I think if you wanted to make a scenario of how you increase the shortages in this nation, look at what they have done to the lease sales, as was testified, look at what they have done to the environmental controls . . .

HARRIS. Would you stop import quotas?

GRAYSON. Import quotas?

HARRIS. Yeah. The oil companies have had these import quotas until very lately. No import quotas, no tariff controls?

GRAYSON. No, no. It doesn't mean you wouldn't have any government regulation. You need some.

HARRIS. Would you take away all their tax advantages, particularly that tax credit that encourages them to explore abroad? Would you get the government out of that kind of . . .

GRAYSON. I think the whole question of tax credits or favors for the industry need to be examined. I don't say they should be taken away with, but they certainly ought to be studied.

SEMERJIAN. By tax credit, let's get one thing clear, you're talking about the dollar-for-dollar deduction against American taxes of the tax royalties paid to foreign countries. Is that right?

HARRIS. Well, yes. If you lease from my dad in Oklahoma, you pay him a royalty, you don't get to credit that against your tax. If you pay King Faisal for that royalty, that reduces dollar-for-dollar what you would otherwise pay in federal taxes. Now, do you favor that kind of free market, free enterprise system?

GRAYSON. The Congress is studying right

now whether or not these things should be continued, and I think they should study it.

HARRIS. They certainly should study it.

GRAYSON. But the federal oil and gas corporation is not an answer to that question.

HARRIS. So you advocate getting rid of a lot of those kind of government special favors, at least taking a look at them. You seemed to advocate them in your article last month. You also advocate vigorous enforcement of antitrust laws, which goodness knows . . .

GRAYSON. Yes, I do.

HARRIS. You even advocate changing the antitrust laws, perhaps, making them tougher.

GRAYSON. No, I did not. I said that we ought to take a look at the antitrust laws to see if they should be made tougher or not. That's a difference.

HARRIS. Okay, a lot of us have already taken—at least you've said take a look at them. That's one more change.

GRAYSON. That's not a change.

HARRIS. Well, that's one more thing you think might ought to be done. But we're talking about something—that's way off in the future. We are talking about something right now. This federal oil and gas corporation, admittedly not the total answer, but a piece of the answer, it could go right out now on the world market and buy oil and gas and sell it—crude oil and sell it to a refinery that can't buy from a major company. Isn't that so? That's something that could be done right now, not all these other things you're talking about.

GRAYSON. So can the refineries, so can the private companies.

HARRIS. What if the refinery can't get any gas from the crude oil—or, get any crude oil from the major companies? That's exactly the finding of the Federal Trade Commission. Do you dispute that?

GRAYSON. I don't know what the finding was.

HARRIS. The Federal Trade Commission said that one of the big problems is that the majors won't sell to these independents. They can't get any crude oil. Now what would you do about that?

GRAYSON. Is the federal oil and gas corporation going to expropriate therefore and deliver it to the system? You're certainly going to have a nationalistic company if that starts to take place.

HARRIS. Can you think of anything right now that the federal government can do to tell an oil company anything? It can beg; it can plead. It's not involved in the negotiations, is it, in the Middle East? It can't do anything but plead. But the federal oil and gas corporation, just a little piece of it—it wouldn't have very much of it—it would be some competition. Is it not like the electricity industry?

GRAYSON. No, it's not the same as the electricty industry.

The electricity industry is a natural monopoly.

SEMERJIAN. Let's go back to Mr. Walker.

WALKER. Dean Grayson, if you feel like I do, as sort of a Washington Irving character or watching the Late Show and the body's over here and the head's over here, the arguments are in this direction and the solution is out somewhere else, well, you'll understand how mixed up I feel in connecting their case together. And I hate to keep making their case, but they make the case that there's a strong argument that this would provide a yardstick to measure the efficiency of the private oil companies. Is that true, in your judgment?

GRAYSON. No. This company, as proposed, would get 20% of the cream of the leases. It would have a half of a billion dollars interest-free. It would have its debt guaranteed, unlimited borrowing capacity. How can you compare that to the private enterprise system?

SEMERJIAN. All right, let's go back to Mr. Harris.

HARRIS. The generation and transmission of electricity is not a natural monopoly. Do you agree to that? The distribution is. That's what you were talking about. Well, would you sell TVA to Con Edison? Or Bonneville?

We decided that was a kind of monopolistic situation and we ought to get into that.

GRAYSON. Yes, Mr. Harris, you know TVA was built for more reasons' than power generation—flood control, navigation, recreation, social uplifting, and a multitude of purposes, not just power generation.

HARRIS. Well, we want to do this for a lot of other reasons, too—protect the environment, preserve and manage our reserves, find them, get the right information. But the main thing was competition, isn't that so?

GRAYSON. No. If you really want to protect the environment and you want to have full disclosures. . .

HARRIS. On TVA now. What about TVA? Do you want to sell that to Con Edison? Do you want to sell the Federal Deposit Insurance Corporation to Prudential? Do you want to sell the space program to Lockheed? Are you against those kind of corporations?

GRAYSON. Are we debating whether or not we're going to have a private enterprise system or FOGCO? We're debating FOGCO, and FOGCO as such is not going to do the job as represented.

HARRIS. Just like TVA. What's the difference?

GRAYSON. No, TVA was not put in just to create competition.

HARRIS. Sure, sure . . .

SEMERJIAN. I'm going to have to interrupt. Dean Grayson, I want to thank you very much for being with us tonight.

[Applause.]

WALKER. I call as my next witness Mr. John Swearingen.

[Applause.]

WALKER. Mr. Swearingen is chairman of the board, Standard Oil Company, Indiana.

Mr. Swearingen, do we have an oil shortage?

JOHN SWEARINGEN. Yes, we do.

WALKER. Why do we?

SWEARINGEN. It's a combination of a very rapid and unexpected increase of demand as a result of the resurgence of industrial activity, of new regulations that have consumed energy in the power plants and the automotive pollution field. It's occurred because of the delay of the Alaskan pipeline, which nobody expected to be for five years, as it has existed. It's occurred because the federal government has refused to accelerate the leasing of the offshore lands. And finally, since we now import one-third of the oil that we use in this country, the most recent and most dramatic thing was the embargo imposed by the Arab states on the export of oil to the United States.

WALKER. Mr. Swearingen, I'm sure you're aware of the emotional state of the people, you watch the television and read the papers, you know the charges. What do you say about the charges that this shortage has been deliberately brought on by the oil companies so that they can make more money?

SWEARINGEN. This is absolutely false. Absolutely nonsense, utter nonsense.

WALKER. What, for example—if I go down to the corner to—AMOCO is the brand, I believe, that you market—if I go down to the corner to buy some AMOCO gasoline in Chicago, say, what will that cost me per gallon?

SWEARINGEN. It will cost you about 50 cents a gallon. Out of that 50 cents a gallon, about four cents a gallon is federal tax, about another eight cents a gallon is state and local taxes, and on that gallon of gasoline, our own company would make, after taxes, a little less than three cents a gallon.

WALKER. It sounds to me like Uncle Sam and the states are profiteering a little bit more off of this than you are.

SWEARINGEN. Well, there's some reason to believe that. Certainly their take is much higher than ours.

WALKER. Can the private oil companies solve the problem? Can you really get us more supply?

SWEARINGEN. Yes, I think we can, but the unfortunate thing is it's going to take a higher price in order to do this. In existing fields we don't recover anything like the oil that's present in the ground. It's like trying to wring a towel dry with your hands. There's no way to wring all the water out. So we have to inject water, we have to inject gas, we have to inject chemicals in order to get this oil out. It's a very expensive proposition, and it's going to take a higher price in order to pay for this kind of an activity.

In addition, if the federal government will accelerate the leasing of the acreage off shore, and to date they've only leased about 3% of the acreage held by the federal government, there's no question in my mind that the oil industry can develop in fairly short order some very substantial additional supplies of oil and gas.

WALKER. But why, as the proponents argue, why can't the government do as good or better a job than private industry?

SWEARINGEN. Well, I don't believe the government's been very good at doing any kind of a job they undertake to do, and we can talk about, the Post Office or we can talk about Amtrak or we can even talk about TVA. I think anybody who has ever tried to use a telephone abroad, as an example, have a pretty good idea of how well government operates things. And I don't believe that they could proceed rapidly enough to do a satisfactory job.

This particular bill, if I may just take a minute, this particular bill provides $50 million a year. $50 million sounds like a lot of money. Our own company, our own individual company is going to spend over a billion dollars in 1974 in looking for new sources of oil and gas, and we only produce 5% of the oil that's produced in the United States. To spend $50 million a year in this proposed federal corporation is not going to make any difference whatever in the next 10 or 15 years in the supply of oil to the public of the United States.

WALKER. Mr. Dean Grayson gave us an idea of some foreign operations abroad. You're obviously more familiar with foreign oil company operations, national companies. What are your comments on their efficiency and results?

SWEARINGEN. I think most of them have been very poor in their ability to find oil. As a matter of fact, I don't know of a single oil company owned by a foreign government that has found a major oil field in its entire existence, and this I mean a field that contains, say, a billion barrels.

SEMERJIAN. All right, thanks, Mr. Walker. Let's go to Mr. Harris.

HARRIS. Well now, Mr. Swearingen, you can't have it both ways. You can't say that this federal oil and gas corporation, which is going to have a rather small part of the whole business, is going to just run the oil companies out of business and take it over, and at the same time say they're so small they can't make too much of a dent. Now, which way is it? Are they going to be too powerful or not powerful enough?

SWEARINGEN. In my opinion, Mr. Harris, what they're going to do is preempt all of the prospective acreage off shore and sit on it because they don't have the money, they don't have the people, they don't have the incentives to develop the new oil and gas that can be produced from those lands.

HARRIS. But isn't the bigger problem about producing what we have right here at home something else? I believe your company, according to Standard & Poor—Standard Oil

of Indiana—has a 32% increase in profits this year over last, and a lot of companies were much higher than that, and isn't it true that the main reason why you've been putting your money into foreign oil, rather than into developing what we have here at home, is that you get a lot better tax break under the tax credit?

SWEARINGEN. Absolutely not. You don't know what you're talking about.

HARRIS. The major oil companies . . .

SWEARINGEN. You don't know what you're talking—do you want me to answer your question, Mr. Harris?

HARRIS. Sure, but do you agree—do you disagree that most of the companies have been putting more than 60% of their investment and development in foreign development?

SWEARINGEN. Why? The question is why. It's not for any tax breaks. It's because the federal government wouldn't put up for lease any acreage offshore California, offshore Louisiana, Florida, the East Coast of the United States. There was no place to drill here, to spend that kind of money. And our own company is an example. Went outside the United States trying to find some additional sources of oil and gas that we could bring into this country, and we've been successful in this in the North Sea and Trinidad and a number of other places, and are bringing this oil here to the United States today.

SEMERJIAN. Can I ask you a question to clear one thing up? Which is cheaper, Mr. Swearingen, is it cheaper to spend money abroad to find new wells or is it cheaper to exhaust the remaining supplies in wells already dug here?

SWEARINGEN. Well, I don't quite understand your question, Mr. Semerjian. After all, a 10,000-foot well drilled in 500 feet of water is going to cost about the same amount whether it's drilled in the North Sea or drilled in the Gulf of Mexico.

SEMERJIAN. No, no, no. Perhaps you don't understand.

SWEARINGEN. That's exactly what I said to you, I didn't understand.

SEMERJIAN. All right, let me make it clear. There are wells, are there not, in the United States which have been dug but not exhausted because it would be more expensive to take out the remaining two-thirds of the oil? Is that right or not?

SWEARINGEN. No, that's not correct. All of these wells are being produced at their maximum rates now, but you can produce them without bringing [unintelligible] of water and losing some of the ultimate recovery from the field.

SEMERJIAN. All right, well, perhaps I'm mistaken on that.

HARRIS. But on the tax credit, quickly, you will agree—surely you'll agree this is true, that if you pay a royalty payment to the landowner in Oklahoma, you don't get to credit that against your federal tax. If you pay a royalty in Saudi Arabia, that is a dollar-for-dollar reduction in your federal tax. Isn't that so, now?

SWEARINGEN. No, sir. That's not right.

HARRIS. Why is that not so? You disagree with every expert I've heard.

SWEARINGEN. Mr. Harris, I don't think you've studied your lesson and I don't think you know what you're talking about. After all, the federal government has tax treaties with almost all of the countries in the world with the purpose of avoiding double taxation. Any taxes paid to Saudi Arabia or to France or to England on business done in those countries are credited against taxes due on that income on that income only.

HARRIS. I said royalties.

SWEARINGEN. Now, just a minute. I'm trying to explain this to you and I hope you'll listen. . . .

HARRIS. I'm listening.

SWEARINGEN. . . . because I'm trying to educate you here.

[Applause]

SWEARINGEN. The royalties are not creditable against taxes otherwise due here. The taxes are creditable against taxes otherwise payable. But there is no way to offset taxes payable on income earned abroad against income earned here.

HARRIS. Well, that's a different question than I asked you.

SWEARINGEN. Well, I hope you understand what I've said to you.

HARRIS. I don't. I used to serve on the Finance Committee that wrote these laws, and I know the oil companies got a special ruling on that royalty to treat it as a foreign tax rather than as a royalty. Now that's true, isn't it?

SWEARINGEN. No, not to my knowledge.

HARRIS. All right, let's go into this. Did you oppose—we're talking about shortages. How did we get shortages? You say something, but the Federal Trade Commission and others say one of the reasons was that your oil companies opposed relaxing import quotas to let in foreign oil, after along about the '50s, until it was relaxed last year. Did your company oppose import quotas being relaxed?

SEMERJIAN. Make this a very brief answer.

SWEARINGEN. We certainly did, and I think you people here in New England ought to be delighted that we did, otherwise you might be dependent on the Arabs for 75% of your oil instead of 35.

[Applause]

SEMERJIAN. All right, let's go to Mr. Walker.

WALKER. I hate to be in the position of going back to making the opposition's case for them, but I didn't find anything in the bill about the foreign tax credit, and I want to get back to their arguments that they're making and ask you the same question I asked Dean Grayson. What about the idea that FOGCO will serve as the yardstick to measure the performance of your and other private companies?

SWEARINGEN. Well, the best way I can answer that is I think it will be absolutely useless for this purpose. The Federal Power Commission, for at least the last 20 years, has tried to measure the performance of gas-producing companies on a cost basis, and finally has given up as an impossibility. And to have a yardstick of this kind, particularly with the built-in advantages to this company that are produced in the bill, would be absolutely uselss in providing any information that would be helpful to the government or anyone else.

SEMERJIAN. All right, Mr. Harris, let's come back to you.

HARRIS. Well, is it true, now that the crude oil price is rising, that you have to begin to move to make more profit in sales and refining and that your company and a lot of others are carving up territory around the United States? The Federal Trade Commission says you're moving out of some areas; they're moving out of others so there'll be less competition. That's true, isn't it?

SWEARINGEN. No, sir, that's not true. Let me correct you on another statement that was made earlier here. There is no one company in our business that holds as much as 10% of the oil production, of the oil refining, or the marketing of oil products in this country. And to talk about a situation where there is no one company and where only as many as eight companies have only about 60% is no monopoly, the way I look at it. There's plenty of competition in this business, and there always has been in my 35 years of experience in it.

You talk about the Trade Commission hearings, these are charges and they're completely unsubstantiated and they're before the Federal Trade Commission now for a hearing that has not been adjudicated.

SEMERJIAN. All right, Mr. Swearingen, I want to thank you very much for being with us tonight.

[Applause]

SEMERJIAN. Thank you, gentlemen. That completes the cases, and now it's time for each of you to present your closing arguments. Mr. Walker, could we have yours, please?

WALKER. Ladies and gentlemen, one thing the proponents talked about tonight, to the extent they talked about their proposal, they're right about, and this is that the public lands and offshore tracts we've been talking about are just that. They are public. They belong to you and me. And there's a lot of oil and gas to be taken out of there. The question is who do you want to develop those resources? Who finally will give you and me the best deal? Who will increase our supply of fuel at the most reasonable price, at the quickest pace?

The record is clear. Private enterprise has done it and can do it. Our government can't do it. It can't do it efficiently. It can't do it imaginatively. And it cannot do it vigorously.

Great Britain knows this. They hired Mr. Swearingen's private company to help explore and develop the North Sea gas field. The Soviet Union knows this. They've invited several of our private oil companies to develop their vast Siberian reserves. And we should know it.

Moreover, there is nothing in this bill to deal with the alleged abuses, such as interlocking directorates, so graphically described to you tonight. A federal oil and gas company cannot solve our current shortages. In fact, its proponents don't even claim that it will. Moreover, it cannot do it efficiently in the long run either.

This is an old idea whose time has never come, and for good reason. Let's hope it doesn't ever come. Vote no on the proposition tonight.

[Applause]

SEMERJIAN. Thank you. Mr. Harris, could we have your argument?

HARRIS. We do claim that the federal oil and gas commission—corporation will have a great deal of impact on oil and gas supplies. The main thing to remember is that we, you and I, the public, already own most of the remaining oil and gas reserves in this country. Most of it's on our lands, the public lands. But at the present time, we are completely at the mercy of the giant oil corporations for the development of these public resources which we own. We're at their mercy on the world oil and gas supply and on the price we pay. And we're even at their mercy on the taxes.

You saw with Mr. Swearingen, he disagrees with the Federal Trade Commission. He disagrees with the Federal Power Commission. We can get the facts, but more importantly, we can begin to have some free enterprise competition in the oil and gas industry.

We've done this sort of thing many times before. We did it with the electric industry, which was also non-competitive. You and I, as taxpayers in that instance, and as consumers, were the winners when we got some competition going in the electric industry. And you and I, with a federal oil and gas corporation, will be the winners again with some competition going there for the first time.

[Applause]

RETIREMENT OF STEWART McCLURE

Mr. PELL. Mr. President, with great enthusiasm I wish to associate myself with the senior Senator from West Virginia, (Mr. RANDOLPH) in his expressions of praise for Stewart McClure upon his retirement as chief clerk of the Senate Committee on Labor and Public Welfare.

I have been a member of the committee for 13 years. In all those years

Stewart has been a strong source of advice and support. His knowledge of the Senate, its procedures and customs, is limitless, and his understanding of the nuances of legislative activity invaluable. However, I value Stewart McClure even more as a personal friend and adviser. He has always been one to whom I could turn, and whose opinions and views could be relied upon, and he is a friend who was of very real help to me before I was elected to the Senate.

I regret that we will no longer have the benefit of Stewart's careful attention to his responsibilities with us. I wish him well in his retirement, a respite from the arduous tasks which have been his daily care for 25 years of service in the Senate, and every success in any new endeavors he will undertake.

Stewart McClure's career exemplifies a dedication to the high principles and to the ideals and goals which should guide our Government. Imagination and keen insight are among his many attributes, and I feel certain that his experience and advice will be of abiding help to old friends who may seek through association with him to enhance their own knowledge.

UKRAINIAN INDEPENDENCE

Mr. BURDICK. Mr. President, this week Ukrainian-Americans throughout the country are jointly with their brethren living in the Ukraine to celebrate the 56th anniversary of Ukrainian independence. It is an important time for all those of Ukrainian extraction who continue their faith that some day their homeland will again be free. It is a time, also, for other Americans to be thankful that, in spite of our many troubles, we are still a free nation, able to determine our own destiny.

At this time, I want to salute the people of the Ukraine for their faith and their spirit in the face of oppressive conditions. I wish, also, to salute Ukrainians living in this country. They have contributed to our Nation with their culture, courage and their talents. I am proud they are my fellow Americans.

ANNE ARMSTRONG DESCRIBES BICENTENNIAL PLANS

Mr. HRUSKA. Mr. President, last Wednesday, January 23, I had the privilege of attending a luncheon at which Presidential Counselor Anne Armstrong spoke about plans for the Bicentennial. Her speech was of such significance I asked that it be printed in the RECORD.

Mrs. Armstrong, however, departed somewhat from her prepared text to discuss a meeting she had with the President the previous day to bring him up to date on Bicentennial preparations. I now have a transcript of that portion of her speech.

Since it provides us with some understanding of President Nixon's depth of commitment to the Bicentennial as well as his beliefs on what the Bicentennial should mean to every American, I ask unanimous consent to have these remarks printed in the RECORD. In addition, I request that the permanent RECORD be adjusted to reflect this addition.

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

REMARKS BY MRS. ANNE ARMSTRONG

I am going to depart from my text because I saw the President for about an hour yesterday, and mainly we talked about the Bicentennial. We took care of business first—where we were in the search for an Administrator, where we were in the search for representative Americans to serve on the Advisory Council, whether the budget was going to give us what we wanted in the way of Bicentennial programs. The President mentioned that we have lost a lot of time, and he urged me to get on with it, to make up for lost time. He said that one of the ways to make up for lost time was through communication—this is the first birthday where we've had instant communications. Another way to make up for it was through ideas that don't demand management by objectives, goals and time-tables. The President made what I think is a very important point about the Bicentennial. He said that we will be taking a long look backward, but it's even more important that we take a long look forward, that we have a rejuvenation of the American spirit, that we fulfill the promises of our forefathers that are, as yet, unfulfilled.

The President then gave a couple of examples of what we can do—how we can do a better job in the pursuit of happiness, as Jefferson called it, and what I think might be translated today as the quality of life. How can we finally realize the unfulfilled promise of equal opportunity in this country? We have so many problems to be solved, he said: energy, inflation, housing. But the great thing about this country is that they can all be solved. We are the premier country of the world militarily and, more importantly, diplomatically and economically; and we have done it in just 200 years. We have the natural resources, we have the human resources. Now all we need is the will to solve our problems. The President said that he thinks that is something the Bicentennial can help give to us—a regeneration of the Spirit of '76.

He raised another point, and emphasized this in the Cabinet meeting today . . . Americans have a tendency to think in short spans—a day, a month, a year. We often lack perspective. Europeans have a long history, and they think in long-range terms—25 years, 100 years and more. An older country or culture, such as the Peoples Republic of China, thinks in long-range terms. That is why he made the opening to the Peoples Republic of China. It was not for what it would mean to this country now or in five years, but in 25 years, maybe 15. And so, another thing the President hopes is that the Bicentennial will help Americans think in long-range terms. While we look back 200 years, he wants us, even more, to look ahead 200 years.

I share the President's feeling that how we commemorate this birthday can have a tremendous influence on the manner and spirit in which we enter our third century as a nation.

GOING SOMEWHERE FOR YOUR SINS

Mr. METCALF. Mr. President, I should like to call attention to an article by Stephen D. Isaacs in the Sunday, January 27, Washington Post, highlighting the lecture tours and fees of prominent newsmen.

In the article Mr. Isaacs quotes Art Buchwald extolling the joys of speaking to 60 or 40 or 50 people at "21" in New York City. It is "so beautiful because you can get such a great meal and you are out by 10 o'clock." But sad to relate he went on to say, "And then for your sins you have to go to Missoula."

I wish only to say to Mr. Buchwald and this distinguished company that for my sins I had to come to Washington, D.C.

PETER K. U. VOIGT RECEIVES SUPERIOR SERVICE AWARD

Mr. PELL. Mr. President, in the Education Amendments of 1972, there was established the basic educational opportunity grant program. This program, which will, upon full funding, provide a floor of scholarship aid for all individuals attending postsecondary education dependent, of course, upon their family income has been in operation for 1 year.

The Subcommittee on Education, of which I am chairman, has held 2 days of hearings on the implementation of this program, and I am thoroughly pleased and gratified at the alacrity and efficiency with which the Office of Education has implemented the language of the statute.

Therefore, Mr. President, it was with pleasure that I noted that on January 16, 1974, Mr. Peter K. U. Voigt, Acting Coordinator of the Basic Grant Program, was awarded the Superior Service Award by the Office of Education. On that occasion, I took the liberty of sending Mr. Voigt a letter which I ask unanimous consent to be printed in the RECORD.

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

JANUARY 21, 1974

Mr. PETER K. U. VOIGT,
Acting Coordinator, Basic Grant Program, U.S. Office of Education, Washington, D.C.

DEAR MR. VOIGT: I understand that you have been awarded the Superior Service Award by the Office of Education for your achievements in implementing the Basic Educational Opportunity Grant Program. I would like to extend my congratulations to you on this recognition of your accomplishments.

As a principal author of the Basic Grant Program, I have followed its developments with great interest. Due in large part to the efforts made by you and your staff, the program is now successfully aiding large numbers of students in postsecondary education institutions.

I would like to express my personal commendation of your achievements in making the Basic Grant Program a reality.

Ever sincerely,

CLAIBORNE PELL,
Chairman, Subcommittee on Education.

PROTOTYPE OIL SHALE LEASING PROGRAM

Mr. JACKSON. Mr. President, oil shale has long been recognized as a potential domestic source of an enormous amount of oil. In the past, it has not been technologically feasible or economically practical to develop oil shale reserves, the bulk of which are owned by the Federal Government. Furthermore, there are substantial environmental risks associated

with the mining and processing of oil shale.

On January 8, the Department of the Interior conducted the first of six sales of leases of federally owned oil shale. These six sales constitute a prototype oil shale leasing program designed to provide a new source of energy to the Nation by stimulating the development of commercial oil shale technology by private industry. The prototype program is designed to provide information which will help us to determine whether our 600 billion barrel oil shale reserves can be developed at acceptable economic and environmental costs.

The Committee on Interior and Insular Affairs has long been concerned about oil shale development and has held hearings on the subject for several years. Most recently, on December 17, 1973, the Subcommittee on Minerals, Materials, and Fuels, chaired by the distinguished junior Senator from Montana (Mr. METCALF) held a hearing on the prototype program and received a complete briefing from the Department. As a result of that hearing and the fact that the bonus bids received at the January 8 sale were much higher than anyone had anticipated, the chairman of the subcommittee and I wrote to Secretary Morton expressing our concern about the prototype program. We agreed that an experimental program is needed to develop answers to questions about the economical and technological feasibility and environmental impacts of oil shale development by various methods. However, we expressed serious doubts that the Department's program has built into it the kind of requirements and controls needed to assure that the program will in fact provide answers to these questions.

On January 22, Acting Secretary of the Interior John Whitaker replied to our letter. His reply indicated that the Department did not intend to revise the terms of the leases and would proceed with the leasing program as scheduled. I ask unanimous consent that the text of both letters be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. JACKSON. Mr. President, the Department's response, in my opinion, does not satisfactorily answer the questions which the Senator from Montana and I raised about the leases. I still have serious doubts that the leasing program will provide the information that we must have before proceeding any further with oil shale development. I am not convinced that the public is receiving a fair return for its property. However, I recognize that this is a question of judgment on which reasonable men may differ and I do not want to delay the further implementation of the prototype program.

The Committee on Interior and Insular Affairs intends to maintain close oversight of the program. I hope that the results of the program will be satisfactory, and that combined with the knowledge which will be gained from implementation of the energy research and development programs authorized by the bill which the Senate has already passed—the National Energy Research and Development Policy Act (S. 1283), it will provide us with the facts we must have before any further development of oil shale.

EXHIBIT 1

U.S. SENATE,
Washington, D.C., January 8, 1974.

Hon. ROGERS C. B. MORTON,
Secretary of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: We are deeply concerned about the prototype oil shale leasing program which you announced on November 28 and which was the subject of the hearing before the Subcommittee on Minerals, Materials and Fuels on December 17. We appreciate the potential role of shale oil in meeting our nation's future energy needs and we share your view that an experimental program is needed to develop answers to questions about economic and technological feasibility and environmental impacts of oil shale development by various methods. However, we have serious doubts that the Department's program has built into it the kind of requirements and controls needed to assure that the program will in fact provide answers to these questions.

The Department witnesses at the December 17 hearing did not answer these questions. For example, the Department's witness stated that the basic objectives of the prototype program are to:

(1) "stimulate development of commercial oil shale production and technology by private industry; and

(2) "insure the environmental integrity of the affected areas and develop appropriate environmental protection and rehabilitation technology."

We agree that these are both appropriate and important goals. However, we fail to find assurances in the announced leasing program that either of them will be achieved. The stimulation of development of new technology would be assured by performance requirements which demand early demonstration of progress toward full scale prototype plants. The second objective, assurance of adequate environmental technologies, would be served by provisions for strict performance standards with opportunities for adjustments as new environmental problems are discovered and new protective technologies are devised.

We realize that these requirements might require Federal assistance to increase the incentive for industry to participate. A variety of potential forms of Federal assistance which could be used are set forth in S. 1283, the National Energy Research and Development Policy Act of 1973, which recently passed the Senate.

In its Federal Register Notice of Sale (38 F. R. 33187) the Department specifies that for Tract C-a, the minimum royalty will be equivalent to a production rate of, for the sixth year, 1,130,000 tons and, for the fifteenth year, 11,300,000 tons, based upon 30 gallon per ton shale. The shale oil equivalent is approximately 2,200 barrels per day rising to 22,000 barrels per day after fifteen years. The Department's press release of November 28 defines commercial scale plant as producing "at least 50,000 barrels per day".

It is therefore apparent that the Department does not propose to require a lessee to construct anything even approaching a commercial size plant. At best, it will require that by the fifteenth year, when three-quarters of the life of the primary term of the lease will have expired, a lessee have in operation an oil shale plant which is the equivalent of less than one-half the size of a full scale commercial plant. The operation required by the Government for the sixth year, assuming that there are no delays, is of little more than pilot plant dimension.

The conclusion to be drawn is that the Department of the Interior is proposing not commercial oil shale development but an experimental program. However, we question whether the Department's prototype oil shale leasing program is an optimum, or even a desirable, vehicle for the experimentation and research which will be required to determine whether an acceptable oil shale technology can be developed.

The minimal production requirements and the generous royalty and bonus offset provisions which the Department proposes are, of course, a form of subsidy which we assume the Department hopes will enlist industry participation in what is, realistically, an experimental, rather than a commercial, leasing program. Such subsidies could, perhaps, be justified if they were coupled with a requirement for a commitment on industry's part to undertake the heavy investment which will be necessary to bring full scale commercial shale oil production on stream by the target dates projected by the Department. Since no such commitments are being sought, it must be concluded that the Interior Department's proposal offers lessees much for little in return. This is particularly true in view of the fact that the program does not require a variety of development techniques but leaves it up to the lessee to decide what method will be used. In our view, this is another inadequacy in the program.

With respect to environmental protection, Section 7(d) of the lease form provides that the government will pay any "extraordinary costs which is (sic) in excess of those in contemplation of the parties" for environmental protection. This suggests that the long term costs of environmental protection and rehabilitation such as revegetation and maintenance of dams may be paid out of public funds. What types of costs does the Department have in mind that could be considered "extraordinary" and beyond "the contemplation of the parties"? Do you have any estimates of how much these costs might be? Why should the public, rather than the lessee, pay these costs?

Furthermore, this provision would appear to discourage the development of innovative mining and processing techniques which would minimize environmental damage, including, for example, in situ production.

We note in the *Federal Register* of January 3 (39 F.R. 832) that the Bureau of Land Management proposes to withdraw approximately 6,560 acres of national resource lands in connection with the oil shale program. We understand that these lands may be used as spent shale disposal sites in connection with the development of Tract C-a. In view of the fact that the Mineral Leasing Act of 1920 limits oil shale leases to 5,120 acres, what authority would the Department use to make these additional lands available as part of the oil shale mining operation? We are concerned that you may be leaving the prototype program open to the same kind of legal challenge which was successfully made against the Trans-Alaskan Pipeline right-of-way. If additional authority is needed, we urge you to let the Congress know.

As we have already noted, various provisions for offsetting development expenditures against the initial bonus and royalties and for the payment of extraordinary costs by the government constitute a subsidy for the lessee. In view of this, shouldn't the patent rights to any new process developed by the lessee be made available to the government and the general public?

Newspaper reports last week (*Washington Star-News*, January 3) indicate that Administrator Simon of the Federal Energy Office is considering the use of joint government-industry corporations to develop various new energy sources including oil shale. This approach, which would be facilitated by the National Energy Research and Development Policy Act, may well be preferable to the proposed prototype program.

There is one further complicating factor with respect to the Department's program. That is the pending State indemnity selection applications filed by the State of Utah, for 157,000 acres of Federal land in Utah. We understand that these selections include the two Utah tracts the Department intends to lease as part of the prototype program.

We are well aware of the longstanding controversy over selection of "mineral-rich" lands by the States in satisfaction of their statehood grants. We agree with the policy adopted by the Department in 1965 that State selections should not be allowed where there is a "gross disparity" of value between the lost lands and the selected lands. If you intend to change that policy, we request that you notify this Committee before opening any "mineral-rich" lands to selection.

In any event, it seems to us that the Department should decide the state selection question before going ahead with the prototype program. It is our understanding that if the State of Utah takes title to these oil shale lands, that it intends to offer them for development. Any large scale development on these lands would appear totally inconsistent with the objectives of the Department's prototype program.

The results of the January 8 bidding on your November 30, 1973 lease proposal for Tract C–a clearly indicate that industry is now prepared to proceed with oil shale development. In view of the many serious questions that exist about the prototype program, it is our view that prior to proceeding with the other five sales, the Department should carefully reevaluate the lease terms in light of the questions we have raised and inform this Committee of the results of your reevaluation. We would appreciate hearing from you about this matter at your earliest convenience.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

LEE METCALF,
Chairman, Subcommittee on Minerals and Fuels.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., Jan. 22, 1974.

HON. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: This letter responds to yours and Senator Metcalf's letter of January 8, in which you expressed doubts about the Department's oil shale program and stated your view that we should not proceed with the remaining five scheduled oil shale lease sales until we have informed the Senate Committee on Interior and Insular Affairs of the results of our reevaluation of the lease terms under which these sales will be conducted.

In your letter you agreed with the basic objectives of our program, but you expressed doubt that our program contained the kind of requirements and controls needed to assure accomplishment of these objectives. Our objectives are:

1. To provide a new source of energy to the Nation by stimulating the development of commercial oil shale technology by private industry;

2. To insure the environmental integrity of the affected areas and at the same time to develop a full range of environmental safeguards and restoration techniques that will be incorporated into the planning of a mature oil shale industry, should one develop;

3. To permit an equitable return to all parties in the development of this public resource; and

4. To develop management expertise in the leasing and supervision of oil shale development in order to provide the basis for future administrative procedures.

We believe the January 8 sale of the Colorado Tract C–a confirms our judgment that industry is prepared to proceed with oil shale development. We are convinced that our lease terms contain an appropriate balance of incentives and requirements to assure that this development occurs promptly and in a manner that will meet these agreed objectives. We will, therefore, proceed with the remaining sales. Let me address the specific issues you raised.

1. You suggest that Federal assistance, such as would be made available under S. 1283, may be required to stimulate development of new technology under performance requirements demanding early demonstration of progress toward full scale prototype plants. You also suggested that such Federal assistance might be required to attain adequate environmental technologies under strict performance standards. You state that these standards should provide opportunities for adjustments as new environmental problems are discovered and new protective technologies devised.

Our lease terms contain several provisions designed to encourage—and at the same time to require—early development. It also contains strict environmental performance standards, coupled with necessary flexibility to deal with new problems and technologies. A copy of the lease is attached. The most important provisions dealing with these issues are listed below:

(a) *Provisions encouraging early development:*

(1) Section 5 of the lease authorizes the crediting of certain expenditures before the third and fourth anniversary dates of the lease against the fourth and fifth installments of the bonus.

(2) Section 7(e)(2) permits the lessee to credit certain expenditures prior to the tenth anniversary date against the minimum royalty due prior to that date.

(3) Section 7(f) provides that, where the lessee enters into production prior to the eighth anniversary date and the royalty due on such production exceeds the minimum royalty due, the lessee shall be relieved of the duty of paying half of the difference between the actual royalty due and the minimum royalty.

(b) *Provisions requiring diligent development:*

(1) Section 10(a) requires submission of a development plan within three years, and requires the plan to provide for diligent development with a particular emphasis on attaining, at as early a time as is consistent with the provisions of the lease, production at a rate at least equal to that on which minimum royalty is computed.

(2) Section 12 requires reasonable diligence in all operations on the leased lands.

(3) Section 7(e) requires the payment of minimum royalty, beginning with the sixth lease year, whether or not there is production, and the payment of such minimum royalty does not excuse the lessee from compliance with the diligence requirements of the development plan.

(c) *Environmental performance standards:*

(1) Section 11(a) of the lease requires the lessee to conduct all operations under the lease in accordance with applicable Federal, State, and local water pollution control, water quality, air pollution control, air quality, noise control, and land reclamation statutes, regulations, and standards.

(2) Section 11(b) requires the lessee to avoid, or, where avoidance is impracticable, minimize and, where practicable, repair damage to the environment, including the land, the water, and the air.

(3) Section 11(c) incorporates by reference into the lease the Oil Shale Lease Environmental Stipulations. These lengthy and detailed Stipulations cover every aspect of environmental protection of which the Department is aware.

(4) Section 10 requires that the lessee submit for approval by the third anniversary date a detailed development plan under which all subsequent activities must be conducted. This plan must ensure that operations will conform to the environmental requirements of the lease. The plan will be the subject of public hearings.

(5) The Department is establishing an Oil Shale Environmental Advisory Panel, composed of Interior and other Federal employees, State and local representatives, and members of the public active in environmental matters. This Panel will advise Interior officials in the supervision of the leases and will assist in holding public hearings in connection with the detailed development plan.

(d) *Provisions providing flexibility in light of new environmental problems and technologies:*

(1) The Oil Shale Lease Environmental Stipulations are written to require compliance with changing laws, e.g., section 8(A) of the Stipulations requires the lessee to comply with the Clean Air Act "as now in effect or as hereafter amended, or if it should be superseded, the statute superseding it. . . ." Comparable provisions are included with respect to other types of environmental protection.

(2) Section 11(L) of the Stipulations requires that the lessee must conduct a program to obtain the necessary revegetation technology, if such technology is not shown to be available at the time of leasing.

(3) Section 23 of the lease provides for the reasonable readjustment of terms and conditions at the end of each twenty-year period.

(4) Section 7(d) gives the Secretary discretion to permit the crediting against royalties of expenditures under the development plan in connection with environmental protection which are in excess of those in the contemplation of the parties upon the effective date of the plan.

Prior to the first sale Secretary Morton considered whether a subsidy should be added to the incentives provided by the lease, and he considered the possibility of a joint government-industry corporation to develop oil shale. He decided that at this time, in view of the present energy situation, the lease terms by themselves would assure prompt development and that we should proceed with the program rather than form a joint government-industry corporation. We believe the results of the first sale strongly support this judgment. Under the program, development on the lease must, of course, meet strict environmental requirements.

2. Your letter contains the conclusion that the Department's lease "offers lessees much for little in return." This conclusion is supported by reference to the following elements of the program: (i) The lease does not "require" construction of a commercial sized plant, and imposes minimum royalty payments beginning in the sixth year on a production rate of less than commercial scale. (ii) The program is "not commercial oil shale development but an experimental program." (iii) The "minimum production requirements" and "generous royalty and bonus offset" provisions are not appropriate in "a desirable vehicle for experimentation and research to determine whether an acceptable oil shale technology can be developed," because the lease "does not require a variety of development techniques but leaves it up to the lessee to determine what method will be used."

We believe this program will provide the nation a great deal in return for what it offers lessees. In addition to the bonus payments, which we hope will be substantial for all the tracts and royalty payments on actual production, I believe the program will produce the technological and environmental information necessary to determine whether this nation should develop a large oil shale industry.

As suggested earlier, the minimum royalty payments are designed to discourage delays in development by escalating the cost of holding a lease that is not producing. The minimum royalty is not based on projected production and certainly is not intended to dictate actual production rates. We do not anticipate that lessees will hold down their future production to avoid paying royalties greater than required by these minimum royalty rates.

The prototype program, in and of itself, does not require "commercial oil shale development." One objective of the program, as stated in your letter, is "to stimulate development of commercial oil shale production and technology." If we succeed in this objective, as the first bids suggest, and if we find that the environmental issues involved can be dealt with successfully, our future leases for full-fledged commercial development can impose whatever production requirements are called for by the circumstances that then exist. It has been our judgment that we now lack the knowledge necessary for imposition of requirements regarding production rates and plant size and that we might frustrate, rather than facilitate, accomplishment of the program's objectives by such requirements.

The incentives provided by the lease—such as bonus and royalty offsets—are not available unless the lessee makes expenditures on development within the times specified. We believe these incentives are appropriate whether or not the method of developing a particular lease is dictated by the government. We gave careful consideration to the question whether we should specify the mode of development for each lease. The environmental impact statement sets forth our current information and expectations regarding development modes. Your concern that multiple technologies will not be used does not seem to be supported by present industry activities. As you know, the Colony Development Corporation has been developing the TOSCO II process for some time and believes this process to be the most economically sound. Secondly, the Garrett Research Division of Occidental Petroleum has recently announced gratifying research results on their explosive fracturing in situ method and are seeking an opportunity to use the method in commercial operations. Thirdly, the Development Engineering Corporation (DEI) has leased the Bureau of Mines facilities at Anvil Point, Colorado for a 30 month, 7.5 million dollar experiment. This research is sponsored by a number of private firms to experiment on the PARAHO process which uses a modification of the Bureau of Mines Gas-Combustion Retort. Additionally, the prototype tracts have been selected, in part, to encourage the use of alternative means of development, e.g. surface mining, underground development, and in situ processing. For these reasons, we believe that alternative technologies will be used in prototype development.

If our assessments are correct, the leases will probably be developed by the methods we predicted. But, perhaps we're wrong and we saw no national interest to be served by precluding a company from developing a particular lease by some method other than we now think to be the best method. By allowing for such freedom of choice, within a framework of strict environmental controls, we think we are much more likely to encourage the investment and experimentation necessary to develop technology that will produce large amounts of oil from shale, with acceptable environmental effects.

3. You have raised questions about the provision in Section 7(d) of the lease dealing with "extraordinary" environmental costs "in excess of those in contemplation of the parties." You interpret the lease as providing that the government "will pay" any such costs, and, understandably, question what costs we have in mind and ask why the public, rather than the lessee, should pay them.

Section 7(d) provides for the very type of flexibility to deal with unexpected environmental developments that your letter earlier suggested was lacking in the lease. It gives the Secretary *discretion* to allow a credit against production royalties for environmental protection costs which were not in the parties' contemplation when the lease was issued. The credit is not automatic and we do not contemplate that it will be allowed unless the economic viability of the lessee's operation is threatened by unexpected problems. It is difficult to say what type of costs are covered, because, by definition, they are not now foreseen. Certainly the costs of meeting the environmental stipulations within the context of the environmental problems discussed in detail in the environmental impact statement are not costs for which this credit would be granted. We firmly believe that this provision will encourage—rather than discourage, as you suggest—innovative techniques that will minimize environmental damage, because the lessee knows there is a possibility of sharing the costs if unforeseen problems arise.

4. You expressed concern that the possible use of disposal sites outside the limits of an oil shale lease may give rise to the same kind of legal challenge as that successfully made against the Trans-Alaska Pipeline right-of-way. We believe that the Department does have existing authority to permit a lessee under the prototype program to use sites outside the leased tracts for disposal, if the need for such sites is evident when the lessee submits his detailed development plan for approval. It is desirable, however, to avoid any question on this issue that could result in time consuming litigation. Section 112(a) of S. 1040, the Administration's proposed bill to revise the mineral leasing laws, would expressly authorize the use by the lessee of the surface of lands outside the leased tract. Moreover, section 101(a) of S. 1041, the Administration's proposed bill concerning the general authority of the Bureau of Land Management, would also give the Department broad authority over the public lands which we believe would cover this point. To avoid any question, the bill could easily be amended to provide specifically for the grant of rights to use sites off the leased tract, and I have instructed my staff to pursue this question with the staff of your Committee.

5. Your letter also suggests that patent rights to any new process developed by the lessee should be made available to the Government because of the various incentive provisions in the lease.

Oil shale processing is not a unique operation where only one method is likely to be economic. With the development of several acceptable methods, competition among patentee-lessees would undoubtedly lead to reasonable licensing rates, particularly in light of the competition from other sources of petroleum and the maximum acreage limitation of 5,120 acres of oil shale lands allowed to any one person, association or corporation. Our intent is to create the conditions that assure the development of several competing economic technologies.

Experience has shown that new technology is developed most rapidly when those engaged in development are assured of material rewards for their endeavor. None of the mineral leasing laws provide for licensing requirements and we are unaware of any instance in which the Department has included such requirements in any leases issued under those laws. We are not persuaded that such requirements would be justified in this situation.

6. You have also suggested that the Department should decide whether to approve Utah's "in lieu" selection of approximately 157,000 acres of oil shale lands before proceeding with further lease sales under the prototype program. Since final decision on the Utah selections will take quite some time, we do not believe it would be in the national interest to delay the prototype program until that decision can be made.

We have requested the Bureau of Land Management to prepare an Environmental Impact Statement covering this proposed action and I have requested a current legal opinion with respect to the comparative mineral values issue to which you refer. I certainly have not made a decision to change the Department's policy on this question. After a final Environmental Impact Statement is prepared, and all of the issues involved have been submitted to the Secretary, it is our hope that this issue can be promptly decided.

We cannot, of course, be assured that the remaining oil shale lease sales will produce the same interest and high bids as the January 8 sale of Tract C-a in Colorado. However, we are hopeful that there will be considerable interest in the remaining tracts and we are optimistic that the oil shale program will achieve its objectives. For the reasons outlined above, we believe it would be a mistake to stop this program at this time.

I hope these responses are helpful to you and to the other members of the Committee.

Sincerely yours,

JOHN C. WHITAKER,
Acting Secretary of the Interior.

AGE DISCRIMINATION

Mr. BENTSEN. Mr. President, I was deeply shocked to read an article in Thursday's Evening Star which disclosed that the Defense Department is seeking legislation to enable it to force its civilian employees to retire at age 55.

As long ago as March 9, 1972, I introduced legislation to make the provisions of the Age Discrimination in Employment Act applicable to Federal, State, and local employees as well as to the private sector. I have introduced such legislation on three separate occasions, and the Evening Star article only reinforces what I have long believed, that the Federal Government, which ought to be a model employer, is a leading offender in applying pressure tactics to coerce older workers to retire at an early age. I believe my bill must now be passed into law to prevent such initiatives from becoming Federal policies. I do not believe we should ask more of the private businessman than we would ask of the Federal Government.

Mr. President, we have an age discrimination law which would subject a private employer to heavy fines for what the Defense Department is attempting to do. That is unconscionable.

Mr. President, chronological age is not a sure measure of ability. A man may be as productive at 55 as he is at 25, and it is both callous and arbitrary to introduce any general rule forcing men or women to retire at a certain age, unless age is a bona fide occupational qualification necessary to the normal operation of any particular business.

With longevity steadily increasing and medical science on the verge of unlocking the secrets of aging, it makes little sense to concentrate on enforced retirement or easing older workers out of the labor force. Our efforts, rather, should be directed at improving employment opportunities, at giving what the White House Conference on Aging termed "a

climate of free choice between continuing in employment as long as one wishes and is able, or retiring on adequate income with opportunities for meaningful activities."

This flagrant violation of the spirit of the Age Discrimination in Employment Act by the Defense Department is not to be condoned. I hope that the administration will not pursue this legislation with the Congress. If it does, I shall fight it with every resource I have.

At this point, I ask unanimous consent that I may insert the article from the Evening Star in the RECORD.

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

[From the Washington Star-News Jan. 24, 1974]

FORCED RETIREMENT AT 55?

(By Joseph Young and John Cramer)

The Defense Department is seeking legislation which would give it the power to force its civilian employes in middle- and upper-grades to retire if they have reached age 55 and have 30 or more years of service.

Rebuffed by the Civil Service Commission on support of such legislation, the Defense Department has decided to go over the CSC's head and seek such a bill on its own.

Defense bases its move on the fact that its civilian work force is getting too old.

It said present civil service retirement laws have resulted in an older federal work force that "inhibits the development and retention of younger employes."

In a memorandum outlining Defense strategy for securing such legislation in the face of CSC coolness to such a move, William K. Brehm, assistant secretary of defense for manpower, said congressional support should be sought before such legislation is submitted.

Brehm said that if the legislation is formally submitted and rejected by Congress before contacts are made, then the future prospects of such a bill would be considerably lessened.

Under Defense's proposals, employes in Grades 13 ($20,677 a year) and above who have at least 30 years of service could be forced to retire.

The initial authority would be for a two-year period and would occur during Defense reductions in force.

A Defense spokesman described the proposal as "a perennial sort of thing. We've been seeking it for years. We keep on trying because we believe we need it."

Civil Service Commission Chairman Robert E. Hampton, confirming CSC's refusal to back the plan, said:

"I have no intention of suggesting it for Administration approval. It doesn't stand a chance."

Several years ago, however, the Administration did submit a similar proposal which would have applied to upper-level employes governmentwide. Congress shot it down.

EDUCATION PROPOSALS FROM THE ADMINISTRATION

Mr. PACKWOOD. Mr. President, issuance of the President's 1974 education message last Thursday just 1 day after his urgent communication to the Congress on the energy crisis was no coincidence.

For just as we are at a critical juncture in our Nation's history over meeting energy requirements, so, too, we find Federal education programs surrounded by great debate. Nothing brings this point to bear more than the letters and communication I have received from Oregon educators. Their varied questions of where are we going with the new basic educational opportunity grant, or will there be a new formula for ESEA title I funding, along with hundreds of similar inquiries of import, must be answered by this Congress, by legislation passed this session.

After massive infusion of Federal dollars and the implementation of myriad Federal programs directed from Washington, the path is not as clear today as it was once thought to be. Disillusionment and doubt is crisscrossed with talk of reevaluation and new directions. The President's message suggests many approaches that hold promise—just one example of inestimatable value is the inclusion of an essential provision for advanced funding so that State and local authorities can plan their programs with a degree of certainty. Because of this potential, it is imperative that the White House proposals be given serious examination—consideration heavily reflecting lessons of the past and guidance of the country's educators.

Mr. President, I ask unanimous consent that the President's 1974 education message and accompanying fact sheet be printed in the RECORD at this time.

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

JANUARY 24, 1974.

THE PRESIDENT'S 1974 EDUCATION MESSAGE

To the Congress of the United States:

The Congress returns to Washington this week at a time when America faces many difficult challenges. Each of them will spark honest differences of opinion and generate spirited debates during the coming year.

But one goal which unites all of our people is to provide each of our children with a sound basic education. No matter what race, faith or family circumstance, each child should have equal access to a good education.

We have made substantial progress toward this goal, but we can maintain that momentum only if we commit ourselves to a continuing renewal of the educational process. During the coming legislative year, there are many proposals which I believe the Congress should enact to improve our educational system. Among the highest priorities which I would urge upon the 93d Congress are these:

—Consolidating major grant programs for elementary and secondary, vocational and adult education and increasing decision-making authority for State and local education agencies.

—Providing advanced funding so that State and local school authorities can plan their programs with greater certainty—a new and important concept in the financing of education.

—Targeting Federal funds so that students who have the greatest need—the truly disadvantaged—are the major recipients of funds.

—Expanding the grant and loan programs for students faced with the rapidly increasing costs of postsecondary education.

—And increasing support for organizations such as the National Institute of Education, which are searching for better ways to educate more than 60 million students in the United States.

I. A RECORD OF PROGRESS

This Administration has worked hard to expand educational opportunity for every child and we have made substantial progress:

—We have established a new program of Basic Educational Opportunity Grants to further our goal that no qualified student be denied access to postsecondary education for lack of money.

—We have provided special aid for local school districts to help them deal with the problems of desegregation.

—We have created a National Institute of Education to marshal our research skill systematically so that we can better understand how students learn and how they can be taught more effectively.

—We have provided support to develop new ways of helping children learn to read.

—We have substantially increased support to colleges serving minorities and students from economically disadvantaged backgrounds.

In taking these and other steps over the past five years, we have increased Federal spending for education from $5.1 billion in fiscal year 1970 to an estimated $7.6 billion in the budget I will propose next month for fiscal year 1975.

This support has helped enrich the diverse educational system and has contributed greatly to our national strength and vitality.

II. PRINCIPLES FOR THE FUTURE

While real progress has been made, there are additional problems which must be addressed if we are to make the promise of a quality education a reality for all Americans. Americans have never been complacent about their educational system, but today they are increasingly concerned—and with reason.

—Parents of children who are not learning to read know it is becoming more difficult to lead a satisfying and productive life without this basic skill.

—Parents often see their children moving through elementary and high school without acquiring an understanding of what careers are open to them and what skills will enable them to obtain a rewarding job.

—Many families do not see how they will be able to meet the rising costs of their children's college education.

—Teachers who want to try something new or make old methods work better too often have no place to turn for reliable information about what works and why.

—Local school administrators must plan their budgets without knowing, until the last moment, what Federal aid will be available.

We all want to commit our energies to solving these problems and to making our schools better. We must now find ways to focus these energies.

To do so, I believe, we should adhere to five basic principles of constructive action:

—*First, the Federal Government should continue to support national priorities in education without seeking to control and direct State and local responses to those priorities.* Schools which must respond to detailed and elaborate Federal red tape will be hindered in responding to the demands of students, teachers and parents. A concrete application of this principle is the consolidated education grants legislation which the Congress is now considering. I again urge that this legislation be framed to achieve the maximum possible consolidation of funding authorities, so that State and local agencies can use Federal funds to meet national priorities in their own ways.

—*Second, the Federal Government must make it possible for citizens, students, parents and administrators to plan ahead.* The request I will be making in

my budget for advanced funding of the consolidated education grants reflects this principle.

—*Third, to the maximum extent possible we should put the important choices in the hands of students and parents themselves.* A concrete example of this principle is the Basic Opportunity grant program which permits students to apply funds toward an education at the school of their choice.

—*Fourth, the Federal Government must play a more responsive role in funding research to find out what works in education.* My proposal for the establishment of a National Institute of Education in 1970, and the funding for the institute I will recommend in my new budget show how I believe this principle can be carried out.

—*Fifth, we must firmly insist that all Americans have an equal opportunity for education.* The legislation I am supporting, the new budget, and the enforcement of non-discrimination to which I am committed all reflect this principle.

III. ELEMENTARY AND SECONDARY EDUCATION

Traditionally State and local governments have exercised primary responsibility for education in this country. States and localities provide more than 90 percent of the money for elementary and secondary education while the Federal Government provides less than 10 percent. But in the last decade the tail has wagged the dog. Federal laws, rules and regulations have imposed an elaborate set of "do's" and "don'ts." They often prevent State and local agencies from using Federal funds to best meet their needs.

Forward Funding

As if the Federal red tape were not confusing enough, the Federal funding process has created a situation in which school districts develop future budgets with a diminished degree of confidence or accuracy. School districts, for instance, have been faced with three entirely different allocations of funds just since July of 1973. As one school board member put it: "When we put our budget together, we don't know what we'll get from the Federal Government, so we *have* to be *gamblers*." School districts across the Nation will begin putting their annual budgets together next month, but unless we soon enact reforms they will not know how much their Federal funds will be until late fall.

To overcome this deficiency, which has plagued school boards in recent years, I plan to ask for supplemental appropriations for the current fiscal year of $2.85 billion. The money will be used by schools in the school year beginning this fall. If the Congress acts on this request swiftly, those who run our elementary and secondary schools as well as vocational and adult education programs would for the first time know how much Federal money they would have *before* the school year begins, not several months *after* the year has begun.

The supplemental appropriations request will be formally transmitted to the Congress as soon as acceptable authorizing legislation is enacted. It is therefore important for that authorizing legislation to be passed early this spring, so that we can provide forward funding at the earliest possible date.

Consolidating Funds for Elementary and Secondary Education

In 1971 I asked the Congress to consolidate and simplify numerous Federal aid programs for education. I again urged this in 1972.

Last year, I proposed this reform under the label of the Better Schools Act. The label itself, unfortunately, became a controversial matter within the Congress. It is not the label that should concern us, however, but the children and the structure of the programs designed to help them. I am pleased that during the last session of the Congress, the executive branch and the appropriate authorizing committees began to deal more seriously with an improved program structure, and I am persuaded that with hard work and careful thought, a bill acceptable to both branches can result.

The appropriate committees of both Houses have written steps to simplify existing programs for innovation and support services into the measures they are now considering. The Senate Subcommittee on Education has initiated a further consolidation of various discretionary and categorical programs into a special projects authority, with provisions for gifted and talented children. But further consolidation is still needed. I am therefore proposing consolidation of present programs of vocational education and a merger of existing authorities in adult education.

Fairer Distribution of Funds for the Disadvantaged

Another issue of continuing concern is the development of a better way to distribute Federal funds for disadvantaged children. The current system of reimbursement often results in school districts being paid for children who are no longer there.

A new formula for distribution of these vital funds must be adopted, targeting the available money on the greatest concentrations of disadvantaged children and on the development of basic skills. That formula should also take into account the differing costs for education in different locales. We must also adopt a definition of poverty which more accurately reflects today's conditions.

Aiding Handicapped Children

There is growing awareness in the Nation of the special educational needs of handicapped children. In 90 demonstration projects we are seeking to learn how to identify handicapped children earlier and give them the help they need to enter regular school when other children do.

I am now proposing that eight discretionary authorities be consolidated into four broad programs for the education of the handicapped. One of these new programs, Resource Implementation, would help teachers identify learning problems; the Professional Development program would provide teachers with special skills to overcome barriers to learning; Innovation and Development would provide new methods and materials for teaching; and Special Centers and Services would accelerate progress in aiding severely handicapped children.

Phasing Out Impact Aid

Another program affecting many school districts throughout the Nation is School Assistance in Federally Affected Areas—aid to districts where Federal installations bring significant enrollment increases. I am proposing 100 percent Federal funding of the program for school districts where enrollment consists of 25 percent or more of children whose parents both live and work on Federal property, and 90 percent funding for school districts where these children comprise less than 25 percent.

In the past we have also funded programs for children whose parents work on Federal property but do not live on Federal installations. Since parents of such children already contribute substantially to State and local governments to help pay educational costs, I see no reason for all American taxpayers to continue subsidizing this special group of school districts. However, a transition period is needed for districts which have depended heavily on these Federal funds. I will therefore propose that no local school district whose subsidy is being terminated will lose more than 5 percent of its total operating budget in the first year that we phase out the program. It is only fair to give school districts as much notice as possible to plan and conform their budgets to Federal financing policies.

Targeting Aid for Desegregation

In coming weeks, I will send to the Congress a proposal for a new project grant program to aid school districts undergoing voluntary or court-ordered desegregation. This program should replace the current Emergency School Aid Act when the act expires this June.

A national formula program is no longer needed to handle this problem. What is needed is a targeted approach to solve specific problems.

As opposed to the national formula now employed under the Emergency School Aid Act, the new project grant program would target desegregation aid to solve specific programs. In addition, we will continue to provide technical assistance to local districts, helping them to meet problems relating to desegregation.

Providing for Indian Children

A targeted approach is also needed to deal more effectively with the needs of Indian children. There is a special Federal responsibility to provide educational services to Indian tribes and communities, and we propose to place emphasis on project grants for this purpose.

Bilingual Education

Because of the great diversity of our Nation, we must also provide special assistance to children of families whose native language is other than English. I ask the Congress to continue support for demonstration projects which help develop better ways to provide bilingual education.

IV. POSTSECONDARY EDUCATION

This Administration is committed to the goal that no qualified student should be denied a college education because of a lack of funds. Today we are in a position to accomplish a major expansion of student opportunities and choice.

An education beyond high school is a major goal of many young Americans today. In recent years, however, the cost of college or other training has threatened to price this dream beyond the means of many families.

Since 1970 I have been urging the Congress to enact and fund student aid programs that would reduce to manageable size the problem of financing higher education for all families.

Expanding Aid to Needy Students

In 1972 the Congress responded by enacting the Basic Educational Opportunity Grant program, the primary vehicle for reaching the neediest students. The current program provides for an average grant of only $260 and limits eligibility to entering freshmen. The program I propose for FY 1975—totaling $1.3 billion—would provide a grant of up to $1,400 depending on need.

Supplementing this Basic Grant program is a Guaranteed Student Loan program designed to increase access to loans. This program is both for needy students receiving Basic Grants, and for students who are not eligible for Basic Grants but who need or wish to spread the costs of postsecondary education over time.

Over the past year, some students who have sought loans have found it difficult or impossible to locate lenders willing to make federally guaranteed loans.

To remedy this problem I have instructed the Department of Health, Education, and Welfare and the Treasury Department to contact the major lending institutions and to request that they reaffirm their commitment to our Nation's educational needs by making adequate funds available for student loans. If, as the progress of this program is reviewed, additional changes appear to be necessary, I will propose them.

The Basic Grant and Guaranteed Student Loan programs, supplemented by the College Work Study program, expand opportunities for postsecondary education. My budget re-

quest for these programs would provide more such opportunities than ever before. Building on Basic Grants, students can rely on work, loans, and family resources, plus State, local and private forms of assistance to meet the remainder of their financial needs.

DEVELOPING INSTITUTIONS

I will request funding of the full authorization for the Developing Institutions program—an authorization that is four times the funding level when I took office. This program helps to strengthen the capabilities of colleges which are serving Black, Spanish-American, and American Indian students as well as students from economically disadvantaged backgrounds—a special concern of my Administration.

V. INNOVATION AND REFORM

NATIONAL INSTITUTE OF EDUCATION

An essential element in our effort to provide every American an equal and increasing opportunity for education is the development and dissemination of alternative educational approaches through research. For too long we threw money at educational problems, feeling that bigger would mean better.

To strengthen support for education research and development, the National Institute of Education was created with strong bipartisan support. The institute is now beginning to provide the leadership in educational research and development that is needed.

In 1975 it will continue to concentrate on several major tasks:

—finding answers to the problems that students have in learning essential skills such as reading and mathematics;

—improving State and local capability to solve the educational problems of their youth;

— increasing the educational benefits to students through improving the productivity of our schools;

— and assisting students to better understand the relationship between the school and the world of work. Through this latter activity, the National Institute of Education has taken on the responsibility to carry out the Career Education objectives I set forth in my 1972 message. The institute is developing new ways to introduce young people to various career opportunities and is experimenting with new methods of preparing them to get and keep jobs that pay well and offer opportunities for advancement.

Education research is not a luxury but a necessity if Americans are to get the education they want for their children at a sensible cost. Accordingly, I would like to emphasize most strongly the need for adequate funding of the institute.

Fund for the Improvement of Postsecondary Education

The Fund for the Improvement of Postsecondary Education constitutes another important new Federal initiative to achieve needed innovation and reform. The fund was created to support exemplary activities and new directions which promise to increase the quality, effectiveness, and diversity of postsecondary educational opportunities. The fund is now providing support for the development and demonstration of more effective approaches to college education.

Right to Read

The Right to Read effort is well on its way to becoming a prime example of the way that a Federal, State and local partnership can achieve positive results. Under this program, we are now on the way toward achieving a 1980 goal of eliminating functional illiteracy among 90 percent of those 16 years and older and 99 percent of the youth of America. I ask the Congress to continue giving this program its full support.

Library Partnership Act

While I continue to believe that State and local authorities bear the primary responsibility for the maintenance of public libraries, I also believe that the Federal Government has a responsible role to play. One of my new initiatives for 1975 is the Library Partnership Act. This legislation would encourage the establishment of reference and information services on a demonstration basis and could lead to significant improvements in public library services across the United States.

Head Start

During 1975, the Head Start program will reach 282,000 children on a year-round basis and some 78,000 pre-schoolers in the summer. It will also extend its activities to include handicapped students. My 1975 budget will increase operating funds for this program and will provide funds to ensure that all children participating in Head Start can obtain a nourishing breakfast and lunch.

VI. THE NEED FOR COMMITMENT

The proposals I have outlined above are designed to address the educational challenges of tomorrow. They are designed to enhance the effectiveness of the Federal dollar. They are designed to facilitate the operations of our State and local school systems.

For the necessary reforms and rejuvenation of our schools to occur, however, it will take more than Federal programs and more than Federal money. It will require that each of us commit ourselves, with money, time and attention, to that process. Only with individual commitment, with the commitment of State and local school administrators and teachers, with the commitment of parents and students, and with the commitment of the Federal Government, can we obtain a revitalized and rewarding American educational system.

RICHARD NIXON.

THE WHITE HOUSE, *January 24, 1974.*

THE PRESIDENT'S 1974 EDUCATION MESSAGE

FACT SHEET

JANUARY 24, 1974.

The President's education priorities for action by the 93rd Congress include:

Further consolidation of the major grant programs for elementary and secondary education.

Advanced funding for consolidated elementary and secondary programs to enable local school districts to plan with certainty on Federal appropriations.

Targeting compensatory education funds on schools with high concentrations of disadvantaged children.

Full funding for the Basic Educational Opportunity Grant program at $1.3 billion.

Increased support for the National Institute of Education to find better ways to teach and learn.

Previous Administration Actions

Creation of the National Institute of Education.

Enactment of the Basic Educational Opportunity Grants program.

New efforts to provide effective career education.

Special aid for local school districts to help them deal with the problems of desegregation.

Support for Right to Read programs.

Establishment of the Fund for the Improvement of Postsecondary Education.

A four-fold increase in support for Developing Institutions serving minorities and students from economically disadvantaged backgrounds.

An education budget increasing from $5.1 billion in FY 1970 to $7.6 billion in FY 1975.

The President has stated five principles to guide Federal action affecting the nation's schools:

(1) The Federal government should support national priorities in education without seeking to control and direct the details of State and local implementation of those priorities.

(2) The Federal government must make it possible for citizens, students, parents and administrators to plan ahead to meet educational costs.

(3) To the maximum extent possible, the important choices should be placed in the hands of students and parents themselves.

(4) The Federal Government must play a more responsive role in funding research to find out what works in education.

(5) We must firmly insist that all Americans have an equal opportunity for education.

Consolidation and Forward Funding

The President has proposed a Legislative program to consolidate over 30 existing grant programs. Major program areas which the President has proposed for consolidation would be funded as follows:

(In millions of dollars)

	1974 enacted	*1974 advanced funding*
Disadvantaged	1,720	1,885
Handicapped	48	48
Innovation	154	154
Support services	158	158
Vocational	532	544
Adult	63	63
Total	2,673	2,852

Other Elementary and Secondary Programs

The President is proposing the following actions on educational programs for special groups of children:

Consolidation of eight discretionary authorities for the education of the handicapped into four broad functional programs.

One hundred percent funding of payments for which school districts are eligible under the program of School Assistance in Federally Affected Areas where district enrollments include 25% or more children whose parents both live and work on Federal property—with 90% funding where these children number fewer than 25%, and a phaseout of payments on behalf of children whose parents work on, but do not live on Federal property. No district would lose more than 5% of its budget.

A new program of project grants to assist school districts undergoing voluntary or court ordered desegregation, replacing the expiring Emergency School Aid Act.

A shift of aid for Indian children to a project grant basis.

Continued support of demonstration projects to develop better ways to provide bilingual education.

Postsecondary Education

Under the President's $1.3 billion request for Basic Grants to be paid in academic year 1975–76, the average grant would rise from the current $260 to $805. These grants would be available for all four years of college and for part-time students in contrast to present funding which limits eligibility to full-time freshmen. The President has directed the Treasury and the DHEW to take necessary administrative action to assure wide availability of student loans.

The purpose of these programs is to assure that no qualified student is deprived of a chance to go to college for lack of money, and to enable families to plan ahead to meet higher education costs and choose the kind of program best for the individual student whether a traditional four-year college or a vocational or technical school.

The National Institute of Education

The President has requested funding for the NIE program emphasizing the following priority areas:

Finding answers to the problems that students have in learning essential skills such as reading and mathematics.

Improving State and local capability to solve the educational problems of their youth.

Increasing the educational benefits to students through improving the productivity of our schools.

Assisting students to better understand the relationship between the school and the world of work through career education.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

APPOINTMENT TO TECHNOLOGY ASSESSMENT BOARD

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 92-484, appoints the Senator from Alaska (Mr. STEVENS) to the Technology Assessment Board, in lieu of the Senator from Colorado (Mr. DOMINICK), resigned.

LEGAL SERVICES CORPORATION ACT

The PRESIDING OFFICER (Mr. HASKELL). Under the previous order, the Senate will now resume the consideration of S. 2686, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation and for other purposes.

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Ray Calamiro of the staff of the Subcommittee on Employment, Manpower, and Migratory Labor, be accorded the privilege of the floor during the consideration of the pending business, the Legal Services Corporation Act.

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

Mr. HELMS. Mr. President, I ask unanimous consent that Dr. James Luciek and Thomas Schroyer have the privilege of the floor during the discussion of this bill.

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

Mr. NELSON. Mr. President, I call attention to the lack of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. NELSON. Mr. President, the pending Legal Services Corporation bill (S. 2686) has been on the Senate calendar since November 9, when the committee report was filed—over 2½ months ago. From December 10 through 14 of last year, the bill was on the Senate floor. I do not believe that it can be credibly argued that there has not been adequate time to consider this bill.

Mr. President, the Legal Services Corporation Act, S. 2686, is the result of a carefully constructed compromise between the administration and members of the Labor and Public Welfare Committee. The legislation, which was unanimously reported out of the committee, is based on the administration's bill. It represents the culmination of 3 years of consideration of proposals to establish a Legal Services Corporation.

We did not lightly arrive at the important provisions of S. 2686. Like the administration's bill, this legislation gives the President the unfettered right to appoint all the members of the Board of Directors, subject only to the advice and consent of the Senate.

Some concern has been expressed over so-called abuses perpetrated by idealistic young Legal Services attorneys at the "expense" of their eligible clients. While there is disagreement among reasonable men over the precise nature of these abuses, the compromise worked out with the administration in S. 2686 places a number of restrictions on Legal Services attorneys that would help to curb such abuses in the future.

At the same time, we must make clear that there cannot, and will not, be any restrictions on the right of a legal services attorney to use the tools of his trade as an attorney to provide the highest quality legal representation to the eligible poor. The U.S. Senate cannot be placed in the untenable position of restricting the range of legal services a federally funded attorney can provide his client, and thereby requiring a legal services attorney to violate the canons of ethics or the code of professional responsibility of his profession. Support for this proposition has been heard from every significant bar association in the country and has been constantly reiterated by both sides in the long bipartisan negotiations with the administration.

There has also been some discussion of the development of alternative methods of delivery of legal services to the poor, including concepts like Judicare, vouchers and prepaid legal insurance. There is no question but that existing staff attorney programs, by all current estimations, are the most efficient programs available at the present. This efficiency is especially significant in light of statements made over the past few years that, even at current levels of funding, legal services are being rendered to fewer than 25 percent of the potentially eligible clients at the lowest end of the poverty scale. Nevertheless, S. 2686 does provide for serious exploration, mandating specific demonstration projects, of all the alternatives thus far mentioned by critics of the current program. The results of these studies will be made available to the Congress as well as to the Board of Directors of the Legal Services Corporation. And while major changes in legal services delivery could be considered when that information becomes available, it would be far too premature to contemplate any of those changes at this time.

With respect to political activities the committee-reported bill prohibits the Corporation and its recipients from making available their funds, equipment, or personnel, including the on-time activities of attorneys engaged in providing legal assistance supported under the new title, to any activity of a political party or association or to a campaign of any candidate for public or party office. As an additional safeguard, section 1006(b)(5) adds the injunction that no Corporation or recipient employee shall intentionally identify the Corporation or a recipient with any such specifically prohibited political activity.

Legal Services attorneys are to be subject, in addition, to all the Hatch Act restrictions placed on the activities of recipients of Federal grants today. This is required, if the attorneys are to devote all their efforts to the provision of legal advice and representation to poor clients.

The real key to our agreement on this legislation, and especially its provisions restricting the actions and activities of legal services lawyers, lies in the need to protect the right of the poor to the representation of a whole legal services attorney, not half a legal services attorney.

Mr. President, I will not go over the whole of my introductory statement when the debate on this legislation began on December 10—which appears on pages 40467-40472 of the CONGRESSIONAL RECORD of December 10, 1973.

However, I would like to summarize the key features of the legislation at this time:

DESCRIPTION OF BILL'S MAJOR PROVISIONS

The National Legal Services Corporation Act would establish a private nonprofit corporation "for the purpose of providing financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance." The Corporation would be directed by an 11 member board whose members would be appointed entirely by the President, with the advice and consent of the Senate. The Board will have sole responsibility for issuing the rules, regulations and guidelines by which the Corporation fulfills its mandate, and will appoint a Corporation president with whom it will share responsibility for providing financial assistance to those programs which will actually provide legal assistance to eligible clients.

The Corporation is empowered to exercise considerable flexibility in insuring the provision of high quality legal assistance to eligible clients. It may contract, where necessary, with individuals, partnerships, firms and nonprofit organizations and corporations. The Board is authorized to contract with State and local governments, upon special application by a State or local agency or institution where nongovernmental alternatives would not be adequate to carry out a proposed supplemental legal assistance project. In addition, the Corporation has

the authority to provide, either directly or by grant or contract, for the research, clearinghouse, and other important back-up functions considered so essential to the program's continued vitality.

In order to provide a more efficient means of monitoring the activities of the legal services staff attorneys, the reported bill provides for the appointment of nine-member State advisory councils in each State, whose members are to be appointed by the Governor after considering recommendations of the State bar association. The State advisory councils will be charged with notifying the Corporation of any apparent violation of the provisions of the act. In addition, a National Advisory Council shall be established to consult with the Corporation regarding its activities, including promulgation of rules, regulations, and guidelines. Its members are to be appointed by the Board and are to be representative of the organized bar, legal education, legal services project attorneys, eligible clients, and the general public.

In order to avoid a number of possible abuses which might occur, the legislation also contains restrictions and safeguards concerned with focusing all the resources of the Corporation squarely on the provision of legal assistance to eligible clients.

Specific restrictions written into the act would prevent legal services attorneys from involving themselves in nonclient oriented activities while they are on the job. The staff attorney may not, while engaged in legal services activities, engage in picketing, boycotts, strikes, or public demonstrations, nor may they encourage others to engage in them. They may not at any time engage in rioting or civil disobedience, or violate a court injunction, or engage in any other illegal activity.

Legal Services attorneys may not attempt to influence legislation before Congress or before any State or local legislative body, except as necessary to the provision of legal advice and representation for eligible clients. This provision would prohibit indiscriminate, nonclient-oriented lobbying, and would more beneficially channel the legal efforts of the attorney—whose primary duty is to provide the best possible legal assistance to the eligible poor. It does not prohibit necessary legal advice and representation because to do so would set up an artificial double standard prohibiting a legal services attorney for a poor person from doing what any other private attorney could do. No attorney shall be forced to violate the Canons of Ethics by providing less than the full range of legal services to eligible clients.

Legal Services attorneys would also be prohibited from engaging in political activities by application of Hatch Act provisions generally applicable to employees in Federal assistance programs.

The legislation prohibits funding any training program for the purposes of advocating or encouraging political "causes" or policies, or labor or antilabor activities, or any illegal boycotts, picketing, strikes, and demonstrations. In addition, all legal services personnel are prohibited from organizing groups for any purpose whatsoever. Only in the course of rendering legal advice and representation as an attorney for eligible clients will the legal services attorney be permitted to provide legal assistance in connection with such activities, and then only with respect to such clients' legal rights and responsibilities.

Additional restrictions and safeguards found in this act include the requirement that at least one half of the members of the governing board of any legal services program receiving financial assistance be members of the bar of the State in which the assistance is to be provided.

They include provision for advance notification and solicitation of comments and recommendations from the Governor and State bar association regarding any proposed project or contract within a given State.

They include the requirement that the Corporation monitor and evaluate and provide for independent evaluations of legal services programs and grantees sponsored under this act.

And they include a positive mandate to the Corporation to provide for an experimental evaluation, through demonstration projects, of alternative and supplemental methods of delivery of legal services to eligible clients. Such methods would include a close examination of such proposals as judicare, vouchers, prepaid legal insurance and contracts with law firms. Moreover, the bill sets a deadline of 2 years for the transmission of results and recommendations to the President and Congress.

OPERATION OF LEGAL SERVICES PROGRAM

The federally funded legal services program had its modest inception in 1965 as a $600,000 adjunct to the Community Action program under title II of the Economic Opportunity Act of 1964. By 1973, it has grown into a $71.5 million program with 256 local programs which have more than 900 neighborhood branch offices. The legal services program currently employs approximately 2,200 full-time lawyers. It is estimated that in 1973 those lawyers will serve 500,000 clients and handle upward of 1,500,000 separate legal problems. By comparison, only $5,375,000 was expended on civil legal aid in the United States in 1965 before the Federal Government entered the picture. It is interesting to note, however, that 40 percent of all current legal services grantees are legal aid organizations that were in existence even in those prefederally funded days.

Local projects in the legal services program are organized around the neighborhood law office, whose attorneys have as their function the provision of legal assistance to eligible clients in the entire range of civil legal problems encountered by the poor. Since the poor have been largely bypassed in the dispensation of civil legal assistance in this country, those problems are often overwhelming in their proportions. This has led the more creative local attorneys, as well as the less individual-oriented attorneys of main project offices and back-up centers, to attempt to discover legal means broader than individual litigation to solve some of the problems. It has unfortunately also led to a certain amount of friction between legal services attorneys and the Federal, State, and local institutions that have found their policies challenged as a result of the efforts at broader reform.

Victories won on behalf of groups of eligible clients against bureaucratic regulations which contravene the constitutional and statutory rights of poor persons have angered critics and inflamed passions against legal services. Needless to say, neither a local housing authority nor Federal agencies like the Department of Agriculture are happy when lawsuits succeed in requiring them to change their regulations, even though the result is to remove obstacles to better low-income housing or to improve nutrition programs for poor children. But those whose passions have been so inflamed should be reminded that the legal process in this country, by which the people govern themselves, is never uncontroversial in the best of circumstances. It was in recognition of the need for this controversy, indeed, that the former Director of OEO, Frank Carlucci, reminded us, when this legislation was first proposed, that:

> It is an act of great self-confidence for a government to make resources available for testing the legality of government practices. We have written laws and created government agencies that provide food for people who are hungry, homes for people who are homeless, and jobs for people who are unemployed.
>
> Consequently, a lawyer who is going to represent poor people is inevitably going to be an advocate for them against governmental agencies. It is to shield legal services from the repercussions generated by suits of this kind as well as those generated by action against private interests that the President proposes creation of an independent legal services corporation.

Thus, while it is possible to point up a few real and potential abuses in the legal services process, it is far more important that this process continue than that it be shut off as a result of the few miniscule abuses that are perhaps inevitable in a 2,200-member "law firm." President Nixon himself reminded us this past summer, in another context, that "It would be a tragedy if we allowed the mistakes of a few to obscure the virtues of most."

Mr. President, I ask unanimous consent to insert in the RECORD an editorial appearing in the Washington Star-News on Saturday, January 26, at the conclusion of my remarks.

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

LEGAL SERVICES IMPASSE

One of Congress' lesser-noted failures in last year's session was its dismal performance on continuation of free legal services for poor people. This was, nonetheless, a sizable failure when measured by the scale of public justice, and the lawmakers should move speedily to correct it in this new session.

Legal services without doubt is the most successful of the anti-poverty programs conceived in the '60s. Both liberals and a great many conservatives are committed to its main

premise—that citizens must not be deprived of access to the courts because of poverty, lest our claim of equal justice under law appear as something of a mockery. So more than 2,250 lawyers in 900 neighborhood offices across the country are giving free services, through this federal endeavor, which their clients otherwise could not afford. Mainly, the aid is in family law matters that are part of everyday life, along with a good many landlord-tenant cases. On a few occasions, legal-services attorneys have strayed too far into political areas, but legislation to reconstitute the program under a new Legal Services Corporation has safeguards against that.

And certainly this proposed system, designed to give the program independence from political pressures, deserves speedy approval. It is the product of much compromise between liberals and conservatives, and, most notably, between Congress and the Nixon administration. President Nixon vetoed an earlier measure, largely because it didn't empower him to appoint all members of the corporation's governing board, but Congress has bowed to him on this. The current legislation has strong support from the administration and the American Bar Association. Its passage is many months past due, because the legal services program has been hanging on precariously for a long while within the diminished Office of Economic Opportunity.

For this delay, the Senate is mainly to blame. In the final days before adjournment last month, it failed twice to shut off an astonishing filibuster against the bill by two of its more rigid conservatives, Senators Helm of North Carolina, and Brock of Tennessee. One thread seems to run beneath all the obstructionist rhetoric: an aim to protect local and state officials from challenges by the poor to the administration of government programs. There is some intent, quite obviously, to make legal services attorneys subject to local interference, and this cannot be tolerated.

If the filibuster resumes when this measure is brought up again, the Senate should hasten to invoke cloture and pass the bill. For a nettlesome task will lie ahead, even after that, in reconciling the Senate version with a weaker bill passed by the House.

Mr. WILLIAM L. SCOTT. Mr. President, I call up my amendment No. 887 to transfer to the Attorney General jurisdiction over the District of Columbia penal facilities at Lorton, Va., and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered, and without objection the amendment will be printed in the RECORD.

Amendment No. 887 is as follows:

At the end of the bill insert the following new title:

TITLE II—TRANSFER TO THE ATTORNEY GENERAL JURISDICTION OVER THE DISTRICT OF COLUMBIA PENAL FACILITIES AT LORTON, VIRGINIA, AND FOR OTHER PURPOSES

SEC. 201. (a) The facilities operated by the District of Columbia Department of Corrections in the State of Virginia commonly known as the Lorton Reservation and consisting of the Correctional Complex, the Minimum Security Facility, the Youth Corrections Center, and related facilities, all functions, powers, duties, and records of the Commissioner of the District of Columbia and the District of Columbia Council with respect thereto, and the care, custody, discipline, instruction, and rehabilitatiton of persons committed to or residing therein are transferred to the Attorney General of the United States.

(b) (1) The positions and personnel of the District of Columbia Department of Corrections (other than medical positions and personnel) who the Director of the Office of Management and Budget determines were employed in connection with any function, power, or duty transferred by this section are transferred to the Attorney General. All personnel transferred by this subsection shall continue to have the employment rights and privileges which they had on the day prior to the effective date of this Act.

(2) The medical positions and personnel of the District of Columbia Department of Corrections who the Director of the Office of Management and Budget determines were employed in connection with any function, power, or duty transferred by this section are transferred to the Secretary of Health, Education, and Welfare, together with such records as the Director of the Office of Management and Budget determines relate to their functions. Such medical personnel shall continue to have the employment rights and privileges which they had on the day prior to the effective date of this Act.

(c) So much of the property, unexpended balances of appropriations, allocations, and other funds of the District of Columbia Department of Corrections as the Director of the Office of Management and Budget determines are used, held, available, or to be made available in connection with the functions transferred by this section are hereby transferred to the Attorney General or the Secretary of Health, Education, and Welfare, as appropriate.

(d) No contract for services or supplies made pursuant to authority granted by law by the District of Columbia Department of Corrections with respect to the Lorton Reservation shall be invalidated by the enactment of this Act.

SEC. 202. (a) All rules and regulations promulgated by the District of Columbia Department of Corrections with respect to the Lorton Reservation shall continue in force and effect until amended or repealed by the Attorney General.

(b) A person who is an inmate of the Lorton Reservation on the day prior to the effective date of this Act shall be subject to the provisions of law and the regulations governing good time allowances which were in effect with respect to him on the day prior to the effectve date of this Act.

(c) A person who, on the day prior to the effective date of this Act, has work release privileges pursuant to the District of Columbia Work Release Act, approved November 10, 1966 (D.C. Code, secs. 24–461 to 24–470), shall remain subject to the provisions of that Act until his release from custody.

SEC. 203. (a) On the effective date of this Act, there shall be transferred to the Federal Prison Industries Fund such portion of the District of Columbia Correctional Industries Fund as the Director of the Office of Management and Budget determines is reasonably attributable to the occupational programs of the Lorton Reservation.

(b) On the effective date of this Act, funds previously paid into the work release trust fund by persons who are inmates of the Lorton Reservation on that date and who have been granted work release privileges prior to that date, shall be transferred to the custody of the Attorney General. Collections made after the effective date of this Act with respect to persons who have work release privileges on the effective date of this Act shall be made by the Attorney General and disbursed in accordance with the individual work release plan developed under section 7 of the District of Columbia Work Release Act (D.C. Code, sec. 24–466).

(c) All other funds belonging to or held for the benefit of employees of the Lorton Reservation or inmates therein shall be transferred to the custody of the Attorney General.

SEC. 204. (a) Section 937 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code, sec. 24–405), is amended—

(1) by striking out "the jail or in the workhouse of the District of Columbia" and inserting in lieu thereof "facilities operated by the District of Columbia Department of Corrections", and

(2) by striking out "superintendent of the Washington Asylum and Jail for those confined in the jail, and upon the certificate of the superintendent of the workhouse for those confined in the workhouse," and inserting in lieu thereof "superintendent of the particular facility in which they are confined".

(b) The Act entitled "An Act to require that all inmates of the workhouse and reformatory for the District of Columbia shall be returned to and released in said District", approved June 10, 1910 (D.C. Code, sec. 24–406), is amended by striking out "the workhouse and reformatory for the District of Columbia" and inserting in lieu thereof "facilities operated by the District of Columbia Department of Corrections".

(c) (1) The last paragraph of so much of the first section of the Act of June 5, 1920, as appears under the heading "CHARITIES AND CORRECTIONS" and the subheading "REFORMATORY" (D.C. Code, sec. 24–418), is amended by striking out "the workhouse and the reformatory" and inserting in lieu thereof "facilities operated by the District of Columbia Department of Corrections".

(2) The third paragraph of so much of the first section of the Act of February 28, 1923, as appears under the heading "CHARITIES AND CORRECTIONS" and the subheading "REFORMATORY" (D.C. Code, sec. 24–418), is amended by striking out "at the reformatory" and inserting in lieu thereof "at facilities operated by the District of Columbia Department of Corrections".

(d) The Act entitled "An Act to establish a Board of Public Welfare in and for the District of Columbia to determine its functions, and for other purposes", approved March 16, 1926, is amended as follows:

(1) Section 6 of such Act (D.C. Code, sec. 3–106) is amended by striking out "(b) the reformatory at Lorton in the State of Virginia;".

(2) Section 7 of such Act (D.C. Code, sec. 24–411) is amended by striking out "the reformatory at Lorton in the State of Virginia;".

(e) Section 2 of the Act entitled "An Act to create a Department of Corrections in the District of Columbia," approved June 27, 1946 (D.C. Code, sec. 24–442), is amended by striking out "the Reformatory at Lorton in the State of Virginia".

(f) Section 304 of the District of Columbia Law Enforcement Act of 1953, approved June 29, 1953 (D.C. Code, sec. 4–134c), is amended—

(1) by amending subsection (a) to read as follows:

"(a) Whenever the United States Board of Parole has authorized the release of a prisoner convicted in the District of Columbia, it shall notify the Chief of Police of that fact as far in advance of the prisoner's release as possible.", and

(2) by adding after subsection (b) a new subsection as follows:

"(c) Except in cases covered by subsection (a) of this section, the Attorney General shall give notice to the Chief of Police as far in advance as possible, whenever a prisoner who has been convicted in the District of Columbia and is under sentence of six months or more is to be released from an institution under the management and regulation of the Attorney General."

(g) The Act of June 1, 1957 (D.C. Code, sec. 24–418a) is amended—

(1) by striking out "District of Columbia Reformatory located at Lorton, Virginia,

at fair market prices determined by the Commissioners of the District of Columbia," and inserting in lieu thereof "facilities under the management and regulations of the Attorney General at Lorton, Virginia, at fair market prices determined by the Attorney General,", and

(2) by striking out the last sentence thereof.

(h) The first, second, and third provisos of so much of the first section of the Act of March 2, 1911, as appears under the heading "CHARITIES AND CORRECTIONS" and the subheading "WORKHOUSE" (D.C. Code sec. 24–403) are repealed.

(i) So much of the first section of the Act of September 1, 1916, as appears under the heading "CHARITIES AND CORRECTIONS" and the subheading "REFORMATORY" (D.C. Code, sec. 24–402), is repealed.

(j) So much of the first section of the Act of March 3, 1915, as appears under the heading "JUDICIAL" and the subheading "UNITED STATES COURTS" and relates to reimbursement of District of Columbia convicts (D.C. Code, sec. 24–424), is amended to read as follows:

"The cost of the care and custody of persons convicted of violations of laws applicable exclusively to the District of Columbia and committed to Federal penal or correctional institutions shall be charged against the District of Columbia in quarterly accounts to be rendered by the Attorney General of the United States. The amount to be charged against the District of Columbia shall be ascertained by multiplying the average daily number of such persons in the particular institution during the quarter by the per capita cost for all prisoners in the same institution for the same quarter, but excluding expenses of construction or extraordinary repair of buildings."

SEC. 205. Prosecution for violations of laws applicable exclusively to the District of Columbia which relate to violations of law in or affecting penal or correctional institutions of the District of Columbia (including the Lorton Reservation) committed prior to the effective date of this Act shall not be affected by this Act or abated by reason thereof and the penalties applicable to such violations shall apply to any person convicted of such a violation occurring before the effective date of this Act.

SEC. 206. (a) All functions, powers, and duties exercised by the District of Columbia Board of Parole on the day prior to the effective date of this Act are hereby transferred to the United States Board of Parole.

(b) There are hereby transferred to the United States Board of Parole all of the property, records, and unexpended balances of appropriations, allocations, and other funds avaiable or to be made available, of the District of Columbia Board of Parole.

(c) The positions, members, and personnel of the District of Columbia Board of Parole are transferred to the United States Board of Parole and shall, with respect to all rights, privileges, and benefits, be considered as continuous employees of the United States Board of Parole without break in service. The former members of the District of Columbia Board of Parole and all other personnel transferred by this subsection may be assigned to such duties as the Attorney General deems appropriate, but without diminution of compensation or employment rights previously acquired.

(d) (1) The positions and personnel of the District of Columbia Department of Corrections who the Director of the Office of Management and Budget determines were employed in connection with the counseling or supervision of persons paroled or mandatorily released from the Lorton Reservation or the Women's Detention Center of the District of Columbia are transferred to the United States Board of Parole and shall, with respect to all rights, privileges, and benefits, be considered as continuous employees of the United States Board of Parole without break in service. Personnel transferred by this subsection may be assigned to such duties as the Attorney General deems appropriate, but without diminution of compensation or employment rights previously acquired.

(2) Nothing in this subsection shall affect the employment by the District of Columbia Department of Corrections of personnel assigned to or employed in connection with halfway houses or similar community-based facilities of the Department of Corrections.

SEC. 207. (a) Persons convicted and sentenced in the District of Columbia prior to the effective date of this Act shall be considered for parole and paroled in accordance with the applicable laws in effect in the District of Columbia on the day sentence was imposed upon them.

(b) Persons on parole in the District of Columbia on the day prior to the effective date of this Act shall remain subject to all of the terms and conditions imposed upon them prior to the effective date of this Act and their parole shall be subject to termination or modification in accordance with the law in effect in the District of Columbia on the day prior to the effective date of this Act.

(c) Nothing in this Act shall affect the validity of warrants issued by the District of Columbia Board of Parole or any member thereof prior to the effective date of this Act.

SEC. 208. The District of Columbia Department of Corrections and all other agencies and officials of the District shall cooperate with the United States Board of Parole and shall furnish the Board with such information, files, and records as it may deem necessary in the performance of its duties.

SEC. 209. (a) The Act entitled "An Act to establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes", approved July 15, 1932, is amended as follows:

(1) Section 5 of such Act (D.C. Code, sec. 24–205) is amended to read as follows:

"SEC. 5. Any officer of a facility of the District of Columbia Department of Corrections or any officer of the Metropolitan Police Department to whom a warrant of the United States Board of Parole for the retaking of a parole violator is delivered, shall execute the warrant by taking such prisoner and returning him to the custody of the Attorney General."

(2) Sections 4, 6, 7, 9, and 10 of such Act (D.C. Code, sections 24–204, 24–206 to 24–209) are repealed.

(b) The Act entitled "An Act to reorganize the system of parole of prisoners convicted in the District of Columbia", approved July 17, 1947 (D.C. Code, sections 24–201a to 24–201c), is repealed.

(c) Title 18, United States Code, is amended as follows:

(1) Section 4202 of such title is amended by inserting "or District of Columbia" immediately after "A Federal".

(2) Section 4205 of such title is amended by inserting "or District of Columbia" immediately after "any United States".

(3) Section 5025 of such title is amended—

(A) by amending subsection (b) to read as follows:

"(b) The Director of the Bureau of Prisons may contract with the District of Columbia for the treatment, rehabilitation, or supervision of youth offenders committed to the custody of the Attorney General by courts in the District of Columbia. With respect to youth offenders convicted in the District of Columbia of violations of laws of the United States not applicable exclusively to the District of Columbia, the cost shall be paid from the 'Appropriation for Support of United States Prisoners.' "; and

(B) by repealing subsection (c).

(4) Section 5026 of such title is amended by striking out ", or of the Board of Parole of the District of Columbia,", and "respectively,".

SEC. 210. Such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate the transfers referred to in this Act shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 211. This Act and the amendments made by this Act shall be effective the first day of the sixth month following the date of enactment of this Act.

Mr. WILLIAM L. SCOTT. Mr. President, this proposal is not new to the Congress. In fact, it was passed by the House of Representatives as a part of the District of Columbia crime and court reform bill during the 91st Congress. The Senate version of the bil did not include the Lorton transfer provision and it was dropped in conference.

As the Senators know, Mr. President, this prison complex is located in Fairfax County, Va., but the State of Virginia has no jurisdiction or control over it. It has been a worriscme problem for many years. So much so, that the Virginia General Assembly earlier this year passed a joint resolution memorializing the Congress to undertake corrective action at the prison complex to assure proper administration and security. The incidents that brought about this resolution are the following. During 1972 there have been 137 instances of prisoner escapes, 50 inmate assaults on prison guards, and 53 cases of assaults of inmates upon inmates.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a copy of the joint resolution of the General Assembly of Virginia.

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

(See exhibit 1.)

Mr. WILLIAM L. SCOTT. Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a copy of a resolution passed by the Fairfax County Board of Supervisors asking for the transfer of these penal facilities to the Department of Justice.

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

(See exhibit 2.)

Mr. WILLIAM L. SCOTT. Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a copy of a complaint filed by the attorney general of Virginia to have these facilities declared a pulbic nuisance.

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

(See exhibit 3.)

Mr. WILLIAM L. SCOTT. Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks an excerpt from the report of the Committee on the District of Columbia of the House with regard to this bill.

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

(See exhibit 4.)

Mr. WILLIAM L. SCOTT. Mr. President the measure introduced in the Virginia General Assembly calling for the transfer of control of the Lorton facilities

to the Federal Government had 97 of the 100 Members of the House of Delegates acting as joint sponsors which is indicative of the concern of the State authorities. The Board of Supervisors of Fairfax County have also asked that the Lorton facility be transferred to the Justice Department.

Mr. President, I introduced a measure some 5 to 6 years ago in the House of Representatives which ultimately resulted in a provision for the transfer of Lorton to the Department of Justice being included in the House version of the District of Columbia crime and court reform bill. I did this because the correctional officers came in great numbers to my congressional office and asked that some corrective action be taken. They told me of almost unbelievable acts committed within the prison complex. These acts have continued today and that are attested to by five recent violent deaths, one of which was the brutal knifing of a 26-year-old Lorton guard. The news media is ablaze with news accounts of criminal activity at Lorton. Action to correct this situation is needed.

The notes from which I am speaking today were prepared a little over a month ago, prior to our adjournment on December 21, 1973. I would say that since the preparation of the notes, we have had other acts of violence occurring within this prison complex, which are illustrated by the newspaper accounts and I ask unanimous consent that they be included in the RECORD at the conclusion of my remarks.

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

(See exhibit 5.)

Mr. WILLIAM L. SCOTT. Citizens who live near the prison complex have also contacted my office and shared their concern. A short time ago, a family living near Lorton was kidnaped and terrorized by a couple of Lorton escapees. The situation has become so bad, Mr. President, that the attorney general of Virginia filed suit in the State court to have the prison complex declared a public nuisance. The situation has deteriorated to such an extent that today the guards assigned to the prison are considering striking against the unsafe conditions in the prison. Their insecurity speaks loud and clear about conditions at Lorton.

Mr. President, knowing the feeling of the people of Virginia on this matter, I have written to the President, and the Attorney General urging that the executive department take action to improve conditions at Lorton. Escapes have become so routine that I have heard the commentators on radio and television joking about their frequency and it would be comical that inmates could walk in and out of an institution as freely as they do if it was not such a serious matter.

The affairs of the institution have been conducted so loosely and the correctional heads of the District of Columbia Department of Corrections have been so unresponsive to the people of Virginia that I do feel we have no alternative, but to transfer this facility to the Department of Justice. Under the Justice Department's leadership I believe that Lorton could become a model for other prisons and that all parties will benefit from this proposal.

In summary, Mr. President, let me just say that the correctional prison complex at Lorton is a District of Columbia facility. The inmates there are those who have been convicted to crimes within the District of Columbia. Yet, the complex is wholly within the State of Virginia. We have no control over a prison located in Virginia. That facility is under the jurisdiction of the District of Columbia. This prison complex is a festering sore.

I am authorized to say, Mr. President, that my distinguished senior colleague from the State of Virginia concurs with me in this amendment.

I do ask for an affirmative vote on the amendment at the agreed-upon time.

EXHIBIT NO. 1

HOUSE JOINT RESOLUTION NO. 229

Memorializing the Congress of the United States to undertake corrective actions at the Lorton Prison Complex to insure proper administration and security of that facility

Whereas, the District of Columbia's penal institution at Lorton, Virginia is unique in that it is physically located within the confines of the Commonwealth of Virginia; and

Whereas, the administration and control of subject facility is exclusively that of the District of Columbia government with no participation by local or State government officials or agencies; and

Whereas, there have been one hundred thirty-seven instances of prisoner escapes during the nineteen hundred seventy-two calendar year, an increase of fifty-eight over nineteen hundred seventy-one, endangering the lives and safety of Virginia citizens; and

Whereas, the administrators of subject facility have responded to local citizen concern in an arrogant and most uncooperative manner; and

Whereas, citizens of Virginia have been captured in their homes, kidnapped and escapees of the Lorton Complex have been charged with the murder of a police officer; and

Whereas, there have been fifteen inmate assaults on prison officers and sixty-three cases of assaults by inmates upon inmates with three violent deaths; and

Whereas, the consumption of alcoholic beverages and use of hard drugs has become commonplace within the prison complex with four recorded instances of death due to drug overdose in nineteen hundred seventy-two; and

Whereas, escapes have taken place at Lorton Prison and gone unreported to Fairfax County, Prince William County, and State law enforcement agencies, for as long as an eight hour period of time, endangering the lives and safety of Virginia residents; now therefore, be it

Resolved by the House of Delegates, the Senate of Virginia concurring, That the Congress of the United States is memorialized by the General Assembly of Virginia to give its most expeditious consideration to transferring the control of the Lorton Prison Complex to the Federal Prison Systems, and to undertake corrective actions to insure proper administration and security of subject facility.

Resolved further, That the Clerk of the House of Delegates is instructed to send copies of this resolution to the Clerk of the House of Representatives and the Senate of the United States Congress, and to the Virginia delegation in the Congress.

Agreed to by the House of Delegates, February 7, 1973.

GEORGE R. RICH,
Clerk.

Agreed to by the Senate, February 23, 1973.

LAURIE V. C. LUCAS,
Clerk.

EXHIBIT NO. 2

RESOLUTION PASSED BY FAIRFAX COUNTY BOARD OF SUPERVISORS ON SEPTEMBER 25, 1972, RE LORTON PRISON—RESOLVED CLAUSES ONLY

Therefore be it resolved:

1. that the Federal Bureau of Prisons be requested to provide on an immediate basis, assistance in managing and controlling the Complex, and

2. that the Federal Bureau of Prisons develop and promulgate a long range plan for the operation of the facility, and

3. that the District of Columbia take immediate steps to increase staff (primarily in the area of guards at the Complex), and

4. that plans for any major facilities development at the Complex be submitted to the Federal Bureau of Prisons and Fairfax County for review and approval.

EXHIBIT NO. 3

COMPLAINT

[Virginia: In the Circuit Court of Fairfax County]

Commonwealth of Virginia, Plaintiff, v. District of Columbia, a municipal corporation, Serve on: Stanley J. Anderson, District of Columbia Council, 14th & E Streets, N.W., Washington, D.C.; Kenneth L. Hardy, Director, Department of Corrections, 416 H Street, N.W., Washington, D.C.; and Delbert C. Jackson, Superintendent, Lorton Reformatory, 8300 Lorton Road, Lorton, Virginia, Defendants. Civil Action No. —.

JURISDICTION

(1) The jurisdiction of this Court is invoked pursuant to Title 8, Chapter 25, of the Code of Virginia, 1950, as amended, §§ 8-578, *et seq.*

PARTIES

(2) Plaintiff Commonwealth of Virginia brings this action in her *parens patriae* capacity as guardian of the health, safety and welfare of her citizens.

(3) Defendant District of Columbia is a municipal corporation which owns and operates a penal facility, known as the Lorton Reformatory, in Fairfax County, Virginia. Defendant Kenneth Hardy is the Director of the District of Columbia Department of Corrections, which is charged by statute with the administration of the Lorton Reformatory. Defendant Delbert C. Jackson is the Superintendent of the said reformatory.

CAUSE OF ACTION

(4) Within the calendar year 1972 and prior to the filing of this Complaint, at least seventy-nine (79) inmates, most of whom are felons who have been convicted of crimes of violence, have escaped from the Lorton Reformatory, including thirty-nine (39) who have physically breached the security perimeter.

(5) On information and belief, these escapes have been made possible by the inadequacy of the security, staffing and supervision of the said reformatory by the defendants.

(6) The number and frequency of the said escapes and the presence of the escapees in Northern Virginia and particularly in Fairfax County, Virginia, constitutes a continuing danger to the health, safety and welfare of the citizens of the Commonwealth of Virginia who have been or may be injured, taken hostage, robbed or burglarized by these inmates in their desperate flight.

(7) Based on the foregoing facts, defendants are guilty of maintaining a public nuisance, to-wit: the Lorton Reformatory.

(8) If defendants are permitted to continue to maintain the said nuisance, the health, safety and welfare of the citizens of the Commonwealth of Virginia will continue to be endangered as described above.

(9) If defendants are permitted to continue to maintain the said nuisance, the Commonwealth of Virginia will be unable to attract industrial and residential citizens to the area

surrounding the Lorton Reformatory, to the detriment of her economy and development.

(10) If defendants are permitted to continue to maintain the said nuisance, the Commonwealth of Virginia will be required to hire and maintain extra and special law enforcement personnel specifically for the protection of her citizens in the Lorton area and for the apprehension of defendants' escapees.

PRAYER FOR RELIEF

(11) Wherefore, plaintiff prays that the Court will take jurisdiction over the complaint and grant the following relief:

(a) Declare that the defendants' current operation of the Lorton Reformatory constitutes a public nuisance.

(b) Enter an order prohibiting the defendants from continuing to operate the Lorton Reformatory unless measures satisfactory to the Court are implemented forthwith effectively to eliminate the possibility of easy escape from the said facility.

(c) Order such other general and special relief as shall seem appropriate upon a review of the evidence.

COMMONWEALTH OF VIRGINIA,
ANDREW P. MILLER,
Attorney General.
RENO S. HARP, III,
Deputy Attorney General.
VANN H. LEFCOE,
Assistant Attorney General.
LINWOOD T. WELLS, Jr.,
Assistant Attorney General.
SUPREME COURT BUILDING, RICHMOND, VIRGINIA 23219.

EXHIBIT 4

FINDINGS

1. There is a chain of command that exists ineffectively and in regulations only, from the Director to the lowest level of paid personnel. The Director on occasions gives direct orders to various paid personnel, on all levels, as well as prisoner, without notice of, or notifying intervening levels of responsibility. (See Transcript of Hearings, Pages 19, 20, 24, 25, 33, 34, 35, 50, 67, 80, 81 232, 233, 234, 378, 379, 380, 436)

2. The Director and his staff expressed surprise at developments happening within their areas of responsibility, when such incidents were brought to their attention in hearings before the Special Select Subcommittee. (See Transcript of Hearings, Pages 68, 235, 412)

3. Correctional officers were assaulted by inmates on all too frequent occasions, and it appeared that the proper discipline of prisoners might have prevented most of the incidents complained of. (See Transcript of Hearings, Pages 34, 35, 39, 53, 54, 55, 163, 164, 187, 208, 261, 273, 274, 275, 276, 381, 382, 390, 419, 421, 422, 423, 424, 425, 439, 440, 473, 474, 480, 481, 482, 536, 537, 538, 539)

4. When correctional officers strictly enforced regulations, they were transferred to other duties. (See Transcript of Hearings, Pages 282, 412, 413, 526, 530, 531, 532, 533, 534, 535, 536, 537 538, 539, 540)

5. The prisoners were allowed to organize an "Inmate Advisory Council." This group gave advice and made demands, which were granted, as to the operation of their facility (See Transcript of Hearings, Pages 33, 50, 281, 282, 283, 284, 352, 412, 414)

6. Escapes from the five institutions under the control of the Department of Corrections are all too frequent. It appeared that these incidents occurred from lack of proper security at the various institutions and, the permissive policy of the Department of Corrections' staff. (See Transcript of Hearings, Pages 37, 38, 39, 40, 56, 57, 58, 83, 84, 85, 86, 96, 98, 99, 100, 109, 110, 111, 112, 113, 114, 120, 129, 130, 131, 132, 133, 134, 135, 136, 137, 141, 142, 147, 154, 160, 161, 166, 169, 170, 176, 177, 178, 179, 181, 182, 183, 185, 186, 188, 190, 218, 237, 238, 239, 240, 271, 272, 299, 300. 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 335, 342, 349, 372, 387, 388, 390, 391, 392, 393, 406, 431, 432, 433, 476, 477, 478, 496, 497, 500, 501, 543, 544)

7. The use of narcotics by inmates is widespread, and there appears very little effort by the administration to control it. (See Transcript of Hearings, Pages 32, 35, 62, 63, 64, 65, 96, 97, 100, 101, 121, 122, 138, 139, 140, 141, 142, 147, 148, 156, 157, 158, 159, 166, 168 169, 173, 175, 176, 177, 178, 180, 182, 183, 198, 200, 201, 259, 337, 338, 397, 400, 423, 424, 492, 495, 498, 499, 543, 544, 545, 547, 548, 549, 550, 552, 553, 554, 555, 556)

8. The inmates at the Reformatory (Lorton Correctional Complex), Minimum Security Facility and Youth Center at Lorton, Virginia, plus the Women's Detention Center, Washington, D.C. manufactured "moonshine alcohol" in copious quantities. This violation of the laws of the District of Columbia, the State of Virginia and the United States has been a long and continuous one through the years. Recently one officer who was very thorough in locating and destroying such alcohol was transferred to other duties and told "he was making waves and the prisoners did not like it." (See Transcript of Hearings, Pages 35, 36, 37, 38, 39, 150, 151, 171, 172, 173, 174, 208, 258, 259, 337, 382, 383, 384, 391, 392, 393, 395, 396, 397, 400, 404, 428, 429, 430, 431, 492)

9. Some of the prisoners who were selected to operate canteens within the prisons, upon inventory were found to have shortages through misappropriation of funds or inventory. In one, of several recent instances, an inmate named GOSKINS, 89798, on November 20, 1969 was found short $1211.97. He was allowed to be released on parole the following day, with only limited efforts undertaken for repayment. (See Transcript of Hearings, pages 440, 441, 442, 443, 444, 445, 446, 519, 520, 521, 522, 523, 524, 525, 526)

10. The practice of homosexuality and lesbianism is widespread and uncontrolled, and no effort is made to segregate these deviates from other prisoners. (See Transcript of of Hearings, Pages 102, 103, 104, 105, 106, 107, 123, 349, 398, 399, 400, 483, 490)

11. Rapes of prisoners by other prisoners are commonplace. (See Transcript of Hearings, Pages 53, 54, 55, 86, 87, 90, 91, 94, 95, 394, 421)

12. No control or inventory is maintained by the supervisory personnel of eating utensils used within the institutions. Hundreds, perhaps thousands, of these utensils have been manufactured into deadly weapons, some of which are now in the possession of the Special Select Subcommittee. The prisoners have been known to use these weapons not only on one another but on the officers. Even after this was brought to the surprised attention of the Director of the Department of Corrections and his staff, no efforts were made to correct this deadly situation. (See Transcript of Hearings, Page 296, 297, 310, 311, 312, 384, 385, 386, 404, 405, 419, 436, 437)

13. The prisoners do not perform even menial tasks and threaten to riot if an effort is made to force them to work. (See Transcript of Hearings, Pages 43, 287, 288, 289, 290, 291, 372)

14. The five institutions are filthy and ill kept. This situation could easily be corrected with prisoner participation in cleanliness, with soap, mops and pails, plus paint. (See Transcript of Hearings, Pages 43, 123, 124, 125, 126, 143, 145, 146, 287, 288, 289, 290, 291, 406, 485)

15. The various institutions maintain schools for prisoners. They are poorly attended, maintained and taught. Some of the vocational equipment is out-of-date and not only outdated, but limited to the very basic fundamentals of teaching. (See Transcript of Hearings, Pages 203, 211, 212, 433, 434, 435, 488)

16. The hiring practices are beyond belief. There are no minimum educational requirements, a starting age of 18 years, and no character or security investigations of these correctional officer personnel are made. (See Transcript of Hearings, Pages 108, 109, 114, 115, 116, 117, 118, 126, 127, 128, 148, 149, 170, 171, 197, 204, 205, 206, 207, 224, 225, 226, 227, 230, 231, 245, 246, 247, 281, 283, 284, 318, 327, 328, 333, 334, 335, 402, 415 416, 417, 418, 420, 421, 424, 425, 426, 460, 461, 462, 463, 476, 493, 527)

17. Promotions of paid personnel are made without any written criteria, and on the apparent personal whims of the personnel-officer and the candidates' immediate supervisor. The escalation and deescalation of the candidates' grade eligibility, on the Civil Service registers are manipulated at will. (See Transcript of Hearings, Pages 236, 237, 241, 242, 243, 244, 247, 248, 249, 250, 251, 252, 333, 334, 349, 350, 351, 403, 404, 407, 408, 409, 410, 411, 413, 414, 415)

18. The rifling, removal, and destruction of personal and other official files appears to have been done at will, by both authorized and unauthorized personnel. (See Transcript of Hearings, Pages 234, 237, 244, 245, 353, 354)

19. A large segment of the paid personnel have never been fingerprinted, and many of those who were did not have FBI reports on their prints. It appears that none of the higher echelon of administrative employees, and very few, if any, of the department staff have been fingerprinted. Many of those who have been fingerprinted possess criminal records and are allowed continued employment by the Department. (See Transcript of Hearings, Pages 277, 278, 279, 280, 281, 376, 457, 458, 459, 460, 468, 512, 513)

20. There appears to be no criteria for placing inmates in "half-way houses". They attempted to use select or restricted areas in the District, where innumerable prisoners would be allowed to roam at will and terrorize the neighborhood. Not only was the attempt made, but the effort is still being pursued. (See Transcript of Hearings, Pages 175, 357, 358, 359, 360, 362, 363, 364, 365, 366, 367, 368, 369)

21. Outdated and outmoded bookkeeping methods over various funds kept within the Department are maintained with "self-audits". Such "self-audits" were offered to the special Select Subcommittee as proof of balances. (See Transcript of Hearings, Pages 235, 293, 294, 295, 296, 441, 442, 443, 444, 445, 446, 515, 516, 517, 518, 519, 520, 528, 529)

22. There appears to be no specific criteria for the placing of prisoners into "work release programs". The escapes of these prisoners were extremely high, even by the Department of Corrections' statistics. (See Transcript of Hearings, Pages 37, 38, 98, 99, 100, 173, 175, 178, 370, 371, 474, 475)

23. "Moonlighting" (the holding of other jobs), or performing services for hire, is prevalent among a large number of employees. This extra-income producing work was openly condoned, permitted or "winked-at" by the Director's office. (See Transcript of Hearings, Pages 20, 68, 340, 341, 343, 446)

24. Numerous personnel are hired under "contract" (without character investigation or being fingerprinted) which avoided Civil Service procedures and also used funds set aside for other activities or for the hiring of additional guards. (See Transcript of Hearings, Pages 41, 42, 339, 340, 379, 380)

25. The Correctional Advisory Council, Washington, D.C. advised the Director on policies he should follow, and he admitted giving their advice close attention. (See Transcript of Hearings, Page 51)

26. The morale of the paid personnel, especially the guards, or Correctional Officers is at an all-time low. (See Transcript of Hearings, Pages 38, 51, 87, 88, 118, 119, 120, 132, 133, 134, 135, 136, 137, 166, 236, 237, 241, 260, 282, 283, 284, 315, 316, 317, 318, 353, 402, 404, 418, 421, 425, 426, 497, 526, 527, 533)

27. Full inspections or "shakedowns" of the

institutions are seldom. According to Directive DO 5000.4A, they are ordered to be done twice a month. This permits contraband of all types to flow freely in and about the various prisons. (See Transcript of Hearings, Pages 64, 101, 102, 165, 210, 259, 260, 401, 402, 404)

28. The training of correctional officers in particular, and personnel in general is from no training at all, to extremely limited courses. (See Transcript of Hearings, Pages 131, 132, 319)

29. No continuing examinations, records or controls are kept on prisoners with contagious diseases. (See Transcript of Hearings, Pages 145, 149, 201)

30. Visitors are allowed physical contact with prisoners, at which time contraband has been apprehended being passed between them. Any sum of money may be deposited to any prisoner's account by anyone, ostensibly to pay for contraband. (See Transcript of Hearings, Pages 155, 156, 198, 199, 200, 291, 292, 293, 420, 427, 482, 499, 500, 511)

31. First offender prisoners are commingled with hardened or recidivist criminals, there being no segregation facilities available. (See Transcript of Hearings, Pages 157, 179, 180, 181, 285, 286)

32. The administrators of the various institutions under the Department of Corrections are unbelievably inept and without proper experience or training. (See Transcript of Hearings, Pages 195, 196, 226, 335, 336, 347, 348, 352, 354, 355, 372, 425, 447, 448, 449, 450, 451, 452, 482, 489, 490, 491, 492, 494)

33. The inmate population in the Department of Corrections was found to be below capacity. (See Transcript of Hearings, Pages 228, 229, 230, 268, 269, 270, 460)

EXHIBIT 5

[From the Washington Star-News, Jan. 24, 1973]

SIX FLEE THROUGH TUNNEL

Six inmates of the Lorton Youth Center escaped late yesterday by crawling through an underground tunnel for heating pipes. Four were recaptured within a few hours, walking along Interstate Route 95, between the Lorton and Woodbridge exits. Two were still at large.

Four prisoners were discovered missing at a routine count at 9:30 p.m., and the two others were found to be missing at an 11:45 p.m. count, however, it appeared that all six had gone through the tunnel at about the same time before it was secured after the first four escapes were discovered.

The tunnel, which carries heating pipes throughout Youth Center No. 2 at Lorton, normally is sealed by both bars and brickwork. It was not known early today how the escapees had opened it.

The four men who were recaptured by Lorton correctional officers were identified as: James Henry, 21; serving 6 years under the Youth Correction Act for petty larceny; Kenneth May, 21, 6 years for second-degree burglary; Frederick Green, 23, parole violation and 6 years under Youth Corrections Act for petty larceny and attempted second-degree burglary; and Ronald Valentine, 23, parole violation and Youth Act sentence for possession of narcotics and carrying a dangerous weapon.

The two men still at large early today were: Raymond Cole, 21, originally sent to a halfway house but escaped, and now awaiting trial on a first-degree burglary charge, and Dennis Gillison, 23, serving 6 years under the Youth Correction Act for robbery and unlawful entry.

[From the Washington Post, Jan. 25, 1973]

TWO OF SIX LORTON YOUTH CENTER ESCAPEES HUNTED

Two of six prisoners who escaped from the Lorton Youth Center Tuesday night remained at large yesterday, the Fairfax County police reported.

Four of the six were discovered missing from the facility at about 9:30 p.m. and were recaptured about two hours later along Rte. I–95 between the Lorton and Woodbridge exits, about 20 miles south of Washington, corrections officials said.

Two other inmates were discovered missing at an 11:45 p.m. count. The six are believed to have escaped through a steam tunnel running under the Youth Center fence.

Corrections officials identified the four who were recaptured as Dennis Gillison, 23; Raymond Cole, 20; James Henry, 21; and Kenneth May, 21. The two still missing were identified as Ronald Valentine, 23, and Frederick Green, 23.

Henry was reported to be serving a six-year term for petty larceny; May, six years for second-degree burglary.

Valentine was reported to be serving six years for carrying a dangerous weapon and housebreaking, while Green was serving six years for petty larcency.

Gillison was reportedly serving six years for robbery and unlawful entry, and Cole was awaiting trial on a burglary charge.

LORTON TAKEOVER BILL FACES OPPOSITION

Chances for a congressionally ordered federal takeover of the District's Lorton correction complex in Fairfax County are slender, sources said yesterday.

Bills to provide for a federal takeover face opposition in the House and Senate District Committee, which would consider them. They also face a lack of administration support for the switch.

Sen. William L. Scott (R-Pa.) has introduced legislation in the Senate to hand Lorton over to federal supervision. Rep. Stanford Parris (R-Va.) is expected to do so soon on the House side.

[From the Washington Post, Mar. 9, 1973]

LORTON INMATE FLEES DURING TRIP TO DISTRICT OF COLUMBIA

A Lorton inmate who was serving a term for armed robbery and assault with a dangerous weapon escaped from custody yesterday while on a supervised field trip to Washington, corrections department officials reported.

Police said the inmate, Clifton L. Jenkins, 24, of 1842 C St. SE was one of four inmates visiting the Department of Labor and the Adams-Morgan Peoples Center at 2326 17th St. NW.

Jenkins disappeared from the group about 4:30 p.m. near the Peoples Center, a corrections spokesman said.

Corrections officials said Jenkins had served two years of a 9-to-28-year sentence and was a member of the Lorton Council for Progressive Action, a prisoner self-help group.

[From the Washington Star-News, May 10, 1973]

LORTON PRISONER STABBED TO DEATH

A prisoner in the maximum security section of Lorton Reformatory was fatally stabbed in the chest late yesterday while in a recreation yard with some 83 other inmates, the Department of Corrections reported.

In another incident last night, a Lorton inmate serving a life term for murder and attempted robbery disappeared while on an escorted trip to a Washington church, officials said.

The stabbing victim was identified as Larry J. Gallman, 25, who was serving a 12-year sentence, started in January 1972 for attempted robbery and two counts of armed robbery.

He died at DeWitt Army Hospital at 6:40 p.m., the department said, 20 minutes after being rushed to the institution when he appeared at Cellblock 4 from the adjacent yard saying he had been stabbed.

A Lorton spokesman said Gallman could not or would not tell any more about the stabbing. No one professing to have seen the attack was found immediately, and no weapon was discovered.

The FBI is investigating.

The Corrections Department said Maurice Evans, 36, sentenced to a life term on Aug. 12, 1966, for first-degree murder and attempted robbery, was missed from a church at 3401 Martin Luther King Ave. SE at 10:15 p.m.

Evans was one of six inmates who had made the trip to Washington with a group called Lifers for Prison Reform, a self-help organization at Lorton, a spokesman said.

[From the Washington Post, May 18, 1973]

KNIFE DEATH AT LORTON IS THIRD THIS YEAR

A Lorton inmate was stabbed to death yesterday morning, in what officials said was the third fatal stabbing this year at the city's prison complex in Virginia. Another inmate was severely cut yesterday.

The dead man was identified as Melvin G. Brandon, 27, who was serving an eight to 25 year term for robbery, assault with a dangerous weapon and assault on a police officer. The term began May 8, 1969.

Officials said that Brandon staggered out of a recreation room at about 10 a.m. with stab wounds in the left chest, arm, and shoulder. They said he was pronounced dead on arrival at the infirmary.

At about the same time, they said, Benjamin Murdock, 25, emerged from the room with a severely cut left hand. He was taken directly to D.C. General Hospital where he was listed in good condition.

Authorities said that an investigation is under way by the FBI and prison officials. However, they said, they have found no weapons or witnesses and do not know if the two stabbings were related.

[From the Washington Star-News, May 23, 1973]

"FENCE" BELONGED INSIDE THE FENCE

(By Patrick Collins)

Paul Enten, the former Georgetown decorator serving time at Lorton Reformatory for fencing, had no business being out of jail on a work release program last week, according to a District prison official.

Jail officials barred Enten from the job as special consultant to the head of the Maryland Bicentennial Commission and confined him to a maximum-security cell at Lorton. This action came after a judge complained that Enten, serving a 6 to 20-year sentence, had been seen shopping at Garfinkel's.

Larry Swain, director of the D.C. Correction Department's adult services division, said yesterday that Enten had not served enough time to merit consideration for the program. It allows convicts to work normal jobs at day and return to a minimum-security prison farm at night.

Swain said a regulation adopted by the department March 15 prohibits inmates with more than 14 months to serve from taking part in the program.

Enten, an interior decorator, was sentenced during September 1971 for participating in a $250,000 burglary-fencing ring that dealt in goods from Northwest Washington homes.

At the sentencing, U.S. District Court Chief Judge Sirica ordered Enten to serve a minimum of six years and eight months before he could be paroled.

Enten, 43, had done about a third of that time in February when he began working three days a week outside the jail as an advisor to an old friend, Louise Gore, the Maryland bicentennial commissioner.

"Whether he should have been released to the program then? I can't say yes or no," Swain said. "But definitely, after March 15, he should have been taken off the program."

Last Tuesday, a court officer saw Enten at Garfinkel's and told Judge Sirica. The judge called the jail and Enten lost his job.

Miss Gore said that Enten's trip to the store was legitimate.

"He was shopping for souvenirs for the Maryland bicentennial," he said.

Enten was transferred to Lorton's maximum-security section because he had missed the prison's two-week orientation program there when he was first arrived, Swain said.

But Enten's wife Jean said her husband had been through the orientation and that she suspects prison officials are wrongly trying to punish her husband.

After orientation, unless a convict is considered particularly dangerous or likely to escape, he is assigned a bunk in a medium-security dormitory or a minimum-security prison farm.

Mrs. Enten said that her husband had spent 900 hours on unescorted release from the jail and had not gotten into trouble during his sentence.

[From the Washington Post, May 28, 1973]

GRADUATION FOR THE INMATES

(By William Raspberry)

First the bad news. Of the 10 Lorton inmates who enrolled two years ago in a Washington Technical Institute program aimed at helping them learn to deal with children whose behavior problems has forced them out of public school classrooms, two escaped. One subsequently turned himself in; the other is still at large.

Now the good news. The remaining eight will be graduating from WTI on June 8. Seven of the eight already have earned honors awards "for outstanding achievement" from the faculty of WTI.

The school awarded a total of nine such awards in educational technology. Six of them went to Lorton inmates.

This may be the first time any of them won't be embarrassed to see their names in the newspaper, so here they are: James (Cue Ball) Irby, Alonzo Harris, Richard Brown, David Keys, Larry Williams, James Lewis and William Coefield. Terrell Moore didn't make the honors group, but he's graduating, and not by the skin of his teeth, either.

One more name, Yetta Galiber, without whom, it is safe to say, none of this would have happened. Even with her, it almost didn't.

Mrs. Galiber, who heads the Information Center for Handicapped Children, first got the idea of putting inmates to work with problem children from former Lorton Superintendent John O. Boone. As they conceived it, the inmates would spend part of their time working directly with children, the rest in study at WTI. The trick was to persuade WTI President Cleveland Dennard to institute the program.

He finally agreed to it on the day of registration in September 1971. Since then, upwards of a dozen inmates at a time—most of them with long sentences—have been counseling, tutoring and in many cases rehabilitating teenage boys whose disruptive behavior has forced them out of regular classrooms.

Many of the children, it turns out, need only to know that someone really is concerned about them, the inmates say. It sounds trite and obvious when they say it—until you realize that it is knowing that someone cares that has made a difference in their own lives.

Caring is what keeps Yelta Galiber, middle-class dentist's wife and social activist, from being just a black Lady Bountiful. Listen to Cue Ball Irby:

"I'll tell you the truth, I didn't believe Mrs. Galiber when she first came down there. I went along with her program just because it was something to do. Then I noticed something; her conversation was never what I had done in the past, but what I intended to do in the future. She actually got me thinking about my future for the first time, and I'm 51 years old.

"That's what I mean when I talk about having somebody believe in you. I hadn't been in school in 20 years when she asks me if I have a high-school equivalency. I didn't, but she convinced me that I could get one if I wanted to. That's how she does, just setting little goals. First the equivalency, then WTI. Now I'm looking forward to going to Howard this fall. And you want to know something?

"I'm going to have my Ph.D. if time doesn't run out on me."

Irby's work is at Juvenile Court, at first with Judge John D. Fauntleroy, now with Judge Alfred Burka.

Richard Brown, who also sings Mrs. Galiber's praises, is interested primarily in recreation. He was a starting guard on the WTI basketball team this year. ("I won't say they made all the difference," says Mrs. Galiber, "but the year before Rick and Larry Williams joined the team, they were 3–17; last year their record was 17–2.")

One of the reasons he likes athletics, Brown says, is that it helps him reach the boys he's working with. He's ready with a different case history at the drop of a hat. And what is impressive about his recitals—what makes them believable—is that they are uniformly undramatic; one boy learns to get along with other kids just a little better; two others are able to return to regular classrooms; three or four show no more obvious improvement than that they finally start to talk about what's bothering them.

What's bothering them most often, he says, is the same thing that was bothering him: lack of self-confidence stemming from the fact that nobody believed in him.

Brown, 27, intends to continue his work with handicapped children after he finishes college (he has several offers for a basketball scholarship), assuming Mrs. Galiber is successful in helping him get out of prison in time. He's doing 5-to-25 years on a drug charge.

Irby, who's doing a flat 20 years on his third drug offense, likes children, but he really sees himself as a college professor, perhaps in sociology. Don't bet your house he won't make it.

And please don't bet that what has happened in this program can be duplicated in prison systems throughout the country.

Yetta Galiber's belief and trust in these men has produced a kind of magic that even she doesn't understand. It's far, far more than her willingness to stick her neck out for them, or burn up tankloads of gasoline between Lorton and Washington, or soft-talk her husband into making dental bridges for the men who need them so badly.

She really cares about these guys. And they, having seen what magic caring can work, are passing it on.

Either that, or they're conning the hell out of me.

[From the Washington Post, Aug. 2, 1973]

INMATE, 19, SEEKS RELEASE, CITES RAPE DANGER AT LORTON

(By Eugene L. Meyer)

In the first week that Timothy N. Turner, 19, of Hillcrest Heights, spent at the Lorton Youth Center, he said his clothes, sheets, and shoes were stolen and other inmates advised him to submit to homosexual acts.

In his second week at the center, where he is one of 13 whites among 330 prisoners, he said other inmates threatened four times to harm him unless he had sex with them. He said he refused. Records show that after he fought off an attack Saturday he was placed first in solitary confinement, then in a locked, protective custody cell.

Turner, a first offender, had pleaded guilty in D.C. Supreme Court to second degree burglary and was sent by Judge Donald Smith to Lorton for 60 days' psychiatric study prior to sentencing on September 14. Yesterday he asked in Court to be released on personal bond, to return only during the day for testing.

Judge William C. Thompson refused, after a 3-hour hearing. The judge said he believes Turner is not in danger now that he is in protective custody.

According to Turner's attorney, William J. Temple, his client, a slightly built youth, was subjected to cruel and unusual punishment among the general inmate population.

"He wasn't sentenced to be raped," the lawyer said, "he was sentenced to be studied."

"I don't think we have to wait for him to be brought into court on a stretcher," Temple said.

"Everytime I go somewhere," Turner testified "I have to look over my shoulder."

In addition, his lawyer argued that while in protective custody he is denied the right to move about that is accorded other prisoners.

"Because they won't enforce discipline against 98 per cent of the inmates," Temple contended, "2 percent have to live in solitary confinement."

He said that Turner has "constantly been harassed, mistreated, taunted and kept in fear of his life by his fellow inmates solely and exclusively because of his race." Four of the 13 whites at the youth center are in protective custody, officials said.

Robert C. Whitaker, administrator of youth center, acknowledged that inmates have complained in recent protests that locks, which would provide a measure of security, are missing from 80 per cent of the cell doors.

But he said, discipline is enforced "absolutely."

Assistant Corporation Counsel Robert Chernikeff, representing the corrections department, sought to depict Turner as a white youth who does not accept blacks, Assistant U.S. Attorney Charles J. Harkins portrayed him as a loner, who does not fit in anywhere.

"Maybe a lot of this was brought on by his own attitude," Harkins said. Placing the youth on personal bond would be "giving someone who doesn't fit in anywhere a license to steal in D.C." Harkins said.

In an interview after the hearing, Turner's mother, Wilsie Joyce Turner, rebutted the implication that his problems stemmed from dislikes of blacks.

"Most of his friends are black," she said. "It's me that's prejudiced. He's with black people constantly. He brings them home. I told him to be nice to them, that they have equal rights, but you don't have to bring them home."

[From the Washington Post, May 30, 1973]

LORTON UNDER FIRE

Rep. Stanford E. Parris (R-Va.) yesterday called the administration of the Lorton reformatory "inept and inadequate . . . and becoming worse with each passing day."

At a press conference, Parris cited statistics showing that over the past 10 months 47 inmates have escaped from the District of Columbia's penal facility in southern Fairfax County.

He said he and his constituents are concerned about security and added: "If I have to, I'll go down to Lorton and put a lock on the gate myself."

The congressman asked the General Accounting Office to scrutinize Lorton's budget for the last two years and he asked Attorney General Elliot L. Richardson to investigate to determine whether any legal means exists to "permit the involvement of federal penal officials in improving this situation."

[From the Washington Post, Aug. 28, 1973]

EIGHT INMATES ARE INJURED AT LORTON

(By Paul Ramirez)

Eight inmates at Lorton Reformatory's Youth Center were injured, one of them seriously, in an "unusual" weekend of violence at the D.C. penal facility in Fairfax County, city corrections officials said yesterday.

One inmate, 24-year-old Clarence Scott, was paralyzed from the waist down by stab wounds he received in a fight in which four other inmates were "cut in some manner" Saturday night, officials said.

According to corrections department spokesman, Scott was stabbed on the forehead and back when a melee broke out in a recreation room where more than 200 youth center inmates had gathered for a movie at about 8:30 p.m. Saturday.

Scott's mother, Pauline Scott, who visited her son at D.C. General Hospital Sunday, said a hospital nurse "told me my son might not walk no more." She quoted Scott as saying he had been beaten "with iron pipes."

Mrs. Scott said she had learned "from other boys" that a large number of correctional officers "were standing there and they let them fight like that without doing anything."

The corrections spokesman said the officers who witnessed the fight "tried to open doors . . . tried to get everybody that was not involved out. That's the only thing I could tell you on that."

Also treated at D.C. General Hospital for wounds suffered in the fight were Stanley Jackson, 24, and Arthur L. House. Scott remained hospitalized yesterday in fair condition. Jackson is scheduled to be returned to the youth center today and House was returned to the institution after treatment Sunday.

The two other youths injured in the fight, and three others hurt in separate incidents during the weekend, were treated either at the center or at the Lorton Reformatory infirmary for minor cuts, the spokesman said.

The stabbings are being investigated by the FBI, which investigates all crimes at the Lorton prison complex.

[From the Washington Post, Sept. 3, 1973]

CONVICT ESCAPES FROM LORTON

Police were searching yesterday for a 31-year-old prisoner who was discovered missing from a minimum security work camp at Lorton reformatory, officials reported.

They said James Alton Procter, who was serving a 5- to 15-year sentence for robbery, grand larceny, burglary with intent to commit a felony and carrying a deadly weapon, was discovered missing at the 9 a.m. roll call yesterday. Procter had been at Lorton since 1970.

Sgt. James Harley, who reported the escape, said that Procter could have walked out of the 300-resident camp, which is not fenced in. The prisoners there "have worked their way up," Harley said, and are "on the honor system."

Sgt. Harley said it was the first escape in eight months from a minimum security camp at Lorton.

[From the Washington Post, Sept. 5, 1973]

LORTON INMATE FOUND STABBED

Theodore Matthews, 25, received multiple stab wounds in the chest Monday night at the D.C. correctional facility at Lorton, where he was serving a three-year sentence for narcotics and parole violations, police said yesterday.

He was found by two guards, lying on the floor of his dormitory and was taken first to DeWitt Army Hospital at Ft. Belvoir and then to D.C. General Hospital. His condition was listed as serious yesterday after surgery.

No arrests in the case had been made as of late yesterday, police said.

[From the Washington Star-News Nov. 12, 1973]

CRASH FOILS ESCAPE OF FOUR

Four Lorton Reformatory inmates shot their way off a prison bus near the Pentagon this morning, commandeered a general's Cadillac and fled through Alexandria and across the Woodrow Wilson Bridge.

As the fleeing car headed toward the District at the bridge's east end, it crashed into another car in rush-hour traffic near the Blue Plains sewage plant and the four fugitives were eventually recaptured after they fled on foot.

A prison guard on the bus, John A. Tucker was shot in the arm when the prisoners began their escape attempt, and one of the escapees was also wounded.

Details could not be confirmed immediately by the half-dozen law-enforcement jurisdictions involved, but this was the sequence of events that began to emerge:

At about 7:30, the Lorton bus, carrying 41 prisoners to the District Jail en route to court appearances later in the morning, was in the Pentagon Mixing Bowl at Army-Navy Drive and South Eads Street when one inmate produced a pistol and disarmed the guard.

The bus driver pulled over, and in the course of the escape, shots were exchanged and the guard was disarmed.

The four prisoners fled toward Jefferson Davis Highway to commandeer a getaway car.

Wireonca Workman, 41, a maid in the employ of Gen. F. S. Besson Jr. (ret.) had just dropped the general at the Pentagon helipad and was driving his cream-colored Cadillac back to Alexandria when a man armed with two pistols opened the driver's door and said: "Move over, Mama, and you won't get hurt!"

Mrs. Workman moved over, the gunman got behind the wheel and three others piled into the car. One of those in the back, holding a shotgun, was bleeding, she said.

"They said they wouldn't hurt me, and I didn't try to make any funny moves," Mrs. Workman recalled. "I didn't know who they were or what they wanted, and I wasn't about to ask. I was shook up and I just didn't want them to hurt me."

The takeover of the general's car was seen by a construction worker, who reported it to police. An all-points bulletin was put out by Arlington police, and five minutes later Alexandria Patrolman Junior Bowling, in a scout car on N. Henry Street in downtown Alexandria, spotted the Cadillac.

Bowling radioed for help and followed the getaway car onto the Beltway and the Wilson Bridge. By the time it reached the eastern end, four Alexandria cruisers had joined the 90-mile-an-hour chase, and District and Prince Georges police were heading toward the area.

The driver of the Cadillac turned onto the Anacostia freeway at the end of the bridge, but found his way blocked by commuter rush-hour traffic heading into the District and swung onto the northbound shoulder.

At the Oxon Creek overpass, where the shoulder ends, the driver tried to get back into the right-hand lane and rammed into the rear of a car driven by Mrs. Edith McCuall of Upper Marlboro, forcing it up onto the guardrail. The Cadillac was disabled and the four prisoners fled on foot into the woods nearby.

The Alexandria police cruiser took up the chase, radioed his position and was joined eventually by cars from Arlington, Prince Georges County and the District.

As Mrs. Workman recalled her hair-raising ride, the escape bogged down when the driver headed north on Route 295 and ran into two solid lanes of inbound commuter traffic.

The driver swung onto the shoulder of the freeway, but crashed into the rear end of another northbound car when he tried to get back into the moving traffic. The Cadillac was disabled.

The four prisoners jumped out of the car and took off into the brush and woods on either side of the freeway.

Within an hour police using K–9 dogs and a helicopter tracked down the fugitives in the area south of the Blue Plains sewage plant and Oxon Creek.

Metropolitan Police identified the four escapes as Kenneth May, Elijah Cunningham, Lester Irby and Orlando Willis.

According to police Willis was shot in the leg by a Lorton correctional officer as he was fleeing the bus.

Cunningham, 25, was serving a life sentence after being convicted of first-degree murder. Irby, 25, convicted of three bank robberies, was serving sentences of 2 to 7 years, 10 to 30 years and 20 years.

May, 21, was serving a six-year sentence under the Youth Corrections Act. It could not be determined immediately what May was charged with. Prince Georges has a detainer for May, when he is released from Lorton, for a 15-year sentence on a conviction of robbery with a deadly weapon.

Willis, 21, was sentenced in 1969 under the Youth Corrections Act on a burglary charge. He also was convicted in 1973 on a robbery charge for which he was sentenced to 7 to 21 years.

[From the Washington Star-News, Nov. 28, 1974]

JUDGE HALLECK FREES VICTIM OF LORTON RAPES

(By Winston Groom)

D. C. Superior Judge yesterday commuted the sentence of a 21-year-old Lorton prisoner after receiving reports that the man was raped repeatedly by other inmates at the prison complex.

Halleck had originally sentenced Michael Matthews, of the 4400 block of Livingston Road S.E to nine months in prison after he pleaded guilty to carrying an unlicensed pistol last June.

"I don't send people to jail for this sort of thing to happen to them," Halleck said, referring to the reports of homosexual assaults on Matthews during his six-month stay at Lorton.

Matthews also received a suspended sentence in a separate case yesterday before Judge Edmund T. Daley. Daley acknowledged that he had spoken to Halleck about the rape incidents but said the discussion had nothing to do with his decision to suspend Matthews' sentence.

"I simply felt that he was the sort of person who should not be incarcerated," Daley said. Both cases (the one before Halleck and the one before Daley) grew out of altercations between Matthews and his wife, he said.

Halleck said he learned of the alleged prison assaults on Matthews through Matthews' attorney, Daniel Brown, adding that he had confirmed them through other official sources.

"The problem is that he, Matthews, is simply not the sort of person who is easily a victim to this kind of thing—and there was every indication that it would continue if he remained in jail," Halleck said.

"If he had been a big street-wise guy who looked like he could take care of himself I would have left him in there, but he is not," Halleck said.

Daley and Matthews appeared before him with bruises and a black eye that he apparently had received while trying to fend off attackers.

"He is not the criminal type—he just has this problem with his wife and I think, he's over it now," Daley said.

He said Matthews, a former clerk at the Interior Department appeared to be a responsible citizen and that he was now studying to be a draftsman at a technical institute.

Commenting on the issue of inmate safety at area penal institutes. Halleck said: "It's bad—really bad, and everyone knows it.

"I don't know what can be done about it, though—except I'm not going to send people down there to be molested and raped."

The question of homosexual assaults became widely publicized two months ago when a 21-year-old Quaker anti-war protestor said he was raped more than 50 times while a prisoner at D.C. jail.

The quaker, Robert Martin of Fairfax, told the U.S. Attorney's office and later the D.C. City Council that other inmates beat and assaulted him during a 24-hour period and that he was able to escape only by flinging himself at the feet of a guard and begging for help.

The U.S. Attorney's Office said a grand jury is investigating the incident.

[From the Washington Post, Dec. 1, 1973]

LORTON GUARD IS SLAIN, BODY HIDDEN IN MANHOLE

(By Raul Ramirez)

A Lorton Reformatory correctional officer was killed yesterday and his body hidden inside a manhole in a fenced-in recreation yard at the medium security section of the D.C. prison in Fairfax County, D.C. corrections officials said.

The body of Michael Roy Kirby, 26, of Manassas, was found at 5:20 p.m. by officers who began searching for him after Kirby entered the prison grounds at 2 p.m. but failed to report to his assigned post, officials said.

Kirby was pronounced dead of "multiple ascertainable injuries" by a prison doctor. Officials would not describe the nature of the injuries, other than to say that there was "no evidence of gunshot wounds."

The FBI, which investigates all serious crimes at the 1,600-inmate prison, is probing the death, officials said.

A spokesman for the D.C. corrections department said last night that no other incidents had been reported at the prison yesterday and said prison officials "know of no reason why he (Kirby) might have been murdered."

Since he joined the correctional force on July 31, 1970, Kirby had been assigned in a trailer just outside the main gate to register visitors to the prison, a job that entails little contact with inmates.

Kirby's killing is the first at the Lorton complex since Feb. 13, 1958, when guard Michael J. Hughes was stabbed to death in a dormitory day room by several inmates.

The corrections department spokesman gave the following account of the events preceeding the discovery of Kirby's body:

The officer, who was scheduled to begin working at 2:30 p.m., arrived at the complex at about 2, parked his motorcycle outside the 12-foot-high chain link fence surrounding the facility and entered the grounds through two electronically-controlled gates adjacent to the prison's main entrance tower No. 1.

Minutes later, Kirby was seen by several officers inside the officers' locker room and the duty captain's office, a red brick building adjacent to a dormitory and near the prison mess hall.

At about 2:15 p.m., he was seen by another officer walking on a paved road between the prison chapel and the back side of a row of six dormitories. The rectangular space between the dormitories is fenced-in and is used as recreational space by inmates. Kirby was walking toward tower No. 1, on the outside of the yard. His body was found hours later, inside the yard, which is enclosed by a 10-foot fence.

At 3:15 p.m. a routine phone call was made by his superiors to the trailer outside the prison gate where Kirby screened visitors seeking to enter the prison. When no one answered the call, the tower officer was contacted and he said Kirby had not gone through the gates. A search of the grounds was ordered.

Kirby's body was found inside one of the recreation yards and inside a manhole eight feet deep and five feet in diameter. The iron cover over the hole had been replaced after his body was placed in it.

Yesterday's slaying came in the wake of reports from D.C. corrections officials that violence in the city's 3,300-inmate penal system is declining.

Last month, the keepers of the city's five penal institutions reported that a crackdown search of cells and dormitories had netted hundreds of makeshift weapons and other contraband hidden by Prisoners.

The extensive searches were begun three months ago after the city's 1,000 correctional officers threatened to refuse to patrol hazardous areas at Lorton and the D.C. jail and other institutions because of growing unrest among inmates.

The action was averted when D.C. corrections director Delbert C. Jackson vowed to step up searches for weapons and agreed to meet other security-related requests from officers. Since that time figures provided by the department show incidents of violence among inmates and against officers have steadily declined.

[From the Washington Post, Dec. 2, 1973]

THREE LORTON INMATES STABBED AFTER KILLING

(By Raul Ramirez)

Three inmates were stabbed in two incidents at the Lorton correctional complex Friday night, hours after the body of a correctional officer who had been fatally stabbed was found at the D.C. prison, officials said yesterday.

The stabbings, two of which occurred in a gymnasium at the D.C. youth center and the third in a medium security section dormitory, did not appear to be related to the killing of Officer Michael Roy Kirby, officials said.

Kirby's death prompted officials for the union representing the 1,000 guards in the D.C. penal system to call a mass meeting of Lorton officers for Monday to discuss what action to take on the face of what union officials termed a "breakdown in discipline" at the prison.

The body of Kirby, 26, of Manassas, was found at 5:20 p.m. inside a manhole in a fenced-in recreation yard at Lorton's medium security section. Three hours earlier he had entered the prison grounds, but failed to report to his post just outside the facility's main guard tower.

The FBI field office in Alexandria, which investigates all serious crimes at Lorton because of the number of federal prisoners there, said yesterday that an autopsy showed that Kirby had died of "multiple stab wounds." An FBI spokesman said the investigation into Kirby's death "will be open for some time, probably."

Four hours after Kirby's body was found an officer making a routine check of a nearby dormitory found Ronald Richardson, 37, lying on the floor inside the dormitory. He had been stabbed several times, officials said. Richardson is serving a three-year term for escape and parole violations.

Richardson was admitted to DeWitt Army Hospital at nearby Ft. Belvoir, where he was reported in satisfactory condition yesterday. Corrections officials said they had no clues as to how or by whom Richardson was stabbed.

Twenty minutes later, two youth center inmates were assaulted and repeatedly stabbed by several other prisoners during a recreation period in the facilitys' gymnasium, officials said.

A corrections department spokeswoman said an officer was in the gymnasium at the time of the assaults but "was not able to see what happened because of the large number of inmates in the area."

The wounded inmates were identified as Anthony Smith, 19, and Michael Hawkins, 20, both serving terms for robbery and related charges. They were reported in fair condition at area hospitals yesterday.

Lorton officials said they have "some idea" as to who their assailants were and are investigating the incident further.

Several recent "shakedown" searches of Lorton dormitories have turned up hundreds of makeshift weapons and other contraband, and last month union officials had said they were "pleased" with conditions at the prison.

Officials for the American Federation of Government Employees (AFL–CIO), the union representing the correctional officers, said yesterday that some union members have suggested walkouts in protest of security conditions at the 1,600-inmate Lorton Reformatory.

"They are very upset," said Paul Ragan, secretary-treasurer of AFGE union local 1550. He said Monday's meeting, scheduled for 3:30 p.m. outside the prison's main entrance, was called by union officials after numerous complaints came from Lorton officers after Kirby's death. Kirby is the first guard slain at Lorton at least since 1958, officials said.

[From the Washington Star-News, Dec. 8, 1973]

LORTON PRISONER STABBED

A 25-year-old inmate was stabbed several times in a maximum security cellblock at Lorton Reformatory last night, exactly a week after a guard was found slain and three other inmates wounded in apparently unrelated stabbings at the D.C. prison complex in Fairfax County.

Last night's victim, who was reported in serious condition following surgery at D.C. General Hospital, was identified by a Corrections Department spokesman as Nathaniel DeVaughn, who was serving six years for robbery and prison escape.

The spokesman said that about 7:30 p.m., during television privilege time when the door to DeVaughn's maximum-security cell was open, he came out on a tier calling for help.

Suffering from several stab wounds, he was taken to the Lorton infirmary, then to Ft. Belvoir hospital and finally to D.C. General for treatment.

The spokesman said suspects have been identified but no charges filed.

"Shakedowns" of prison dormitories in recent months have uncovered hundreds of makeshift weapons, and Lorton officers—incensed by the discovery of the stabbed body of officer Michael Roy Kirby in a manhole within the prison complex Nov. 30—met with D.C. Corrections Delbert C. Jackson, earlier this week to demand tightened security.

[From the Washington Star-News, Dec. 13, 1973]

LORTON SEARCH UNCOVERS SOME WEAPONS, NO DRUGS

(By Jared Stout)

Nine squads of volunteer D.C. prison guards undertook a search of the Lorton prison complex today and by early afternoon had found a few weapons but no drugs.

D.C. Corrections Department Director Delbert C. Jackson, though declining to specify the number of weapons found, said a number of knives, including pieces of metal which had been sharpened, were found in the housing units of the complex.

Jackson said the search "was proceeding smoothly without incident," although its

pace was slowed somewhat because less than half of the anticipated number of volunteers materialized.

By 1 p.m. the guards were turning their efforts toward a shakedown of the work areas in the central facility at Lorton.

The squads of from eight to 10 men formed on a parking lot near the prison Training Academy shortly after 7 a.m. and moved into the prison through a gate at Tower Six.

In addition to the nine squads of nine men each detailed to the search, a smaller group was assigned to man the gymnasium, where inmates not on work schedules waited, and a standby group of search volunteers was maintained.

As inmates left their dormitories this morning, they were searched and then went to work assignments or the gym. A head houseman and a member of the grievance committee were left in each dormitory to observe the search procedures.

The search for weapons and other contraband was a key demand of local 1550, American Federation of Government Employees to avert a Friday walkout by the guards which the union represents.

Jackson said the search would last until the guards were sure they had picked up all contraband they suspected were on the premises.

More than 250 guards had volunteered originally for the search assignment, but less than half that number turned out. Some of those who showed up today still wore black crepe ribbon across their badges in memory of a fellow guard, Roy Kirby, 26, who was found stabbed to death within the complex Nov. 30.

Jackson later estimated that the search of Lorton's central facility, which houses about 1,100 inmates, would take from six to eight hours. Newsmen were not permitted to accompany the search squad. Officials said the results of the shakedown would be made public after the search was completed.

The search squad moved out five minutes after an announcement over the Lorton public address system. The announcement told the inmates what was coming, although the prison grapevine was humming with rumors of an impending search most of yesterday.

Officials said the announcement was intended to "minimize any fears or apprehensions" among the inmates.

The volunteers agreed to undertake the search in return for time off. It was not clear whether the search would head off a strike threatened tomorrow by some members of Local 1550. American Federation of Government Employees, the union representing the guards.

Corrections officials yesterday were optimistic about averting a walkout. They noted that only 50 of 1,038 guards called for a strike during a heated meeting Tuesday. About 150 attended the meeting, and many had left when the voice vote to strike came.

Officials said the department would honor other commitments in addition to the shakedown to improve security. Among them were a metal detector for the Visitors' entrance, nameplates for inmates and improved lighting and watchtower facilities.

There was no immediate response to other guard demands, including a call for a grand jury investigation of the prison administration, resignation of Jackson, transfer of the D.C. Corrections Department to the U.S. Bureau of Prisons and the right to wear chemical weapons inside the prison.

[From the Washington Star-News, Dec. 24, 1973]

FOUR ESCAPE LORTON AS BULLETS WHIZ

Four inmates escaped from the Lorton Youth complex early today by scrambling over two barbed-wire fences as guards fired several shots at them, authorities said.

It was not known if any of the inmates were wounded as they dashed into the woods. Fairfax County police and Lorton guards began searching the area after the 12:30 a.m. escape.

Lorton Sgt. William Fletcher said a guard in Tower No. 2 at the Youth Complex spotted the inmates walking toward the first of two 12-foot fences shortly after midnight and shouted for them to stop.

Instead, they ran to the fence and began to climb over.

The guard fired one warning shot and a guard in Tower No. 1, on the other side, fired two warning shots, Fletcher said.

After the inmates had climbed over the fence and were starting on the second one, the first guard fired four more shots, this time aiming at the inmates.

The four men, however, made it over and dashed into the woods.

They were identified as Ricky Louis, 20, Michael Sweet, 18, and a 17-year-old all of whom were serving sentences for armed robbery. The fourth inmate, Joseph Frederick, 21, was convicted of burglary and grand larceny.

[From the Washington Post, Dec. 29, 1973]

PRISONER IS KILLED AT LORTON

(By Judy Luce Mann)

A 25-year-old Lorton inmate was found stabbed to death behind one of the institution's dormitories yesterday, D.C. corrections department officials said. He was the third person to be killed at the District's penal complex in the past month.

Daniel Strickland, administrator of the 1,100-inmate facility, identified the dead man as Tyrone Jefferson and said he was serving a 15-year-to-life-imprisonment term for two counts of armed robbery. Jefferson entered the prison in September, 1972.

Another inmate, Elbert Fleming, 33, was found stabbed and beaten to death in the shower at the minimum security section of the prison complex on Dec. 10.

A guard, Michael Roy Kirby, 26, was killed and his body was found stuffed in a manhole on Nov. 30. Both Kirby and Jefferson were killed inside the central complex, a medium security section of Lorton.

Strickland said there appeared to be no connection between the three killings, although he acknowledged that "there is always a possibility" the deaths are related.

He said the FBI, which is investigating the first two killings, arrived at 4:05 a.m. yesterday, less than two hours after Jefferson's body was discovered in the back of dormitory 16, where he lived. Jefferson's body, clad in underwear, was discovered by a guard.

Strickland, the veteran of private rehabilitation projects and of the D.C. corrections department who assumed his post Oct. 5, met with reporters outside the main gate of the 3,500-acre complex yesterday and discussed the killings.

Asked if he had any explanation for the incidents, he said, "I do not, other than the fact that these situations . . . do happen. The complex is quite large," he said, "and surveillance hinges upon the number of employees you have to patrol."

He said the staff is "insufficient to properly and adequately patrol these areas," where the 23 dormitories, each of which houses about 40 men, are located. "To prevent the type of incident that occurred this morning, additional staff is indicated," he said.

He estimated that a 20 per cent increase in the guard staff is needed but declined to say specifically how many guards there are now. He also said that more guards have been assigned to the night shift since the killings, and that they have been ordered to patrol in pairs.

After the Nov. 30 killing of Kirby, the Lorton guards demanded that a massive search for weapons be conducted in the central complex. This was held Dec. 13 and yielded some 70 illegal items, including home-made knives, narcotics paraphernalia and marijuana.

The weapon used to kill Jefferson has not yet been identified, according to Strickland, but when asked about its presence in the complex so soon after the shakedown, he again pointed to the size of the institution and said "unless you have a daily massive shakedown, it's difficult to prevent the fashioning of weapons."

Also in answer to questions Strickland said there was no evidence to indicate that a drug war was going on within the prison or that a "hit committee" was operating. He said, however, no reason for Jefferson's killing has surfaced.

(A "hit committee" is an organized group that kills people. Such a group might function, for example, in connection with a drug war at the institution.)

"He was a model type of inmate, active in the academic program," said Strickland. Jefferson, who was married and a native of the District, was working toward his high school equivalency certificate and also worked in the heating plant at the prison, said Strickland.

"He was a rather passive guy" who had "nothing in his record to support that he was a drug user," Strickland said.

According to jail records, which are computerized and do not include much detail, 13 charges have been lodged against Jefferson at various times, many of which were dropped. He served time in the Lorton youth center on a robbery conviction in 1970 and to which he was paroled in 1971, according to these records. He was returned to jail in July, 1972 and sentenced to Lorton in September on two armed robbery convictions.

Mr. WILLIAM L. SCOTT. Mr. President, I forgot to mention some matters in connection with the amendment that I have offered. While I indicated that my senior colleague from Virginia agreed with the amendment, I do want to ask unanimous consent that his name be added as a cosponsor of the amendment, Mr. HARRY F. BYRD, JR.

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

Mr. WILLIAM L. SCOTT. Mr. President, a companion bill has been introduced in the House of Representatives by the entire Virginia delegation, and I ask unanimous consent that that bill be printed in the RECORD at this point.

There being no objection, the bill (H.R. 3844) was ordered to be printed in the RECORD, as follows:

H.R. 3844

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

SECTION 1. (a) The facilities operated by the District of Columbia Department of Corrections in the State of Virginia commonly known as the Lorton Reservation and consisting of the Correctional Complex, the Minimum Security Facility, the Youth Corrections Center, and related facilities, all functions, powers, duties, and records of the Commissioner of the District of Columbia and the District of Columbia Council with respect thereto, and the care, custody, discipline, instruction, and rehabilitation of persons committed to or residing therein are transferred to the Attorney General of the United States.

(b)(1) The positions and personnel of the District of Columbia Department of Corrections (other than medical positions and personnel) who the Director of the Office of Management and Budget determines were employed in connection with any function, power, or duty transferred by this section are

transferred to the Attorney General. All personnel transferred by this subsection shall continue to have the employment rights and privileges which they had on the day prior to the effective date of this Act.

(2) The medical positions and personnel of the District of Columbia Department of Corrections who the Director of the Office of Management and Budget determines were employed in connection with any function, power, or duty transferred by this section are transferred to the Secretary of Health, Education, and Welfare, together with such records as the Director of the Office of Management and Budget determines relate to their functions. Such medical personnel shall continue to have the employment rights and privileges which they had on the day prior to the effective date of this act.

(c) So much of the property, unexpended balances of appropriations, allocations, and other funds of the District of Columbia Department of Corrections as the Director of the Office of Management and Budget determines are used, held, available, or to be made available in connection with the functions transferred by this section are hereby transferred to the Attorney General or the Secretary of Health, Education, and Welfare, as appropriate.

(d) No contract for services or supplies made pursuant to authority granted by law by the District of Columbia Department of Corrections with respect to the Lorton Reservation shall be invalidated by the enactment of this Act.

SEC. 2. (a) All rules and regulations promulgated by the District of Columbia Department of Corrections with respect to the Lorton Reservation shall continue in force and effect until amended or repealed by the Attorney General.

(b) A person who is an inmate of the Lorton Reservation on the day prior to the effective date of this Act shall be subject to the provisions of law and the regulations governing good time allowances which were in effect with respect to him on the day prior to the effective date of this Act.

(c) A person who, on the day prior to the effective date of this Act, has work release privileges pursuant to the District of Columbia Work Release Act, approved November 10, 1966 (D.C. Code, secs. 24–461 to 24–470), shall remain subject to the provisions of that Act until his release from custody.

SEC. 3. (a) On the effective date of this Act, there shall be transferred to the Federal Prison Industries Fund such portion of the District of Columbia Correctional Industries Fund as the Director of the Office and Management and Budget determines is reasonably attributable to the occupational programs of the Lorton Reservation.

(b) On the effective date of this Act, funds previously paid into the work release trust fund by persons who are inmates of the Lorton Reservation on that date and who have been granted work release privileges prior to that date, shall be transferred to the custody of the Attorney General. Collections made after the effective date of this Act with respect to persons who have work release privileges on the effective date of this Act shall be made by the Attorney General and disbursed in accordance with the individual work release plan developed under section 7 of the District of Columbia Work Release Act (D.C. Code, sec. 24–466).

(c) All other funds belonging to or held for the benefit of employees of the Lorton Reservation or inmates therein shall be transferred to the custody of the Attorney General.

SEC. 4. (a) Section 937 of the Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901 (D.C. Code, sec. 24–405), is amended—

(1) by striking out "the jail or in the workhouse of the District of Columbia" and inserting in lieu thereof "facilities operated by the District of Columbia Department of Corrections", and

(2) by striking out "superintendent of the Washington Asylum and Jail for those confined in the jail, and upon the certificate of the superintendent of the workhouse for those confined in the workhouse," and inserting in lieu thereof "superintendent of the particular facility in which they are confined".

(b) The Act entitled "An Act to require that all inmates of the workhouse and reformatory for the District of Columbia shall be returned to and released in said District," approved June 10, 1910 (D.C. Code, sec. 24–406), is amended by striking out "the workhouse and reformatory for the District of Columbia" and inserting in lieu thereof "facilities operated by the District of Columbia Department of Corrections".

(c)(1) The last paragraph of so much of the first section of the Act of June 5, 1920, as appears under the heading "CHARITIES AND CORRECTIONS" and the subheading "REFORMATORY" (D.C. Code, sec. 24–418), is amended by striking out "the workhouse and the reformatory" and inserting in lieu thereof "facilities operated by the District of Columbia Department of Corrections".

(2) The third paragraph of so much of the first section of the Act of February 28, 1923, as appears under the heading "CHARITIES AND CORRECTIONS" and the subheading "REFORMATORY" (D.C. Code, sec. 24–418), is amended by striking out "at the reformatory" and inserting in lieu thereof "at facilities operated by the District of Columbia Department of Corrections".

(d) The Act entitled "An Act to establish a Board of Public Welfare in and for the the District of Columbia, to determine its functions, and for other purposes," approved March 16, 1926, is amended as follows:

(1) Section 6 of such Act (D.C. Code, sec. 3–106) is amended by striking out "(b) the reformatory at Lorton in the State of Virginia;".

(2) Section 7 of such Act (D.C. Code, sec. 24–411) is amended by striking out "the reformatory at Lorton in the State of Virginia,".

(e) Section 2 of the Act entitled "An Act to create a Department of Corrections in the District of Columbia," approved June 27, 1946 (D.C. Code, sec. 24–442), is amended by striking out "the Reformatory at Lorton in the State of Virginia."

(f) Section 304 of the District of Columbia Law Enforcement Act of 1953, approved June 29, 1953 (D.C. Code, sec. 4–134c), is amended—

(1) by amending subsection (a) to read as follows:

"(a) Whenever the United States Board of Parole has authorized the release of a prisoner convicted in the District of Columbia, it shall notify the Chief of Police of that fact as far in advance of the prisoner's release as possible.", and

(2) by adding after subsection (b) a new subsection as follows:

"(c) Except in cases covered by subsection (a) of this section, the Attorney General shall give notice to the Chief of Police as far in advance as possible, whenever a prisoner who has been convicted in the District of Columbia and is under sentence of six months or more is to be released from an institution under the management and regulation of the Attorney General."

(g) The Act of June 1, 1957 (D.C. Code, sec. 24–418a) is amended—

(1) by striking out "District of Columbia Reformatory located at Lorton, Virginia, at fair market prices determined by the Commissioners of the District of Columbia," and inserting in lieu thereof "facilities under the management and regulations of the Attorney General at Lorton, Virginia, at fair market prices determined by the Attorney General,", and

(2) by striking out the last sentence thereof.

(h) The first, second, and third provisos of so much of the first section of the Act of March 2, 1911, as appears under the heading "CHARITIES AND CORRECTIONS" and the subheading "WORKHOUSE" (D.C. Code sec. 24–403), are repealed.

(i) So much of the first section of the Act of September 1, 1916, as appears under the heading "CHARITIES AND CORRECTIONS" and the subheading "REFORMATORY" (D.C. Code, sec. 24–402), is repealed.

(j) So much of the first section of the Act of March 3, 1915, as appears under the heading "JUDICIAL" and the subheading "UNITED STATES COURTS" and relates to reimbursement of District of Columbia convicts (D.C. Code, sec. 24–424), is amended to read as follows:

"The cost of the care and custody of persons convicted of violations of laws applicable exclusively to the District of Columbia and committed to Federal penal or correctional institutions shall be charged against the District of Columbia in quarterly accounts to be rendered by the Attorney General of the United States. The amount to be charged against the District of Columbia shall be ascertained by multiplying the average daily number of such persons in the particular institution during the quarter by the per capita cost for all prisoners in the same institution for the same quarter, but excluding expenses for construction or extraordinary repair of buildings."

SEC. 5. Prosecution for violations of laws applicable exclusively to the District of Columbia which relate to violations of law in or affecting penal or correctional institutions of the District of Columbia (including the Lorton Reservation) committed prior to the effective date of this Act shall not be affected by this Act or abated by reason thereof and the penalties applicable to such violations shall apply to any person convicted of such a violation occurring before the effective date of this Act.

SEC. 6. (a) All functions, powers, and duties exercised by the District of Columbia Board of Parole on the day prior to the effective date of this Act are hereby transferred to the United States Board of Parole.

(b) There are hereby transferred to the United States Board of Parole all of the property, records, and unexpended balances of appropriations, allocations, and other funds available or to be made available, of the District of Columbia Board of Parole.

(c) The positions, members, and personnel of the District of Columbia Board of Parole are transferred to the United States Board of Parole and shall, with respect to all rights, privileges, and benefits, be considered as continuous employees of the United States Board of Parole without break in service. The former members of the District of Columbia Board of Parole and all other personnel transferred by this subsection may be assigned to such duties as the Attorney General deems appropriate, but without diminution of compensation or employment rights previously acquired.

(d)(1) The positions and personnel of the District of Columbia Department of Corrections who the Director of the Office of Management and Budget determines were employed in connection with the counseling or supervision of persons paroled or mandatorily released from the Lorton Reservation or the Women's Detention Center of the District of Columbia are transferred to the United States Board of Parole and shall, with respect to all rights, privileges, and benefits, be considered as continuous employees of the United States Board of Parole without break in service. Personnel transferred by this subsection may be assigned to such duties as the Attorney General deems

appropriate, but without diminuation of compensation or employment rights previously acquired.

(2) Nothing in this subsection shall affect the employment by the District of Columbia Department of Corrections of personnel assigned to or employed in connection with halfways houses or similar community-based facilities of the Department of Corrections.

SEC. 7. (a) Persons convicted and sentenced in the District of Columbia prior to the effective date of this Act shall be considered for parole and paroled in accordance with the applicable laws in effect in the District of Columbia on the day sentence was imposed upon them.

(b) Persons on parole in the District of Columbia on the day prior to the effective date of this Act shall remain subject to all of the terms and conditions imposed upon them prior to the effective date of this Act and their parole shall be subject to termination or modification in accordance with the law in effect in the District of Columbia on the day prior to the effective date of this Act.

(c) Nothing in this Act shall affect the validity of warrants issued by the District of Columbia Board of Parole or any member thereof prior to the effective date of this Act.

SEC. 8. The District of Columbia Department of Corrections and all other agencies and officials of the District shall cooperate with the United States Board of Parole and shall furnish the Board with such information, files, and records as it may deem necessary in the performance of its duties.

SEC. 9. (a) The Act entitled "An Act to establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes," approved July 15, 1932, is amended as follows:

(1) Section 5 of such Act (D.C. Code, sec. 24–205) is amended to read as follows:

"SEC. 5. Any officer of a facility of the District of Columbia Department of Corrections or any officer of the Metropolitan Police Department to whom a warrant of the United States Board of Parole for the retaking of a parole violator is delivered, shall execute the warrant by taking such prisoner and returning him to the custody of the Attorney General."

(2) Sections 4, 6, 7, 9, and 10 of such Act (D.C. Code, sections 24–204, 24–206 to 24–209) are repealed.

(b) The Act entitled "An Act to reorganize the system of parole of prisoners convicted in the District of Columbia", approved July 17, 1947 (D.C. Code, sections 24–201a to 24–201c), is repealed.

(c) Title 18, United States Code, is amended as follows:

(1) Section 4202 of such title is amended by inserting "or District of Columbia" immediately after "A Federal".

(2) Section 4205 of such title is amended by inserting "or District of Columbia" immediately after "any United States".

(3) Section 5025 of such title is amended—

(A) by amending subsection (b) to read as follows:

"(b) The Director of the Bureau of Prisons may contract with the District of Columbia for the treatment, rehabilitation, or supervision of youth offenders committed to the custody of the Attorney General by courts in the District of Columbia. With respect to youth offenders convicted in the District of Columbia of violations of laws of the United States not applicable exclusively to the District of Columbia, the cost shall be paid from the 'Appropriation for Support of United States Prisoners.' "; and

(B) by repealing subsection (c).

(4) Section 5026 of such title is amended by striking out ", or of the Board of Parole of the District of Columbia,", and "respectively,".

SEC. 10. Such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate the transfers referred to in this Act shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 11. This Act and the amendments made by this Act shall be effective the first day of the sixth month following the date of enactment of this Act.

Mr. WILLIAM L. SCOTT. Mr. President, I have just conferred with the majorty leader. I therefore ask unanimous consent that there be a rollcall on my amendment at 1:30 p.m. on Wednesday.

Mr. JAVITS. Mr. President, reserving the right to object, I understand the situation. However, I would like the indulgence of the Chair so that I might ask whether, if this stipulation is entered into, a motion may be made to table the pending amendment.

The PRESIDING OFFICER. If a specific hour is agreed to, at which to vote on the adoption of the amendment, any other action would not be in order.

Mr. JAVITS. Mr. President, this is a problem which arises in respect to putting this particular amendment on the pending bill. It really would not be fair to the proponents of the bill to shut off that right.

Mr. MANSFIELD. Mr. President, if the distinguished Senator from Virginia would agree, I would make that stipulation, because it is in order. I had not thought of it at the time that the request was made.

Mr. WILLIAM L. SCOTT. Mr. President, I have no objection to adding that provision to my unanimous-consent request. However, I would hope that the distinguished Senator from New York would not make such a motion. I do recognize that it is within his right.

I am ready to vote now. However, at the request of the distinguished majority leader, I asked unanimous consent that the vote be at 1:30 on Wednesday.

Mr. JAVITS. Mr. President, do I correctly understand that a motion to table the amendment will be in order on Wednesday?

The PRESIDING OFFICER. The Senator is correct.

Is there objection to the request as stipulated above? The Chair hears none, and it is so ordered.

OPPOSITION TO LEGAL SERVICES CORPORATION

Mr. ALLEN. Mr. President, I oppose the creation of an independent Legal Services Coporation as provided by S. 2686. In short, the bill proposes a socialist-oriented corporation, independent of governmental supervision, but designed to utilize the powers of Government and taxpayers' funds to accomplish socialist objectives.

Mr. President, let me elaborate on two aspects of the proposal. First, there is language in separate provisions of the bill, and language in the committee report on the bill which makes its unmistakably clear that the corporation to be created shall not be inhibited by considerations of accountability to the people in the implementation of its class action type activities. The Corporation will operate independently of the will of State and local governing bodies, free of policy guidelines established by Congress, and free of influence from the executive branch of Federal Government. In short, the Corporation will be empowered to establish policies and fund programs without regard to the will of the people or the will of their elected representatives.

Second, the legislative history of the Coporation to date clearly indicates that it is intended to utilize the class action type of lawsuits against State, local, and Federal agents and agencies of Government to establish public policies and implement such policies by means of judicial decrees. We are being asked to create an independent corporation free of normal governmental restraints to accomplish legislative purposes.

Mr. President, I suggest that to create a truly independent agency of the Federal Government, such as the Legal Services Corporation, and to empower it, and fund it, for the purpose of utilizing the judicial system of government to effect social, economic, and political changes, is a dangerous departure from sound principles of constitutional government. In reality, the Corporation will be performing, in conjunction with the courts of the land, the legislative function of establishing public policy and accomplishing the amendment or repeal of laws enacted by Congress by the process of seeking judicial decrees for that sole purpose.

Mr. President, our Federal Government is already top-heavy with agencies not accountable to the people. Are we to add to an independent judiciary an independent agency to perform both an executive and a legislative function? Is the fate of State and local governments and decisions affecting national policy to be left to the discretion of a handful of radical lawyers and judges? But such, as I see it, is the purpose of the Corporation, and it is an innovative and a radical departure from our proven system of constitutional government.

Mr. President, let me illustrate certain types of activties to be funded by the Legal Services Corporation. One tool of this independent corporate structure will be the so-called back-up centers, funded by the taxpayers. These centers will continue to be paid to do research for poverty lawyers in ways and means of utilizing the courts to accomplish drastic reforms in our political, economic, and social institutions. For example, here we set up a corporate, the Government sets it up, for the purpose of allowing it to bring lawsuits against the Government itself.

Mr. President, let me elaborate for a moment on the role of these backup centers.

Recently, a copy of a professional journal called the Clearinghouse Review came to my attention. This review is published by the National Institute for Education in Law and Poverty, under a contract between Northwestern University and the Office of Economic Opportunity.

Mr. President, while ostensibly providing a factual recording and accounting of cases, job listing in "poverty law," forums on certain issues, and legislative news notes, it has a distinct bias against "the

system" and is a dedicated advocate of the poor as a distinct class in the Marxist context of class struggle against the system. I am advised that the Clearinghouse Review is perhaps the most significant publication in the whole area of "poverty law." I might add that "poverty law" is a booming phenomenon, even though one must think that poverty is on the decrease. If proverty standards of 1964 were in effect, poverty would be very much less today. However, since the threshold is continually being lowered, more and more persons are coming under the definition of poverty. It is ironic that the Office of Economic Opportunity, which now has control of the legal services aspect, supposedly dedicated to eradicating poverty, has succeeded in accomplishing a tremendous expansion of that class. It is reasonable to expect that an independent Legal Services Corporation will do the same.

Mr. President, the poverty lawyer profession, as reflected in the Review is remarkably class oriented. To quote a typical passage:

Poor children . . . will continue to be discarded by the educational system run by and for the middle class. (p. 532, Vol. V, No. 9, January, 1972.

How familiar that sounds, but hardly objective; hardly a statement of fact.

Education is only one area the Review dabbles in. Nixon welfare proposals came in for a blast before his proposals were actually submitted to Congress; police surveillance is attacked; as are draft laws; abortion laws; juvenile laws; housing projects; laws against homosexuality; municipal services; unemployment compensation; bankruptcy; prison discipline—in which the Review drafted a proposed bill for congressional consideration—and on and on and on.

It is interesting to note that very few of the reported cases in which legal services lawyers are involved concern individuals as individuals. By far the majority are class-action cases and typical of what is to be expected under auspicies of an independent corporation.

Mr. President, in July 1970, a rumor circulated that the National Institute for Education in Law and Poverty, which publishes the Clearinghouse Review, was going to lose its OEO funding. The Acting Director, Thomas D. Buckley, responded with an editorial in the pages of the Review which made quite clear the role of the publication from the activists' points of view. I will read from the July 1970, issue of Clearinghouse Review, pages 119 and 120.

We were always viewed in Washington, and saw ourselves as a proper instrument for turning Legal Services national policy and ideals into action. That's why welfare law was made a subject for treatment nationally in 1968, when it was relatively new, and generally poorly practiced. And that is why "law-reform" and "test cases" were stressed when it was necessary to orient Legal Services nationwide toward those goals. . . . You should not presume that because much of what the Clearinghouse does is "mechanical" it will be easy to set it up elsewhere and achieve comparably effective performance. Nor should the editorial integrity of the Clearinghouse Review, not the Review's usefulness as an open forum for Legal Services Lawyers to speak to each other on important matters, be presumed to be transferable. Finally, it has to be recognized that the Clearinghouse files have many uses. . . . You must make the agency (OEO) understand the importance to you of maintaining, unchanged, the only means by which uncensored articles and comments can circulate within Legal Services ranks.

From their own mouths, here, the mouthpiece of the profession of poverty lawyers is admitting that without Federal tax funds, to support the publication, its effectiveness and its circulation would be seriously hampered. Without the support of information coordination and exchange services like the Clearinghouse, I would venture to say that half of the revolutionary judicial decisions of the past few years would not have come to pass including the decision legalizing abortion and the decision abolishing residency requirements for welfare eligibility.

Perhaps someday someone will do the comprehensive study required to demonstrate the connection between supposedly antipoverty efforts and the soaring costs of welfare, the increase in teenage immorality, and the future of American education. The Clearinghouse, of the National Institute for Education in Law and Poverty, is considered a back up center. The independent Corporation would allow the continuation of such centers, thus perpetuating and even expanding the resources available to activist class-oriented poverty lawyers.

Mr. President, I do not think it should be necessary for me to say any more to express my continuing disillusionment with the whole idea of eliminating poverty by making poor people a political class. That is what this bill would seek to do. The Legal Services Corporation which we are shortly to be asked to create can be counted on to continue the class struggle against the middle class, hardworking, taxpaying citizens.

QUORUM CALL

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

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. NELSON. Mr. President, on January 24, the distinguished majority leader propounded four, I believe, unanimous-consent requests respecting time limitations on debate on the pending legislation.

I ask that the excerpt of the majority leader's requests and the responses of the distinguished Senator from Alabama (Mr. ALLEN) be printed in the RECORD.

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

UNANIMOUS-CONSENT REQUESTS

Mr. MANSFIELD. Mr. President, as indicated under the order laid down by the Senate, calendar No. 471, S. 2686, a bill to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, will be laid before the Senate on Monday next.

At this time, I am going to propose a series of unanimous-consent requests, seeking to bring about a limitation of time.

I ask unanimous consent that when the Senate takes up the legal services bill (S. 2686) on Monday, January 28, there be an additional 4 hours of general debate, divided between the proponents and opponents—between the majority leader or his designed and the junior Senator from North Carolina or his designee—followed by 2 hours of debate, divided evenly as above, on a motion to recommit or commit to any committee, if such motion is offered, followed by a vote on such motion, followed by 1 hour of debate, evenly divided as above, and a vote on each amendment in the nature of a substitute now pending if called up by its sponsor, followed by one-half hour of debate, evenly divided as above, and a vote, on each other amendment now pending if called up by its sponsor, followed by an additional 4 hours debate on the bill, evenly divided as above, and a vote on the bill, it being understood that any Senator controlling time may choose to use less than his allotted time, and that motions to table remain in order under the usual rules.

Mr. ALLEN. Mr. President, reserving the right to object, as the Senator from Alabama recalls the situation that existed last year when this measure was pending in the Senate, it was not the unfinished business or even the pending business that was in the Senate and on the calendar. An agreement was made, I understand, not on the bill but, as the Senator from Alabama recalls, an agreement was made with the distinguished junior Senator from North Carolina (Mr. HELMS), that this matter would be laid down on January 28. Unless this request has been cleared with the Senator from North Carolina, the Senator from Alabama would feel that the Senator from North Carolina, who is out of the country at this time as I understand it, unless he has returned, would have felt that no action would be taken on the bill until January 28, inasmuch as it was going to be withdrawn from the Senate until January 28.

So I respectfully inquire of the distinguished majority leader whether such request has been cleared with the distinguished junior Senator from North Carolina.

Mr. MANSFIELD. No. May I say that I made inquiries, but, as the Senator has indicated, the Senator from North Carolina is absent from the Senate on official business.

Mr. ALLEN. If the Senator from North Carolina were on the floor and agreed to this, the Senator from Alabama would raise no objection. I am wondering whether the distinguished majority leader recalls that this matter was to be laid down on the 28th, and would not that give rise to the supposition that nothing would come up with respect to the bill until it was pending before the Senate?

Mr. MANSFIELD. That is correct, but that is the only piece of business on the calendar, excluding the genocide treaty, which is just as controversial, if not more so. The intention of the Senator from Montana was to make this request at this time, to see if we could work out some sort of modus operandi on a time limitation basis in the consideration of this most important bill.

Mr. ALLEN. I thank the distinguished Senator for his explanation. However, inasmuch as the Senator from North Carolina did discuss this matter from time to time with the Senator from Alabama, the Senator from Alabama would feel that, in order to protect the interests of the Senator from North

Carolina, he would have to object to the unanimous-consent request.

Mr. MANSFIELD. I understand.

Mr. GRIFFIN. Mr. President, if the majority leader will yield for a moment. I should like to say that if the Senator from Alabama had not objected, I would feel constrained, in my responsibility as the acting minority leader at this time, to object on behalf of the Senator from North Carolina, because I also have not had an opportunity to check with him. I would not object in my own personal capacity, but in my capacity as the acting minority leader, I would.

Mr. MANSFIELD. Even though I am in favor of the bill, had I been in the position of the distinguished acting Republican leader, I would have done the same. Certain obligations are imposed upon us which we must observe and cannot avoid.

Mr. President, I ask unanimous consent that, when the legal services bill, S. 2686, becomes the pending business on Monday, January 28, there be 6 hours of additional debate on the bill, 4 hours to be controlled by the junior Senator from North Carolina or his designee, and 2 hours to be controlled by the majority leader or his designee, followed by 2 hours debate divided evenly, on a motion to recommit or commit to any committee, if such motion is offered.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Mr. President, reserving the right to object, is this not just a similar request, possibly giving more time? Does it not apply to the same bill?

Mr. MANSFIELD. Yes.

Mr. ALLEN. I would have to interpose an objection, or I will yield to the distinguished Senator from Michigan to object.

Mr. GRIFFIN. I will object, for the same reason.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, when the legal services bill (S. 2686) becomes the pending business on Monday, January 28, the junior Senator from North Carolina or his designees be recognized for the entire period of time during which the Senate remains in session on that day, except that the majority leader or his designee shall be entitled to be recognized for 1 hour; and that at the end of the morning hour on Tuesday, January 29, the legal services bill (S. 2686) remain the pending business, or, if it is not the pending business, at that time, become the pending business; and that there be 2 hours of debate, divided evenly, on a motion to recommit or commit to any committee, if such motion is offered.

Mr. GRIFFIN. Mr. President, I would have to object for the same reasons.

However, I invite the majority leader to propound these or other requests at such time as the junior Senator from North Carolina is on the floor to speak for himself.

Mr. MANSFIELD. I understand, and again I must say that I appreciate the position of the Senator.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. I have one more unanimous consent request.

I ask unanimous consent that when the legal services bill, S. 2686, becomes the pending business on Monday, January 28, the junior Senator from North Carolina or his designees be recognized for the entire period of time during which the Senate remains in session on that day, and for the entire period of time available for debate on Tuesday, January 29, except that the majority leader or his designee shall be allotted 1 hour on each day; and that at the end of the morning hour on Wednesday, January 30, the legal services bill (S. 2686) remain the pending business, or become the pending business, depending on the situation, and that there be 2 hours of debate on a motion to recommit, 1 hour on each substitute, and one-half hour of debate, evenly divided, on each other amendment.

Mr. GRIFFIN. Mr. President, these are very ingeniously worded and drafted proposals, and they have great appeal to the junior Senator from Michigan, especially since he supports the administration's position on this bill; but for the same reasons that were indicated before, I will object, on behalf of the Senator from North Carolina.

The PRESIDING OFFICER. Objection is heard.

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

Mr. MANSFIELD. I yield.

Mr. ALLEN. I wonder whether one of the legal services attorneys might possibly have prepared these unanimous-consent requests the majority leader has been reeling off?

Mr. MANSFIELD. May I say to the distinguished Senator from Alabama that the majority leader has done his duty.

[Laughter.]

Mr. ALLEN. I understand.

Mr. NELSON. Mr. President, I wonder whether the distinguished Senator from Tennessee (Mr. BROCK) would respond to this request. Is he prepared to agree to any time limitations at all on debate on the pending legislation?

Mr. BROCK. Mr. President, I do feel that we may be coming closer to a meeting of the minds on this bill—I very much hope so—but we have not reached that point yet. Until that position is defined more specifically, I would not be able to agree to any specific limitation at all.

Mr. NELSON. On either amendments or the bill itself?

Mr. BROCK. Not at this time. I hope that at some point we might.

Mr. NELSON. I thank the Senator.

Mr. HELMS. Mr. President, I submit for insertion in the RECORD certain letters of mine with reference to the Legal Services Corporation bill, S. 2686.

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

U.S. SENATE,
Washington, D.C., January 24, 1974.

Hon. JACOB JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: As usual, I have been deeply gratified by your sense of courtesy and fair play even though we have taken opposite positions over the legal services corporation bill. Now that the pressure is off, I suspect that we are not really so far apart on our positions as it may have seemed.

Why don't those of us who are disturbed by elements in the bill and those of you who feel that compromise has gone far enough agree on a parliamentary maneuver that will not do damage to either side. I suggest that we agree to have the Judiciary Committee take a look at the bill—perhaps, if you desire, with a report back by a certain date. As you know, Judiciary has capable advocates for both sides of the question. It may be that no modifications would take place, but the bill would take on the tone of a greater consensus and of a greater regard for its impact upon the legal system of this Nation. The alternative would be a bitter fight on the Senate floor. In the present state of our country, I think that should be avoided.

This proposal would entail only a small additional delay, but the moment of urgency has passed, and the gain to the legislative process would be worthwhile.

I will appreciate hearing from you at your convenience.

With every good wish, I am
Sincerely,

JESSE HELMS.

U.S. SENATE,
Washington, D.C., January 24, 1974.

DEAR COLLEAGUE: Please forgive me for intruding upon your time at home. I promise not to do this often but, in this instance, I wanted you to know my feelings about the situation that exists concerning a piece of legislation coming before us shortly.

On January 28, the Senate, by unanimous consent, will resume debate on S. 2686, the Legal Services Corporation bill. Although the Senate has twice refused to cut off debate on this bill, it is expected that its proponents will once again file a petition for cloture.

As you know, a number of Senators are deeply concerned that no hearings were held on this bill in the 93rd Congress. It is a brand new bill, written in the Senate Labor and Public Welfare Committee while the House-passed bill was held at the desk in the Senate. And in spite of the fact that the announced intention of the bill is to have a deep impact on the delivery of legal services in this nation, the Senate Judiciary Committee has not had the opportunity to review the bill. For these and other reasons those who oppose the bill have prepared nearly 100 substantive amendments in an attempt to meet objections raised against S. 2686.

Even if cloture is obtained, it is my belief that most of the Senators who have proposed these amendments intend to bring them up for as much debate as time will allow and for roll call votes thereon.

Please let me assure you that I have no desire to hold up the Senate in a protracted and painful debate. I only wish that the Senate could have considered these matters in the course of the normal legislative process.

The point is this: The matter could still be resolved quickly if S. 2686 were submitted to the Judiciary Committee for consideration, perhaps with a report back by a date certain. I anticipate that such a motion will be offered, and I solicit your support.

I also want to bring to your attention the fact that a study sponsored by the American Bar Foundation has come to the conclusion that staffed legal services centers (of the sort to be perpetuated in S. 2686) are inferior in meeting the client's needs when compared to the "judicare" approach that would be fostered by the Brock-Helms Legal Aid Corporation bill (S. 1900). A copy of that study is enclosed for your reference.

With every good wish, I am
Sincerely,

JESSE HELMS.

Mr. McCLURE. Mr. President, once again I would like to give legal services lawyers a chance to tell the people firsthand what their ideas of practicing law with public money are. As before nothing has been changed, added or omitted from the copy with the single exception that this time I have instructed the printer of the RECORD to omit certain words which I think will offend my constituents. Those who wish to read the chapter in its entirety can find it under the title "The People's Lawyers" by Marlise James. In it you can read about the lawyer "who has many personal friends who are highly intelligent, educated, sophisticated people who do sell drugs as a part-time thing to survive and pursue art activities or activities that actually benefit our society." Or there may be more interest in the lawyer who expresses his respect for the courts before which he litigates in the following manner:

The courts won't be able to keep the lid on very long when people tear the prisons down and the courts realize they have no place to hide the people they don't like or don't understand.

They may be concerned about the fact that criminals who prey mostly on the poor are to be defended and released upon society by the enactment of the very bill which purports to make the poor its beneficiary.

Mr. President, I ask unanimous consent that a chapter of "The People's Lawyers" be inserted in the RECORD.

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

[Excerpts from The People's Lawyer]

SAN FRANCISCO, CALIF..

(By Marlise James)

San Francisco is the real melting pot of post-World War II American culture. Here people of the establishment, of minorities, of the counterculture physically live side-by-side in relative harmony, although each group sustains itself through its separate mental and cultural ambiance.

Perhaps because of the natural beauty of the environment, perhaps because, after the earthquake of 1906, people can never forget that they are the encroachers liable to be shaken from their homes without a moment's notice, this city, even in bad times, seems somehow more friendly than most other American cities. It is a city of experiments and experimenters. The free speech movement, the Black Panther party, the hip subculture all began in the Bay Area, and the return-to-the-land movement had its full twentieth-century flowering there.

The diversity of the city, the sense of experimentation, extends to its radical law community. What movement lawyers are doing here now, other movement lawyers in other parts of the country will probably be doing in six months or a year, since San Francisco seems always to be that much ahead of the rest of the country.

What the radical lawyers there are now doing covers a wide spectrum. San Francisco's radical law community consists of young lawyers, a little-bit-too-old-to-be-young-but-keeping-with-it lawyers, older lawyers, counterculture lawyers, lawyers-turned-organizers, organizers-turned-legal-workers, revolutionary lawyers, liberal-radical lawyers, and on through every permutation of radical lawyer, legal worker, or general political person.

Vincent Hallinan is an older lawyer, probably the oldest active lawyer in the community. He is seventy-seven years old and still as much a fighter as he has always been. Recently he was cited in *Ripley's Believe It or Not* for playing Rugby for thirty minutes when he was seventy-three.

He is, of course, an Irishman, and gives one the impression that he has tried to live up to sprightly, cocky, pugnacious-in-a-friendly-way image that all Irish-American men seem to favor. He was born in San Francisco in 1897 to immigrant parents. His father was a streetcar conductor and was active in the early unionizing efforts of his occupation. Because a lawyer kept the family from being evicted from their basement apartment which the landlord wanted to use for storage space after the big earthquake, Mr. Hallinan decided that nine-year-old Vince should grow up to be a lawyer. Neither Hallinan ever wavered from that decision.

Vince Hallinan attended parochial schools, and, at fifteen, was declared bright enough to be put in the hands of the Jesuits. From that time through law school, he attended the St. Ignatius schools in San Francisco. He recalls that, at one point in his career when he was suspended from practice, he tried to go back to school at the University of California and found that all of his schooling, including law school did not qualify him to be a freshman there.

While attending St. Ignatius Law School he worked for Daniel Ryan, a lawyer who let him handle most of his Justice Court work. He took the bar examination the first time it was given by a board of bar examiners, passed it, and soon went out on his own. His first year in business he made $20,000 as the result of winning a probate case. Shortly thereafter he decided to take on the jury-planning system in San Francisco. In that system, only those people the bosses of the city knew and wanted for the job would be selected for jury duty.

"The jury commissioner was an out and out gangster. He, his partners, and his boss had conducted the gambling ring in San Francisco. When I took him on he managed to have a grand jury indict me three times for various felonies. I beat them all, and, eventually, I beat him and that planting system."

Those two events in the beginning of his practice set the tone for Hallinan's professional life; he was then, and remains, a fighter for reform and a rich lawyer—eventually, a self-made millionaire. In the fifty-plus years since he started practicing he has covered so much territory that it has made a book in itself, *A Lion in Court*.

His most famous case, and one that changed his own life radically was the Harry Bridges case in 1949. Harry Bridges was the controversial dock worker organizer who formed the International Longshoremen's and Warehousemen's Union. For his efforts on behalf of the labor movement he was rewarded, by the government, with a long period of harassment which culminated in this case. Bridges was being tried, along with two of his coworkers for conspiring to defraud the government of citizenship for himself. The government claimed that, when Bridges had applied for citizenship in the early forties, he had lied by saying that he had never been a Communist and that his coworkers, who had signed his citizenship application, had also knowingly lied.

The trial occurred as the witch hunt was going into full swing, shortly after the trial of the first Smith Act defendants in New York. Hallinan was cited for contempt on the second day of the trial and sentenced to six months. He successfully argued that the sentence be stayed until the completion of the trial.

The Bridges trial lasted five months at the end of which all of the defendants were found guilty and sentenced to the maximum terms. The Supreme Court did eventually overturn the conviction on the ground that the statute of limitations had expired at the time the indictments were returned. They did not, however, grant Hallinan's writ on his contempt conviction so he served six months, March through August of 1952, in the federal penitentiary at McNeil Island, Washington.

It was an unfortunate time for him to be incarcerated since he had previously been nominated as the Progressive party's candidate for president. His family campaigned for him but it was to no avail. The left in this country was so fragmented and frightened of the rising tide of McCarthyism that Vince made a poor showing and the party perished in that election.

Because of his candidacy, the government proceeded to harass him in whatever ways it could think of. At that period of history, it could think of quite a few. First he and six associates were indicted, in March 1953, for conspiracy to defraud the government, a charge that arose out of the transfer of a deed of trust. Because Hallinan had been in New York during the entire period when the conspiracy was supposed to have been in progress, the defendants won.

Three months later Hallinan and his wife, Vivian, were indicted for income tax evasion. After a trial in which much was made of their contributions to organizations that were on the attorney general's list, Ms. Hallinan was acquitted and Hallinan was convicted and sentenced to eighteen months which he began serving in January 1954, again on McNeil Island but this time in the prison and not the prison farm. Because of his conviction, efforts were made to disbar him, and the case went to the Supreme Court, which refused to disbar him but did suspend him from practice for a three-year period.

These experiences did not dampen his fighting spirit. When he was washed down the steps of the San Francisco City Hall on "Black Friday" of the 1960 House Un-American Activities Committee hearings, along with those of the young people demonstrating there, he filed suit against the police commissioner. The suit's basis was that the commissioner wasn't a resident of the city. The suit was successful and the commissioner was discharged, although he was later appointed city manager.

Of his six sons, two—Terry and Patrick—are also lawyers and ones with the same spirit. After Terry passed the bar examination the state bar refused to admit him on the grounds that he had been involved in all kinds of civil rights disturbances. They took the case to the Supreme Court, which required the state bar to admit him. On another occasion Vince defended Terry, who was charged with assault of a policeman.

"He had appeared as attorney for a group sitting in at San Francisco State during the demonstrations there and had tried to stop a policeman from excessively beating two young women. They hit him on the head and inflicted a wound that required sixteen stitches and then charged him with assault. We stood trial in front of a bastard judge who wouldn't tell the jury that Terry had the right to stop the cop from using unnecessary force, so the case was retried in front of another judge and we won an easy acquittal. Then we brought suit against the city for damages."

Vince's case load is light now. He only takes free cases that have a particular significance. Both Terry and Patrick now practice in the same office with him.

In 1972 he ran for judge of Department II of the Superior Court of San Francisco. Although he fought a good race under the slogan of "Humanize the Courts," he was defeated by the incumbent.

Vince has been a member of the National Lawyers Guild since it began.

"The younger people in the Guild are much more revolutionary than the older ones, and they are right to a large extent. The notion that you can effect changes through the courts is pretty much washed out. The courts are simply instruments of the status quo, extensions of the cop's club, and anyone who thinks he is going to get relief from them is kidding himself.

"I'm a socialist, surely. I think this whole system has to be kicked out. So I like the younger lawyers with their law commune ideas because that is approaching law practice in the socialist countries. The capitalist system is not the answer to the problems that confront mankind. Personally, I am extremely pessimistic about man's fate, and I don't think there are any real answers, but I do think that the unjust distribution of wealth must, and can, be corrected. I think that a good number of people in the United States are beginning to see that, and want to overthrow the capitalistic system. I don't necessarily mean armed or violent revolution, just revolutionary change. The revolution we have to watch out for now is a right-wing one. Nixon is a fool being run by madmen. The repression we are into now is the worst one we've had in this century. Many more people now are at least potentially involved.

"Basically, I believe in the perfectibility of man, but I'm still pessimistic. I think man

is evolving and will eventually get rid of poverty, disease, illness, wars, racism, discrimination. And just about the time he arrives there the world will swing into the tail of a poisonous comet and wipe out the whole tragic farce in one fell swoop. Man is the victim of a malign destiny. It isn't his show. It's God's, whoever he is."

Another firm composed of fighters who have won their stripes in a series of legal battles, albeit not as long a series as Vincent Hallinan's, is that of Garry, Dreyfus, McTernan & Brotsky. Because of his role as chief defense counsel of the Black Panther party, Garry will be discussed in section III.

Benjamin Dreyfus, born in 1910, is a native of San Francisco. He went to Stanford University, then tried to make his living in business for four years before deciding to become a lawyer. He then attended Stanford Law School, and, because of the politics of that time—the 1934 Upton Sinclair campaign and the workings of the National Labor Relations Board (NLRB)—decided to be a lawyer for the oppressed.

"I began practicing here in 1939, joined the Guild as soon as I was admitted to practice, and started working as a lawyer for people who were getting kicked around."

He continued practicing on his own until he formed a partnership with Frank McTernan in 1945. Around that time he also served as executive secretary of the San Francisco Guild chapter. From 1960 until 1962 he served as president of the Guild.

The man he originally joined in partnership, Francis McTernan, was an Amherst College and Columbia Law School graduate who had begun his legal career as an attorney for the NLRB in Washington. Almost immediately after he joined that organization he was sent to California to investigate charges that the Associated Farmers were engaging in unfair labor practices against workers who were trying to organize. He found that they were but could not prove it.

When a budget drive spearheaded by the Chamber of Commerce resulted in his being let go from the NLRB, McTernan came to San Francisco and worked with a commercial law firm for a year and a half before going into the navy.

After the war he joined with Dreyfus in partnership, then, in 1948, ran for Congress on the Independent Progressive party ticket. He withdrew at the end of the campaign to throw his support to the liberal Democrat who was running. McTernan served as president of the San Francisco Guild chapter from 1958 through 1960.

In 1957 McTernan and Dreyfus joined with two lawyers they had known through the Guild, Charles Garry and his partner, Julius Keller, to form the nucleus of the present nine-man firm. Shortly after the firm began, Julius Keller died.

Allan Brotsky, one of the newer members of the firm, although he is an old-time friend of its nuclear members, was born in Detroit and raised there and in Denver. He went for a year to the University of Colorado, then finished college at UCLA.

"At the University of Colorado I was exposed to socialism for the first time and it blew my mind. It was almost a revelation to find out that that kind of an alternative existed. Then in Los Angeles I was involved in political activity and in the struggle to organize migratory workers, and it was at that point that I decided to be a lawyer for the people. I went to Columbia Law and organized a group there that became a Guild chapter. After graduating I spent six months in a labor law firm that mainly represented the CIO unions in the New York area. When the war came, I went into the army as a signal corpsman.

"After that, I worked for the United Electrical Workers in New York for a while, then came out here and joined the leading CIO labor law firm where I remained for seven years. Almost as soon as I joined that firm, the CIO expelled the left unions and the witch hunt began. We took on the legal battles of the expelled unions and grand jury attacks on the radical movement and attempts to tie people in with espionage rings.

"In 1955 a number of us left that firm to start our own firm, doing the same kinds of things plus immigration cases of people the government was trying to deport on the basis of the McCarran Act. We were also involved in the cases of doctors and dentists who were being drafted into the army as privates because of faceless informers making charges against them or their friends or relatives. The movement then was at its lowest ebb. I continued my Guild membership but the Guild was very quiet. There were discussions about whether it was worthwhile to have it continue after the attorney general proposed to place it on his subversive list with no notice or hearing. The Guild brought a lawsuit in D.C. and, after many years of stalling, the attorney general admitted he was wrong and dropped his efforts to declare the Guild subversive.

"But the damage had been done. The Guild was fighting for its life. A lot of people had been scared and resigned. It took a while before the Guild got back on its feet.

"After a few years with that firm I went on my own doing labor, civil rights, and defense criminal work. In 1967, ten years after this firm had been organized, I joined it. This firm has supported itself by general practice, mainly personal injury work which is the most lucrative, but in the last three and a half years I think we have done more movement work than any other office in the country. When we started doing so much movement work, especially when we took on the Panther work, we were lucky because we had good roots in the community from before, so people would still come to us. If that hadn't happened, I don't think the firm would have survived.

"Aside from those of us with our names in the firm name, there are five other lawyers in the office—James Herndon, Donald L. A. Kerson, Robert S. Marder, David E. Pesonen, and William F. Schuler—and seven other workers. We have a team here where everybody does whatever they are best qualified to do. None of our staff feel that they are oppressed. The idea of a lawyer answering the phones, et cetera, doesn't make sense to any of us. The lawyers have their level of income and, in the years when we reach that, we share the profits beyond that. That doesn't happen too often because we usually have financial problems although, so far, we have managed to survive."

Their case load, like the Center for Constitutional Rights, reads like a *Who's Who* movement cases, although with more of a West Coast and more of a Black Panther party orientation. They've been involved in Bobby Seale's trials, Huey Newton's trials, David Hilliard's trials, the Lois Siete case, the Oakland Seven, the Angela Davis case, other shootout cases, and the whole gamut of draft cases.

"I wouldn't say," said Brotsky, "that our views on the Panthers are uniform, but the thing that unites us is the belief that the Panthers are an important part of the movement, particularly the movement for Black liberation. Charles is personally more involved because, except for Lois Siete and Oakland Seven, he's been doing nothing but Panther work for the past four years. But we're all deeply committed by conviction. Charlie has been made a star by the press and the movement rank and file by the publicity he has received from his Panther work, but he's not a star in the office and he doesn't conceive of himself as such, nor do we. He's just the part of the team that has gotten the most publicity because he has been in court and or the front line so much.

"To some extent, the courts are being reformed every day. Whether these reforms mean anything, I don't know. I don't think our society, as presently constituted, can ever have justice for Black people, for the poor or the young or revolutionary movement people because the society is a class society and that can never give justice to all members of the opposing classes who are trying to liberate themselves.

"But I think it is important to struggle for all of the rights and safeguards we now have in the courts so that the right to struggle and organize will be preserved. It's a hell of a lot harder to have a movement in a fascist state than it is in a conservative, democratic state. I'm optimistic. I think the people of the world are going to win their battle to make the world a humane, comradely, humanistic place for all people."

Garry, Dreyfus, McTernan & Brotsky is not the only San Francisco firm with a *Who's Who* case load of movement cases, nor with a media star in its midst. The other firm sharing this dubious honor does, in fact, go the Garry firm two better since one of its two partners and two of its associates are media stars of the radical law movement. The firm is that of Michael Kennedy and Joseph Rhine, and associated with the firm are Dennis Roberts and Michael Tigar. They are housed in a big red house with a largely red and black interior in which Mike Kennedy feels very much at home, partly because he is an Aries surrounded by Arien colors, and partly because it was decorated by his wife, Eleanore, who is an interior designer.

Kennedy was born in Spokane and raised there and in Seattle until he was ten when his family moved to Corcoran, California, the San Joaquin Valley town where *Grapes of Wrath* was filmed. From there he went to Berkeley, majored in economics, joined a fraternity, and quit after eighteen months because it had a white clause. He also during this time became friends with the Hallinans, Peter Franck, and Arjay Lenske. After graduating from Berkeley, he went to Hastings Law School in San Francisco.

"Being a lawyer seemed to me to be the slickest capitalistic rip-off and professional position one could get, and it seemed I could placate my conscience, to the extent that I had a conscience, by occasionally doing things with the law that one couldn't do in other professions. I had wanted to be a lawyer for a long time, to make a lot of money, get an elite position, and protect the hell out of it for the rest of my life.

"But the more I got into the law, the more I realized what a morass it was, that the poor and people of color were treated differently, and that it really hadn't changed that much from feudalistic times in England."

In law school he first met Joe Rhine, the son of union organizers who were active in the labor movement from the thirties through the fifties. Because of his parents' profession Joe had moved around a lot, attending high school in Indianapolis, Philadelphia, and Arvada, Colorado, before doing his undergraduate work at the University of Colorado and then going on to Hastings.

After meeting Rhine, Kennedy got involved in trying to make the law school employment people hire people from minorities and was washed down the city hall steps on Black Friday. While at Berkeley, Kennedy had received a ROTC commission, with a deferment to go to law school so he could go into the judge advocates corps when he finished.

"Because of my relationship with Joe and other left-wing people the Counter Intelligence Corps and the FBI started to investigate me along about my second year of law school. It —— me off from the civil liberties viewpoint, and I refused to cooperate with them. Eventually they gave me my commis-

sion back, although I didn't want it. I graduated from law school in 1962 and was admitted to the California bar at the beginning of the next year. I went to work for a firm that did personal injury and negligence trial work because I wanted to be a trial lawyer. Then in the fall I was called to active duty. I fought with myself about going but went to Fort Benning, Georgia, for training. The army was not all bad because that is where I met Eleanore. In 1964 I went to Fort Knox, Kentucky, as an infantry company commander. I never went with the judge advocates corps because they wanted me in for three years. Talk about Vietnam was just beginning at this time, and I was relieved of my command four times for giving talks to my company about what was happening there, and I went AWOL a few times. In 1965 they gave me an early out, and I returned to San Francisco and went back to the same firm.

"I saw Joe, the Hallinans, and Peter again, and decided that the legal work I was doing wasn't important enough. The person who needed legal help then the most was Cesar Chavez so we all began doing parttime work for him. Then Joe and I helped write the incorporation papers for San Francisco Neighborhood Legal Assistance Foundation [SFNLAF], an OEO program for the city. The senior partner in the firm where I was working was becoming president of the state bar at the time and he and the bar wanted SFNLAF to be under the control of the Legal Aid Society which they totally controlled. He and I publicly fought about it. After that the firm told me that they owned more of my time than they were getting and said that if I had so much free time to do work like that I could take on more cases. I ended up breaking my neck with two hundred and fifty personal injury cases, and then they offered me a partnership. I said that I didn't know whether I wanted it and asked for a leave of absence. I took the leave, got stoned out of my mind, and ended up a month later in New York City, still stoned. This was in the summer of 1967.

"I met Leonard Boudin, and he offered me a job as staff counsel with the National Emergency Civil Liberties Committee (NECLC). I took it while I was there I met and worked with just about every East Coast left lawyer. While I was in the army I had had experience with military law because every time I was relieved of command they'd put me on courts martial so, while with the NECLC, I began to use this knowledge. I met Andy Stapp, who was organizing the American Serviceman's Union, and began to defend people who were refusing to go to Vietnam. I ended up as house counsel for the Union, and I was also doing a lot of draft work. I defended Andy Stapp, the Fort Hood Forty-three—the forty-three Black GIs who refused to go on riot duty at the 1968 Democratic convention in Chicago—Gypsey Peterson, editor of Fatigue Press and Founder of the Oleo Strut Coffee House out of Fort Hood, Texas. I also taught a course in military law at the Guild office in New York City.

"I was mostly into the civil liberties trip but the more I saw of it the more I knew that it was ——. I understood what Marcuse was talking about when he said free speech is irrelevant when you're starving to death and totally disenfranchised. I began fighting for the NECLC to take on cases of alleged bombers, conspirators, and murders on the grounds that these, too, were civil liberties cases because the people involved in them had never gotten into the position where they could exercise First Amendment rights. This drew us into the Buffalo Nine case, the New Haven alleged conspiracy to bomb case in 1968, and defending SDS in the Iowa State conspiracy trial in 1969. In that year I also taught lay advocacy through mock trials to several hundred students at CCNY in New York City. They were part of a mass bust during a GI sanctuary in the college chapel.

"Then Eleanore and I were asked to go to Sweden by the American Deserters' Committee to talk to the deserters and resisters there about the political climate here, and to represent an American marine who had deserted in Vietnam. We went in January of 1969, then went to Puerto Rico where I taught military and draft law in San Juan to Puerto Rican lawyers and tried the last draft case ever tried there, although one-third of the inductees there refuse induction. I then taught a course at Rutgers Law School in military law.

"When I got back to New York, I faced a heavy character committee fight before I could be admitted to the bar. I had passed the exam but the character committee was giving me a hard time for clearly political reasons although they used reasons like my sanity. From their standpoint, I was deranged and crazy. I was tired of the civil liberties stuff anyway and wanted to be independent. I had turned the corner from the civil liberties a long time before.

"I talked to Joe, who had remained in San Francisco, working with Neighborhood Legal Assistance, mainly on welfare rights cases and advising the Black community of the city on these rights. He had built up total neighborhood contact through teaching landlord-tenant law courses with the Berkeley Tenants Union, and done neighborhood law counseling within St. Francis Square. He had also coordinated the legal work for the San Francisco College mass busts with the Guild in 1968, and he is now working with them on the grand jury attacks in California and lecturing at the People's Law School. But, when we first talked he had quit practicing for a while because he was disgusted with the law so we said, 'Why don't we open a storefront office in San Francisco and work for ourselves?' Eleanore and I moved back, and we found this old house which Joe and I bought from a church for next to nothing. Eleanore decorated it with old junk we borrowed and bought and stole from different places and Joe and I started. Clients without money helped decorate the house as their fee.

"While I was in Puerto Rico, the Chicago Eight thing had broken and Rennie Davis called and asked us to represent him and we said yes at least as far as pretrial work. I went to Chicago once and got embroiled in that —— thing and ended up going to jail along with Dennis and Mike Tigar and Gerry Lefcourt because Hoffman didn't want to accept that we had only been working on the case in the pretrial stage.

"While there, I bumped into Charlie Garry again and he asked me to come into the Los Siete case with him. He said it was a little murder case that wouldn't take long. I called Joe, and he said it would be a good idea to do it because it would help us be meaningful to the community. We took the case on shortly after we started in June of 1969 and it ended up being an eighteen-month effort, four and one-half months in trial.

"Dennis joined us in September of 1970, and Mike in May of 1971. We have two full-time and two parttime secretaries and six law students working out of here now. In the economic sense, we are a collective, although, now, the secretaries don't participate in the decision-making, although they do give feedback. Joe and I take out whatever we can in salaries. Some months, nothing; others, $1200 to $1500. We have agreed to spend half of our time on free work. Our fee-paying work includes personal injury, dope, criminal defense, and work on obscenity and pornography cases. In 1970, I was on Los Siete, and I also represented the GI Sanctuary group in Honolulu, and, along with Joe and Michael Standard, took over the appeal of Dr. Timothy Leary's conviction. We've been his attorneys since. So, that year, Joe made the money. In 1971, he was working on the Soledad case and Dennis was working on Angela Davis's case so the burden to make money was on me.

"In the fall, Eleanore and I went to Europe and Africa for six months. We did Leary's political asylum hearing in Switzerland, and then traveled extensively. As a firm we've decided that each person will try to take off at least six months every few years to keep them from being stifled by the law.

"Although I am a so-called 'star' lawyer, I am opposed to the star system from a number of standpoints: it wastes resources and causes egomania and monetary rip-offs. I began arguing in early 1968 that that system couldn't work. At that time there were a full-dozen big names in left lawyering, and it was clear that those half-dozen couldn't meet the people's needs in any way and that their responsibility was to impart their information as best they could, and to demand that local resources be utilized when a big bust occurred. Some people out of the Center for Constitutional Rights—diSuvero, Lefcourt, Michael Standard; myself, and some others—started then to give assistance to young lawyers just out of law school.

"We felt that what was wrong with the star system was that when a star lawyer entered a case, you began to lose the importance of the politics of the case. For example, if a star who is powerful comes into a case he might be able to change the perspective of the organization under attack from an offensive political one to a defensive fund-raising one. Politics would begin to be made by the lawyers because the press would come to them and ask what was going on and they'd run down their line and nobody would go to the defendants and ask them what was going on. Stars are ——. You don't need them. Yet the system still exists.

"Given the cultural revolution we are in right now, and, in my opinion, it is that for whites rather than a political revolution, on all levels there is no great need for single, star-type leadership. This has been true in law for a very long time. Lawyers who become media freaks must understand their responsibilities and feed back the money they make into local lawyers. When the press knows you and runs you it's all right to use that, to rip off the press and get out the right line when you can. But if you use it to change the political organization you're defending, you're dead wrong. Stars inevitably lose contact with the people, go off on an ego trip, and are no longer capable of making political decisions. The whole trip is —— wrong. I guess the commune idea is the best way to control it.

"If radical lawyers are going to be able to rip off the spoils of their position and do nothing about fighting, then they are caught in the worst contradiction in the world. If you rip off the spoils but fight in the courtroom in the way you believe you could outside of the courtroom, then you're probably going to end up going to jail. I'm not into changing the courts and reforming them because I don't think that can happen. There can be no real change until there is a change in the power base.

"The courts are there to give the impression of equal justice for all, which they know is a lie, and to make sure nobody gets too much out of line. They do a fantastic job of keeping the lid on. But the courts are irrelevant when you consider the prisons which is where the revolution is in its most militant state. The courts won't be able to keep the lid on very long when people tear the prisons down and the courts realize they have no place to hide the people they don't like or don't understand. The courts can't deal with a dynamic situation. They are not decorous out of a gentlemanly tradition as they would like you to believe. They're that way because

they know if they once allow anything other than obsequiousness and gentlemanly conduct, the whole damn system will explode because that is when you get at the truth. If you can make the courtroom mirror the horrors of the street, even in the slightest way, the whole damn thing will explode.

That's what happened in Los Siete. We made that courtroom something akin to a street brawl on several occasions. That's what happened in Chicago, too. You have to make that courtroom laboratory as much like the outside as you can so the jury—and God knows that is the last hope of the legal system—can have a better idea of what is happening. That means as a lawyer you have to fight the judge, get put down, go to jail but, if you are going to struggle, it must be at that level."

Because of his efforts to make the courtroom reflect the street during the Los Siete trial, which did result in the acquittal of the defendants, Kennedy's and co-counsel Charles Garry's morals and fitness to practice were investigated by the California Bar Association upon the complaint of one of the Bay Area's more reactionary lawyers.

"I feel that all I can do now is beat them on a case by case basis on their own contradictions. That is all I can do as a lawyer. I think I'll be thrown out of the law within time, and I hope when that happens I'll have some other areas in which I'll operate. I'm optimistic. I think it is inevitable that we're going to kick their ———. Everything is on our side. It's just a matter of time."

While guardedly optimistic, Kennedy and Rhine's two younger associates are also confused at this time.

Dennis Roberts, a Brooklynite who grew up in the New Jersey suburbs, went to Rutgers University for three years before quitting to join the merchant marine. After doing that and working as a truck driver, he went back to school and graduated in 1961. He attended Boalt Hall at Berkeley, spending the summer after his second year working for C. B. King in Albany, Georgia. After he finished law school, he went back to the South to work for two years. He then joined the Center for Constitutional Rights where he remained for three years largely working on affirmative litigation.

In 1968 he received a Reginald Heber Smith fellowship to work with the Alameda County Legal Aid program.

"It was horrible there. Theoretically we had a project designed to sue the police for brutality cases, but then others in the project got interested in suing in federal courts around the area of police abuse. I'd done so much affirmative litigation before, I could hardly bring myself to do it anymore. I left and joined this firm. I'd known Mike in New York when he was with the NECLC and we had maintained a friendship. I wanted to develop expertise as a trial lawyer and this seemed a better place to do it than an OEO project.

"I do some court work on our fee-paying cases on pornography and they provide interesting, exciting, hotly fought criminal trials. We have a lot of political problems in the office because of this specialty though these cases do pay the bills here. My wife and I have had big fights over who's being exploited in the films. But if you start with the premise that you have to make a certain amount of money to survive, you can't only take those movement cases you want to take, although some of the law communes seem to be able to survive on less. I think part of it is that we're older, of a different era in a funny sort of way.

"I feel in the middle of a generational thing. In 1963 or 1966 or at the Law Center I was very much in the forefront of what was happening legally in the movement. But, in the last few years, people have moved so far so fast, that I don't find myself there anymore. It's personally disturbing. I see a lot of movement lawyers being left behind and I'm concerned that that doesn't happen to me, that I don't get caught in a certain way of looking at things and a certain life style. I have a tremendous amount of admiration for the people just out of law school who are working out of their own bedrooms doing good things we probably don't know about and just barely surviving.

"I relate to the court system in that, at this point of time, it's still the most useful place that I can be given my limitations and where my head is at right now. I still think it's very important for lawyers to be in the criminal courts defending movement people because it is another way to keep the people doing what I should be doing out on the streets.

"I got a lot of conflict about what I should be doing and whether my role as a lawyer is a relevant one. But I'm not an organizer. I hate to speak publicly, and I do like trial work. So I guess that means I should be in court right now, although I have a feeling that in a very short period of time that is not going to be very relevant anymore. I'm not sure what will happen, but I am sure that there are going to be some enormous limits placed on the role of a lawyer. I find it very hard to define myself politically right now. I'm going through a lot of changes."

So is Michael Tigar. He was born in Glendale, California, in the San Fernando Valley, was raised there and then went to Berkeley during the Slate period. Upon graduation he spent a year in Europe working for Pacifica Radio, the listener-sponsored radio chain. He returned to Boalt Hall about the time that the free speech movement was beginning. He was active enough in it to have an appointment to clerk for Supreme Court Justice William Brennan withdrawn. He went into practice in Washington, D.C., with Edward Bennett Williams' firm, doing a lot of ACLU, Center for Constitutional Rights, and SDS cases.

From 1968 through June of 1969 he was the editor of the *Selective Service Law Reporter*. He then became a professor at the UCLA Law School where he remained until June of 1971 when he moved to San Francisco and became associated with the Kennedy and Rhine firm.

Mike was first thrust into the media spotlight, along with Dennis and Mike Kennedy, when he was arrested during the Chicago conspiracy trial. He was again put in the spotlight when the ACLU hired him to represent two of the defendants in the Seattle conspiracy trial in 1970. During that trial, which ended in a mistrial and contempt sentences against all of the defendants, Mike was maced in the courtroom when he attempted to break a full nelson one of the guards had on one of the defendants. Because of that trial at least one federal judge in Los Angeles refused to let Mike practice in front of him, although a court of appeals twice ruled that the judge was in the wrong.

"Since Berkeley I've been a movement person on and off. It's been very hard. In law school I was isolated because I had the notion that I wanted to get through and get high grades and that that was the best thing to do. In D.C. I thought it would be possible to practice law for a living and do other things on the side, that the firm would be a base. Then it quickly became apparent, although I don't regret having been there, that that was not so. So then I thought teaching would be the way to do it. But it turned out that was just an institutional cage. It turns out that the way to be is just to be, and not to be for somebody else—to start by figuring out first how to live, not as some kind of exigent thing but as a first principle, and then to work from there. The important thing is to be free and to feel free, to be a human being really committed to dealing with the society that really prevents most people from being human beings, which —— them over from the time that they are born. If you can do that, then you've really done something.

"What a lawyer is involved in is giving advice about how he thinks the system is going to work in particular ways toward particular people in given circumstances. Oftentimes, his predictions are going to be less valid than his clients'. A lawyer also has a ticket: he can file papers, defend people, go to court. In that sense there are a few functions that only a lawyer can perform. Some young lawyers now are into collective decision-making with their clients and that is good, except that it can lead to a kind of paralysis in which lawyers are unable to do their jobs.

"Take the pattern of a typical political trial in which some people chosen by the government are indicted and charged with a crime, and the purpose of the prosecution is to deter others than the defendants—and the defendants, too—from doing their politics, and to put away those whom the government has identified as leaders. Now if the decision-making is collective about the case it can very often lead to a situation in which the movement that is under attack promptly begins having meetings about the best way to deal with the attack and those who go to the meetings regard all decisions as necessarily collective ones to be argued, debated, and discussed endlessly before steps are taken to deal with the government's attack.

"What happens is that because trials are interesting, particularly to white liberals who are kind of raised in this notion of American constitutional principle, because there is a real enemy to fight, because it is easier to work on a trial than to organize, the collective decision-making process embodies the movement as a whole, with the result that the movement stops moving and becomes a defense committee to defend the former movement and the government has achieved exactly what it wanted. Good organizing can be done around trials, but it's a mistake to assume that a trial is a place where people do their politics to the exclusion of all other places where they might be doing them.

"The courtroom is the man's forum, and it imposes certain limitations. It's not the place you'd choose to fight if you were choosing, and you didn't choose it. There are times when being highly political in the courtroom is disadvantageous in terms of trying to reach the jury. The jury is the twelve people you're trying to organize in a courtroom, whereas you'd never choose the people who end up on those juries as your constituency if you were into doing politics seriously in the community.

"I look at the court system with total skepticism. Not a chance that it can be reformed. We're at a time now when the ideology of bourgeois liberalism is, in many cases, contrary to the interests of the American ruling class. If you really enforce the First and Fourth Amendments, people get away with a lot. They get to organize.

"There are some good judges, ones who work not with power relationships but with abstract legal principles, who believe in change and want to do something about it. Law should be separate from the commanders of power. But we're at a point now where that idea of law and judges is under tremendous attack by what you could call the ruling class so I don't have any faith in the court system.

"At this point too, the movement for change is fragmented, distorted, and under attack. The job of the movement now is not to debate how we are going to have a revolution—which is what is necessary to get change—but to identify those forces in society whose interests are contrary to those of the ruling class and to join with them and work with them. The important thing for Americans to know about now is that the kind of society you get after you have a

revolution is the kind you deserve. If you deal honestly with one another, in a comradely way, not suspiciously or viciously, you stand a much better chance when the revolution is over.

"I'm not optimistic about the movement here now, nor about the future of the country. I think we may well be in a situation where this country, as the leading imperialist power, simply can't be liberated from within, and that we may face a fascist period. A lot of third world countries will have to get liberated from American imperialism before the metropolitan countries get weak enough that something can be done. If you take the majority of people in America you're speaking of people who are the beneficiaries of American imperialism in a quite real sense. It's hard to know where you'd get a revolutionary coalition. It's like a race between the repression coming on and the movement taking off.

"Of course, it is also possible that the economy can't take its internal contradictions and the whole Keynesian theory will come apart. That would then determine what happens. It could cause a moving away from complacency and the forgoing of another New Deal alliance. That has to exist for the movement to exist because the necessary condition of a revolutionary movement is the existence of a large liberal movement which protects and legitimizes it.

"If I sound confused, it's because I really am. I just can't at this moment figure out where the movement is going and what it is to be. I feel best trying to figure it out issue by issue, trying to struggle toward some answers. I lack confidence in all of the answers that other people seem to have found."

While he is searching for answers and working with Kennedy and Rhine, Tigar is also working at the Center for the Study of Democratic Institutions, and doing some writing.

J. Tony Serra is another radical San Francisco lawyer searching for some answers. Unlike most of the lawyers discussed thus far, however, he is looking more toward the counterculture than the movement. Serra is known, in popular jargon, as a "dope lawyer." A native San Franciscan, he attended public schools and then went to Stanford University in Palo Alto on a scholarship that started out being academic but was later transferred to athletic. He made his way through college boxing, playing football and baseball, and drinking beer. When he graduated in 1958 he went to Europe and stayed there for a year.

"When I got back I had no definite plans about what to do next so I went to law school. That was in the late fifties and I guess people who didn't know what to do with themselves went to law school. In college I went around with the athletes and eight or ten of us ended up there."

Once in Boalt Hall, the Law School of the University of California in Berkeley, he decided to aim for criminal practice.

"I could never conceive of myself doing civil practice because I'm not oriented toward business or money problems. This was in the late fifties and early sixties and there wasn't as there is now, the dual phenomenon of revolutionary-oriented students and psychedelically oriented students. There was just a straight world. But there were criminals and I guess I was satisfied at that time to represent straight criminals.

After he got out of Boalt, Serra took a job for a year with the district attorney's office to get experience with jury trials and juries.

"I took that job since I knew it would let me go against high-caliber defense attorneys, and in that one year I tried forty jury trials and countless nonjury trials. Now I would consider anyone who chooses to go with the d.a.'s office, even pragmatically for experience, to be guilty of an immoral act in light of what is happening. But then it wasn't so heavy because you were dealing with the traditional sorts of crimes against persons and property. I did those traditional crimes and I wasn't gravely immoral and I was as liberal as I could be.

"Now you don't have just that. The great bulk of criminal cases today consists of victimless crimes—narcotics violations, demonstration cases, political cases. These things don't belong in the criminal courts. They're sociological problems and should be dealt with in that way."

After that year with the district attorney, Tony opened his own practice in San Francisco specializing in criminal law.

"I was out of a kind of athletic, college, beer-drinking environment which produces the competitive instinct in people so as to perpetuate the society which is more or less predicated on competition and capitalism. I was married then to a woman who was also becoming a lawyer and I was making my role in that society by defending the criminals—indigent criminals or criminals with money. I was never really interested in money. I was just interested in getting into court and getting people out of jail."

After he was in practice for a short time, he and his native city were hit by the strongest phenomenon since the earthquake of 1906. The psychedelic age arrived and San Francisco became the center of its culture. Throngs of people flocked to the city in search a new utopia. Often they were met by officials of the city who in no way approved of the means they were using to obtain this end.

"There was this widespread use of all forms of drugs and, of course, it completely modified my lifestyle since I didn't choose to remain a spectator. I chose to participate in all of those experiences as did everyone with any creative imagination or curiosity. So my lifestyle, values, and practice have modified quite a bit in the period between then and now."

Today Tony Serra is known as one of the city's best counterculture lawyers.

"At present I live communally with a lot of people—I guess you could best describe them as quasi-artistic musicians—and we share things; it's a nonmaterialistic way of life. I think all the things I own are worth around five hundred dollars.

"And I represent chiefly long-haired people who are active in whatever you want to call the cultural ramifications of the hip subculture or who are involved in the dissemination of drugs. I have many personal friends who are highly intelligent, educated, sophisticated people who do sell drugs as a part-time thing to survive and pursue art activities or activities that actually benefit our society. Then, the other level of peers or friends I represent are those who are actively involved in revolutionary activity. The two are coextensive here in the Bay Area. You've got long-haired people, hip subculture people involved in revolutionary acts, and then you've got those committed to the earlier view of the sixties which was the peace/love/brotherhood attitude.

"As an attorney and as a person living here you're always involved in both of those perspectives. You don't find that they conflict too much. Oh, I guess they do theoretically or conceptually, but while you're living it, it flows pretty evenly.

"So, in the last five or six years I've come out of a straight criminal defense position to what I guess you'd call a subculture lawyer with both an hallucinogenic and a revolutionary orientation. I practiced alone until 1971, then I went into partnership with Steve Perelson who is excellent in draft work, which I don't do. A little later Dale Metcalf joined us. Dale and I mainly do state court crimes, and Steve does the federal. His main emphasis is on draft work although he does a lot of our heavy dope smuggling cases. He's keeping a lot of people away from Vietnam and out of the service, which we see as a real social contribution.

"We don't work on any kind of monetary consideration. We just do what we can and if people have money we might take a little and if they don't we don't care. We just have to be sure the office pays for itself, but beyond that we live very humbly and consider ourselves privileged just to be able to help."

Their offices are in an old, charming warehouse section of San Francisco close to North Beach. They are on the third floor of a large walk-up building in a spacious, partially paneled office replete with wall-to-wall carpeting, head paraphernalia, antiques, and wall hangings.

"There are five attorneys working out of this office so it's not as expensive as it looks. Steve, Dale, and I work together and just share space with the others. It doesn't cost much that way.

"I handle hundreds of cases. The percentage of dope cases I have is in direct proportion to the percentage of dope cases there are in the criminal courts here—about 50 percent dope or dope-related. On dope cases I attempt to charge heavy international smugglers and heavy dealers cause they're making money. For the volume we do and for our reputation we probably charge less than most lawyers in the area. If we crack a grand a month it keeps the office going. I've only had one guy in five years go to the state penitentiary and that was his second offense while he was on probation for the first. I've had people do county jail time for heavy sales, but we, that is the judiciary and the legal community here in the Bay Area counties, with the exception of San Mateo county, have a more liberal attitude because things are changing so fast and dope is so prevalent.

"If you went into the houses of all the people around here and checked for dope, you'd probably find it in 75 percent of the houses of people under twenty-five. So now the police don't usually bother going after the possessors like they did in the early days of the Haight. Now all their energy is in going after the heavy dealers."

The other 50 percent of Tony's work falls about evenly into two categories. The first 25 percent is political cases, mainly coming out of Berkeley and San Francisco demonstrations. According to Doran Weinberg, head of the San Francisco Guild office, after a large political bust Tony will call the Guild office and tell them that he's willing to take ten or fifteen cases, a large number for an individual practitioner. Tony does all of these cases for no charge. The other 25 percent of his work is spent defending traditional criminals, those accused of crimes ranging from burglary to murder.

"I believe in doing this, too. I'm not so reform-oriented that I would discount these people. I work more or less from the premise that no one is guilty of anything. Either we're all guilty or we're all innocent. And no one should ever go to jail. There should be no concept of jail."

Tony also feels that the whole concept of the court system might be antiquated. "If you view radical people as an evolving social phenomenon, then the judiciary is one of the impediments to the flowering of that phenomenon."

However, he doesn't think that you can generalize about the people who compose the judicial system.

"Here in the Bay Area there are some fairly intelligent, liberated, humanistic types. There are a lot of judges I dig here who are trying to do as much as they can in their particular form just as I'm trying to do as much as I can in my form and a poet is trying to do as much as he can in his. I don't like to categorize or generalize because I think when you get down to it everyone is basically good. Everyone has the germ of striving, beauty, intelligence, but some peo-

ple get involved in social forms that are hangovers from another era when social survival was predicated on different types of adaptive mechanisms.

Although he functions as an attorney, Tony possesses some rather harsh opinions on lawyers in general.

"I think lawyers, both civil and criminal, are cowards. The lawyer's position is a very ——— position since a lawyer is always getting off behind some other cat's act of courage, always playing mind ———. It's always your client who is ultimately going to jail. Lawyers have always enjoyed all of the social benefits, prestige, wealth, and favor, and it's because they are highly tutored whore-pimp types. They stand behind other people's bravery and other people's martyrdoms. I particularly denounce that kind of attorney, and they exist in the radical world, too. It's so easy to be safe that way and take the glory and the credit and come out the semantic hero and go out to eat a big dinner when it's all over. While the cat there, he's for real, he's going to jail or taking his bumps. I don't believe in that.

"Lawyers should be out in front, getting arrested, going to jail, participating actively in the revolution, even as leaders if they have that kind of calling. They shouldn't be ——— the side as they traditionally do. I think there is something wrong with everyone who becomes a lawyer. There's some paranoia, some cowardice, some lack of courage, or self-identification, some flaw in a person's constitution that makes him become a lawyer.

"At this particular point I'm doing a lawyer's job. If it gets heavier then I'll do a heavier thing. I consider myself a revolutionary. I'm not throwing bombs right now but there might come a time, and it might be in the seventies when you have to decide and throw bombs and I would do that.

"I don't now belong to any groups at all because I've never been concerned with organized types of mentalities, and I don't get along in that context. I relate to heavy movement people beautifully on an ideological level, but I don't on a personality level. They're uptight, tense, rigid—at least when I see them socially in their mythological role—and in the Bay Area there are just too many people who are open and loving and right now I'd prefer to associate my private life with those people."

Tony Serra has, however, taken some steps for upsetting the powers that currently are. Early in 1971 he announced his candidacy for mayor of San Francisco on the Platypus party platform. The Platypus party is devoted to "Renaissance Now!" and their major interest is in making San Francisco streets safe for dancing.

"This is the political dimension here in San Francisco, and I just found myself in a position to run because I'm qualified by having the establishment pedigree."

Although Tony only received a minute percentage of the vote, he does not feel that the whole thing should be taken lightly.

"We never thought there was a chance of winning. It was the mouse that roared. But what we were trying to do was to amplify a certain ideology so it really embraces hip subcultural values and political values. It was just one more voice getting up and saying the same old things, perhaps helping some of these things to be realized in five years or a decade rather than never.

"You know, political parties could say, 'None of our people are going to be drafted. We're going to provide real sanctuary here.' And if U.S. marshals came in they could have a confrontation that would have ramifications all over the world. It's unlikely that that would happen, but that was one of the values that we wanted to bring out: that war must end.

"Another thing we said was that the whole victimless crime area does not belong to the courts. The third large area we emphasized was the ecological one. If the cities don't convert into parks, then we won't have cities anymore. Most of them are dead now.

"Another thing we wanted to say is that you really don't have to pay taxes. They could be eliminated if war were eliminated. Tax has always been the relationship between the captor and the captive, and we're still the captives both economically and sociologically.

"I think the early seventies will continue to be one further attempt at modifying the values and repressive features of American society by peaceful means, political means, voting, changing laws, demonstrations. I think with the vote being lowered to eighteen, a lot of people will focus on things like the Berkeley elections last year or our party and its platform. Alongside that you'll have revolutionary symbols—bombs, killings—but it won't really be strong. It won't reflect the majority of the people.

"But, if the early seventies don't succeed in changing things peacefully then, by the midseventies, there might be widespread terror and revolution and large acts of violence that reflect more than just a courageous minority.

"I guess I'm optimistic that the latter doesn't have to happen because I see so many good people in the Bay Area, people who are genuine about fulfilling the alternative lifestyle which doesn't depend on the establishment. And I think they are our greatest prospect for acquiring the social changes that we need to live humanly.

"They're not into bombing or revolution. They're just into saying 'I don't want anything to do with that way of life.' They're not into the game-playing that is going on in the political arena. They're just into going out very determinedly to live their own lives outside of the context of 'normal' society. It is selfish I guess, but if a lot of people do it, it's the way things will go.

"You can't do everything. You can't just attack without having some new way of life to offer. You can't just direct everything at destruction. They'll be more repression after a revolution than before. It's always been that way.

"But if you look at the Bay Area you can see both the vision and mobility of the political people and the lifestyle of these other people which is the political vision fulfilled. It's good always to dangle that vision fulfilled in front of you. You can't just blindly postulate a utopia. You've always got to experiment with a utopia, and that experimentation is going on here.

"You can't just hope that after the mechanism of oppression is destroyed, flowers are going to grow automatically. It doesn't happen that way. In a way it's more important to establish some kind of experimental, futuristic society than it is to destroy the old. And that is happening here and it charges me with optimism."

Because the Bay Area is the Bay Area, and because of the current ambiance that Serra mentioned, one would expect to find a host of innovative legal collectives there. While there are some, and while these are innovative, there are just not as many as one would imagine.

One firm in Berkeley—Franck, Hill, Stender, Hendon, Kelley, and Larson—did function collectively for a year as the Telegraph Avenue Collective. However, political differences and internal problems, not unlike those encountered by the New York Law Commune, caused innumerable changes in personnel, and, eventually, a complete disbanding of the project as such in the summer of 1971.

Some of the lawyers and workers who had left that collective earlier had done so to work on a project which, while not a collective, is very innovative. This, the Prison Law Project (PLP), began around the people in the Telegraph Avenue Collective who had been working on the Soledad Brothers case and other prison cases and problems. As they worked, they talked with a large number of prisoners about prison conditions in California. They also began to receive hundreds of letters each week from inmates. It soon became clear to them that a fulltime effort was needed to bring about change in the California prisons, to stimulate reform efforts by other groups, and to provide a model for prison reform work. The people working on the Prison Law Project attempted to get outside funding for their work. Beginning in April 1971 they received grants from several foundations and, after adding some people, became an entity separate from the Telegraph Avenue Collective.

The Project focuses on providing legal services, social services, public education, and community organizing around the conditions in California prisons. By September 1971, the members of the project included five lawyers, six legal workers, including administrative, secretarial, press and public education, writing and research workers, and a number of cooperating attorneys who, though not on the staff of the Project, work closely with it.

Fay Stender, one of the Project's attorneys said, "Lawyers and community groups are working elsewhere to change the conditions in the prisons, but this is the first attempt to put together legal and sociological services in a mixed-media form.

"This project was formed out of necessity. We will be giving inmates a voice. They think now that they'll be murdered if they speak up about the prison conditions, but, even though they think that, it doesn't stop them from speaking up. There is no one that prisoners trust right now so an important function we perform is to show how prisoners are when they have found some people that they can trust. We feel that there is some first-rate political thinking going on right now in the prisons, but there is also an unbelievable amount of very serious oppression. For instance, a prison can torture a man for ten years, but then if he attacks a guard it is his fault, and not the fault of the conditions he has been forced to be in.

"Until we began, the prisons completely controlled the propaganda that came out about them. We hope that by having a group of lawyers and legal workers who have seen what the conditions really are we can counter that propaganda."

In this project, legal workers are considered as equally valuable members of the project, and do receive equal pay. However, although it was originally conceived of as a collective, it never operated as such. An executive committee, after consulting with the whole membership, makes the decisions.

"Speaking personally," said Stender, "I do not think that a process-oriented organization, such as a collective, turns out as much work product as a more traditionally organized operation. I believe in equal pay, which we have, but not in equal decisionmaking, not because of the status of the people, but because of the number of people and because of political differences. So many people today want to engage in dialectical process, and decision-making instead of producing work. Those people should be in living communes and other organizations where they agree that the priority is the process. My own priority is prison work, and I don't think a collective gets out as much work. Others disagree with me."

A group that probably would disagree, at least in part, is the Community Law Firm (CLF) in San Francisco's Mission district. This collective, which began around the same time as the Telegraph Avenue one, is still functioning and has a good prognosis for the future because it is community-oriented within a defined community, and because its members hope to become part of

a multiservice collective that would provide health care, legal care, social workers, translators, and cooperatives within the next few years. The firm began as the result of the work of two young lawyers—Paul Harris and Stan Zaks—who have been friends from junior high school on through their days at law school (Columbia for Zaks and Boalt for Harris) until the present. They also both spent summers working for Black civil rights lawyer C. B. King—Zaks in 1965 and Harris in 1968.

"We started discussing setting up a community law firm when we were both about a year into law school," Zaks said. "That was the height of the movement, and we were both enmeshed in it. We knew then that we were actually going to attempt this, a community law firm in the sense that we live in the community, set up our office there, and relate primarily, but not exclusively, to that community. Paul had a back operation, so it took him five years before he finished law school, but, while he was still in, about three years ago, we started meeting intensively with students from his class at Boalt, and we talked about the idea a lot. When people got out of law school, the geographical and financial questions became prime, and people started breaking off from the group. When Paul graduated, he took a one-year clerkship with a U.S. district court judge. In the meantime, I had worked as a Legal Services attorney and then spent a year with a Lawyers Guild general practice firm. In February 1970, I opened a small office in the Mission district with one part-time volunteer, and, then in September, Paul joined me and we moved to our present storefront office, across the street from Mission High School."

"We spent a lot of time trying to figure out what kind of community to relate to," Harris said, "and we had a lot of different criteria, such as our and our spouses' races, our special skills, the special needs of the community, our existing contacts with people in the community, the need for basic legal skills, the legal services, both private and institutional, that were already present, existing social services, police harassment, the potential for racial alliances, functioning political groups, and the level of political activity. We decided on the Mission district because it is a mixed Latino, white working-class, Native American, and hippie community. In setting up the collective, we then looked for legal workers and other lawyers who are from one or another of the groups represented in the community."

At the time of writing the firm had two legal workers, Bernadette Aguilar, who grew up in the Mission and had no previous legal training, and Rickey Jacobs, who had some legal-secretarial experience. They have also had ten to twelve law students who have worked in the office at various times. During the summers they have a fulltime, well-integrated staff of six students. High school students, funded by community groups, also work in the office, training to be community legal workers. They also have volunteers who come in to work on specific projects, including a handful of lawyers from traditional business firms who donate their time and their resources. After an excellent experience with Ronald Schiffman, an attorney who now has his own practice, the firm intends to try to continue to run a six-month apprentice program for new attorneys.

Although the two lawyers and two legal workers form the core of the office, the many other persons who relate to it make it possible for the CLF to do a large volume of work with high quality, and to serve as a model of the community law office idea to others.

"When I first came in here," Zaks said, "I was surprised how quickly I was able to build up trust with groups in the community. We had been hesitant about coming into a community we had not been part of before, but the first thing we found was that there was such a need to work with community groups that we were accepted right away and had more work in terms of our house counsel role than we could handle. And we found that the racial question was more in our minds than in the minds of the groups that we worked with."

The firm's work is separated into three categories: (1) house counsel for community groups, (2) criminal cases arising out of police brutality and harassment, and (3) general practice.

In their house counsel role, they have assisted Los Siete de La Raza with general legal problems and some criminal cases; La Raza Legal Defense Union, a community defense organization, with organizational, educational, and legal support; Mission People's Health Center, a free clinic, with problems in setting up and with legal complications that arise. The firm has also taken on some cases from other community groups, and has handled a lot of criminal cases, including some which they have been able to politicize. They have also worked with students from Mission High School, and with an insurgent labor group.

"The political consciousness in this area is rapidly growing so there is a need for movement attorneys. However, except for the Los Siete case, there has been no glamour in it yet, so it was hard for these groups to get other attorneys," said Harris.

"We're hoping that these community groups will continue to grow and move so that they can dictate some of the changes that will be made in the community; for instance, stopping bad model city planning and police harassment. But, until they are strong enough to regulate their own community, we are going to have continual legal things going on. We've been turning down big cases—involvement in things like the Los Siete retrial and the Soledad case—because there are attorneys who will do those so we are trying to do these other things," Zaks said.

"Our main stress has been and will continue to be the house counsel role and the criminal cases that arise out of it. That accounts for 70 percent of our time. The other 30 percent we spend on regular cases which we make money on. Ninety percent of the people in those cases are community people that the groups we work for have brought to us, but they are paying cases," said Harris. "A lot of these cases have been personal injury, which is helpful in building up trust in the community, and many of the others have been draft cases. During our first six months of operation both of our wives were working, so we went without taking salary, but then salaries became necessary although, if we ever make enough money that it becomes an issue, we intend to limit them. We keep our overhead low, and have a makeshift library and furnishings given to us by community groups, and a monetarily successful Guild firm.

"While we are lawyers, we realize that the law works to maintain the status quo and to preserve the system. But we feel that we do have a bourgeois democracy at this time of history so that we can use the courts to get some victories. Until that democracy is past, we feel that if you have legal talent and can stand being a lawyer that it is one way to help the movement. We are either helping people who are changing things to stay out of trouble or creating certain conditions where organizing is allowed. We feel that that is all a lawyer can do. We don't put our trust in test cases and things of that sort because we know that the power is not in the Constitution, and that they take an inordinate amount of research and preparation. When a case like that comes up, we try to channel it to Legal Services, CRLA, or friends in the Reggie program.

"In our practice here, we have also found that many legal problems can be handled without extended paper work and often without court involvement, so we are developing our skills at informal pressure and negotiation. We've also recognized that our legal training has taught us to look only for legal solutions to power struggles. Having seen this, we have tried to overcome our tendencies to depoliticize issues, and we have tried to be aware of the political positions of the groups we work with and to avoid confusing these positions by the use of the legal process. We have also seen the tendency of people to depend on lawyers, and we fight that since we feel that lawyers should not lead their clients' organizing efforts. We also try to give the people some victories in court so they'll lose their fear of the established power and recognize their own power. However, we do try to avoid cases that might turn out to be 'liberal traps' or useless."

"We also realize," Zaks said, "that this whole thing of functioning as a radical lawyer is filled with contradictions. Lawyers are people who can manipulate the system. When you become radical, the system fights you. We have had to learn how to be able to survive and be able to go to the judge and insist on the rights of a client and at the same time know that it is an oppressive system, and that someday soon it is all going to come down."

"We feel," Harris said, "that, as radical lawyers, we should put our ultimate trust in the political power of the people, while remembering that we, as lawyers, have tools to help develop that power. We also feel that, as radical human beings, we should end the schizophrenia caused by our Communist ideals and our capitalist existence. That is why we have chosen the form of a community, collective law firm.

"We feel that the law is society's sophisticated means of restricting people and repressing revolution. But, as long as this society maintains its capitalist-democratic approach, we feel the lawyer has the power to free people and further the revolution. We feel that when the law is replaced by the hangman, there will be sufficient time to throw away the law books and pick up the appropriate tools."

Perhaps the most unique legal collective in the Bay Area is not a collective at all. It is a group composed of the lawyers, legal workers, and political people who center their work around the activities of the Bay Area Regional Office of the National Lawyer's Guild. These young people have taken the same Guild chapter that some of the older members had thought about abandoning less than a decade ago and, with their fresh ideas, have turned it into the most vital Guild chapter in the country, and one that definitely works in a collective way.

At the Guild's 1968 Santa Monica convention, a drive, spearheaded by the younger Guild members, to make the Guild a regional as well as national organization won. The mass defense office concept which was then only functioning in New York City spread, and regional offices were opened in San Francisco and Los Angeles. Later, offices were opened in Detroit, Chicago, Philadelphia, Washington, D.C., Seattle, Boston, Milwaukee, and Denver.

The Bay Area office did not open until the beginning of 1969, six months after the decision to open one had been made. That time was necessary to organize both people and ideas. When the office opened, the San Francisco State strike—which centered around the appointment of S. J. Hayakawa and the absence of ethnic studies at the school—was in full swing. The Guild office related totally to that strike and to the cases of the seven hundred-plus people who had been arrested as the result of the strike.

About four hundred and fifty of those cases were on unlawful assembly charges that came out of mass busts, but the other

two hundred and fifty cases were on a variety of charges, and a good number of them were felonies. The office was mandated.

It took the people working there about six months before they could dig themselves out to the point where they could consider doing other work than that of mass defense. At that time, Peter Haberfeld, who had opened the office, left and was replaced by Doron Weinberg, who along with Jennie Rhine, Sharon Gold, Janet Small, Susan Matross, and Carol Grossman, form the working core of the office. In addition, about fifteen other attorneys and legal workers consistently give significant time. General membership in the chapter numbers around four hundred.

"We decided after the San Francisco State cases that the case-to-case legal needs of the movement in the Bay Area were relatively secure and that the ongoing needs of the movement and the community were the things we should address ourselves to. We decided that we should concentrate on educating the community about the legal system, and educating lawyers about how they could best perform their own work in a non-oppressive manner. The first thing we did was concentrate on dissemination of information. We called a conference on high school law in December of 1969 as our first act of combining both external education and internal organizing. This was followed by a conference on landlord-tenant law in January of 1970, one on the handing of political, criminal trials in April and one on the omnibus crime bill in January 1971," said Weinberg.

"We also got into demonstrations for a while. We called the second demonstration of lawyers in the history of this country in October of 1969. The first one had been in New York City on May Day of that year. Our demonstration, in which both political and reform demands were made, was to be against the law as an instrument of repression. Then, the conspiracy trial began in Chicago and we decided to make the demonstration also against that. Four hundred lawyers and law students came, and out of that demonstration groups formed to talk about what radical lawyers should do. This was really the beginning of the radical law community here as it is now.

"We called another demonstration when the verdict for the Chicago trial came in in February 1970, and three thousand people came to that one.

"And we expressed our opposition to the traditional conception of lawyership by passing out red armbands at the bar admission ceremony, and having people take their oath with clenched fist

"We are now into a variety of things," Rhine continued. Most political people in the Bay Area call here if they need a lawyer, so we have set up an on-call system. We have a lawyer on each side of the Bay on call twenty-four hours a day. We have enough lawyers participating so that each one is only on call one day each month. We respond to calls that way from thirty to forty movement groups in the area. We usually do these cases free.

"We also teach a lot about law to lay people. We have our own People's Law School, in connection with several other movement groups, where we give free courses on things like labor law, military law, street survival, women and the law, prison law, immigration law, consumer law, juvenile law, welfare law, landlord-tenant law, and legal research. That began in September 1971, and we hope to give series of classes three times a year. Prior to that time we had coordinated classes on the law at San Francisco State, *Venceremos* University, and the Berkeley Center for Participatory Education, and we still continue to do that."

"We also put out a lot of information for people. We distribute 'street sheets' on various subjects. These tell people how to deal with the law and the police in a wide variety of legal or harassment situations. We've also put out, through *Ramparts* magazine, a *People's Law Book*. And we bring out our paper, *Conspiracy*, each month.

"We also keep ourselves available for people to set up legal defense before demonstrations, and then we follow up afterward. We farm out the actual handling of the cases, probably two thirds of it to Guild lawyers and one-third to lawyers who cooperate but are not members of the Guild."

"We've also helped set up legal-political collectives of people who meet once a week to discuss the direction of our work and their work and to politically educate themselves," Weinberg added, "and we have a Guild women's caucus that also meets weekly. Then we have our 'Gracious Living' series which is kind of a lecture series where people around the Guild get together for informal discussions of topics like labor law or legal workers or the movement in the thirties. And the office is open every Friday for lunch, and a lot of people come here to rap then."

The scope of these activites has caused some dissension within the Guild chapter. Some older members of the Guild feel that the Guild should be a legal organization with political overtones rather than a political organization with legal overtones. With the admission of legal workers to the Guild during the 1971 Boulder convention, however, it appears that the younger members have won their point and that the office's political activities will continue to expand.

Part of the reason that this regional office is so active is that most of the people who form its core are together a great deal of the time. While many of them have jobs outside of the Guild office—several of them have or have had Reggies (Reginald Heber Smith fellowships) that allow them wide latitude in doing OEO work and other work—most of them live together in one of two legal communal houses in Berkeley. Most of the lawyers in this group also come from surprisingly similar backgrounds. They were "red diaper" babies whose parents had been active in the labor movement during the thirties and forties. They did well in school but felt alienated from their school work. They were active in radical activities during the early sixties, and a good number of them went down South in the early civil rights period. They decided to become lawyers because that seemed a good way to keep active in the social arena, no matter what the state of the movement was. They did well in law school, but found that experience even less meaningful than the rest of their education. Many of them received fellowships of one sort or another and, with the freedom that these fellowships gave, were able to use their time to integrate their legal knowledge and political beliefs.

They had been active in Guild chapters at their schools, and so when they all ended up in the same locality, they were drawn together around the workings of the Guild, found each other, and were able to develop their ideas even more. None of them have any faith in the court system. All of them have doubts about the validity of their roles as lawyers.

"I find that the house counsel role is the lawyer role that is not alienating. A lot of lawyers, even movement ones, are people who will sell their services to anyone who asks. I don't conceive of myself that way. I'm not neutral. I have political goals, and I also have legal skills which is the same as having any other skill and using it politically. I'm an activist first and a lawyer second," said one of the attorneys connected with the office.

"When I was a Reggie I worked as much as I could with organizations to build political power by using legal skills. Unless lawyers and legal workers do this, a lot of what they do is counterproductive. I'd work with ten or twelve organizations at any given time, and I would be frustrated when I had to work on an individual case," said another.

"Aside from test case reform I think very little of Legal Services. It's a Band-Aid approach and of very little benefit. I used to have a hell of a time explaining to my clients that I'd done a good job for them when I got them a thirty-day delay before they were going to be evicted. The aim of the programs is cooption. Really there are very few radical lawyers in the program. Most people who are radical either are isolated or leave," commented a third.

"I feel that most lawyers who are radicals, whether they're into Legal Services or something else, are caught in the middle of tremendous contradictions, both personal and political. Everyone I know goes through periodic reassessments of the value of what they are doing. Everyone is always tempted to quit law and a lot do. I'm working in the midst of the legal system which I find is the antithesis of anything I find useful in human relationships. It is artificial and contrived, and it is loaded against anyone who wants to make changes. You're dealing with people who are racist and chauvinistic all of the time. The only thing that makes it worthwhile to me at all is that somewhere on the other side I'm developing relationships that are satisfying to me, personally, and I'm helping to tear the system down. I feel there is very little worth preserving. The way I relate to the court system is to try to figure out how to destroy it before it destroys me which I'm not sure I'm winning on."

"That's how we feel personally, which is what tears us apart inside a lot. But the other side of the coin is that we don't have any choice. The movement is so caught up in the cutting edge of fascism, a good part of which is the legal system, that we have to deal with it. It's important to humanize oneself while doing it, to keep involved in nonlegal things and to watch what you're doing. I think more and more we'll be forced to be criminal lawyers. I don't know if civil law is still important at all.

Some of us went on this legal trip to Cuba, and we found out a lot about lawyers there. Before 1959 some lawyers there were shot for defending some people, and lawyers were as crucial a part of that revolution as anything that happened, partly because Castro was a lawyer and partly because, when a system has reached the level of fascism that that one had, criminal defense is considered the key (to) some intermediary goals.

"It is important here now to distinguish between a lawyer who contributes his legal skills to the movement and a movement person who contributes the skill of being a lawyer. You can tell by dedication, by lifestyle, by whether a person gets outside of him- or herself. I never had a real sense of this before I went to Cuba. It's very difficult for us to be revolutionaries, living in the belly of the monster with all the pressures and temptations and escape mechanisms around us. For us to really believe so much in something outside of ourselves that we give our lives for it or whatever, well, sometimes I don't think any of us are revolutionary yet."

"Working in the court system is essential now. We go when we have to and that's going to be the way it is until we have enough strength growing out of the barrel of a gun, or wherever it's going to grow out of, to ignore that system. We don't have that strength now, and until we do the court system is going to be there."

"I think it is difficult to be revolutionary in any context in this country right now. The contradictions for lawyers are tremendous but I see an absolute political need for them. I'd hesitate to say that I'm a dedicated revolutionary ready to give up my life for the cause although that is what I'd like to be someday. I don't think many people are

that now but I know a lot of lawyers who are trying. It's a very dynamic process. A lot of people are trying to do what they think is right which, in the long run, is going to have to turn them into revolutionaries because that is the only way to respond to this system."

"It's inevitable as you see more of the contradictions in life here. But I see validity in it not happening too quickly. I see a lot of people today who seem to have split from a middle-class family and become radical over the weekend. But then they're confronted by so many contradictions, by a volatile life that is difficult to survive in, that they are liable to end up in the mountains because they can't cope with what they see. That can happen to lawyers as well as anybody else."

Sometimes slowly, and sometimes more quickly than they would choose, the people around the Bay Area regional office of the Guild are learning, through experimentation, to cope with the many contradictions that they see in the system at large, the legal system, and the roles they happen to have to play in it. Their conclusions, their methods of coping, are very likely to point the way to the future of the people's law movement.

QUORUM CALL

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

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The VICE PRESIDENT. Without objection, it is so ordered.

CLOTURE MOTION

Mr. HUGH SCOTT. Mr. President, on behalf of the distinguished senior Senator from Ohio (Mr. TAFT), I submit a cloture motion with respect to S. 2686, the proposed Legal Services Corporation Act.

I ask unanimous consent that the vote occur on Wednesday immediately after the vote on the amendment offered by the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT).

The VICE PRESIDENT. Without objection, it is so ordered.

The cloture motion having been presented under rule XXII, without objection the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (S. 2686), a bill to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

Robert Taft, Richard S. Schweiker, Gaylord Nelson, William D. Hathaway, Harrison A. Williams, Mark Hatfield, Alan Cranston, James B. Pearson, Gale W. McGee, and John V. Tunney.

J. Glenn Beall, Jr., Mike Mansfield, Adlai Stevenson, Walter F. Mondale, Hugh Scott, Jacob K. Javits, Edward W. Brooke, Edward M. Kennedy, and William Proxmire.

QUORUM CALL

Mr. WILLIAM L. SCOTT. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

NATIONAL ENERGY EMERGENCY ACT OF 1973—CONFERENCE REPORT

The Senate resumed the consideration of the report of the committee of conference on S. 2589, to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

Mr. NELSON. Mr. President, last week the Senate Finance Committee conducted 2 days of panel discussion on section 110. The panelists consisted of 11 experts in this area, most of whom have held high positions in the Internal Revenue Service or the Treasury Department during four administrations. This was a fair, objective, bipartisan panel and they were unanimous in their condemnation of this proposal.

After careful consideration and study of their testimony and section 110, it would appear clear to me to be unconstitutional, unworkable, and counterproductive. At a time when everything should be done to stimulate production, section 110 would result in a cutback of production. The following analysis is not intended as a complete discussion of problems raised by section 110, but rather is an examination of some of its more questionable aspects:

DESCRIPTION OF SECTION 110 OF S. 2589

Section 110(a)(1) authorizes the President to "specify prices for sale of petroleum products . . . which avoid windfall profits by sellers." Section 110(a)(2) authorizes any interested person to petition the Renegotiation Board to determine ((3)(A)) whether the price of "petroleum products permits sellers thereof to receive windfall profits." If the Board so determines, it "shall specify a price for such sales which would not permit such profits to be received by such sellers."

For purposes of this subparagraph, section 110(a)(6) defines windfall profits to mean profits that are in excess of the *lesser of*

110(a)(6)(A)) "a reasonable profit with respect to the particular seller" to be determined by the Renegotiation Board on consideration of certain general factors, *i.e.*, "reasonableness of its cost and profit," "net worth," "risk," "efficiency and productivity" and (iv) "other features the consideration of which the public interest in fair and equitable dealings may require . . . or

(B) *greater of*

"(i) the average profit obtained by sellers for such products during the calendar years 1967 through 1971; or

"(ii) the average profit obtained by the particular seller for such products during such calendar years." Upon petition of any interested person (section 110(a)(3)(B) and the Board's determination that a windfall profit exists, it may "order such seller to take such actions (including the escrowing of funds as it may deem appropriate to assure that sufficient funds to be available for the refund of windfall profits. . . .)" Upon final determination of windfall profits, the Board "shall order such seller to refund an amount equal to such windfall profits to the persons who have purchased from such seller . . . if such persons are not reasonably ascertainable, the Board shall order the seller for the purposes of refunding . . . to reduce the price for future sales, to create a fund against which previous purchasers of such items might file a claim or to take such other actions as the Board may deem appropriate." Such procedure is subject to judicial review. For purposes of this subparagraph, windfall profits is defined as section 110(a)(7) "profits in excess of the average profits obtained by all sellers for such products during the calendar years 1967 to 1971." Section 110(a)(10).

Section 110 takes effect on January 1, 1975, but applies to profits attributable to any price "of crude oil, residual fuel oil, and refined petroleum products in effect after December 31, 1973."

GENERAL

Section 110 is not a tax and has none of the characteristics of a tax. Rather, it seems to establish a system of restitution or, depending upon one's view, confiscation. Section 110 is based in large part on the Renegotiation Act of 1951, rather than the language of any of the three excess profits taxes enacted during three major wars in this country's history. While excess profits taxes have proven to be extremely hard to administer and have resulted in extended litigation, they are models of precision and objectivity, compared to the vague standards of the Renegotiation Act. The language of the Renegotiation Act has been described by one of the country's renegotiation experts as involving "wholly a matter of judgment," because of the absence of measurable objective standards. (Koehler, "Renegotiation: Evidence and Burden of Proof in Appeal Proceedings," 45 Va. L. Rev. 1, 3 (1959).)

The Renegotiation Act deals with the recapturing, under certain circumstances, of excessive profits on defense contractors engaged in business with the U.S. Government. Section 110 attempts to transfer the same concept to transactions wholly between private parties and where no party to the transaction, unlike the circumstances of the Renegotiation Act, has contractually agreed to a system of recapture of excessive profits. The recapture of windfall profits is completely haphazard, dependent totally upon the petitioning of "an interested party," who is not defined, involving any sale of any petroleum product. Unlike the Korean excess profit tax, this section 110 applies both to individuals and to corporations and to corporations regardless of size. To obtain some idea of the impact of this statute, it has been estimated that there are around 400,000 owners of oil in the United States, 250 refineries, 220,000 filling stations of which 70 to 80 percent of them are individually owned and thousands of others who sell petroleum products.

Furthermore, the section applies to each and every sale of these petroleum sellers. It also appears that this section would apply to sales outside the United States.

SECTION 110 IS OF DOUBTFUL CONSTITUTIONALITY

Section 110 is of doubtful constitutionality because its application is uncertain. The imposition of the recapture of windfall profits is completely haphazard, depending on a filing of a petition of any interested party. In addition, assuming a petition by an in-

terested party, it is impossible for any seller to determine what transactions subjects him to a refund of the amount of that refund.

Such a concept is unknown in our law. The proposed system would involve an unconstitutional delegation of congressional power or of taking of property without due process of law, because of the vagueness of the statutory standards and concepts.

The Fifth Amendment prohibits the taking of property without due process of law. Procedural due process for the sellers of petroleum products whose property is being taken requires, absent an overwhelming governmental interest and special urgency such as occurs in total war, that the legal rights of the person whose property is taken be adjudicated by a court of law. The seriousness of the injustices which could result from the abuse of the powers delegated to the Renegotiation Board are clear and Congress is required to preserve adequate channels of procedural due process through the courts and provide for careful conformity to those channels. Otherwise, the vagueness of the test for windfall profits would mean that Congress had delegated its final authority to make laws to a body of men not entitled to that authority, *Panama Refining Co. v. Ryan*, 293 U.S. 388, 414–433 (1935).

Experience has shown that every business decision of the taxpayer is relevant to determining whether his profits are reasonable or excessive. To allow thousands of petroleum product purchasers to go before the courts on such a vague question raises serious Constitutional doubts as to whether these issues are capable of resolution by traditional and orderly Constitutional adjudication.

(See *Cohen v. Flast*, 392 U.S. 83 95 (1968).) The business of Federal courts is Constitutionally limited to questions in the context and in a form historically viewed as capable of resolution through the judicial process and Congress cannot destroy a co-equal branch of government by imposing on it issues beyond its capability to resolve.

Even if there are legitimate governmental concerns which might override the individual right in specific situations and the reluctance of the courts to accept jurisdiction for essentially nonjusticiable issues. Congress is required by its Constitutional duty to pick alternatives less intrusive on Constitutional concerns if such an alternative is possible and consistent with the Congressional purpose. By simplifying the determination of windfall profits and by providing that the facts necessary to determinations of that base are to be resolved in a more orderly and less administratively cumbersome forum, Congress can give its due respect to Constitutional concerns. Such alternatives are available.

There is a serious Constitutional doubt about an act which would provide that even though the taxpayer can show that a reasonable profit is higher than his base period average, he nevertheless would not be permitted to use that as a basis for determining excessive profits, particularly in light of the fact that the tax would not be imposed on sellers generally, but only sellers of a particular product.

Finally, while the Constitutionality of the Renegotiation Act of 1951 was upheld (*Lichter v. United States*, 334 U.S. 742 (1948)), it is not an adequate precedent for section 110. The Renegotiation Act was upheld because it was an exercise of war powers and because the affected parties in their contract with the government had agreed to the vague standards contained in the Act. This section attempts to transfer the same concept to transactions wholly between private parties and where no party to the transaction has contractually agreed to a system of recapture of profits.

SECTION 110 IS LEGALLY UNWORKABLE

The testimony presented to the Senate Finance Committee last week expressed the uniform opinion of experts in the field of tax law that a provision identical to section 110 except that the sanction was a tax rather than a refund, was unadministerable and, therefore, unworkable.

The recapture proposal calls for income determinations by product lines. There is not adequate information for such a determination. Our tax system has never been required to determine taxable income by product lines, and it cannot readily be done.

Since the proposal would require such determinations for the past period 1967–71, both on an industry-wide basis and for each particular taxpayer, as well as for future years, and since such data could not be developed, the system would not be administerable.

It should be noted that the proposal refers to "profits," rather than "taxable income," which is the base of our entire Federal income tax system. We have no concept of "profits" as such under our system; while we have a concept "earnings and profits," it reflects an amount after payment of dividends to shareholders, which is presumably not the intended base of section 110, the proposed tax.

OTHER PROBLEMS WITH SECTION 110

Provision

(2) Any interested person, who has reason to believe that any price . . . [prescribed by the government] of petroleum products permits a seller thereof any windfall profits, may petition the Renegotiation Board . . . for a redetermination . . . [of the price].

Comments

Presumably "any interested person" includes a purchaser of a petroleum product. There are around 400,000 owners of oil in the United States, 250 refineries, 200,000 filling stations and thousands of others who sell petroleum products. The number of petitions which would probably be filed with the Renegotiation Board against these sellers is staggering to contemplate. Without regard to the fact that commerce in petroleum products in the United States would be seriously crippled or might even be halted by such a provision, the five-man Renegotiation Board and its staff of 200 would be inundated with petitions. It would probably be a year before any significant staff could be assembled, months more before they were trained to do a fair job and then the process of dealing with the petitions received could be begun.

Provision

"(3) (A) . . . The Board may by rule determine, after opportunity for oral presentation of views, data and arguments, whether the price . . . of petroleum products permits sellers thereof to receive windfall profits. Upon a final determination of the Board that such a price permits windfall profits to be so received, it shall specify a price for such sales which will not permit such profits to be received by such sellers."

Comment

It is one thing for the Renegotiation Board to determine fair profits from certain types of contracts with basically our large business firms in the United States. But how would the Board ever make a determination with any uniformity for the independent gas station operator whose wife, sons, etc., may work for him without charge and the major oil company-owned station which has only paid employees, higher rent, a large repair facility, a car wash, etc. There is simply no comparability from which to make a determination of fair profit.

The determination is akin to the World War II and Korean War Excess Profit Tax determinations of excess profits. These taxes applied only to corporations—not all persons as does Sec. 110—and contained 30–40 pages of complicated rules governing the determination of "excess" (and, conversely, fair) profits. The morass created by the thousands of cases arising out of those laws will be considered small by comparison with Sec. 110 if for no other reason than the sheer number of people involved.

Provision

"(B) . . . If, on the basis of such petition, the Board has reason to believe that such price has permitted such seller to receive windfall profits, it may order such seller to take such actions (including the escrowing of funds) as it may deem appropriate . . ."

Comment

It would be intolerable if the Board exercised this power. Merely because a petition is filed by a person alleging that a price for one product is too high would be no justification for any action by any government agency. The determination of how much profit is fair depends upon many more factors than the price of one product. What if that product sells for 120% of cost, another sells for exactly cost and the average of the two is 110% of cost. If a 10% markup on cost is reasonable, does each product have to have the same markup?

Provision

"(B) . . . Upon a final determination of the Board that such price permitted such seller to receive windfall profits, the Board shall order such seller to refund an amount equal to such windfall profits to the persons who have purchased from such seller at prices which resulted in such windfall profits. If such persons are not reasonably ascertainable, the Board shall order the sellers . . . to reduce the price for future sales . . ."

Comment

Considering the delays which will be involved between the time a person petitions for redetermination and the Board reaches a decision which is then reviewed by the courts, it is likely that few refunds will be made to the exact people who paid the excessive price. It is doubtful whether any but the simplest cases will be disposed of before three to five years on the average. On the basis of the experience gained from the excess profits tax cases, it would be reasonable to expect the complex cases to go on for 10, 20, or 30 years. The final case resulting from the excess profit taxes of 1917 was not resolved until 1938, and the final case involving the excess profit taxes of World War II was not disposed of until 1967. Litigation arising from the Korean excess profit tax of 1950–1953 continues today.

Many small retailers would be in and out of business before these claims could be finally determined. It must be realized that if the owner of crude oil is found (two, five, ten, or thirty years from now) to have made an excessive profit, so, in all likelihood, would each person who handled that crude or its products in the distribution chain. A percentage markup applied to an excessive cost produces, by definition, an excessive profit.

Provision

"6 . . . For the purposes of subparagraph (B) of paragraph (3), the term 'windfall profits' means that profit . . . derived from the sale of any petroleum product determined by the Board upon consideration of . . ."

Comment

What is a "reasonable" profit is a judgment on which no two persons would agree. It is simply a guess or a rough approximation and, is unadministerable with any kind of equity. The factors enumerated in determining reasonable profits are all significant, but the most important one—and that is whether or not it is high enough to attract the capital necessary to produce the quantity of the product desired—is omitted.

No one can tell what "reasonable costs and profits" means, or what "volume of production" means, or "net worth," extent of risks assumed," "efficiency and productivity" or any other high sounding phrases. The application of these non-reasonable standards has caused great concern even in

the Renegotiation Board area where contracting parties voluntarily agreed to them.

Note that the permitted profit is the *lesser* of a reasonable profit or the historical profit. This means that a calculation of reasonable profit must be made in each case, there is no "safe harbor" of any amount.

Note also that a person could be forced to realize less than a reasonable profit if a reasonable profit was more than historical profit.

Provision

"(b) the greater of—

(i) the average profit obtained by seller for such products during the calendar years 1967 through 1971; or

(ii) the average profit obtained by the particular seller for such products during such calendar years.

Comments

The average profit for each product of a seller would have to be determined for 1967–71. Even if anyone knew what average profit was, in this context, the records for such calculations are not going to be available for all 400,000 crude oil owners, 250 refineries, 200,000 gas stations, etc. And if they were available, it would be years before they could be analyzed to produce any meaningful profit figures.

How would you ever allocate revenues and expenses to petroleum products if you engaged in more than one line of business (and many companies do)?

How would anyone know what all other sellers of the product had done—and how would he know whether or not it was the same product. Petroleum products are largely the same, from seller to seller, but many have important variations in terms of costs to produce, from seller to seller.

Provision

"(7) Except as provided in paragraph (6), for the purposes of this subsection, the term 'windfall profits' means profit in excess of the average profit obtained by all sellers for such products during the calendar years 1967 through 1971."

Comments

No period can be selected which was a normal period for all taxpayers. That is to say, during any taxable year or years selected, some taxpayers' rates of return on investment or profits will be higher or lower than others for many extraneous reasons, such as strikes, floods, etc. The assumption of normality of any historical rate of profits or any absolute amount of profits for a particular taxpayer for a particular period is subject to challenge because of the infinite variations in taxpayer's situations. For example, during whatever base period is selected, some taxpayers' businesses were contracting, some expanding, some used heavy amounts of equity capital, some relied heavily on debt, some engaged in heavy research and development expenses and others maximized earnings by postponing research and development expenses, and on and on.

Because of the problems referred to above and others, complex machinery has always been required to adjust the inevitable inequities arising from the selection of base periods and the calculation of base period profits. Administrative boards and courts become entangled for years over these questions. The World War II and Korean War excess profits tax cases spawned over 54,000 applications for over $6½ billion of relief because of claimed abnormalities in the computation of excess profits.

Provision

"(9) This subsection shall not apply to the first sale of crude oil described in subsection (e)(2) of this section (relating to stripper wells)."

Comments

Although the cross reference is not clear, presumably this means that stripper well prices are not to be subject to this provision. There is no perceivable logic to this exclusion. Stripper well owners have windfalls to the same extent as other oil owners. The short-run shortage of oil has benefited them to the same extent as an owner of a 20-barrel per day well.

If the 20-barrel per day well is not cut back to 10 barrels per day to obtain uncontrolled prices, it would be a surprise to observers of human behavior. Mandatory production quotas to overcome this problem would be distasteful, contrary to our system of government and nearly impossible to enforce.

Provision

"(10) This section shall take effect on January 1, 1975, and shall apply to profits . . . after December 31, 1973."

Comments

It has been said that while Sec. 110 is unworkable its purpose is not to work but is to assure that another provision will be passed before January 1, 1975, to deal with the problem of windfall profits. If that is so, it is an exceedingly high risk approach to dealing with the problem because it is conceivable that no other law may be agreed upon. The Renegotiation Board would have no alternative but to ask for appropriations for a large staff and begin recruiting, hiring and training immediately. Oil producers would have no alternative but to postpone any action which might cause their profits to increase and begin preparing for the cases which would be brought in 1975. Others would simply refuse any longer to sell petroleum products and seek other opportunities not fraught with such legal uncertainties.

In summary, the provisions of Sec. 110 are unconstitutional and unworkable. The only winners, if there would be any winners, would be the lawyers who prosecuted and defended the claims of excessive profits. The losers would be the American people.

Mr. JACKSON. Mr. President, tomorrow the Senate will vote on S. 2589, the Energy Emergency Act. As I noted last Monday, this measure should have been adopted in December before the first session of Congress adjourned. Members of the House and Senate were prevented, however, from having an opportunity to vote on the conference report at that time by the intensive lobbying efforts of the administration, the oil industry, and others.

I am hopeful that the Senate tomorrow will reject motions to table or to recommit to conference committee and will now vote favorably on the conference report and permit a vote on the merits.

There is, however, an organized effort now underway to defeat or recommit the conference report. This effort is supported by the administration and by the oil industry.

Mr. President, I oppose any effort to defeat or further delay adoption of this measure. The American people have carried the full burden of the energy shortage to date. It is now time to introduce some principles of equity and standards of reasonableness into the system.

The conference report on S. 2589 provides a number of measures that are vitally needed to assure adequate and equitable management of the current energy shortage.

Section 104 provides legal authority and equitable standards for energy conservation programs.

Section 105 provides for a standby rationing program that does not impose an undue burden on any class of customer or any sector of the economy.

Section 106 provides authority to save scarce fuel by requiring oil- or gas-fired plants to convert to burning coal.

Section 107 provides for allocation of materials among vital industry and fuel producers.

Section 108 provides for increased and accelerated domestic oil production on public lands, and authorizes the mandating of refining balances.

Section 111 affords protection of franchised service station dealers from arbitrary cancellation of their contracts by the major oil companies.

Section 112 and other provisions of the conference report set forth standards designed to prevent arbitrary and unreasonable actions by the administrators of these essential programs.

Section 113 authorizes regulatory agencies to alter the schedules and routes of regulated carriers for the purposes of saving fuel.

Section 114 provides stringent antitrust protection against collusion by the oil industry in dealing with the energy emergency.

Section 115 provides for restrictions on the export of needed fuel.

Section 116 provides unemployment assistance to those adversely affected by energy conservation measures.

Section 117 provides for increased use of carpools.

Section 118 provides protection of judicial review and administrative procedures to those persons affected by the act.

Section 121 makes available to State and local government and industry idle Federal facilities or equipment to facilitate transportation and distribution of fuels in short supply.

Sections 122 and 123 authorize grants-in-aid and assistance to States for coordinating energy conservation and allocation programs.

Section 124 provides for mandatory disclosure of oil industry data on storage and stocks, production, reserves, distribution, and other essential matters.

Section 201 provides for temporary suspension of emission standards, or revisions in the Clean Air Act to allow maximum fuel use during the energy emergency.

Failure to adopt these provisions is, in my view, an abdication of congressional responsibility.

I fully understand the pressures that have been brought to bear on this matter. The oil industry opposes the provisions relating to windfall profits and price gouging, on protecting service station operators, and on disclosing information about supplies, reserves, and profits.

The administration opposes the same things. In addition, the administration opposes the stringent antitrust safeguards the committee adopted, and the increased unemployment compensation benefits made available to workers who are unemployed as a result of energy shortages.

Some environmental groups oppose the interim adjustments made in the Clean Air Act which provide the flexibility to deal with shortages.

A major provision of this report is, of course, the section on windfall profits. The administration is adamantly opposed to adoption of the windfall profits provision of this legislation. They intend to offer an alternative proposal which will purportedly attain the same end, and I stress purportedly because it will not do so. An excellent description of why it will not is contained in an article in the January 24 Washington Post. This article headlined "Plan Seen Costing Oil Industry Little," is a discussion of the failure of the administration's plan to in fact prevent, in the Presidents words, "major domestic energy producers from making unconscionable profits as a result of the energy crisis." The administration's proposal is really an excise tax—a sales tax—which will actually encourage the oil companies to charge higher prices and to pass the increased costs on to consumers.

Section 110, the windfall profits provision, does not go into effect until January 1, 1975. If section 110 does go into effect—and if it is not supplanted by other legislation during the coming year—the windfall profits provision would be retroactive to cover all of calendar year 1974. The House and Senate conferees clearly understood and consciously intended to provide an opportunity of 1 year for the administration and the appropriate committees of the Congress to get together on a Federal law to prevent windfall profits and price gouging which would supplant this provision, and which would be designed to insure against unfair corporate profiteering at a time when the average American family is bearing all of the burdens. The conferees consciously intended to put a windfall profits statute on the books that would do two things:

First, insure that the administration and Congress make a serious, good-faith effort in the months ahead to legislate on this subject; and second, to provide American consumers who have paid unconscionable prices to oil companies, brokers, or oil distributors a remedy and a law by which they could recover, beginning on January 1, 1975, any windfall profits.

Mr. President, section 110 provides that remedy. More important, it provides an action forcing procedure whereby the American people can rest assured that the oil industry, the White House, and all those who have traditionally defended the special tax and other advantages the oil companies enjoy, will themselves be in a position of supporting congressional adoption of an excess or windfall profits tax which will prevent unjust enrichment and the accumulation of unearned, unanticipated profits in a period of shortage.

If the conference committee had not adopted a windfall profits section in December, I do not believe the administration would have ever proposed legislation on this subject. It was only after the White House learned of the conference committee's action that the administration expressed any interest in or concern about windfall profits.

The administration's policy up until that time was to limit consumer demand for energy by encouraging increased prices for gasoline and home heating oil. Even after the administration's press release announcement shortly before Christmas that they would propose an "excise tax" in the second session of the 93d Congress, their actual policy of increased oil prices continued. After having condemned windfall profits a few days before Christmas, a few days after Christmas the administration granted a $1 per barrel increase in the price of "old" oil, crude oil that previously had been subject to Cost of Living Council price guidelines.

Mr. President, I strongly urge my colleagues to adopt this interim emergency measure. Early implementation of these provisions will permit more thorough, long-term reforms to be effected without undue haste or pressure, while providing interim authority to deal with current shortages.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider Executive O, 81st Congress, 1st session.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

INTERNATIONAL CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Chair lay before the Senate, Executive O, 81st Congress, 1st session.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider Executive O, 81st Congress, 1st session, the International Convention on the Prevention and Punishment of the Crime of Genocide, which was read the second time, as follows:

CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

The Contracting Parties,

Having considered the declaration made by the General Assembly of the United Nations in its resolution 96(I) dated 11 December 1946 that genocide is a crime under international law, contrary to the spirit, and aims of the United Nations and condemned by the civilized world;

Recognizing that at all periods of history genocide has inflicted great losses on humanity; and

Being convinced that, in order to liberate mankind from such an odious scourge, international co-operation is required,

Hereby agree as hereinafter provided:

ARTICLE I

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

ARTICLE II

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(a) Killing members of the group;

(b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group;

(e) Forcibly transferring children of the group to another group.

ARTICLE III

The following acts shall be punishable:

(a) Genocide;

(b) Conspiracy to commit genocide;

(c) Direct and public incitement to commit genocide;

(d) Attempt to commit genocide;

(e) Complicity in genocide.

ARTICLE IV

Persons comitting genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

ARTICLE V

The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide or of any of the other acts enumerated in article III.

ARTICLE VI

Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

ARTICLE VII

Genocide and the other acts enumerated in article III shall not be considered as political crimes for the purpose of extradition.

The Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force.

ARTICLE VIII

Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III.

ARTICLE IX

Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

ARTICLE X

The present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall bear the date of 9 December 1948.

ARTICLE XI

The present Convention shall be open until 31 December 1949 for signature on behalf of any Member of the United Nations and of any non-member State to which an invitation to sign has been addressed by the General Assembly.

The present Convention shall be ratified, and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

After 1 January 1950 the present Convention may be acceded to on behalf of any Member of the United Nations and of any non-member State which has received an invitation as aforesaid.

Instruments of accession shall be deposited with the Secretary-General of the United Nations.

ARTICLE XII

Any Contracting Party may at any time, by notification addressed to the Secretary-General of the United Nations, extend the application of the present Convention to all or any of the territories for the conduct of whose foreign relations that Contracting Party is responsible.

ARTICLE XIII

On the day when the first twenty instruments of ratification or accession have been deposited, the Secretary-General shall draw up a *procès-verbal* and transmit a copy thereof to each Member of the United Nations and to each of the non-member States contemplated in article XI.

The present Convention shall come into force on the ninetieth day following the date of deposit of the twentieth instrument of ratification or accession.

Any ratification or accession effected subsequent to the latter date shall become effective on the ninetieth day following the deposit of the instrument of ratification or accession.

ARTICLE XIV

The present Convention shall remain in effect for a period of ten years as from the date of its coming into force.

It shall thereafter remain in force for successive periods of five years for such Contracting Parties as have not denounced it at least six months before the expiration of the current period.

Denunciation shall be effected by a written notification addressed to the Secretary-General of the United Nations.

ARTICLE XV

If, as a result of denunciations, the number of Parties to the present Convention should become less than sixteen, the Convention shall cease to be in force as from the date on which the last of these denunciations shall become effective.

ARTICLE XVI

A request for the revision of the present Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General.

The General Assembly shall decide upon the steps, if any, to be taken in respect of such request.

ARTICLE XVII

The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member States contemplated in article XI of the following:

(*a*) Signatures, ratifications and accessions received in accordance with article XI;

(*b*) Notifications received in accordance with article XII;

(*c*) The date upon which the present Convention comes into force in accordance with article XIII;

(*d*) Denunciations received in accordance with article XIV;

(*e*) The abrogation of the Convention in accordance with article XV;

(*f*) Notifications received in accordance with article XVI.

ARTICLE XVIII

The original of the present Convention shall be deposited in the archives of the United Nations.

A certified copy of the Convention shall be transmitted to each Member of the United Nations and to each of the non-member States contemplated in article XI.

ARTICLE XIX

The present Convention shall be registered by the Secretary-General of the United Nations on the date of its coming into force.

For Afghanistan:

For Australia: Herbert Evatt, December 11, 1948.

For Argentina:

For the Kingdom of Belgium:

For Bolivia: Adolfo Costa du Rels, 11 Dec. 1948.

For Brazil: Joao Carlos Muniz, 11 December 1948.

For the Union of Burma:

For the Byelorussian Soviet Socialist Republic:

For Canada:

For Chile: Con la reserva que requiere tambien la aprobacion del Congreso de mi pais. H. Arancibia Lazo.

For China:

For Colombia:

For Costa Rica:

For Cuba:

For Czechoslovakia:

For Denmark:

For the Dominican Republic: J.E Balaguer, 11 Dec 1948.

For Ecuador: Homero Viteri Lafronte, 11 Diciembre de 1948.

For Egypt: Ahmed Moh. Khachaba, 12–12–48.

For El Salvador:

For Ethiopia: Akililou, 11 December 1948.

For France: Robert Shuman, 11 Dec 1948.

For Greece:

For Guatemala:

For Haiti: Castel Demesmin, Le 11 Decembre 1948.

For Honduras:

For Iceland:

For India:

For Iran:

For Iraq:

For Lebanon:

For Liberia: Henry Cooper, 11/12/48.

For the Grand Duchy of Luxembourg:

For Mexico: Luis Padilla Nervo, Dec. 14, 1948.

For the Kingdom of the Netherlands:

For New Zealand:

For Nicaragua:

For the Kingdom of Norway: Finn Moe, Le 11 Decembre 1948.

For Pakistan: Zafrulla Khan, Dec. 11, '48.

For Panama: R. J. Alfaro, 11 Diciembre 1948.

For Paraguay: Carlos A. Vasconsellos, Diciembre 11, 1948.

For Peru: F Berckemeyer, Diciembre 11/1948.

For the Philippine Republic: Carlos P. Romulo, December 11, 1948.

For Poland:

For Saudi Arabia:

For Siam:

For Sweden:

For Syria:

For Turkey:

For the Ukrainian Soviet Socialist Republic:

For the Union of South Africa:

For the Union of Soviet Socialist Republics:

For the United Kingdom of Great Britain and Northern Ireland:

For the United States of America: Ernest A. Gross, Dec. 11, 1948.

For Uruguay: Enrique C. Armand Ugon, Decembre 11 de 1948.

For Venezuela:

For Yemen:

For Yugoslavia: Ales Bebler, 11 Dec. 1948.

Certified true copy.

For the Secretary-General:

KERNO,
Assistant Secretary-General in charge of the Legal Department.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the treaty be considered as having passed through its various parliamentary stages up to, and including the presentation of the resolution of ratification.

The PRESIDING OFFICER. The clerk will report the resolution of ratification.

The assistant legislative clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The International Convention on the Prevention and Punishment of the Crime of Genocide, adopted unanimously by the General Assembly of the United Nations in Paris on December 9, 1948, and signed on behalf of the United States on December 11, 1948 (Executive O. Eighty-first Congress, first session), subject to the following understandings and declaration:

1. That the United States Government understands and construes the words "intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such" appearing in Article II, to mean the intent to destroy a national, ethnical, racial, or religious group by the acts specified in Article II in such manner as to affect a substantial part of the group concerned.

2. That the United States Government understands and construes the words "mental harm" appearing in Article III(b) of this Convention to mean permanent impairment of mental faculties.

3. That the United States Government understands and construes Article VI of the Convention in accordance with the agreed language of the Report of the Legal Committee of the United Nations General Assembly that nothing in Article VI shall affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State.

4. That the United States Government declares that it will not deposit its instrument of ratification until after the implementing legislation referred to in Article V has been enacted.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, this does not preclude the rights of any Senator. It just goes through the regular procedure up to the final ratification.

Mr. President, I think that I should at this time make a statement to the Senate to the effect that I was approached in writing by a Senator last Friday asking that consideration of the so-called Genocide Treaty be deferred until after the Lincoln Day recess.

The reason for that request was the Watergate hearings. I wrote to him explaining the situation and the number of promises and delays and postponements which had been made. And on the basis of the fact that the Watergate hearings as scheduled for this week have now been postponed, I feel that in good conscience the Senate can go ahead with the consideration of the so-called Genocide Treaty.

I tried today to contact this particular Senator. I was unsuccessful in doing so. So the responsibility is mine for taking this action at this time.

Mr. President, I ask unanimous consent to have printed in the RECORD the letters of transmittal in connection with this convention.

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

THE WHITE HOUSE,
June 16, 1949.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a certified copy of the convention on the prevention and punishment of the crime of genocide, adopted unanimously by the General Assembly of the United Nations in Paris on December 9, 1948, and signed on behalf of the United States on December 11, 1948.

The character of the convention is explained in the enclosed report of the Acting Secretary of State. I endorse the recommendations of the Acting Secretary of State in his report and urge that the Senate advise and consent to my ratification of this convention.

In my letter of February 5, 1947, transmitting to the Congress my first annual report on the activities of the United Nations and the participation of the United States therein, I pointed out that one of the important achievements of the General Assembly's first session was the agreement of the members of the United Nations that genocide constitutes a crime under international law. I also emphasized that America has long been a symbol of freedom and democratic progress to peoples less favored than we have been and that we must maintain their belief in us by our policies and our acts.

By the leading part the United States has taken in the United Nations in producing an effective international legal instrument outlawing the world-shocking crime of genocide, we have established before the world our firm and clear policy toward that crime. By giving its advice and consent to my ratification of this convention, which I urge, the Senate of the United States will demonstrate that the United States is prepared to take effective action on its part to contribute to the establishment of principles of law and justice.

HARRY S TRUMAN.

(Enclosures: (1) Report of the Acting Secretary of State, (2) certified copy of convention on the prevention and punishment of genocide.)

DEPARTMENT OF STATE,
Washington, D.C.

The PRESIDENT,
The White House:

I have the honor to transmit to you a certified copy of the convention on the prevention and punishment of the crime of genocide, adopted unanimously by the General Assembly of the United Nations in Paris on December 9, 1948, with the recommendation that it be submitted to the Senate for its advice and consent to ratification.

The convention defines genocide to mean certain acts, enumerated in article II, committed with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such. These acts are discussed below.

The basic purpose of the convention is the prevention of the destruction of a human group as such. The first resolution of the General Assembly on this subject, 96 (I), adopted unanimously by the members of the United Nations on December 11, 1946, succinctly pointed out that—

"Genocide is a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings."

The resolution also pointed out that genocide shocks the conscience of mankind, results in great losses to humanity and is contrary to moral law. Of course, homicide also is shocking, results in losses to humanity and is contrary to moral law. The distinction between those two crimes, therefore, is not a difference in underlying moral principles, because in the case of both crimes, moral principles are equally outraged. The distinction is that in homicide, the individual is the victim; in genocide, it is the group.

The General Assembly declared in this resolution that the physical extermination of human groups, as such, is of such grave and legitimate international concern that civilized society is justified in branding genocide as a crime under international law. The extermination of entire human groups impairs the self-preservation of civilization itself. The recent genocidal acts committed by the Nazi Government have placed heavy burdens and responsibilities on other countries, including our own. The millions of dollars spent by the United States alone on refugees, many of them victims of genocide, and the special immigration laws designed to take care of such unfortunates illustrate how genocide can deeply affect other states. On September 23, 1948, Secretary of State Marshall stated that—

"Governments which systematically disregard the rights of their own people are not likely to respect the rights of other nations and other people and are likely to seek their objectives by coercion and force in the international field."

It is not surprising, therefore, to find the General Assembly of the United Nations unanimously declaring that genocide is a matter of international concern.

Thus, the heart of the convention is its recognition of the principle that the prevention and punishment of genocide requires international cooperation. However, the convention does not substitute international responsibility for state responsibility. It leaves to states themselves the basic obligation to protect entire human groups in their right to live. On the other hand it is designed to insure international liability where state responsibility has not been properly discharged.

The convention was carefully drafted, and, indeed, represents the culmination of more than 2 years of thoughtful consideration and treatment in the United Nations, as the following important steps in its formulation demonstrate:

The initial impetus came on November 2, 1946, when the delegations of Cuba, India, and Panama requested the Secretary-General of the United Nations to include in the agenda of the General Assembly an additional item: the prevention and punishment of the crime of genocide. The Assembly referred the item to its Sixth (Legal) Committee for study.

At its fifty-fifth plenary meeting on December 11, 1946, the Assembly adopted, without debate and unanimously, a draft resolution submitted by its Legal Committee. This resolution, referred to above, affirmed that "genocide is a crime under international law." It recommended international cooperation with a view to facilitating the prevention and punishment of genocide, and, to this end, it requested the Economic and Social Council of the United Nations to undertake the necessary studies to draw up a draft convention on the crime.

Pursuant to this resolution a draft convention on genocide was prepared by the ad hoc Committee on Genocide in the spring of 1948, under the chairmanship of the United States representative on this committee. This draft was again discussed by the Economic and Social Council in July and August 1948 in Geneva, and then in the Legal Committee of the General Assembly at its third regular session in Paris, where again the United States delegation played an important role in the formulation of the draft convention.

On December 9, 1948, the General Assembly unanimously adopted the convention to outlaw genocide, which was signed by the United States 2 days later. When signing, the United States representative said, in part:

"I am privileged to sign this convention on behalf of my Government, which has been proud to take an active part in the effort of the United Nations to bring this convention into being.

"The Government of the United States considers this an event of great importance in the development of international law and of cooperation among states for the purpose of eliminating practices offensive to all civilized mankind."

Genocide is a crime which has been perpetrated by man against man throughout history. Although man has always expressed his horror of this heinous crime, little or no action had been taken to prevent and punish it. The years immediately preceding World War II witnessed the most diabolically planned and executed series of genocidal acts ever before committed. This time there was to be more than mere condemnation. A feeling of general repulsion swept over the world, and following the war manifested itself in the General Assembly's resolution of December 1946. It is this resolution to which the Legal Committee gave full content by providing the General Assembly with a legal instrument designed not only to prevent genocidal acts but also to punish the guilty.

The genocide convention contains 19 articles. Of these, the first 9 are of a substantive character, and the remaining 10 are procedural in nature.

Article I carries into the convention the concept, unanimously affirmed by the General Assembly in its 1946 resolution, that genocide is a crime under international law. In this article the parties undertake to prevent and to punish the crime.

Article II specifies that any of the following five acts, if accompanied by the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, constitutes the crime of genocide:

(a) Killing members of the group;

(b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group; and

(e) Forcibly transferring children of the group to another group.

This article, then, requires that there should be a specific intent to destroy a racial, religious, national, or ethnical group as such in whole or in part. With respect to this article the United States representative on the Legal Committee said:

"I am not aware that anyone contends that the crime of genocide and the crime of homicide are one and the same thing. If an individual is murdered by another individual, or indeed by a government official of a state, a crime of homicide has been committed and a civilized community will punish it as such. Such an act of homicide would not in itself be an international crime. To repeat the opening language of the resolution of the General Assembly of December 1946, "genocide is a denial of the right of existence of entire human groups." This remains the principle on which we are proceeding.

"However, if an individual is murdered by another individual, or by a group, whether composed of private citizens or government officials, as part of a plan or with the intent to destroy one of the groups enumerated in article 2, the international legal crime of genocide is committed as well as the municipal-law crime of homicide."

The destruction of a group may be caused not only by killing. Bodily mutilation or disintegration of the mind caused by the imposition of stupefying drugs may destroy a group. So may sterilization of a group, as may the dispersal of its children.

Article III of the convention specifies that

five acts involving genocide shall be punishable. These five genocidal acts are—

(a) The crime of genocide itself;

(b) Conspiracy to commit genocide;

(c) Direct and public incitement to commit genocide;

(d) Attempt to commit genocide; and

(e) Complicity in genocide.

The parties agree, in article IV, to punish guilty persons, irrespective of their status.

In article V the parties undertake to enact, "in accordance with their respective constitutions", the legislation necessary to implement the provisions of the convention. The convention does not purport to require any party to enact such legislation otherwise than in accordance with the country's constitutional provisions.

Article VI makes it clear that any person charged with the commission of any of the five genocidal acts enumerated in article III shall be tried by a court of the state in whose territory the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those states accepting such jurisdiction. Thus, the commission in American territory of genocidal acts would be tried only in American courts. No international tribunal is authorized to try anyone for the crime of genocide. Should such a tribunal be established, Senate advice and consent to United States ratification of any agreement establishing it would be necessary before such an agreement would be binding on the United States.

By article VII the parties agree to extradite, in accordance with their laws and treaties, persons accused of committing genocidal acts; none of such acts is to be considered a political crime for the purpose of extradition. The United States representative on the Legal Committee, in voting in favor of the convention on December 2, 1948, said:

"With respect to article VII regarding extradition, I desire to state that until the Congress of the United States shall have enacted the necessary legislation to implement the convention, it will not be possible for the Government of the United States to surrender a person accused of a crime not already extraditable under existing laws."

Existing United States law provides for extradition only when there is a treaty therefor in force between the United States and the demanding government. Only after Congress has defined, and provided for the punishment of, the crime of genocide, and authorized surrender therefor, will it be possible to give effect to the provisions of article VII.

Article VIII recognizes the right of any party to call upon the organs of the United Nations for such action as may be appropriate under the Charter for the prevention and suppression of any of the acts enumerated in article III. This article merely affirms the right of the United Nations to call upon an organ of the United Nations in matters within its jurisdiction.

Article IX provides that disputes between the parties relating to the interpretation, application, or fulfillment of the convention, including disputes relating to the responsibility of a state for any of the acts enumerated in article III, shall be submitted to the International Court of Justice, when any party to a dispute so requests.

On December 2, 1948, in voting in favor of the genocide convention, the representative of the United States made the following statement before the Legal Committee of the General Assembly:

"I wish that the following remarks be included in the record verbatim:

"Article IX provides that disputes between the contracting parties relating to the interpretation, application, or fulfillment of the present convention, "including those relating to the responsibility of a state for genocide or any of the other acts enumerated in article III," shall be submitted to the International Court of Justice. If "responsibility of a state" is used in the traditional sense of responsibility to another state for injuries sustained by nationals of the complaining state in violation of principles of international law and similarly, if "fulfillment" refers to disputes where interests of nationals of the complaining state are involved, these words would not appear to be objectionable. If, however, "responsibility of a state" is not used in the traditional sense and if these words are intended to mean that a state can be held liable in damages for injury inflicted by it on its own nationals, this provision is objectionable and my Government makes a reservation with respect to such an interpretation."

In view of this statement, I recommend that the Senate give its advice and consent to ratification of the convention—

"with the understanding that article IX shall be understood in the traditional sense of responsibility to another state for injuries sustained by nationals of the complaining state in violation of principles of international law, and shall not be understood as meaning that a state can be held liable in damages for injuries inflicted by it on its own nationals."

The remaining articles are procedural in nature. By article XIV the convention is to be effective for an initial period of 10 years from the date it enters into force, and thereafter for successive periods of 5 years with respect to those Parties which have not denounced the convention by written notification to the Secretary-General of the United Nations at least 6 months before the expiration of the current period.

Article XV provides that if there are less than 16 parties to the convention, as a result of denunciations, the convention shall cease to be in force from the effective date of the denunciation which reduces the number of parties to less than 16.

Article XVI authorizes any party to request revision of the convention, by notification in writing to the Secretary-General of the United Nations. The General Assembly shall decide upon the steps, if any, to be taken in respect of such request.

It is my firm belief that the American people together with the other peoples of the world will hail United States ratification of this convention as another concrete example of our repeatedly affirmed determination to make the United Nations the cornerstone of our foreign policy and a workable institution for international peace and security.

Respectfully submitted.

JAMES E. WEBB,
Acting Secretary.

(Enclosure: Certified copy of convention on the prevention and punishment of genocide.)

ORDER FOR VOTES ON ENERGY EMERGENCY BILL

Mr. MANSFIELD. Mr. President, as in legislative session, I ask unanimous consent that on tomorrow, when the distinguished Senator from Wisconsin (Mr. NELSON) offers a motion to recommit the National Energy Emergency Act, the time begin to run at 2 o'clock, the time to be equally divided between the Senator from Wisconsin who will offer the motion and the chairman of the committee, the Senator from Washington (Mr. JACKSON), the vote occur on the motion to recommit at 4 p.m. tomorrow afternoon.

The PRESIDING OFFICER. Without objection, as in legislative session, it is so ordered.

Mr. MANSFIELD. Mr. President, it is my understanding that there will be two votes tomorrow and only two votes on the Energy Emergency Act. One will be on the motion to recommit, by the distinguished Senator from Wisconsin (Mr. NELSON). The other will be a vote on the conference report at approximately 4:30 p.m. tomorrow. And that is it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT ON TIME FOR VOTE ON THE WILLIAM L. SCOTT AMENDMENT ON LEGAL SERVICES BILL

Mr. MANSFIELD. Mr. President, as in legislative session, I ask unanimous consent that vote on the William L. Scott amendment which was scheduled to take place at 1:30 p.m. Wednesday next, be postponed until 2 p.m. on Wednesday and that the vote on the cloture motion on the legal services bill, S. 2686, which was to follow immediately upon the conclusion of the vote on the William L. Scott amendment be advanced in a like manner.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

SENATE CONFIRMATION OF DIRECTOR AND DEPUTY DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET

Mr. MANSFIELD. Mr. President, as in legislative session, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 37.

The PRESIDING OFFICER (Mr. MCCLURE) laid before the Senate the amendment of the House of Representatives to the bill (S. 37) to amend the Budget and Accounting Act, 1921, to require the advice and consent of the Senate for future appointments to the offices of Director and Deputy Director of the Office of Management and Budget, and for other purposes, which was to strike out all after the enacting clause, and insert:

That the first two sentences of section 207 of the Budget and Acounting Act, 1921 (31 U.S.C. 16) are amended to read as follows:

"SEC. 207. There is in the Executive Office of the President an Office of Management and Budget. There shall be in the Office a Director and a Deputy Director, both of whom shall be appointed by the President, by and with the advice and consent of the Senate."

SEC. 2. The amendment made by the first section of this Act shall take effect—

(1) insofar as such amendment relates to appointments to the office of Director of the Office of Management and Budget, immediately after the individual holding that office on the date of the enactment of this Act ceases to hold that office;

(2) insofar as such amendment relates to appointments to the office of Deputy Director of the Office of Management and Budget, immediately after the individual holding that office on the date of the enactment of this Act ceases to hold that office; and

(3) immediately as to such vacant office or offices, if the Office of the Director or the Office of the Deputy Director of the Office of Management and Budget is vacant when this Act is enacted.

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

Mr. MANSFIELD. Mr. President, as in legislative session, I ask unanimous consent that the action just taken by the Senate on S. 37 be vitiated.

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

GENOCIDE CONVENTION

The Senate in executive session continued with the consideration of Executive O (81st Cong., 1st sess.) the International Convention on the Prevention and Punishment of the Crime of Genocide.

Mr. PROXMIRE. Mr. President, why should we ratify the Genocide Treaty? I spent the weekend reading letters I have received from my constituents and other people from all over the country vehemently protesting this treaty. I was impressed how far these letters have departed from the real meaning, significance, and the reason why we have this treaty before us.

Many Senators have told me they have been swamped in the past few days with letters from people opposing the pending treaty. Very few letters have come in on the other side.

Thus, I believe it is proper that we spend a few moments reviewing the reason why. I will not mention the fact that this is a treaty, of course, that the United States itself proposed, fought for, and succeeded in winning adoption in the United Nations. I will not go into those points in detail, or about how the great majority of the nations of the world have ratified the treaty and are now waiting on the United States to do so.

I should like to tell the Senate that the real argument for the Genocide Treaty was put by a little teenage Jewish girl. She was a victim of Hitler's genocide. She was one of 6 million Jews deliberately destroyed in the Nazis' planned extermination of European Jews during World War II.

Genocide is the planned, premeditated extermination of an entire people or race. The treaty we debate today would make such action an international crime.

Anyone who has any real doubt about whether he should vote yea or nay, should listen not only to the voices of Senators and constitutional authorities, but also to the voice of murdered Anne Frank, that child of love and sunlight, of warmth and joy amid the terror, the hatred and death from Nazi persecution.

Across the 29 years since Anne Frank died in the Nazi concentration camp at Belsen, that voice rings out—calling on us to dedicate this country to the end of the terrible crime of genocide.

Mr. President, I challenge Senators who would vote against this treaty to think not only of the murder of millions of Asians, Africans, and Jews, but also of this single human being, Anne Frank, and tell me how in the name of humanity can they deny that the U.S. Senate should not follow the pleas of our Presidents, our Attorneys General, and the example of 76 nations who ratified the pending treaty?

Mr. President, I am going to yield to the distinguished Senator from New York (Mr. JAVITS) in a minute, but before I do that, I should like to quote briefly from one or two authorities, so that we get some notion of what genocide has amounted to in the past few years.

From Arnold and Veronica Toynbee "Hitler's Europe" in the series "Survey of International Affairs 1939–46," Oxford University Press 1954:

All through Eastern Europe, and especially in the Russian provinces invaded by the German armies, the Jews, together with many elements of the local population, were massacred on the spot by the special squads attached to the German forces. They were machine-gunned, gassed, starved, or otherwise annihilated in every city and town which the invaders entered, a procedure which could not be concealed from tens of thousands of the soldiery or from the civil administration, and which evoked singularly few protests comparable to that of the Commissioner-General for White Ruthenia. In the south, in the Ukrainian and Bessarabian provinces entered by the Rumanians, the massacres were almost equally bloody and indiscriminate. In all, the death-roll in these campaigns amounted to over 2 million. In many cities where there had been large and prosperous Jewish communities only a few individuals were found when the Soviet armies returned westwards. Others had been more fortunate, especially in the eastern sections of the area, for there they had more time to escape; in this part of Soviet territory some Jews were deliberately evacuated by the Soviet authorities; and though the number of those is impossible to estimate, it is probably smaller than was at one time believed.

While it had not been found prudent by the Nazis to be as open in their policy of extermination in the more civilized portions of Western and Central Europe, their intentions remained the same for the millions of Jews still to be found in these countries. We possess the minutes of an important conference (U.S. Military Tribunals, Case II, Judgment, pp. 28301 seq. Cf. testimony of Lammers (I.M.T. Nuremberg, xi. 50–51), of Nazi officials, held under the orders of Goering in January 1942 at Wannsee, in which it was decided, in the expectation of victory, to complete the annihilation of the 11 million Jews whom the Nazis calculated that they would be able to reach. Even half-Jews were to be given the choice between death and sterilization. In the meantime the policy of extermination was extended, under the command of Neydrich, to all Jews already within the Nazis' clutches. It was for them that the additional death camps in Poland were devised; and all through 1942 and 1943 transports were being sent eastwards and northwards from France, Belgium, and Holland, from Germany, Austria, and Czechoslovakia, from Hungary and the Balkans. At Auschwitz it was possible to kill 2,000 people in a single operation lasting but a quarter of an hour, and to repeat this three or four times a day. And it must be remembered that only a proportion of those who set out on these terrible journeys, sometimes lasting weeks, arrived alive. How summary was the dispatch with which arrivals were treated is revealed by the story of a train-load of Germans evacuated from Hamburg who had been sent to Iwow to make their homes there. They were seized, stripped of their possessions, and gassed by the Gestapo, before it was discovered that they were not Jews.

In the camp of Auschwitz alone it is reported by the Nazi commandant himself that 2½ million persons, most of whom were Jews, were gassed, and that another half million died of starvation and disease. (Affidavit of R.F.F. Koess, Commandant of Auschwitz from 1 May 1940 to 1 December 1943 (I.M.T. Nuremberg, xxxiii. 276 (3868-PS); N.C.A. vi. 787). The last great consignment was 400,000 Jews from Hungary in the summer of 1944. About the beginning of October, when the defeat of Germany was already certain, Himmler finally gave the order for the massacres to stop, though there is ample evidence that local SS squads ignored it right up to the end.

By the time that the Allied armies gained control of the whole of Europe approximately 6 million Jews had perished.

Finally, reading briefly from the dairy of Anne Frank and a concluding commentary on the diary and on what happened to the child:

Through the research of Ernst Schnabel, a German writer whose book *Anne Frank, A Portrait in Courage* was published in 1958 some of the events of the last few months of Anne's life have been reconstructed. Auschwitz, a former inmate told Mr. Schnabel, was " 'a fantastically well-organized, spick-and-span hell. The food was bad, but it was distributed regularly. We kept our barracks so clean that you could have eaten off the floor. Anyone who died in the barracks was taken away first thing in the morning. Anyone who fell ill disappeared also. Those who were gassed did not scream. They just were no longer there. The crematories smoked, but we received our rations and had roll calls. The SS harassed us at roll call and kept guards with machine guns from the watchtowers, and the camp fences were charged with high-tension electricity, but we could wash every day and sometimes even take showers. If you could forget the gas chambers, you could manage to live.' "

The prisoners moved like sleep walkers, half dead, protected somehow from seeing anything, from feeling anything. "But Anne had no such protection," another survivor recalled. " 'I can still see her standing at the door and looking down the camp streets as a herd of naked gypsy girls was driven by to the crematory, and Anne watched them go and cried. And she cried also when we marched past the Hungarian children who had already been waiting half a day in the rain in front of the gas chambers because it was not yet their turn. And Anne nudged me and said: "Look, look. Their eyes . . ." ' "

Mr. President, that is just one example of one human being who died in that horrible genocide, a genocide that we know outraged mankind. There is very little that we can do about that. The best we can do is to prevent that kind of thing from happening again.

But, how do we do it? How do we do it, Mr. President?

We have a vehicle before us now that gives us the opportunity to make genocide a national crime, a crime that will be recognized as such.

The constitutional arguments, the legal arguments, are solid and sound for this treaty. But I think we should not consider the treaty without being thoroughly aware of the absolute imperative, moral necessity for passing this treaty, the fact that in good conscience, it is the shame of U.S. Senators that they have waited for 24 long years that this treaty has been before them—and only this one body to do it.

All Presidents of the United States from Harry S. Truman on have asked the Senate to pass this treaty, as has every Attorney General—all have considered it constitutional and proper. But the Senate has not acted.

So I hope that when Senators read the mail from their constituents, they will look at their mail very carefully and consider whether that mail is motivated by love or hate, or motivated by good sense or misinformation. Is it the real voice of the American people with their great, compassionate record, or is it the voice of a fringe few who misunderstand the treaty and who would prevent the Senate from taking action—action that we should have taken a generation ago?

Now, Mr. President, I am happy to yield the floor to the distinguished Senator from New York (Mr. JAVITS) who has fought so long and hard for the genocide convention.

Mr. JAVITS. Mr. President, I should like to thank Senator PROXMIRE, who has stood on this floor time and time again through the years, raising his eloquent voice for the forgotten dead whose tragic history he has just recounted.

This is a very humanitarian and a very sensitive Nation. Whatever may be our troubles, whatever the world may from time to time think about what we do, America nonetheless has always stood not only as a symbol of freedom but also as a haven against oppression and, as nations go, a highly moral nation. The world has learned to look to us and rely upon us as the one hope in all of mankind, a nation which is so well endowed in population and location, with its own resources, in the tradition of its people, drawn from many cultures and many foreign places, as the one country most likely to stand up for the rights of man.

With the dreadful holocaust of Hitler before us, which Senator Proxmire has described, it nevertheless, has taken us almost a quarter of a century to get to this point, where the Genocide Treaty would even be heard, debated on the floor of the Senate. Only recently, the Committee on Foreign Relations reported the Genocide Treaty; and then, after it did report the treaty, because of the barrage of propaganda that has been mounted against it, it has taken since last March until now, the very end of January in the following year, even to bring the matter up for debate.

It is a very tragic history, and it makes one feel deeply how easy it is for mankind to forget, notwithstanding the infliction upon mankind itself of these horrors.

Mr. President, what does the Genocide Treaty provide, really? After you analyze it completely and come to the last line of the treaty, considering the understandings which the Committee on Foreign Relations has recorded, and the declaration, the interpretations of various legal bodies respecting its real import, you come down to the fact that it is nothing more than a world declaration against the crime of genocide, which it defines. There is really nothing in this treaty that is all that operative beyond that point. There is no penal court in the world, either temporary or permanent.

We are dealing, in terms of enforcement, with sovereign nations like our own. Hence, the restraints which we put upon the exercise of authority under the treaty are completely effective; and those restraints contained in the understandings make it almost impossible, actually impossible, for any American, which is the constantly voiced fear, being tried for genocide in some foreign country—and the hobgoblin is always raised of a Communist country. Under the terms of the treaty, under the terms of these understandings, and in the absence of any international tribunal, that is well nigh impossible. Nonetheless, it is these fears, which we will discuss in detail in the course of the debate on the treaty, which have blocked even its consideration for such a very long time, until the voices of the dead almost cry out against such neglect by the greatest country on Earth—our own.

Mr. President, we must face the reality of this matter. Seventy-eight nations have already approved this treaty—a number of them with reservations, it is true, but nonetheless approved—and our great country is asked to approve the treaty with a number of understandings. The approval of this country, I think it is very well known and understood, is the most important of any, notwithstanding that it is the 79th instead of being the first. Until a treaty of this character is approved by the leader of the world, which it is known will do its utmost to express its spirit—and that is really what this treaty is mostly about, its spirit—it really is not the moral statement that should be made by the civilized world.

All it spells out is the principle of law that genocide is a crime under international law which the signatories undertake to prevent and to punish. Then it goes on to define genocide as an effort, through either death or other coercive means—subornation of the mind, or group restrictions on birth, or the restraint of or the forcible transfer of children, all of which were practiced so barbarically in World War II and before—with the intent, and this is critcial to the definition, to destroy in whole or in part a national, ethnic, racial, or religious group.

That represents genocide. The intent is a critical part of the crime as defined. By one of the understandings adopted in the committee, we have made this applicable only to a substantial part of that national, ethnical, racial, or religious group in order to make crystal clear that we are not talking about homicides. We are talking about genocide.

Mr. President, one last point which I think is critically important in this matter: We have heard that some effort may be made to hold up action on the long, long overdue ratification of this treaty through the means, which are available to the Senate, of talking a measure to death. It should be made clear—I hope my colleagues will read, if they do not hear—what the situation is.

It takes two-thirds of those present and voting to ratify this treaty, and it takes two-thirds of those present and voting to close debate on this treaty—exactly the same number. Under those circumstances, I express the hope that there may be an honorable debate, the Members, if they feel strongly on the subject, voicing their points of view, and then the presentation of whatever reservations or understanding Members may wish when they vote up or down, and then the treaty itself, the ratification resolution, be voted up or down.

I would feel sad, indeed, if it was felt necessary to have a cloture vote, as the same vote occurs on both questions. I think it would be rather sad if a measure, which comes out of such a tragic history, should not be faced by the Senate and vote up or down on its merits.

I believe that the precautions already taken, as well as the words of the treaty themselves are so clear of any involvement for the United States of any other kind than that which it would itself wish in preventing, if we humanly can, the crime of genocide, that the treaty deserves at long last ratification by the Senate.

If we do ratify this treaty it will be an enormous confirmation of the morality and innate sense of decency of this Nation; that these 6 million dead who taught us this lesson that genocide is possible in this world, should not have died in vain, when the great Nation toward which all of them look as the haven or refuge and the redoubt of freedom should itself adopt the principle which would punish those who would seek to impose genocide upon the world.

Let us remember that it takes quite some doing to be guilty of genocide and that it cannot be done by individuals; but it takes some enormous organized force, generally backed and inspired by government in order to carry out this most heinous crime and, therefore, that an international treaty defining it as an international crime, even if there were no prosecutions under it, is itself an eloquent declaration by the world as to where it stands and what it proposes to do; and it will in and of itself be an indication of the sense of the Nation on this subject.

Mr. President, one could almost say that it is common knowledge that without the adherence of the United States to this treaty it is unlikely to have nearly the effect and impact which it should have and is designed to have.

I will not discuss at this time the individual articles of the treaty and the points made against those articles, on the ground that in some way they jeopardize the administration of justice

in the United States, because I deeply believe every one of those points is completely refutable. I prefer rather to sum up the overall case for the treaty as we at long last approach its hearing in the Senate and I shall reserve for another time in the course of the debate the analysis of each of the arguments in terms of the arguments made against those articles and why those arguments are completely invalid and why even on the legal draftsmanship involved the treaty deserves to be ratified.

Although we do not have many Senators in attendance today, and it is understood we will not be voting today, I hope Members will take an interest in this treaty. They owe it to themselves and to their consciences and belief in the American system which places the individual so high in terms of nobility, dignity, and the protection of his individual rights. This is the most complete expression of those ideas as it deals with the eternal question of life and death and the life and death not in the name of an individual's responsibility but in some blind sort of hatred against a whole group if it happens to be ethnical, religious, or distinguishable in some similar fashion.

So this treaty deserves the utmost attention of every Senator, really in memorial for the millions who died in World War II as a result of Hitler's genocide, and the countless millions who will die in all the history of mankind in genocidal lunacy.

At long last the world is organized enough to at least declare and set guidelines for all mankind and make some effort to punish those who would dare perform it, without in the remotest way embarrassing or changing the rights of any individual American under our Constitution with respect to crimes which are covered by our laws or with respect to our relations with others.

I hope very much that at long last the treaty will be ratified.

Mr. PROXMIRE. Mr. President, I wish to add to what the distinguished Senator from New York said in his excellent speech. We have been waiting 24 years for this day. In 1950 President Truman submitted the Genocide Treaty to the Senate for ratification. Think of it: Twenty-four years ago. The Senate failed to act in 1950, 1951, 1952, 1953, and all of the years since then. In fact, the Senate as a whole has not had a chance to act on it until the last couple of years when the Committee on Foreign Relations finally reported it to the floor of the Senate.

I have spoken daily over the last 7 years in strong support of ratification of this treaty. As we meet today the treaty is still urgently needed.

In 1945, the Senate overwhelmingly ratified the United Nations Charter. In doing so, it pledged to uphold "the dignity and worth of the human person." Our failure to ratify the Genocide Treaty, however, has raised questions about our commitment to that pledge. Our delay has caused our detractors to question our dedication to human rights.

The Senate's delay on genocide caused former Chief Justice Earl Warren to remark that—

> We as a nation should have been first to ratify the Genocide Convention. . . . instead we may well be the last.

As of today, 76 nations have already ratified it. Only the United States and China, among the world's major powers, have failed to act.

BACKGROUND OF GENOCIDE CONVENTION

On December 9, 1948, the convention was adopted in the United Nations General Assembly by a vote of 55 to 0. In 1950 President Truman first submitted the Genocide Convention to the U.S. Senate for ratification. Hearings were held before the Foreign Relations Committee that year, but no action was taken. No action was taken for the succeeding 21 years.

In February of 1970, the President urged the Senate to consider genocide again and to ratify the treaty. The Nixon administration's position is consistent with that of past administrations on the issue of constitutionality of the treaty. Attorneys General in every administration have agreed that there are no constitutional obstacles to U.S. ratification.

Later in 1970 the ABA came within four votes of endorsing ratification. The very closeness of the vote itself and the spirited debate indicate that the ABA as a group has no decisive or overwhelming constitutional objection to ratification. And more significantly, the ABA's standing committee on world order under law, its section on individuals' rights and responsibilities, its section on criminal law, and its section on international and comparative law have all overwhelmingly favored ratification of the treaty. In other words, those ABA members most familiar with the subject matter of the treaty are most favorable to it. If another vote were taken in the house of delegates today I am confident the ABA would favor ratification.

Hearings were held before a special Ad Hoc Subcommittee of the Foreign Relations Committee on November 23, 1970. The full committee voted 10 to 2 to report the Convention to the Senate. Unfortunately, no action was taken at that time or in 1971 when the treaty was again reported to the Senate. For the third, and hopefully the final, time, this past spring the Convention was reported once again by the committee to the Senate for action.

The purpose of the Genocide Convention Treaty is to make genocide an international crime whether committed during war or peace. The treaty makes the destruction of a national, racial, ethnic, or religious group a crime under international law. The treaty sets up procedures for trying and punishing any violators, public or private.

PROVISIONS OF THE TREATY

There are nine provisions in the treaty. Article I provides that genocide is a criminal act and should be punishable under a scheme of international laws. The spirit of this section is that nations must undertake to prevent such acts against humanity.

Some have suggested that genocide is not properly a matter of international concern. But international law prohibits such matters as the protection of submarine cables, oil pollution, and the production and trade in narcotics. If these are matters of international concern, then certainly genocide is also.

Article II of the Convention defines genocide in such a way as to differentiate it from individual acts of murder or prejudice.

As the Senator from New York has said so well, the intent must be emphasized, because it is not enough to engage in such actions as some might, willy-nilly, consider to be genocide, but the intent must be clear.

The crucial words are:

> Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial, or religious group.

There have been allegations that simply are not based on fact—that such actions as schoolbuses or birth control clinics or other such action might be considered as genocide.

The Committee on Foreign Relations in its report on the convention has pointed out that it is necessary to prove intent to destroy, in whole or in part, a group before a conviction of genocide is possible. There have been allegations that such acts as schoolbusing, birth control clinics, lynchings, certain police actions, et cetera, may constitute genocide. But the committee has made it clear that none of these acts would amount to genocide absent the intent to harm members of a group, as a group. The convention does not aim at prejudice toward any given group, but rather at efforts directed toward substantial annihilation of the group as such.

Article III of the convention recognizes, as does our own criminal law, that acts that lead to or aid in the commission of genocide should also be covered. Thus, a conspiracy, an incitement of others, an attempt, as well as complicity in genocide, are covered by the convention.

There has been some confusion about the meaning of the term, "direct and public incitement to commit genocide." Critics of the treaty argue that such an agreement by the United States would usurp the right of free speech, guaranteed by the Bill of Rights. This is not a real problem with the treaty. The first amendment protects the right of advocacy, not incitement. Ratification of the treaty would be impossible if it conflicted with the Constitution. Since it is advocacy and not incitement that is protected, there is no first amendment problem here.

Article IV provides for the punishment of persons committing acts of genocide. Although acts enumerated in article II are punishable whether committed by constitutionally responsible rulers, public officials, or private individuals, it is important to remember that no foreign state can intervene directly or indirectly in American domestic affairs. Only international organizations can mediate or arbitrate disputes, and protections guaranteed by the U.S. Constitution and existing treaties cannot be superseded or abrogated.

Article V of the convention directs the contracting parties to enact, in accordance with their respective constitution, the necessary legislation to give effect to

the provisions of the convention. This article makes clear that the convention is not to be construed as self-executing. Ratification clearly does not deprive signatories of the power to prosecute and punish in their own courts acts condeemed by articles II and III of the convention. The Department of State has declared that our Government will not deposit its instrument of ratification until after the implementing legislation referred to in this article has been drafted and enacted.

Article VI provides that persons charged with genocide or any other acts enumerated in article II shall be tried by a competent tribunal. The tribunal may be one of the state in which territory the act was committed. An alternative to the states tribunal is a trial by an international penal tribunal agreed upon by the contracting parties. At this time no international panel tribunal has been established—and there are no present plans to do so. Separate action either through ratification of a treaty or enactment of a law would be required for the United States to accept this jurisdiction. However, it has been recommended by the committee that article IV should be further defined as having no effect on the right of any state to bring to trial before its own tribunals any of its nationals for acts committed outside the state. This understanding will protect our right to try our own nationals.

EXTRADITION NOT A CONCERN

Article VII of the Genocide Convention pledges the contracting parties to grant extradition in accordance with their laws and treaties in force. However, there is no reason to fear that this provision will subject our citizens to unfair trials. The treaty clearly states that extradition is to be granted according to the "laws and treaties in force."

At present, the United States has no extradition treaty that includes genocide as one of the crimes for which extradition is to be granted. Adoption of the Genocide Treaty would not—I stress "would not"—automatically change this status. An extradition treaty covering genocide would have to be negotiated by us with other countries and would have to be acceptable to the Senate before it becomes law.

Furthermore, the Justice Department's policy on extradition has been that it will only extradite a person to a foreign court after they are assured that the prosecution will take place in a competent court which follows our procedures of due process. Also, we do not expect to withhold prima facie evidence that a violation has occurred. This policy has long protected the rights of American citizens and will continue to do so.

In short, extradition of U.S. nationals has always been under our exclusive control. And the Genocide Convention will do nothing to change this.

Article VIII states that any contracting party may call upon the competent organs under U.N. charter as they may consider appropriate, to prevent genocide.

Article IX provides for the settlement of disputes arising in terms of interpretation, application or fulfillment of this convention. This includes disputes relating to the responsibility of a state for genocide or any other acts enumerated in article III. The provision calls for these disputes to be submitted to the International Court of Justice at the request of the parties in dispute. No disputes arising from the Genocide Convention have been brought before the International Court to date.

The United States has already ratified many treaties that contain the same type of provision for the settlement of disputes as contained in the Genocide Convention. In fact, the inclusion of the provision in international conventions has time and again been championed by the representatives of our Government in international negotiations. This country has accepted the jurisdiction of the international court because it has proven a useful mechanism for resolving questions of international concern in a fair and impartial manner.

The international court is given a purely interpretive function by the Genocide Convention. It will have no power to try persons accused of genocide. American ratification will not create a new cause of action in the international court.

NO DANGER OF DOUBLE JEOPARDY

Mr. President, the argument has been made that ratification of the treaty would make American citizens vulnerable to stand in jeopardy twice for the same crime. They argue that one who was tried and acquitted of crimes by an American court, might conceivably be retried for genocide by an international tribunal. This is a specious argument. In the United States no citizen can be extradited for a crime for which he has already been tried and acquitted. Thus, under the Genocide Convention, no citizen would run the risk of double jeopardy.

GENOCIDE A MATTER OF INTERNATIONAL CONCERN

Mr. President, critics of the Genocide Convention have argued that genocide is not a proper subject of an international treaty. In 1969, a special committee of lawyers of the President's Commission for the Observance of Human Rights Year, of which former Supreme Court Justice Tom Clark was chairman, issued its report which states:

I would like to reiterate here, however, our finding, after a thorough review of judicial, Congressional and diplomatic precedents, that human rights are matters of international concern, and the President, with the United States Senate concurring, may, on behalf of the United States, under the treaty power of the Constitution, ratify or adhere to any international human rights convention that does not contravene a specific Constitutional prohibition.

The Genocide Convention will not be the first treaty dealing with human rights which the Senate has ratified.

We had a lot of trouble persuading the Senate to ratify the Protocol on Refugees and the Supplemental Slavery Convention. As I recall, most of this has been done in the last few years. The Senate has given its advice and consent to U.S. accession to the Protocol on Refugees and the Supplemental Slavery Convention. Genocide is most certainly as much a matter of international concern if not more so.

Many of our concepts of freedom, such as those enumerated in the Bill of Rights, were established in the first colonies by such documents as the Mayflower Pact. They gradually took root until they became an integral part of our beliefs and were embodied in our Constitution. Similarly, if there is ever to be a body of world law, it must begin with the establishment of certain basic concepts.

The criminality of genocide is one of the most basic of these. It has been more than 25 years ago now the United Nation drafted this treaty. The treaty provides us a way of declaring our abhorrence for this crime. As Mr. Charles Yost, a former U.S. Representative to the United Nations said:

This Genocide Convention is an assertion by the community of nations that a certain particularly heinous act, perpetrated against any national, or ethnic, racial, or religious group whatsoever, is wrong—wrong not only in the domestic law of this or that state, but wrong also in the law and opinion of the community of nations itself.

TREATY POSES NO ADDITIONAL DANGER TO AMERICANS OVERSEAS

Some have expressed the fear that if America becomes a party to this treaty American citizens could be tried in foreign courts on charges of genocide. This is clearly specious. Right now with no treaty in force, an American citizen in the physical territory and or control of a foreign nation can be charged and tried for any offense from shoplifting, to robbery, to espionage, to murder, even genocide.

Mr. President, I can recall only a few days ago when I was in a small town in my State; the State of Wisconsin, where many people were very concerned about a young lady who had been arrested in Turkey on a charge of trafficking in drugs. She had been held for a year and had then been sentenced to execution. The State Department intervened and the sentence was commuted to life imprisonment.

This kind of action against American citizens traveling abroad has taken place for a long time. There is absolutely nothing in this treaty that would aggravate that or increase the punishment or jeopardize in any way United States citizens abroad. This Genocide Treaty does not alter this, and does not expand the jurisdiction of foreign courts in any way whatsoever.

It is equally specious to say that the treaty allows American prisoners of war to be tried on charges of genocide. An enemy power can charge an American prisoner with any crime it chooses to trump up. The ratification of this Genocide Treaty will not provide any cause of action or put American soldiers in further jeopardy. Former Attorney General Nicholas Katzenbach, who himself was a war prisoner for 27 months, has publicly stated that ratification of the Genocide Convention would in no way present new danger for American troops. And American military men stationed on friendly foreign soil will still be protected by the specific status of forces agreement

we have in that particular country. This treaty will alter this in no way.

Even in the absence of ratification there is nothing to prevent a country from making baseless charges of genocide against this country in the United Nations. If anything, ratification would improve our position, because the convention requires "an intent to destroy, in whole or in part, a national, racial, ethnic, or religious group as such."

The tragic events in Vietnam and the terrible loss of life both military and civilian, that has occurred there do not meet this definition. The necessary intent to destroy a racial or ethnic group as such is missing. As the Senate report indicates, ratification of the convention would, if anything, help us rebut these charges by providing a precise standard against which our behavior may be appraised.

CONGRESSIONAL POWER TO ACT

Article I, section 8 of our constitution specifically gives Congress the power to "define and punish offenses against the law of nations." Genocide is an offense against the law of nations and is thus within the power of Congress to declare unlawful. The American Bar Association's section on individual rights and responsibilities stated in its report on the treaty that "Ratification of the convention will add no new powers to those the Federal Government already possesses."

And, as noted earlier, this treaty does not by itself, promulgate any new Federal criminal law. Rather, this treaty stands as a clear and simple symbol of this country's dedication to man's humanity to himself. Prof. Richard Gardner has eloquently reasoned:

Our ratification of this convention will dissipate the embarrassing contradiction between our failure to act and our traditional leadership in support of basic human rights. The Genocide Convention outlaws action that is repugnant to the American people and to our constitutional philosophy. We should not decline to affirm our support for principle of international law and morality in which we believe. Our country was founded on a passionate concern for human liberty reflected by the Bill of Rights and the Constitution. We believe that concern is very much alive today, as reflected by the report of the Foreign Relations Committee supporting the convention. It is inconceivable that we should hesitate any longer in making an international commitment against mass murder. At a time when our commitment to human rights is being questioned by some of our own people and by others overseas, it is particularly important that we ratify a treaty so thoroughly consistent with our national purpose.

Can we continue to assume a position of world leadership when we, ourselves do not acknowledge the inherent rights of mankind? Can we expect other countries to respect these rights if we continue to ignore them?

RECENT INSTANCES OF GENOCIDE

Unfortunately, Mr. President, genocide is not only a matter of past history. Of course, world history has provided countless examples of wars of annihilation and extermination. Many people argue that this is something that took place before, that mankind has become civilized, that we were savage and brutal and cruel and immoral before we become civilized. From the genocide committed by the Assyrian hordes in Old Testament times to the massacre of 6 million Jews in this century, the heinous crime of genocide has been a blot on mankind's record. But genocide is a current as well as a recurring problem. In 1971, tens of thousands of Bengalis in East Pakistan, particularly the educated elite, were summarily shot by Pakistani Government troops.

Mid-1972 witnessed yet another demonstration of "selective genocide." This terror was conducted by the Burundi Government against the Hutu tribesmen and it led to the deaths of as many as one-quarter of a million persons. A subsequent study published by the Carnegie Endowment for International Peace documents the almost total indifference of governments to this disaster. U.N. Secretary-General Kurt Waldheim did send an observer mission to obtain a body count of the blood-drenched area, but the tragedy was all but condoned by the nations of the world. But the bloodshed that marked the days of civil war continued after independence. Pakistani sympathizers have been searched out, tortured, and publicly executed as an example for others.

One of the worst fates meted out has been to the tribal group of the Biharis. This ethnic group continues to bear the brunt of violent persecution and ostracism. Using the excuse of punishing Pakitani collaborators, the Bangladesh guerrillas have cut off the food and medical supply to Bihari villages and have effectively curtailed Red Cross emergency assistance. Whether the Bihari villages will be allowed to survive only the people of Bangladesh can determine.

Right now as we meet in the Senate Chamber, genocide is going on some place in the world. It is not just something that happened 30 years ago as a nightmare under the Nazis and will not occur again. It is occurring at this moment. And as yet the outside world has brought very little pressure to bear.

Although the persecution of the Bihari tribe comes dangerously close to an act of genocide, the State of Bangladesh can be held accountable to no international agreement. It is too young to have signed the Genocide Convention of 1948. However, this situation in Bangladesh dramatically indicates the overwhelming need for universal acceptance of such an international agreement to protect the dignity, human rights, and the very existence of minority groups.

In a situation like this the reason and pressure of the civilized world must be exerted to save these lives. But what pressure can the United States exert? What position of moral leadership can we assume having never ratified the convention treaty?

Mr. President, the need is for the United States to be true to its own ideals and to join with other nations in recognizing and protecting individual rights. In the national interest as well as in the interest of men everywhere, the United States should act promptly in ratifying those human rights treaties which it has supported in the United Nations and affiliated agencies. The United States can do much to safeguard human rights through international agreements, but only if we become a party to them.

Mr. President, let us seize the unique opportunity we now have to act on the Genocide Convention. For if we fail to approve it now, it may be years before we get another chance to act.

Mr. President, in my speech I mentioned the fact that the American Bar Association in a very close vote opposed the Genocide Convention. On tomorrow I expect to put in the RECORD a list of the different organizations that support the Genocide Convention.

I recall very clearly that when hearings were held before the committee, the overwhelming majority of the great American organizations came to appear on behalf of the Genocide Treaty. The American Bar Association was virtually alone. They were isolated.

Of course, as I say, the ABA was narrowly divided, and only by a narrow vote did they decide to oppose the Genocide Convention, and that only after their subgroup that had held intensive hearings on the treaty in every case supported the Genocide Treaty.

Mr. President, I close as I began by once again calling the attention of the Senate to the fact that it is not simply a matter of defending some kind of an arcane treaty which seems to have little reference to real life, and which can be debated on technical constitutional grounds, which may or may not, in the views of some, endanger the rights of American citizens—I am convinced it does not; I think it strengthens our rights—but this is a matter of recognizing the terrible crime that has taken place within the last 30 years.

I conclude by quoting excerpts from the summary of the judgment of the Nuremberg International Military Tribunal, as quoted in the New York Times of October 1, 1946, where it says:

The commandant of the concentration camp at Auschwitz (Oswiecim) gave evidence that in that camp alone between the 1st of May 1940, and the 1st of December, 1943, 2,500,000 persons were exterminated and a further 500,000 died from disease and starvation. . . . Adolf Eichmann, who had been put in charge of the program to exterminate the Jews, has estimated that the policy pursued resulted in the killing of 6,000,000 Jews, of whom 4,000,000 were killed in the concentration camps and 2,000,000 were killed by the Einsatz Groups.

What are we going to do about that, Mr. President? Are we just going to say, "Well we cannot adopt this treaty because there are some persons who oppose it, because there is some technical opposition to the treaty"?

Of course, we should debate that. I think we can meet those arguments clearly and convincingly. As I say, every Attorney General in the last 25 years has agreed that the treaty is constitutional.

Mr. President, we should never lose sight for a minute, however, that there is a positive, overwhelming moral reason why this country should act. The Senator from New York (Mr. JAVITS) has stated it eloquently this afternoon, and those of us who have pride and love for our country, and recognize it as a world leader, can do no less than act in our

capacity as U.S. Senators, for it is up to us. We should remember, Mr. President, that this is nothing we can blame on the House of Representatives or the executive branch, or the State legislatures. This is something that is entirely up to the U.S. Senate, and only the U.S. Senate. The Committee on Foreign Relations has now discharged itself from the treaty. It is up to the body of the Senate. It is up to us.

We will decide the issue finally. It does not take any further action by the President, who has favored the treaty, or the executive departments and, of course, they favor the treaty, but it is squarely up to this body to face the issue. I hope and pray we will do so.

Mr. President, in that connection, last week I received a letter from the American Civil Liberties Union urging the Senate to ratify the Genocide Convention. In examining the impact of ratification upon our constitutional guarantees, the ACLU concluded that "it does not abrogate our constitutional rights and liberties." This is a position shared by the majority of constitutional scholars that have examined the convention.

Mr. President, I ask unanimous consent that the full text of their letter be printed in the RECORD.

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

AMERICAN CIVIL LIBERTIES UNION,
Washington, D.C., January 18, 1974.

DEAR SENATOR: Twenty-five years ago the United Nations General Assembly unanimously adopted the Convention on the Prevention and Punishment of the Crime of Genocide. Since that time, a large majority of the world's nations have ratified the Convention as a fundamental stride toward international cooperation to promote and preserve basic human rights. But, in spite of overwhelming support from American lawyers, jurists, scholars, and statesmen, the United States has not yet joined in that step.

When Congress reconvenes later this month, you will have the opportunity once again to ratify the Genocide Convention. The American Civil Liberties Union, a national organization of 256,000 members for voted protection of the Bill of Rights, strongly supports ratification.

The ACLU has carefully reviewed the Convention, and agrees with the great majority of scholars that it does not abrogate our constitutional rights and liberties. The section prohibiting "direct and public incitement to commit genocide" is fully in accord with the limitations on the First Amendment painstakingly established by the Supreme Court of the United States.

Moreover, the basic personal liberties guaranteed by the Constitution cannot be set aside by any provision of a treaty. The Convention does not supersede state laws nor require the United States to accept the jurisdiction of any international tribunal that might be established to try persons accused of genocide.

Former Chief Justice Earl Warren said in 1968, "We as a nation should have been the first to ratify the Genocide Convention. . . . Instead we may well be the last." Diplomats have found it increasingly difficult to explain to other nations why the United States has not yet endorsed so fundamental a safeguard of human rights.

We urge you to affirm the principles of human dignity, liberty, and justice for all on which our nation was founded by voting to ratify the Genocide Convention.

Sincerely,

MARY ELLEN— GALE,
Counsel.

Mr. JAVITS. Mr. President, I certainly believe it should be clearly noted in the RECORD what a thorough, comprehensive, wise, and professionally skilled analysis has just been made of the treaty's provisions by the Senator from Wisconsin (Mr. PROXMIRE). I think that the whole country and the world should be grateful to him for so eloquent an espousal of this treaty.

Mr. President, I rise to call specific attention to the scheme of the treaty, so that Members who read the RECORD tomorrow as we deliberate upon this matter may see clearly what is at stake.

Now let us, as I say, try to simplify it. The fact is that if the crime of genocide is committed here, then the treaty itself provides, in article VI, that—

Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed. . . .

That is what the opponents contend for, and that is what will happen if the act takes place here. If the act takes place elsewhere, the perpetrators can only be sent elsewhere by extradition, and we have locked in the issue of extradition so that there shall be no extradition if the United States is ready, willing, and able to try the person charged.

It is further locked in by the fact that the treaty itself calls for implementing legislation. Article V states:

The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide or of any of the other acts enumerated in article III.

The State Department has already sent us and we have a draft of a statute for that purpose. It is attached to the committee report, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the bill (S. 3182) was ordered to be printed in the RECORD, as follows:

S. 3182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) title 18, United States Code, is amended by adding after chapter 50 the following new chapter:

"CHAPTER 50A.—GENOCIDE

"Sec.
"1091. Definitions.
"1092. Genocide.

"§ 1091. DEFINITIONS

"As used in this chapter—

"(1) 'National group' means a set of persons whose identity as such is distinctive in terms of nationality or national origins from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

"(2) 'Ethnic group' means a set of persons whose identity as such is distinctive in terms of its common cultural tradition or heritage from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

"(3) 'Racial group' means a set of persons whose identity as such is distinctive in terms of race, color of skin, or other physical characteristics from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

"(4) 'Religious group' means a set of persons whose identity as such is distinctive in terms of its common religious creed, beliefs, doctrines, or rituals from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

"(5) 'Substantial part' means a part of the group of such numerical significance that the destruction or loss of that part would cause the destruction of the group as a viable entity.

"(6) 'Children' means persons who have not attained the age of eighteen and who are legally subject to the care, custody, and control of their parents or of an adult of the group standing in loco parentis.

"§ 1092. GENOCIDE

"(a) Whoever, being a national of the United States or otherwise under or within the jurisdiction of the United States, willfully without justifiable cause, commits, within or without the territory of the United States in time of peace or in time of war, any of the following acts with the intent to destroy by means of the commission of that act, or with the intent to carry out a plan to destroy, the whole or a substantial part of a national, ethnic, racial or religious group shall be guilty of genocide:

"(1) kills members of the group;

"(2) causes serious bodily injury to members of the group;

"(3) causes the permanent impairment of the mental faculties of members of the group by means of torture, deprivation of physical or physiological needs, surgical operation, introduction of drugs or other foreign substances into the bodies of such members, or subjection to psychological or psychiatric treatment calculated to permanently impair the mental processes, or nervous system, or motor functions of such members;

"(4) subjects the group to cruel, unusual, or inhumane conditions of life calculated to bring about the physical destruction of the group or a substantial part thereof;

"(5) imposes measures calculated to prevent birth within the group as a means of effecting the destruction of the group as such; or

"(6) transfers by force the children of the group to another group, as a means of effecting the destruction of the group as such.

"(b) Whoever is guilty of genocide or of an attempt to commit genocide shall be fined not more than $20,000, or imprisoned for not more than twenty years, or both; and if death results shall be subject to imprisonment for any term of years or life imprisonment. Whoever directly and publicly incites another to commit genocide shall be fined not more than $10,000 or imprisoned not more than five years, or both.

"(c) The intent described in subsection (a) of this section is a separate element of the offense of genocide. It shall not be presumed solely from the commission of the act charged.

"(d) If two or more persons conspire to violate this section, and one or more of such persons does any act to effect the object of the conspiracy, each of the parties to such

conspiracy shall be fined not more than $10,000 or imprisoned not more than five years or both.

"(e) The offenses defined in this secton, wherever committed, shall be deemed to be offenses against the United States."

(b) The analysis of title 18, United States Code, is amended by adding after the item for chapter 50 the following new item:

"50A. Genocide ---------- 1091."

SEC. 2. The remedies provided in this Act shall be the exclusive means of enforcing the rights based on it, but nothing in the Act shall be construed as indicating an intent on the part of the Congress to occupy, to the exclusion of State or local laws on the same subject matter, the field in which the provisions of the Act operate nor shall those provisions be construed to invalidate a provision of State law unless it is inconsistent with the purposes of the Act or the provisions of it.

SEC. 3. It is the sense of the Congress that the Secretary of State in negotiating extradition treaties or conventions shall reserve for the United States the right to refuse extradition of a United States national to a foreign country for an offense defined in chapter 50A of title 18, United States Code, when the offense has been committed outside the United States, and

(a) where the United States is competent to prosecute the person whose surrender is sought, and intends to exercise its jurisdiction, or

(b) where the person whose surrender is sought has already been or is at the time of the request being prosecuted for such offense.

Mr. JAVITS. This statute deals precisely with this particular question which we are discussing now. In addition, the Senate Foreign Relations Committee, in sending the resolution of ratification to the Senate, makes that special provision. It says—and this is found at page 19 of the Senate report:

That the United States Government understands and construes Article VI of the Convention in accordance with the agreed language of the Report of the Legal Committee of the United Nations General Assembly that nothing in Article VI shall affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State.

That is clear. If a person is outside the state, as Senator PROXMIRE so very properly pointed out, and is in some other state, there is nothing we can do about the exercise of jurisdiction by the other state anyway, except through diplomatic measures. Indeed, the provisions of this treaty may then act as a certain protection for the person who is charged elsewhere, rather than as an additional burden.

Third, there is the possibility of trial before an international tribunal. That is covered also by article VI, which says:

Persons charged with genocide or any of the other acts enumerated in article III shall be tried . . . or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

Mr. President, there is no such tribunal today, and the United States will be fully able, when the time comes, to accept or reject the jurisdiction of any such penal tribunal when it comes into being.

So, Mr. President, the scheme of the treaty entirely accommodates everything for which anyone can reasonably contend. If a person is here charged with genocide, we reserve the absolute right to try him here, and we are sustained both by the treaty and by the implementing legislation which the treaty itself calls for. And we certainly are not going to pass any implementing legislation that does not satisfy that condition.

Mr. President, it is understood that the Committee on Foreign Relations and the President have stated that the implementing resolution on this treaty, that is, the resolution of ratification, will not be deposited—that makes it legally operative—until after implementing legislation has been signed and made into law. That, too, is in the text of the resolution of ratification as item 4.

So, Mr. President, if a person is here, we reserve entire jurisdiction over him. If the person is somewhere else, we cannot assert jurisdiction anyway, whether we have a Genocide Treaty or not.

In respect of an international tribunal, if there ever should be one, and there is none now, it cannot be binding upon us and we do not have to extradite or deliver anybody unless we have accepted by action—by law or treaty, exactly the same as this—the jurisdiction of that international tribunal.

Now, Mr. President, it seems to me that that is locked in absolutely, especially with the provision, the fact that we have no extradition treaty which now involves genocide. So we are not bound now, and I think that we will not do so, where it means that we give up anyone for trial in another jurisdiction, unless by authority of the United States it is found that we wish to do so; otherwise we have every right to try the person here.

The resolution which we have presented, plus the text of the treaty, plus the implementing legislation, locks us in with respect to every concern and every care.

Some statements have been made, and Senator Proxmire has already dealt with them, that because a treaty supersedes laws both Federal and State, in some way the ratification of this treaty will take away criminal jurisdiction from the States or from the Federal Government, or will cause criminal jurisdiction to be transferred from the States to the Federal Government.

I cannot for the life of me see how that can occur, in view of the fact that the terms of the treaty are irrelevant to crimes on our books. It is going to take implementing legislation to create the crime of genocide, and the crime of genocide, if that is what the so-called superseding jurisdiction is going to apply to, the crime of genocide has the fundamental thrust of, "with the intent to destroy the entire group concerned."

In the case of homicides, and so forth, which unhappily are much too frequent in this country, where we define them by State and Federal laws, depending on their nature and where they occur, they have nothing to do "with the intent to destroy the entire group concerned." On any of the details of the crime of genocide, a crime by this treaty, I cannot see where the fears are warranted as they relate to this country.

We are not vulnerable as they relate to the capability of any other jurisdiction to try an American who may be wanted for the crime of genocide. We have made all these things doubly sure by the understandings and the declarations which are incorporated in the resolution of ratification to which I have referred.

Mr. PROXMIRE. Mr. President, before the Senator leaves that subject, which he has dealt with most helpfully and has verified the widespread objection to the treaty, I should like to ask him to give me an example, to show if I fully understand, and if we can clarify just what it means.

One objection to the treaty is that in the event we have a group representing a minority group and they are devoted to violence, they are devoted to killing, and so forth, and the police act against them, and the police arrest them, and they are brought in and some of them are killed in the course of being arrested, the charge has been made that the police could be held guilty of genocide and could be hailed before a court and could be prosecuted and could be convicted, and so forth.

I think the Senator's point is precisely on this kind of situation. This is an instance, obviously, which would take place in this country, and the trial would be held in the courts of this country; is that not right?

Mr. JAVITS. That is exactly right.

Mr. PROXMIRE. It is under our own jurisdiction.

Mr. JAVITS. Exactly right.

Mr. PROXMIRE. And the treaty would not have an adverse effect on the rights of the police or anyone else who had engaged in this violation of the treaty.

Mr. JAVITS. That is exactly right. It requires reference to a critically important case in this debate which holds that nothing in any treaty supersedes the Constitution. It may supersede State or Federal laws, but not the Constitution. Therefore the constitutional rights of every individual so charged would be preserved. That is the case of *Reid* v. *Covert*, 354 U.S. 1.

As I have pointed out, the very treaty itself calls for trial of an individual by a competent tribunal in the territory in which the act was committed and that would be this territory, the United States of America. The implementing legislation which we will have full power to deal with, will make crystal clear that we are in no way superseding the homicide statutes, or the murder statutes of any State, or of the United States, and that these jurisdictions will go on unimpaired, as they always have.

It seems to me that that is absolutely a complete structure, leaving no "out" by which some such wild result as is feared could be obtained.

Mr. PROXMIRE. That is most helpful, because the example I gave is a poor one but is the one used by those who oppose this treaty. It would be clear that no action by the police, under the circumstances, could be construed to be genocide; but even if it were, the fact is that all of the protections which the Senator from New York has described would still be there—the constitutional protection, the trial would be in this country,

in a U.S. court, and there is no question that the genocide treaty would not apply and that there would be no deprivation of anyone's rights, and no jeopardy for any American citizen. On the other hand we are not talking about a treaty that has no force. In discussing genocide, we are talking about a situation that occurred years ago and is occurring now in African and Asian countries and elsewhere in the world and with no common international law to permit any preventive action. That is what we are reaching for.

Mr. JAVITS. Let me make this statement. Suppose a group of Americans were properly charged with the crime of genocide, that is, with being party to an intent to eliminate by the means stated here, which are deathly means, a whole ethnic or religious group; and suppose that because of the particular provisions of State homicide laws or the laws of assault, and so forth, some of the people could slip out from under. Would any American with a germ of fairness and belief in the Constitution want such a person to slip out? And should not someone have the power to try him in this case, and in this case it would be a U.S. court.

Mr. PROXMIRE. The Senator is absolutely correct. Of course the Senator's key phrase is that the intent has to be there. One has to have the intent to destroy an entire group or a significant part of that group. Genocide is not and cannot simply be a reaction to violence. There must be an intent to exterminate a group of people.

Mr. JAVITS. Before the treaty goes into effect an implementing statute which has been submitted to us will have to be passed and we are not going to pass anything less, the Senate is sure of that.

There is provided in section 2:

> The remedies provided in this Act shall be the exclusive means of enforcing the rights based on it, but nothing in the Act shall be construed as indicating an intent on the part of the Congress to occupy, to the exclusion of State or local laws on the same subject matter, the field in which the provisions of the Act operate nor shall those provisions be construed to invalidate a provision of State law unless it is inconsistent with the purposes of the Act or the provisions of it.

Then it goes on to say, in section 3 and I would intend to strengthen this when it comes to us:

> It is the sense of the Congress that the Secretary of State in negotiating extradition treaties or conventions shall reserve for the United States the right to refuse extradition of a United States national to a foreign country for an offense defined in chapter 50A of title 18, United States Code, when the offense has been committed outside the United States, and
>
> (a) where the United States is competent to prosecute the person whose surrender is sought, and intends to exercise its jurisdiction, or
>
> (b) where the person whose surrender is sought has already been or is at the time of the request being prosecuted for such offense.

Now, with the relationship stated in the treaty itself between the treaty and the implementing legislation, I just cannot see how we can have any more impervious protection of the individual, that he would be tried here, unless we, as a conscious act of Government, decided we wished him to be tried elsewhere. That we can do in any case, which is an extradition right—or we have this treaty.

So the real value of the treaty is its fantastically important impact, after almost a quarter of a century and the declaration of our country that it is against genocide. At the same time, the fantastic interlocking is felt in safeguards that, if anyone in this country is guilty of any such crime which is performed elsewhere and he is charged with it, that we, and we alone have the right to try that person unless we, as a conscious governmental act, decide otherwise. I cannot see how one can do more than that.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

LEGISLATIVE SESSION; ORDER FOR RESUMPTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now return to the consideration of legislative business and that there be a resumption of routine morning business, with statements therein limited to 5 minutes.

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

A-10: THE LOW MIX

Mr. PROXMIRE. Mr. President, a curious symmetry has developed within the past year. The Defense Department has been issuing statements that sound like the position taken in prior years by some so called critics of the defense community. There now is a broad area of agreement that at the current rate of declining force levels, the United States is unilaterally disarming itself by insisting on ever more expensive, more complex weapon systems.

A few years ago this would have been considered heresy, and charges would have been exchanged that certain people were pacifists or unilateral disarmists. But now I hope that is behind us. The truth has a way of forcing its own reality.

The point is that we are heading for trouble if expenses continue to rise and unit numbers go down. Right now we have fewer online fighters at sea than the land-based forces of North Korea.

The Defense Department has offered a new strategy to reverse the present trends. There should be a "h-lo" mix of technologically advanced weapons and cheaper more reliable models in quantity. Though I do not think this strategy has widespread application and I do not see it being used by the Navy aircraft people, nonetheless it does have its strong points.

The A-10 close air support aircraft is a good case in point. We need a cheap, reliable, surviveable aircraft to support our ground troops. The Air Force agrees, the Army agrees and so does this Senator. The A-10 has been picked after an exhaustive competition between two well qualified companies and a flyoff of fixed price prototypes. In many ways, this could be the model for future procurements.

Mr. President, "Government Executive" recently printed an article on the A-10 which explains some of the history of the program and its industry team led by Fairchild Industries. I ask unanimous consent that this article be printed in the RECORD.

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

PROCUREMENT: A-10

ON SOURCE SELECTION

(By Craig Powell)

"We simply can't be playing political roulette with the lives of men. I'm sure no Congressman would do that. But at the moment—through misunderstanding or misinformation—it appears that some members are flirting with denying the ground soldier the close air support he so vitally needs."

When concerned Edward G. Uhl, President of Fairchild Industries, Inc., is inclined to speak directly to the point. At the moment, he is concerned about Fairchild's Republic Company A-10 close support fighter program which is having to take some high hurdles on Capitol Hill.

"Over the past few years," he says, "the defense procurement system has been under fire from all sides. As a result, we have had a complete "soul searching," both in industry and in the Department of Defense, and made considerable improvements. We have adopted the (Dave) Packard approach (former Deputy Secretary of Defense). We have a more orderly process incorporating the building of prototypes, having a fly-off between aircraft, and contracts that call for "design to cost" and containing built-in milestones that must be demonstrated before the program can proceed."

The aerospace official feels that the defense/industry team has, in the case of the A-10, developed a logical procurement and contracting system that will preclude many of the mistakes that have been made in the past. Commensurately, Congress should also do its best to adjust its own techniques on the review and appropriations side in the same pragmatic manner. More specifically, he believes that, if in its deliberations, Congress has concluded there exists a valid requirement for a new weapon, they should set the ground rules and approve a plan.

However, in subsequent years the legislators should examine the program primarily to ascertain that it is going according to plan and within cost and schedule. But, the basic plan should not be altered year by year and the conduct of the development should be left to the responsible officials within a given service.

This would make Congress' job easier and would allow for development programs free of the cancers in the old procurement processes.

Uhl explained to *Government Executive* that Congress put the pressure on industry and the Defense Department to "get out there and develop an airplane that can give close support to the Army ground forces."

This, he feels, has been done, but now certain elements on the Hill seem to have new questions.

"Everyone agreed on the requirement for an A–X aircraft. Now some people are saying 'Do we really need an A–X; wouldn't a substitute do just as well?' or 'Why have 10 OT&E aircraft, why not only six?'"

(The Senate Tactical Air Power Subcommittee, before adjourning this Summer, recommended that the A–10 program be cut from 10 OT&E aircraft to six, the placing of $30 million for long lead time production items into a deferred account, and a fly-off between the A–10 and the LTV A–7 interdictor aircraft.)

FLY BEFORE BUY

At a recent press conference, Uhl attempted to put the whole A–X program in focus. He pointed out that the A–10 is a unique weapon system, that it is plowing new ground in two areas.

First, the area of close air support which the Air Force has long been criticized for not giving properly to the Army. There have been comments over the years that the Air Force was interested only in strategic bombardment, or only wanted to fly fast and make holes in the sky.

There were also the bitter fights between the Army and the Air Force over roles and missions. The Air Force was further accused of using cast-off aircraft to support the ground troops. They were told to take a page out of the Marine Corps philosophy and do a better job.

Most recently, in Vietnam, it was found that, again, there were no aircraft available for proper close air support (CAS). The Air Force was forced to resurrect the World War II A–1 and turn the T–28 into a fighter bomber.

"Finally, after these many years," comments Uhl, "the Air Force wrote, with the Army, a requirement for close air support. And, incidentally, it is a hell of a good requirement. It is very balanced and one that we would find little to argue with or complain about.

"The services went through the exercise of getting Congressional support and the close air support project got under way. But as you know, today it is under attack by some special interests."

The second area, Uhl says, is in source selection and methods of procurement. "We've all got scars from the last five years; we all know the wounds that have been brought about by the attacks on Defense, by the problems surrounding the C–5A and F–111. These were not problems confined to Lockheed, or General Dynamics, or the Air Force; these were problems that touched all of us in the aerospace industry, all in DOD—in fact, everybody in the United States."

Further explaining the process, Uhl pointed out that Packard, with the support of Dr. John Foster, then Director of Defense Research and Engineering, and Dr. Robert Seamans, then Secretary of the Air Force, pushed to change the procurement system and start talking about prototypes and "fly before buy."

The reason the Air Force wanted to fly before buy was to see if the weapon, in fact, met the requirements. The A–X is the first airplane to be procured under all of these guidelines.

"In fact," commented Uhl, "we have gone through one added wicket which is the prototype competitive fly-off. I think we have the only weapon in recent history where there were two prototypes designed to the same requirements which were flown off, one against the other, competitively.

"To date, the A–X program is a model program. All schedules were met. The prototypes were built on a fixed-price. There was a tough, fair fly-off between airplanes. This wasn't done by test pilots alone, but by tactical pilots who were flying for score.

"The program was so thorough that we were measured on our maintenance requirements, the maintenance man-hours per flight-hours. As a matter of fact, the General Accounting Office reviewed the competition and said that it was a fair and well-run one."

Early in April of this year, Elmer Staats, Comptroller General of the U.S., wrote Senator Abraham Ribicoff (D-Conn.) that "In our opinion, the Air Force conducted the flight evaluation and source selection fairly and objectively. Because both contractors developed acceptable prototype aircraft, the competition was quite close.

"All of the competing contractors told us that they were satisfied with the fairness of the flight evaluation and had no complaints about the methods used in source selection.

"Selection of the A–X contractor involved an assessment of the competing contrators' proposals and prototype aircraft flight evaluation test results. Basic guidelines established at the beginning of this competition were communicated to all parties concerned, and retained throughout the competition.

"Our review verified the validity of the evaluation data presented in the final briefing to the Secretary of the Air Force, who made the ultimate selection and award. The most significant selection criteria used by the Air Force involved program costs, operational capability, transition from prototype to production configuration, and program adequacy."

A–10 PROPONENTS

Fairchild's chief executive believes there is considerable confusion in many people's minds concerning "ground support" and "close air support." This confusion further leads to a lack of understanding of the necessity of having an aircraft that has been specifically designed for the CAS mission.

"Both B–52 strategic bombardment and long range interdiction raids by high performance tactical fighters indirectly support the ground forces," states Uhl. "But that is not close air support where the aircraft gets down in the mud with the foot soldier. The difference is in how close in you are going to support."

He points out that this is the reason the A–X was designed. To illustrate his point, he says that the F–4 and the F–15 have slightly different capability levels to carry out the same mission of air superiority. In like manner, the A–7 and the F–105 have similar capabilities in the interdiction role. But for the CAS mission there is no comparable aircraft to the A–10 in the meeting mission requirements.

The position of the A–10 proponents is that the aircraft has built–in survivability, necessary maneuverability, capability for forward basing, and the lethality that only heavy ordnance loads and General Electric's GAU–8A 30mm "tank killing" gatling gun can give.

They feel that the A–10 is completely compatible with the Army's helicopter forces. Also, that it can live in an environment where there is no air superiority by being able to defend itself. Pilots who have flown the A–10 against U.S. high performance fighters say it can handle itself even against the latest model Soviet MIGs.

Most important, the A–X is the only plane that can meet the threat of the Sovie bloc's armored and mechanized units on the battlefield of Europe, should the Allies find themselves embroiled in conflict in the next decade. In an arena where the air superiority, interdiction, and close air support missions will be conducted simultaneously, a tank killing aircraft is necessary to contain the Soviet's 3-to-1 armor advantage over the NATO forces.

A European battlefield would also be an arena of minimum weather conditions requiring an aircraft able to operate under the most adverse circumstances. USAF Tactical Air Commander General W. W. Momyer has told Congress that the A–10's overall agility "provides an excellent capability to work under the low ceiling conditions encountered in Europe. For example, the maneuverability of the A–10 will permit operations under a ceiling of 1,000 feet with one mile visibility—weather conditions worse than this exist only 15% of the time."

Thus, Uhl believes that he is justly concerned over what he feels are attempts by certain elements on the Hill to restructure the program. Certainly, cutting the OT&E program from 10 to 6 aircraft will require renogotiation of all contracts with participating firms and the Air Force.

Deferring long lead time production items will, of necessity, delay the speed with which the program can transition from the development to the production phase.

Also of considerable concern to the Air Force and the proponents of the A–X program are the attempts of some legislators to force a fly-off between the A–10 and the LTV's A–7.

The Air Force takes a strong position on the fly-off. It says that 60 officers made a two-year study (Sabre Armor Charlie) and concluded there did not exist a requirement for such a fly-off.

Major General Leslie Bray, Air Force Director of Doctrine, Concepts and Objectives, told *Government Executive:* "We already have sufficient data on the faster aircraft in the inventory and we will acquire the same data on the A–10 during the test period. We feel we should not have to spend funds to gather information we already have."

Elliot Richardson, then Secretary of Defense, stated: "Recent analyses, and those of past years, lend assurance in this area by continuing to show the A–X is substantially superior to the A–7 in close air support mission effectiveness. Further, we are confident that the A–10 will meet its goal with selected contractors."

Another area of concern to Uhl are several investigative groups which have been sent out to reexamine the validity of the program.

The proponents of the program say that it is interesting to note that wherein the GAO and the Committee for Peace Through Law group gave the program a clean bill of health, other groups have come up with reports to support apparent predetermined conclusions.

Said Uhl: "No legislator should be pushing for his home area when we are dealing with the lives of U.S. servicemen. Decisions must be made truthfully and free of political pressures. You don't send out lynching parties to shoot down a contractor just to get the pork barrel back home.

"Most pilots agree that you have to get down on the deck to do the right job of close support. Congress asked for an aircraft that can do that, can get hit, and still survive. We have done it, we have met cost and schedule.

"The secretaries of the Army and Air Force and the Director of Defense Research and Engineering have given the program full support. Three successive Secretaries of Defense, including the incumbent, have stood squarely behind the A–10.

"Congress wrote the ground rules and we have had the cleanest competition in recent years. It is fair for Congress to probe and question. They have an obligation to do so on a continuing plane; but not capriciously. I only say that Congress should not allow any individuals to stack the deck."

SAM–D CUT BACK

Mr. PROXMIRE. Mr. President, today I am pleased to note that the Secretary

of Defense, Mr. Schlesinger, has ordered the Army to cut back its work on the controversial SAM-D air-defense missile system. The Army's costly talent can now be put to use on far more useful and effective systems.

I have long been opposed to this overly expensive and complex program. The unit costs have risen a fantastic 350 percent from the initial production estimates. The latest Department of Defense selected acquisition report on the SAM–D lists a current total program cost estimate of $4.481 billion. According to the Army's own estimates, this is more than a $2.8 billion increase over the cost of the presently operative improved Hawk air defense system.

By any standards of cost-effectiveness, SAM–D would be a financial disaster. It is estimated by the Army that it would cost the United States 19 to 25 times as much to counter the projected enemy threat as it would cost the enemy to counter SAM-D. Clearly, our normal defensive strategy is to make it uneconomical for the enemy to attack.

Numerous technical flaws and uncertainties plagued SAM–D. The TVM guidance system which has no operational precedent and the extremely complicated device which was to detonate the missile's warhead were not yet tested.

Furthermore, our NATO allies have informed us that they consider SAM–D much too expensive and sophisticated to be of optimal use. Maintenance costs would be sky high. The SAM-D is projected for use primarily in Europe to protect the 7th Army.

For more than 25 years now, the United States has borne the major burden of defending our European allies. It is certainly time we began talking in terms of the Europeans sharing in the cost of their own defense. The reorientation of the SAM-D to a less costly system is a move in the right direction.

Secretary of Defense Schlesinger should be complimented for the foresight and determination shown in this decision. We will end up with a stronger military. Another debt of gratitude is certainly owed the distinguished Senator from Indiana (Mr. BAYH). His leadership and insight in this matter will also pay large dividends to our national security.

Mr. President, I ask unanimous consent that several articles in connection with this subject be printed in the RECORD.

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

[From the Wall Street Journal]

PENTAGON CHIEF SLASHES SAM-D MISSILE FUNDING PENDING GUIDANCE TESTS

WASHINGTON.—Defense Secretary James Schlesinger has ordered a spending cutback in development of the Army's surface-to-air SAM-D missile by Raytheon Co. pending tests of the weapon's guidance system.

An Army statement informed members of Congress that the SAM-D's budget needs for the current fiscal year ending June 30, and the coming one as well, are being cut to allow only enough money for the guidance testing and some limited equipment purchases.

The Army statement didn't disclose the amount of money cut from the controversial project. But Sen. Birch Bayh (D., Ind.), a strong critic of the weapon, estimated the cutback could amount to as much as $100 million over the two fiscal years.

A spokesman for Raytheon in Lexington, Mass., said the SAM-D cutback would "have a relatively small impact" on the company's sales and earnings in 1974. Pentagon funds for the program have already been committed for 1974, he said, and he indicated that any cutback in planned spending for 1975 would be well under the $100 million figure used by Sen. Bayh.

Raytheon executives said last November that the company's current five-year plan aims at 1975 sales of $1.8 billion and per-share earnings of $3.50, and the company spokesman said the SAM-D cutback wouldn't cause Raytheon to change that forecast.

The SAM-D is being developed by Raytheon to replace two existing missiles used for air defense of Army units in the field and for defense of potential bomber targets in the U.S. The system carries an estimated total price tag of $4.5 billion. Though the Army has given the weapon high priority, several North Atlantic Treaty Organization countries have complained that it's too fancy and expensive to add to their own arms inventories.

Just last September, Sen. Bayh lost an attempt to cut funds for the missile by a Senate vote of 56 to 34. At that time the Senate Armed Services Committee assessed the project in glowing terms. In a report recommending approval of the full budget request of $194.2 million for the current fiscal year, the committee said: "The program is progressing satisfactorily; it is on schedule; it is within cost estimates; and no known major technical problems are unresolved."

The report praised Raytheon, saying, "The contractor's team also deserves high marks for their accomplishments to date."

But Sen. Bayh said he kept after Mr. Schlesinger and other Pentagon officials to reexamine the project, and he applauded the Army's austerity moves announced yesterday. In its explanation to Congressmen, the Army said the Defense Secretary ordered the cutback to "emphasize greater austerity" until the SAM-D's guidance system can be tried out in flight tests starting in May. The Army said it will cut back both the number of test items furnished by the government and the number produced by contractors.

At the Pentagon, another Army statement said it would be "premature" to speculate on whether the project will be delayed "until the restructuring effort has been completed."

[From the Space Business Daily, Jan. 16, 1974]

DOD ORDERS REEXAMINATION/REDIRECTION OF SAM-D

Deputy Secretary of Defense William Clements Jr. has ordered the Army to reexamine and redirect the Raytheon-Martin Marietta SAM-D air defense weapons system, to seek "some reduction in total cost," and to make it a "more austere" system.

The Pentagon is said to be planning a major reduction in funds for the program in the FY 1975 budget, believed to be about $55 million in RDT&E funds, until the completion of a flight test program for the missile's guidance system.

Sen. Birch Bayh (D-Ind.), one of the leading critics of the program, said the Defense Department action could save as much as $100 million this year. Bayh, who characterized the SAM-D as the "Army's version of the infamous C–5A," said he was pleased with the decision.

The missile system has survived repeated attacks by members of Congress, such as Bayh and Sen. William Proxmire, and investigations, such as a recent General Accounting Office review (Defense/Space Daily, June 25, p. 307), including amendments to delete the program from the DOD budget.

The SAM-D survived an attempt by the Senate this year to cut more than $20 million from the President's $193.829 million request for RDT&E funds for the program for FY 1974.

The latest DOD selected acquisition report (SAR) on the SAM-D lists a current total program cost estimate of $4.481 billion.

[From the Washington Post, Jan. 17, 1974]

LOWER-COST WEAPON SOUGHT: MISSILE SYSTEM CUTBACK ORDERED

(By Michael Getler)

Secretary of Defense James R. Schlesinger has ordered an important shift in Pentagon efforts to develop new types of surface-to-air missiles (SAMs) to combat Soviet aircraft in the 1980s.

The Defense Secretary has ordered the Army to cut back its work on the complex and expensive SAM–D air defense missile system and to speed up efforts to field a lower-cost, highly mobile weapon.

In explaining the shift, Pentagon officials say they had been planning for several months to put more emphasis on the simpler, lower-cost systems. The Middle East war in October reinforced the idea that quantities of cheaper weapons are as important or perhaps more important than high quality but more expensive armaments.

Defense officials say they still want two new missiles developed.

One, perhaps a modified version of the SAM–D, would be used for defense against the fastest and highest flying Soviet planes under all weather conditions. The other to be based on licensed production of already-developed foreign missiles, would be a cheaper and less capable system, but effective against low-flying planes in a battlefield situation.

The Army's SAM–D project has been a source of behind-the-scenes controversy within the Pentagon and Congress for some time. Some critics contend the missile is too complicated to work right, too large to move in the field, and too expensive to purchase in sufficient quantity.

The price tag on SAM–D is currently estimated at $4.4 billion. It has been in development for about nine years, at a cost of about $700 million, with several years of work still to go. The Pentagon now plans to cut $70 million-$100 million from the project and do no more development work until flight demonstration tests are held.

The Defense Department contends the missile technology still represents a big advance, and that some versions of SAM–D will make it into service in the 1980–85 period.

However, officials say it will no doubt be a more austere version, costing 25 to 30 per cent less per unit than was planned, and with more mobility.

Ironically, the Pentagon move comes after Congress gave the project a strong endorsement in this year's budget hearings and after the Defense Department fought off an attempt by Sen. Birch Bayh (D–Ind.) to cancel it.

The Pentagon claims it will also look at other new weapons to try and make sure cost and technical uncertainties are ironed out before it is too late, and says it no longer will allow a planned operational date to drive a new weapon into production too fast.

The Pentagon says it can get the smaller, foreign-designed weapon into the field by around 1979 or 1980. . . .

HOUSE COMMENDED FOR REJECTION OF ADDITIONAL APPROPRIATIONS FOR THE INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. HARRY F. BYRD, JR. Mr. President, I rise to commend the House of Representatives for the action it took

last week in defeating by a large majority the administration's proposal to appropriate $1.5 billion more to the International Development Association.

The fight in the House of Representatives against this additional giveaway program was led by Representative H. R. GROSS, of Iowa, and Representative WAYNE HAYS, of Ohio.

Mr. President, this is not the time to be providing new funds for foreign assistance. As a matter of fact, in the current budget there is $10 billion of foreign assistance. I think that is too much. I do not think Congress can justify appropriating such large sums of money at a time when the Government is running such a huge deficit. Certainly we cannot justify going into this new program of foreign aid of $1.5 billion more to the International Development Association of the World Bank.

So I commend the House of Representatives and I hope the Senate will have the good judgment to follow what the House did last Wednesday, January 22.

I note from the RECORD that this proposal was defeated by a vote of 155 yeas to 248 nays. That is a very substantial majority and I think it should have a good effect when that proposal comes before the Senate.

Of course, the House has been condemned by the liberal publications throughout the country; condemned by the New York Times and condemned by the Washington Post. Well, that is all right. I do not find those publications always to be so correct in their judgments. I think the House was correct in the action it took.

The United States is now paying around 8 percent interest to obtain money; but when the International Development Association makes loans it charges only three-quarters of 1 percent interest and collects no interest at all for the first 10 years of a loan.

I do not think our Government can justify going into this additional financing at a time when the deficits of our Nation are running between $20 and $30 billion per year. I wish to mention also that in that vote on January 23, 1974, on the measure I have been discussing, the entire Virginia delegation—all 10 members; 7 Republicans and 3 Democrats—voted against that new $1.5 billion giveaway program. I commend not only the House of Representatives as a whole but also my colleagues from Virginia for that solid opposition.

I first spoke against that proposal on November 13, 1973. I felt at that time, and the same situation prevails now, that with the Federal Government wallowing in red ink, running up huge deficits every year, if we are going to get the cost of living under control, we must first get the cost of government under control, because the smashing deficits in the Federal Government are the major cause of the inflation which eats so heavily into every wage earner's paycheck and every housewife's grocery dollar.

Mr. President, I ask unanimous consent to have printed in the RECORD the comments I made in connection with this matter in the Senate on November 13, 1973.

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

ADDITIONAL APPROPRIATIONS FOR WORLD BANK

Mr. HARRY F. BYRD, JR. Mr. President, the President of the United States has asked Congress to approve an appropriation of $1.5 billion in additional funds for the International Development Association. This is a subsidiary of the World Bank. This request came to Congress last week.

I must be frank to say that I cannot support this proposal. It is an additional appropriation to the soft loan window of the World Bank.

In order to obtain the funds to give to the World Bank, the U.S. Government must go out on today's market and pay 8 percent interest. Then it plans to turn that money over to the World Bank at the soft loan window, which will then loan this money to other countries at three-fourths of one percent interest, over a 40-year period.

Mr. President, I submit that somewhere down the line this country has got to stop giving away—this Congress has got to stop giving away—funds taken out of the pockets of the hard working wage earners of this Nation.

What has Congress done already this year in regard to international financial institutions?

In the present budget is $2,250,000,000 to go to international financial institutions to make up for the devaluation of the American dollar.

How does that work?

The American taxpayer, being the generous person that he or she is, has contributed funds to international financial organizations. Then we devaluated the dollar twice. As a result of those devaluations, the American dollar is worth less, so these financial institutions come back to Congress and say, "Well now, because the dollars you gave us are worth less, we want you to increase your contribution to make up for that difference"—which Congress has done. It did that to the tune of $2,250,000,000.

Now the President comes in with another proposal to give an additional $1.5 billion to the soft loan window of the World Bank.

As I have already said, I submit that, somewhere down the line, we must call a halt.

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

Mr. HARRY F. BYRD, JR. I am glad to yield to the able Senator from Missouri.

Mr. SYMINGTON. I am very much impressed with what the able senior Senator from Virginia is saying. As he knows, for some years the soft loan window has been a matter of grave apprehension with me.

May I ask the Senator, how was this request for the one billion and a half made?

Mr. HARRY F. BYRD, JR. It was made in a statement from the President to Congress.

Mr. SYMINGTON. What committee will it come before? Will it be a supplemental or a continuing resolution?

Mr. HARRY F. BYRD, JR. So far as I can determine, it would of course come before the Appropriations Committee. Whether it would come before the Committee on Foreign Relations for authorization, that I am not certain of.

Mr. SYMINGTON. That was the thrust of my question. The able Senator has stated what I was worried about. If it comes in as an additional appropriation, that simply means it is a matter of money and not of legislative history as to whether it is justified on the basis of an analysis of our relationships with other countries.

That is the reason I asked the question and I thank the able Senator for bringing this up. I am now going downstairs to ask the Committee on Foreign Relations whether anything has been said on it to that committee.

Mr. HARRY F. BYRD, JR. I thank the Senator from Missouri very much. I might say it was the distinguished senior Senator from Missouri (Mr. SYMINGTON) who first brought to the attention of the Senate this matter of the soft loan window of the World Bank. It was because of his comments on the floor of the Senate that the Senator from Virginia became interested in this subject. I might also say that I have been following the leadership of the distinguished Senator from Missouri on this very vital matter.

Mr. SYMINGTON. I hope that the American people realize the care and diligence the able Senator from Virginia is using in trying to prevent this incredible outflow of dollars to foreign countries which has had so much to do with the deterioration of our own economy.

Mr. HARRY F. BYRD, JR. I appreciate the Senator's comments. He is certainly right about the outflow of dollars to foreign countries.

I hold in my hand the new requests for authorizations and/or appropriations for foreign aid and assistance contained in the fiscal 1974 budget document, the budget that Congress is now considering. It shows that new requests for foreign aid and assistance total $18 billion.

I repeat, $18 billion.

Included in that $18 billion is approximately $8 billion for the Export-Import Bank. That is in a little different category from the other $10 billion. But even if we leave out the amount for the Export-Import Bank, it still means that in the current budget there is more than $10 billion for foreign aid assistance.

Mr. SYMINGTON. The difference is really one of nomenclature instead of actually, because I can remember when the question of the soft loan windows came up and, as the able Senator has pointed out, there is no repayment of the principal for 10 years, and in many cases, if not most, no interest—just a carrying charge. It really is a gift. Yet, because it is put as a loan, the expenses are far greater than if it was a gift because we have to follow it up like a loan. As one of those involved in it said, "They made the AID agency the greatest bank in the world. The only trouble is, no one in the agency knows anything about banking."

So again I congratulate the able Senator from Virginia on his remarks.

Mr. HARRY F. BYRD, JR. I appreciate the Senator's bringing out those points.

I might say in that connection that the subcommittee of which I am chairman, the Subcommittee on International Finance and Resources, established last week that 108 different countries owe money to the United States.

I repeat, 108 different countries—for a total of $58 billion. Thus, we have been very generous. Besides that amount, we have given away to foreign countries—not loaned, $58 billion outstanding on loans—more than $130 billion since the end of World War II.

Now, Mr. President, if Congress were to approve this $1.5 billion additional for the International Development Association, the government does not have the money so that it must go out into the open market and borrow it. As I mentioned earlier in my comments, the Government today is paying 8 percent—actually, in today's newspaper it is listed as 8.3 percent—for the money.

In September, the Government of the United States paid over 9 percent to borrow funds to operate the Government. So I say it is certainly not reasonable or logical or right to dip further into the pockets of the wage earners of our Nation for money to turn over to these international banking institutions, which in turn lend this money at very low interest rates, with the principal to be paid over a 40-year period.

Incidentally, the principal is not repaid to the United States. That is what many persons overlook when they consider these international financial institutions.

That money never comes back to the United States. If it comes back at all, it comes back to the international financial institutions.

The only place the United States can obtain money, the only place Congress can obtain money, the only place the President of the United States can obtain money is out of the pockets of the people who work, out of the pockets of the wage earners, through taxes.

In light of all the funds we have already appropriated and spent for the benefit of foreign nations, I do not believe that we should go into another big program of $1.5 billion in additional appropriations to the World Bank. This is a tremendous amount of money.

In my judgment, our country is in a very desperate financial situation.

Frankly, my view is a minority view among my colleagues in Congress. I hope that the majority of my colleagues are correct, that we do not need to worry as much as I am worrying about the Government's financial situation.

But I am convinced that they are not correct, and I am convinced that I am correct in my assertion that we are facing a very severe situation in the huge deficits that the Government has been running over a long period of time.

I will give an example. Let us take the last five budgets. In 1970, the Federal funds deficit was $13.1 billion; in 1971, it was $30 billion; in 1972, it was $29.2 billion; in 1973, the year which ended last June, it was $24.9 billion; and the projected deficit for the current fiscal year, ending June 30, 1974, is $18.8 billion.

The accumulated deficit in that 5-year period totals $115 billion, and it represents 25 percent of the total national debt.

Stated another way, 25 percent of the total national debt has been incurred during the 5-year period ending next June.

The interest on the national debt in this year's budget is $27.5 billion. That is just the interest on the debt, the interest charge.

The figure of $27.5 billion is twice as much money as this Government will spend this year on its entire weapons systems acquisition program. The measure passed by the Senate and by the House of Representatives and agreed to in conference for weapons acquisitions in the procurement bill is, in round figures, $13 billion. The difference between the $21 billion in the procurement bill and the $13 billion—the additional $8 billion—is for research and development.

So I submit, Mr. President, that when we are running these smashing deficits—and they are smashing deficits—we would be very unwise to approve the President's request for an additional $1.5 billion for the World Bank. There must be an end to this generosity somewhere, and I think now is the time to call a halt.

At this point, Mr. President, I ask unanimous consent to have printed in the RECORD a table giving in detail the new requests for authorization and/or appropriation for foreign aid and assistance contained in the fiscal year 1974 budget document. This table was prepared by the Subcommittee on Appropriations of the Committee on Foreign Operations of the House of Representatives, headed by Representative OTTO E. PASSMAN, of Louisiana.

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

New requests for authorization and/or appropriation for Foreign Aid and Assistance contained in the fiscal year 1974 budget document

1. Foreign Assistance Act (includes military assistance)	$2,428,850,000
2. Overseas Private Investment Corporation	72,500,000
3. Foreign Military Credit Sales	525,000,000
4. Inter-American Development Bank	693,380,000
5. International Development Association	320,000,000
6. Asian Development Bank	100,000,000
7. Asian Development Bank (proposed)	108,571,000
8. Asian Development Bank (maintenance of value)	24,000,000
9. International Development Association (maintenance of value)	161,000,000
10. Inter-American Development Bank (maintenance of value)	510,000,000
11. Internat'l Bank of Reconst. & Dev't. (maintenance of value)	$774,000,000
12. International Monetary Fund (maintenance of value)	756,000,000
13. Maintenance of value Adjustment	25,000,000
14. Receipts and Recoveries from Previous Programs	394,464,000
15. Military Assistance (in Defense budget)	1,930,800,000
16. International Military Headquarters	85,800,000
17. MAAG's, Missions and Milgroups	168,100,000
18. Permanent Military construction-Foreign Nations	190,700,000
19. Export-Import Bank, Long-term Credits	3,850,000,000
20. Export-Import Bank, Regular Operations	2,200,000,000
21. Export-Import Bank, Short-term Operations	1,600,000,000
22. Peace Corps	77,001,000
23. Migrants and Refugees	8,800,000
24. Public Law 480 (Agricultural Commodities)	653,638,000
25. Contribution to International Organizations	199,787,000
26. Education (Foreign and Other Students)	59,800,000
27. Trust Territories of the Pacific	56,000,000
28. Latin America Highway (Darien Gap)	30,000,000
Grand total	18,003,191,000

NOTE.—Total appropriation requests for maintenance of value amount to $2,250,000,000.

Mr. HARRY F. BYRD, JR., Mr. President, I ask unanimous consent to have printed in the RECORD three tables I have had prepared, showing the deficits in Federal funds and interest on the national debt, and various other financial information dealing with the U.S. Government, some of it going back for a 20-year period.

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

DEFICITS IN FEDERAL FUNDS AND INTEREST ON THE NATIONAL DEBT, 1955-74 INCLUSIVE

[In billions of dollars]

	Receipts	Outlays	Surplus (+) or deficit (−)	Debt interest
1955	58.1	62.3	−4.2	6.4
1956	65.4	63.8	+1.6	6.8
1957	68.8	67.1	+1.7	7.3
1958	66.6	69.7	−3.1	7.8
1959	65.8	77.0	−11.2	7.8
1960	75.7	74.9	+.8	9.5
1961	75.2	79.3	−4.1	9.3
1962	79.7	86.6	−6.9	9.5
1963	83.6	90.1	−6.5	10.3
1964	87.2	95.8	−8.6	11.0
1965	90.9	94.8	−3.9	11.8
1966	101.4	106.5	−5.1	12.6
1967	111.8	126.8	−15.0	14.2
1968	114.7	143.1	−28.4	15.6
1969	143.3	148.8	−5.5	17.7
1970	143.2	156.3	−13.1	20.0
1971	133.7	163.7	−30.0	21.6
1972	148.8	178.0	−29.2	22.5
1973	161.3	186.2	−24.9	24.2
1974[1]	181.0	199.8	−18.8	27.5
20-year total	2,056.2	2,270.6	−214.4	273.4

[1] Estimated figures.

Sources: Office of Management and Budget and Treasury Department.

Note: Prepared by Senator Harry F. Byrd, Jr., of Virginia.

	Fiscal year—						
	1968	1969	1970	1971	1972	1973	[1] 1974
Receipts:							
Individual income taxes	69.0	87.0	90.0	86.0	95.0	103.0	116.0
Corporate income taxes	29.0	37.0	33.0	27.0	32.0	36.0	42.0
Total	98.0	124.0	123.0	113.0	126.0	139.0	158.0
Excise taxes (excluding highway)	10.0	11.0	10.3	10.5	9.1	9.9	9.9
Estate and gift	3.0	3.5	3.6	3.7	5.2	5.0	5.4
Customs	2.0	2.3	2.4	2.6	3.2	3.2	3.5
Miscellaneous	2.5	3.0	3.4	3.9	3.5	3.9	4.2
Total Federal fund receipts	116.0	143.0	143.0	134.0	149.0	161.0	181.0
Trust funds (social security, retirement, highway)	38.0	44.0	51.0	54.0	60.0	71.0	85.0
Total	154.0	188.0	194.0	188.0	209.0	232.0	266.0
Expenditures:							
Federal funds	143.0	149.0	156.0	164.0	178.0	186.0	200.0
Trust funds	36.0	36.0	40.0	48.0	54.0	61.0	69.0
Total	179.0	185.0	196.0	212.0	232.0	247.0	269.0
Unified budget surplus (+) or deficit (−)	−25.0	+3.1	−2.0	−24.0	−23.0	−15.0	−3.0
Federal funds deficit	27.0	6.0	13.0	30.0	29.0	25.0	19.0

[1] Estimated figures.

Note: Prepared by Senator Harry F. Byrd, Jr., of Virginia.

U.S. GOLD HOLDINGS, TOTAL RESERVE ASSETS, AND LIQUID LIABILITIES TO FOREIGNERS

[Selected periods in billions of dollars]

	Gold holdings	Total assets	Liquid liabilities
End of World War II	20.1	20.1	6.9
Dec. 31 1957	22.8	24.8	15.8
Dec. 31 1970	10.7	14.5	47.0
Dec. 31 1971	10.2	12.2	67.8
Dec. 31 1972	10.5	13.2	82.9
Mar. 31 1973	10.5	12.9	90.9

Note: Prepared by Senator Harry F. Byrd, Jr., of Virginia.
Source: U.S. Treasury Department.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER FOR RECOGNITION OF SENATOR BIDEN AND FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized tomorrow under the standing order, the distinguished junior Senator from Delaware (Mr. BIDEN) be recognized for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business, not to extend beyond the hour of 12 o'clock noon, with statements limited therein to 3 minutes each.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on tomorrow the Senate will convene at the hour of 11:30 a.m. After the two leaders or their designees have been recognized under the standing order, the distinguished junior Senator from Delaware (Mr. BIDEN) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business, not to extend beyond the hour of 12 o'clock noon, with statements therein limited to 3 minutes each.

At the hour of 12 o'clock, the Senate will resume consideration under controlled time, of the conference report on S. 2589, the National Energy Emergency Act of 1973. The time will be under the control of Mr. FANNIN and Mr. JACKSON.

At the hour of 2 o'clock, however, if Mr. NELSON wishes to offer a motion to recommit, he may do so, with the time limited on the recommittal debate to 2 hours, to be equally divided between Mr. NELSON and Mr. JACKSON, and the vote on such motion to recommit will occur at the hour of 4 o'clock p.m.

If the motion to recommit is made and fails, then the vote on the adoption of the conference report, without prejudice to other intervening motions in the meantime, will occur at the hour of 4:30 p.m.

Yea and nay votes, I repeat, will occur on tomorrow.

ADJOURNMENT TO 11:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand adjourned until the hour of 11:30 a.m. tomorrow.

The motion was agreed to; and at 4:32 p.m. the Senate adjourned until tomorrow, Tuesday, January 29, 1974, at 11:30 a.m.

NOMINATIONS

Executive nominations received by the Senate January 28, 1974:

DEPARTMENT OF STATE

William S. Mailliard, of California, to be the Permanent Representative of the United States of America to the Organization of American States, with the rank of Ambassador.

Max V. Krebs, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United State of America to the Republic of Guyana.

DEPARTMENT OF JUSTICE

William M. Johnson, of Georgia, to be U.S. marshal for the southern district of Georgia for the term of 4 years. Reappointment.

IN THE COAST GUARD

The following officers of the Coast Guard Reserve for promotion to the grade of captain:

Walter J. Hall
Gail A. Roose, Jr.

The following officer of the Coast Guard for promotion to the grade of lieutenant commander:

James P. Sutherland

The following Reserve officers to be permanent commissioned officers in the Regular Coast Guard in the grade of lieutenant:

Thomas T. Allan III
Donald R. Carlberg
Eugene M. Field, Jr.
William F. Geers
Bryan M. Genez
Leonard H. Henell
Ernest J. Williams

The following licensed officer of the U.S. Merchant Marine to be a permanent commissioned officer in the Regular Coast Guard in the grade of lieutenant (junior grade):

Terrence J. Sherman

The following graduates of the Coast Guard Academy to be permanent Commissioned officers in the Coast Guard in the grade of ensign:

Joseph F. Ahern
John P. Aherne
William M. Albert III
Scott W. Allen
Charles A. Amen
John G. C. Arnold
Michael L. Arnold
Mark E. Ashley
Rex A. Auker
Lloyd D. Barnes
Gregg G. Baxter
Richard R. Beardsworth
William M. Bentley
Richard H. Berry
Russell A. Bishop
Bradford W. Black
Kyle W. Blackman
Arthur S. Blaylock III
Michael M. Blume
Myles S. Boothe, Jr.
Ronald R. Borison, Jr.
Timothy F. Bowen
William G. Braceland
Steven J. Brantner
Douglas M. Brawn
Joseph C. Bridger III
Raymond J. Brown
Arthur E. Brooks
Robert J. Brulle
Joseph P. Brusseau
Russell R. Burke
John C. Burson
Derek A. Capizzi
Michael J. Carlson
David D. Caron
William L. Clossey
Michael W. Collier
Guy R. Colonna
Robert N. Conkling, Jr.
Joseph A. Conroy, Jr.
David W. Courtois
James B. Crawford
Ralph L. Crawford, Jr.
Thomas M. Curelli
Gerald M. Davis, Jr.
Roger M. Dent
Dan Deputy
George H. Detweiler, Jr.
Christopher E. Dewhirst
David G. Dickman
Domenico A. Diiulio, Jr.
Gerald M. Donohoe
William F. Duffy, Jr.
Paul A. Dufresne
James M. Dwyer
Kenneth U. Dykstra
Kevin J. Eldridge
Daniel J. Elliott
Glenn F. Epler
Thomas J. Falvey
Pecos B. Field
Mark A. Fisher
Richard J. Fitzpatrick
Gregory S. Fitzpatrick
Reginald W. Flagg
Robert J. Flynn
Richard J. Formisano
Randall W. Freitas
James M. Garrett
Jeffrey M. Garrett
David W. Gault
William M. Gaynor III
Robert L. Gazlay
David M. Giraitis
Dana A. Goward
Mark F. Grosze
Adan D. Guerrero
Frank C. Halstead
Walter E. Hanson, Jr.
Michael L. Hardie
Joseph W. Harnett
Richard S. Hartman, Jr.
Stephen J. Harvey
Jeffrey J. Hathaway
Timothy C. Haugan
Steven G. Hein
Daniel G. Henderson
William A. Henrickson
Steven G. Hilferty
Glenn R. Holmdahl
James L. House
Dale E. Hower
Allen B. Hughes, Jr.
Michael L. Hunt
Brian V. Hunter
Terance M. Hurley
Richard A. Huwel
Timothy W. Hylton
Walter E. Jaworski
Thomas D. Johns
Walter L. Johnson
Marcus E. Jorgensen
Steven D. Jorgensen
Roger D. Kacmarski
Gary R. Kaminski
Scott F. Kayser
Leonard J. Kelly, Jr.
Jerzy J. Kichner
Lawrence I. Kiern
Thomas C. King, Jr.
Gregory B. Kirkbride
Richard A. Koehler
Gary Krizanovic
Scott A. Laidlaw
Eric Dwight Lamberson
Richard E. Lang
Richard W. Langford
Jeffrey G. Lantz
William J. Lee II
Gregg A. Leibert
Roman T. Lewandowski, Jr.
John L. Locke
David M. Loerzel
George R. Long
Thomas J. Mackell
David W. Mackenzie
Byron A. Maddox
Vincent E. Matner, Jr.
Philip C. Matyas
Michael L. Maxey
John P. McDermott III
Carl E. McGill
Hugh A. McGraw
Clifford W. McKeown
John J. McQueeney II
John P. Miceli
Thomas C. Mielke
Charles L. Miller III
Edward Miller
Peter K. Mitchell
Terry L. Mohrmann
Robert F. Moore, Jr.
Edmond R. Morris
Guy E. Motzer
John T. Murray
John K. Nelson
Ronald A. Nilsen
Steven L. Nylund
John T. O'Connor
Donald R. O'Malley
Walter L. Owens, Jr.
Gary W. Palmer
James A. Peltzer
Steven M. Pendleton
Robert N. Petersen
Frederick G. Phelps
Robert L. Porter, Jr.
Robert R. Poterfield
Odell T. Powell, Jr.
William L. Powers
Jonathan M. Prince
David W. Reed
James F. Reed
Fred F. Rogers III
Richard A. Roth
Robert A. Roush
Bruce A. Russell, Jr.
Gary E. Russell
James Rutkovsky
Daniel F. Ryan II
Patrick E. Ryan
Richard L. Ryan
Philip M. Sanders
Michael E. Saylor
Christopher M. Schoonmaker
James M. Seagraves
Thomas W. Sechler, Jr.
John Stephen Sedlak
James W. Shafovaloff
Stephen E. Sharpe
Robert C. Shearer, Jr.
Andrew J. Sincali
James E. Spence
Ronald W. Stover
Albert F. Sucky IV
Steven P. Suttle
Terry S. Swan
Richard J. Taylor
James D. Thomas
Allan L. Thompson, Jr.
Stephen K. Toney
Drew F. Vanriper
James C. Vansice
Stefan G. Venckus
Steven M. Waldmann
Kenneth A. Ward
John A. Wcislo
Ronald R. Weston
Robert M. Wicklund
Bradley J. Willis
Larry C. Young
Victor J. Zoschak, Jr.

IN THE AIR FORCE

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provisions

of section 593(a), title 10 of the United States Code, as amended:

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. Vernon L. Beadles, xxx-xx-xxxx
Maj. Clarence R. Boyles, xxx-xx-xxxx
Maj. Joseph R. Briner, xxx-xx-xxxx
Maj. Karol A. Burton, xxx-xx-xxxx
Maj. Russell C. Davis, xxx-xx-xxxx
Maj. John V. Dawson, xxx-xx-xxxx
Maj. Harvey J. Dice, xxx-xx-xxxx
Maj. Walter J. Dobrowolski, xxx-xx-xxxx
Maj. Donald L. Dudrow, xxx-xx-xxxx
Maj. Arthur Farrell, xxx-xx-xxxx
Maj. Lynwood N. Fuelling, xxx-xx-xxxx
Maj. Charles Gilchrist, xxx-xx-xxxx
Maj. Carl W. Goodwin, xxx-xx-xxxx
Maj. Dale L. Hartman, xxx-xx-xxxx
Maj. John M. Hartnett, xxxx
Maj. Raymond A. Heinz, xxx-xx-xxxx
Maj. John H. Hewitt, xxx-xx-xxxx
Maj. Duke D. Johnston, xxx-xx-xxxx
Maj. Ivan J. Jones, xxx-xx-xxxx
Maj. Karl K. Kramer, xxx-xx-xxxx
Maj. James C. Lapery, xxx-xx-xxxx
Maj. Gerald R. Leonard, xxx-xx-xxxx
Maj. Ralph E. Libby, xxx-xx-xxxx
Maj. James Majoros, xxx-xx-xxxx
Maj. James D. Montgomery, xxx-xx-xxxx
Maj. Dick O. Moorman, xxx-xx-xxxx
Maj. Gene B. Morgan, xxx-xx-xxxx
Maj. John A. Newland, Jr. xxx-xx-xxxx
Maj. David E. Olinger, xxx-xx-xxxx
Maj. Gabriel I. Penagaricano, xxx-xx-xxxx
Maj. Leon G. Rabinowitz, xxx-xx-xxxx
Maj. William G. Robertson, xxx-xx-xxxx
Maj. William I. Smith, xxx-xx-xxxx
Maj. William A. Stanley, xxx-xx-xxxx
Maj. Joseph L. Vogel, xxx-xx-xxxx
Maj. John G. Webb xxx-xx-xxxx
Maj. Robert B. Zuehlke, xxx-xx-xxxx

MEDICAL CORPS

Maj. Joseph A. Greenlee, Jr., xxx-xx-xxxx

MEDICAL SERVICE CORPS

Maj. Henry T. Capiz, xxx-xx-xxxx

IN THE MARINE CORPS

The following-named temporary disability retired officer for reappointment to the grade of lieutenant colonel in the Marine Corps, subject to the qualifications therefor as provided by law:

Richard J. Randolph, Jr., xxx-xx-xxxx USMC.

EXTENSIONS OF REMARKS

TEN-PERCENT QUOTA INCREASE PROPOSAL FOR FLUE-CURED TOBACCO

HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 28, 1974

Mr. MIZELL. Mr. Speaker, the House Subcommittee on Tobacco, on which I have the honor of serving as ranking minority member, held hearings on Tuesday of this week to determine whether or not the U.S. Department of Agriculture's recent decision to increase quotas for Flue-cured tobacco by 10 percent was justified.

At the outset of those hearings, I spoke on behalf of thousands of tobacco growers in taking strong exception to the Department's action.

We have some rather serious problems at the present time regarding the marketing of tobacco products, and all of my colleagues have a stake in the resolution of these problems.

And so for the benefit of my colleagues, I am inserting in the RECORD at this point the text of my remarks at the opening of our recent hearings.

I am also inserting a copy of a news release published by my office outlining certain assurances received from USDA officials regarding the tobacco program:

STATEMENT OF HON. WILMER D. MIZELL

Thank you, Mr. Chairman. I think it is important for our friends from the Department to know that it was at my urging that these hearings were called today, and they were initiated immediately after I received word of the Department's decision on the 10 percent increase in quotas and allotments.

As one who represents perhaps the most well-known tobacco district in the country—the fifth district of North Carolina encompassing the city of Winston-Salem and hundreds of tobacco farms—it was, of course, a natural reaction for me to seek clarification and justification of this decision as quickly as possible, since it threatens in quite an ominous and drastic way the economic stability of my district, my state, and my region of the country.

And as the ranking minority members of this subcommittee, it was my duty as well to see that the tobacco program, which has been so successful in the past, was not put in danger of going down the drain by an action taken in as arbitrary and willful a fashion as I have seen, and I have seen quite a few.

Back when I was playing baseball, with some pitchers there was always a danger of getting their signals crossed with their catchers. I didn't have that problem, since all I threw was a fastball anyway, and there was just one signal for a fastball, but some of the fellows like Whitey Ford and some others who had a lot of pitches in their repertoire had some trouble with their signals.

I think in this matter we're dealing with today, the possibility exists that not only did the department and the subcommittee get their signals crossed, but someone may have tried to put a fast one past someone else while the "someone else" was in recess.

Last fall, a special congressional investigating committee, comprised of many members of this subcommittee, held field hearings in Lumberton, North Carolina, and Florence, South Carolina, seeking to determine the extent of marketing problems in the tobacco industry.

The most important problems we identified during those hearings were overproduction and lack of space on auction floors for a sufficient number of tobacco growers and their products.

Following those hearings, we made a recommendation to the Secretary of Agriculture that he not increase allotments at this time, and let us work out the marketing problems we already had.

Instead, the Department proposed on December 26 to do away with the allocation and quota system altogether, which would have established a dominion of chaos in tobacco markets throughout the South.

Then, last week, the Secretary announced instead that quotas for flue-cured tobacco would be increased by ten percent. We are left to assume that this announcement was to have been welcomed with enthusiasm by tobacco growers who had feared for the worst for one month worrying that they might not have an allocation program at all.

In my State of North Carolina, at least, I detected no great sigh of relief at this announcement. Instead, I found—and heard from—a great many disgruntled and worried growers who are greatly and rightly concerned about their economic future and their families' welfare. I received more than 3,000 such letters.

Now I have gone over the figures for allotments and quotas and percentages and all the rest, and those figures just do not add up for me the way they apparently add up to the Department of Agriculture.

So the purpose of these hearings is really four-fold:

First, to determine how the Department arrived at its conclusion that a 10 percent increase in quotas is required;

Second, to impress upon the powers that be in the Department of Agriculture the strong and well-founded dissatisfaction with its announcement among tobacco growers;

Third, to find out why the Department not only ignored a recommendation by the special ad hoc investigating committee in raising the allotments, but did so while the Congress was in recess, and had no opportunity for consultation on this matter;

And fourth, to see if we can find some way to assure an adequate supply of tobacco for both export and domestic purposes, and at the same time assure the flue-cured tobacco grower that he's not going to go broke in the process.

Finally, I want to advise the Department of Agriculture in the strongest possible terms that it seems to me the Department was apparently playing games with the lives and the livelihood of a substantial segment of the population of North Carolina, at first holding forth the threat of total economic disaster when all the while the department knew it would propose a milder—but still unacceptable—action, raising the quotas by ten percent.

I want the department to know that nobody in our state thought their game was very amusing.

FLUE-CURED TOBACCO

WASHINGTON, D.C.—U.S. Representative Wilmer "Vinegar Bend" Mizell (R.–N.C.) said today the House tobacco subcommittee has received assurances from the U.S. Department of Agriculture that—

The department is committed to a continuation of the present tobacco program, including quotas and allotment programs;

Price supports on flue-cured tobacco will not be frozen, but will probably be increased by an estimated eight to ten percent;

The tobacco barter program involving the Commodity Credit Corporation may be reinstated if export conditions require it;

Tobacco is receiving top priority among agricultural commodities in trade talks now being held in Geneva, Switzerland;

Marketing problems experienced during the last marketing season, including lack of space on auction floors, will be resolved before the 1974 marketing season.

Mizell, ranking Republican member of the tobacco subcommittee, received these assurances from Kenneth Frick, Administrator of the Agricultural Stabilization and Conservation Service, during hearings today on USDA's recent decision to increase flue-cured tobacco quotas by ten percent.

Frick assured Mizell and other subcommittee members that, while it will stand by the ten percent increase, USDA will continue to support the quota and allotment programs. The Department published on December 26, 1973, a proposal to do away with the program entirely, but congressional and public reaction killed the proposal.

In his opening statement, Frick said "a meeting with leading (tobacco) manufacturers and dealers" was held December 14.