branded independent marketers, small refiners, nonbranded independent marketers, and independent refiners, as defined in the Emergency Petroleum Allocation Act of 1973 (Public Law 93-159). Such orders shall state procedures and adequate public notice of any price exceptions.

(5) The Administrator shall promulgate rules which shall insure that all persons engaged in the sale of crude oil at the refinery level, or petroleum products at the wholesale level, reflect, in sales to any purchaser, the average costs of its foreign and domestic crude oil and petroleum products. Such rules shall take effect not later than 60 days after the date of enactment of this Act.

(6) For the purposes of this subsection the provisions of Section 406 of Public Law 93-153 shall not apply.

(7) For the purposes of this subsection, "petroleum product" means gasoline, kerosene, distillates (including Number 2 fuel oil), LPG, refined lubricating oils, or diesel fuel."

ELECTRONIC SURVEILLANCE

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 28, 1974

Mr. GOLDWATER. Mr. Speaker, the following article, by John Lofton, United Features Syndicate columnist, provides us with information to enable us to maintain some perspective in the wave of charges regarding electronic snooping. By no means should this be construed to mean that I, or any of my colleagues, condone illegal electronic surveillance, but rather it should be received as a pertinent reminder that we must keep a perspective on this issue. I present the article for my colleagues' interest:

BOOK SHOWS BUGGING NEWS, BUT NOT NEW

(By John D. Lofton, Jr.)

WASHINGTON.—Did you know that in addition to the 1972 Watergate bugging of the Democrats, the Democrats were also bugged during the 1968 presidential campaign?

And did you know that the person charged with the illegal electronic surveillance was a news director of the National Broadcasting Company?

I knew this but had forgotten about it. My memory was refreshed when I was recently flipping through one of my favorite books, "The Mass Media and Politics," a hefty volume published by The New York Times and comprised of selected Times' stories over the years.

According to the Times story, on Sept. 7, 1968, NBC acknowledged that on August 26 "Overzealous and overeager employes, acting without authority" (sound familiar?), planted a microphone in a closed meeting of the Democratic Platform Committee in Chicago.

NBC SUED

Rep. Hale Boggs (D-La.), head of the Platform Committee, said the mircrophone was hidden under a cushion behind a curtain and was attached to a cable "leading directly to the recording facilities of NBC in the same hotel."

NBC, in a statement, pointed out that no material obtained by the bugging was used, the bugging was deeply regretted and the bugging was not condoned or encouraged by NBC news or NBC management.

What ultimately happened in the case was that on March 20, 1969, the NBC employe, Enid Roth of New York City, was indicted and charged with two counts of "willfully endeavoring to use an electronic device to intercept oral communications."

In February of 1970, Miss Roth pleaded nolo contendere (sound familiar again?) to one count of the indictment and was fined $1,000 and costs.

OLD STORY

The Times' news story went on to say that such "escapades" were not new. As an example, the paper noted how in August of 1968, at the Republican Convention in Miami, a Florida delegate concealed a tape recorder at a closed meeting in which one Richard M. Nixon addressed Southern delegates.

The tape was turned over to the Miami Herald and the St. Petersburg Times, both of which ran stories quoting Mr. Nixon's secretly recorded remarks.

Other things in this fascinating book are startingly remindful of much happening today and remindful of how much some in the media have changed their tune. In his New York Times column on April 28, 1961 James Reston wrote:

"For the preservation of our Democratic society in this time of 'clean and present danger' it is more essential than ever that the people be fully informed of the problems and of the perils confronting them. This is a responsibility as much of the press as of the President. But it is equally essential that the secrets of military technique and—as the President (Kennedy) said—of 'covert preparations to counter the enemy's covert preparations'—be kept inviolate."

RESTON'S LEAK

Mr. Reston's newspaper, of which he is a vice president, of course published the purloined Pentagon Papers and Reston reportedly argued strenuously for publication of this most massive leak of classified government documents in American history.

Another Times story in the book reports that President Eisenhower once defied a House resolution and refused to provide a transcript of one of his press conferences for insertion into the Congressional Record.

Eisenhower declined on the grounds that he wanted to preserve "the free and open basis" on which his conferences were conducted. If he complied with the House request, he said, "It would bring to me a consciousness of restraint as well as a necessity for constant preparation of my remarks."

On Oct. 23, 1965, LBJ press aide Bill Moyers attacked some reporters as "too picayune from time to time, and too inaccurate about what they are picayune about."

As an illustration, he cited a report saying LBJ had installed a Muzak system in the White House. Moyers said the Muzak was in fact installed by another President years ago.

"Here, about something in which the public wasn't interested, the erroneous impression was given that the President had spent the taxpayers' money to install Muzak in the White House," he complained.

As I said, the book is a fascinating one. It really shows how much things have changed. Or have they?

LET PEACE BEGIN WITH ME

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 28, 1974

Mr. LANDGREBE. Mr. Speaker, in a day when the press criticizes politicians and politicians are critical of the press, it was refreshing for me to note the credo of the Colorado Springs Gazette Telegraph which appears at the head of the newspaper's editorial page.

Under leave to revise and extend my remarks, I include the Gazette Telegraph's statement of purpose and I commend it to the attention of my colleagues:

This newspaper is dedicated to furnishing information to our readers so that they can better promote and preserve their own freedom and encourage others to see its blessings. Only when man is free to control himself and all he produces, can he develop to his utmost capabilities.

We believe that freedom is a gift from God and not a political grant from government. Freedom is neither license nor anarchy. It is self-control. No more. No less. It must be consistent with the truths expressed in such great moral guides as the Coveting Commandment, the Golden Rule and the Declaration of Independence.

Let peace begin with me

SENATE—*Tuesday, January 29, 1974*

The Senate met at 11:30 a.m. and was called to order by Hon. SAM NUNN, a Senator from the State of Georgia.

PRAYER

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

Lord God, above all men and nations, release Thy mighty power in us that we may be led to the higher life we never yet have known. Make us new men for new times—gentle but firm, kind and just, loyal and wise. Give us keen minds, stout hearts, sensitive spirits and wills to do Thy will. Hold us in Thy love and fill us with grace and goodness. Let Thy life so rule our lives that as we work for the Nation we may press forward the work of Thy kingdom. Send us to our tasks equipped by Thy spirit.

Through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., January 29, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. SAM NUNN, a Senator from the State of Georgia, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, January 28, 1974, be dispensed with.

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

ATTENDANCE OF A SENATOR

Hon. BIRCH BAYH, a Senator from the State of Indiana, attended the session of the Senate today.

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.

FEWER SERVICEMEN ABROAD—BUT WELCOME MAT STILL OUT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be inserted at an appropriate point in the RECORD an article out of the U.S. News & World Report under date of December 31, 1973, entitled "Fewer Servicemen Abroad—But Welcome Mat Still Out."

Before the Chair rules, I am happy to note that the total servicemen now overseas number 561,875—still far too many, but a change for the better in 1973, because the figure is down 42,125.

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

FEWER SERVICEMEN ABROAD—BUT WELCOME MAT STILL OUT

More than a half million U.S. servicemen—one fourth of all Americans in uniform—are on duty in foreign posts this holiday season.

That's the smallest number since mid-1950, just before the Korean War began.

The total will be further reduced, at least marginally, in 1974 as the Pentagon prepares to close additional bases. On top of that, political pressures in the U.S., plus new strains between the U.S. and its allies are adding to speculation that wholesale numbers of Americans could be brought home from Europe.

Latest official figures show 561,875 Americans now serving abroad in the Army, Navy and Air Force. That is 42,125 fewer than a year ago. What's more, the decrease continues a steady slide from the post-World War II peak of 1.3 million troops abroad in 1968, at the peak of the Vietnam war.

Since last Christmas, forces in Asia and the Pacific have been cut by some 70,000.

More soldiers, sailors and airmen were sent to Europe, though, as understrength units there were beefed up. Naval power in the Mediterranean got more muscle in the face of Mideast tensions.

A year-end survey by members of the International Staff of "U.S. News & World Report" turns up a surprising fact, in view of occasional "Yankee Go Home" demonstrations that get the headlines:

Nations around the world regard a substantial U.S. military presence as essential to their security today—and for the most part have the welcome mat out for the GI's in their midst.

As reported by bureaus overseas:

WEST GERMANY

Wrangling brought about by the Mideast conflict hasn't affected the status of U.S. troops and bases.

It's pointed out that West German Defense Minister Georg Leber is solidly pro-American, and that none of the squabbling between Bonn and Washington over American handling of its support-Israel operation during the Mideast war involved the German military. By far the greatest concentration of American troops outside the U.S.—229,000—is in West Germany.

Negotiations now under way are aimed at fixing a higher figure for West Germany's share of the cost of keeping these forces on station.

The U.S. is asking West Germany to pay 3.5 billion dollars over a two-year period, an increase of 50 per cent. A well-informed American official says: "We are reasonably encouraged about reaching our goal."

To cope with grumbles in various West German localities, the U.S. is reducing its requests for new and bigger training areas. American and German forces are engaged in more-extensive sharing of facilities. These measures are reducing friction in the sensitive area of real estate.

Crimes committed by GI's in Germany continue to get big headlines in some newspapers. But there is no widespread clamor for an American pullout.

BRITAIN

British leaders leave no doubt that, whatever their disagreements with the U.S. during the Arab-Israel conflict, American bases are as welcome as ever. A flare-up over U.S. military facilities in Britain was touched off by some British complaints over the worldwide nuclear alert that had been ordered for American forces around the world during the Mideast war.

But Britain's Foreign Secretary, Sir Alec Douglas-Home, says his Government is unconcerned. He maintains that the U.S. was within its rights in ordering the alert, as long as the bases affected in Britain were not actually used for a war purpose without London's consent.

With few exceptions, relations between the 21,000 American servicemen stationed at five major bases in Britain, and their British hosts, have been amicable.

As for the official attitude, questions arising from the Mideast war do not appear to have changed the often-expressed view of Prime Minister Edward Heath and other leaders that substantial American military withdrawals from Western Europe would have dire consequences.

ITALY

The Italians show no signs of displeasure with the 11,000 U.S. servicemen stationed in their country.

In fact, the Americans are now especially popular because of aid given during Italy's cholera epidemic this year.

U.S. Navy doctors vaccinated 270,000 people in Naples—a fifth of the city's population. A Communist-backed Italian newspaper, "Paese Sera," declared that "the only help, it must be admitted, came from the Americans."

GREECE

Some differences now exist over where to base some of the more than 10,000 American military personnel, including their dependents, living in Greece.

The U.S. sought to "homeport" an aircraft carrier and six destroyers near Athens. "Homeporting" means that families of warships' crews live in the country where the vessels are stationed. The Greeks agreed and the destroyers have arrived at their berths. But lately the Athens Government has talked of closing the naval facility where the carrier is assigned so that beaches nearby can be developed for tourists.

So far, the controversy hasn't cooled friendly relations between U.S. Navy families and the Greeks with whom they come in contact.

ICELAND

The 3,000 American servicemen and their families stationed in this island country are under notice by Iceland's leftist-Communist coalition Government that they may have to get out by 1975.

The U.S. is seeking a compromise which will permit continued operation of a base at Keflavik, which since 1951 has had a vital role in tracking Soviet submarines and surface ships entering and leaving the Atlantic Ocean.

The North Atlantic Treaty Organization says the base has "great strategic value" and the U.S. insists that it would be neither feasible nor wise to pull out.

JAPAN

The Japanese attitude toward an American military presence was expressed recently by Prime Minister Kakuei Tanaka, who told "U.S. News & World Report":

"American military personnel and their dependents are warmly welcomed by the Japanese people in every corner of Japan. You seldom hear of serious incidents involving them."

There are problems. Simply the area taken up by U.S. bases in land-poor Japan leads to complaints.

In Yokosuka, where a major naval base is located south of Tokyo, officials estimate that civilian use of the land used by the military would produce seven or eight times as much revenue in taxes as the city now gets as a subsidy from the Japanese Government.

Yokosuka also was the scene of short-lived demonstrations this October when the carrier *Midway* arrived. Leftist-led groups used the incident to protest their country's military ties to the U.S. The demonstrations had less sting than similar anti-U.S. events in the past, however. Most Japanese now appear to accept the *Midway* as part of the price for the security treaty they have with the U.S.

"The Japanese consider the U.S. military as an evil to be suffered and they are willing to suffer it," says a senior American official.

Much of the past pressure on Americans to move out has been eased by the return of Okinawa to Japan in 1972. Besides, the U.S. is trimming the number of men based on Okinawa as well as on the Japanese home islands. Eighteen military facilities were closed in the nine months through August 31 alone.

PHILIPPINES

The U.S. has two big naval and air bases and about 16,000 servicemen in the Philippines.

The Government in Manila is mindful of what this means to the country's economy. The U.S. military spends about 160 million dollars a year and, in addition, provides jobs for 22,000 Filipinos.

The U.S.-Philippine base agreement does not expire until 1991. Despite some nationalist sentiment against the American presence, no major change in the status of the bases is seen on the horizon.

SOUTH VIETNAM

In this country where more than 500,000 American servicemen once were deployed, the sight of an American uniform on the streets of Saigon is rare—and many Vietnamese occasionally sigh for the times when there were so many free-spending GI's around.

The U.S. military presence now consists of fewer than 100 officers assigned to the Embassy in Saigon and 160 Marines on guard duty at the Embassy.

THAILAND

There is no pressure for withdrawal of the 38,000 U.S. military men in this country, almost all of whom are stationed at air bases away from Bangkok, the capital.

The issue of American use of the bases arose during the uprising in October that forced Thai military leaders to relinquish their political posts and flee into exile.

But the students who led the uprising were not angry at the Americans. Their ire was directed at what they saw as use of American military-aid funds to line the pockets of the men they deposed.

American officials anticipate a gradual phase-out of the U.S. use of Thai bases.

SOUTH KOREA

Far from wanting U.S. troops out of their country, South Koreans protest vigorously when American forces are reduced, as happened in 1971. The Koreans look upon the 42,000 remaining American servicemen as their country's main protection against aggression from their Communist neighbors to the north.

Aside from security—and notwithstanding the growth of the South Korean economy in the last few years—U.S. military spending is still of great importance to the villages clustered around major U.S. bases.

Relations between Koreans and Americans are friendly.

All signs are that in Europe and Asia alike, allies of the U. S. recognize their dependence on American military power and would regard drastic reduction with dismay.

IN SOUTHEAST ASIA	
Now	60,875
Change in 1973	Down 48,125

	Now	Change in 1973
Thailand	38,000	Down 7,000
South Vietnam	225	Down 24,775
Naval forces afloat	22,650	Down 16,350

IN PACIFIC AND FAR EAST	
Now	145,000
Change in 1973	Down 22,000

	Now	Change in 1973
Korea	42,000	Up 2,000
Okinawa	38,000	Down 2,000
Japan	19,000	Down 3,000
Philippines	16,000	Down 1,000
Guam	16,000	Up 5,000
Taiwan	6,000	Down 2,000
Naval forces afloat	8,000	Down 21,000

IN EUROPE	
Now	311,000
Change in 1973	Up 18,000

	Now	Change in 1973
West Germany	229,000	Up 19,0009
Britain	21,000	Down 1,000
Italy	11,000	Up 1,000
Spain	9,000	None
Turkey	7,000	None
Greece	5,000	Up 2,000
Iceland	3,000	None
Belgium	2,000	None
Netherlands	2,000	None
Portugal	1,000	Down 1,000
Other countries	1,000	None
6th fleet	20,000	Down 2,000

IN LATIN AMERICA	
Now	20,000
Change in 1973	None

	Now	Change in 1973
Panama Canal Zone	10,000	None
Puerto Rico	7,000	None
Guantanamo	3,000	None

OTHER AREAS	
Now	25,000
Change in 1973	Up 10,000

	Now	Change in 1973
Bermuda	2,000	Up 500
Canada	2,000	Up 500
Morocco	1,000	Down 500
Other countries	9,000	Up 3,000
Naval forces afloat	11,000	Up 6,500

Source: Military officials.

U.S. FORCES FOR EUROPE: NEED FOR PHASED REDUCTION

Mr. MANSFIELD. Mr. President, Rear Adm. Gene R. La Rocque, U.S. Navy (retired), the director of the Center for Defense Information, has put out a brochure on "U.S. Forces for Europe: Need for Phased Reduction." I ask unanimous consent that this article also be inserted in the RECORD, along with a matter entitled "Defense Monitor in Brief," which, in brief, explains what the main article states.

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

U.S. FORCES FOR EUROPE: NEED FOR PHASED REDUCTION

U.S. SPENDING FOR THE DEFENSE OF EUROPE

(NOTE.—Figures 1 and 2 do not appear in this reprint.)

The annual cost to the United States of peacetime preparations for conflict in Europe is higher than the cost of the Vietnam war at its peak when 600,000 U.S. servicemen were fighting in Southeast Asia. The yearly price tag on U.S. armed forces for war in Europe is about $30 billion. The annual incremental cost of the war in Southeast Asia at its high point was $21.5 billion in fiscal year 1969.[1] In view of lessening East-West tensions and hitherto unparalleled European prosperity, is it not time for the United States to cease carrying such a heavy burden for the protection of Western Europe?

Providing forces for the defense of Europe against possible invasion by the Soviet Union is the most expensive item in the Pentagon budget, exceeding outlays on strategic forces. The total defense budget can be roughly divided between 75% for conventional forces and 25% for strategic forces. Public attention is usually directed to controversial strategic missiles, submarines, and aircraft, but it is the $65 billion spent each year on maintaining a capability to fight conventional wars that eats up the bulk of the defense budget.

"The size of our general purpose forces is determined largely by our NATO commitment," said Roger Kelly, former Assistant Secretary of Defense for Manpower and Reserve Affairs, in 1972.[2] The Defense Department has acknowledged that the level and composition of U.S. conventional forces are not driven by the need to defend the territory of the United States. Because of its advantageous geographic position and powerful strategic forces, the U.S. requires only small conventional forces to defend itself against foreign threats. Most U.S. conventional forces are purchased to defend our allies. The size, composition, and cost of U.S. conventional forces are established primarily to support plans for war in Europe. The U.S. Army is structured and equipped for fighting in Europe, and U.S. Navy ships and aircraft are also being developed principally for a lengthy conventional war in Europe.

Composition of conventional forces for European defense

U.S. conventional forces consist of land, sea, and air components. There are 13 active Army combat divisions, 3 Marine Corps divisions, 14 attack aircraft carriers around which the Navy is structured, and 72 Air Force fighter and attack squadrons and other tactical air units. To augment this active force, there are 1 million trained Ready Reserve and National Guard troops immediately available for callup.

The numbers of the U.S. military forces for the defense of Europe are inventoried in Figure 1. Included are equipment and personnel stationed both in Europe and the United States. There are 319,000 personnel in Europe and related areas, 4⅓ divisions and 4 brigades, and prepositioned equipment for an additional 2⅔ divisions located in the U.S. but designated for rapid airlift to Europe in case of conflict. The troops in Europe are accompanied by 235,000 dependents and 14,000 U.S. civilian employees. There are 139 principal U.S. military bases in Europe and related areas.

The U.S. has more than 7,000 tactical nuclear weapons in Europe and more than 2,000 associated delivery systems. The U.S. maintains 780 combat aircraft (including carrier aircraft) in Europe. The Sixth Fleet, permanently stationed in the Mediterranean, normally has 45 ships and submarines, built around two attack aircraft carriers. Conventional forces in the continental United States, primarily for conflict in Europe, include almost the entire Atlantic Fleet with four attack carriers, one Marine Division, at least half of the Army Strategic Reserve (4⅔ divisions), Air Force tactical air and transport units, and most Reserve and Guard units with modern combat equipment. Total U.S. forces in Europe or earmarked for Europe include 16 divisions, 8 brigades, 2,900 combat aircraft, and 294 ships.

Full costs of U.S. NATO forces difficult to calculate

The Defense Department produces a complicated array of figures for the cost of U.S. NATO forces, ranging from $4 billion to $17 billion. It has never, however, revealed publicly the full extent of NATO-designated forces. Any financial estimates must of necessity be inexact because of the complexities involved in detailing the direct and indirect costs in DOD accounting, The $4 billion figure covers only the direct annual operating costs (primarily wages) of the approximately 300,000 troops actually based in Europe. The $17 billion figure is said to include the yearly expenses of U.S. forces located in Europe and those forces in the U.S. committed for quick deployment to Europe in the event of war. These U.S. rapid-reinforcement forces are only part of the total U.S. forces that would be used for European defense. The Defense Department calculates that it spends an additional $9.5 billion each year on conventional forces that could be used in a NATO conflict if necessary but which are also available for fighting in Third World countries (see Table 1).

TABLE 1.—*Annual U.S. spending for European defense*

($30 billion plus)

$17 billion—direct cost.
$9.5 billion—auxiliary.
$3.5 billion—other (e.g., R&D.)

DOD's calculations of the financial cost to the U.S. to defend Europe are less than the actual costs, which are around $30 billion annually and probably more. A number of additional NATO-related military expenditures need to be taken into account. For example, the Europeans enjoy the benefits of the nuclear umbrella provided by the

Footnotes at end of article.

United States without contributing to the costs of U.S. strategic forces. The U.S. would probably retain most of its strategic forces in the absence of a commitment to the defense of Europe. Much of the impetus toward the development of new and better strategic weapons, however, that could be used in limited or "flexible response" nuclear warfare stems from the desire to allay Western European doubts about the credibility of the U.S. strategic guarantee. Some perhaps unquantifiable amount of U.S. spending on strategic forces can be attributed to the costs of the U.S. defense of Europe and the need to continually reassure the Europeans that we would actually use nuclear weapons against the Soviet Union in case of invasion of Western Europe.

R&D costs not accounted for in NATO-related expenditures

Additionally, new and expensive conventional weapons systems are being developed primarily for war in Europe. A major portion of the $8 billion spent each year on research and development by the Defense Department must be added to the cost of defending Europe. Our NATO allies contribute little toward paying for new U.S. weapons that will be used primarily for their defense. (The joint U.S.-West German project to build a new main battle tank was abandoned in 1971.) For example, the $8 billion F-15 aircraft program is being developed to defend U.S. and other NATO ground troops against Soviet air attack in Europe. The proposed $4.5 billion SAM-D surface-to-air missile system is intended principally for deployment in Europe. Small tactical nuclear weapons ("mini-nukes") are being contemplated for use in Europe at the cost of billions. The new Navy F-14 aircraft program will cost more than $5 billion and the F-14 will be stationed on carriers primarily in European waters where it would be used against Soviet forces. The F-14, at a cost of over $20 million per plane, is too costly and sophisticated to be developed and procured for use against lesser opponents in other areas of the world. The F-14 is being built, as many other new weapons, for a conventional war in Europe.

The Defense Department includes a share of the cost of newly procured weapons and equipment in its calculations of the cost of U.S. NATO forces. But DOD does not reveal what the amount is, and it is doubtful that DOD takes fully into account the degree to which weapons are procured for NATO purposes. The Senate Armed Services Committee studied this matter and concluded:

"That defense of NATO is uppermost in defense planning is clearly illustrated by review of justifications presented to support procurement of weapons systems. A review of selected general purpose weapons systems estimated to cost $30 billion shows that $21–$25 billion of that cost can be identified with the requirement to support NATO defense." [4]

Finally, DOD's $17 billion figure does not include the retirement pay for U.S. NATO forces, nor the overhead administrative costs of these forces. In addition, the cost of maintaining the 229,000 U.S. troops in Germany has increased in 1973 after dollar devaluation and revaluation of the German mark.

For the future—More emphasis on arms for European defense

For more than 20 years, the United States has borne the major burden for organizing and supporting the military defense of Western Europe against possible attack by the Soviet Union. Even so, Pentagon planners foresee even greater emphasis and spending on conventional arms and European defense in the future. Lt. Gen. George Seignious, Director of the Joint Chiefs of Staff, states that ". . . the evolution of the U.S. forces, as you will see in the coming years, will be more and more identifiable with our mission in NATO." [5] Former Secretary of Defense Elliot Richardson expressed the view of the Nixon Administration: "The development of approximate parity between the U.S. and the U.S.S.R. in strategic weapons has created a situation which, in our view, makes it more important than ever that the NATO forces should have substantial conventional capability." [6] From the Pentagon point of view, conventional war is thought to be more likely than 15 years ago when relations with the Soviet Union were far more strained.

NONMILITARY TIES—THE U.S. ECONOMIC STAKE IN WESTERN EUROPE

The ties that bind Europe and America are many and varied, but they have been defined chiefly in military terms. Nonmilitary ties, such as the substantial U.S. economic stake in Western Europe, are at least as important as the military connection between the U.S. and its allies. The activities of multinational corporations on both sides of the Atlantic imply an important mutul commitment to the preservation of a friendly, prosperous, and stable Europe. U.S. assets and investments in Western Europe total approximately $40 billion, of which $28 billion are private investments which earn American investors nearly $3 billion a year.

The economic growth of Western Europe

Since World War II, Western Europe has become rich. In 1951, the combined GGNP of all the European members of NATO was $47 billion. By 1972 it jumped to $949 billion, almost 100% higher than that of the Soviet Union. By almost any measure, the combined industrial might of NATO Europe surpasses that of the Soviet Union. The greater economic and manpower resources of NATO Europe provides a basis for a strong military potential as well (see Table 2).

TABLE 2.—COMPARISON OF NATO EUROPE AND U.S.S.R., 1972

[Does not include United States]

	Population (millions)	GNP (billions)	Defense spending (billions)	Armed Forces (millions)
NATO Europe (including France)	311	$949	$34	3.1
U.S.S.R.	248	549	50–60	3.4

The U.S. spends 6.7% of its GNP on the military and the Soviets an estimated 8%–10%, but NATO Europe spends only 3.6% on military forces. Our European allies allocate on the average about 20% of their government spending to defense, while the U.S. spends twice that percentage.

THE CHANGED POLITICAL SITUATION

Apparently our allies take a less worried view of the Soviet threat than the U.S. From their point of view, a Soviet conventional attack on Europe is increasingly implausible. It has become more difficult to see what Soviet interests would be served by attack on Western Europe. The Soviet Union would gain little and lose much by a military attack on Germany, France, and other NATO allies. The Defense Department apparently agrees that the threat to Western Europe is remote because it allows 235,000 dependents to stay there.

The political situation in Europe has changed from when the North Atlantic Treaty was signed in 1949. U.S. General Andrew Goodpaster, the Supreme Allied Commander in Europe, graphically described in 1971 the prevailing perception of the Soviet threat at the time that NATO was founded:

"In those days the question was not, 'Will there be war?' but rather, 'In what month will war start?' An exhausted Western Europe, weakened and weary of war, faced a new threat—and it seemed only a matter of time until the threat would be carried out. That was the climate—the harsh, numbing, almost paralyzing climate—into which NATO was born." [7]

The division of the world between a U.S.-led bloc and a Soviet-led bloc has been eroded. Increasingly, the conflict between the Soviet Union and the West has been channeled into nonmilitary spheres, on which basis a wealthy and confident Western Europe already competes as an equal. Most of the European Cold War tensions of the 1950's and 1960's can be traced to problems arising around the Berlin situation and the German problem. As of 1973, these difficulties have been eased, particularly because of the Berlin accords signed in 1972, and West Germany has normalized its relations with most East European countries.

Implications of the Chinese threat to the Soviet Union

For the Soviet Union, the breakdown of the simple bipolar conflict has meant that it is now confronted with possible threats from more than just the United States. The U.S.S.R. faces the Chinese who are armed with nuclear weapons and a regular armed force of 2,900,000. Dr. John Foster, former director of Defense Research and Engineering, has observed the multithreats to the Soviets:

"They face, in a way, more threats than does the United States, and so what they see as equitable seems a little off balance to us. . . . Of course, they have China on a large fraction of their borders. China, as you know, is rapidly obtaining a nuclear capability in submarines, in bombers, and in surface-to-surface missiles. They also have, of course, NATO bordering on their country and the Soviet bloc nations. So they have to reckon with Chinese missiles, Chinese armament, U.S. armament, the French and United Kingdom nuclear armament." [8]

The Soviet Union is unlikely to engage in provocative behavior or launch an attack on West Germany, France, and other NATO countries as long as it perceives a threatening Chinese presence on its eastern border.

NEED TO TRANSFORM NATO

With the growth of European economic strength and with the waning of the Cold War, it has become increasingly difficult to accept a relationship between the United States and Western Europe involving such a heavy U.S. military responsibility for the region's defense. Western Europe is well able to raise and support the military forces required for its own defense. The North Atlantic Alliance should therefore be transformed to lessen the dominant role of the United States in the NATO command structure and to increase Western Europe's role in its own defense. For example, it may be time to reassess the tradition of having a U.S. general officer as Supreme Commander of NATO forces in Europe.

A growing number of Americans have become conscious of the unreality of the United States devoting so much of its military efforts to the remote possibility of a major war in Europe. The maintenance of more than 229,000 U.S. troops in Germany in particular has diminishing plausibility. In early October 1973, a Gallup poll indicated that a majority of the American public favored cutting U.S. forces in Europe.[9] In the Congress there has been growing pressure for substantial cuts. These demands have been fed by increases in the number of U.S. trops in Europe while U.S. deployments in Asia have been reduced in recent years.

THE NIXON DOCTRINE AND SELF-HELP

The Nixon Doctrine, conceived for Asia and by implication extended to Western Europe, declares that the nation directly threatened will assume primary responsibility for providing the manpower for its own defense. Admiral Thomas Moorer, chairman of the

Footnotes at end of article.

Joint Chiefs of Staff, noted this year that political, fiscal, and manpower constraints "prescribe smaller, but more efficient, U.S. general purpose forces, and require a much greater degree of self-reliance and burden sharing by our allies." [10] Defense Secretary Schlesinger agreed:

"The underlying premise of the Nixon doctrine is that we should be encouraging greater self-help on the part of allied friendly countries to build up their forces so that they can defend themselves in the absence of U.S. ground forces, in particular, and hopefully in the absence of U.S. air and naval forces." [11]

This principle of self-help and an end to U.S. military paternalism is even more applicable to the wealthy nations of Western Europe than to Asia. In Senator Mansfield's phrase, it is time "to replace a policy of land-based omnipresence with a policy of discerning internationalism." The contrast, however, between the Nixon Doctrine and the continuation of 25-year old military arrangements for European defense is sharp.

Fluctuations in NATO troop strength

There have been great fluctuations in the level of NATO forces, but with no apparent impact on the European security situation. Many of our allies have cut their forces and France withdrew from formal participation in many NATO activities. The Dutch, Belgians, Canadians, and British have all cut their forces stationed in West Germany. U.S. forces in Europe declined from 463,000 in 1962 to 296,000 in 1969. Military force planning is an uncertain process wherein the only consistent pattern is that there is never enough and that what exists should not be reduced. The relationship between foreign commitments and military force structure is loose. Despite the history of fluctuations in NATO forces, military leaders argue today that the present level of U.S. forces, and NATO forces in general, are the absolute minimum required for defense of Europe and cannot be cut.

Planning for conventional forces is more complicated than for strategic forces. Admiral Moorer has admitted that "there are a great many uncertainties involved in drawing up a balance between NATO and the Warsaw Pact." [12] He states that NATO planning is "not a precise science at all," [13] and that many of the variables and scenarios used in developing force levels and strategy are "just a speculation," [14] and "you can get almost any answer depending upon how you vary the inputs." [15]

Recent studies disclose NATO strengths

Current Defense Department studies of Western European defense requirements, considered by DOD to be the most comprehensive to date, indicate that NATO has more than enough forces to defend itself against the likely Soviet threats, and that Warsaw Pact strength has been exaggerated in the past.[16] NATO can handle the probable Soviet threat with less ground forces in Europe. Former Defense Secretary Richardson commented that, "the general thrust of this study is that the conventional capabilities of the allies in NATO have tended to be underestimated and that they could withstand for a very substantial period a conventional Warsaw Pact attack." [17] Defense Secretary Schlesinger agreed that, "it is clear that NATO is in better shape conventionally than had been anticipated." [18] He also suggested that the United States is not at a severe disadvantage in reinforcement capability when compared to the Soviet Union: "With our airlift capabilities, we are able to redeploy combat troops very quickly, in fact more quickly in a number of respects than the Soviets can in a location closer at hand. . . . The difficulties of redeployment may be less for us than they are for our possible opponents." [19]

POLITICAL ARGUMENTS AND INSTITUTIONAL INTERESTS BEHIND LARGE U.S. FORCE LEVELS

Despite the revised military estimates, Administration pressure to retain U.S. troops in Europe continues to be strong, and emphasis shifts from military to political grounds. For example, Administration spokesmen say that U.S. cuts would lead to a Western European loss of confidence and the erosion of European independence from the Soviet Union. The diminution of U.S. military power in Western Europe could lead, it is alleged, to Western Europe ultimately being dominated by the Soviet Union. This spectre has been dubbed "Finlandization." Finland has a total armed force of 39,500, a GNP of $13 billion, and a defense budget of $230 million. Comparing the situation of Finland to that of Western Europe stretches logic. The countries of Western Europe can handle the U.S.S.R. (which also has 800 million Chinese to contend with), as long as they make some effort to cooperate with each other and to maintain alliance with the United States. It is unrealistic to expect that they will fold up like some empty husk if the U.S. military presence is reduced. Addressing himself to changes that have occurred in concepts of power, Secretary of State Henry Kissinger said:

"The most striking feature of the contemporary period—the feature that gives complexity as well as hope—is the radical transformation in the nature of power. Throughout history power has generally been homogeneous. Military, economic, and political potential were closely related. To be powerful a nation had to be strong in all categories. Today the vocabulary of strength is more complex. Military muscle does not guarantee political influence. Economic giants can be militarily weak, and military strength may not be able to obscure economic weakness. Countries can exert political influence even when they have neither military nor economic strength." [20]

Other political arguments suggest that "substantial and precipitous reductions" would indicate to U.S. NATO allies and to the Soviet Union that the United States was preparing to lessen its commitment to the defense of Western Europe. Europeans, especially the West Germans, would lean toward this view. The United States would have to give assurances that any troop cuts would be replaced if necessary. To the West Germans, so long accustomed to a large U.S. military presence, such assurances would be particularly important to allay feelings of abandonment by the United States that could lead to the scuttling of European-oriented policies and to a reversion to strictly national policies. Nor could the Chinese be expected to look with favor on any U.S. troop cuts that could result in reciprocal Soviet reductions that could ultimately strengthen the already large Soviet force on the Sino-Soviet border.

Another factor that works against the reduction of U.S. forces is the institutional interest of the NATO command structure. NATO exists only for the purpose of protecting its members against Soviet military aggression. The sole task of the very large NATO staffs has been to plan and carry out exercises against the contingency of Soviet aggression. These staffs, including the 123 U.S. general officers assigned to NATO headquarters, have become keepers-of-the-faith in an era of Détente whose task is not to determine whether a threat exists, but where the threat exists and when it will come. With single-minded purpose they warn against soft options and political backsliding. The U.S.-dominated NATO command structure tends to perpetuate overly pessimistic views of the Soviet threat, thus resulting in high levels of U.S. forces in Europe.

NEGOTIATIONS ON MUTUAL REDUCTIONS OF FORCES AND ARMAMENTS

In response to the domestic pressures for change in U.S. policy, the U.S. Government since 1966 has been pushing the concept of mutual and balanced force reductions (MFR) in Central Europe as a substitute for independent U.S. cuts. The Nixon Administration is tying any reduction of U.S. forces in Western Europe to corresponding, and apparently larger, reductions in Soviet forces in Eastern Europe. President Nixon has stated the policy:

"Given the existing strategic balance and similar efforts by our allies, it is the policy of this Government to maintain and improve our forces in Europe and not reduce them except through reciprocal reductions negotiated with the Warsaw Pact." [21]

As a result, expenditures on U.S. military forces oriented for European defense are growing (direct costs up from $14 billion in 1971 to $17 billion in 1973), troops in Europe increasing, and investment in new conventional weapons for use in Europe expanding.

The long-awaited "Negotiations on Mutual Reductions of Forces and Armaments and Associated Measures in Central Europe" began in Vienna on October 30, 1973. These talks between the members of NATO and the Warsaw Pact are among the most complicated international negotiations in history. Certainly they are much more complex than the SALT talks concerning strategic weapons, if only because 19 rather than two countries are participating. (Eleven states are full participants and eight are observers.) Talks on force reductions in Europe were first formally proposed by NATO countries in 1968, but it was not until January 1973 that exploratory meetings began. These preliminary discussions of agenda and participation were planned to last five weeks but actually went on for five months.

It is frequently said that there should be a reduction of U.S. troops in Western Europe, but that results should await the outcome of the MFR talks. Proposals to reduce U.S. forces to more reasonable levels are dismissed with the slogan that we must not undermine our negotiating position. It is the same "bargaining chip" argument that has been used to support the expansion of strategic arms while SALT talks are attempting to reach arms limitations. It sounds good to arm to parlay, but there are difficulties.

Significant negotiated U.S. reductions unlikely

Prospects for significant reductions in U.S. forces in Europe resulting from the MFR talks in Vienna are very unlikely. For supporters of the continuation of the present level of U.S. forces there is no right time to cut. There is also little interest in reducing troops except in return for Soviet cuts that would have to be so large that the Soviet Union probably will not find them acceptable. In fact, the Soviet Union has been quite skeptical about force reductions in Europe, and has only reluctantly and under pressure for progress in other aspects of East-West relations been willing to begin negotiations.

The role of the MFR talks is in great part to forestall pressures in the U.S. Congress to cut U.S. troops. Only small, symbolic reductions are probable, to prevent larger reductions enforced by Congress. Senator James Pearson, Republican of Kansas and a member of the Senate Foreign Relations Committee, has observed the place of the MFR talks in efforts to preserve substantial U.S. forces in Europe:

"There are really three groups of people. There are those that don't want any withdrawal and then there are those who want to do it by mutual reduction. Then there are those who want to do it unilaterally. I think those who don't want any withdrawals are the same group that want to do it by mutual negotiation." [22]

Footnotes at end of article.

It will be extremely difficult to achieve balanced reductions of forces, because so many different kinds of units and complex weapons are involved. The differing force postures, mobilization capabilities, and geographic situations of NATO and the Warsaw Pact make the technical difficulties of negotiating balanced reductions almost insurmountable. Numbers of troops and amounts of weapons cannot with precision be translated into levels of security. Varying national perspectives also produce conflicting conceptions of what constitutes a fair balance. These talks are likely to drag on for years. In the end, all that may be achieved is a mutual 10% cut by NATO and the Warsaw Pact countries, and perhaps the accumulation of "bargaining chips" on both sides that will negate any reductions achieved at the negotiating table. This could mean that 90% of the present American troop strength in Europe would be frozen in position, perhaps indefinitely, perhaps "only" for another quarter of a century. Handcuffing present and future U.S. policy to the success of the mutual force reduction talks is really no policy for change.

THE NEED FOR NEW APPROACHES

If there are to be cuts in forward deployed forces in Europe, and savings in U.S. defense spending, other approaches that permit greater flexibility and independence should be explored and carried out. We should avoid engaging in force reductions only in lock-step with the Soviet Union. Better a carefully thought out, well-planned, well-phased cut, than an unsatisfactory and frustrating 10% reduction that would likely be rejected by U.S. public opinion and followed by an angry backlash and a precipitate, wholesale withdrawal of our forces that could be damaging. In consultation with its NATO allies, the U.S. could begin to make plans now for a gradual but significant reduction of U.S. military forces in Europe, regardless of the course of the MFR talks. The phasing down of U.S. forces could be done on a ten-year plan, negotiated with our allies, with a 20% cut spread over the first three years, and then a reassessment of the situation to see how the Soviet Union and our allies are reacting. This initial cut would be less than the 50% cut advocated by Senator Mansfield.

Buildups occur as a result of unilateral or independent action. Surely reductions can be made in the same way. The Soviet Union might respond to a diplomacy of "mutual example" because of its need to shift forces from Eastern Europe to areas nearer to China, or because it also faces domestic pressures on defense spending. Soviet troops in Eastern Europe, however, are there in great part as occupation forces to preserve political stability and Soviet dominance. Former Secretary of Defense Richardson, in March 1973, reported to congress:

"Since 1955, when the Warsaw Pact was established, Soviet troops in Eastern Europe have been actively utilized, in a military sense, not against NATO, but against two of the Pact member states—Hungary in 1956 and Czechoslovakia in 1968. Quite clearly, the courageous and large-scale resistance that met both invasions suggest that Soviet troops have a tenuous welcome at best." [23]

The continued presence of a high level of U.S. troops in Western Europe provides a continued rationale for the Soviet garrison forces in Eastern Europe. If the Soviet Union were able to respond positively to U.S.-initiated cuts, well and good. If not, then the situation could be reassessed.

A phased withdrawal: Returning to the original NATO concept

The goal of a phased withdrawal of American forces from Europe is not abandonment of NATO by the U.S., but a return to the concept of NATO as it was originally conceived. The intent was certainly not to send American troops to Europe on a permanent basis. The idea was to afford the Europeans time to build up adequate military forces of their own. Once that was accomplished, U.S. forces in Europe were to be phased out. As General Alfred M. Gruenther, SHAPE chief of staff, told the Congress in 1951, "once this European rearmament build-up has been accomplished, it should be possible to begin the phasing out of United States ground forces." [24]

As of 1973, Europe is capable of military self-sufficiency vis-a-vis the Soviet Union with a level of U.S. support and presence in Europe less than at present. In particular, West Germany, where most U.S. troops have been stationed, has greatly expanded its military forces over the past 17 years (see Figure 2). From 1956 to the present, West German armed forces have increased from 66,000 to 475,000. There has, however, been no phase-down of U.S. troops to take account of this buildup. It should also not be overlooked, and certainly is not by the Soviet Union, that both Britain and France possess strategic nuclear forces that may seem small in comparison to U.S. and Soviet levels of overkill, but are still quite substantial deterrent forces for the defense of Western Europe. The SALT I agreements have enhanced the effectiveness of British and French strategic weapons by limiting Soviet ABM defenses to very small levels.

The NATO treaty does not specify a level of U.S. forces for the defense of Europe (Article 3). All it says is that the parties will maintain and develop their individual and collective capacity to resist armed attack. They agree that an armed attack against one is an attack against all, but even then, each party is left free to decide what action to take according to its own constitutional procedures and requirements; the treaty merely says that such action can "include" use of armed force (Article 5).

NATO military spending exceeds that of Warsaw Pact

The U.S. is pledged to defend Western Europe because the existence of a friendly and independent Western Europe is in America's interest. It is hard to envisage an attack by the Soviet Union on Western Europe that would not involve the U.S. As Admiral Thomas Moorer has remarked, "It should be clear to everyone that a major NATO-Warsaw Pact conflict would involve the nations concerned in global warfare, not just in the European theater." [25] An assessment of the total assets available to NATO and the Warsaw Pact indicates clear NATO superiority, both in actual and potential military power (see Table 3). According to calculations of the U.S. Arms Control and Disarmament Agency, NATO during the period 1961-71, consistently outspent the Warsaw Pact by $30 billion each year for military forces.[26]

TABLE 3.—COMPARISON OF NATO AND THE WARSAW PACT, 1972

[Includes United States]

	Population (millions)	GNP (billions)	Defense spending (billions)	Armed Forces (millions)
NATO	542	$2,207	$114	5.6
Warsaw Pact	352	753	60–70	4.4

A U.S. REDUCTION: KEY TO PRESERVATION OF NATO ALLIANCE

It is time, therefore, for the U.S. to begin a phased withdrawal of forces from Europe, down from the present American contribution of a quarter of NATO strength in place on the central front. After an initial period of U.S. reduction, there would be a reassessment of how our European allies react. They could probably get better defense than they now have for their annual $35 billion defense spending, if they eliminated overlapping and duplication, and progressed toward greater European unity. The U.S. would, of course, still remain in NATO and a reduction of the American military presence in Europe would still leave NATO strong. The fact of the matter is that an attack on Western Europe is highly unlikely, with or without the presence of substantial American troops. This reality should have some effect on what we do.

The alternative to phased withdrawal is almost certainly not a stubborn continuation of the status quo, but a hasty, massive pullout from Europe in backlash against the whole NATO concept. A phased withdrawal is not a denial of our NATO commitment; rather it is perhaps the only way to preserve the military cooperation of the NATO allies. Henry Kissinger has said that "no foreign policy has any chance of success if it is born in the minds of a few and carried in the hearts of none." [27] Nowhere is this more true than with regard to the now outmoded policy of maintaining forces for war in Europe far in excess of those required.

FOOTNOTES

[1] DOD (Comptroller), *The Economics of Defense Spending: A Look At the Realities* (July 1972), p. 149.

[2] Senate Armed Services Committee, *Hearings on Military Procurement Authorization, Fiscal Year 1973, Part 1*, p. 14.

[3] Senate Armed Services Committee, *Hearings on Military Procurement Authorization Fiscal Year 1974, Part 1*, p. 270.

[4] Senate Armed Services Committee, *Report on Military, Procurement Authorization, Fiscal Year 1972* (September 7, 1971), p. 16.

[5] Senate Foreign Relations Committee, hearings on "Mutual Reduction of Forces in Europe" (July 27, 1973), p. 133 (stenographic record).

[6] House Armed Services Committee, *Hearings on Military Procurement Authorization, Fiscal Year 1974, Part 1*, pp. 463–464.

[7] *SHAPE and Allied Command Europe: Twenty Years In the Service of Peace and Security 1951–1971* (Fleurus, Belgium), p. 9.

[8] House Armed Services Committee, *Supplementary Hearings on Defense Procurement Authorization Relating to SALT Agreement* (June 13, 1972), p. 12098.72, p. 12098.82.

[9] *Washington Post*, October 8, 1973. *New York Times*, October 9, 1973. The Gallup Poll showed that 57% of those who are aware of the issue of withdrawal of U.S. forces in Europe are in favor of it. Two-thirds of the public are aware of the issue.

[10] *Statement by Chairman of the Joint Chiefs of Staff Admiral Thomas H. Moorer, USN, on United States Military Posture for FY 1974* (March 26, 1973), p. 31.

[11] Senate Armed Services Committee, *Nomination of James R. Schlesinger to Be Secretary of Defense* (June 18, 1973), p. 71.

[12] *Statement by Chairman of the Joint Chiefs of Staff . . .*, p. 53.

[13] Senate Armed Services Committee, *Hearings on Military Procurement Authorization, Fiscal Year 1974, Part I*, p. 388.

[14] *Ibid.*, p. 386.

[15] *Ibid.*, p. 259.

[16] See Senate Armed Services Committee, *Hearings on Military Procurement Authorization, Fiscal Year 1974, Part 8*, pp. 5249, 5279, 5304; *Part 1*, p. 310; Senate Foreign Relations Committee, hearings on "Mutual Reduction of Forces in Europe", July 27, 1973; and *Washington Post*, June 7, 1973 (Michael Getler, "Study Insists NATO Can Defend Itself").

[17] Senate Armed Services Committee, *Hearings on Military Procurement Authorization, Fiscal Year 1974, Part 1*, pp. 310–311.

[18] Press conference, June 8, 1973.

[19] Senate Armed Services Committee, *Nomination of James R. Schlesinger to Be Secretary of Defense* (June 18, 1973), p. 71.

[20] Speech at *Pacem In Terris* Conference, Washington, D.C., October 8, 1973.

[21] Report by President Richard Nixon to the Congress, *United States Foreign Policy for the 1970's*, February 9, 1972, p. 44.

[22] Senate Foreign Relations Committee, hearings on "Mutual Reduction of Forces in Europe", July 27, 1973, p. 185 (stenographic record).

[23] Senate Armed Services Committee, *Hearings on Military Procurement Authorization, Fiscal Year 1974, Part I*, pp. 175–176.

[24] Senate Foreign Relations Committee, *Hearings on the United States Foreign Aid Program in Europe*, 1951, p. 290.

[25] Statement before the House Foreign Affairs Committee, July 11, 1973, hearings on "United States Troop Levels in Europe," p. 8 of original statement.

[26] United States Arms Control and Disarmament Agency, *World Military Expenditures 1971*, p. 9.

[27] Speech before the International Platform Association on August 2, 1973.

DEFENSE MONITER IN BRIEF

Spending for the possibility of war in Europe is the largest item in the United States military budget. European defense costs U.S. taxpayers about $30 billion each year.

The United States should begin to plan now for a gradual, but significant reduction of U.S. military forces for Europe, regardless of the course of the current talks on mutual force reductions (MFR) in Vienna. The MFR talks are unlikely to lead to any but small, unsatisfactory cuts.

The phasing down of U.S. forces could be scheduled over 10 years, negotiated with our allies, with a 20% cut spread over the first three years. Then the situation could be reassessed.

As of 1973, Western Europe is capable of military self-sufficiency vis-a-vis the Soviet Union with a lower level of U.S. support and presence in Europe.

The goal of a phased withdrawal is not an abandonment of NATO by the U.S., but a return to the concept of NATO as it was originally conceived. The original intent was not to send American troops to Europe permanently. The idea was to allow the Europeans time to build up their own military forces. Once that was accomplished, U.S. forces in Europe were to be phased out.

IN PRAISE OF AMTRAK

Mr. MANSFIELD. Mr. President, I have on occasion found fault with Amtrak. I am in receipt of a letter from Mrs. Jane S. Tucker, of Wiscasset, Maine, in which she has some good words to say about a roundtrip which she recently took from Boston to Livingston, Mont., via Amtrak.

I ask unanimous consent that the communication be inserted in the RECORD.

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

WISCASSET, MAINE,
January 24, 1974.

Mr. HAROLD L. GRAHAM,
Vice-President, Marketing, Amtrak, Washington, D.C.

DEAR MR. GRAHAM: I have recently returned from a round trip Boston/Livingston, Montana, via Amtrak, and want to send you my appreciation for a comfortable and interesting trip. Your service was excellent throughout. PSRs and PSAs everywhere were most courteous and helpful, especially those who assisted me when I missed a Chicago connection. It was nice to be wanted again as a passenger—I didn't feel that you wanted me in November 1971.

This small check won't help Amtrak much, but I didn't feel I should keep the surplus from the Chicago rescue (cabs to airport ran a little under the estimate). In fact, I would return the whole amount if I did not feel that, with the southern Montana train running only three times a week, your scheduling is at fault and should be less tight. You could conceivably have people making a 3-night stopover in Chicago, if plane reservations were not available to Minneapolis. Isn't there some way both the Montana trains can be tied in to make a truly trans-continental schedule?

One other suggestion—could you have a child's plate on the dining car? Over the holidays there were many small children traveling and the amount of food was appalling. It could be the same menu, just reduced portions.

I want Amtrak to succeed and plan to keep traveling on the trains. In fact, I would be glad if you could extend your service into Maine, where the railroad track runs past my house!

Sincerely yours,
(Miss) JANE S. TUCKER.

ORDER OF BUSINESS

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

Mr. HUGH SCOTT. Mr. President, I cannot think of a thing to say that would enlighten anybody.

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

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 12 o'clock, with statements made therein limited to 3 minutes each.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

THE LEGAL SERVICES CORPORATION ACT—SUBMISSION OF AMENDMENT NO. 950

Mr. ALLEN. Mr. President, I send to the desk an amendment to S. 2686, which I ask to have printed and lie on the table. At a later time I will discuss the amendment in detail when it is called up for action.

I would like to state briefly that this is an amendment to the legal services bill and it provides:

"(b) No funds made available by the Corporation under this title, either by grant or contract, may be used in any State—

"(1) for any purpose in derogation of any valid State law or any public policy enacted by or established by the State legislature; or

"(2) for any activity which may be vetoed by a Governor (A) pursuant to a formally adopted resolution by the governing body of a State Bar Association requesting such veto or (B) pursuant to the exercise of the police power vested in the Governor of a State to protect the life, property, health, or welfare of the citizens of that State."

Mr. President, I will discuss the amendment in detail at the time it is called up.

The ACTING PRESIDENT pro tempore. The amendment will be received and printed, and will lie on the table.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. PROXMIRE. Mr. President, is this the morning hour?

The ACTING PRESIDENT pro tempore. This is the morning hour.

THE SALE OF AIR FORCE PLANT NO. 14 TO LOCKHEED WAS IMPROPER AND SHOULD BE INVESTIGATED

Mr. PROXMIRE. Mr. President, last year, Arthur F. Sampson, Administrator of the General Services Administration, gave his final approval to the sale of an Air Force facility at Burbank, Calif., to Lockheed Aircraft Corp. despite repeated warnings by the Justice Department that a negotiated sale would be inconsistent with the antitrust laws.

The facility, known as Air Force Plant No. 14, consists of 88 acres including 91 buildings and equipment. The selling price was $30,087,000.

LOCKHEED WAS THE SOLE BIDDER

Lockheed, which has occupied the Government-owned plant as a defense contractor, was the sole bidder. No one else was allowed to bid for the property. There was no competition.

JUSTICE DEPARTMENT OPPOSES SALE

The Justice Department first advised the General Services Administration of its objections to the sale in a July 30, 1970, letter signed by Richard W. McLaren, Assistant Attorney General and head of the Antitrust Division.

The General Services Administration made several efforts to get the Justice Department to change its opinion. But those efforts were unsuccessful.

On March 29, 1972, Walker B. Comegys, who succeeded McLaren as head of the Antitrust Division, repeated the Justice Department's objections to the sale.

A year ago the Justice Department was again asked to reverse itself. This time the Attorney General himself, Richard G. Kleindienst, wrote to Mr. Sampson on March 26, 1973, to reaffirm the original unfavorable antitrust advice.

According to the Attorney General, the sale of the Air Force plant to Lockheed—

Would increase concentration in the aircraft industry; and, therefore, such sale would tend to create or maintain a situation inconsistent with the antitrust laws.

FEDERAL PROPERTY ACT MAY HAVE BEEN VIOLATED

The sale may also have violated the Federal Property Act. There is no statutory authority for selling Government-owned industrial equipment to contractors who hold the equipment, unless the sale is done competitively. Millions of dollars of Government-owned equipment, in addition to the land and buildings, were involved in the sale.

The same view was expressed by J. Fred Buzhardt, General Counsel of the Defense Department, in a 1970 legal memorandum to the Assistant Secretary of Defense.

The Buzhardt memorandum states:

We are of the opinion that there is no existing disposal authority that is adequate to support a Defense program which seeks to dispose of Government-owned industrial equipment on a negotiated basis to contractors in possession of such property and at whose plants the property is located.

Exceptions to the general rule may exist in periods of emergency or where public health or national security would be promoted by a negotiated sale. No exceptional conditions existed in the Lockheed sale.

JUSTICE DEPARTMENT OBJECTIONS SPELLED OUT

The objections to the sale spelled out by the Justice Department were:

First. The sale would give Lockheed, one of the largest corporations in the United States, a preferred position over other firms which might want to acquire such a facility.

Second. The sale of Plant No. 14 would increase the concentration of assets employed in aircraft production in the hands of the largest aircraft firms.

Third. The sale would adversely affect competition in the aircraft industry.

Fourth. Competitive bids would enable the Government to choose from a range of options on competitive and other relevant grounds.

The General Services Administration argues that Plant No. 14 is a facility so situated that it cannot be utilized by anyone other than Lockheed, and therefore not suitable for disposal by competitive bidding. The Justice Department rejected this argument by showing that other purchasers would have easy access to the property and that the plant is not dependent upon Lockheed for its utilities.

The odor from this deal stretches all the way from Burbank to Washington.

Lockheed made its offer to buy the property in 1969. The sale was not completed until July 1973. Yet, after 4 years of inflation and rising real estate values, GSA sold the facility for the same amount offered in 1969.

The ACTING PRESIDENT pro tempore. The Senator's 3 minutes have expired.

Mr. MANSFIELD. Mr. President, I am delighted to yield the Senator my time.

Mr. PROXMIRE. I thank the distinguished majority leader.

GSA ADMINISTRATOR ACTED IMPROPERLY

In my judgment, Mr. Sampson acted improperly by failing to abide by the opinions given by the Justice Department and he may have broken the law by ramrodding the sale through.

He should have put the property up for competitive bids, at the very least, to see whether a higher price could have been obtained for the taxpayer, even if there were no antitrust problems.

I have asked the Attorney General to conduct a full investigation into all of the matters surrounding the sale, including the role, if any, played by the Air Force and to set the sale aside if there are grounds for doing so.

I have also asked the Comptroller General to conduct an inquiry into this transaction with particular attention to the provisions of the Federal Property Act.

I ask unanimous consent that the letters from Mr. McLaren, Mr. Comegys, and Mr. Kleindienst, the memorandum from Mr. Buzhardt, and a letter from Mr. Sampson to former Attorney General Elliot Richardson dated July 5, 1973 explaining why GSA believes it should go ahead with the sale be printed at this point in the RECORD.

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

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., July 30, 1973.

Re: Air Force Plant No. 14 and portions of runways of Lockheed Air Terminal, Burbank, California (D-Calif-437-C).

HART T. MANKIN, Esquire,
General Counsel, General Services Administration, Washington, D.C.

DEAR MR. MANKIN: Pursuant to section 207 of the Federal Property and Administrative Services Act of 1949, as amended, our advice was requested as to whether consummation of the above sale of surplus property would tend to create or maintain a situation inconsistent with the antitrust laws.

Data previously furnished us by the Department of Defense discloses that in due course Air Force Plant #6 at Marietta, Georgia will also be sold by negotiation to Lockheed. Air Force Plant #6 is designed and utilized for the manufacturing of large aircraft. Since both Plant #14 and Plant #6 are proposed to be sold to Lockheed, these proposals may have cumulative as well as individual effects upon competition in the aircraft industry. We have considered both of these proposed transactions in making this report, as noted below.

The present proposal involves three widely separated parcels of government property situated at Burbank, California. Parcel 1 is Air Force Plant #14, which consists of 88 acres of land improved with 91 buildings and equipment. These facilities are used for the manufacture of aircraft parts. Some buildings which were constructed by Lockheed are located on this government-owned land. Parcel 2 (50 acres) and Parcel 3 (78 acres) are portions of the main runways of the Lockheed Air Terminal (Hollywood-Burbank Airport), apparently extensions of the original runways. Neither of these parcels is adjacent to Parcel 1. While there appears to be no reason why they cannot be sold independently of Parcel 1, it is our view that sale to the Lockheed of the portions of the runways owned by the government would not present antitrust problems. Accordingly, the balance of this report will be concerned with the proposal sale of Plant #14.

The following aspects of this proposal appear to us to be of competitive significance.

1. The proposed negotiated sale of Plant # 14 to Lockheed confers upon that firm a competitive advantage over other firms which might wish to acquire such a facility. Although the GSA-estimated fair market value of this facility (plus the runways) is $30,087,500 (the proposed price to Lockheed), it appears that the replacement cost—that is, the price another firm would have to pay to duplicate this facility—may be considerably higher. In this connection, we note that the proposed sale price evidently is not based upon an independent appraisal. Moreover, Lockheed would enjoy the benefits of ownership immediately, whereas another firm seeking to duplicate such a facility could do so only after considerable delay, and after estimating what market conditions will prevail at some future time.

2. Lockheed, one of the largest industrial corporations in the United States, is a leading manufacturer of aircraft, an industry which is highly concentrated. Plant #14 is a substantial facility used in the production of parts and subassemblies for aircraft. Sale of this plant to Lockheed would increase the concentration of assets employed in aircraft production in the hands of the leading aircraft firms. The antitrust laws disfavor transactions which further increase already high levels of industrial concentration. Conversely, sale of Plant #14 to a firm other than Lockheed—one which was not a leading firm in the aircraft industry—would reduce concentration and increase the number of firms capable of competing in that industry, results which the antitrust laws are designed to promote and which would be precluded by sale to Lockheed.

3. A vertical acquisition, in which a firm acquires one of its suppliers and consumes all of the latter's output, may adversely affect competition, since it forecloses the acquiring firm as a market for competitors of the acquired firm and eliminates the acquired firm as a supplier of the acquiring firm's competitors. Lockheed is a substantial user, and plant #14 a substantial producer, of aircraft parts. Thus the proposed sale would appear to present the danger of foreclosure effects of a kind which have been held to violate the antitrust laws.

4. A sale of plant #14 to a firm other than Lockheed might well avoid the competitive problems inherent in this proposal and, indeed, be procompetitive. Solicitation of competitive bids for this plant would enable the disposing agency to evaluate and choose from among a range of alternatives on competitive and other relevant grounds.

Your letter asserts that negotiated sale of Plant #14 to Lockheed is necessary because competitive bid sale would not be practical for two reasons: (1) the need to preserve the plant's capacity for defense production for a five-year period; and (2) the "highly scrambled nature of this property."

First, with respect to defense production, the plant is currently being utilized by Lockheed to fulfill defense contracts, and Lockheed would be required by the terms of sale to preserve the plant's existing capacity for defense production for five years. However, the papers forwarded to us do not indicate when the current Lockheed procurement contracts to which this plant's production is devoted expire. In the event that these contracts expire before five years, then a sale of the plant to another firm at the time of expiration would appear to be feasible, with the purchaser undertaking to preserve the plant's defense capability for an appropriate period. Moreover, a sale by competitive bids could be effected in five years without any apparent adverse effect on defense production, rather than declaring the plant "surplus" at this time provided it is sold only to Lockheed. In any event, our responsibility under the statute is confined to rendering advice with respect to the antitrust aspects of a proposed sale. It is within your province to determine, in light of the antitrust, defense, and other considerations, whether to proceed with a negotiated sale to Lockheed.

Second, your letter states in substance that the alleged "scrambled" nature of the property is the basic reason for negotiated sale, since even "at the end of the five year period during which a portion of the capacity will continue to be used for defense production" "the plant could not be disposed of to any concern other than Lockheed." A "scram-

bled" government facility is one which cannot be effectively utilized by a purchaser other than the contractor in possession. However, Plant #14 does not appear to be a "scrambled facility." The plant is situated on 88 acres of government-owned land, and most of the buildings and equipment on the land are owned by the government. A purchaser other than Lockheed would not be dependent upon Lockheed for access to the property or for essential utility services. Therefore, there does not appear to be anything in the nature of this property that would bar its effective utilization by a purchaser other than Lockheed at a competitive bid sale.

The presence in Plant # 14 of certain buildings and equipment owned by Lockheed does not alter this conclusion. We are informed (although the papers submitted to us do not confirm) that Lockheed has the right to remove its property if the plant is sold to another firm, and it would probably do so if this course seemed economically desirable. It might also offer to sell its property to the new occupant or to the government. In any event, it is not our view that Lockheed's ownership of some 17 of the 91 buildings of Plant # 14 and of some equipment in the plant confers upon Lockheed the sole right to purchase the entire government-owned complex to the exclusion of all other interested purchasers—a result which would be produced by calling Plant # 14 a "scrambled facility." Otherwise, it is likely that virtually all sales of government-owned, contractor-operated plants would be confined to the operating contractors, since they probably have added some of their own equipment (and perhaps structures of various kinds) to most of these plants. In that event, negotiated sales to occupying contractors would become the rule, and competitive sales, favored by the statute, the exception. And, as this proposed sale indicates, an investment by the contractor some years ago could confer upon it a preferential position with respect to government property of much greater relative value.

For the reasons stated, we believe the negotiated sale of Plant # 14 to Lockheed would tend to create or maintain a situation inconsistent with the antitrust laws. The adverse competitive effects of this proposal may be increased by the proposed sale of Plant # 6 at Marietta to Lockheed. This plant is designed for the production of large aircraft. We understand that it is an extensive facility and one of the most self-contained and efficient aircraft manufacturing plants in the United States.

As indicated above, Lockheed is one of the largest U.S. manufacturers of aircraft. Acquisition of the Marietta plant by Lockheed would tend to increase concentration in the aircraft industry. Sale of the plant to Lockheed would foreclose its utilization for aircraft production by any other firm in the aircraft industry. Smaller aircraft firms which might acquire Plant # 6 and obtain a foothold in the manufacture of large aircraft would be denied an opportunity to gain entry and to improve their competitive status. Disposal of the Marietta plant to someone other than Lockheed would increase competition in the aircraft industry.

Sincerely yours,

RICHARD W. MCLAREN,
Assistant Attorney General,
Antitrust Division.

DEPARTMENT OF JUSTICE,
Washington, D.C., March 30, 1973.

WILLIAM E. CASSELMAN II,
General Counsel, General Services Administration, Washington, D.C.

DEAR MR. CASSELMAN: This is in response to GSA's request for reconsideration of the unfavorable statutory antitrust advice given July 30, 1970, on a proposed negotiated sale of Air Force Plant #14 at Burbank, California, to Lockheed Aircraft Corporation. In support of such request, GSA submitted information in communications of October 20, 1970, January 13, 1971, and April 22, 1971; and Lockheed submitted information on December 13, 1971. In addition, we had conferences with representatives of GSA and Air Force on November 19, 1971, and with representatives of GSA and Lockheed on December 13, 1971.

After careful consideration, we have determined that the information submitted in connection with the request for reconsideration does not afford a basis for modifying our original opinion with respect to this transaction.

Our initial unfavorable antitrust advice on Plant #14 rested on two related grounds. First, the transaction appeared to embody a number of undesirable competitive consequences: giving Lockheed a preferred position over other firms which might wish to acquire such a facility; increasing the concentration of aircraft-production assets in the hands of the largest firms; and threatening foreclosure effects of a kind which have been held to violate the antitrust laws. Second, Plant #14 was not in our judgment a "scrambled" facility, and therefore it could have been offered to additional firms on a competitive bid basis when it was no longer required by Lockheed to fulfill defense contracts.

We have pointed out that a negotiated sale of Plant #14 to Lockheed would confer upon that firm a competitive advantage over other firms which might wish to acquire such a facility. First, as GSA has recognized, the cost to another firm of duplicating this facility would be greater than the sale price to Lockheed; second, duplication would involve a time delay and an estimate of future market conditions. Neither conclusion rested upon the specific price or other terms of sale, matters upon which we express no opinion.* Thus, the fact that the sale price was determined after an independent appraisal, as we are now informed, is not critical. Moreover, it was, of course, clear that a firm duplicating such a facility today would not only pay a higher price but would also have the use of a more modern plant. Nevertheless, a negotiated sale to Lockheed deprives other firms of the choice between immediate acquisition of an older plant at a lower price and future construction of a new facility at a higher price.

Next, we pointed out that a negotiated sale to Lockheed would increase the concentration of aircraft manufacturing assets in the hands of the largest firms, whereas the sale of the plant to a company which was not a leading firm in the aircraft industry would reduce such concentration and increase competition.

While GSA does not appear to disagree with this analysis, it suggests that the possession of Plant #14 would not of itself enable the owner to be a prime contractor on a major aircraft program. However, GSA recognizes (letter of October 20, 1970, p. 4) that Plant #14 could be a viable entity "as one of many subcontractors in the aircraft industry." GSA's suggestion that the most likely bidders at a competitive sale would be either an established aerospace firm or a speculator is, of necessity, speculative. In any event, sale to a smaller aerospace firm than Lockheed would represent the kind of reduction in concentration which the antitrust laws favor.

With respect to the foreclosure effects noted in our initial report, GSA correctly points out that Plant #14 has always been used by Lockheed in its own operations, and GSA suggests that a transfer of the plant's title to Lockheed would not significantly change the existing situation. This contention may well be true as far as it goes, but in our view it does not go far enough. It takes into account only the actual past use of the plant by Lockheed, and it ignores its potential future use by other firms. Since it was our judgment that Plant #14 was not a "scrambled" facility (for reasons discussed further below), it followed that ownership and operation by another firm would place the plant's output, and any Lockheed purchases from it, on an open competitive basis now foreclosed by virtue of Lockheed's control; a negotiated sale to Lockheed would maintain foreclosure.

A second important element in our analysis was our opinion that Plant #14 is not a "scrambled" facility; that it could be effectively utilized by a firm other than its present user, Lockheed; and, therefore, (that it was suitable for disposal by competitive bidding). We have reviewed this conclusion in light of the additional data supplied to us, and we believe that it remains sound.

In determining whether a facility is "scrambled," and hence unsuited as a practical matter to a competitive bid sale, the decisive question is whether the facility is so situated that it cannot be effectively utilized by any firm other than the contractor in possession. This might be the case where, for example, the facility is entirely surrounded by contractor-owned land and is entirely dependent upon the contractor for access and essential utility services. There are no indicia of such dependence here.

With respect to access, GSA recognizes (letter of October 20, 1970, p. 10) that "Plant #14 would not be completely dependent upon Lockheed." Our own inspection of the property confirms that access would pose no insurmountable difficulties for another purchaser, although a new owner might wish to effect certain modifications in existing access routes.

Much of the same situation pertains with respect to essential utilities. Plant #14, which fronts on three public streets, stands largely on its own feet, with direct access to gas, electricity, water and sewage services; the plant has many facilities of its own, including steam boilers, water chillers, air compressors, and a central fire alarm system. While there undoubtedly has been some degree of utilities coordination between Plant #14 and adjacent Lockheed property, the plant does not appear to be dependent upon Lockheed for its utilities.

Finally, for reasons indicated in our prior report, the fact that Lockheed may own certain buildings and equipment in Plant #14 is not sufficient to make it a "scrambled" facility. Moreover, since GSA is undoubtedly correct in stating that "Lockheed would find the cost of moving its equipment and improvements from Plant #14 to be very costly" (letter of October 20, 1970, p. 9), there is every reason to believe Lockheed would reconsider its declaration of intention not to remove such equipment and improvements. The present proposal offers a variety of means to minimize expense if Plant #14 were to be sold to a purchaser other than Lockheed. For example, the Government is proposing, as part of this transaction, to sell Lockheed a significant amount of Government-owned machinery located in Lockheed plants. It would seem appropriate to explore the possibility of a trade-off in which neither the Government nor Lockheed would have to remove a substantial amount of its equip-

*GSA suggests that, because of its location, Plant #14 can command a higher price from Lockheed than another firm would be willing to offer at a competitive bid sale. Whether or not this is the case could only be ascertained by inviting bids; as you are aware, there have been instances in the past when a competitive sale yielded a higher price than negotiation. In any event, our role is limited to rendering antitrust advice. The decision whether or not to negotiate a sale, and upon what terms, is ultimately committed to your agency in light of defense and other relevant considerations.

ment from the other's plants. (We have already noted the possibility of a sale of the Lockheed personalty in Plant #14 to the Government or to another buyer of the plant.)

On the basis of the foregoing, we must reaffirm the advice given July 30, 1970, to the effect that the proposed negotiated sale to Lockheed Aircraft Corporation would tend to create or maintain a situation inconsistent with the antitrust laws.

Sincerely yours,

WALKER B. COMEGYS,
Acting Assistant Attorney General, Antitrust Division.

UNITED STATES OF AMERICA,
GENERAL SERVICES ADMINISTRATION,
Washington, D.C., July 5, 1973.

Hon. ELLIOT L. RICHARDSON,
Attorney General,
Washington, D.C.

DEAR MR. ATTORNEY GENERAL: This is in reference to Mr. Kleindienst's letter of March 26, 1973, reaffirming the unfavorable antitrust advice furnished by Mr. McLaren and Mr. Comegys on the proposed negotiated sale of Air Force Plant 14 to Lockheed Aircraft Corporation.

After careful consideration of that advice, I have determined for the reasons set forth in the enclosed Findings and Determination that it is in the best interests of the United States to conclude the sale of Air Force Plant 14 and associated properties to Lockheed.

Sincerely,

ARTHUR F. SAMPSON, *Administrator.*

Enclosure.

FINDINGS AND DETERMINATION

In accordance with my authority as Acting Administrator of General Services as set forth in section 203 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484), I hereby determine that a negotiated sale of AF Plant #14 and associated properties in Burbank, California, to the contract operator, Lockheed Aircraft Corporation, is in the best interests of the United States of America, for the reasons as set forth hereinafter:

1. The overall interests of National Defense will best be served by such a negotiated sale in that:

a. The Secretary of Defense has determined that the facility is necessary for defense production for five years from the date the property is sold.

b. Continued Government ownership is not in the best interests of the United States in that buildings and equipment on the property are obsolete and in need of expensive and extensive repairs and alterations.

c. The property owned by the United States is so intermingled with and dependent upon the property owned by the contract operator that it would be infeasible to attempt to separate the property.

d. The Department of Defense has advised that only Lockheed can operate the scrambled facilities and has reported the property for sale only to Lockheed.

e. Separation of the property (if possible) would destroy the capability of the facility to function in the defense effort of the United States.

f. The negotiated sale price of $30,037,500 is far above the appraised value of ——— and far above the special use value of the property to the purchaser of ——— as set by an appraisal by Mr. Kurt S. Shelger, MAI, of Shattuck Company, Los Angeles, California.

g. The terms and conditions of the sale are favorable to the United States; and sale of the property, while maintaining defense production capability at the plant for a prescribed period of time, will have economic advantages to the United States with regard to property management.

The sale award was made on April 21, 1970, after submission of explanatory statements to the Senate and House Government Operations Committees, pending receipt of antitrust advice from the Department of Justice.

2. I have considered the advice with regard to the antitrust considerations of this matter and have determined that any possibility that this sale would tend to create or maintain a situation inconsistent with the antitrust laws is outweighed by the considerations outlined above.

Recommended:

/s/ T. M. THAWLEY,
Commissioner, Property Management and Disposal Service.

WILLIAM E. CASSELMAN,
General Counsel.

Approved:

/s/ A. SAMPSON,
Acting Administrator.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C.

Hon. ARTHUR F. SAMPSON,
Acting Administrator,
General Services Administration,
Washington, D.C.

DEAR MR. SAMPSON: This will acknowledge your letter and attachment of March 13, 1973, in regard to a proposed negotiated sale of certain property to Lockheed Aircraft Corporation. After unfavorable antitrust advice had been given by Assistant Attorney General McLaren on July 30, 1970, GSA requested reconsideration; and, after reconsideration, that advice was reaffirmed by Acting Assistant Attorney General Comegys on March 29, 1972.

Upon careful review of the matter, I am obliged to reaffirm the unfavorable antitrust advice given by Mr. McLaren and Mr. Comegys to the effect that sale of Plant 14 to Lockheed would increase concentration in the aircraft industry; and, therefore, such sale would tend to create or maintain a situation inconsistent with the antitrust laws.

We have previously advised General Services Administration that sale of portions of the runways to Lockheed would not present antitrust problems. This advice was, of course limited to the runways themselves and did not apply to any production facilities.

Sincerely,

RICHARD G. KLEINDIENST,
Attorney General.

GENERAL COUNSEL OF
THE DEPARTMENT OF DEFENSE,
Washington, D.C., November 19, 1970.

MEMORANDUM FOR THE ASSISTANT SECRETARY OF DEFENSE (I&L)

Subject: Legal authority for the sale of government-owned industrial property.

By memorandum of October 26, 1970, the Deputy Assistant Secretary of Defense (Materiel) raised certain questions with regard to the existence of legal authority for the sale by the government of "non-excess" government-owned industrial property, presumably by negotiated sale to a Contractor in possession of such property and at whose plant the property is located. In referring to "non-excess" property, we assume that the Deputy Assistant Secretary was referring to property which the government no longer needed to retain provided the terms of the disposal required its continued availability at a contractor's plant for defense production purposes.

Prior to addressing specifically the questions raised in the Deputy Assistant Secretary's memorandum, it may be useful to provide some background information. The disposition of government property is restricted by the Constitution of the United States, Article IV, Section 3 Clause 2, which provides that "the Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States". This provision has been interpreted by the U.S. Supreme Court to mean that no property of the United States may be sold or otherwise disposed of without authority from Congress. *Ashwander* v. *T.V.A.*, 297 U.S. 288 (1935).

Shortly before the entry of the U.S. into World War II, Congress granted the War Department substantial authority to expand the industrial base by the Act of July 2, 1940 (P.L. 703, 76th Congress) which provided broad temporary authority to acquire, lease, and dispose of industrial property. This authority was soon extended to the Department of the Navy. With the expiration of P.L. 703, Congress enacted P.L. 130, 83rd Congress (1953), which authorized the expansion and lease of industrial facilities. P.L. 130, which finally expired on July 1, 1957, did not authorize the sale of such facilities.

When the extension of P.L. 130 was being considered in 1955, draft legislation was prepared by the Department of Defense which would have provided permanent authority similar to P.L. 130 to permit the continuation of the development of mobilization production base. One provision in this proposed legislation would have authorized the Department of Defense to dispose of nonserverable facilities to the contractor in possession. There was, however, opposition within the Executive Branch to providing this authority, and in 1957 a bill was introduced in Congress without the disposal provision. The effort to obtain such disposal authority continued, and in 1959, legislation including such authority was submitted to Congress and introduced (H.R. 6270, 86th Congress). The bill was not acted on and this legislative proposal died.

At about the same time, in 1956, another Department of Defense legislative proposal was initiated which would have authorized the sale of non-excess industrial property needed for current and mobilization requirements to private holders. While this effort continued in varying forms for several years, it was never transmitted to the Congress and was removed from the DOD Legislative Program in 1960. In 1968 a draft bill, which would have authorized the disposal of production equipment, was initiated by DOD, approved within the Executive Branch and submitted that year to the Congress for consideration. However, this proposed legislation was not introduced in the Congress.

Contemporaneously with this Department of Defense legislative proposal, Senator Proxmire introduced S. 3122, 90th Congress, which among other things, would have provided disposal authority to that desired by the Department of Defense. Similiar legislation was re-introduced in the 91st Congress, S. 2007, H.R. 12414, a companion bill, and H.R. 14696. The Department of Defense has formally supported these bills.

During the 1960's in conjunction with the General Services Administration, and in 1968 with the General Accounting Office, consideration was given to using various provisions of the Federal Property and Administrative Services Act of 1949 (hereinafter referred to as the Federal Property Act) as authority for the negotiated sale of Defense industrial property to the contractor in possession. It was in this statute that the Congress provided the current statutory framework for the general disposal of government property. Consideration was given to (1) Section 203(e)(A), which authorizes negotiated disposal in the public interest during a period of emergency; (2) Section 203(e)(3)(B) which authorizes negotiated disposals if the public health, sale or national security will thereby be promoted; (3) Section 203(e)(5), which authorizes the negotiated sale at fixed prices of categories of personal property when the Administrator of GSA determines that such action will best serve the interests of the government, with, however, competition consistent with the value and nature of the property and; (4) Section 203(f) which authorizes the negotiated disposal of contractor inventory. Each of these alternatives was found want-

ing either because of the limited nature of the statutory authority or because of the General Services Administration's reluctance to use the authority for the purpose.

During the 1960's there was also some expanded use of the authority to dispose of real property by negotiation (Section 203(e)(3)(G)). This authority was originally used as a basis for the disposal of real property in the traditional sense, i.e., land and structures, and then was expanded to include heavy items of nonseverable equipment, such as heavy expensive presses which required specially designed facilities to house them.

We are of the opinion that there is no existing disposal authority that is adequate to support a Defense program which seeks to dispose of government-owned industrial equipment on a negotiated basis to contractors in possession of such property and at whose plants the property is located. The efforts of the Department of Defense to obtain broad disposal authority since 1955, and Department of Defense reports to this Congress on pending legislation clearly recognized this lack of authority.

We note that by memorandum of 3 November 1970, the Deputy Secretary of Defense approved with certain modifications for implementation by you of Blue Ribbon Panel Recommendation No. II-28 of a program for DOD to divest itself of ownership of all plant equipment where such ownership cannot clearly be shown to be to the economic advantage of the government. Accordingly, it is our recommendation that the Department of Defense, with the approval of the Office of Management and Budget submit to the next Congress proposed legislation to that effect and that Congress be urged to give it immediate consideration. Consideration might also be given to the conclusion in such legislation of a provision which would permit the proceeds of sale to be returned to the appropriations of the owning DOD component. Such a provision would provide added incentive to DOD components in furthering such a disposal program and in obtaining maximum return to the government.

My office will assist in every way possible in this effort.

Answer to the specific questions raised in the Deputy Assistant Secretary's memorandum are provided in the attachment hereto.

J. FRED BUZHARDT.

Attachment.

Question 1. ASPR 13-101.10 defines nonseverable Government production and research property as such property which "cannot be removed after erection or installation without substantial loss of value or damage thereto, or to the premises where installed." Please define "substantial" as it applies here. What constitutes a "substantial loss?"

Answer: The ASPR definition of "nonseverable" contained in section 13-101.10 is used in connection with the provisions of section 13-307. Section 13-307 provides that nonseverable facilities shall not be installed on privately-owned land unless the contract contains provisions safe-guarding the government's investment. The purpose of this provision is to avoid the situation where at the end of the usefulness of the facilities to defense production, the government might otherwise abandon them because the cost of removal would be excessive in relation to their value. The term "substantial" and "substantial loss" it is believed are used in this context.

Question 2. Does the existence of nonseverable Government-owned equipment on contractor-owned property vest the Government with a real property interest in the contractor's premises? Does the designation of "nonseverable" permit such equipment to be treated as real property for disposal purposes under the Federal Property and Administrative Services Act of 1949 and must it be reported as real property under 10 U.S.C. 2662?

Answer: The existence of nonseverable government-owned equipment on contractor-owned property does not vest the government with a real property interest in the contractor's premises. In the past in certain specific cases, nonseverable facilities owned by the government and located in contractor's plant have been disposed of as real property under section 203(e)(3)(G) of the Federal Property Act (40 U.S.C. 484(e)(3)(G). One of the first of such sales we believe was in 1964 involving a government-owned heavy drop forge located in the plant of the Ladish Company. We find no basis for making a distinction between the use of the term "real property" as used in the Federal Property Act and in section 2662 of title 10 U.S.C. which requires reports of proposed real property dispositions to the Armed Services Committee. Therefore, property to be disposed of as "real property" under that Act must be considered as real property for the purpose of reporting in accordance with section 2662 of title 10, United States Code.

Section 203(e)(1) of the Federal Property Act provides generally that all disposals of property shall be made after publicly advertising for bids. Section 203(e)(3) permits a deviation from this requirement in certain specified situations subject to the obtaining of such competition as is feasible under the circumstances. One of the specified situations is contained in section 203(e)(3)(G) which reads as follows:

"With respect to real property only, the character or condition of the property or unusual circumstances make it impractical to advertise publicly for competitive bids and the fair market value of the property and other satisfactory terms of disposal can be obtained by negotiation;"

There is no definition of "real property" in the Federal Property Act. However, "real property" is defined, in pertinent part, in section 101-47.103.12(b) of the Federal Property Management Regulations (41 CFR 101-47.103.12(b)) as:

"(b) Improvements of any kind, structures, and fixtures under the control of any Federal agency when designated by such agency for disposition without the underlying land (including such as may be located on the public domain, or lands withdrawn or reserved from the public domain, or lands reserved or dedicated for national forest or national park purposes, or on lands that are not owned by the United States) excluding however, prefabricated movable structures, such as Butler-type storage warehouses and quonset huts, and housetrailers (with or without undercarriages)".

The terms "improvements", "structures" and "fixtures" are not defined in the regulations. The term "fixture" can have a fairly wide meaning and varies from state to state. Whether a particular item is a "fixture" may depend on such factors as how it is annexed to the realty, its relationship to the use or purpose to which the realty is appropriated, the intention of the parties, and local custom and practice. "Severability" could be one of several factors in determining whether property is a "fixture".

It is our opinion that the DoD should discontinue any reliance on the authority provided in section 203(e)(3)(G) in proposing dispositions of certain industrial equipment, unaccompanied by a disposal of land, to contractors in possession. The absence of precise definitions in the Federal Property Management Regulations is itself evidence of the difficulty in determining in any particular case whether an item of equipment installed on real property itself possesses the characteristics of "real property" and hence is eligible for disposition under existing authority separate from the land. The absence of an ability to apply meaningful guidelines to its use in a particular case is indicative of its weakness. What is obviously lacking in this area is specific statutory authority from the Congress for dispositions of this nature. The Department of Defense should seek such authority along with the authority to sell other industrial equipment clearly in the nature of personal property.

Question 3. Under a negotiated sale of nonseverable and non-excess Government-owned property, would it be legal to include severable non-excess Government property which is used in conjunction with the nonseverable property? If so, would it be proper to classify items such as general purpose machine tools as related severable property?

Answer: In recent years the sale separate from the land of certain nonseverable facilities under section 203(e)(3)(G) of the Federal Property Act has included some ancillary equipment necessary to the operation of the facilities. However, as stated in answer to the preceding question, our opinion is that DoD should discontinue reliance on that authority for such sales for the reasons stated therein.

Question 4. Part I, Paragraph 1 of Executive Order No. 10789, 14 November 1958 as amended by E.O. 11051, 27 September 1962 authorizes the Department of Defense "to enter into contracts . . . without regard to the provisions of law relating to the making, performance, amendment, or modification of contracts, whenever, in the judgment of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force . . . the national defense will be facilitated thereby." Paragraph 3, states in part: "the contracts hereby authorized . . . shall include agreements of all kinds . . . for all types and kinds of property or services necessary . . . including . . . facilities, utilities, machinery, machine tools, and any other equipment without any restrictions of any kind as to type, character, location or form." Is it legal to use the foregoing authority as basis for selling non-excess Government equipment by negotiation? If not, please explain to include the meaning of the language "to enter into contracts . . . without regard to the provisions of law relating to the making, performance, amendment, or modification of contracts."

Answer: Executive Order No. 10789, as amended, is an implementation of the authority conferred on the President by the Act of August 28, 1958 (P.L. 85-804, 50 U.S.C. 1431-1435). As noted in section XVII of the Armed Services Procurement Regulation, this is extraordinary statutory authority to be exercised only in unusual circumstances and only after it is formally determined that such action would facilitate the national defense. Subject to such a determination and certain restrictions set forth in the statute, it permits authorized departments and agencies performing functions in connection with the national defense, to enter into contracts and into amendments or modifications of contracts without regard to other provisions of law relating to the making, performance, amendment or modification of contracts. P.L. 85-804 does not specifically authorize the disposal of property. It was a continuation with certain additional restrictions for use during a national emergency of the authority of Title II of the First War Powers Act of 1941 which was enacted a few weeks after entry of the U.S. into World War II. The primary purpose of Title II of the First War Powers Act was to authorize the negotiation of procurement contracts without regard to laws relating to the making of such contracts, e.g., the requirements of formal advertising. In this connection one of the restrictions added to this authority by P.L. 85-804 was a prohibition against its use for purchases of or

contracts for property or services required by law to be procured by formal advertising and competitive bidding.

It is our opinion that future dispositions of DOD industrial equipment should be based on specific authority to be obtained from the Congress.

Question 5. 10 U.S.C. 2667(b)(2) permits the Secretary of a Military Department to give the lessee of Government property the first right to buy the property if the lease is revoked to allow the United States to sell the property "under any other provision of law." Since inclusion of the foregoing authority implies that laws exist elsewhere please cite and explain the specific provisions of the other laws referred to here.

Answer: Section 2667 is a codification of the Act of August 5, 1947 (P.L. 364, 80th Congress), which was enacted for the purpose of broadening and making uniform the authority of the War and Navy Departments to lease government property. An examination of the legislative history indicates that section 2667(b)(2) was not predicated on any particular disposal statute, but that a disposal at a particular time would be based on "whatever legal procedures are then provided for the sale of surplus Government property." (S. Report 626, 80th Congress).

SENATE RESOLUTION 248—RELATING TO REQUEST PURSUANT TO COURT ORDER FOR INFORMATION IN COMMITTEE FILES

Mr. ERVIN. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The resolution will be stated.

The assistant legislative clerk proceeded to read the resolution.

Mr. ERVIN. I ask unanimous consent that further reading of the resolution be waived, and that the resolution, with its preamble, be printed in full in the RECORD at this point.

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

The resolution (S. Res. 248), with its preamble, is as follows:

S. RES. 248

Resolution relating to a request, pursuant to court order, for certain information in the files of the Judiciary Subcommittee on Constitutional Rights.

Resolved,

Whereas Lawrence M. Baskir, Chief Counsel and Staff Director of the Senate Judiciary Subcommittee on Constitutional Rights, has been requested by letter, pursuant to court order, to provide certain information from the subcommittee files regarding one Bradford Benner for purposes of a civil suit entitled *Bradford Benner* v. *National Broadcasting Company, Incorporated,* Numbered 4–72 Civ. 67 (United States District Court, District of Minnesota, Fourth Division); and

Whereas Lawrence M. Baskir was authorized on December 4, 1973, in a document filed by Bradford Benner on December 6, 1973, to release to respondent, or his representative, in the aforementioned civil suit, any information pertaining to him in the subcommittee's files; and

Whereas by the privileges of the Senate of the United States, no evidence in the possession and under the control of the Senate of the United States can, by the mandate of process of ordinary courts of justice, be taken from such possession or control but by its permission; and

Whereas by rule XXX of the Standing Rules of the Senate of the United States, no Member or Senate employee is authorized to produce Senate documents, papers, or evidence but by order of the Senate, and information secured by Senate staff employees pursuant to their official duties as employees of the Senate may not be revealed without the consent of the Senate;

That Lawrence M. Baskir, Chief Counsel and Staff Director of the Senate Judiciary Subcommittee on Constitutional Rights, is hereby authorized to withdraw information regarding one Bradford Benner from the files of the Judiciary Subcommittee on Constitutional Rights, and to transfer such information to respondent, or its representative, in the aforementioned civil suit. This authorization to release certain information does not constitute an authorization by the Senate of the United States for Lawrence M. Baskir to appear in such suit, nor does it constitute an authorization by the Senate to pay any expenses which may be incurred by the release and transfer of such information.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to consider the resolution.

Mr. ERVIN. Mr. President, this is a very simple resolution, which I offer in behalf of the Judiciary Subcommittee on Constitutional Rights.

The U.S. District Court for the District of Minnesota has issued an order in a civil action pending in that court requesting the committee to provide, as relevant evidence in that case, information in the possession of the committee. This resolution is merely an attempt on the part of the committee to comply with the rules of the Senate that a committee or subcommittee cannot release information under these circumstances without the permission of the Senate.

There can be no valid objection to the adoption of this resolution, and I ask for its immediate adoption.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution was considered and agreed to.

The preamble was agreed to.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to print Senate Resolution 248 in the regular form.

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

Is there further morning business?

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

"THIS IS THE DAY," A SPEECH BY CULLY A. COBB

Mr. STENNIS. Mr. President, last April 14, a very distinguished man and a dear friend, Mr. Cully A. Cobb, spoke at the groundbreaking for the building that will house the new Institute of Archaeology at Mississippi State University, his alma mater and mine. The building was made possible by Mr. Cobb's generosity, and has been named the Cobb Institute of Archaeology.

Cully Cobb is a man who has great competence and ability, and combines these qualities with gentle regard for others. He is a man of wisdom and humility, of strong character and of great faith. His speech at the groundbreaking is for all of mankind and for all ages to come.

No man is truly great, but Cully A. Cobb has done many great things. He was one of the originators and was a strong backer of the corn clubs, the 4–H Clubs, and other early advances in training the farm youth. He was at the forefront in modern agriculture at Mississippi State and later at the agricultural school at Buena Vista, Miss. In time he became editor in chief of the Southern Ruralist, a leading publication in agriculture for the Nation, where for many years he was a strong leader in major phases of agriculture in the Southeast and in time throughout the Nation.

He was brought to Washington in the formative years of the agricultural legislation of the 1930's and was placed in charge of the cotton program. In addition, many major phases of new legislation in the field of agriculture felt the impact of his leadership.

He was also successful in business. However, as this speech shows, the inner man developed, and thus the integrity and character, together with a dedication to causes, to people, and to his country, rounds out a career of achievements that have helped countless thousands.

His inspirational words reflect his deep feelings on that occasion, and those of his gracious and devoted wife, Mrs. Cobb. Our country will again turn to such characters for leadership in the decades ahead. The entire Nation shares in his qualities and in his achievements. Therefore, I ask unanimous consent that his speech be printed in the body of the RECORD.

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

THIS IS THE DAY

(Ground-breaking Cobb Institute of Archaeology, Mississippi State University, Mississippi State, Mississippi, April 14, 1973—C. A. Cobb)

We are here today on the campus of this great university to break the ground for the building of the Cobb Institute of Archaeology.

When I came here as a student in February 1904, it was then the Mississippi Agricultural and Mechanical College. Already the solid beginnings of the comprehensive and magnificent institution we find here now had been established. As one of the nation's land grant colleges its purpose was to provide young men with a good solid education with special emphasis upon the mechanic arts and industries, and upon those sciences that relate to the soil, all plant and animal life and the season-to-season and year-to-year natural forces controlling planning. And then how to apply what they learned to the management of the state's land and other natural resources so as to preserve the productivity of the land and produce the required abundance for full living and effective citizenship. The end sought by this and its sister institutions has been achieved. The record shows that our farmers are the most produc-

tive in the world and that our people are the best fed in the world. Moreover as a national industry, agriculture here in the United States is the most efficient in the world.

When I came here as a student there were between seven and eight hundred students. Now there are ten thousand. We find the men and women who have moved through these halls and on out into life occupying positions of great leadership, and great distinction in every phase of our national life. Wherever you find them they are helping to shape the destiny of our own people and are helping to bless the whole wide world in the basic and often brilliant contributions they make to the advancement of human progress.

In 1908 I was handed my diploma in Lee Hall. In the seventy years that have intervened since I came here, indeed throughout my life, door after door has opened to me. And somehow, because of the influence of the forces that have shaped my life, especially my training here, I have had the good fortune to choose the right doors.

The world has been generous to me. So much so indeed, that I am here today with a gift that helps me keep faith with those who have believed in me and that have invested so much in me. And I have faith to believe the investment Mrs. Cobb and I are making here today will pay off as the investment made in me has paid off in the joy of living and serving that has so richly blessed our home and our lives. We believe the Cobb Institute of Archaeology will add a brilliant facet to the great university of which it is to be a part.

I have been asked many times when did all this start? When did you first become interested in archaeology? And how did you think of the establishment of the Institute? I would not try to offer a precise answer to these questions.

Probably no one knows the day or the hour. You have heard it said "It is in the blood." I would offer that as a fact and as the beginning. I think the real beginning would date back some two thousand years or more. However, the conscious beginning in me as an individual came when I was a small child. This fact brings the answer much closer.

One of the great teachers that has graced the halls of this university was Dr. W. H. Magruder, Professor of English and my English teacher in my junior and senior years. On my first day as a junior in his classroom, after he had welcomed the class and had made some general remarks about what the college was here for, about student life, and what we would be doing in his classroom in the months that lay ahead, he observed that barring some calamity, we were far enough along to feel assured of our graduation on time. He then hesitated for a moment and said, "Now, young gentlemen, whether you are aware of it or not you are going to be leaders. You are going to be leaders in your sphere of life." He hesitated again for a moment and said "Learn how to pray. Class dismissed." You could have heard a pin drop. Nobody was ready to leave. And the next day after we had been seated, he gave us this to be thinking about: "Every normal human being at some time, usually rather early in life, asks himself these questions, Who am I? Where did I come from?" And a little later, "How did I get here? What do I have?" Beyond these questions he said, "There is one other question that naturally suggests itself, Where do I go from here? We will concern ourselves with the answer to that later."

In our study of the English language itself and what to do with grammar, rhetoric, English composition and how to express ourselves, Dr. Magruder said, "We will have to study the origin of languages and of the other peoples of the world—the Sumerians, the Babylonians, the Greeks, the Latins, and even the aborigines. That will bring us face to face with the question of Who am I? Where did I come from? How did I get here? We will already have begun to realize what we have. To know the world about us, its people especially, and to really understand the forces that gave us this institution, and that brought us to this campus, is preparation we must have if we are going to find our way in the years ahead and be fruitful and happy."

These wonderful days in Dr. Magruder's classroom helped me to find the way to this place where we stand today. Moreover they took me back to my childhood in the modest farm home of my father, a country Baptist preacher and solid American citizen, and of my understanding, compassionate mother who had a marvelous gift of impressing me with the difference between right and wrong.

My first and formative years were spent on this farm. It had its own Indian mound. Being a great mound of heavy unhewn stones, it probably antedates the days of the Indian. It had its burial ground. One day, we plowed up a skeleton and there was a mound of periwinkle shells, the remains of some great feast. This was archaeology and history. We discussed it in the one-room country school. I have axes, arrowheads, spear points and scrapers from the plenteous supply found there at that time. Our farm lay at the bottom of what sixty-five million years ago was a sea. Cretaceous limestone, full of all manner of ancient seashells, is a part of the floor of this valley.

I wondered about the Indians and the arrowheads, the axes, the knives, the great rock mound, the periwinkle shells. I still do. This institute will help me find the answer. I wondered about the sea shells in the vast tonnage of loose cretaceous stones on top of and on down deep in some of the hills of the area. Dr. W. N. Logan, Professor of Geology, my teacher here, helped me get the answer to this, but also knew why bold everlasting springs of clear cold water were found at the foot of the hills where these cretaceous stones abound. And so I came here with a maturing interest in geology and archaeology that in the meantime, had expanded far beyond our little farm and the creeks and rivers of Middle Tennessee.

Greatly concerned about the future of my sister and me, my mother and father, in my eleventh year moved the family to the small country town of Elkton, Tennessee, so we could have the advantage of the excellent high school there. I did not know it then, but this was the first, and a very long step, probably the longest single step, toward the place where I stand today. The principal of the school was personally attractive, a man of high intelligence and great moral strength. Above all he regarded it as his job to help each student find his way. His natural attitude invited confidence and counsel.

Perhaps the greatest shock of my life came in my eighteenth year when I suddenly realized one day that I had arrived at that point of my life when "I was on my own" and would be from that day on out. Face to face with the cold facts of life, I also realized that I had better make some plans. To make plans of value, I needed mature, wise and intensely personal guidance. Fortunately I had it in my school principal, Professor M. L. Caneer. We talked it over and his first advice was "Don't be afraid." We agreed that there wasn't anything at Elkton for me or anywhere else until I prepared myself for some definite place in life, and that my first job was to get into some good broad-based college, maybe the University of Tennessee. He said, "Your toughest job is to make a clean break with everything here at Elkton, go somewhere, get a job and save enough money to get your foot in the door of a school. At that point if you keep your health, you will have it made. And all this will have to be just between us." And so it was. My mother and father lived to see the move to Elkton pay off.

When we plowed up the Indian skeleton, I not only wondered who he was, I wondered who I was. With this and the foregoing, you can more fully understand why Dr. Magruder's questions stand out as one of the most exciting moments of my life—and some of the reasons and forces that have combined to bring me back to these grounds today.

In the meantime, I have found out very definitely who I am. I now know who I am. I have found out where I came from. I know where I came from. What I know carries me back a couple of thousand years and more, and if you read history at all, especially the Bible, you know the route I came and how I got here. And I know that the heritage that I have the glorious privilege of claiming is rich beyond any man's ability to measure it. Out of it and because of it, I can claim a life that has been as full as my capabilities would permit.

I alone know the rewards that are mine—the breadth of understanding, the depth of satisfaction that I have gotten out of life, and the privilege of witnessing the progress of our people. Nothing could be more gratifying than to have had the privilege of watching this university grow and mature into the great instrument of usefulness it is today. Out of the seeds of its plantings we see here today the beginnings of the four walls of this Institute and the enormously significant leadership they will house. This leadership will help the men and women who come here to get answers to those vital questions Dr. Magruder asked, "Who am I? Where did I come from? How did I get here? and What do I have?" The answers they will get will lay a deep and solid and enriching foundation of understanding of themselves and of the world of which they are a part. Above all what they will get as they look back into the ancient past and forward to the road that lies ahead, will help them find the answer to great usefulness, great living, and to the question, "Where do we go from here."

In all humility may I venture to say that this day of ground-breaking is another day of door opening, when I am witnessing with my own eyes a dream come true and the harvest of seed that have been planted down through the generations. Would it be all right to say "Some fell upon good ground?" I must add—"it was in the blood." And the first good ground was provided long ago. To me as an individual it was found first in a Christian home on a farm in Tennessee, then in a little country church. I found it in the one-room country school at Conway. I found it in a high school. I found it here, and I found it in every step of the way down through the years of my business and professional life.

And in joyous acknowledgement let me emphasize that this is in every way a joint enterprise in which Mrs. Cobb and I share and share alike. We have worked and saved and prayed and planned together for this day, a day of fulfillment. Nothing less than this deep sense of devotion, gratitude, and understanding of the mission to be served could have brought it to pass. And we have faith to believe that much of the seed that will be planted will "fall upon good ground."

With the Psalmist I would reverently claim, "This is the day which the Lord hath made; we will rejoice and be glad in it."

ORDER FOR EXTENSION OF PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be an extension of 3 minutes for routine morning business today.

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

SENATE RESOLUTION 249—RELATIVE TO OIL PRICE INCREASES

Mr. CHILES. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The resolution will be stated.

The assistant legislative clerk read as follows:

S. RES. 249

Resolved, That it be the sense of the Senate that it be an urgent matter to communicate to the governments of Canada, Venezuela, and the Arab oil producing countries that the United States views with utmost concern recent oil price increases as detrimental to prices, real income and employment in the United States and that such actions by these countries should not be taken without regard for these effects on the life of the American people and for the possibility of reciprocal economic action by the United States which might adversely affect the economies of these countries.

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

There being no objection, the resolution was considered and agreed to.

OIL TAX INCREASES ABROAD DO NOT GO UNNOTICED AT HOME

Mr. CHILES. Mr. President, the Canadian broadcaster, Gordon Sinclair, says in his now famous record that "he thinks it is time to speak up for the Americans as the most generous and possibly the least appreciated people on all the Earth."

Well, I sure wish Gordon Sinclair could have a little influence over Canada's foreign policy toward the United States. The Canadian Government's recent astronomical rises in export taxes on oil shipped to the United States confirm Sinclair's view that we are the "least appreciated people on all the Earth."

Do you realize, Mr. President, that as little time ago as September 1 of last year the Canadians first levied an oil export tax and at that time set it at 40 cents a barrel? Now they have passed legislation that will make effective as of this Friday, February 1, an export tax rate of $6.40 a barrel.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks some tables showing Canadian, Venezuelan, and Arab oil prices, and U.S. oil imports.

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

(See exhibit 1.)

Mr. CHILES. Mr. President, this exhorbitant export tax rate will take $6 million a day out of the pockets of consumers in the United States and pay it into government coffers in Canada. Over a year's time, this transfer will amount to an additional $2 billion in public revenue in Canada which is more than 10 percent of the Canadian national budget.

This is an unreal world. Unlike Sinclair, many Canadians carp and complain about how much power and influence the United States has over their lives. Now they are in a sense hijacking $6 million a day out of our pockets and we are behaving as if they have our hands tied and as if we do not have any power in the situation at all. That is what I mean about it being an unreal circumstance. We do have power and we should use it.

William Simon, our Federal Energy Administrator, will be meeting on Thursday of this week with Canada's energy chief, Donald MacDonald. Mr. President, I strongly urge this body to request that Mr. Simon send a clear message to the Canadians that we are not going to roll over and play dead and that if this continues we will strike back with some biting measure of our own. If this kind of game is going to be played, then we have to play it too. We must send Canada a message that these kinds of one-sided actions will not wash.

There are no two economies in the world that are more interwoven with each other than are the United States and Canadian economies. There are border industries in both countries that are highly dependent on the flow of goods from the other. There is just no way that I can see that Canada can take a unilateral action as it has, with total disregard for the power we have to strike back at the jugular of some of Canada's own industry.

When William Simon meets with Donald MacDonald this week, let us be loud and clear. The Canadians, and others that matter, are starting to play a new and highly risky game. The industrial world is not going to be flattened by unilateral oil hikes. They should already know that we can strike back. They are as dependent on us as we are on them. Now, we need to let them know that we will strike back if this nonsense continues.

We are not talking so much now of an oil shortage, although this continues to be a problem. We are facing more now the problems coming as a result of tremendous increases in oil prices. One problem, of course, feeds the other. But we have to be very concerned in this country about what the effects will be of this price hijacking on our own inflationary situation and employment picture. There is no way that we can have these kinds of mammoth changes in oil prices drawing that kind of money out of our Nation's money stream without there being trouble ahead for many Americans. This concerns me deeply and I think that as a Government we are going to have to get as tough with the governments as we are with the companies that are causing our people these difficulties.

As is well known, it is not just the Canadians who are playing this game. Venezuela and the Arab countries too have hiked the daylights out of their oil prices. The outgoing Venezuelan Government, after suffering a decisive defeat at the polls on December 11, gave Americans a Christmas Eve announcement of an 80-percent increase in their oil prices. This increase became effective on January 1 raising the tax reference price of Venezuelan crude to over $14 from $8 a month before. This seems clearly to be a case of a lame duck party making a final bid to the Venezuelan people before turning over the reins of power to the opposition. We need to think about how to make our interests known.

Again, Venezuela, like Canada, is very dependent on us for certain imports. For example, Venezuela produces no wheat domestically and gets 98 percent of its supply from the United States. They import nearly half a billion dollars in industrial and agricultural machinery from the United States every year. Venezuela has a sluggish agricultural sector and its industry is just getting off the ground. So these two sectors are highly dependent on imports, and especially on imports from the United States.

Let us let the Venezuelan Government know that we mean business. If they are going to join this knock-'em-sock-'em ball game with oil prices, we are going to start to play too. It is not the nicest way to make foreign policy, but these actions hurt so we need to strike back.

Of no less importance, to be sure, are the Arab oil producing countries. It is there that the problem began and the first leverage on price was actually exerted. Now through the outstanding efforts of the Secretary of State a negotiated settlement in the Middle East is underway. We should focus our efforts now not only on seeing to it that the oil embargo is lifted, but also on communicating our concerns about the price of oil. The Arabs should be made to realize that with oil prices going the way they are the United States would almost be better off to embargo the oil ourselves instead of submitting our people to these price hikes. If we are going to consider rolling back prices of domestic crude produced by our own companies, then we need a strong message to the Arab oil producing countries as well of our urgent concern about the international price of oil.

The Middle East is an especially important source of oil for Japan and Europe. The Arab oil producing states would be fools to cause economic turmoil in Europe and Japan and not expect reprisals of some kind. Countries with as much economic muscle as these are not going to stand back and watch their vital interests washed out by the actions of less powerful countries in the Middle East.

As we have become painfully aware, the Middle East is important to us too. But Americans are not so aware of the fact that we get more oil from Venezuela than from all the Arab countries combined and that Venezuela and Canada together provide half of our oil imports.

Mr. President, oil price hijacking by other countries with drastic damaging effects on the jobs and prices of the American people is no way to play the international game when nations of today are highly dependent on each other not only for goods but also for economic survival. I respectfully request that the Senate urge the Executive to take some steps which will show the rest of the world that we will not be pushed around and that this kind of game is no fun at all to play, because nobody wins. Therefore, Mr. President, I have introduced this sense of the Senate resolution which the Senate has just agreed to.

EXHIBIT 1

TABLE 1.—CANADIAN OIL PRICES IN CHICAGO, ALBERTA CRUDE (PEMBINA)

	Wellhead price	Transport costs	Export tax	Total
Jan. 1, 1973	$2.96	0.45	0	$3.41
Sept. 1, 1973	3.81	.45	.40	4.66
Dec. 1, 1973	3.81	.45	1.90	6.16
Jan. 1, 1974[1]	3.81	.45	2.20	6.46
Feb. 1, 1974[1]	3.81	.45	6.40	10.66

[1] Assumes that wellhead price and transport costs remain constant.

TABLE 2.—VENEZUELAN AND ARAB OIL PRICES

[Per barrel]

	Venezuelan crude,[1] 35 gravity	Arab light crude, 34 gravity
Aug. 31, 1970	$2.34	$1.80
Aug. 1, 1973	4.63	3.07
Dec. 1, 1973	8.00	5.04
Jan. 1, 1974	14.88	11.65

[1] Tax reference price for Oficina crude.

TABLE 3.—U.S. OIL IMPORTS, 4TH QUARTER ESTIMATES, 1973

Source	Barrels	Percentage of estimated U.S. consumption
Arab	1,600,000	9.2
Saudi Arabia	600,000	
Abu Dhabi	150,000	
Kuwait	150,000	
Iraq	50,000	
Libya	350,000	
Algeria	150,000	
Other Arabs	150,000	
Iran	400,000	2.3
Venezuela	2,000,000	11.6
Canada	1,100,000	6.4
Nigeria	550,000	3.2
Indonesia	240,000	1.4
Other	400,000	2.3
Total	6,300,000	36.4

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON EXEMPLARY REHABILITATION CERTIFICATES

A letter from the Secretary of Labor, reporting, pursuant to law, on exemplary rehabilitation certificates, for the calendar year 1973. Referred to the Committee on Armed Services.

REPORT ON ENFORCEMENT OF TITLE I OF CONSUMER CREDIT PROTECTION ACT OF 1968

A letter from the Attorney General, transmitting, pursuant to law, a report on enforcement of title I of the Consumer Credit Protection Act of 1968, for the calendar year 1973 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

REPORT OF RENEGOTIATION BOARD

A letter from the Chairman, the Renegotiation Board, transmitting, pursuant to law, a report of that Board, for the fiscal year ended June 30, 1973 (with an accompanying report). Referred to the Committee on Finance.

REPORT ON ADMINISTRATION OF THE GUAM DEVELOPMENT FUND ACT OF 1968

A letter from the Director of Territorial Affairs, Department of the Interior, transmitting, pursuant to law, a report on administration of the Guam Development Fund Act of 1968, for fiscal year 1973 (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

PROPOSED CONCESSION CONTRACT

A letter from the Acting Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed concession contract within Olympic National Park, Washington (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION FROM THE ATTORNEY GENERAL

A letter from the Attorney General, transmitting a draft of proposed legislation to amend chapter 44, title 18, United States Code, to prohibit the unlawful possession of firearms, and for other purposes (with an accompanying paper). Referred to the Committee on the Judiciary.

REPORT OF FOUR CORNERS REGIONAL COMMISSION

A letter from the Federal Cochairman, Four Corners Regional Commission, Department of Commerce, transmitting, pursuant to law, a report of that Commission, for fiscal year 1973 (with an accompanying report). Referred to the Committee on Public Works.

REPORT OF GOVERNMENT PRINTING OFFICE

A letter from the Public Printer, Government Printing Office, Washington, D.C., transmitting, pursuant to law, a report of that office, for fiscal year ended June 30, 1973 (with an accompanying report). Referred to the Committee on Rules and Administration.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

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

A concurrent resolution of the Legislature of the State of Oklahoma. Referred to the Committee on the Judciriary:

"A CONCURRENT RESOLUTION MEMORIALIZING CONGRESS TO RETURN VETERANS DAY TO NOVEMBER 11, THE MEANINGFUL AND PROPER DATE ON WHICH WE SHOULD HONOR OUR VETERANS; AND DIRECTING DISTRIBUTION

"Whereas, this country owes a great deal to its men and women who have served in its armed forces; and

"Whereas, it is fitting that we set aside one day each year to honor the veterans who have served this country so faithfully; and

"Whereas, it was decided in the early 1950's that November 11, the date of the Armistice ending World War I would be set aside to honor all the veterans of all wars; and

"Whereas, two veterans days are presently being celebrated in thirty-two states, because the federal government has created a new, more commercially convenient Veterans Day while these states continue to honor veterans on the day which has meaning and relevance to those it seeks to honor; and

"Whereas, there have been some thirty-nine resolutions introduced in the 93rd Congress to change Veterans Day back to November 11, from its present date which has no meaning and was chosen for more convenience's sake;

"Now, therefore, be it resolved by the House of Representatives of the 2nd session of the 34th Oklahoma legislature, the Senate Concurring therein:

"That the House of Representatives and the Senate of the United States be and hereby are respectfully urged to pass any legislation which would change Veterans Day to its meaningful and proper date, November 11, and thereby make the national holiday coincide with the Veterans Day of the majority of the states.

"That the Oklahoma Congressional Delegation actively support such legislation.

"That duly authenticated copies of this Concurrent Resolution be transmitted to:

"1. The Honorable Richard M. Nixon, President of the United States;

2. The Honorable Gerald Ford, Vice President of the United States;

"3. The Honorable Mike Mansfield, Majority Leader, United States Senate;

"4. The Honorable Carl Albert, Speaker, United States House of Representatives;

"5. All other members of the Oklahoma Congressional Delegation."

A concurrent resolution of the Legislature of Michigan. Ordered to lie on the table:

"HOUSE CONCURRENT RESOLUTION No. 311

"Whereas, Gerald R. Ford has been confirmed for the Nation's second highest office by the Congress of the United States and has taken the oath of office, thus becoming the fortieth Vice President of the United States; and

"Whereas, Gerald R. Ford brings to the office of Vice President invaluable experience as an outstanding public leader, a proven record of superior accomplishments in the Federal Government, and tremendous energy and concern for the welfare of all mankind; and

"Whereas, In 1949 he began his long and distinguished career in the United States House of Representatives. He served in the House of Representatives as a member of the Public Works Committee during 1949 and 1950 and as a member of the Appropriations Committee from 1951 to 1965. He was elected Chairman of the House Republican Conference in 1963. In 1965 he was chosen House Minority Leader; and

"Whereas, His driving energy, hard work, and remarkable political skills became legendary in Washington. His particular genius in legislative relations and his causual and genial manner have proven a stabilizing influence in legislative affairs and his considerable legislative knowledge and acumen have served the work of the Congress and the interest of the Nation; and

"Whereas, The wholesome sincerity and fresh outlook of Gerald Ford make him the kind of leader the Nation has been looking for. His long association with the United States House of Representatives and his straight-forward approach to solving problems will prove to be a particular benefit to him as Vice President of the United States; now therefore be it

"Resolved by the House of Representatives (the Senate concurring), That, by all present Gerald R. Ford is hereby accorded the unanimous congratulations of the Michigan Legislature upon his confirmation as Vice President of the United States by the United States Congress; and be it further

"Resolved, That a copy of this tribute be transmitted to Vice President Gerald R. Ford as evidence of the esteem in which he is held by the Michigan Legislature."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. Res. 238. A resolution continuing the authorization for two additional temporary professional staff members and two additional temporary clerical assistants for the Committee on Finance (Rept. No. 93-666);

S. Res. 239. A resolution authorizing additional expenditures by the Committee on Fi-

nance for routine purposes (Rept. No. 93–667); and

S. Res. 247. A resolution authorizing supplemental expenditures by the Select Committee on Nutrition and Human Needs for inquiries and investigations (Rept. No. 93–668).

By Mr. CANNON, from the Committee on Rules and Administration, with an amendment:

S. Con. Res. 61. A concurrent resolution authorizing the printing of additional copies of part I of the Senate hearings entitled "Confidence and Concern: Citizens View American Government—A Survey of Public Attitudes" (Rept. No. 93–669).

By Mr. KENNEDY, from the Committee on Labor and Public Welfare, with an amendment:

S. 2368. A bill to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety and effectiveness of medical devices (Rept. No. 93–670.)

TECHNICAL CORRECTION OF COMMITTEE REPORT (NO. 93–661) ON S. 316, THE EASTERN WILDERNESS AREAS ACT

Mr. JACKSON. Mr. President, I offer for the benefit of my colleagues and other interested parties a technical correction of an arithmetic error which appears on page 27 of report No. 93–661, filed by the Interior and Insular Affairs Committee on December 20, 1973, regarding S. 316, the Eastern Wilderness Areas Act.

Under the heading "Private acreage in Proposed Areas" I would substitute the figure 4,200 in lieu of the figure 2,300 which presently appears in that column for the Nebo Ridge Wilderness study area located in the Hoosier National Forest in the State of Indiana. There would be a related correction for the column headed "Estimated Cost of Private Land" substituting the figure 1,260,000 for 587,000 also for the Nebo Ridge area. Corresponding changes should also be noted for the first paragraph on page 13 of the report.

Mr. President, I ask unanimous consent that corrections be made accordingly.

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

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. BIDEN:

S. 2908. A bill to establish a mass transportation trust fund and to amend the Urban Mass Transportation Act of 1964 in order to assure adequate local transportation service. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. TAFT:

S. 2909. A bill to amend the Emergency Daylight Saving Time Energy Conservation Act of 1973 in order to extend and revise the authorization to exempt individual States from the provisions of such act. Referred to the Committee on Commerce.

By Mr. GOLDWATER (for himself and Mr. DOMENICI):

S. 2910. A bill for the relief of Maj. Richard F. Meyer, Jr., U.S. Air Force. Referred to the Committee on the Judiciary.

By Mr. McINTYRE:

S. 2911. A bill to establish a loan program to assist industry and businesses in areas of substantial unemployment to meet pollution control requirements. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. HUMPHREY (for himself, Mr. MONDALE, and Mr. Moss):

S. 2912. A bill to provide for payments to compensate county governments for the tax immunity of Federal lands within their boundaries. Referred to the Committee on Agriculture and Forestry and the Committee on Interior and Insular Affairs jointly, by unanimous consent.

By Mr. MONDALE:

S. 2913. A bill to declare that certain federally owned lands within the White Earth Reservation shall be held by the United States in trust for the Minnesota Chippewa Tribe, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. KENNEDY (for himself and Mr. HRUSKA):

S. 2914. A bill to amend section 1341 of title 18, United States Code. Referred to the Committee on the Judiciary.

By Mr. KENNEDY (for himself and Mr. BROOKE):

S. 2915. A bill to authorize the Secretary of the Interior to establish the Boston Naval Shipyard Historic Site in the city of Boston, Mass., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BIDEN:

S. 2908. A bill to establish a mass transportation trust fund and to amend the Urban Mass Transportation Act of 1964 in order to assure adequate local transportation service. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. BIDEN. Mr. President, at this moment the attention of the country is turned toward coping with our energy crisis. Congress is considering all sorts of legislation—from measures placing restrictions on energy consumption to those that would encourage the development of alternate sources of energy. Today, I intend to introduce a bill that is also aimed at bringing relief from the present crisis and at encouraging a long-term energy conservation measure. This bill is intended to immediately provide for the increased use and development of mass transit systems.

I know that Congress has debated the mass transit issue for many years. It has recently passed bills which would provide some money from the highway trust fund in future years to aid capital development. In addition, the Senate passed, last spring, S. 386, which would authorize the expenditure of Federal money for operating subsidies. That bill, however, has been in conference for several months, and its ultimate disposition is uncertain.

In light of the urgency for additional public transportation brought on by the energy crisis, I am introducing this bill, because I think it can channel urgently needed money immediately to where it can do the most good. While all other arguments for mass transit such as easing up traffic congestion and lessening air pollution to enable urban areas to meet the standards laid down in the Clean Air Act continue with long-established validity, it is the urgency of the energy crisis which I feel require the immediate enactment of mass transit legislation.

This bill provides two complementary aids for mass transit. The first is the creation of a mass transportation fund which would be established by the transfer of, first, all amounts at present appropriated under the Urban Mass Transportation Act of 1964 and remaining unexpended on the effective date of this legislation, and second, 40 percent of the total amount received in the highway trust fund for each fiscal year beginning on or after the effective date of this act.

The moneys available from this new mass transit trust fund would be made available, as provided by appropriation acts, for making grants and expenditures not only under the Urban Mass Transportation Act of 1964, but for operating subsidies, in accordance with a comprehensive mass transportation service improvement plan prepared by the applicant State or public body and approved by the Secretary of Transportation. The Federal subsidy would be limited to four times the amount of financial assistance provided from the State or local sources for that purpose. This formula thereby contemplates that at least 20 percent of the operating subsidy would be contributed by the State or local body which maintains the mass transportation service.

These two major revisions of present Federal participation are designed to meet the Nation's immediate transportation needs, but without requiring new tax measures for consumers. In addition, I feel that this is a particularly opportune time to utilize money from the highway trust fund, because we must now realistically look to the decreased use of the individual automobile as the mainstay of transportation, and thereby can expect a decrease in travel over the road.

In times of unlimited, cheap supplies of gasoline, the comfort and convenience of the automobile made it the overwhelming favorite of the American public for personal travel—for work and for travel. I, for one, have long felt that a great deal of waste, and hardship on those unable to afford such transportation, was allowed in letting this situation to continue without decent alternatives.

But the time has come when few people can afford, or even find, enough gas to take them everywhere they need to go. Mass transit, as it now exists, serves two functions: It provides transportation between shops and jobs in the cities and homes in the suburbs. But a really successful system, as I see it, would make transportation available between jobs and shopping in one suburb and housing in another. This will require substantial expansion of almost all systems now in operation, but this is essential if we are to preserve the high level of commerce and growth of this Nation.

Transit systems almost always operate at a deficit because, given freedom of choice, potential riders will usually choose the comfort and convenience of the automobile. Of course, the deficit picture is different for each area, but as

the Senate Banking Committee pointed out in its report on S. 386:

A program of capital grants cannot, by itself, alleviate the increasing financial distress faced by the growing number of municipalities which now own and operate transit systems . . . Information received by the committee indicates that in the decade from 1961–1971, the number of municipalities which were forced to initiate programs of operating assistance to transit systems increased by nearly 400 percent. The committee finds that the financial structure of the mass transit industry is certain to deteriorate further unless immediate financial assistance is made available. Without Federal aid, the transit industry will continue to experience increasing operating expenses, increasing fares, and declining ridership.

In any case, I believe it is the duty of the Government to provide such subsidies as are needed because I think mass transit is as much an essential public service as the fire department or hospitals. And up to now we have dealt with the subsidy to mass transit as if it were some sort of evil and have felt sometimes that it ought to go its own way, which is unrealistic. We do not ask that of other areas of great public service and need, and I see no need for it here. In addition, I think a 80-percent Federal contribution is entirely appropriate, since the great mobility of our population makes it as important to provide local transportation for intercity travelers who must increasingly rely on trains and planes for long-distance travel as for local residents who use mass transit for their daily needs.

Our citizens deserve the best possible transportation systems, because they are vital for jobs, for the home, and for recreation. Mass transit can provide efficient, economical service that will take us where we need to go. I hope this legislation will provide a means for realizing that goal.

Mr. President, I would like to summarize in closing by saying that if we do not enact an adequate mass transportation act at this time it means that we are extremely derelict in our duty and will find it increasingly difficult to explain to our constituents that in a time of need for energy and in a time of shortage of vital service we in Congress are not taking one of the most appropriate measures we need to take at this time, and that is to provide for adequate mass transit so as to alleviate the needs of our citizens.

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

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

S. 2908

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that present shortages of energy supplies require the immediate expansion of mass transportation services because such services are essential to the needs of commerce; that rapid urbanization and the continued dispersal of population and activities within urban areas has made the ability of all citizens to move quickly and cheaply an urgent national goal; and that success in the effort to provide efficient, safe, and convenient mass transportation compatible with soundly planned urban areas will require substantially greater and more assured Federal financial participation to permit confident and continuing local planning and greater flexibility in program administration. It is the purpose of this Act to provide an effective means of meeting these requirements.

CREATION OF TRUST FUND

SEC. 2. There is hereby established in the Treasury of the United States a trust fund to be known as the mass transportation trust fund (hereinafter referred to as "trust fund"). The trust fund shall consist of such amounts as may be appropriated or credited to the trust fund as provided by this Act.

TRANSFERS TO TRUST FUND

SEC. 3. (a) All amounts appropriated for purposes of grants, loans, and general administrative expenses under the Urban Mass Transportation Act of 1964 (or for liquidating obligations incurred for such purposes) and remaining unexpended on the effective date of this Act are transferred as of such date to the trust fund; and any amounts which may be appropriated for such purposes (or for liquidating obligations incurred for such purposes) after the effective date of this Act shall be deposited in the trust fund.

(b) There shall be transferred to the trust fund from the highway trust fund, for each fiscal year beginning on or after the effective date of this Act, an amount equal to 40 per centum of the total amount received in the highway trust fund in that year under applicable provisions of law. Transfers under this subsection shall be made at such times and in such manner as the Secretary of Transportation shall determine, and the Secretary of Transportation shall make such adjustments in the apportionment of other amounts in the highway trust fund as may be necessary or appropriate to reflect such transfers. In addition, the Secretary of Transportation may make such adjustments in amounts available for the purposes of section 14 of title 23, United States Code, as may be necessary to assure equitable distribution of such amounts in accordance with the policy of such section and with the policy of the Urban Mass Transportation Act of 1964.

(c) There are authorized to be appropriated from the general fund of the Treasury to the trust fund, for any fiscal year beginning on or after the effective date of this Act, such additional sums as may be required to make the expenditures referred to in section 5. These sums are to be repayable advances unless otherwise provided.

MANAGEMENT OF TRUST FUND

SEC. 4. (a) It shall be the duty of the Secretary of the Treasury to hold the trust fund, and (after consultation with the Secretary of Transportation) to report to the Congress not later than the 1st day of March of each year beginning with 1974 on the financial condition and the results of the operations of the trust fund during the preceding fiscal year and on its expected condition and operations during the current and next ensuing fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(b) It shall be the duty of the Secretary of the Treasury to invest such portion of the trust fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at issue price, or (2) by purchase for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the trust fund. Such special obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield during the month preceding the date of such issue, on marketable interest-bearing obligations of the United States of comparable maturities then forming a part of the public debt rounded to the nearest one-eighth of 1 per centum. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest. Advances to the trust fund pursuant to section 3(c) shall not be invested.

(c) Any obligation acquired by the trust fund (except special obligations issued exclusively to the trust fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from the sale or redemption of, any obligations held in the trust fund shall be credited to and form a part of the trust fund.

EXPENDITURES FROM TRUST FUND

SEC. 5. (a) Amounts in the trust fund shall be available, as provided by appropriation Acts, for making grants and expenditures to meet obligations of the United States which are incurred on or after the effective date of this Act under the Urban Mass Transportation Act of 1964 (including general administrative expenses).

(b) Advances made pursuant to section 3 (c) shall be repaid with interest to the general fund of the Treasury when the Secretary of the Treasury determines that moneys are available in the trust fund for such purposes. Interest shall be at rates computed in the same manner as provided in section 4(b) for special obligations and compounded semiannually.

(c) Section 3 of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out "No" in the fifth sentence of subsection (a) and inserting in lieu thereof "Except as provided in subsection (f), no"; and

(2) by adding at the end thereof a new subsection as follows:

"(f) The Secretary is also authorized, on such terms and conditions as he may prescribe, to make grants or loans to any State or local public body to enable it to assist any mass transportation system which maintains mass transportation service in an urban area to pay operating expenses incurred as a result of providing such service. No financial assistance shall be provided under this subsection unless (1) the Secretary determines that the mass transportation services provided by the system involved are needed to carry out a program referred to in section 4(a), and (2) the applicant State or public body has submitted to the Secretary a comprehensive mass transportation service improvement plan which is approved by him and which sets forth a program, meeting criteria established by the Secretary, for capital or service improvements to be undertaken for the purpose of providing more efficient, economical, and convenient mass transportation service in an urban area, and for placing the mass transportation operations of such system on a sound financial basis (including a reasonable fare structure), and (3) the Secretary determines that the mass transportation services provided by each system involved is being provided by an efficient operation of such system in accordance with regulations promulgated by the Secretary.

Notwithstanding the provisions of the fifth sentence of section 4(a), the amount of any grant under this subsection to a State or

local public body to enable it to assist any mass transportation system to pay operating expenses shall not exceed four times the amount of financial assistance provided from State or local sources for that purpose. The Secretary shall issue such regulations as he deems necessary to administer this subsection in an equitable manner. Such regulations shall include appropriate definitions of (A) operating expenses, and (B) the sources or types of State or local financial assistance which may be considered in computing the maximum allowable Federal grant."

(d) The fourth sentence of section 4(a) of such Act is amended by striking out "section 3" and inserting in lieu, thereof "section 3 (other than subsection (f))".

(e) Section 4(c) of such Act is amended by striking out "sections 3, 7(b), and 9" and inserting in lieu thereof "section 3 (except subsection (f)), and sections 7(b) and 9".

(f) Section 12 of such Act is further amended by adding at the end thereof the following new subsection:

"(g) The provision of assistance for the payment of operating expenses under section 3(f) shall not be construed as bringing within the application of chapter 15 of title 5, United States Code, any nonsupervisory employee of an urban mass transportation system (or of any other agency or entity performing related functions) to whom such chapter is otherwise inapplicable."

LIMITATION ON EXPENDITURES

SEC. 6. The Secretary of the Treasury shall from time to time, after consultation with the Secretary of Transportation estimate the amounts which will be available in the trust fund (excluding repayable advances) to defray the expenditures required to be made from the fund. The Secretary of the Treasury shall advise the Secretary of Transportation whenever, after all other expenditures required to be made from the trust fund have been defrayed, the amounts available in the trust fund (excluding repayable advances) will be insufficient to defray expenditures required to meet obligations incurred under section 5(a). Whenever he is advised of any insufficiency, the Secretary of Transportation shall, for the fiscal year affected, determine the percentage which the amount remaining available is of the amount authorized to be obligated for that fiscal year under section 5(a) and shall, by prorating using that percentage, determine the amount which can be obligated in lieu of the amount which would be obligated but for the provisions of this subsection. Whenever the Secretary of the Treasury determines that, after all other expenditures required to be made from such fund have been defrayed, there will be available in the trust fund (excluding repayable advances) amounts sufficient to defray the obligations previously withheld under section 5(a) for any fiscal year, he shall so advise the Secretary of Transportation who may then obligate such amounts.

EFFECTIVE DATE

SEC. 7. This Act shall take effect on the first day of the first fiscal year which begins on or after the date of its enactment.

By Mr. TAFT:

S. 2909. A bill to amend the Emergency Daylight Saving Time Energy Conservation Act of 1973 in order to extend and revise the authorization to exempt individual States from the provisions of such act. Referred to the Committee on Commerce.

Mr. TAFT. Mr. President, the bill I am offering today will make it possible for any State to become exempt from daylight savings time in the winter. The effect of my amendment is to provide a procedure whereby Ohio or any other State could once again become subject to the provisions of the Uniform Time Act of 1966. The legislation which I am proposing would amend section 3(b) of the 1973 Emergency Daylight Saving Time Energy Conservation Act to allow the Governor of a State by proclamation, or in the absence of such a proclamation, the State legislature of any State to make a finding that the newly required all-year daylight saving time creates undue hardship or that it causes increased fuel consumption. Should such a proclamation be made, the President or his designee could be petitioned for an exemption from the provisions of the new act. If the State is exempted from the provisions of the new act, then it would automatically be subject to the provisions of section 260 a(a) of the Uniform Time Act of 1966 which required changeover to daylight saving time on the last Sunday of April of each year and ending on the last Sunday of October of each year. My amendment would provide a procedure for exemption of a State from the provisions of section 3(a) of the 1973 act which is the section that supersedes sections 260a(a) of the 1966 Uniform Time Act.

While I favor the complete repeal of the daylight saving time in the winter and have cosponsored legislation to accomplish this, I also feel that each State should be given the opportunity to judge the effect of year around DST on its own economy. The State of Ohio, lying on the western edge of the eastern standard time zone, has found it unsatisfactory, however, another State may feel that winter daylight saving time does save energy and proves to be no inconvenience to its citizens. My legislation will give the States an alternative to study the possibility of repeal and take that step if they feel it will be beneficial.

I voted against the daylight saving time bill in the Senate on December 4. At that time, in my remarks on the Senate floor, I stated that because I live on the western edge of a time zone, many schoolchildren in my area of Ohio would have to get up earlier in the morning and would have to go to school in the dark or take buses in the dark. In addition, I stated my doubts, insofar as the economy of the State of Ohio is concerned, as to whether there would really be any material savings in the actual energy used because of the change to daylight saving time.

Since the changeover, on January 6, stories of horror and loss of work hours due to later daylight have come in from all over the Nation. In my hometown of Cincinnati, construction workers cannot do their work or must work inefficiently because of the dark during early hours. Many housewives also would prefer not having meter readers and servicemen coming into their homes before daylight. The DST has forced predawn calls by these employees. Highway maintenance crews are seriously affected by the DST. They must wait for daylight before starting their jobs, so they will be more visible to passing motorists.

The most obvious problems, of course, have been the worry of mothers whose children must go to school before daylight.

Pictures of children waiting on corners, crossing streets and vacant lots in the darkness have appeared in major newspapers and magazines. Children who would not be roaming the streets after dark in the evening, are now doing the same thing during darkness, sometimes as late as 9 a.m., on their way to school.

While I do not believe we are saving a substantial amount of energy by switching to daylight saving time in the winter, we may save some lives and much inconvenience if we are able to exempt our States from this law. This bill does not automatically exempt every State, but it makes exemption possible, if the State agrees that there are other, safer ways to conserve fuel or that winter DST creates an undue hardship for its people.

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. 2909

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(b) of the Emergency Daylight Saving Time Energy Conservation Act of 1973 is amended to read as follows:

"(b) Notwithstanding any other provision of law, if a State, by proclamation of its Governor or in the absence thereof by Act of its State legislature, makes a finding that an exemption from the operation of subsection (a) or a realignment of time zone limits is necessary to avoid undue hardship or to conserve fuel in such State or part thereof, the President or his designee may grant an exemption or realignment to such State."

By Mr. McINTYRE:

S. 2911. A bill to establish a loan program to assist industry and businesses in areas of substantial unemployment to meet pollution control requirements. Referred to the Committee on Banking, Housing and Urban Affairs.

POLLUTION CONTROL FACILITY ACT OF 1973

Mr. McINTYRE. Mr. President, one of the great paradoxes of our times is the fact that the scientific and technological advances which have made our lives easier and more pleasant and lifted us into a position of world leadership have created their own problems in the form of environmental contamination. As we look ahead to the final quarter of the 20th century, we realize the urgent need to balance the pressures of industry and the crying needs of our environment without adversely affecting our labor force.

While I welcome and wholeheartedly endorse recent actions to purify the quality of our environment, we must also realize the financial burden of plant and equipment that pollution control measures can have on small-scale as well as large-scale manufacturers. During the 92d Congress, I was pleased to have my proposal adopted which established SBA loans to small manufacturers to assist them in complying with Federal antipollution standards.

Today, we must address ourselves to another group who need special assistance. Firms located in areas of high or

substantial unemployment need incentives in order to maintain operation when adversely affected by pollution regulations. A Federal loan program would provide the necessary stimulation to keep those firms operating in areas of acute need while bringing their practices in line with Federal pollution standards.

In the time period from January 1971 to March 1973, 47 firms closed and 74 firms threatened closing due to the impact of environmental controls. These closings represent 9,640 actual job losses and 17,430 threatened job losses. The Environmental Protection Agency has conducted impact studies of the adverse effects of environmental regulations. In summary, the studies reveal that of approximately 12,000 plants operating in 11 major industries during the review, about 800 would be phased out in the normal course of market competition between 1972 and 1976, and an additional 200 to 300 because of pollution control requirements representing "approximately 1 to 4 percent of total employment in the industry activities studied."

These figures signify to me the need for supportive loans to industry in order to benefit areas where an industry relocation could mean economic disaster for the locality.

Today, I am submitting a bill which would establish a Federal loan program to assist business and industry in areas of substantial unemployment to meet pollution control requirements.

The Secretary of Commerce would be authorized to grant loans of no more than 65 percent of the aggregate cost to firms located in areas of substantial unemployment. These areas are established by the Department of Labor under the Public Works and Redevelopment Act of 1965.

A revolving fund would be established with an original allocation of $750 million. This fund would be replenished through payment of obligations.

Mr. President, I ask unanimous consent that the text of the Pollution Control Facility Act of 1973 be printed in the RECORD at this point.

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

S. 2911

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 "Pollution Control Facility Loan Act of 1973."

SEC. 2. As used in this Act:

(1) The term "eligible area" means any redevelopment area eligible for assistance under the Public Works and Economic Development Act of 1965, and any other area of substantial unemployment eligible for assistance under Title I of such Act.

(2) The term "Secretary" means the Secretary of Commerce.

(3) The term "certified pollution control facility" means any pollution control facility with respect to which an applicant may be entitled to a deduction under Section 169 of the Internal Revenue Code of 1954.

(4) The term "applicant" means a privately owned industrial, commercial, or business corporation, company or concern, operated for profit.

SEC. 3. The Secretary is authorized to make loans to any applicant to aid in financing any project within an eligible area for the acquisition, construction, rehabilitation, alteration, expansion, or improvement of a certified pollution control facility. Such a loan shall be made on such terms and conditions as the Secretary may prescribe, subject to the following conditions:

(1) Such loan shall not be extended to assist an applicant relocating from one area to another or to assist any subcontractor whose purpose is to divest or whose economic success is dependent on divesting other contractors or subcontractors of contracts theretofore customarily performed by them, except that such limitation shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch affiliate or subsidiary of such entity if the Secretary finds that the establishment of such branch affiliate or subsidiary will not result in an increase in unemployment of the area of original location or in any other area where such entity conducts business operations unless the Secretary has reason to believe that such branch affiliate or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(2) No loan shall be made unless it is determined that there is reasonable assurance of repayment.

(3) No loan, including renewals or extensions thereof, may be made under this Act for a period exceeding twenty-five years. This restriction shall not apply to any security or obligation received by the Secretary as a claimant in bankruptcy or equitable reorganization as a creditor in other proceedings attendant upon insolvency of the obligor.

(4) Loans made under this Act shall bear interest at the rate of 5 per centum per annum.

(5) No loan shall be made which exceeds 65 per centum of the aggregate cost to the applicant of the project (excluding all other Federal aid in connection with such project).

(6) Such loan shall be made only if the Secretary determines that other funds are available in an amount which, together with the loan requested under this Act, are sufficient to pay the aggregate cost to the applicant of the project.

SEC. 4. There is hereby established in the Treasury of the United States a revolving fund which shall be available to the Secretary for the purpose of making loans under this Act and for the payment of all obligations and expenditures arising in connection therewith. There is authorized to be appropriated $750,000,000 to carry out this Act and funds appropriated under authority of this sentence shall be deposited in the revolving fund established in the first sentence of this section. There shall also be credited to the revolving fund all loan repayments received under this Act (including interest on such loans).

By Mr. HUMPHREY (for himself, Mr. MONDALE, and Mr. Moss):

S. 2912. A bill to provide for payments to compensate county governments for the tax immunity of Federal lands within their boundaries. Referred to the Committee on Agriculture and Forestry and the Committee on Interior and Insular Affairs jointly, by unanimous consent.

TO REFORM PAYMENT IN LIEU OF TAXES ON FEDERAL LANDS TO COUNTIES

Mr. HUMPHREY. Mr. President, I introduce, for myself, Senator MONDALE, and Senator Moss, a bill to overhaul and improve the system of payments by the Federal Government to counties in which Federal lands associated with Federal natural resources programs are located. This bill has been jointly introduced in the House by my distinguished colleague from Minnesota (Mr. BLATNIK), the chairman of the House Public Works Committee.

This bill would offer another method for determining fair revenues from these Federal lands, rather than the many different existing formulas for making payments in lieu of taxes to the local governments. These payments are computed as a percentage of the Federal revenues generated by these lands. My bill would give local governments the opportunity to have these Federal lands appraised, placed on the tax rolls, and taxed according to the same millage rate applied to similar private lands.

The need for reform in this area, so vital to hundreds of counties in rural America, has long been recognized. When the Public Land Law Review Commission completed its work in 1970, one of its principal recommendations was that "the United States—should—make payments in lieu of taxes for the burdens imposed upon State and local governments by reason of Federal ownership of public lands without regard to the revenues generated therefrom."

Mr. President, I ask unanimous consent that chapter 14 of the Commission's report be included in the RECORD at the conclusion of my remarks, as well as the text of the bill.

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

(See exhibit 1.)

Mr. HUMPHREY. Mr. President, almost 14 years ago the Senate took action to accomplish a similar reform. On May 14, 1960, the Senate passed my bill, S. 910, which was similar in intent to the legislation I am introducing today. This was shortly prior to a change of administrations and, regrettably, the Bureau of the Budget opposed that bill and the House did not complete action on it.

The bill passed by the Senate in 1960 would have resulted in a basic reform of the Federal payments system, while also assuring that Federal expenditures would be fair and reasonable.

Mr. President, we have waited 4 years for the administration to submit its proposals to implement the recommendation of the Public Land Law Review Commission that a Federal payment system be established that would not be tied to varying levels of revenues from Federal lands, which have led to serious inequities and often totally inadequate payments under the present system.

During the summer and fall of 1973, Chairman BLATNIK held several detailed conferences with county officials representing those areas in Minnesota where the national forests are concentrated. My staff and I cooperated in those meetings.

What we learned made it abundantly clear to us that under the present system, payments from the national forests to the counties very seldom come close to approaching tax equivalency. The same

thing is true of other "fixed percentage" type payment systems under other Federal lands holdings. Thus it seemed to us that the best approach was to introduce a bill that reformed the entire payments system. The bill I am introducing today will do just that.

It covers such holdings as the national forests, Bureau of Land Management lands, fish, and wildlife refuges, and the Corps of Engineers—civil functions. In a nutshell, it covers all natural resources lands that now have a "payment-in-lieu-of-tax" formula.

The bill gives the counties 2 years to elect whether to participate in the new payment system established under this act or to stay with the present system.

The bill also provides for an appraisal of the value of Federal lands in each county to be made. A 2- to 4-year period is provided for this to be completed.

In sum, once a county elects to go under the new system the method of fixing the payments to the local government will be the same as that for comparable private land. The assessed value of the land multiplied by the local millage rate will determine the annual payment. This, in my opinion, will be a tremendous improvement over the present hodgepodge of payment formulas.

With regard to the National forests, for example, last year with 25 percent of revenue going as the in-lieu-of-taxes payment to the counties, payments ran from an average of 1 cent per acre in some States to an average of $2.85 per acre in the highest State. For individual counties the payments ran from a few dollars in some counties to a high of $9,677,709 in one county.

In Minnesota, four counties received 7 cents per acre and three received 13 cents per acre from regular national forest land. Nationwide, the average county was paid 62 cents per acre.

Payments to Minnesota counties ranged from $45.63 in total to $39,642.64.

On another block of national forest lands in Minnesota, the Boundary Waters Canoe Area, a separate payment formula exists that pays three-fourths of 1 percent of the value of the lands. These 749,000 acres pay an average of 35 cents per acre as compared to the average of 9 cents per acre payed on the 1.4 million acres of national forest land under the 25 percent system. In neither case is the payment a fair approximation of tax equivalence based upon the best information that we have been able to secure.

St. Louis County, Minn., provides an interesting example. This county had 795,000 acres of private forest taxed at 53 cents per acre, 573,000 acres of national forest at 7 cents per acre, and 195,000 acres in the Boundary Waters Canoe Area taxed at 32 cents per acre. Certainly these data do not suggest that all of the national forest lands would pay, under our bill, 53 cents per acre. However, since the lands that pay 7 cents are essentially the same as the lands that pay 32 cents and neither are too dissimilar from the private lands, there is reason to believe that on a truer tax equivalence than either of the current Federal methods provide, the payments would be far closer to 53 cents per acre than to 7 cents per acre.

This bill has been discussed with representatives of the National Association of Counties. Its principles have their support.

The enactment of this bill will not only increase the payments made by the Federal Government to local governments, it will also give these payments a reasonable relationship to the taxes paid on similar private lands. I believe it will also encourage local governments to adopt more uniform and equitable tax policies and systems.

I would not want to suggest that this bill is the perfect approach. However, I do believe it is a reasonable approach to meeting an old and complex problem. The fact that this problem has not yielded to earlier reform efforts does not discourage me from seeking to improve the situation. However, as my friends in county government know, securing enactment of this bill will require hard work and will be a real exercise in Federal-State-county cooperation.

Enactment of this legislation will give to our hard-pressed rural counties the equitable treatment that they deserve and that fairness dictates.

Mr. President, since the jurisdiction over the matter included in this bill is divided between the Committee on Agriculture and Forestry, and the Interior Committee, I request that it be concurrently referred to both of these committees.

The PRESIDING OFFICER. Without objection it is so ordered.

EXHIBIT 1

REPORT BY PUBLIC LAND LAW REVIEW COMMISSION, 1970, CHAPTER 14

TAX IMMUNITY

Because of the sovereignty of the United States, federally owned lands cannot be taxed by state or local governments. This has created large and increasing problems for the states within whose borders such lands lie. The problems are particularly felt in the West where most public lands [1] are concentrated and where, as previously shown in this report, federally owned lands often constitute a large proportion of a state's total area. But the situation, concerning which the Commission is required to make recommendations, is not confined to the West. Eleven nonwestern states each contain more than 1 million acres of Federal land, ranging from approximately 8 percent of the total area of Arkansas to 3.2 percent of Georgia. In addition, West Virginia contains 920,212 acres of public lands (5.9 percent of the state's total acreage); South Carolina 680,265 acres (3.5 percent); New Hampshire 678,807 acres (11.8 percent); and Vermont 240,238 acres (4.0 percent) (in each state there are also other Federally owned lands).

Originally, the Federal ownership of land was considered, in general, to be temporary. Under Federal policy and laws the public domain passed into private ownership and thereupon became subject to state and local taxation. The retention by the Federal Government of comparatively small amounts of land for military or other Federal purposes seemed to pose no serious problem for the future, and even in 1872, when a large tract in Wyoming was set aside to establish Yellowstone National Park, it was still generally assumed that almost all of the rest of the Nation's public domain would eventually be transferred to private ownership.

In 1891, however, with passage of the act that authorized the President to set aside forest reservations, a major break with the past occurred. As large tracts of forest land were set aside as reserves, it became obvious that millions of acres of the public domain would be retained and managed permanently by the United States and would never pass into private ownership.[3]

The impact on the taxability of state and local governments by the Federal Government's retention of the forest lands caused concern at an early date, and in 1907 Congress authorized the return of 25 percent of stumpage sale receipts to the counties in which the timber was cut to be used for public education and roads.[3]

In 1920, the Federal Government acted similarly when the Mineral Leasing Act [4] of that year removed from the operation of the Mining Law certain minerals, including oil and gas deposits, and thus assured that lands chiefly valuable for those minerals would remain in Federal ownership. As part of the Mineral Leasing Act, Congress authorized sharing with the states the receipts generated by the oil and gas leases, giving the state of origin 37½ percent of the revenue, the Reclamation Fund 52½ percent and permitting the United States to keep only 10 percent for its cost of administration. The only exception is that Alaska receives 90 percent of oil and gas lease revenues in accordance with the provisions of the Mineral Leasing Act.[5] Several other, but relatively minor revenue-sharing programs were also developed, both before and after the two mentioned above, but payments made by the Federal Government to the states for such programs have been comparatively small.[6]

The legislative history of the acts providing for the sharing of receipts from forest products and oil and gas, as well as other leaseable minerals, clearly reflects that the payments to the states and local governments were intended as compensation for the fact that the lands in question would no longer be available for private ownership and property taxation.

To day, however, the pressure of new circumstances requires new thinking. Until comparatively recently, the cost of providing state and municipal services, especially in the western public land states whose vast spaces had a sparse population and received relatively few outside visitors, was not very great. But in recent years, a dramatic change has resulted from the greatly increased mobility of the American people. Visitors who now come in increasing numbers to public land areas from all over the country require, as a minimum, the same services that are furnished to local citizens—and sometimes they require more.

At the same time, state and local government expenditure levels and revenue requirements have vastly increased. In 1940, prior to World War II, the combined spending of state and local governments was approximately $9.3 billion. Ten years later, in 1950, it had risen to approximately $22.8 billion. In 1969, the figure exceeded $100 billion.

In the meantime, while state and local revenue needs have been growing, the recent years have seen a greatly expanded increase in the acreage of lands permanently set aside by the United States for various purposes. From relatively modest beginning, for example, there are now 18,564,079 acres of public domain under the jurisdiction of the National Park Service, with an additional 4,735,818 acres acquired for the National Park System, or a total of 23,299,897 acres spread among 44 states [7] and over 26 million acres set aside for the Wildlife Refuge System in all 50 states.

Footnotes at end of article.

The largest portion of the public domain, more than 465 million acres, including 295 million acres in Alaska, is under the jurisdiction of the Bureau of Land Management of the Department of the Interior. Except for those lands that may be transferred to the states to satisfy land grants, this large acreage comprises, for the most part, what is known as the vacant unappropriated public domain, and was previously assumed to be destined for private ownership. But since the passage of the Taylor Act in 1934,[8] the transfer of these public domain lands to private ownership has slowed considerably. In the last decade, it has dwindled to a trickle while awaiting the enactment of legislation suited to the needs of today and tomorrow.

If the recommendations of this Commission are followed, additional millions of acres of public domain land will be retained by the Federal Government instead of being transferred, as contemplated until relatively recent times, to private ownership. With the millions of acres of land already reserved, plus the additional acres that probably will be set aside, the United States must reexamine its relationship to the state and local governments within whose borders those lands are located.

PAYMENTS TO COMPENSATE FOR TAX IMMUNITY

Recommendation 101: If the national interest dictates that lands should be retained in Federal ownership, it is the obligation of the United States to make certain that the burden of that policy is spread among all the people of the United States and is not borne only by those states and governments in whose area the lands are located.

Therefore, the Federal Government should make payments to compensate state and local governments for the tax immunity of Federal lands.

The study made for this Commission confirms the contention of state and county government officials that shared revenues amount to much less than the revenues they would collect if the lands were in private ownership and subject to taxation.[9] While the bulk of the states analyzed were in the West, detailed studies of counties in other parts of the country demonstrated that the situation is similar everywhere.[10]

The fact that the lands on the tax rolls would have brought in a greater revenue should not by itself be considered persuasive. It is, however, a compelling indicator of both the magnitude of an existing problem and the impact of the present system.

This Commission is convinced that the United States must make some payments to compensate state and local governments which have burdens imposed on them because of Federal ownership of public lands within their borders. Even though it is recognized that Federal expenditures must be held to the minimum necessary to provide essential Federal programs, the Federal Government, as a landowner, must pay its way. Whatever the costs, fairness and equity demand that such payments be made.

MANNER OF MAKING PAYMENTS

Recommendation 102: Payments in lieu of taxes should be made to state governments, but such payments should not attempt to provide full equivalency with payments that would be received if the property was in private ownership. A public benefits discount of at least 10 percent but not more than 40 percent should be applied to payments made by the Government in order to give recognition to the intangible benefits that some public lands provide, while, at the same time, recognizing the continuing burdens imposed on state and local governments through the increased use of public lands. The payments to states should be conditioned on distribution to those local units of government where the Federal lands are located, subject to criteria and formulae established by the states. Extraordinary benefits and burdens should be treated separately and payments made accordingly.

A system of payments in lieu of taxes provides a better standard for determining the level of payments than does a system of sharing revenue. Just as in their relationship to private property, state and local governments are, in general, constitutionally responsible for providing the ordinary functions of government to the public land areas within their borders. Federal ownership, in other words, does not mean that the Federal Government has assumed fiscal responsibility for the administration of all aspects of those lands. But, the system of revenue sharing bears no relationship to the direct or indirect burdens placed on state and local governments by the Federal lands within their boundaries.

In practice, there has been no attempt made to correlate the services rendered, or the burdens assumed, by the local governments to the payments they receive under the present revenue-sharing systems. As a result, the portion of Federal revenues which they currently receive varies from 5 to 90 percent, depending on the program and Federal agency involved.

Although they were originally designed to offset the tax immunity of Federal lands, the existing revenue-sharing programs do not meet a standard of equity and fair treatment either to state and local governments or to the Federal taxpayers. Such a standard should be established and applied.

In addition, the Commission's review has revealed several defects in the revenue-sharing system. In some cases, payments made by Federal programs undercompensate, while in others they overcompensate. The revenue-sharing programs, moreover, do not apply to many federally owned lands, and where they do apply, management decisions often reduce or eliminate the revenue base upon which the payments to state and local governments depend. At the same time, pressures can be generated to institute programs that will produce revenue, though such programs might be in conflict with good conservation-management practices.

The Commission has thus concluded that the existing system of revenue sharing is not equitable, and that the Federal taxpayer is financing a program that has little relation to the purpose it was originally designed to accomplish.

It is axiomatic that expenditure requirements determine the tax levels needed to produce the revenue to meet the costs of government. Since the ad valorem tax system has been the foundation for the financing of programs providing municipal services, the Commission believes that all landowners must share in payment for these services. This should not exclude the Federal Government as a landowner, except where the federally owned land is being used for facilities, as in the case of post offices, to furnish services to all the people throughout the country.

Believing, as the Commission does, that the tax level represents the actual need for revenue, Federal payments related to the level of state and local taxes levied on private owners should be in proportion to the services received and burdens imposed by Federal ownership. At the same time, to repeat, they should be fair and equitable to all concerned.

LEVEL OF PAYMENTS

While the Commission is convinced that payment should be related to actual property taxes in the area, it does not follow that the payments should be equal to full tax equivalency.

Under the existing system, certain benefits are received by local governments. For example, probably because it pays no taxes, the Federal Government permits state and local governments to use its land without charge for such facilities as airports and cemeteries, and allows them to take sand and gravel without cost. In addition, the Federal landowner provides fire protection for its own lands where fire is a major threat, thereby relieving the state and local governments of that cost. There are also indirect benefits, like the use of roads, which Federal agencies construct and maintain.

Though the Commission's studies have proved that these direct and indirect benefits cannot be calculated with any degree of precision, the Commission believes that some reduction in payments should be made for the measurable as well as the immeasurable benefits which accrue to the communities in which there are concentrations of Federal lands.[11]

After careful consideration, the Commission has concluded that fairness will best be served by deductiing—as recognition of the direct and indirect benefits received by state and local governments from the use of public lands—not less than 10 percent nor more than 40 percent of the amount necessary to provide full tax equivalency.

At the same time, the Commission has concluded that while benefits are national, the geographic distribution of the Federal lands makes their burdens regional and local, and that, in general, continued Federal ownership of public lands provides no distinguishable benefits to state and local governments in lieu of the benefits they would receive if the lands were privately owned.

EXTRAORDINARY BENEFITS AND BURDENS

From time to time, certain extraordinary benefits may be obtained, or burdens imposed, as a result of Federal ownership of public lands. The Commission does not believe that they should be taken into consideration in establishing the basic formulae of Federal payments. Whatever their cost may be, they should be negotiated separately, and a separate payment should be arranged.

If a state or local government, for example, was required to give the Federal Government services, such as increased police protection, over and above what it provided to regular taxpayers, it could and should suggest the negotiation of a contract with the Federal Government. If the Federal Government thought the local government was charging too much for such special services, it could seek other arrangements.

The important point is that under a payments-in-lieu-of-taxes system, the Federal Government would expect, and would be entitled to, the same services received by a regular taxpayer from the state and local governments—no more and no less.

UNIT OF GOVERNMENT TO RECEIVE PAYMENT

The governmental unit that supplies the services, usually the county or municipality, should receive the Federal payments in lieu of taxes. But, under our Federal system, the national Government should deal solely with the state government, which should make proper allocations within the state.

In this connection, the Commission recognizes that in many instances, state tax-equalization programs redistribute all categories of funds. While this is a matter of state policy, concerning which the Federal Government should take no position, the Commission's contractor study showed that generally these programs must supplement local tax revenues from general state funds to a greater degree in areas of public land concentrations than elsewhere.

DIFFERENT LAND CATEGORIES

The Commission believes that it would be impractical to exclude from the program any types or categories of lands because the impact of different classes of land is uneven. Under existing revenue-sharing systems, no payments are made for national parks, mili-

Footnotes at end of article.

tary reservations, and reclamation reservations. Yet, there is no evidence that the economic benefits flowing from the activities carried on at these lands would not be equalled or exceeded if the lands were privately owned and were part of the local tax base.

LIMIT PAYMENTS TO REVENUES?

The Commission believes it is impractical and improper to limit payments to the net revenues of resource programs. Because these programs involve both commodities for which market value is charged and those, such as outdoor recreation, for which user fees, if any, are unrelated to market value, overall net revenues from public land programs do not provide an adequate guide to the level of payments in lieu of taxes. For the same reasons that the Commission recommends abandoning revenue sharing, it rejects limiting payments in lieu of taxes to the receipts from the sale of goods and services from the public lands.

THE "THRESHOLD" LIMITATION APPROACH

Federal lands that provide general services, such as use for post offices, are located in all parts of the country. However, public lands are not so regularly distributed. Even in a state containing a relatively small percentage of federally owned land, a large percentage may be concentrated in a single county.

The Commission cannot endorse the "threshold concept" under which payments in lieu of taxes would be made only to the extent that Federal lands represent more than some percentage of total land in a particular state or locality. First, it is virtually impossible to arrive at a logical basis for establishing either a percentage of land or of land values within a given area. Secondly, the pattern of concentration of public lands makes it impractical in our Federal system to apply such criteria to the states: in 19 states, for instance, federally owned lands comprise less than 2 percent of the state, while in 12 they constitute more than 26 percent. And this does not take cognizance of concentrations within individual counties.

UNIFORM TREATMENT

We believe that a uniform policy should be applied to both acquired and public domain lands in determining the level and distribution of payments in lieu of taxes.

Although revenue sharing has been used, historically, as a device to compensate for Federal ownership of public domain land, while payments in lieu of taxes were applied to acquired lands, the Commission sees no reason to continue that distinction. Whatever the original rationale for the different approaches, it believes that there is no longer need or purpose to continue the dual treatment.

USE OF FEDERAL PAYMENTS

The Commission is convinced that the Federal Government should not earmark payments in lieu of taxes for particular functions. This is consistent with our concept of the Federal-state relationship.

Historically, virtually all revenue-sharing payments are restricted to use for education and roads, while payments-in-lieu-of-taxes systems contain no restrictions. In view of the present-day, high level of financing for varied functions of state and local governments, earmarking for restricted uses is no longer valid. By paying the states directly without earmarking, the states can adjust the use of the funds to their individual fiscal requirements, and the local governments, which will be the utimate recipients, can use the funds where they are needed.

RELATIONSHIP TO GRANT-IN-AID PROGRAMS

Existing Federal grant-in-aid payments to state and local governments are not related to, and do not compensate for, the concentration of Federal lands, nor would proposed block-grants. Under a wide variety of Federal grant-in-aid programs, more than $20 billion is paid each year to state and local governments. These categorical grants, (*i.e.*, earmarked for specific purposes), often requiring matching commitments by state and local governments, help finance a wide range of public programs, such as education, welfare, and transportation, conducted by state and local governments. With one exception,[12] these categorical grants-in-aid are not land related. Consequently, a community with a restricted taxable property base can receive payments no greater than those received by an otherwise comparable community with a fully taxable property base.

Thus, even if categorical grants-in-aid, as now constituted, continue to increase at their current rate (from about $6.5 billion in fiscal year 1960 to an estimated level of more than $24 billion in fiscal year 1970), they will not satisfy the test of fairness which the Commission has suggested is required because of the concentration of Federal lands.

In addition to the expanding system of categorical Federal grants, recent proposals have emerged for large-scale, block-grant, revenue-sharing programs to help finance all state and local government programs. One of the principal proposals—to divert a part of Federal personal income taxes to state and local governments—has drawn considerable attention to the potential of unrestricted block-grants.

But, other devices, such as tax credits, have also been proposed. None of them is designed, however, to compensate for the fiscal burdens generated by the presence of Federal lands.

A TAX EFFORT CRITERION

To the extent that state and local tax efforts fall below the national average, the Commission recommends that payments in lieu of taxes should be reduced proportionately.

In addition to the public benefits deduction from estimated full tax equivalency as the basis for Federal payments, a further deduction based on a tax effort criterion should be applied to assure that the cost of state and local government is not shifted disproportionately to the Federal taxpayer.

The Commission recommends the use of a criterion based on per capita state and local taxes from all sources as a percentage of state per capita personal income for each state, compared to the national average of per capita state and local taxes from all sources as a percentage of national per capita personal income.

POSSESSORY INTEREST TAXATION

State and local governments should be encouraged to tax possessory interests of Federal land users, such as lessees and remittees, and the improvements constructed by them. This will, obviously, have an impact on the overall tax effort.

At present, the contractor report referred to earlier makes clear that there is considerable variation in the treatment of possessory interests among the states. The Commission believes that possessory interest taxation would afford state and local governments a significant opportunity to supplement conventional property tax income. At the same time, the Commission recognizes that with the many taxing devices available to it, an individual state might score well overall, as compared with other states and still not pursue possessory taxation as vigorously as some of the others do.

SLIDING-SCALE HIGHWAY BENEFIT PROGRAMS

If the Commission's recommendation for the establishment of a payments-in-lieu-of-taxes system is adopted, the sliding-scale highway benefits program should be re-evaluated. Under the interstate, primary, and secondary road network programs, public landholdings of the Federal Government, excluding national forests, parks, and monuments, determine the amount of matching funds required of a state as against the Federal funds for those programs.

In the Commission's opinion, this is not a public land problem. But, close consideration must be given to the relationship of primary and secondary highway sliding-scale benefits to land-related payments.

THE VALUATION OF FEDERAL LANDS

The Commission recommends that the interests of all concered should be protected by a continuing program of periodic valuation of Federal lands.

In the interest of administrative simplicity and uniformity, the implementation of a Federal payments-in-lieu-of-taxes system will require a systematic approach to the valuation of Federal lands. Federal lands would have to be valued expressly for tax purposes, with built-in protection against discriminatory practices.

As a first requirement, the General Services Administration should be given responsibility for overall administration. At the operational level, representatives of the Federal Government, jointly with state and/or local governments, should agree on a valuation for tax purposes consistent with the assessment of privately owned lands in the area. Safeguards must then be provided to assure that, in relating payments to the tax rates applicable to similar private land, there will be no discrimination against the Federal Government.

A system of placing valuations on Federal lands for this purpose need not be burdensome, either administratively or financially, the appraisers used could be either Government employees or individuals retained under contract, though the Commission prefers the latter. A different method, used in the valuation procedure for the revested Coos Bay-Wagon Road grant lands in Oregon, might also be followed. A Federal representative, a local representative, and a disinterested third party compose a 3-member board that establishes the valuation.

Still another alternative would be to use a board of appeals, rather than a disinterested third party, to reconcile differences between the Federal and local representatives. Since we are committed to the idea that the United States, as the Sovereign, must have the last word, this last solution may offer the most promise. Valuations would be made every 5 to 10 years but would be updated annually by methods to be established by those making the initial valuation.

IMPROVEMENTS

Valuation for determining payments in lieu of taxes should not include improvements on Federal lands. If improvements on Federal lands (summer homes in national forests, concessionaire facilities in national parks, etc.) have been made by private users, then state and local governments have the authority to levy possessory interest taxes on their owners.

Improvements placed on the land by the Federal Government should not be taken into consideration because, generally speaking, they are provided for the purpose of furnishing services to the region or locality in which they are constructed. Accordingly, the Commission believes that their benefits automatically outweigh any burdens they might impose.

PERIOD OF TRANSITION

Recommendation 103: In a payments-in-lieu-of-taxes system, a transition period should be provided for states and counties to adjust in changing from the existing system.

Under a payments-in-lieu-of-taxes system, state income might be significantly less than under existing revenue-sharing programs. New Mexico and Wyoming, for example, demonstrate the changes that might occur in connection with both the extent of total payments and the distribution of Federal

Footnotes at end of article.

payments. Mineral-leasing shared revenues are currently an important source of income to both state governments, and may total more than the in-lieu payments based on a percentage of tax equivalency.[15] Because the Commission has recommended that in-lieu tax payments flow to the counties in which the lands are located, it must be noted that in Wyoming only 3 percent of the shared revenues are distributed directly to the counties, and in New Mexico, none. Both states, however, make large intergovernmental transfers to school districts for support of public education.

The sudden suspension of revenue-sharing payments, such as those under the Mineral Leasing Act of 1920,[14] might cause hardship on some state and local governments, particularly if there is a substantial reduction in the amount of payment. In such cases, payments should be phased so as to provide a gradual decrease over a period of years. These increased transitional Federal costs could be offset, at least in part, by similarly phasing incremental payments upwards over a short period of years to those states that would receive substantially more under the new system than under the old. In either event, payments should be adjusted to the basic system as soon as is practicable.

RECLAMATION FUND

The provisions of the Reclamation Law of 1902,[15] as amended, and the Mineral Leasing Act of 1920,[16] providing for certain receipts to be disposited in the Reclamation Fund, were designed to assure construction of large expensive irrigation projects required to permit development of the West. Generally, the Commission is opposed to earmarking of funds. However, we believe that the United States should not take any action that might interfere with the fulfillment of its commitment to the West. Once the commitment has been fulfilled, the earmarking should cease. Accordingly, we recommend that the earmarking of any portion of receipts to the Reclamation Fund be discontinued when repayments to the Reclamation Fund are sufficient to finance reclamation construction.

COST OF PROGRAM

The contractor's study, referred to above, indicated that it would cost the Federal Government approximately $190 million a year to make payments, based on full tax equivalency, to state and local governments for the lands for which the Commission is required to make recommendations. In 1966, for those same lands, $93 million was paid under existing revenue-sharing programs.

The Commission recognizes an imperfection in the contractor's estimate. The tax equivalency was based on the General Services Administration's periodic Real Property Report[17] in which estimates of land values are not made for tax purposes, do not follow a consistent approach in arriving at estimates, in some instances are crude approximations, and, with regard to acquired lands, carry the original acquisition cost even if they were obtained at nominal cost. For example, there is no indication that potential subsurface mineral values were ever considered in agency estimates of public domain lands.

Nevertheless, while the Commission cannot embrace the $190 million estimate as a ceiling, it has no better means of obtaining such estimate at this time. It believes, however, that the total cost is irrelevant if fairness requires the compensating of state and local governments for protecting the national interest in lands considered to warrant retention in Federal ownership. It is a proper cost to be borne by all Federal taxpayers.

FOOTNOTES

[1] As used here the term "public lands" refers only to those lands coming within the definition of that term in section 10 of the Commission's Organic Act, as quoted in the Introduction and printed in full in Appendix A.

[2] The 1891 Act, as amended, is 16 U.S.C. § 471 (1964). Today the total of lands administered by the Forest Service has grown to over 186.9 million acres in 44 states. Of the total, 160.8 million acres came from public domain lands, and the rest was acquired from non-Federal sources. For a breakdown of acreage by states, see Appendix F.

[3] U.S.C. § 500 (1964).

[4] 30 U.S.C. § 181 et seq. (1964).

[5] 30 U.S.C. § 181 et seq. (1964).

[6] 30 U.S.C. § 191 (1964).

[7] A breakdown of all programs and payments is contained in EBS Management Consultants, Inc., *Revenue Sharing and Payments in Lieu of Taxes*, Pt. 2. PLLRC Study Report, 1968.

[8] For breakdown by states, see Commission staff, *Inventory Information on Public Lands*. PLLRC Study Report, 1970.

[9] 43 U.S.C. § 315 et seq. (1964).

[10] EBS Management Consultants, Inc., *Revenue Sharing and Payments in Lieu of Taxes*, Pt. 4. PLLRC Study Report, 1970, for a detailed analysis of revenue sharing and payments in lieu of taxes related to public lands in five states and 50 counties.

[11] For example, in Carroll County, New Hampshire, where 24 percent of the land is in national forest, total benefits to the county from both Federal revenue sharing payments and indirect benefits in 1966 amounted to $21,291. The estimated potential tax revenue to the county from the Federal lands, if assessed and taxed on the same basis as privately owned lands of similar character, was estimated at $151,420. In Gogebic County, Michigan, the potential tax revenue was estimated, likewise, at $251,840 from national forest lands, as compared to direct and indirect benefits of $149,581 in 1966.

[12] EBS Management Consultants, Inc., *Revenue Sharing and Payments in Lieu of Taxes*, Pt. 4. PLLRC Study Report, 1970. The great variety of indirect benefits, which include use of Federal facilities and lands for some purposes, availability of Federal employees to provide expertise in some cases, and joint use of Federal roads and facilities in some cases, differ widely from one location to another.

[13] Programs administered by the Federal Highway Administration do consider Federal lands in the matching funds payment formulae. It is the one major exception to the general rule that categorical grants do not relate to Federal lands.

[14] For comparison of payments under the revenue sharing program with an estimate of payments in lieu of taxes, see EBS Management Consultants, Inc., *Revenue Sharing and Payments in Lieu of Taxes*. Pt. 5, PLLRC Study Report, 1970.

[14] 30 U.S.C. § 181 et seq. (1964).

[15] 43 U.S.C. § 391 (1964).

[16] 30 U.S.C. § 191 (1964).

[17] General Services Administration. *Inventory Report on Real Property Owned by the United States Throughout the World, June 20, 1966*, Washington, D.C.

S. 2912

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 "Payments in Lieu of Taxes Act of 1974."

SEC. 2. As used in this Act—

(a) The term "Public lands" means all lands, and natural resources thereon, or interests in lands, owned by the United States which are administered for natural resources purposes, except lands or interests therein held by the United States in trust for any group, band or tribe of Indians, Aleuts, or Eskimos, lands used exclusively for national defense purposes, and the Outer Continental Shelf.

(b) The term "Administrator" means the Administrator of General Services Administration.

(c) The term "Board" means a State Board of Appraisal Appeals established under section 4.

(d) the term "regular taxpayers" means taxpayers subject to State and local real property taxes who do not enjoy the benefits of tax immunity.

(e) the term "county" includes a parish or borough.

SEC. 3. (a) Within two years after the date of enactment of this Act, each county shall elect whether it wishes to proceed under the terms of this Act to receive payments from the Federal Government equal to the real property taxes otherwise due from public land within such county, or continue to receive whatever payments such county is entitled to receive under any existing applicable Federal law providing for Federal payments for such county similar to those available under this Act or for payment to such county of part of the revenue derived from such public land.

(b) The Administrator and each county electing to proceed under this Act shall jointly arrange to have the public land in such county appraised and such appraisal shall be completed within two years after the date such county made such election. If the Administrator and the county agree that the appraisal may require longer than two years to complete they may either divide the area and complete a portion in two years or provide a period of not to exceed four years to complete such appraisal. However, before such appraisal is finally adopted by the county, the county, upon due notice and payment of actual costs for such appraisal to date, may elect to remain under such existing applicable Federal law.

(c) In making appraisals under this section the following criteria shall be met:

(1) The appraisal of public land shall be consistent with the appraisal for real property tax purposes of privately-owned lands in the county.

(2) There shall be no discrimination against the Federal Government in relating payments to the real property tax rates applicable to similar private land.

(3) Appraisals shall be completely and thoroughly reviewed at least every ten years. In the intervening years, appraisals shall be updated annually in accordance with procedures to be established by the Administrator. However, upon the request of any county, at no less than five year intervals, a reappraisal may be conducted in the same manner as the original appraisal.

(d) Appraisals shall, when made, conform to standards for the State and counties involved, and only their actual cost shall be deducted from payments to be made to a county under this Act.

SEC. 4. (a) When any county within a State has elected to proceed under the terms of this Act, there shall be established for that State a State Board of Appraisal Appeal which shall consist of three members, one member to be appointed by the Administrator and two members to be appointed by the Governor of the State for which such Board is established. Of the members appointed by the Governor, one shall be appointed from among persons who are citizens of the State and representative of the interests of the counties in the State in which are located public land. Members shall serve terms of five years and may be reappointed.

(b) Members of each Board shall serve without compensation but while away from their homes or regular places of business in performance of services for the Board, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed ex-

penses under section 5703(b) of title 5 of the United States Code.

(c) Two members of a Board shall constitute a quorum.

(d) Each Board shall select a chairman who shall call meetings of that Board.

(e) Each Board shall consider and decide any appeal from a county within the State relating to the appraisal of public land within such county either with regard to the cost or procedure of the appraisal or to the appraisal findings. Decisions of the Board shall be final and shall not be subject to judicial review unless arbitrary or capricious.

SEC. 5. (a) Beginning in the first complete fiscal year after the acceptance of such appraisal by both the county involved and the Administator, the Secretary of the Treasury is authorized to pay annually to the State in which such county is located an amount equivalent to the State, county, and local real property taxes on public lands within such county, based on the tax rate applicable to similar private lands at the value arrived at under the appraisal conducted under this Act.

(b) The payment made to a State shall be distributed by the State to those counties electing to proceed under the terms of this Act in which the public lands are located to be used by such counties for any public purpose. Each such county shall receive an amount equal to the total amount of taxes due from the public lands located within such county.

Notwithstanding any other provisions of this Act, or of any other law, the Administrator is authorized to discontinue payments to such county of part of the revenue derived from such public land on a gradually decreasing basis over a period of five years and to program implementation of this Act on a similar time basis, for any county where immediate implementation of this Act will result in hardships because of a substantial reduction in the amount of payments.

SEC. 6. Nothing in this Act shall interfere with the right of State or local governments to levy possessory interests taxes on private owners of improvements made by private users on public lands.

SEC. 7. There are hereby authorized to be appropriated such sums as may be necessary to administer this Act and to make the payments authorized by it.

By Mr. MONDALE:

S. 2913. A bill to declare that certain federally owned lands within the White Earth Reservation shall be held by the United States in trust for the Minnesota Chippewa Tribe, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. MONDALE. Mr. President, I am today reintroducing legislation which I first introduced on May 23, 1967. This bill, identical to S. 1830 of the 90th Congress and S. 1710 of the 91st Congress and S. 1217 of the 92d Congress, restores to the Minnesota Chippewa Tribe, White Earth Reservation, certain submarginal lands of the United States and makes such lands part of the reservation.

These properties consist of approximately 28,700 acres purchased by the Federal Government during the mid-1930's under title II of the National Industrial Recovery Act. The lands were so acquired in order to retire them from private ownership, to correct maladjustments in land use, and with the expectation that they would be made available for tribal use.

Mr. President, these lands were originally owned by the Minnesota Chippewa Tribe. Unfortunately, they were allotted under the Allotment Act and subsequently passed from Indian ownership. The Government acquired the lands at a cost of $175,664. In 1963, when similar legislation was introduced in the Congress, their market value was placed at $474,000 by appropriate governmental agencies.

Similar legislation has already been enacted restoring property to the Seminoles of Florida and to the Pueblos and other tribes in New Mexico. During the 92d Congress, a bill identical to the one I am introducing today was passed by the Senate. I am, therefore, most hopeful that this legislation will again receive favorable consideration during the present session.

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. 2913

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to valid existing rights, all of the right, title, and interest of the United States in the lands, and the improvements thereon, that were acquired under title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 State. 115), and section 55 of the Act on August 24, 1935 (49 Stat. 750, 781), and that are now administered by the Secretary of the Interior for the benefit of the Minnesota Chippewa Tribe, White Earth Reservation, are hereby declared to be held by the United States in trust for said tribe, and the lands shall be a part of the reservation heretofore established for the tribe.

SEC. 2. The Indian Claims Commission is directed to determine in accordance with the provisions of section 2 of the Act of August 13, 1946 (60 Stat. 1050), the extent to which the value of the beneficial interest conveyed by this Act should or should not be set off against any claim against the United States determined by the Commission.

By Mr. KENNEDY (for himself and Mr. HRUSKA):

AMENDMENT OF THE MAIL FRAUD STATUTE

Mr. KENNEDY. Mr. President, today I join with the distinguished Senator from Nebraska (Mr. HRUSKA) in introducing a bill to amend the mail fraud statute in light of the recent decision of the U.S. Supreme Court in United States against Maze. Prior to this decision 3 weeks ago, it was generally believed that the mail fraud statute, section 1341 of title 18, United States Code, could be applied to prosecute persons who devised a scheme to defraud cardholders, merchants, or banks by unlawfully obtaining possession of another person's credit card and using it to obtain goods and services for themselves.

The Department of Justice supported this interpretation by prosecuting the appeal in the Maze case, in which it argued that the mailing of sales slips from merchants to the issuing bank, and from the bank to the cardholder, conferred Federal jurisdiction under the mail fraud statute. But the Supreme Court, by a 5-to-4 vote, held that the statute as presently drafted could not be used to prosecute such conduct. This is because under present statutory language, the mailing must be "for the purpose of executing" the fraudulent scheme, and the Court held that the mailing which took place in connection with the credit card fraud was not for that purpose.

The Court, however, issued a clear invitation to the Congress to amend the statutory language to cover such conduct. The Court noted that "Congress could have drafted the mail fraud statute so as to require only that the mails be in fact used as a result of the fraudulent scheme," and stated, "If the Federal Government is to engage in combat against fraudulent schemes not covered by the statute, it must at the initiative of Congress and not of this Court." The Court pointed out that the mail fraud statute, first drafted in 1872, "while obviously not directed at credit card frauds as such, is sufficiently general in its language to include them if the requirements of the statute are otherwise met."

The bill I am introducing today is designed to accept the Supreme Court's invitation in the Maze case. It amends the statute to require only that the use of the mails be "for the purpose of, as an incident to, or as a result of executing such a scheme or artifice or attempting so to do" in order for Federal jurisdiction to be present. Any fraudulent scheme in which the mails were used as an incident to, as a result of, or for the purpose of executing the scheme or attempting to execute it would be prosecutable under the amended statute.

In my judgment, Congress never intended to exclude schemes such as credit card frauds from the coverage of the mail fraud statute. My amendment would codify what I believe to be the original congressional intent in light of the modern-day use of credit instruments. In the wake of the Maze decision, there is also some question as to whether certain other fraudulent practices, such as check kiting, are prosecutable under Federal law. My amendment will permit vigorous Federal law enforcement of such offenses as well.

The problem of credit cards frauds is a serious one. It was estimated that in 1969, 1.5 million credit cards were lost or stolen, resulting in $100 million in losses due to fraud. Credit card fraud offenses are often difficult to prosecute under State laws, since it is relatively easy for the perpetrator to leave the State before the fraud is discovered. It is important that Federal laws protect the cardholder, the merchant, and the bank that may be the victims of fraud, and my amendment is intended to accomplish this.

Mr. President, I ask unanimous consent that the text of the opinions in the Maze case be printed in the RECORD at this point.

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

[Supreme Court of the United States, No. 72-1168, 42 U.S.L.W. 4113]

UNITED STATES, PETITIONER, *v.* THOMAS E. MAZE

(On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit, January 8, 1974)

MR. JUSTICE REHNQUIST delivered the opinion of the Court.

In February 1971 respondent Thomas E. Maze moved to Louisville, Kentucky, and there shared an apartment with Charles L. Meredith. In the spring of that year respondent's fancy lightly turned to thoughts of the sunny Southland, and he thereupon took Meredith's BankAmericard and his 1968 automobile and headed for Southern California. By presenting the BankAmericard and signing Meredith's name, respondent obtained food and lodging at motels located in California, Florida, and Louisiana. Each of these establishments transmitted to the Citizens Fidelity Bank and Trust Company in Louisville, which had issued the BankAmericard to Meredith, the invoices representing goods and services furnished to respondent. Meredith, meanwhile, on the day after respondent's departure from Louisville, notified the Louisville bank that his credit card had been stolen.

Upon respondent's return to Louisville he was indicted on four counts of violation of the federal mail fraud statute, 18 U.S.C. § 1341, and one count of violation of the Dyer Act, 18 U.S.C. § 2312. The mail-fraud counts of the indictment charged that respondent had devised a scheme to defraud the Louisville bank, Charles L. Meredith, and several merchants in different States by unlawfully obtaining possession of the BankAmericard issued by the Louisville bank to Meredith, and using the card to obtain goods and services. The indictment charged that respondent had obtained goods and services at four specified motels by presenting Meredith's BankAmericard for payment and representing himself to be Meredith, and that respondent knew that each merchant would cause the sales slips of the purchases to be delivered by mail to the Louisville bank which would in turn mail them to Meredith for payment. The indictment also charged that the delay in this mailing would enable the respondent to continue purchasing goods and services for an appreciable period of time.

Respondent was tried by a jury in the United States District Court for the Western District of Kentucky. At trial, representatives of the four motels identified the sales invoices from the transactions on Meredith's BankAmericard which were forwarded to the Louisville bank by their motels. An official of the Louisville bank testified that all of the sales invoices for those transactions were received by the bank in due course through the mail, and that this was the customary method by which invoices representing BankAmericard purchases were transmitted to the Louisville bank. The jury found respondent guilty as charged on all counts, and he appealed the judgment of conviction to the Court of Appeals for the Sixth Circuit. That court reversed the judgment as to the mail fraud statute, but affirmed it as to the Dyer Act. 468 F. 2d (CA6 1972).[1] Because of an apparent conflict among the courts of appeals as to the circumstances under which the fraudulent use of a credit card may violate the mail fraud statute,[2] we granted the Government's petition for certiorari. 411 U. S. 963 (1973). For the reasons stated below, we affirm the judgment of the Court of Appeals.

The applicable parts of the mail fraud statute provide as follows: [3]

"Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises . . . for the purpose of executing such scheme or artifice or attempting so to do . . . knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any [matter or thing whatever to be sent or delivered by the Postal Service] shall be fined not more than $1,000 or imprisoned not more than five years, or both." 18. U. S. C. § 1341.

In *Pereira* v. *United States*, 347 U. S. 1, 9 (1954), the Court held that one "causes" the mails to be used where he "does an act with knowledge that the use of mails will follow in the ordinary course of business, or where such use can reasonably be foreseen, even though not actually intended . . . ." We assume, as did the Court of Appeals, that the evidence would support a finding by the jury that Maze "caused" the mailings of the invoices he signed from the out-of-state motels to the Louisville bank. But the more difficult question is whether these mailings were sufficiently closely related to respondent's scheme so as to bring his conduct within the statute.[4]

Under the statute, the mailing must be "for the purpose of executing the scheme, as the statute requires," *Kann* v. *United States*, 323 U.S. 88, 94 (1944), but "it is not necessary that the scheme contemplate the use of the mails as an essential element." *Pereira* v. *United States*, *supra*, at 8. The Government relies on *Pereira*, *supra*, and *United States* v. *Sampson*, 371 U.S. 75 (1962), to support its position, while respondent relies on *Kann* v. *United States*, *supra*, and *Parr* v. *United States*, 363 U.S. 370 (1960).

In *Kann*, *supra*, corporate officers and directors were accused of having set up a dummy corporation through which to divert profits of their own corporation to their own use. As a part of the scheme, the defendants were accused of having fraudulently obtained checks payable to them which were cashed or deposited at a bank and then mailed for collection to the drawee bank. This Court held that the fraud was completed at the point at which defendants cashed the checks:

"The scheme in each case had reached fruition. The persons intended to receive the money had received it irrevocably. It was immaterial to them, or to any consummation of the scheme, how the bank which paid or credited the check would collect from the drawee bank. It cannot be said that the mailings in question were for the purpose of executing the scheme, as the statute requires." 323 U.S., at 94.

In *Parr* v. *United States*, *supra*, the defendants were charged, *inter alia*, with having obtained gasoline and other products and services for their own purposes by the unauthorized use of a gasoline credit card issued to the school district which employed them. The oil company which furnished products and services to the defendants would mail invoices to the school district for payment, and the school district's payment was made by check sent in the mail. Relying on *Kann*, the Court again found that there was not a sufficient connection between the mailing and the execution of the defendants' scheme, because it was immaterial to the defendants how the oil company went about collecting its payment.

The defendant in *Pereira*, *supra*, was charged with having defrauded a wealthy widow of her property after having married her. The Court describes the conduct of defendant in these words:

"Pereira asked his then wife if she would join him in the hotel venture and advance $35,000 towards the purchase price of $78,000. She agreed. It was then agreed, between her and Pereira, that she would sell some securities that she possessed in Los Angeles, and bank the money in a bank of his choosing in El Paso. On June 15, she received a check for $35,000 on the Citizens National Bank of Los Angeles from her brokers in Los Angeles, and gave it to Pereira, who endorsed it for collection to the State National Bank in El Paso. The check cleared, and on June 18, a cashier's check for $35,000 was drawn in favor of Pereira." 347 U.S., at 5.

Thus the mailings in *Pereira* played a significant part in enabling the defendant in that case to acquire dominion over the $35,000 with which he ultimately absconded.[5] Unlike the mailing in *Pereira*, the mailings here were directed to the end of adjusting accounts between the motel proprietor, the Louisville bank, and Meredith, all of whom had to a greater or lesser degree been the victims of respondent's scheme. Respondent's scheme reached fruition when he checked out of the motel, and there is no indication that the success of his scheme depended in any way on which of his victims ultimately bore the loss.[6] Indeed, from his point of view, he probably would have preferred to have the invoices misplaced by the various motel personnel and never mailed at all.

The Government, however, relying on *Sampson* v. *United States*, *supra*, argues that essential to the success of any fraudulent credit-card scheme is the "delay" caused by use of the mails "which aids the perpetrator . . . in the continuation of a fraudulent credit card scheme and the postponement of its detection." In *Sampson*, various employees of a nationwide corporation were charged with a scheme to defraud businessmen by obtaining advance fees on the promise that the defendants would either help the businessmen to obtain loans or to sell their businesses. Even after the checks representing the fees had been deposited to the accounts of the defendants, however, the plan called for the mailing of the accepted application together with a form letter assuring the victims that the services for which they had contracted would be performed. The Court found that *Kann* and *Parr* did not preclude the application of the mail fraud statute to "a deliberate, planned use of the mails after the victims' money had been obtained." 371 U.S., at 80.

We do not believe that *Sampson* sustains the Government's position. The subsequent mailings there were designed to lull the victims into a false sense of security, postpone their ultimate complaint to the authorities, and therefore make the apprehension of the defendants less likely than if no mailings had taken place. But the successful completion of the mailings from the motel owners here to the Louisville bank increased the probability that respondent would be detected and apprehended. There was undoubtedly delay in transmitting invoices to the Louisville bank, as there is in the physical transmission of any business correspondence between cities separated by large distances. Mail service as a means of transmitting such correspondence from one city to another is designed to overcome the effect of the distance which separates the places. But it is the distance, and not the mail service,[7] which causes the time lag in the physical transmission of such correspondence.[8]

Congress has only recently passed an amendment to the Truth-in-Lending Act [9] which makes criminal the use of a fraudulently obtained credit card in a "transaction affecting interstate or foreign commerce." Congress could have drafted the mail fraud statute so as to require only that the mails be in fact used as a result of the fraudulent scheme.[10] But it did not do this; instead, it required that the use of the mails be "for the purpose of executing such a scheme or artifice. . . ." Since the mailings in this case were not for that purpose, the judgment of the Court of Appeals is

Affirmed.

Footnotes at end of article.

FOOTNOTES

[1] The Court of Appeals determined that even though it affirmed respondent's Dyer Act conviction, for which he had received a concurrent five-year sentence, it should also consider the mail fraud convictions as well. There is no jurisdictional barrier to such a decision, *Benton* v. *Maryland*, 395 U.S. 784 (1969), and the court decided that "no considerations of judicial economy or efficiency have been urged to us that would outweigh the interest of appellant in the opportunity to clear his record of a conviction of a federal felony." 463 F. 2d, at 536 n. 6. We agree that resolution of the mail fraud questions presented by this case is appropriate.

[2] The decision of the Court of Appeals for the Tenth Circuit in *United States* v. *Lynn*, 461 F. 2d 759 (1972), appears consistent with the decision of the Sixth Circuit in the instant case. Five other courts of appeals apparently take a contrary view. *E.g.*, *United States* v. *Kellerman*, 431 F. 2d 319 (CA2 1970) cert. denied, 400 U.S. 957 (1970); *United States* v. *Chason*, 451 F. 2d 301 (CA2 1971), cert. denied, 400 U.S. 1016 (1971); *United States* v. *Madison*, 458 F. 2d 974 (CA2 1972), cert. denied, 409 U.S. 859 (1972); *United States* v. *Ciotti*, 469 F. 2d 1204 (CA3 1972), cert. pending, No. 72–6155; *Adams* v. *United States*, 312 F. 2d 137 (CA5 1963); *Kloian* v. *United States*, 349 U.S. 291 (CA5 1965), cert. denied, 384 U.S. 913 (1965); *United States* v. *Reynolds*, 421 F. 2d 178 (CA5 1970); *United States* v. *Thomas*, 429 F. 2d 407 (CA5 1970); *United States* v. *Kelly*, 467 F. 2d 262 (CA7 1972), cert. denied, 411 U.S. 933 (1973); *United States* v. *Kelem*, 416 F. 2d 346 (CA9 1970), cert. denied, 397 U.S. 952 (1970).

[3] The full text of the section reads as follows:

"Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined not more than $1,000 or imprisoned not more than five years, or both."

[4] The Government indicates that in 1969 it was estimated that more than 300 million consumer credit cards were in circulation, with annual charges between $40 billion and $60 billion. It was also estimated that, in 1969, 1.5 million cards were lost or stolen, and that losses due to fraud had risen from $20 million in 1966 to $100 million in 1969. Brief for the United States, at p. 14 n. 2, citing 115 Cong. Rec. 38987 (Dec. 12, 1969). The mail fraud statute, first enacted in 1872, 17 Stat. 323, c. 335, § 301, while obviously not directed at credit card frauds as such, is sufficiently general in its language to include them if the requirements of the statute are otherwise met.

[5] While it is clearly implied in this Court's opinion in *Pereira* that the El Paso bank did not immediately credit the account of the defendant, but instead awaited advice from the Los Angeles bank to which it had mailed the check, the opinion of the Court of Appeals for the Fifth Circuit in *Pereira* makes that fact abundantly clear:

"The return of [the] check from Texas to California constitutes the mailing referred to in the First Count. . . . In mailing the check back to the bank in California on which it was drawn, the El Paso, Texas, bank sent 'instructions to wire fate,' meaning to wire whether the item was paid or not. Upon receiving a telegram stating that the check had been paid, the bank in El Paso gave Pereira its cashier's check for $35,286.01, which Pereira promptly cashed on June 19, 1951." *Pereira* v. *United States*, 202 F. 2d 830, 836 (CA5 1953).

[6] MR. JUSTICE WHITE's dissenting opinion indicates that respondent engaged in a "two week, $2,000 transcontinental spending spree." While we are not sure of the legal significance of the amounts fraudulently charged on the credit card by the respondent, we note that the four counts of mail fraud charged in the indictment were based on charges on Meredith's credit card totaling $301.85. Brief for the Respondent, at p. 4 n. 2; Brief for the United States, at pp. 4–5.

[7] Since we are admonished that we may not as judges ignore what we know as men, we do not wish to be understood as suggesting that delays in mail service are solely attributable to the distance involved. If the Postal Service appears on occasion to be something less than a 20th century version of the wing-footed Mercury, the fact remains that the invoices were mailed to and were ultimately received by the Louisville bank.

[8] Distance is not the only cause of delay. The Court of Appeals noted that BankAmericard had a billing system in which billing was accomplished by collecting receipts over a one-month period and then billing the card holder. 468 F. 2d, at 535. It might reasonably be argued that respondent himself used facilities of interstate travel for the purpose of executing his scheme, since the large distances separating the defrauded motels from one another and from the Louisville bank probably did make it more difficult to apprehend him than if he had simply defrauded local enterprises in Louisville. But the statute is cast not in terms of use of the facilities of interstate travel, but in terms of use of the mails.

[9] 15 U.S.C. § 1644 provides:

"Whoever, in a transaction affecting interstate or foreign commerce, uses any counterfeit, fictitious, altered, forged, lost, or stolen, or fraudulenty obtained credit card to obtain goods or services, or both, having a retail value aggregating $5,000 or more, shall be fined not more than $10,000 or imprisoned not more than five years, or both."

The Court of Appeals felt that the enactment by Congress of the above amendment to the Truth-in-Lending Act manifested a legislative judgment that credit card fraud schemes were to be excluded from the application of the mail fraud statute "unless the offender makes a purposeful use of the mails to accomplish his scheme." 468 F. 2d, at 536.

Respondent contends that the passage of the amendment indicates that Congress believed in 1970 that credit card fraud was not a federal crime under 18 U.S.C. § 1341 or otherwise. Respondent also notes that the legislative history of the passage of the amendment indicates that the original bill, as enacted by the Senate, contained no jurisdictional amount limitation. The Senate-House conferees, at the request of the Department of Justice, later added the limitation limiting federal jurisdiction under the section to purchase exceeding $5,000. Brief for the Respondent, at pp. 16–21.

The Government contends that the Court of Appeals erred in attaching significance to the 1970 amendment, urging that there is no indication that Congress intended its provisions to be the sole vehicle for the federal prosecution of credit card frauds. Brief for the United States, at pp. 33–37, citing *United States* v. *Beacon Brass Co.*, 344 U.S. 43, 45, (1952).

We deem it unnecessary to determine the significance of the passage of the amendment, since we conclude without resort to that fact that the mail fraud statute does not cover the respondent's conduct in this case.

[10] We are admonished by THE CHIEF JUSTICE in dissent that the "mail fraud statute must remain strong to cope with the new varieties of fraud" which threaten "the financial security of our citizenry" and which "the Federal Government must be ever alert to combat." We believe that under our decision the mail fraud statute remains a strong and useful weapon to combat those evils which are within the broad range of its language. If the Federal Government is to engage in combat against fraudulent schemes not covered by the statute, it must do so at the initiative of Congress and not of this Court.

[Supreme Court of the United States, No. 72–1168]

UNITED STATES, PETITIONER, v. THOMAS E. MAZE

(On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit, January 8, 1974)

MR. CHIEF JUSTICE BURGER, with whom MR. JUSTICE WHITE joins, dissenting.

I join in the dissent of MR. JUSTICE WHITE which follows but add a few observations on an aspect of the Court's holding which seems of some importance. Section 1341 of Title 18, U.S.C., has traditionally been used against fraudulent activity as a first line of defense. When a "new" fraud develops—as constantly happens—the mail fraud statute becomes a stop-gap device to deal on a temporary basis with the new phenomenon, until particularized legislation can be developed and passed to deal directly with the evil. "Prior to the passage of the 1933 [Securities] Act, most criminal prosecutions for fraudulent securities transactions were brought under the Federal Mail Fraud Statute." A. Matthews, Criminal Prosecutions Under the Federal Securities Laws and Related Statutes: The Nature and Development of SEC Criminal Cases, 39 Geo. Wash. L. Rev. 901, 911 (1971). Loan sharks were brought to justice by means of 18 U.S.C. § 1341, S. Lynch, Prosecuting Loan Sharks Under the Mail Fraud Statute, 14 Ford, L. Rev. 150 (1945), before Congress, in 1968, recognized the interstate character of loansharking and the need to provide federal protection against this organized crime activity, and enacted 18 U.S.C. § 891, *et seq.*, outlawing extortionate extensions of credit. Although inadequate to protect the buying and investing public fully, the mail fraud statute stood in the breach against frauds connected with the burgeoning sale of undeveloped real estate, until Congress could examine the problems of the land sales industry and pass into law the Interstate Land Sales Full Disclosure Act, 15 U.S.C. § 1701, *et seq.* R. Coffey and J. Welch, Federal Regulation of Land Sales: Full Disclosure Comes Down to Earth, 21 Case W. Res. L. Rev. 5 (1969). Similarly, the mail fraud statute was used to stop credit card fraud, before Congress moved to provide particular protection by passing 15 U.S.C. § 1644.

The mail fraud statute continues to remain an important tool in prosecuting frauds in those areas where legislation has been passed more directly addressing the fraudulent conduct. Mail fraud counts fill pages of securities fraud indictments even today. A. Mathews, Criminal Prosecutions Under the Federal Securities Laws and Related Statutes: The Nature and Development of SEC Criminal Cases, 39 Geo. Wash. L. Rev. 901, 911 (1971). Despite the pervasive government regulation of the drug industry, postal fraud statutes still play an important role in controlling the solicitation of mail-order purchases by drug distributors based

upon fraudulent misrepresentations. F. Hart, The Postal Fraud Statutes: Their Use and Abuse, 11 Food Drug Cosm. L. J., 245, 247, 261 (1956). Maze's interstate escapade—of which there are numberless counterparts—demonstrates that the federal mail fraud statute should have a place in dealing with fraudulent credit card use even with 15 U.S.C. § 1644 on the books.

The criminal mail fraud statute must remain strong to be able to cope with the new varieties of fraud that the ever-inventive American "con artist" is sure to develop. Abuses in franchising and the growing scandals from pyramid sales schemes are but some of the threats to the financial security of our citizenry that the Federal Government must be ever alert to combat. Comment, Multi-Level or Pyramid Sales Systems: Fraud or Free Enterprise, 18 S. Dak. L. Rev., 358 (1973).

The decision of the Court in this case should be viewed as limited to the narrow facts of Maze's criminal adventures on which the Court places so heavy a reliance, and to the Court's seeming desire not to flood the federal courts with a multitude of prosecutions for relatively minor acts of credit card misrepresentation considered as more appropriately the business of the States. The Court of Appeals, whose judgment is today affirmed, was careful to state that "[w]e do not hold that the fraudulent use of a credit card can never constitute a violation of the mail fraud statute." *United States* v. *Maze*, 468 F. 2d 529, 536 (CA6 1972). The Court's decision, then, correct or erroneous, does not mean that the United States ought, in any way, to slacken its prosecutorial efforts under 18 U.S.C. § 1341 against those who would use the mails in schemes to defraud the guileless members of the public with worthless securities, patent medicines, deeds to arid and inaccessible tracts of land, or other empty promises of instant wealth and happiness. I agree with MR. JUSTICE WHITE that the judgment of the Court of Appeals was error and should be reversed.

[Supreme Court of the United States, No. 72–1168]

UNITED STATES, PETITIONER, v. THOMAS E. MAZE

(On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit, January 8, 1974)

MR. JUSTICE WHITE, with whom THE CHIEF JUSTICE, MR. JUSTICE BRENNAN, and MR. JUSTICE BLACKMUN concur, dissenting.

Until today the acts charged in the indictment in this case—knowingly causing four separate sales invoices to be mailed by merchants to the bank that had issued the stolen BankAmericard in furtherance of a scheme to defraud the bank by using the credit card without authorization and by falsely securing credit—would have been a criminal offense punishable as mail fraud under 18 U.S.C. § 1341.[1] But no more. By misreading this Court's prior decisions and giving an unambiguous federal criminal statute an unrealistic reading, the majority places beyond the reach of the statute a fraudulent scheme that by law is not consummated until after the mails have been used, that utilizes the mails as a central, necessary instrumentality in its perpetration, and that demands federal investigatory and prosecutorial resources if it is to be effectively checked. Because I cannot subscribe to the majority's reasoning or the result it reaches, I dissent.

As "part of his scheme and artifice to defraud," respondent was charged with "obtain[ing] property and services on credit through the use of" an unlawfully possessed BankAmericard and "by means of false and fraudulent pretenses, representations and promises. . . ." App., at 5, 6. The property and services were obtained from Citizens Fidelity Bank and Trust Company of Louisville, Kentucky, a BankAmericard licensee, Charles Meredith, the authorized card holder and user, and various persons and business concerns "which had previously entered into agreements with BankAmericard to furnish property and services on credit to the holders of BankAmericards . . . ." *Id.*, at 6. The indictment also charged that the mails played an indispensable role in respondent's fraudulent activities:

"It was a further part of his scheme and artifice to defraud that the defendant would and did obtain property and services on credit through the use of [the] BankAmericard . . . by charging purchases on credit, well knowing at the time that the bank copies of the sales invoices recording these purchases would be, and were, delivered by mail to Citizens Bank and Trust Company, Louisville, Kentucky, according to the directions thereon for posting to the BankAmericard account of Charles L. Meredith, that copies of these sales invoices, together with a bill for the accumulated charges, would subsequently be mailed in the normal course of business to Charles L. Meredith; and that the delay inherent in this posting and mailing would enable the defendant to continue to make purchases with [the] BankAmericard . . . before his scheme and artifice to defraud could be detected." *Id.*, at 6–7.

I

Section 1341 proscribes use of the mails "for the purpose of executing" a fraudulent scheme. The trial court had instructed the jury that it could convict on the four mail fraud counts only if it found, *inter alia*, that "the mails were in fact used *to carry out* the scheme and that the use of the mails was reasonably foreseeable. The mail matter need not disclose on its face a fraudulent representation or purpose, but need only be intended *to assist in carrying out* the scheme to defraud. App., at 37 (emphasis added). Viewing each fraudulent transaction as consummated at the time respondent received goods in exchange for signing the BankAmericard sales drafts, the Court of Appeals held that respondent did not cause the subsequent mailings "for the *purpose* of executing his fraudulent scheme." *United States* v. *Maze*, 468 F. 2d 529, 535 (CA6 1972) (emphasis in original). The court below acknowledged that "the fraud was directed against the card issuer and the card holder," but it nevertheless concluded that the relevant perspective was respondent's. "As far as [respondent] was concerned, his transaction was complete when he checked out of each motel; the subsequent billing was merely 'incidental and collateral to the scheme and not a part of it.'" *Id.*, at 534, quoting *Kann* v. *United States*, 323 U.S. 83, 95 (1944).

The majority has uncritically embraced this unnecessarily restrictive approach to construing the statute. Like the Court of Appeals, it has selectively seized upon language in our prior decisions in pursuit of its notion that the fraudulent scheme ended when respondent duped the motels into giving him goods and services on credit. We are told, for example, that as in *Kann, supra*, where the mails were used to deliver checks drawn from a dummy corporation as part of a scheme by corporate officers to defraud their own corporation, that the scheme here "had reached fruition," that the person "intended to receive the [goods and services] had received it irrevocably," that it was "immaterial . . . to any consummation of the scheme" how the sales invoices were forwarded by the motels to the issuing bank for payment and billing to the card holder, and that the so-called billing process was, as previously noted, "incidental and collateral to the scheme and not a part of it." 323 U.S., at 94, 95. "Therefore, only if the mailings were 'a part of the execution of the fraud,' or as we said in *Pereira* v. *United States*, 347 U.S. 1, 8, were 'incident to an essential part of the scheme,' do they fall within the ban of the federal mail statute." *Parr* v. *United States*, 363 U.S. 370, 390 (1960).

What the majority overlooks is the salient fact that the fraud in this case—and most others involving unauthorized use of credit cards—was practiced on the card issuer and not on the individual merchants who furnished lodgings and meals to respondent. As the Court of Appeals itself recognized, "[t]he merchants who honored the BankAmericard were likely insulated from loss under their agreements with BankAmericard. *See* Brandel & Leonard, Bank Charge Cards: New Cash or New Credit, 69 Mich. L. Rev. 1033, 1040 (1971)." 468 F. 2d, at 534 n. 3.[2] Here, then, the fraud was ultimately perpetrated upon the credit card issuer and not the merchant.[3] The mails thus became "part of the execution of the fraud. . . ." *Kann* v. *United States, supra*, 323 U.S., at 95. Indeed, they were "an essential element" and not merely "incident to an essential part of the scheme. . . ." *Pereira* v. *United States, supra*, 347 U.S., at 8.

Nor had respondent's plan reached fruition. For his part, he may very well not have schemed beyond obtaining the goods and services under false pretenses with a stolen credit card. But from a legal standpoint of criminal fraud, this was only the first and certainly "not the last step in the fraudulent scheme. It was a continuing venture. . . . The use of the mails was critical to the success of the fraudulent project. We are not justified in chopping up . . . the scheme into segments and isolating one part from the others. That would be warranted if the scheme were to defraud [only the merchants]. But it is plain that these plans had a wider reach and that but for the use of the mails they would not have been finally consummated." *Kann* v. *United States, supra*, 323 U.S., at 96 (DOUGLAS, J., dissenting).

Since it was the card-issuing bank that was actually defrauded, the mails were employed "for the purpose of executing [the] scheme. . . ."

II

The mails further contributed to the realization of respondent's fraudulent scheme by creating the delay in detecting the fraud that necessarily results from the time-consuming processing of credit card invoices by mail. See *United States* v. *Chasson, supra*, 451 F. 2d, at 303–304. During his two week, $2,000 transcontinental spending spree, respondent took full advantage of this inevitable delay to continue his unlawful activities. If the motel owners had employed an instantaneous identification or verification system, respondent's fraudulent scheme would most likely have been nipped in the bud. But the simple truth of the matter is that they did not. As a direct consequence of the prevailing business practice of mailing invoices to the issuer for subsequent billing to the card holder and the system's attendant time delays, respondent was able to buy valuable time to postpone detection and thereby execute his scheme.

The majority mysteriously ignores prior decisions that 18 U.S.C. § 1341 reaches "cases where the use of the mails is a means of concealment so that further frauds which are a part of the scheme may be perpetrated." *Kann* v. *United States, supra*, 323 U.S., at 94–95. See *United States* v. *Hendrickson*, 394 F. 2d 807 (CA6 1968), cert. denied, 393 U.S. 1031 (1969); *United States* v. *Riedel*, 126 F. 2d 596, 599 (CA7 1940), cert. denied, 311 U.S. 717. Moreover, it fails to take appropriate account of our most recent decision construing § 1341. In *United States* v. *Samuson*, 371 U.S. 75 (1962), an indictment for mail fraud

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Footnotes at end of article.

had been dismissed by the District Court on the ground that the mailings after the money had already been obtained from the victims were not "for the purpose of executing" the scheme to defraud. We reversed.

"We are unable to find anything in either the *Kann* or *Parr* case which suggests that the Court was laying down an automatic rule that a deliberate, planned use of the mails after the victims' money had been obtained can never be 'for the purpose of executing' the defendants' scheme. Rather the Court found only that under the facts in those cases the schemes had been fully executed before the mails were used. And Court of Appeals decisions rendered both before and after *Kann* have followed the view that subsequent mailings can in some circumstances provide the basis for an indictment under the mail fraud statutes." 371 U.S., at 80 (footnote omitted).

As previously indicated, the indictment here charged that respondent knew that the delay inherent in the posting and mailing of the credit card invoices would enable him to continue making purchases with the purloined card before his criminal conduct could be detected. Respondent engaged in a criminal enterprise that is by its very nature short-lived. Every time delay in the card holder's receipt of the forged credit card slips allows the scheme to continue that much longer. For my part, the indictment charge a crime under 18 U.S.C. § 1341, and the Government established respondent's guilt beyond a reasonable doubt.

III

The majority's decision has ramifications far beyond the mere reversal of a lone criminal conviction. In this era of the "cashless" society, Americans are increasingly resorting to the use of credit cards in their day-to-day consumer purchases. Today well over 300 million credit cards are in circulation, and annual charges exceed $60 billion. In 1969 alone, 1.5 million credit cards were lost or stolen, resulting in fraud losses exceeding $100 million, 115 Cong. Rec. 38987 (1969). Current estimates of annual credit card fraud losses are put as high as $200 million. Cleveland, Bank Credit Cards: Issuers, Merchants and Users, 90 Banking L. J. 719, 729 (1973). Under the result reached by the majority, only those credit card frauds exceeding $5,000 covered by 15 U.S.C. § 1644 will be subject to federal criminal jurisdiction.

Yet this burgeoning criminal activity, as evidenced by the very facts of this case, does not recognize artificial state boundaries. In the future, nationwide credit card fraud schemes will have to be prosecuted in each individual State in which a fraudulent transaction transpired. Here, for example, respondent must now be charged and tried in California, Louisiana, and Florida. This result, never intended by Congress, may precipitate a widespread inability to apprehend and/or prosecute those who would hijack the credit card system.

I dissent.

FOOTNOTES

[1] See, *e. g., United States* v. *Kelly*, 467 F. 2d 262 (CA7 1972), cert. denied, —— U.S. ——; *United States* v. *Madison*, 458 F. 2d 974 (CA2 1971), cert. denied 400 U.S. 859; *United States* v. *Chason*, 451 F. 2d 301 (CA2 1971), cert. denied, 405 U.S. 1016; *United States* v. *Kellerman*, 431 F. 2d 319 (CA2 1970), cert. denied, 400 U.S. 957; *United States* v. *Thomas*, 429 F. 2d 407 (CA5 1970); *United States* v. *Kelem*, 416 F. 2d 346 (CA9 1969), cert. denied, 397 U.S. 952; *Adams* v. *United States*, 312 F. 2d 137 (CA5 1963).

The majority recognizes that prior to this decision at least five courts of appeals had taken a view contrary to that reached by the court below. *Ante*, at —— n. 2. The Court of Appeals in this case relied upon *United States* v. *Lynn*, 461 F. 2d 759 (CA10 1972), but the indictment in that case did not allege that the plan defrauded the authorized card holder or the credit card issuer.

[2] Almost all of the bank credit card systems presently in operation in this country rely upon a three-way transaction between the card issuer, the card holder, and a subscribing retailer. This tripartite credit card arrangement basically entails three separate contractual agreements: (1) between the bank issuing the credit card and the individual card holder; (2) between one of the banks in the system and a local merchant; and (3) between the merchant and the card holder. See generally, Comment, The Tripartite Credit Card Transaction: A Legal Infant, 48 Calif. L. Rev. 459 (1960).

"The most important of the many parties to such a system is the bank which issues the charge cards to the public. The issuer-bank establishes an account on behalf of the person to whom the card is issued, and the two enter into an agreement which governs their relationship. This agreement establishes a line of credit under which the cardholder may incur obligations to the issuer by a cash advance or through a purchase of goods or services from one of the merchant-members.

"These merchants also have an agreement with the banks requiring them to honor all charge cards issued by a member-bank, and enabling them to deposit slips evidencing sales to cardholders in an ordinary checking account at the bank with which he has reached an agreement in return for a discounted credit to that account. These slips are then cleared and forwarded through an interchange system to the member-bank which originally issued the card and from which the cardholder will be billed periodically. The cardholder must then decide whether to make payment in full within a specified period, free of finance charges, or to defer payment and ultimately be charged an extra percentage of the amount billed." Comment, Bank Credit Cards—Contemporary Problems, 41 Ford. L. Rev. 373, 374 (1972) (footnote omitted).

Because the legal relationship between the parties is dictated by the terms of their respective agreements, the contract governs the distribution of risk for credit cards frauds between the merchant and the issuer. Under most systems, with certain exceptions for negligence on the part of the merchant if he honors an expired card or one appearing on the current "stop list" or if he makes a sale for an amount in excess of the card holder's credit line, the issuer assumes all risks for frauds. Murray, A Legal-Empirical Study of the Unauthorized Use of Credit Cards, 21 U. Miami L. Rev. 811, 813 (1967); Note, Credit Cards: Distributing Fraud Loss, 77 Yale L. J. 1418, 1420 (1968); Comment, The Tripartite Credit Card Transaction, 48 Calif. L. Rev. 459, 464–465 (1960).

"'As far as the merchant is concerned, he is in the same financial and legal position as if he were receiving certified checks on a bank that does not clear at par, with no risk that the check will be returned or payment stopped, or as if he were receiving cash at a small discount for the bank's services. This firm bank commitment is what makes the merchant willing to accept a bank card as freely as cash and what makes the bank card as good as cash to its holder (and without the risks of carrying cash).

"'Under these arrangements, the card-issuing bank takes all the credit risk, which is appropriate to the banking function it performs, the cardholder selects the merchant with whom he will deal, and the bank and the cardholder-purchaser expect the merchant to assume the merchandise risk. It is this division and allocation of risks between merchant and bank which permits the bank card to be used as though it were cash with hundreds of thousands of participating merchants throughout the country and abroad.'" Cleveland, Bank Credit Cards: Issuers, Merchants, and Users, 90 Banking L. J. 719, 723–724 (1973), quoting Statement of the American Bankers Association, the Consumers Bankers Association, Interbank Credit Card Association, and National Bank-Americard, Inc. to the Federal Trade Commission in the Matter of Revised Proposed Trade Regulation Rule on Preservation of Consumers' Claims and Defenses, p. 4 (March 5, 1973).

[3] Section 133(a) of the Consumer Credit Protection Act limited the card holder's liability for the unauthorized use of his credit card to $50. 15 U.S.C. § 1643(a).

Mr. HRUSKA. Mr. President, I am pleased to join my distinguished colleague from Massachusetts (Mr. KENNEDY) in cosponsoring this bill to amend the Federal mail fraud statute, 18 U.S.C. 1341, and thereby solve a problem raised in the recent Supreme Court opinion of *United States* v. *Maze*, 42 L.W. 4113 (January 8, 1974). In Maze, the five member majority construed the subject mail fraud statute as an inappropriate foundation for prosecuting many cases involving credit card fraud.

The mail fraud statute requires that the mails be utilized "for the purpose of executing" a scheme to defraud. The Court held in Maze that the mailing of sales charges bearing a fraudulent signature was not sufficiently related to the scheme of misusing a stolen credit card to be proscribed by the statute.

This bill would amend 18 U.S.C. 1341 and make prosecutable any fraudulent scheme in which the mails are used "for the purpose of, as an incident to, or as a result of executing—or attempting" such a scheme. Thus, the credit card scheme in Maze and fraudulent schemes of a similar nature would clearly fall within the amendment statute.

In an era of the "cashless" society, Americans are increasing their use of credit cards for consumer purchases. I understand that today over 300 million credit cards are in circulation. Current estimates of annual credit card fraud losses are estimated to be in the neighborhood of $200 million. Thus, the importance of this measure as a necessary law enforcement tool is self-evident.

I am confident that this proposal, if enacted, can be used to accomplish significant results in reducing this type of criminal activity. Therefore, I am hopeful that prompt and favorable action will be taken on this measure.

ADDITIONAL COSPONSORS OF BILLS

S. 1359

At the request of Mr. MCCLELLAN, the Senator from Iowa (Mr. CLARK) was added as a cosponsor of S. 1359 to amend section 9 of title 17 of the United States Code.

S. 1388

At the request of Mr. TALMADGE, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S. 1388, to authorize the Secretary of Agriculture to encourage and assist the several States in carrying out a program of animal health research.

S. 1434

At the request of Mr. HUMPHREY, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 1434 a bill to amend the Internal Revenue Code of 1954 to disregard children's benefits received by an individual under the Social Security Act in determining whether that individual is a dependent of a taxpayer.

S. 2488

At the request of Mr. KENNEDY, the Senator from Illinois (Mr. STEVENSON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Indiana (Mr. BAYH), the Senator from Michigan (Mr. HART), and the Senator from California (Mr. CRANSTON) were added as cosponsors of S. 2488, to extend title VII of the Older Americans Act of 1965, the nutrition for the elderly program.

S. 2782

At the request of Mr. NELSON, the Senator from Iowa (Mr. HUGHES), and the Senator from New Mexico (Mr. MONTOYA) were added as cosponsors of S. 2782, 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. 2821

At the request of Mr. JAVITS, and by unanimous consent, the Senator from New Mexico (Mr. DOMENICI) and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 2821, to extend the authorization of appropriations for the Cabinet Committee on Opportunities for Spanish-Speaking People.

S. 2854

At the request of Mr. CRANSTON, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Iowa (Mr. HUGHES), the Senator from Vermont (Mr. STAFFORD), the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Michigan (Mr. HART), and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of S. 2854, a bill to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance a national attack on arthritis.

S. 2894

At the request of Mr. DOLE, the Senator from Ohio (Mr. TAFT) was added as a cosponsor of S. 2894, to terminate the Emergency Daylight Saving Time Energy Conservation Act of 1973.

S. 2906

Mr. MONDALE. Mr. President, yesterday I introduced S. 2906 calling for a $200 tax credit for dependents as an alternative to the regular deduction from the adjusted gross income. I ask unanimous consent that my colleague from Minnesota (Mr. HUMPHREY) be added as a cosponsor of the bill.

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

SENATE RESOLUTION 250—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON VETERANS' AFFAIRS FOR INQUIRIES AND INVESTIGATION

(Referred to the Committee on Rules and Administration.)

Mr. TALMADGE, from the Committee on Veterans' Affairs, reported the following original resolution:

S. RES. 250

Resolved, That in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Veterans' Affairs or any subcommittee thereof is authorized from March 1, 1974, through February 28, 1975, in its discretion (1) to make expenditures from the contingent fund of the Senate (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursement basis the services of personnel of such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $275,000, of which amount not to exceed $50,000 may be expended for the procurement of the services of individual consultants or organizations thereof (as authorized by section 202(1) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1975.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 251—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO MARGARET G. COBEL

(Placed on the calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 251

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Margaret G. Cobel, widow of Jimmy J. Cobel, an employee of the Architect of the Capitol assigned to duty in the Senate Office Buildings at the time of his death, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 252—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO RUTH W. MOSS

(Placed on the calender.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 252

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Ruth W. Moss, mother of J. Rulon Moss, an employee of the Senate at the time of his death, a sum equal to four months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 253—SUBMISSION OF A RESOLUTION RELATING TO COMPARATIVE PRINTS OF CERTAIN BILLS AND JOINT RESOLUTIONS

(Referred to the Committee on Rules and Administration.)

Mr. HATHAWAY. Mr. President, today I am submitting a resolution to extend the so-called Cordon rule of the Senate, rule XXIX(4), to cover the entire process of bill consideration in the Senate committees.

The Cordon rule, adopted by the Senate in 1949, requires that in reporting a bill to the Senate, a committee must provide an accompanying document showing the text of the statute or part thereof which is proposed to be repealed, and a comparative print of that part of the bill or joint resolution making the amendment, and of the statute or part thereof proposed to be amended, showing by appropriate typographical devices the omissions and insertions which would be made by the bill or joint resolution if enacted in the form recommended by the committee.

The purpose of the Cordon rule is to make clear the effect of proposed legislation on existing law. Both in terms of clarification and efficiency, the rule has proven helpful to Members of the Senate, and has undoubtedly expedited the floor work of the Senate. With the Senate workload increasing all the time, I feel we can utilize this helpful tool even more extensively in the legislative process.

In the belief that the expanded application of the Cordon rule would benefit the Senate, I am introducing a resolution requiring that the rule apply during the most preliminary consideration in subcommittee hearings, through final committee consideration of a bill or resolution.

Mr. President, I ask unanimous consent that the text of the resolution be printed in the RECORD at this point.

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

S. RES. 253

Resolved, That rule XXIX of the Standing Rules of the Senate is amended by adding at the end thereof the following paragraph:

"5. Whenever a committee or subcommittee thereof considers at committee or subcommittee meetings (including hearings), a bill or joint resolution repealing or amending any statute or part thereof, the committee or subcommittee, as the case may be, shall have at hand an accompanying document (to be prepared by the staff of such committee or subcommittee) which includes (1) the text of the statute or part thereof which is proposed to be repealed, and (2) a comparative print of that part of the bill or joint resolution making the amendment and of the statute or part thereof proposed to be amended, showing by stricken-through type and italics, parallel columns, or other appropriate typographical devices the omissions and insertions which would be made by the

bill or joint resolution if enacted in the form in which it was introduced, or, in the case of such a bill or joint resolution first considered by a subcommittee of a committee, in the form recommended by the subcommittee."

SENATE RESOLUTION 254—SUBMISSION OF A RESOLUTION RELATING TO THE PRESENT HIGH PRICE OF PROPANE GAS

(Referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. FULBRIGHT. Mr. President, I am today submitting a Senate resolution requesting the Federal Energy Office to promulgate new regulations which will alleviate the present high price of propane.

Propane is a particularly important fuel in predominately rural states such as Arkansas. Arkansas ranked fourth in total sales of liquid petroleum gas in 1972, and was the largest per capita user in the country. Furthermore, propane is often used by those who can least afford dramatic price increases—low income Americans and senior citizens who live on fixed incomes.

The rate at which propane gas prices have risen is absolutely incredible. For example, the delivered price from the Phillips Petroleum Co., terminal in West Memphis, Ark., to an LP gas dealer in West Memphis was 8.27 cents per gallon in January 1973. By August 1973, it had increased to 10.08 cents, and on January 11, 1974, the price had risen to 26.95 cents. Thus in the course of 1 year the price had increased from 8.27 cents to 26.95 cents. The price now is 300 percent of what it was 1 year ago. This is not an extreme example, and, in fact, some LP gas dealers have faced larger increases.

Of course, these price increases at the wholesale level mean higher prices to the consumer. The LP dealer in West Memphis I discussed above was charging 18 cents a gallon to the domestic consumer in January 1973, and 23 cents in August 1973. He is now charging 38 cents a gallon. Under the administration's price regulations, the LP dealer is not making any extra profit because of the price increases. He is merely allowed to pass on his increased costs. In fact, the markup of the West Memphis dealer last August was 12.92 cents—23–10.08—and is now 11.05 cents—38–26.95. Thus the problem is at the wholesale price level, not at the retail level. The LP gas dealers I have talked with want a lower price for their consumers.

Propane is used extensively in rural Arkansas for heating and cooking purposes. For many Arkansans living on low or fixed incomes, the high cost of propane is not stretching their budgets, it is busting them. Fuel costs for many of these Arkansans are now $100 and more a month. A low-income family cannot afford this. Retired citizens living on social security or on a pension cannot afford this.

Propane is also vitally important to agricultural production. For example, the poultry industry is very dependent on propane. The high prices for this fuel can only result in shortages and increased costs of food. Therefore every American has a stake in this issue.

The prices of all fuels have increased greatly in recent months, and I certainly recognize that consideration must be given to the increased costs of crude oil and to the need for an economic incentive to encourage energy production. However, there is no justifiable reason for a 200 to 300-percent rise in price over a period of months. It is apparent that the administration's price regulations have not only allowed, but have actually encouraged this price rise. These regulations allow the refiner to pass through increased product costs. However, the refiners are given great discretion in allocating these cost increases to any of the various refined products.

Furthermore, gasoline, home heating oils, and diesel fuels are given special treatment. The result is that these refiners have been allocating a large portion of the cost increases to propane in spite of the fact that propane gas is a minor percentage of the final product of the refining process. In fact, approximately 70 percent of the propane produced comes from natural gas, the price of which has grown relatively slowly. Thus increases in production costs which have nothing to do with propane production are being allocated to propane. In effect, propane purchasers are subsidizing users of other fuels.

The Federal Energy Office is currently considering new regulatons on the price of propane. The Senate should urge that Office to adopt regulations that will effectively reduce the present high price.

The resolution reads as follows:

S. RES. 254

Whereas there has been an unprecedented increase in the price of propane gas in recent months;

Whereas propane is used extensively in agricultural production and by senior citizens and citizens of low income who cannot afford to pay the present price of propane; and

Whereas the price increases in propane are largely attributable to price regulations which have allowed refiners to apportion an excessive amount of increased product costs to propane: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Administration of the Federal Energy Office should, and is hereby urged and requested to, promulgate new regulations which will alleviate the present high price of propane.

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 63

At the request of Mr. PERCY, the Senator from Idaho (Mr. CHURCH), the Senator from New York (Mr. JAVITS), the Senator from South Dakota (Mr. McGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Pennsylvania (Mr. HUGH SCOTT), and the Senator from Alabama (Mr. SPARKMAN) were added as cosponsors of Senate Concurrent Resolution 63, to seek new efforts to obtain compliance with the terms of the Paris peace agreement as they apply to prisoners of war and personnel missing in action.

NOTICE OF HEARINGS ON S. 2885 BY THE INTERIOR COMMITTEE

Mr. JACKSON. Mr. President, on January 31, and February 1, 1974, the Senate Interior Committee will hold hearings on S. 2885, to direct the President to establish ceiling prices on petroleum crude oil and refined petroleum products.

Recent price increases for crude oil and petroleum products are having a substantial economic impact. This measure amends the Emergency Petroleum Allocation Act—Public Law 93–159—to require ceiling prices on all crude oil, refined petroleum products, and related goods. These ceilings would prevent increases in excess of those that would actually increase long-run supply and diminish long-run demand.

Ceiling prices would be limited to a dollar-for-dollar cost passthrough, except for the sole purpose of encouraging increased domestic exploration and production of crude oil or investment in new refining and transportation capacity. Any such increase would have to be accompanied by a detailed statement of the extent and the means by which any price increases which are greater than a passthrough of cost can be reasonably expected to increase supply.

On January 31, the hearing will convene at 2 p.m. in room 3110 of the Dirksen Senate Office Building. The invited witnesses are: The Honorable Lee C. White, chairman, Energy Policy Task Force, Consumer Federation of America, Washington, D.C.; George Meany, president, AFL–CIO, Washington, D.C., and Frank N. Ikard, president, American Petroleum Institute, Washington, D.C.

On February 1, the hearing will convene at 9:30 a.m. in room 3110 of the Dirksen Senate Office Building. The invited witnesses are: The Honorable William E. Simon, Administrator, Federal Energy Office; the Honorable Herbert Stein, Chairman, Council of Economic Advisers; the Honorable George P. Shultz, Secretary, Department of the Treasury, and the Honorable John T. Dunlop, Director, Cost of Living Council.

These hearings are being held as part of the national fuels and energy policy study. Individuals desiring to file a statement commenting on the bill or the following general questions and policy issues are requested to transmit 10 copies to the committee by February 8, 1974.

The general questions follow:

GENERAL QUESTIONS AND POLICY ISSUES, HEARINGS ON S. 2885

A. IMPACT OF CRUDE OIL AND PETROLEUM PRODUCT PRICE INCREASES

1. What has been the impact of recent price increases in crude oil and petroleum products and what will be the impact of expected further increases on:

(a) the economy generally (the growth rate, inflation, etc.);

(b) state and regional economies;

(c) the output, employment and viability of major consuming industries, and

(d) individual consumers of petroleum products.

B. PETROLEUM PRODUCT PRICES, CRUDE OIL SUPPLY AND PRICES

1. For each month since January 1971, and each week since October 1973, indicate

average wholesale and retail prices, and the range of prices, for the major categories of refined petroleum products, by region of the United States.

2. For each month since January 1971, and each week since October 1973, indicate the volume and proportion of crude oil run in U. S. refineries:

(a) produced in other countries;

(b) produced from domestic stripper wells, and

(c) produced from other domestic wells. For the period for which the distinctions are relevant, subdivide this category pursuant to COLC regulations into:

(1) new oil;

(2) released, old, or flowing oil, and

(3) price-controlled old oil.

3. Indicate the average prices (or, if averages are not available, representative prices for each time period and category of crude oil listed in question (1) above.

4. What, in your judgment, is the "long-term supply price" or "long-term market clearing price" of crude oil in the United States? For purposes of this question, this price is the level which, if established and maintained in 1974 dollars, would permit the United States to be 85 to 90 percent self-sufficient in crude oil by 1980, taking into account opportunities for fuel substitution and production of synthetic crude oil, and the impact of price upon demand. Include or reference any recent analyses that support this estimate, and list other major assumptions underlying the estimate.

5. a. If all crude oil prices were to be decontrolled, in your judgment, what level would average domestic crude oil prices reach in the short-run before levelling off as a result of the impact of price on supply and demand? (Consider two cases, (1) stabilization of import prices at current levels, and (2) continuing increases in import prices).

b. If all crude oil prices were to be decontrolled now, how long in your judgment would it take before prices fall to long-term supply or market clearing levels? Include or reference any recent analyses that support these estimates, and list any other major assumptions of the estimates.

6. What, if any, justifications are there for allowing the prices of domestic crude oil, or any part thereof, to rise above the estimated long-term supply price? Consideration should be given to, but need not be limited to, the short term responsiveness of stripper well production, increased recovery rates and new exploration and development, to crude oil prices.

7. What, if any, would be the reduction of production below levels expected under present rules currently and over the next two years resulting from each of the following:

(a) rolling back the ceilings on old or flowing oil to November 1 levels;

(b) eliminating the "released oil" bonus for new-oil production;

(c) enforcing a ceiling price on new crude oil at—

(1) $4.25.

(2) $5.25.

(3) $6.00.

(4) $7.00.

(d) enforcing a ceiling price on crude oil from stripper wells at each of the prices in (c) above.

8. Assuming domestic crude oil prices are to be controlled,

(a) what are the comparative advantages and disadvantages of (1) the two price system that attempts to distinguish the relatively price-responsive and price-unresponsive components of supply, and (2) a single (intermediate) price ceiling?

(b) to what extent do the current definitions of oil and new oil in the price stabilization regulations provide an effective and workable distinction between relatively price-responsive and price-unresponsive components of supply?

(c) what are the relative advantages and disadvantages of different price control treatment of stripper wells for (1) old oil, or (2) new oil?

C. EVALUATION OF S. 2885

The purposes of the price rollback bill introduced by Senator Jackson and others are:

(1) to require price controls on all domestically produced crude oil, whether "old," "new," or from stripper wells;

(2) to limit crude oil price ceilings to the long-term supply price or long-term market clearing price (as defined in question B–4 above);

(3) to establish as a primary criterion for price increases for crude oil and refined petroleum products, actual cost increases involved, and

(4) to provide for exceptions to the cost pass-through criterion, solely for the purpose of increasing supply, but for such exceptions to require a detailed statement in support of any such increase, setting out the amount and timing of additional production to be expected as a result of the contemplated price increases.

To what extent, if at all, are these objectives desirable, workable and attainable; and to what extent would S. 2885, as filed, satisfactorily implement these objectives?

NOTICE OF HEARINGS ON ENERGY INFORMATION LEGISLATION

Mr. JACKSON. Mr. President, on February 5 and 6, 1974, the Interior Committee will begin hearings on S. 2782, the Energy Information Act, to establish a National Energy Information System, to authorize the Department of the Interior to undertake an inventory of the U.S. energy resources on public lands and elsewhere, and for other purposes. Testimony also will be received on related legislation, including S. 2861, a bill to authorize the Administrator of the Federal Energy Office to obtain certain information with respect to supplies of crude oil and petroleum products.

These hearings will be held by the Interior Committee as part of the Senate's National Fuels and Energy Policy Study. They will convene at 10 a.m. in room 3306 of the Dirksen Senate Office Building. Two additional days of hearings have been scheduled for February 14 and 15, 1974.

Written comments have been requested from a large number of Federal Departments and Agencies, associations, and individuals. The invited witnesses for February 5 are: The Honorable William E. Simon, Administrator, Federal Energy Office; Joseph Fisher, President, Resources for the Future, Washington, D.C.; Lee C. White, Chairman, Energy Policy Task Force, Consumer Federation of America, Washington, D.C.; Dr. S. David Freeman, Ford Foundation Energy Policy Project, Washington, D.C.; Jesse M. Calhoon, National Marine Engineers Beneficial Association, AFL–CIO, New York, N.Y.

The invited witnesses for February 6 are: The Honorable Elmer B. Staats, Comptroller General of the United States; Mr. Ralph Nader, Congress Watch, Washington, D.C.; Dr. Jack Bridges, the Center for Strategic and International Studies, Georgetown University, Washington, D.C.; Mr. Frank Ikard, president, American Petroleum Institute, Washington, D.C.; Mr. H. A. True, Jr., president, National Petroleum Council accompanied by: Mr. Vincent Brown, executive director.

Written statements also are invited from interested and affected parties; however, they must be transmitted in 10 copies to the committee by February 19, 1974. Insofar as possible, statements should address the following general questions and policy issues:

GENERAL QUESTIONS AND POLICY ISSUES, HEARINGS ON S. 2782, "ENERGY INFORMATION ACT"

INTRODUCTION

The Energy Information Act, S. 2782, attempts to deal, through legislation, with the problems of gathering adequate data for the Federal Government in energy-related areas. Below is a list of the various issues addressed by the proposed legislation. All witnesses, and groups and individuals preparing statements for the record, should attempt to discuss the general issues in their testimony. To the extent practical, they should also address those specific points and questions listed that are within their areas of competence. Witnesses may deal with these issues in their testimony or in a more detailed statement for the record submitted at the time of appearing or, if necessary, later.

A. General issues

I. The bill's basic assumption is that the volume and complexity of energy information has become so great as to require improved systems for its collection and management.

Should the Federal Government include a single, permanent agency charged with the responsibility of providing all levels and branches of government, industry, the press and the public with prompt, detailed and reliable energy-related information, based on systematic collection and comparison of factual data?

II. A second assumption of S. 2782 is that important energy information is now held as proprietary secrets by business concerns, to the impairment of both competition and regulation, and to the detriment of the national security and the public health, safety and welfare.

Should changes be made in the policies, laws and regulations that now define the boundaries and strike the balance between the private interest in keeping "proprietary" energy information secret and the public interest in having the utmost possible disclosure of important energy-related information?

III. In addition to authorizing systematic collection of information describing the nation's energy supply system, the bill directs the Department of the Interior to conduct an inventory of the energy resources of America's public lands. Should an independently verified accounting of these reserves be carried out under the direction of the Federal Government? If so, at what level of detail should this inventory be taken?

B. Detailed questions and policy issues

Answers to the following detailed questions should be supported wherever practical with historical and current data, quantitative estimates or projections, and reference to more complete sources of underlying data and analysis. (Note: Questions are preceded by parenthetical references to sections and pages of S. 2782.)

(Reference: Sec. 2(a)(5), p. 3, lines 18–22.)

I. Evaluate the information now collected by those Federal departments and agencies with responsibilities for energy policy, regulation or data collection. Show for each such office the type of information collected, the sources from which the information is col-

lected, and the use made of the information by way of analysis, publication, regulation, law enforcement, policy planning, etc.

II. What offices and agencies of the several State governments now collect energy information?

(Reference: Sec. 2(a)(6), pp. 3–4, lines 23–24, 1–3.)

III. What are the principal periodical publications, both official and private, that now report energy information?

IV. To what extent is there a need to obtain independent verification of the information used for the formulation of energy policy? For regulation of energy-related industry?

(Reference: Sec. 3, pp. 5–8.)

V. Evaluate the definitions of key terms provided in the bill; for example, the definitions of "energy industries" (Sec. 3(a)), "major energy company" (Sec. 3(e)), "substantial energy resources company" (Sec. 3(f)), and "energy information" (Sec. 3(g)) are important, because they establish, in effect, classes of companies, industrial activities and information that will *not* be covered by the bill. Should these definitions—and exemptions—be changed?

(Reference: Title I, pp. 8–14, esp. Sec. 101, pp. 8–9.)

VI. Is the Department of Commerce the best location in the Federal Government within which to establish a new Bureau of Energy Information?

(Reference: Sec. 106(b), p. 10, lines 5–22.)

VII. It is intended that the Bureau of Energy Information will have full and complete access to energy information collected by *any* other office of the Federal Government, on a mandatory basis. Are the provisions of the legislation adequate to provide the Bureau with this access to information?

(Reference: Sec. 107(b), plus Sec. 211(b), pp. 29–30.)

VIII. Sec. 107(b) of the bill contemplates that the Director of the Bureau of Energy Information will, to the utmost extent practicable, utilize rather than duplicate the energy information-gathering efforts of State and private agencies. Should the Secretary of Commerce and Director of Energy Information, or their delegates, be given access to and subpoena powers for records and energy-related information collected by private organizations, such as the American Petroleum Institute?

(Reference: Sec. 107(e), pp. 12–13.)

IX. What information concerning the operation of the United States energy supply system should be reported by the Bureau on a periodic basis? What should be the periods of these reports?

(Reference: Title II, pp. 14–31.)

X. What should be the relationship between the National Energy Information System and the needs of States and localities for energy information? In particular, should detailed information describing the state of the energy supply system (e.g., stocks of fuel, pollution data) be readily accessible on a regional basis?

(Reference: Sec. 203(e), p. 16.)

XI. Should the Bureau of Energy Information confine itself to the collection and dissemination of factual information, or should it also possess capabilities for modeling, forecasting and performing analysis based on factual information?

(Reference: Secs. 204, 205, 206, 208 and 209.)

XII. The Director of Energy Information will obtain or have access to energy information, broadly defined, possessed by major energy companies and substantial energy resources companies, and will place this information in one of three libraries within the System. Please comment in some detail on use of these libraries as a means of making needed information available to those responsible for policy and regulation in the Federal Government, while attempting to minimize potential damage to those providing the information.

(Reference: Title III, pp. 32–34.)

XIII. Is the description in Sec. 302 of the annual inventory of public energy resources to be made by the Secretary of the Interior adequate, and does the possibility of an on-site geological and engineering inspection by the Department of the Interior, as provided in Sec. 303, provide a sufficiently strong incentive for accurate reporting by companies of their reserves?

(Reference: Titles IV and V.)

XIV. What reporting system should be instituted to obtain from substantial energy resource companies and major energy companies that information which the purposes of the Act require? In particular, address your comments to the nature, level of detail and form in which this information should be provided.

(Reference: Title VI.)

XV. What provisions should be added to this section of the legislation which will insure that the system in fact collects the information required for the purposes of regulation and formulating public policy?

Mr. JACKSON. Mr. President, because of the urgent need for legislation to improve our national energy data and information, the committee hopes to begin mark-up sessions on this legislation on February 19, or shortly thereafter.

NOTICE OF HEARING ON A NOMINATION

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, February 5, 1974, at 10:30 a.m., in room 2228, Dirksen Office Building, on the following nomination:

Curtis Marshall Dann, of Delaware, to be Commissioner of Patents, vice Robert Gottschalk, resigned.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Arkansas (Mr. McCLELLAN) chairman; the Senator from Michigan (Mr. HART); the Senator from North Dakota (Mr. BURDICK); the Senator from Pennsylvania (Mr. HUGH SCOTT), and the Senator from Hawaii (Mr. FONG).

ANNOUNCEMENT OF HEARINGS ON COSMETIC SAFETY BILL

Mr. KENNEDY. Mr. President, I would like to announce that the Health Subcommittee will be holding hearings on S. 863, a bill to amend the Food, Drug, and Cosmetic Act with respect to cosmetic safety. The hearings will be held February 20 and 21, 1974 in the Labor and Public Welfare Committee hearing room—room 4232, Dirksen Building. All persons interested in testifying should contact the Health Subcommittee staff in room 4226, Dirksen, at 225–7675.

ANNOUNCEMENT OF CHILDREN'S CHARITY HEARINGS

Mr. MONDALE. Mr. President, on February 4 and 5 my Subcommittee on Children and Youth will open hearings on charities that serve children and youth.

The purpose of the hearings is to determine whether existing legislation is adequate to protect the interests of the beneficiaries of and contributors to these charities; and to determine if new legislation is needed.

I believe that American charity makes a vital contribution to the improvement of life for children and youth both here and abroad, and that our national policies should encourage these efforts. Charities receive benefits and privileges from the Federal Government and the public—through the use of the tax exemption, the mails and registration with the Agency for International Development. I think, therefore, Congress has a duty to see that the public interest is met and that the children identified with these charities really do benefit from the public's generosity.

On February 4 witnesses will discuss the types of children and youth programs supported by charity; the cost of these programs; and standards by which such programs should be judged. On February 5 the subcommittee will receive testimony from representatives of a particular charity—the Asthmatic Children's Foundation.

The hearings will begin at 10 a.m. in room 4232 of the Dirksen Senate Office Building. They will be open to the public.

DEATH FROM DUST

Mr. TAFT. Mr. President, each year there may be as many as 390,000 cases of occupational diseases among America's 80 million employees. I have long been concerned about this problem and last session introduced the Respiratory Disease Benefits Act of 1973, S. 1029, designed to increase compensation to individuals who are totally disabled due to employment-related diseases, or to the surviving dependents of individuals whose death was due to such occupational-related diseases.

I believe it is vital that the Congress give serious attention to this question as State workmen's compensation laws with regard to occupational disease coverage has lagged behind that of accidental injuries. Consequently, an individual suffering from a dust disease is in a more difficult position to receive adequate compensation than a person disabled from an accident or from another occupational disease. In two States, workmen's compensation laws do not cover dust diseases at all. Ohio and 18 other States which do cover such occupational diseases place a specific limitation on benefits for asbestos and silicosis.

The Senate Labor Subcommittee has begun hearings on S. 1029 in conjunction with S. 2008, the National Workers Compensation Standards Act of 1973 and I am hopeful that my proposal, which has the cosponsorship of Senators CHURCH and PASTORE, will be favorably considered by the committee.

With respect to the seriousness of occupational-related diseases I ask unanimous consent that an article entitled

"Death From Dust" from Time magazine, January 28, 1974, be printed in the RECORD.

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

DEATH FROM DUST

When the Pittsburgh Corning Corporation closed its asbestos insulation plan in Tyler, Texas, two years ago, it did an unusually thorough job of cleaning up after itself. Some 60 workers spent a week scraping asbestos waste from machinery and depositing it in a nearby dump. Then another crew took over. Ceilings and walls were steam cleaned. Every piece of equipment in sight was scrubbed down; some machinery was dissembled and shipped to P.C.C.'s home office in Pittsburgh. What was left was cut up and buried. When the crew finished, all that remained of the plant were two dilapidated wooden buildings that had once seen service as Army barracks during World War II.

P.C.C.'s scorched-policy has left few visible reminders of the factory's 17 years in Tyler. But the scars from the plant's presence will not soon disappear. While producing insulation for the boilers and pipes of naval ships, workers in the plant were exposed to enormous quantities of asbestos dust, which, once inhaled, never leaves the lungs. Now, based on previous experience with asbestos-caused diseases, medical experts estimate that as many as 300 of the 869 employed at the plant since 1954 will die of asbestosis (a permanent and often progressive scarring of lung tissue from inhaled asbestos fibers), lung cancer or cancers of the colon, rectum or stomach.

Their deaths should come as no surprise to either company or Government officials. Doctors have long suspected that asbestos dust is hazardous; there has been ample documentation of increased incidence of lung disease and cancers among people exposed to the mineral. As early as 1961, Dr. Irving Selikoff, 59, of New York's Mount Sinai Hospital, and Dr. E. Cuyler Hammond, 61, of the American Cancer Society, confirmed the deadly relationship in studies of workers at a Paterson, N.J., asbestos plant. They documented their work in scientific papers and meetings. They also showed that even small quantities of asbestos fiber could be lethal. Selikoff studied a woman who died of mesothelioma, a cancer of the membrane that covers the lungs and lines the chest and abdomen. The woman's only contact with asbestos came when she washed the clothing of her husband, who worked in an asbestos plant.

After the work by Selikoff and others, P.C.C. officials ordered a study of the asbestos-dust hazard at Tyler in 1963. The report seriously underestimated the hazard. A 1966 dust survey found asbestos levels above recommended thresholds in many areas of the plant, and a 1967 survey by the U.S. Public Health Service's Division of Occupational Health confirmed that the levels were high, but did not warn of the health hazard. After a Labor Department study two years later reported the same conditions, respirators were issued to workers in the plant's dustiest area. But, according to workers, at no time did P.C.C. officials tell them that they were exposed to a health hazard. "I even had one tell me that stuff, asbestos, is good for you," says J. C. Yandle, 48, a former employee. "He said you could eat it."

Silent Violence. It was not until a 1970 law created the National Institute for Occupational Safety and Health (NIOSH)—and gave the Labor Department's Occupational Safety and Health Administration (OSHA) the authority to enforce compliance with asbestos standards—that things began to happen. In 1971 a NIOSH team visited Tyler, confirmed the danger of the dust levels, and emphasized the extraordinary hazard. The team pointed out many examples of poor hygiene practices: the company lunchroom was close to the production area and workers were using compressed-air hoses to blow dust off each other (and thus spreading it about), and the company was selling burlap bags contaminated with asbestos. NIOSH promptly notified OSHA, which inspected the plant, fined P.C.C. $210, and gave it four months to come up to standards. When a reinspection showed that the company still had not installed necessary dust-control equipment, OSHA fined it $7,990 and promised further action. Forced to make a decision, P.C.C. opted to close the plant. It cited economic as well as environmental reasons.

The closing should help protect citizens of Tyler from any further risk of contracting asbestosis. But it will do little to help those already exposed to the asbestos dust. Asbestosis and related cancers may not develop until 30 years after exposure to the particles, but once they do, they are painful and often fatal. "He hurt with every breath he took, because his lungs were torn and scarred on the inside from breathing asbestos fibers," said Mrs. Robert Thomas of her husband, who died five months ago.

Steve Wodka, 24, of the Oil, Chemical and Atomic Workers Union, which represented the Tyler plant's labor force, charges P.C.C. with negligence, a form of "silent violence." One group of former employees is suing P.C.C. for $100 million in damages; some individuals are also bringing $1 million suits against the Government for failing to protect them. But neither the suits nor any belated medical care that the workers may now receive are likely to alter the odds against their survival. Now that they have been exposed to asbestos, the deck is stacked.

AMERICAN INSTITUTIONS ENDURE

Mr. ROBERT C. BYRD. Mr. President, on the evening of Monday, January 28, 1974, I had the pleasure of addressing the Mortgage Bankers of America Washington Committee in the Statler Hilton Hotel, Washington, D.C., at their opening dinner.

I ask unanimous consent that the speech appear in the RECORD.

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

SPEECH BY SENATOR ROBERT C. BYRD

Mr. Chairman, President Williams, my old friend from Charleston, West Virginia, Phil Hill, Vice President Jones, and Gentlemen: I thank your assistant counsel, Larry Bruce for inviting me to be here. Larry is from Huntington, West Virginia.

If I am not mistaken, this is the first time that I have had the pleasure of speaking to an audience of mortgage bankers.

Mortgage bankers, as you probably know, loan vast sums of money to builders, real estate entrepreneurs, and other segments of the construction industry, and they really don't care too much about making a profit, just as long as they get their original loan back. I well remember the first time I met Marty West, of Weaver Bros., here in Washington. He had this definite halo round his head, and it puzzled me, until I discovered that he was a mortgage banker. Then I understood.

I note, with pleasure, the presence of your Legislative Counsel, Lee Holmes, with whom I attended classes in the law school at American University a few years back. The fact that we both graduated says a great deal, either for our capacity to absorb the law, or for the very high standard of the law school faculty.

As we approach the second anniversary of our existence as a nation, there are questions that swirl about the heads of many Americans, whether they are mortgage bankers, politicians, butchers, truck drivers, or gas station operators. Some of these questions are profoundly disturbing. All around us, people are asking if this great Republic, and its institutions, can weather the storm that has gathered about us in the decade from 1963 to the present. Let us cast our minds back just one generation to the post-World War II days of glory, when we had just saved the world from rule by a paranoiac madman; when we were embarking on a program to save the Old World from economic ruin and starvation; when we were founding an international organization dedicated to the preservation of peace in the world, and were secure in our possession of the atomic bomb as a sure deterrent against any aggressor; and when our institutions and our ideals were the envy of all mankind.

I would ask you to contrast those euphoric days—when God was in His Heaven, and all was right with our world—with these days in which we now live—only 25 years later—when millions of our people are disillusioned with our institutions, they question our ideals, scorn the American dream of liberty and justice for all, and loudly proclaim that our politicial and social system and way of life are a sham and a hypocrisy.

Many of us are angered by these charges of our failures, and probably few people, relatively speaking, subscribe to them entirely, but too many Americans, while regarding the charges as exaggerations, find themselves asking why they are being made at all, as we come within two years of our Bicentennial.

This is an enormous change in a tragically short time, and much of it can be traced, I believe, to the fateful month of November, 1963, which started with the overthrow of the Diem regime in Vietnam, and ended with the shocking assassination of John F. Kennedy in Dallas. Since those cataclysmic days, we have seen trouble after trouble beset our society—more assassinations, a grueling war in Vietnam, city blocks on fire, campuses rioting, a Vice President of the United States resigning his office because of charges of crime, the President's closest advisers indicted for other crimes, and the President of the United States himself under attack.

And yet, we have not suffered the ravages of a conqueror. We have not suddenly been struck by pestilence, famine, or civil war. We have seen no mass executions or the inhumanities of slave labor camps. In fact, we have escaped all the great calamities that have been commonplace among nations throughout the history of the world.

History records many instances where nations have passed through a sea of troubles much worse than our own today, and one nation in particular, bears a close relationship to this America that is now approaching the 200th year. That nation, too, had just completed a terrible war—far more bloody, and far more divisive than the Vietnam conflict. No sooner had that war ended, when that nation's leader was cruelly assassinated, and charges of conspiracy abounded in the land.

Strife and scandal struck the political leadership of the country, and the Head of State was impeached, tried, and acquitted.

That unhappy nation, so like our own today, as we approach 1976, was the United States of America in 1876. If we look back at the years from 1860 through 1876—if we look at the Civil War, Lincoln's death, the Reconstruction, President Johnson's impeachment and acquittal, Grant's scandals, and the settlement of the Hayes-Tilden election—can we really say that the troubles that beset this great nation today are unprecedented? Can we really say that our institutions are not sturdy enough to overcome our present troubles?

We have a curious warp in the fabric of our society. The American public is well aware of the fundamental strength of this nation and of our institutions, but the disorganized majority is unable to put this awareness into words. There is, on the other hand, a small but vocal minority of Americans who are apparently unable to see the fundamental strengths of our country, but who are very articulate in their criticisms. They often exaggerate what they articulate as our country's failures and they deny our country's successes. It is this kind of cynicism that destroys confidence in American institutions. Watergate is, I think, an important example of how our institutions have effectively checked the venality of men, just as the Founding Fathers designed these institutions to do. For the real test of institutions is their capacity for dealing with flawed men. Many political thinkers today forget that man is flawed—under any set of institutions; that men in power will be inclined to abuse that power—under any set of institutions; and that power corrupts—under any set of institutions.

The political thinkers who wrote our Constitution did not forget these things. They understood the potential for venality in men, and they designed our institutions to curb that venality. They created an institutional framework that would make the abuse of power as difficult as possible. The Watergate scandal is a tribute to their genius, in that though the men of Watergate failed, the institutions that curbed them survived, and were the instruments of their undoing.

Much has been written and said of the role of an independent press in exposing Watergate, and the press does deserve great credit. But we must not overlook the other institutions that proved their independence.

Foremost among them was the judiciary, in the person of Judge John Sirica, who refused to accept what he considered were inadequate answers and tainted evidence when the lowest figures on the totem pole were first charged with complicity in the case. Nor must we forget that men of integrity in the lower and middle echelons of the Department of Justice and the F.B.I. risked their careers to bring to public notice evidence of wrong-doing by the Watergate perpetrators, as the case unfolded. When they did those things, they did not know that their actions would be appreciated and applauded by their peers. They might just as easily have been condemned, had not the institutions ground on in their inexorable way. In their own way, the F.B.I. under J. Edgar Hoover, and the Internal Revenue Service resisted strong political pressures, and were faithful to their institutional principles.

So it is far from true to say that American institutions have failed, as the vocal minority so constantly claims. The truth is that America, and our American institutions have a historically unsurpassed record of achievement. The fact is that we have created in this nation more good lives for more people, than has any nation in history. Certainly, we have made our mistakes. But Vietnam, Watergate, assassinations, and other political scandals have been the mistakes of men, and not of our institutions and our constitutional system. Why does our current set of troubles, which are far smaller than those that faced Americans a hundred years ago, create doubt regarding the reliability of our institutions? Speaking out in support of our American institutions has not been a popular pastime with too many of our political leaders for too long. There has been a strong tendency to side with the short end of our society for the benefits of the short haul.

But the virtue is not on the side of those who are blinded by the glittering gewgaws of the moment. It is with those who are willing to cast their lot with the future. The institutions of America have been time-tested and found strong. The constitutional system that is the result of the collective genius gathered at Philadelphia 200 years ago, is still sound.

The strengths of the Republic are enduring. There are no problems that cannot be overcome; there are no horizons that cannot be gained; there are no frontiers that cannot be explored; there are no storms that cannot be weathered—if we but have the kind of faith and vision and courage epitomized throughout so many adversities by the founders of our country.

We must stop rejecting the good that is in America, and start embracing it! We must stop telling our young people that we have failed. We must, instead, seek to inspire them, by our words and example to see in this American system the ideal, the paragon of all political systems and ways of life.

You and I helped to build this great and good country. We should be proud of it! What other country has ever been as good or as great as our own? What other country has sent men to the moon and brought them back safely? What other country has built as many libraries, hospitals, recreation facilities, and roads and schools as we have built? What other country has launched the kind of wars on disease that we have waged?

Ours is a land in which our people are better fed, better clothed, better housed than are the men and women and children in any other nation. It is a country in which any boy or girl can go to the top in any profession if he or she has the ambition, the common sense, and the drive to get there. It is the one country in which every man is an aristocrat—in which even the poorest man can come home at night and take his little grandson on his knee and know that that little boy can achieve all that the sons of the wealthy can achieve. And that thought sweetens every drop of sweat that rolls down the honest face of toil! You and I had a part in making this so! Then why should we engage in self flagellation? Why should we apologize to anyone for our country? No generation in any other country can point with such great pride as can we to our own country!

It is our duty to stand up for America! And you and I will be recreant in our duty if we fail to do that! Let us not join with those who would sell America short. If we do, future generations will not deal lightly with us.

Let us be found always doing our duty.

TRIBUTE TO COL. CHARLES H. DOLAN, JR., OF HAWAII

Mr. FONG. Mr. President, I rise to pay tribute to one of Hawaii's most distinguished residents, Col. Charles H. "Carl" Dolan, Jr., the last surviving member of the famed Lafayette Escadrille, which fought so gallantly in the air over France during World War I.

Today is the fine Colonel's 79th birthday, and I would feel most remiss if we did not salute him in some way.

Though Colonel Dolan was born in Boston, Mass., we in Hawaii are wont to claim him as one of our own.

He currently lives in retirement in Kalilua, near Bellows Air Force Base on the windward side of Oahu. He married a Hawaii girl, the former Ramona Morgan of Honolulu.

After his service in Europe and in the United States, during which time he filled every post from pilot to squadron commander, Colonel Dolan went to work in Hawaii when he returned to civilian pursuits.

Among other things, he made a 4-month aviation survey for the Inter-Island Steam Navigation Co., served on the Territorial Aviation Commission of Hawaii, and was chairman of the Commission on Design and Development of Airports.

I have a biographical sketch of Colonel Dolan from the book, "The Lafayette Flying Corps," and an excerpt from the Blue Book of Aviation, 1932, which lists the Colonel's many achievements.

I ask unanimous consent that this information be printed in the RECORD so that others also may appreciate the contributions Col. Charles H. Dolan, Jr., has made to American aviation.

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

(From the book "The Lafayette Flying Corps," published in 1920 by the Houghton Mifflin Co. of Boston and New York)

CHARLES H. DOLAN, JR.

SERVICE RECORD

Charles H. Dolan, Jr., Boston, Massachusetts.

Service in French aviation

Date of enlistment: August 11, 1916.

Aviation Schools: August 30, 1916, to May 10, 1917, Buc, Avord, Pau, G.D.E.

Breveted: March 10, 1917 (Blériot).

At the Front: Escadrille Lafayette, May 12, 1917, to February 18, 1918.

Final Rank: Sergent.

Service in U.S. aviation

Commissioned First Lieutenant: January 14, 1918.

At the Front: 103d Pursuit Squadron, February 18, 1918, to October 16, 1918.

On duty in America: October 16, 1918, to Armistice.

Carl Dolan, Irish patriot and stanch follower of John Boyde O'Reilly, is one of the original crowd of old-timers who gave employment to the Annamite wrecking gang at the Blériot school at Buc. With the exception of a forced landing on a shell-wrecked terrain near Verdun, his work at the Front was without dramatic incident. His monogrammed Spad was in the midst of many a hotly contested battle, but Fate seemed to be against him. He never succeeded in bringing down an enemy, or, more accurately, he never secured official confirmation of a victory. He gained real distinction, however, by returning from a furlough in America, in the remarkably short period of two months, including traveling time. The average furlough to the States required an actual absence from duty from three to four months, and a few of them, unfortunately, were for the duration of the war. Carl has a fine sense of duty, and did not exceed the limit of his furlough by so much as a day, thus shaming earlier leave-takers, and setting an honorable record for later ones.

At the time of the transfer of the Lafayette Squadron to the American army, he performed variable service, as electrician to the unit, and officer in charge of mechanics. With the assistance of a few of the old French mechanicians, loaned by the French Government, he instructed the newly arrived and untried American personnel, in the care and reparation of the intricate Hispano-Suiza motors, and was largely responsible for the success with which they later performed their duties. He did this work in addition to his daily patrols, and with the same painstaking thoroughness. He had a high sense of the importance of the work to be done, and while this gave his fellow pilots irresistible opportunities for boisterous "ragging" every one of them secretly admired him for this very quality. Unlike many Irishmen, Dolan was slow to anger, and could take any

amount of chaff with unruffled good nature.

The spring of 1918 witnessed the final break-up of the old Lafayette Squadron. It had been the hope of all the men that they might be kept together at the Front as a unit until the close of the war; but the needs of the U.S. Air Service made this impossible. Some of the pilots were sent as flight and squadron commanders to newly formed units; others, as flying instructors, to aviation schools both in France and in America. And so the old, never-to-be-forgotten fellowship came to an end. Carl Dolan is one of the men who did more than his share to make the squadron comradeship bright and happily memorable, and for this service he has the grateful acknowledgment of all of his fellow pilots in Spad 124.

(From the *Blue Book of Aviation*, 1932, published by the Hoagland Co., Los Angeles)

CHARLES HEAVE DOLAN

Dolan, Charles Heave, (War Flyer; Aircraft Operations Manager): Born Boston, Mass., Jan. 29, 1895, son of Charles H. and Annie (Wainwaring) Dolan. Education: St. Peter's Grammar School; Mechanics Art High School; Mass. Inst. of Tech.; Lowell Inst.; electrical engineering course, 1½ years. Married Ramona Morgan, of Honolulu, T. H., July 10, 1921. One child—Charles Heave, Jr.

Since 1913, Charles H. Dolan has been actively identified with aviation. In that year he worked with Prof. Andrews of the Mass. Inst. of Tech. in checking Prof. Effiel's work on wing efficiency, constructing models for use in the Boston Tech. wind tunnel. In 1914 he went to England and engaged as assistant chief inspector for the British Thomson-Houston Co. on the first aviation magnetos made in England and on a bombing device, until 1915. He was also chief inspector of the aeronautical instruments factory of S. Smith & Sons. He went to France in 1915 for the Sperry Gyroscope Co. as installing engineer, in charge of the Paris shops, on the automatic gyroscope stabilizer (automatic pilot), continuing in this work until his entry into the French Army air service.

He enlisted in the French Foreign Legion, 1916, and subsequently graduated from the following: Bleriot Primary School of Aviation, Pau School of Aerial Acrobatics and Combat, and the Plessis Belleville School of Combat (Sped). He was then assigned to the La Fayette Escadrille, under the command of Major Raoul Lufbery and Colonel William Thaw, and saw service in nine engagements with this unit. In 1917 he transferred to the U.S. Army air service, and was commissioned a 1st lieutenant, Nov. 17, 1917, and sent to the front where he later engaged in two battles. During his service with the U. S. Army air service he filled, at various times, every post from pilot to squadron commander. Upon his return to the U.S. and during 1918–19, he was assigned to the Control Board, and stationed at Carlstrom and Dorr Fields, Fla., in charge of systems of air training, and, in addition was engineer officer in charge of the $5,000,000 worth of planes and equipment, and of the 2000 mechanics and 10 assistant engineer officers. During 1919 and 1920, he was stationed in the Office of the Director of Air Service, at Washington, D.C., and in July, 1920 he resigned to enter civilian life. He returned to the U. S. Army air service the following year (1921) and was sent to China by General Mitchell as air instructor and adviser, continuing on this assignment until 1923. Decorations: Croix de Guerre; Forragere; La Fayette Escadrille and French Foreign Legion Campaign Ribbons; Victory Medal (France); Victory Medal with 11 clasps (U.S.).

Returning to civilian pursuits, he established in Hawaii in 1924. In 1928 he made a four months aviation survey for the Inter-Island Steam Navigation Co. He served as a member of the Territorial Aviation Commission of Hawaii and as chairman of the Commission on Design and Development of Airports. Subsequently he made surveys for the Cuban Curtiss Co. He later became associated with the Eastern Air Transport Co., Inc., of Atlanta, Ga., and since 1931 has been operations manager of this organization.

Transport Pilot license No. 5040; F.A.I. certificate No. 5859; N.A.A. certificate No. 110; French Military Brevet No. 5615 (1917). Member: Early Birds, Federation Aeronautique Internationale, National Aeronautic Assn. (Atlanta Chap.; delegate to Los Angeles convention), Soc. of Automotive Engrs., Amer. Soc. of Mech. Engrs., National Air Pilots Assn., 40 & 8, American Legion, Internationale des Aviateurs. Club: Aero of France.

ACCOUNTABILITY TO THE PEOPLE

Mr. MONDALE. Mr. President, I recently had the opportunity to address the Sigma Delta Chi in Minneapolis. In that address, I attempted to grapple with what I believe to be the central problem in Government today—accountability to the people.

On January 18, the St. Paul Pioneer Press printed an editorial regarding this issue of accountability which effectively makes clear the importance of achieving greater accountability of the Executive to the people, and the likelihood of gaining this greater accountability as a result of Watergate.

I commend this editorial, and ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

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

UNANSWERABLE QUESTION

Senator Walter Mondale, speaking before Sigma Delta Chi, the professional journalism organization, in the Twin Cities the other evening, was asked: "Do you think President Nixon will serve out his term of office?"

"Well," the senator joked, "I know but I'm not at liberty to tell you." The senator was not, of course, going to be trapped into answering the unanswerable. Only the very rash, or the very partisan, would attempt anything but the most hedged-about reply to such a question. It does not appear that the Congress is yet in any unstoppable rush toward voting impeachment, and only the wishful thinking of those most rabidly anti-Nixon suggests the President is about to resign.

But Mondale did not hesitate to tell the journalists what he was fairly certain would come out of the Watergate and related scandals. In a word, it was greater accountability of the Executive. Out of the investigations, the trials and the political turmoil the country would at last bring a halt to what had become a runaway trend toward placing the Presidency above and beyond the law. This, Mondale acknowledged, was a trend that began long before Richard Nixon took office, but had been accelerated under Mr. Nixon until it imperiled the basis of our democracy.

This accountability—in essence, an assurance that the American Presidency will stay in its place, as a powerful but co-equal branch of government—is, it seems to us, what the electorate of this country really is after. Whether impeachment or resignation will eventually come about depends on future developments. But regardless of whether Mr. Nixon continues in office until his term expires, or leaves before that time, the important thing for the nation is to assure that the Presidency never becomes beyond the reach of law.

FEDERAL PROGRAMS FOR THE HANDICAPPED

Mr. DOLE. Mr. President, on January 12, 1973, I introduced for the third time a bill to establish a National Information and Resource Center for the Handicapped.

Although the Congress has not yet acted on this legislation, I remain convinced that one of the major needs of the handicapped is better access to relevant information. It should be a simple matter for a handicapped individual to learn where and what assistance is available to him. What should be a simple problem has become a search through a maze of Federal, State, and local programs, a multitude of new technical developments and a general void of information. In a period of rapid technological advances, information is of vital importance to achieving the greatest productive output and social contribution from the handicapped.

The large number of private and university information centers springing up around the country is an indication of the need for information. These efforts to resolve the information problem are creating a need for coordination and organization at the national level. I intend to pursue the solution to this need in my actions in the Senate.

One man who has already made a great contribution to the dissemination of information is Mr. Edward Klebe, Congressional Research Service. In April 1971, at my request, Mr. Klebe compiled a "Directory of Federal Programs for the Handicapped," which I had the pleasure of making a part of the CONGRESSIONAL RECORD. Since the publication of that directory, people all over the Nation have used it and praised it for its value. This year following the enactment of the Vocational Rehabilitation Act of 1973, Mr. Klebe began an update of his earlier work. I have the pleasure today of making the results of his labor a part of the CONGRESSIONAL RECORD.

Mr. President, I ask unanimous consent that this directory entitled "Federal Programs for the Handicapped" be printed in the RECORD.

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

FEDERAL PROGRAMS FOR THE HANDICAPPED

INTRODUCTION

The following is an update of a 1971 compilation of Federal programs to serve physically and mentally handicapped persons. These include programs in vocational rehabilitation and education of the handicapped, programs for disabled veterans, programs under the Social Security Act for blind and other disabled persons, mental health programs, programs for the developmentally disabled, and programs to prevent and treat handicapping conditions.

The compilation provides, as far as it has been possible to obtain from budget documents and other sources, five types of information for each program, as follows:

1. A brief description of the program, including the type of grant it provides, if it provides a grant, and the purpose for which the grant is to be used;

2. Legislative authority for the program;

3. Fiscal data for the program, including, whenever possible, estimated obligations for fiscal years 1973 and 1974;

4. Program data, including number of grants funded, numbers of persons being served, and other relevant accomplishments of the program; and

5. Name and address of the Federal agency administering the program.

It must be noted that, because of unforeseeable delays in the completion of this compilation, much of the fiscal data, particularly regarding fiscal year 1974, is out of date. The compilation was prepared based on data from the fiscal year 1974 budget request and was completed before the enactment of the appropriations act for the Department of Health, Education and Welfare. Many of the programs included in the compilation were funded at different levels from those requested in the original budget presented to the Congress.

Because of the demand for this compilation, it was decided that, rather than take additional time to try to update these figures, it would be better to issue it as soon as possible.

Similarly, some of the Administration's plans for certain other programs included in the compilation did not come to fruition, and, as a result, there are some inaccuracies in description of these programs. For example, special education revenue sharing, which was supposed to have replaced certain of the programs for the education of the handicapped, was not acted upon in the first session of the 93rd Congress. Also, the program for construction of community mental health centers, which the Administration had planned to terminate, was extended by the Congress.

It is planned that this compilation will be further updated by mid-1974 to reflect more accurate fiscal year 1974 and data on fiscal year 1975.

VOCATIONAL REHABILITATION SERVICES—BASIC SUPPORT

A program of formula grants to State rehabilitation agencies to provide and support the following types of rehabilitation services for handicapped persons: (1) evaluation of rehabilitation potential, including diagnosis and related services; (2) counseling, guidance, referral, and placement services; (3) vocational and other training services; (4) physical and mental restoration services; (5) maintenance during rehabilitation; (6) interpreter services for the deaf and reader services for the blind; (7) recruitment and training services to provide new employment opportunities in the field of rehabilitation and other public service areas; (8) rehabilitation teaching services and orientation and mobility services for the blind; (9) occupational licenses, tools, equipment, and initial stocks and supplies; (10) transportation in connection with vocational rehabilitation services; (11) telecommunications, sensory, and other technological aids and devices. When provided for groups of individuals, vocational rehabilitation services may also include: (1) management services and supervision, together with the acquisition of vending facilities or other equipment and initial stocks and supplies for small businesses operated by individuals with the most severe handicaps; and (2) the construction and establishment of rehabilitation facilities which promise to contribute substantially to the rehabilitation of a group of individuals.

The Rehabilitation Act of 1973, P.L. 93–112, section 110.

Fiscal Year 1973 Estimated Obligations—$589,000,000.

Fiscal Year 1974 Estimated Obligations—$615,870,000.

In FY 1973, 1,180,000 handicapped persons were served by the vocational rehabilitation basic program; 360,726 were rehabilitated. In FY 1974, it is estimated that 1,275,000 persons will be served and 375,000 will be rehabilitated.

Rehabilitation Services Administration, Social and Rehabilitation Service, Department of Health, Education, and Welfare, Washington, D.C. 20201.

VOCATIONAL REHABILITATION—PROJECT ACTIVITIES

A program of project activities to provide specialized programs and services over and above that possible by resources of the Basic Support Program. These activities include: (1) Innovation and expansion grants—P.L. 93–112 converted these grants to a formula grant based on population, but each State is assured sufficient funds to complete those projects funded in 1973; (2) a special study of the rehabilitation service needs of the severely disabled; (3) special projects, with 5 percent of the amount appropriated to be available only for rehabilitation service to handicapped migrant workers; (4) evaluation projects; and (5) Secretarial Responsibilities.

The Rehabilitation Act of 1973, P.L. 93–112, sections 120, 130, 304, 403, 405, 406, 407, and 502.

	Fiscal year—	
	1973	1974
Innovation and expansion grants	$35,786,000	$29,000,000
Special study		1,000,000
Special projects	14,500,000	11,000,000
Evaluation	1,000,000	1,000,000
Secretarial responsibilities		1,000,000
Total project activities	50,836,000	43,000,000

In 1974, 45,000 persons will be served and 14,000 rehabilitated through project activities. In addition, under Secretarial Responsibilities, an Office for the Handicapped will perform long range projection functions, data collection and analysis, and information clearinghouse functions; a special study will assess the role of Sheltered workshops; a State Allocation Study will evaluate the methods of allotting funds among States; and an Architectural and Transportation Compliance Board will review architectural and transportation activities affecting the handicapped.

Rehabilitation Services Administration, Social and Rehabilitation Service, U.S. Department of Health, Education, and Welfare, Washington, D.C. 20201.

VOCATIONAL REHABILITATION—RESEARCH AND DEMONSTRATION

A program of project grants to support the service goals in rehabilitation: to provide rehabilitation services to those disabled persons where such services would reduce their dependency on society; to provide habilitation and associated services to the developmentally disabled; and to achieve such social reform that will enable the handicapped to participate more fully in society.

The Rehabilitation Act of 1973, P.L. 93–112, section 202.

FY 1973 Estimated Obligations—$9,405,000.

FY 1974 Estimated Obligations—$9,655,000.

In FY 1974, Rehabilitation Research and Demonstrations will focus on implementation of a model system for the care of spinal cord injured, the establishment of rehabilitation engineering centers, interagency participation and implementation of plans to rehabilitate drug addicts and alcoholics.

Social and Rehabilitation Service, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201.

VOCATIONAL REHABILITATION—RESEARCH AND TRAINING CENTERS

Research and Training Centers are established in University settings having expertise and well-developed resources for multidisciplinary research and teaching, and are assigned to encompass the necessary facets of services considered essential in carrying out a comprehensive program of patient/client care and rehabilitation.

The Rehabilitation Act of 1973, P.L. 93–112, Section 202.

FY 1973 Estimated Obligations—$10,341,000.

FY 1974 Estimated Obligations—$10,341,000.

In FY 1974 the twenty Research and Training Centers will consist of nine specializing in medical rehabilitation, six in vocational rehabilitation, three in mental retardation, and one in deafness, and one concerned with minority problems.

Social and Rehabilitation Service, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201.

VOCATIONAL REHABILITATION—TRAINING

A program of project grants to institutions of higher learning to support both students and faculty to assure available manpower pools to meet the demand for effective rehabilitation programs.

The Rehabilitation Act of 1973, P.L. 93–112, Section 203.

FY 1973 Estimated Obligations—$27,700,000.

FY 1974 Estimated Obligations—$8,130,000.

This program is planned for phase-out in FY 1974 because Federally-funded programs of general student aid, such as scholarship assistance for needy students at the undergraduate level and guaranteed loans for other undergraduate students, are now available to assure that students are not deprived of higher education for lack of funds. FY 1974 funds will be used for the support of specialized rehabilitation training activities of a highly specialized nature for which support under general student aid programs is not appropriate. These activities include long-term training in the areas of blindness, deafness, and orthopedic disability; short-term training; and State vocational rehabilitation agency in-service training.

Social and Rehabilitation Service, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201.

NATIONAL CENTER FOR DEAF-BLIND YOUTH AND ADULTS

The Vocational Rehabilitation Amendments of 1967 authorized the establishment and operation of a Center for vocational rehabilitation of handicapped individuals who are both deaf and blind. The purposes of the Center will be to demonstrate methods of providing intensive and specialized services for the deaf-blind, to train professional and allied personnel, to conduct research in the rehabilitation of the deaf-blind, and to aid in the conduct of related activities which will expand or improve the services, or help improve public understanding, of the problems of the deaf-blind.

The Rehabilitation Act of 1973, P.L. 93–112, Section 305.

Fiscal Year 1973 Estimated Obligations—$5,600,000. ($5,000,000 for construction of new facilities.)

Fiscal Year 1974 Estimated Obligations—$600,000.

The Center is operating in temporary headquarters in New Hyde Park, Long Island, New York. Recruitment and training of staff are continuing goals for FY 1974.

Rehabilitation Services Administration, Social and Rehabilitation Service, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201.

VOCATIONAL REHABILITATION SERVICES FOR SOCIAL SECURITY BENEFICIARIES

Under agreements with the Social Security Administration, State agencies (usually the rehabilitation agency) make disability determinations on applicants for social security benefits, and make referrals for possible vocational rehabilitation services, so that the maximum number of such individuals may be rehabilitated into productive activity. Through 1972, Social Security Trust Funds

up to one percent of the disability benefits paid in the preceding year could be used to pay for necessary rehabilitation services from a State vocational rehabilitation agency, to selected disability beneficiaries. Under a provision of P.L. 92–603, the limitation increases to 1.25% for 1973 and 1.50% for 1974 and thereafter.

Social Security Act as amended. P.L. 92–603.

Fiscal Year 1973 Estimated Obligations—$42,877,000 (from Social Security Trust Funds).

Fiscal Year 1974 Estimated Obligations—$66,284,000.

In FY 1974, an estimated 263,000 beneficiaries will be served with vocational rehabilitation services, and 70,000 will be rehabilitated.

Rehabilitation Services Administration, Social and Rehabilitation Service, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201.

SUPPLEMENTARY SECURITY INCOME PROGRAM

Title III of the Social Security Amendments of 1972 provides for the implementation of a new Federally administered and financed "Supplementary Security Income" program for persons aged 65 and over, and for the blind and totally disabled. The SSI program, effective January 1, 1974, replaces the present State programs of aid to the aged, blind, and disabled. The SSI program guarantees a minimum income of $130 per month starting January 1, 1974 and $140 per month starting July 1, 1974 for an individual and $195 per month starting January 1, 1974 and $210 starting July 1, 1974 for a couple.

Eligibility requirements and payment support levels are for the first time uniform in all States. The definition of "disability" used for the new SSI program is the same as that now used in the social security disability program. There is also a standard, uniform definition of "blindness."

The basic requirements for eligibility to Federal SSI payments are:

1. The individual must be age 65, or blind, or disabled;

2. Total income, after certain exclusions and income disregards, must not exceed $1,560 per year for an individual or $2,340 for a couple;

3. Total resources, excluding normally the value of a home, an automobile and $1,500 of life insurance, must not exceed $1,500 for an individual and $2,250 for a couple.

Social Security Amendments of 1972, P.L. 92–603, Title III.

An estimated $1.7 billion in benefits will be obligated during the January–June 1974 period from Federal funds. Since the effective date of the new Federal program is January 1, 1974, no benefits will be payable in FY 1973.

An estimated 3.4 million persons will be converted from State and local assistance rolls to the Federal payment rolls and, in addition, payments will be made to 2.8 million persons newly eligible for SSI payments because the new Federal income standard is higher than the present standard in many States and because of the absence of home lien, relative support and residency requirements. This makes a total of 6.2 million persons who will be receiving support under the SSI program.

Social Security Administration, Baltimore, Maryland 21235.

VOCATIONAL REHABILITATION SERVICES FOR SUPPLEMENTARY SECURITY INCOME BENEFICIARIES

The Social Security Amendments of 1972 provides that blind or disabled persons who receive SSI payments be referred to State agencies for vocational rehabilitation services. The law provides that no blind or disabled person may be eligible for benefits under the SSI program if he refuses without good cause to accept vocational rehabilitation services for which he is referred. The costs incurred by the States in providing such services are to be paid out of Federal funds.

Social Security Amendments of 1972, P.L. 92–603.

FY 1974 Estimated Obligations—$39,674,000. (Includes $13,367,000 for start-up costs and $26,307,000 for ongoing vocational rehabilitation costs for an estimated 142,200 cases for one-half year, since the effective date of the new program is January 1, 1974.)

The workload estimate of 142,200 consists of a projection of the potential number of vocational rehabilitation cases among current Aid to the Blind and Aid to the Permanently and Totally Disabled program recipients (estimated at 51,000), plus an estimated 91,000 new SSI cases.

Social Security Administration, Baltimore, Maryland 21235.

SOCIAL SECURITY—SPECIAL BENEFITS FOR DISABLED COAL MINERS

A program to provide cash benefits to coal miners who have become totally disabled due to pneumoconiosis (black lung disease) arising out of employment in underground coal mines, and for dependents of miners who die of this occupational disease.

Federal Coal Mine Health and Safety Act of 1969, P.L. 91–173, as amended.

FY 1973 Estimated Obligations—$1,526,500,000.

FY 1974 Estimated Obligations—$967,868,000.

By the end of FY 1974, an estimated 210,000 miners, 138,000 widows, 11,000 orphan children, and 4,000 dependent parents, brothers and sisters will be receiving monthly benefits. In addition, the benefits to miners and widows will be higher because of 228,000 dependents of these beneficiaries.

Bureau of Disability Insurance, Social Security Administration, U.S. Department of Health, Education and Welfare, Baltimore, Maryland 21235.

MEDICAL ASSISTANCE PROGRAM—MEDICAID

A program of financial assistance to States to administer medical assistance programs and pay for medical services that benefit certain groups of needy persons, and others at the option of the State. Among the groups for which Federal financial participation is available are the blind and the disabled public assistance recipients.

Social Security Act as amended, Title XIX.

Fiscal Year 1973 Estimated Obligations—$5,048,500,000.

Fiscal Year 1974 Estimated Obligations—$5,281,862,000.

In FY 1974 an estimated 163,000 recipients of aid to the blind and 2,384,000 recipients of aid to the permanently and totally disabled will receive medical assistance under the Medicaid program.

Medical Services Administration, Social and Rehabilitation Service, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201.

DEVELOPMENTAL DISABILITIES GRANTS TO STATES FOR PLANNING, ADMINISTRATION, SERVICES, AND CONSTRUCTION OF FACILITIES

This program of formula grants to States replaced existing authority for the construction and staffing of community mental retardation facilities with a broad program to assist the States in developing and implementing a comprehensive plan for meeting the needs of persons with developmental disabilities. States may use these funds to construct facilities, provide services, support State and local planning, administration, and technical assistance, train specialized personnel, and develop and demonstrate new service techniques. The term "developmental disability" is defined to include mental retardation, cerebral palsy, epilepsy, or other neurological conditions originating in childhood which are closely related to mental retardation and require treatment similar to that required for the mentally retarded.

The Developmental Disabilities Services and Facilities Construction Act of 1970, P.L. 91–517; extended through FY 1974 by P.L. 93–45, the Health Programs Extension Act of 1973.

Fiscal Year 1973 Estimated Obligations—$31,206,000.

Fiscal Year 1974 Estimated Obligations—$21,715,000.

Fiscal 1974 funds will be distributed 1% to program evaluation, 9% to projects of national significance, and 90% to the States on a formula basis. The States have indicated that, on the average, they will use 70% of their allotments for services, 20% for planning and administration, and 10% for construction. Approximately 169,000 persons will be served.

Rehabilitation Services Administrations, Social and Rehabilitation Service, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201.

GRANTS FOR DEVELOPMENTAL DISABILITIES—SERVICE PROJECTS UNDER THE REHABILITATION ACT OF 1973

The local and State projects supported by this activity provide part of the cost to improve community and State institutional services for the developmentally disabled. Service support is provided through the Rehabilitation Service Projects, Hospital Improvement Program, and the Initial Staffing of Community Facilities.

The Rehabilitation Act of 1973, P.L. 93–112, Sections 301, 302, 304.

FY 1973 Estimated Obligations—$9,000,000.

FY 1974 Estimated Obligations—$12,500,000.

In 1974, this program will support 440 Rehabilitation Service Projects serving 42,000 persons.

Rehabilitation Service Administration, Social and Rehabilitation Service, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201.

UNIVERSITY-AFFILIATED FACILITIES FOR THE DEVELOPMENTALLY DISABLED

A program of project grants to assist universities or affiliated facilities in the construction of special facilities capable of demonstrating exemplary care, treatment, education, and rehabilitation of the developmentally disabled. These facilities provide comprehensive services, train specialized personnel, and demonstrate new techniques of specialized services.

Developmental Disabilities Services and Facilities Construction Act of 1970, P.L. 91–517; extended through FY 1974 by P.L. 93–45.

Fiscal Year 1973 Estimated Obligations—$4,549,000.

Fiscal Year 1974 Estimated Obligations—$4,250,000.

A total of 34 centers will receive partial "core" support to conduct comprehensive interdisciplinary operations.

Rehabilitation Services Administration, Social and Rehabilitation Service, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201.

MENTAL HEALTH—CONSTRUCTION OF COMMUNITY MENTAL HEALTH CENTERS

A program of formula grants to provide funds to finance the building of community mental health centers. Such centers are intended to improve the organization and allocation of mental health services and to provide modern treatment and care.

Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 as amended; extended through FY 1974 by P.L. 93–45, the Health Programs Extension Act of 1973.

Fiscal Year 1972 Estimated Obligations—$14,414,000.

No Fiscal Year 1973 Budget Request.

No Fiscal Year 1974 Budget Request.

Since the inception of the program, 515 centers have received grant support for construction or staffing or both.

Division of Mental Health Service Programs, National Institute of Mental Health, Health Services and Mental Health Administration, U.S. Department of Health, Education and Welfare, Chevy Chase, Maryland 20015.

MENTAL HEALTH—STAFFING OF COMMUNITY MENTAL HEALTH CENTERS

A program of project grants to assist in the establishment and initial operation of community mental health centers by making grants to meet a portion of the costs of compensation of professional and technical personnel.

Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 as amended; extended through FY 1974 by P.L. 93-45, the Health Programs Extension Act of 1973.

Fiscal Year 1972 Obligations—$135,074,000.

Fiscal Year Estimated Obligations—$125,250,000*.

No Fiscal Year 1974 Budget Request.

Division of Mental Health Service Programs, National Institute of Mental Health, Health Services and Mental Health Administration, Chevy Chase, Maryland 20015.

EDUCATION FOR THE HANDICAPPED—PRESCHOOL AND SCHOOL PROGRAMS

A program of formula grants to State Departments of Education to assist them in the initiation, improvement, and expansion of educational and related services for handicapped children at the preschool, elementary and secondary school levels.

Education of the Handicapped Act as amended by P.L. 91-230, Title V-B.

Fiscal Year 1973 Budget Estimate—$37,500,000.

Fiscal Year 1974 Budget Estimate—to be included in the proposed Special Revenue Sharing program.

Approximately 215,00 children received services under the program in 1972.

Division of Education Services, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

EDUCATION FOR THE HANDICAPPED—CHILDREN IN STATE-SUPPORTED SCHOOLS

A program of formula grants to strengthen education programs for children in State-operated or supported schools for the handicapped.

Elementary and Secondary Education Act, Title I.

Fiscal Year 1973 Budget Estimate—$60,939,000.

Fiscal Year 1974 Budget Estimate—to be included in Special Revenue Sharing.

In FY 1970, 110,531 students in State schools for the handicapped received services supported by this program.

Division of Educational Services, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

EDUCATION FOR THE HANDICAPPED—SUPPLEMENTARY EDUCATIONAL CENTERS AND SERVICES

A program of formula grants to State agencies to fund local innovative or exemplary projects for the educational improvement of the handicapped.

Elementary and Secondary Education Act as amended, Title III.

Fiscal Year 1973 Budget Estimate—$22,925,200.

Fiscal Year 1974 Budget Request—to be included in the proposed special revenue sharing program.

*Includes no funds for new staffing grants, only fulfillment of prior obligations.

Division of Educational Services, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

EDUCATION FOR THE HANDICAPPED—EARLY EDUCATION FOR HANDICAPPED CHILDREN

A program of project grants to support model preschool and early childhood programs for handicapped children.

Education of the Handicapped as amended by P.L. 91-230, Part C, Section 623.

Fiscal Year 1973 Budget Estimate—$12,000,000.

Fiscal Year 1974 Budget Request—$12,000,000.

The Early Childhood program in FY 1973 directed its efforts to increasing the enrollment of handicapped children in preschool programs by 75,000, to bring the total estimated number of children in such programs to 175,000. Objectives for 1974 include funding of services through 100 demonstration projects for 5,500 handicapped children in comprehensive educational therapeutic services; providing parents counseling and other consultative services; screening 20,000 children and providing, 5,000 teachers and aides with in-service training.

Division of Educational Services, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

EDUCATION FOR THE HANDICAPPED—VOCATIONAL EDUCATION PROGRAMS FOR THE HANDICAPPED

A program of formula grants to States to assist them in conducting vocational education programs. States must allocate 10 percent of their total allotment for vocational educational programs for the handicapped.

Vocational Education Amendments of 1968.

Fiscal Year 1973 Budget Estimate—$38,384,000.

Fiscal Year 1974 Budget Request—to be absorbed into the proposed Special Revenue Sharing.

Division of Educational Services, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

EDUCATION FOR THE HANDICAPPED—MEDIA SERVICES AND CAPTIONED FILMS LOAN PROGRAM

A program to advance the handicapped through film and other media. This includes a captioned film loan service and cultural and educational enrichment of the deaf; provision to contract for research in the use of educational and training films and other educational media for the handicapped and for their production and distribution and to contract for training persons in the use of such educational media for the handicapped; and authorization to establish and operate a National Center on Educational Media for the Handicapped.

Education for the Handicapped Act as amended by P.L. 91-230, Part E.

Fiscal Year 1973 Budget Estimate—$13,000,000.

Fiscal year 1974 Budget Request—$13,000,000.

The Special Education communications network continued to develop the mechanisms to bring all handicapped children the resources they need, where and when they need them. In 1973 the number of computer-based research units reached approximately 500,000 units by 75,000 teachers. The National Center on Educational Media and Materials for the Handicapped completed one year of planning and is now developing new instructional materials. The demonstration and research program supported 14 media-related projects in the area of child-centered learning technology.

Division of Educational Services, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

EDUCATION FOR THE HANDICAPPED—INFORMATION AND RECRUITMENT

A program of project grants to improve recruitment of educational personnel and to improve dissemination of information concerning educational opportunities for the handicapped.

Education of the Handicapped Act as amended by P.L. 91-230, Part D, Section 633.

Fiscal Year 1973 Budget Estimate—$500,000.

Fiscal Year 1974 Budget Request—$500,000.

Under this program, the Bureau carries on a project called "Closer Look," which, utilizing advertising in the media, urges parents of handicapped children to write for information on opportunities for their children.

In 1974, 50,000 new parents will receive program information through "Closer Look", and the SEIC (Special Education Information Center) newsletter should reach approximately 150,000 parents.

Division of Educational Services, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

EDUCATION FOR THE HANDICAPPED—CHILDREN WITH SPECIFIC LEARNING DISABILITIES

A program of project grants to provide for research, training of personnel and to establish and operate model centers for children with specific learning disabilities.

Education of the Handicapped Act as amended by P.L. 91-230, Part G, Section 661.

Fiscal Year 1973 Budget Estimate—$3,250,000.

In 1973 this program has been expanded to an additional 17 states bringing the total number of States served to 40. The Bureau of Education for the Handicapped plans to continue funding 30 service models in State Education Agencies and territorial departments of education.

Division of Training Programs and Division of Research, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

EDUCATION FOR THE HANDICAPPED—DEAF-BLIND CENTERS

A program of project grants to establish regional centers to provide all deaf-blind children the following: comprehensive diagnostic and evaluative services; a program for their education, adjustment, and orientation and effective consultative services for their parents, teachers, and others involved in their welfare.

Education of the Handicapped Act as amended by P.L. 91-230, Part C, Section 633.

Fiscal Year 1973 Budget Estimate—$10,000,000.

Fiscal Year 1974 Budget Request—$10,000,000.

During the school year 1972-73, services were expanded in the 10 regional centers already supported to provide for 1,310 deaf-blind children. Also, 709 deaf-blind children and their families received diagnostic counseling and tutorial services, increasing the total number of deaf-blind children served to 2,019. The 15 Crisis Care Centers offer 24 hour care and preschool experiences for 150 handicapped deaf-blind children.

Division of Educational Services, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

EDUCATION FOR THE HANDICAPPED—LIBRARY SERVICES

The Library Services and Construction Act as amended authorized formula grants to establish and improve library services in State institutions, including institutions for the handicapped, and to assist generally in extending library services to the physically handicapped, including the blind and other visually handicapped. Legislation in 1970 eliminated these specific programs and included library services for the handicapped as part of general library services being supported by Federal assistance, with the stip-

ulation that the same amount allotted for library services for the handicapped in FY 1971 be allotted for such services in FY 1972.

This program, originally Titles IV-A and IV-B was consolidated to be funded under Title I of the Library Services and Construction Act, as amended, Sections 101 to 504, P.L. 89-511; P.L. 90-154.

Fiscal Year 1973 Budget Estimate—$30,000,000.

Fiscal Year 1973 Budget Request—no funds for this program are being requested in the budget.

Almost every State has instituted some type of program to provide library services to the handicapped, sometimes in cooperation with the Library of Congress Division of the Blind and Physically Handicapped program. Workshops, institutes, and other programs are held to assist and inform teachers and school librarians.

Division of Library Programs, Bureau of Adult, Vocational, and Library Programs, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

EDUCATION FOR THE HANDICAPPED—REGIONAL RESOURCE CENTERS

A program of projects and contracts to establish regional resource centers which provide advice and technical services in the educational diagnosis and remediation of handicapped children.

Education of Handicapped Act as amended by P.L. 91-230, Part C, Section 621.

Fiscal Year 1973 Budget Estimate—$7,243,000.

Fiscal Year 1974 Budget Request—$7,243,000.

In Fiscal Year 1974, 7 regional resource centers will be supported. A new thrust called Special Target Grant program plans to award grants to 8 states.

Division of Research, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

EDUCATION FOR THE HANDICAPPED—RESEARCH AND RELATED ACTIVITIES

A program of project grants to promote new knowledge and developments in the education of the handicapped.

Education of Handicapped Act as amended by P.L. 91-230, Part E, Section 641.

Fiscal Year 1973 Budget Estimate—$9,566,000.

Fiscal Year 1974 Budget Request—$9,916,000.

In 1972, 69 research and demonstration grants were awarded.

Division of Research, Bureau of Education of the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

EDUCATION FOR THE HANDICAPPED—RESEARCH IN PHYSICAL EDUCATION AND RECREATION

A program of project grants for research and demonstration in the improvement of physical education and recreation programs for the handicapped.

Education of the Handicapped as amended by P.L. 91-230, Part E, Section 642.

Fiscal Year 1973 Budget Estimate—$350,000.

Fiscal Year 1974 Budget Request—None.

Division of Research, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

EDUCATION FOR THE HANDICAPPED—PERSONNEL EDUCATION

A program of project grants to assist in developing and improving training programs for educational personnel for the handicapped.

Education of the Handicapped as amended by P.L. 91-230, Part D, Sections 631 and 632.

Fiscal Year 1973 Budget Estimate—$37,000,000.

Fiscal Year 1974 Budget Request—$37,700,000.

In FY 1970 about 4,800 teachers and other education personnel received training under this program. Objectives in FY 1974 are to prepare 23,000 specially trained teachers and subprofessionals to serve an additional 350,000 handicapped children.

Division of Training Programs, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

EDUCATION FOR THE HANDICAPPED—TRAINING IN PHYSICAL EDUCATION AND RECREATION

A program of project grants to improve the quality and increase the supply of physical education and recreation personnel trained to work with the handicapped.

Education of the Handicapped as amended by P.L. 91-230, Part D, Section 634.

Fiscal Year 1973 Budget Estimate—$700,000.

Fiscal Year 1974 Budget Request—None.

In FY 1970, the program supported 13 academic planning grants and 2 summer programs which served about 50 persons. In FY 1971, the program supported 15 planning and quasi-operational projects serving about 35 persons. In FY 1972, the program funded 23 operational projects training about 100 students. The Physical Education and Recreation Training program plans the establishment of one additional training program; emphasis will be placed on leadership personnel to promote programs of direct service to children and to initiate community college programs; upgrade and update with appropriate information about the handicapped at least 500 physical education and recreation personnel.

Division of Training Program, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education, and Welfare, Washington, D.C. 20202.

GALLAUDET COLLEGE

A private, nonprofit educational institution providing an undergraduate higher education program for the deaf, a preparatory school for deaf students who need such training to qualify for college admission, a graduate school program in the field of deafness, and adult education for deaf persons. It operates the Kendall School for deaf children (primarily from the District of Columbia) and a preschool program for very young deaf children. The college also has programs in research on deafness and on ways and means of assisting deaf persons in more adequately relating to predominantly hearing environment. Federal funds provide slightly more than three-fourths of Gallaudet's operating costs.

The Columbia Institution for the Instruction of the Deaf and Dumb and Blind was incorporated by act of February 16, 1857. The name was finally changed to Gallaudet College by P.L. 83-420.

Fiscal Year 1973 Estimated Obligations—$14,480,000.

Fiscal Year 1974 Estimated Obligations—$12,106,000.

In the 1972 fall semester, Gallaudet enrolled 927 undergraduate and preparatory students and 88 graduate students. The college estimates that in the 1973 fall semester it will enroll 926 undergraduate and preparatory and 115 graduate students.

Gallaudet College, 7th and Florida Ave., N.E., Washington, D.C. 20002.

MODEL SECONDARY SCHOOL FOR THE DEAF

A school located at Gallaudet College, Washington, D.C., designed to provide an exemplary secondary education for deaf persons in order to prepare them for college or other advanced study.

Model Secondary School for the Deaf Act of 1966. P.L. 89-694.

Fiscal Year 1973 Estimated Obligations—$19,601,000.

Fiscal Year 1974 Estimated Obligations—$4,002,000.

In 1973 construction of the permanent MSSD facilities was initiated. The school in the meantime is operating in temporary leased facilities with enrollment at the maximum permitted by available space. For 1974, objectives include particular emphasis on refining and improving instructional and support programs. Development of instructional materials especially designed for the deaf adolescent and with a highly mediated format will receive high priority.

Model Secondary School for the Deaf, Gallaudet College, 7th and Florida Ave., N.E., Washington, D.C. 20002.

KENDALL DEMONSTRATION ELEMENTARY SCHOOL FOR THE DEAF

A program to modify and enlarge the authority of Gallaudet College to maintain and operate the Kendall School as a demonstration elementary school for the deaf to serve primarily the National Capital area.

P.L. 91-587.

Funding for the Kendall School is included in the appropriation for Gallaudet College. The estimated obligations for the school for FY 1974 is $1,992,000.

In FY 1973, Kendall School enrolled 38 preschool and 175 elementary school children.

In FY 1974, the School estimates it will enroll 40 preschool and 175 elementary school children.

Gallaudet College, 7th and Florida Ave., N.E., Washington, D.C. 20002.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

A residential facility for post secondary technical training and education for persons who are deaf in order to prepare them for successful employment. It is located at the Rochester Institute of Technology, Rochester, N.Y.

National Technical Institute for the Deaf Act of 1965, P.L. 89-36.

Fiscal Year 1973 Estimated Obligations—$7,256,000.

Fiscal Year 1974 Estimated Obligations—$7,226,000.

In FY 1974, the sixth year of its interim program, NTID will enroll a projected 503 students, 473 of them deaf and the other 30 students in professional development.

National Technical Institute for the deaf, Rochester Institute of Technology, 1 Lomb Memorial Drive, Rochester, New York 14623.

AMERICAN PRINTING HOUSE FOR THE BLIND

A nonprofit institute created in 1879 which supplies educational materials and tangible apparatus for education of the blind to children in schools for the blind, in public schools, and in private nonprofit institutions and to multihandicapped children and adult trainees at rehabilitation centers.

An Act of March 3, 1879 as amended.

Fiscal Year 1973 Estimated Obligations—$1,696,500.

Fiscal Year 1974 Estimated Obligations—$1,817,000.

In FY 1973, the American Printing House for the Blind supplied educational materials and educational aids to 21,846 blind children in schools for the blind and in private and public schools. An estimated 22,702 blind pupils will be served in the fiscal year 1974.

American Printing House for the Blind, 1839 Frankfort Ave., Louisville, Ky. 40206.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

A program of library services to blind and physically handicapped residents of the United States and its territories through the dissemination of talking books, books in braille, and talking book machines.

Act to Provide Books for the Adult Blind, as amended by P.L. 87-765.

Fiscal Year 1973 Estimated Obligations—$8,906,000.

Fiscal Year 1974 Estimated Obligations—$9,921,000.

During the five-year period from 1968 to 1972, the number of readers requiring cata-

logs from which to select reading matter has grown from about 142,000 to almost 322,000, and circulation from approximately 5,300,000 units to over 9,110,000.

Division for the Blind and Physically Handicapped, Library of Congress, 1291 Taylor Street, N.W., Washington, D.C. 20542.

MATERNAL AND CHILD HEALTH SERVICES

A program of formula grants which provides financial support to States to extend and improve services (especially in areas suffering from severe economic distress) for reducing infant mortality and improvement of health of mothers and children. Some of these funds are used by States to conduct special clinics for mentally retarded children where diagnostic, counseling, treatment, and followup services are provided.

Social Security Act as amended, Title V, Section 503.

Fiscal Year 1973 Estimated Obligations—$60,778,000.

Fiscal Year 1974 Estimated Obligations—$153,051,000.

Mentally retarded children

The maternal and child health and crippled children's programs currently support in whole or in part 156 mental retardation clinics in which 71,000 children and their families received diagnostic and counseling services; 20 cytogenetic diagnostic and counseling programs; and 15 special clinics for children with multiple handicaps. The services include diagnosis, evaluation of a child's capacity for growth, the development of a treatment and management plan, interpretation to parents and follow-up care and supervision.

A major effort in the prevention of mental retardation continues to be in relation to the treatment of phenylketonuria (PKU). Seventeen medical centers from representative geographic locations throughout the Nation are collaborating in a study of children treated for PKU. This study is supported by the Maternal and Child Health Service. MCHS also continues to support State health departments in developing the necessary laboratory facilities to detect families with the PKU condition and to assist States in providing special diets and follow-up programs for such persons.

Maternal and Child Health Service, Bureau of Community Health Services, U.S. Department of Health, Education and Welfare, Rockville, Maryland 20852.

CRIPPLED CHILDREN'S SERVICES

A program of formula grants to provide financial support to States (especially in areas suffering from severe economic distress) for medical and related services to crippled children and children suffering from conditions that lead to crippling.

Social Security Act as amended, Title V, Section 504.

Fiscal Year 1972 Obligation—$62,272,000.

Fiscal Year 1973 estimated Obligations—$64,900,000.

Fiscal year 1974 Estimated Obligations—$64,900,000..

In FY 1971, an estimated 498,000 children received physicians' services and 79,000 received inpatient hospital care under this program.

Maternal and Child Health Service, Bureau of Community Health Services, U.S. Department of Health, Education and Welfare, Rockville, Maryland 20852.

MATERNAL AND CHILD HEALTH—PROJECT GRANTS

A program of project grants to help reduce the incidence of mental retardation and other handicapping conditions associated with childbearing and to help reduce infant and maternal mortality. The grants are used to find the more vulnerable patients early in pregnancy and make available a broad spectrum of diagnostic and specialist consultation services, provide hospitalization during the prenatal period as well as during labor and delivery, and provide for medical and intensive nursing care for prematurely born and other high risk infants. The program also supports health care projects for children and youth, particularly in areas where low-income families are concentrated, and comprehensive dental care projects for children.

Social Security Act, as amended, Title V, Section 508(a)(1).

Fiscal Year 1973 Estimated Obligations—$92,273,000.

Fiscal Year 1974 funding is transferred to the MCH formula grants to the States program.

Maternal and Child Health Service, Bureau of Community Health Services, U.S. Department of Health, Education and Welfare, Rockville, Maryland 20852.

MATERNAL AND CHILD HEALTH RESEARCH

A program of project grants to support research projects relating to maternal and child health services or crippled children's services which show promise of substantial contribution to the advancement of such services.

Social Security Act, as amended, Section 512.

Fiscal Year 1973 Estimated Obligations—$6,035,000.

Fiscal Year 1974 Estimated Obligations—$6,035,000.

The FY 1974 funds will continue support of 68 research efforts in the broad field of maternal and child health and crippled children's services.

Maternal and Child Health Service, Bureau of Community Health Services, U.S. Department of Health, Education and Welfare, Rockville, Maryland 20852.

MATERNAL AND CHILD HEALTH TRAINING

A program of project grants to train personnel for health care and related services for mothers and children, particularly mentally retarded children and children with multiple handicaps.

Social Security Act as amended, Title V, Section 511.

Fiscal Year 1973 Estimated Obligations—$15,882,000.

Fiscal Year 1974 Estimated Obligations—$15,882,000.

FY 1974 funding continues support to the 20 University-affiliated centers for the mentally retarded and sustains the annual level of long-term training at about 515 individuals.

Maternal and Child Health Service, Bureau of Community Health Services, U.S. Department of Health, Education and Welfare, Rockville, Maryland 20852.

NATIONAL INSTITUTE OF MENTAL HEALTH—RESEARCH GRANTS

A program of project grants to develop new knowledge and approaches to the causes, diagnosis, treatment, control, and prevention of mental diseases of man through basic, clinical, and applied research, investigations, experiments, demonstrations, and studies.

Public Health Service Act, Sections 301 and 303.

Fiscal Year 1973 Estimated Obligations—$79,349,000. (Includes funding for Hospital Improvement Grants).

Fiscal Year 1974 Estimated Obligations—$80,489.

In 1973, a total of 979 projects were awarded. These grants are awarded for up to a one-year period and are used to develop and test a new technique or method or to exploit an unexpected research opportunity. Of the total research budget in 1974, $39,000,000 will be required to continue existing projects. New funds available will be invested only in high priority areas such as depression and child mental health.

National Insttute of Mental Health, U.S. Department of Health, Education, and Welfare, Chevy Chase, Maryland 20015.

MENTAL HEALTH—HOSPITAL STAFF DEVELOPMENT GRANTS

A program of project grants to support staff development programs to increase the effectiveness of staff in mental health hospitals and to translate rapidly increasing knowledge into more effective services to patients.

Public Health Service Act, Section 303.

Funding for this program is combined with NIMH research grants.

Emphasis is placed on using current knowledge in demonstrating improved services for patients and developing working relationships with community mental health programs.

National Institute of Mental Health, U.S. Department of Health, Education and Welfare, Chevy Chase, Maryland 20015.

NATIONAL INSTITUTE OF MENTAL HEALTH—MANAGEMENT AND INFORMATION

In order to support the staff who are responsible for the planning, development, and administration of the grants and contracts program included in the general mental health activities, this subactivity includes the following program organizations: (1) the Division of Extramural Research Programs which plans and administers research programs; (2) the Division of Special Mental Health Programs which plans and administers programs directed toward problems of special significance such as crime and delinquency; (3) the Division of Manpower and Training which plans and administers programs of support for training of mental health personnel; (4) the Division of Mental Health Service Programs which provides planning at the national level and technical assistance in the field for the Community Mental Health Centers program; (5) the HEW Regional Offices which administer the decentralized Mental Health Programs; (6) the Office of Communications which serves as a focal point for the Institute's public information activities; and (7) the National Clearinghouse for Mental Health Information which collects, stores, and disseminates scientific mental health information.

Public Health Act as amended, Sections 301 and 303.

Fiscal Year 1973 Estimated Obligations—$20,443,000.

Fiscal Year 1974 Estimated Obligations—$21,355,000.

National Institute of Mental Health, U.S. Department of Health, Education and Welfare, Chevy Chase, Maryland 20015.

ST. ELIZABETHS HOSPITAL

St. Elizabeths Hospital provides treatment and care for mentally ill who are either beneficiaries of the Federal Government or residents of the District of Columbia.

Established by Act of March 3, 1855.

Fiscal Year 1973 Estimated Obligations—$58,307,000.

Fiscal Year 1974 Estimated Obligations—$38,000,000.

At the current time, action is underway to transfer program and fiscal control of St. Elizabeths Hospital from the Federal Government to the District of Columbia.

The Hospital provides treatment and rehabilitation for approximately 9,800 individual patients annually, with an estimated daily average of 3,100 inpatients and 2,700 outpatients.

St. Elizabeths Hospital, Washington, D.C.

NATIONAL EYE INSTITUTE—RESEARCH PROJECT GRANTS

A program of research grants and conditional gifts made to universities, medical schools, hospitals, and other nonprofit institutions for research on the causes, prevention, diagnosis, and treatment of blinding eye diseases and visual disorders.

Public Health Service Act as amended, Title IV, Part F.

Fiscal Year 1973 Estimated Obligations—$22,483,000.

Fiscal Year 1974 Estimated Obligations—$20,953,000.

In FY 1974, the Eye Institute plans to support approximately 371 research project grants in the areas of glaucoma, corneal diseases, retina and choroid diseases, cataract, congenital and developmental abnormalities, and other eye research.

National Eye Institute, National Institute of Health, U.S. Department of Health, Education and Welfare, Bethesda, Maryland 20014.

NATIONAL EYE INSTITUTE—RESEARCH AND DEVELOPMENT CONTRACTS

Research and development contracts of the National Eye Institute provide a mechanism of support for highly targeted research programs which have a high probability of rapid payoff. Contracts may be awarded to universities and other nonprofit organizations, and to industrial or commercial concerns.

Public Health Service Act as amended, Title IV, Part F.

Fiscal Year 1973 Estimated Obligations—$2,122,000.

Fiscal Year 1974 Estimated Obligations—$2,122,000.

In FY 1974, this program will maintain its targeted research program on retinal diseases and glaucoma. Further, some new studies will be initiated on corneal disorders. High priority areas under consideration for contract efforts are mechanism immunity to infection; the immunopathologic mechanism; the mechanism and pathogenesis of recurrent and deep Herpes Simplex infection; evaluation of newer drugs and treatment of Herpes Simplex infection, including the mechanism of interferon production and action.

National Eye Institute, National Institute of Health, Bethesda, Maryland 20014.

NATIONAL INSTITUTE OF NEUROLOGICAL DISEASES AND STROKE—RESEARCH GRANTS

This program supports, usually through research project grants to the independent investigator, the development and implementation of broad programs and projects of research on disorders of the brain, special senses, and human communication.

Public Health Service Act as amended, Title IV, Part D.

Fiscal Year 1973 Estimated Obligations—$62,544,000.

Fiscal Year 1974 Estimated Obligations—$59,116,000.

This Institute in FY 1974 will support 1,036 grant awards, with research emphasis in the fields of stroke, spinal cord injury, multiple sclerosis, parkinsonism, and speech and hearing.

National Institute of Neurological Diseases and Stroke, National Institutes of Health, Bethesda, Maryland 20014.

NATIONAL INSTITUTE OF NEUROLOGICAL DISEASES AND STROKE—LABORATORY AND CLINICAL RESEARCH

The intramural research activities of the Institute are directed toward a broad program to investigate the basic characteristics of the nervous system and its diseases.

Public Health Service Act as amended, Title IV, Part D.

Fiscal Year 1973 Estimated Obligations—$10,392,000.

Fiscal Year 1974 Estimated Obligations—$10,910,000.

The Institute's basic and clinical research in neurological and communicative disorders includes projects in the field of cerebral trauma, particularly head injury, and in the field of muscular disorders. In 1974 it is planned to establish a laboratory of neurotology to focus on improving our basic understanding of the physiology, biophysical, and psychological mechanisms involved in the reception and interpretation of sound as well as the vocalization of speech.

National Institute of Neurological Diseases and Stroke, National Institutes of Health, Bethesda, Maryland 20014.

NATIONAL INSTITUTE OF NEUROLOGICAL DISEASES AND STROKE—RESEARCH AND DEVELOPMENT CONTRACTS

These contracts are used to carry out the planned multidisciplinary program which is integrally related to the Institute's directed research programs, and provides the close collaboration between Institute and contractor personnel needed during the course of the contract.

Public Health Service Act as amended, Title VI, Part D.

Fiscal Year 1973 Estimated Obligations—$7,687,000.

Fiscal Year 1974 Estimated Obligations—$7,487,000.

Research contracts support neurological research for developmental programs including neural prosthesis and communicative disorders; applied neurological research including epilepsy, head injury, stroke, and a cerebral death project; and in 1974 will include further research towards developing improved instrumentation and sensory aids for the deaf and blind.

National Institute of Neurological Diseases and Stroke, National Institutes of Health, Bethesda, Maryland 20014.

NATIONAL INSTITUTE OF NEUROLOGICAL DISEASES AND STROKE—COLLABORATIVE RESEARCH AND SUPPORT

This activity supports many of the most important categorical research programs conducted by investigators in collaboration with other Federal institutions and non-Federal institutions largely through contracts.

Public Health Service Act as amended, Title IV, Part D.

Fiscal Year 1973 Estimated Obligations—$7,365,000.

Fiscal Year 1974 Estimated Obligations—$7,293,000.

The research emphasis is on Head Injury, Epilepsy, and the Perinatal Research Projects, with programs directed toward speech and hearing, multiple sclerosis, and neural prosthesis and to determine the role of viruses and their effect on neurological disorders.

National Institute of Neurological Diseases and Stroke, National Institutes of Health, Bethesda, Maryland 20014.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT—RESEARCH GRANTS

These grants provide support of research relating to maternal health, child health, and human development; in addition to the regular research grants and program project awards, support is furnished for twelve mental retardation research centers.

Public Health Service Act is amended, Title IV, Part E.

Fiscal Year 1973 Estimated Obligations—$60,046,000.

Fiscal Year 1974 Estimated Obligations—$59,020,000.

In 1974, the Institute will support 788 regular research grants and the twelve mental retardation research centers, with continued emphasis on mental retardation, particular Down's Syndrome.

National Institute of Child Health and Human Development, National Institutes of Health, Bethesda, Maryland 20014.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT—LABORATORY AND CLINICAL RESEARCH

One of the five major program areas of child health and human development in this intramural research program is mental retardation.

Public Health Service Act as amended, Title IV, Part E.

Fiscal Year 1973 Estimated Obligations—$11,952,000.

Fiscal Year 1974 Estimated Obligations—$12,158,000.

National Institute of Child Health and Human Development, National Institutes of Health, Bethesda, Maryland 20014.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT—RESEARCH AND DEVELOPMENT CONTRACTS

The research contracts are carried out in educational institutions, nonprofit organizations, and industrial concerns, and complement the Institute's programs carried on directly in Government laboratories and those supported through research grants.

Public Health Service Act as amended, Title IV, Part E.

Fiscal Year 1973 Estimated Obligations—$19,659,000.

Fiscal Year 1974 Estimated Obligations—$19,027,000.

Funds for FY 1974 will support continuation of research efforts in mental retardation and other areas.

National Institute of Child Health and Human Development, National Institutes of Health, Bethesda, Maryland 20014.

DISABLED VETERANS—COMPENSATION FOR SERVICE-CONNECTED DISABILITY

A program of income replacement to compensate veterans for disabilities due to service based upon the average impairment in earning capacity such disability would cause in civilian occupations.

38 USC, Chapter 11.

Fiscal Year 1973 Budget Authority—$3,808,743,000.

Fiscal Year 1974 Budget Authority—$3,750,497,000.

In 1974, an estimated 2,564,037 disabled veterans and survivors will receive compensation averaging $1,463 a year.

Veterans' Administration, Washington, D.C. 20420.

DISABLED VETERANS—PENSION FOR NONSERVICE-CONNECTED DISABILITY

A program of income support to assist veterans in need whose nonservice-connected disabilities are permanent and total and prevent them from following a substantially gainful occupation.

38 USC, Chapter 15.

Fiscal Year 1973 Budget Authority—$2,631,632,000.

Fiscal Year 1974 Budget Authority—$2,652,807.

In 1974, an estimated 1,085,466 veterans and survivors will receive pensions averaging $1,364 per case per year.

Veterans' Administration, Washington, D.C. 20420.

DISABLED VETERANS—AUTOMOBILE GRANTS

A subsidy program to provide financial assistance not to exceed $2,800 to certain disabled veterans toward the purchase price of an automobile or other conveyance.

38 USC, Chapter 39.

Fiscal Year 1973 Estimated Expenditures—$11,500,000.

Fiscal Year 1974 Estimated Expenditures—$13,000,000.

In fiscal year 1974, assistance will be provided for the purchase of 3,810 automobiles and other conveyances at an average cost of $2,756 per conveyance. In addition, assistance will be provided for maintenance, repair, and installation of adaptive equipment in 6,000 cases at an average cost per item of $417.

Veterans' Administration, Washington, D.C. 20420.

DISABLED VETERANS—SPECIALLY ADAPTED HOUSING

A program of grants to assist certain totally disabled veterans in acquiring a suitable housing unit, with special fixtures and facilities made necessary by the nature of

veterans' disabilities. The maximum of such a grant is $17,500.

38 USC, Chapter 21.

Fiscal Year 1973 Estimated Expenditures—$10,500,000.

Fiscal Year 1974 Estimated Expenditures—$11,375,000.

In FY 1974, a total of 650 housing grants will be awarded.

Veterans' Administration, Washington, D.C. 20420.

DISABLED VETERANS—VOCATIONAL REHABILITATION SERVICES

A program of training, advisory services and counseling, subsidies, and direct loans and repayable advances with the purpose of restoring employability, to the extent consistent with the degree of disablement, lost by virtue of a handicap due to a service-connected disability.

38 USC, Chapter 31.

Fiscal Year 1973 Estimated Expenditures—$27,125,000.

Fiscal Year 1974 Estimated Expenditures—$93,025,000.

In FY 1974, an estimated 38,000 disabled veterans will receive vocational rehabilitation services at an average cost per trainee of $2,448.

Veterans' Administration, Washington, D.C. 20420.

DISABLED VETERANS—REHABILITATION OF BLIND VETERANS

A program of specialized services to assist eligible blind veterans to reorganize their lives under the condition of blindness and provide any necessary medical or health related services. Blind rehabilitation centers have been established at 3 VA hospitals to accomplish this purpose. Other services available for the rehabilitation of blind veterans include medical care, prosthetic services, outpatient care, vocational counseling and training, and compensation and pension benefits.

38 USC, Chapter 39.

As the program encompasses so many different VA programs, it is difficult to break out any dependable fiscal or program data on rehabilitation of blind veterans.

Veterans' Administration, Washington, D.C. 20420.

VETERANS MEDICAL CARE

A program of care and treatment of eligible beneficiaries in Veterans Administration hospitals, domiciliary and nursing care beds, restoration centers outpatient clinics, contract care facilities, and State homes. Inpatient care is available to veterans receiving care for service-connected disabilities, veterans with service-connected compensable disabilities who can receive care for non-service-connected disabilities if a bed is available, and veterans who can receive care for nonservice-connected disabilities if they are unable to pay for care elsewhere.

38 USC, Chapter 17.

Fiscal Year 1973 Estimated Obligations—$2,558,000,000.

Fiscal Year 1974 Estimated Obligations—$2,672,000,000.

The VA estimates that in FY 1974, a total of 1,039,200 inpatient beneficiaries will be treated in VA hospitals, nursing home units, and domiciliaries, and an additional 69,700 will be treated in non-VA facilities. VA will also provide care in 13,549,000 outpatient medical visits, 275,000 dental examinations, and 264,000 dental treatments.

Department of Medicine and Surgery, Veterans Administration, Washington, D.C. 20420.

DISABLED VETERANS—PROSTHETICS RESEARCH

A program of project grants to develop new and improved prosthetic devices, sensory aids, and related appliances for the primary benefit of disabled veterans. Through comprehensive educational and informational programs, the results of such research are made available for the benefit of disabled throughout the world.

38 USC, Chapter 17.

Fiscal Year 1973 Estimated Obligations—$3,169,000.

Fiscal Year 1974 Estimated Obligations—$3,264,000.

Program data not available.

Prosthetic and Sensory Aids Service, Veterans' Administration, Washington, D.C. 20420.

HOUSING FOR THE HANDICAPPED

The Federal Housing Administration coordinates and directs programs and activities in the production and financing of housing and in the conservation and rehabilitation of housing. The FHA insures under the terms of the National Housing Act, mortgages and loans made by private lending institutions for the purchase, construction, rehabilitation, repair, and improvement of single-family and multi-family housing. The FHA also administers housing production under the Department's low-rent public housing program and college housing programs. The handicapped are eligible for, and do benefit from, these programs but in numbers so low that specific information is difficult to ascertain.

Federal Housing Administration, U.S. Department of Housing and Urban Development, Washington, D.C.

COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED—WAGNER-O'DAY ACT

A program to encourage the gainful employment of blind and other severely handicapped persons by making it possible for them to supply products and services to Federal agencies on a well-organized basis.

Wagner-O'Day Act of 1938, P.L. 75–739, as amended by P.L. 92–28.

FY 1973 Estimated Obligations—$200,000.

FY 1974 Estimated Obligations—$240,000.

Over 200 workshops for the blind and for the severely handicapped are participating in the program.

Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 1511 K Street N.W., Washington, D.C. 20005.

VENDING STANDS FOR BLIND PEOPLE—RANDOLPH-SHEPPARD ACT

A program granting preference to blind persons in the operation of vending stands in Federal buildings.

Randolph-Sheppard Act of 1936, P.L. 75–732, as amended.

At the end of fiscal year 1972, there were 878 stands on Federal properties employing 1,005 blind persons. In addition, there were 2,351 stands employing 2,578 blind persons on non-Federal installations. The average net income of operators in that year was $6,996.

Rehabilitation Services Administration, Social and Rehabilitation Service, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201.

PRESIDENT'S COMMITTEE ON EMPLOYMENT OF THE HANDICAPPED

The President's Committee promotes employment opportunities for the physically and mentally handicapped through cooperation with Governors' Committees in the 50 States and with local community committees and with other public and private groups in promotional campaigns.

In 1949, P.L. 82–162 created the President's Committee on National Employ the Physically Handicapped Week; Executive Order 10640 of October 10, 1955, changed the name to the President's Committee on Employment of the Physically Handicapped; Executive Order 10994 of February 14, 1962, established the present Committee.

Fiscal Year 1973 Estimated Obligations—$890,000,000.

Fiscal Year 1974 Estimated Obligations—$844,000,000.

President's Committee on Employment of the Handicapped, Washington, D.C. 20210.

FEDERAL EMPLOYMENT FOR THE HANDICAPPED

The Federal Government provides employment opportunities to handicapped persons in positions for which they can apply. This supports the traditional concept of assuring equal opportunity to all citizens desiring Federal employment and is fully compatible with the goal of efficiency and economy in Government. It serves to focus attention on a frequently overlooked source of valuable manpower. The Civil Service Commission, as the central personnel agency for the Federal Government, has the responsibility for a positive Federal program for the selective placement for the handicapped. The Commission serves as a catalyst for a nationwide effort by coordinating all phases of the program with Federal agencies.

Civil Service Commission Act.

Fiscal and program data on funds spent on this program and numbers of persons assisted are not available in any way suitable for inclusion in this compilation.

Director of Public Policy Employment Programs, Manpower Sources Division, Bureau of Recruiting and Examining, U.S. Civil Service Commission, Washington, D.C. 20415.

EMPLOYMENT SERVICES

A program of project grants, advisory services and counseling, and specialized services designed to place persons in employment by providing services to individuals in need of preparation and placement in jobs and to employers seeking qualified individuals to fill job openings. Special services include special employment counseling services and placement assistance to physically and mentally handicapped persons seeking work in cooperation with other community agencies serving the handicapped, and priority in preferral, selection, and referral services to veterans seeking employment assistance, with preferential treatment for the disabled veteran.

Wagner-Peyser Act of 1933 as amended.

Fiscal and program data are difficult to break out from the total program of unemployment services.

U.S. Training and Employment Service, Washington, D.C. 20210.

OFFICE OF MENTAL RETARDATION COORDINATION

This office was established in 1972 to replace the Secretary's Committee on Mental Retardation and is responsible for the following activities: (1) serves as a means of coordination and evaluation of the Department's retardation activities; (2) serves as a focal point for consideration of Department-wide policies, programs, procedures, activities and related matters relevant to mental retardation; (3) serves in an advisory capacity to the Secretary in regard to issues related to the administration of the Department's mental retardation programs; (4) serves as liaison for the Department with the President's Committee on Mental Retardation.

Established by the Secretary of Health, Education and Welfare on January 26, 1972.

Fiscal Year 1973 Estimated Expenditure—$236,415.

Fiscal Year 1974 Estimated Expenditure—$195,000.

Office of Mental Retardation Coordination, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201.

MENTAL RETARDATION—PRESIDENT'S COMMITTEE ON MENTAL RETARDATION

The Committee advises and assists the President on all matters pertaining to mental retardation; evaluates national, State, and local efforts; helps coordinate Federal activities; facilitates communication between Federal, State, and local agencies; informa

the public about mental retardation; and mobilizes support for related activities.

Created by Executive Order 11280, May 11, 1966.

Fiscal Year 1973 Estimated Expenditure—$635,000.

Fiscal Year 1974 Budget Request—$656,000.

President's Committee on Mental Retardation, Washington, D.C. 20201.

SOCIAL SECURITY—DISABILITY INSURANCE

A program to provide monthly cash payments to a person with a physical or mental impairment severe enough to keep him from working, if the disability has lasted (or is expected to last) for 12 months or longer. Each applicant is considered for services by the Vocational Rehabilitation Agency in his State. The Social Security Disability Insurance Trust Fund pays disability benefits to eligible persons throughout their periods of disability. In addition, a certain percentage of the fund pays the costs of vocational rehabilitation services to selected social security disability beneficiaries. The 1972 Social Security Amendments provided that disability beneficiaries will be covered under Medicare after entitlement to disability benefits for not less than 24 consecutive months.

Social Security Act of 1935 as amended, Title II.

Fiscal Year 1973 Estimated Payments—$5,242 million.

Fiscal Year 1974 Estimated Payments—$6,106 million.

In fiscal year 1974, benefits will be paid to 2.0 million disabled workers totalling $4,923 million and to 1.5 million dependents of disabled workers totalling $1,183 million.

Bureau of Disability Insurance, Social Security Administration, U.S. Department of Health, Education and Welfare, Baltimore, Maryland 21235.

SOCIAL SERVICES—AID TO THE BLIND AND THE PERMANENTLY AND TOTALLY DISABLED

A program providing 75 percent Federal matching funds to the States for the purpose of encouraging each State to furnish rehabilitation and other services to help needy individuals who are blind or disabled to attain or retain capability for self-support or self-care. Services may be provided under a State plan to persons who are beneficiaries of the new Federal Supplementary Security Income program, or to past or potential beneficiaries.

Social Security Act, as amended, Title VI (effective January 1, 1974).

The Social Services program also serves aged beneficiaries of SSI, and a break-down of expenditures according to kind of beneficiary is not available. In FY 1971 and FY 1972, the amounts of $196,368,000 and $476,827,000 respectively were spent to provide such services as General information and referral, Adult and family functioning, Family planning, Consumer education and money management, Housing improvement, Homemaker and chore services, Employment and training, Health access, Alcoholism and drug addiction, Community adjustment for those with mental health or retardation or crime and delinquency problems, Adult home and community living arrangements, Adult protection, and institutional adjustment. The aged constitute the majority of persons served.

Social and Rehabilitation Service, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201.

PLANNING AND DESIGN OF MASS TRANSPORTATION FACILITIES TO MEET SPECIAL NEED OF THE ELDERLY AND THE HANDICAPPED

The Urban Mass Transportation Assistance Act of 1970 declared the national policy to be that elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services; that special efforts shall be made in the planning and design of mass transportation facilities and services so that the availability to elderly and handicapped of mass transportation which they can effectively utilize will be assured; and that all Federal programs offering assistance in the field of mass transportation should contain provisions implementing this policy. The legislation, as amended in 1973, authorizes the 2 percent of the total obligations under the Act may be set aside for grants and loans for the specific purpose of assisting in providing such services. In addition, the legislation provides that 1½ percent of all research, development, and demonstration grants be set aside and used to increase the information and technology related to this problem.

Urban Mass Transportation Assistance Act of 1970, P.L. 91–453, Section 16, as amended by P.L. 93–87.

As yet, no projects have been funded under this program.

Urban Mass Transportation Administration, U.S. Department of Transportation, Washington, D.C. 20590.

CHAMPUS PROGRAM FOR THE HANDICAPPED

A special program of civilian health services training and rehabilitation available for the seriously handicapped and moderately and severely mentally retarded spouses and children of active duty military personnel. Services authorized are, but not limited to: diagnosis; inpatient, outpatient, and home care; surgery and medical care; dental care, including orthodontia needed to correct handicapping conditions; prosthetic devices and orthopedic appliances; special optic devices; purchase or rental of durable equipment such as wheelchairs, iron lungs, hospital beds, etc.; training, rehabilitation, and special education; institutional residential care in private nonprofit, public, and State institutions and facilities; and transportation to and from facilities in which the dependent is to receive or has received institutional care.

Medical Military Benefits Amendments of 1966, P.L. 89–614.

In FY 1972, a total of $25.8 million in claims were paid under this program. These expenditures were made for 28,000 claims for physically handicapped cases, 1,400 claims for mentally retarded cases, and 131,000 orthodontia cases. (A separate claim does not represent separate case, many claims can be paid for an individual patient. With orthodontia cases, for example, a separate claim is paid each month for a patient with treatment lasting 24 months on the average.)

OCHAMPUS, Denver, Colorado 80240.

REPEAL OF YEAR-ROUND DAYLIGHT SAVING TIME

Mr. BENTSEN. Mr. President, the administration has made several requests for congressional action to deal with our Nation's energy shortage. The Congress has complied by passing a number of bills designed to alleviate the impact of the energy shortage. These measures will require sacrifices on the part of all of us, but we will see this crisis through together. It is the American character to rise to the occasion on demand and our experience so far has certainly been that we as a people have not grown too soft to respond positively to the crisis we are facing.

One of the measures requested by the administration as a cornerstone of its energy conservation program was legislation providing for uniform daylight saving time on a temporary basis to see us through the energy crisis. Expert studies, both within and outside the Government, indicated that year-round daylight saving time would yield significant energy savings because of lowered demand for electrical energy as well as savings in other areas such as reduced space heating requirements. I voted for daylight saving time as part of the effort to head off the energy shortage and ease the threats of rising unemployment, inadequate heat, and economic recession that this shortage poses.

Now, after having experimented with daylight saving time, I am seriously questioning whether the experts were correct. The more I see the more I am convinced that the experts were wrong for the energy savings are nowhere near as substantial as had been anticipated. But more importantly I am concerned about the impact daylight saving time is having on the safety of our schoolchildren. I do not believe we can continue to send schoolchildren to school and adults to their jobs in the dark of night as we have done since this law went into effect. The energy shortage is serious and strong energy conservation measures are necessary but not at the expense of the safety and well-being of the American people. Sacrifices will have to be made but should not be in the area of safety. There are many measures other than daylight saving time which the United States can enact to conserve energy. Therefore, Mr. President, I urge the Senate to give serious consideration to repealing daylight saving time. I am privileged to be a cosponsor of S. 2894, a bill introduced by the distinguished majority leader (Mr. MANSFIELD) and the distinguished junior Senator from Iowa (Mr. CLARK) to provide for such a repeal. I am convinced that this legislation will have the strong support of citizens across the Nation and I hope the Congress will move expeditiously toward its enactment. The Congress should concentrate on more workable and realistic programs to conserve and increase our energy supplies.

A FAIR DEAL FOR VIETNAM VETERANS

Mr. MONDALE. Mr. President, I wish to place before the Congress an article which appeared in last Wednesday's New York Times. The article deals with the inadequate educational assistance given to Vietnam veterans. Few Members of our Congress could write so sensitively and so insightfully about the needs of the American veteran than my colleague and friend Senator DANIEL INOUYE of Hawaii.

I encourage my colleagues not only to read this article but to proceed to act to meet the educational needs of those who have sacrificed so much for our Nation.

I ask unanimous consent that Senator INOUYE's article from the January 22, 1974, New York Times be printed in the RECORD.

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

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 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 four 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 veterans 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.

THE INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. BROOKE. Mr. President, many of us here share a deep disappointment over the recent House action to deny funds for replenishment funds for the International Development Association. The implications of this action for our relations with the developing countries of the world are not too difficult to discern. By its actions the House may well have given a serious blow to U.S. efforts to convince those countries of our concern for the welfare of their peoples. As Robert McNamara, President of the World Bank, said upon hearing of the House action, it is—

> An unmitigated disaster for hundreds of millions of people in the poorest nations of the world.

Commonsense and humanitarian concern compels me to fully endorse this view.

The United States in seeking to confront its problems—energy, inflation, and the growing alienation between Government and the individual—cannot, must not, lose sight of its opportunities to help improve the lot of peoples much less fortunate than ourselves. I only need point to the unfolding tragedies in the Sahelian region of Africa, in Ethiopia, in Bangladesh, to illustrate the cruel conditions that are the everyday existence of hundreds of millions of our fellow human beings. It would be ignoring many of the humanitarian principles which Americans pride themselves as having to turn our backs on these peoples.

Mr. President, I hope that the Senate will speedily move to rectify the unfortunate action of the House. I will work to that end, trusting that many of my colleagues will join me in doing so.

Mr. President, I ask unanimous consent that several articles and editorials concerning the bitter implications of the House action be printed in the RECORD.

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

[From the New York Times, Jan. 25, 1974]

House Curb on Aid "Disaster" for Poor, McNamara Says

(By Edwin L. Dale, Jr.)

WASHINGTON, January 24.—Robert S. McNamara, the president of the World Bank, said today that the vote yesterday by the House of Representatives to deny new United States contributions to the bank was "an unmitigated disaster for hundreds of millions of people in the poorest nations of the world."

In an unusual public statement on an action in one of the bank's member countries, Mr. McNamara said the arm of the bank that was affected, the International Development Association, "is the major source of development assistance for 21 countries classified by the United Nations as 'least developed,' to whom the United States and other nations have pledged a special assistance effort."

Most of these countries are small and most are in Africa. But the association is also important to much larger countries. In the past year it supplied 30 per cent of all the aid received by India, for example.

High officials of the World Bank said the bank's strategy for the moment was to "give the United States another chance"—that is, to see whether the legislation can be revived—before contemplating an appeal to the 24 other relatively rich countries that provide funds to the development association to put up their share without the United States.

The sharing agreement, negotiated last September in Nairobi, Kenya, at the annual meeting of the International Bank for Reconstruction and Development, or World Bank, provides for $4.5-billion over three years, with the United States share $1.5-billion. This is the smallest share ever for the United States, which, unlike the others, would be allowed to spread its contribution over four years instead of three. It was this contribution that was killed by the House yesterday.

Secretary of the Treasury George P. Shultz was in charge of the negotiations for the United States and pledged to do his best to win Congressional approval. Mr. Shultz, it has been reliably learned, was taken by surprise by the adverse house vote yesterday, having believed that the bill would pass. The vote to kill it was 248 to 155, with Republicans voting overwhelmingly against the bill.

Mr. Shultz is still groping for the best way to revive the legislation. One possibility would be to seek passage in the Senate and then, in the words of one official, "give the House another chance to do the right thing." But no decision on tactics has been made.

Once before, in 1969, the House voted down the bill authorizing a three-year United States contribution to the development association and then later reversed itself and approved the bill by a narrow margin. The necessary appropriations for these three years were also approved, but with a long delay, leaving the United States far behind schedule in the current round of contributions.

One result of the surprise vote, which came at a time of growing disillusion with foreign aid, was a decision by Mr. Shultz and the House leadership to postpone indefinitely consideration of a companion bill that would provide new United States contributions to the much smaller Asian Development Bank.

Mr. McNamara, in his statement, emphasized that "the United States total development effort today runs 14th among the 16 principal donor countries, and in relation to the national income is only one-tenth of what it was 25 years ago."

"Moreover," he said, "United States per capita income now is 30 to 40 times that of people in the poor nations of Africa and Asia."

DROUGHT CITED

Mr. McNamara said that the poorest nations that rely on the World Bank unit for much of their external assistance include such countries as Niger, Upper Volta, Mali, Mauritania, Senegal and Chad, which "have been undergoing one of the worst droughts in human history."

He added that other large recipients of these funds such as India, Pakistan and Bangladesh, "have also recently been hit by drought, tripling the cost of imported food grain."

He said that to people in these countries international aid, including that from the development association, which makes loans on easy terms, "means the difference between some alleviation of their poverty and desperation."

[From the New York Times, Jan. 25, 1974]

THE POOR OF THE EARTH

(By James Reston)

WASHINGTON, January 24.—One of the bitter tragedies of the present world crisis is that the heaviest blows are falling, as usual, on the poor of the earth.

For the rich, inflation, the energy shortage and rising food prices and unemployment are an irritation and at worst an inconvenience, but for the poor, they are a disaster.

The point is obvious, but it seems to have been missed by the House of Representatives in its recent vote to kill President Nixon's bill to aid the world's poorest countries through the World Bank's International Development Association.

This vote tells a lot about the present mood of the Congress and the state of Presidential and Democratic leadership. Though the danger of mass starvation in sub-Sahara Africa and in India and Bangladesh is now alarming, the House voted 248–155 against the relief sought by the Administration, with 108 Democrats voting for it and 118 against it, and 130 Republicans voting against the President and only 47 Republicans supporting him.

Now we are beginning to see the consequences of Vietnam, Watergate, and the turmoil of the Middle East. The House is surly and frustrated, disillusioned with foreign aid and foreign adventures, and hostile to a President who impounds funds for the poor at home while seeking more aid for countries overseas.

President Nixon anticipated this mood but he underestimated it. By diligent private negotiating over the last year, and with the help of Robert McNamara, the head of the World Bank, he managed to persuade the other industrial nations of the world to increase their "soft loans" to the poorest countries from 40 per cent to 66⅔ per cent, allowing the United States to reduce its contribution to one-third from 40 percent.

Even at 40 per cent of the total funds contributed by the rich nations through I.D.A. to the poor nations, the United States was putting up less of its gross national product than fourteen of the sixteen most prosperous countries.

Nevertheless, though inflation has reduced the value of I.D.A.'s soft loans by almost 30 per cent in the last few years, and though starvation is an immediate problem in most of the countries concerned, the vote for relief in the House wasn't even close.

If this were an isolated case of nationalism, it might be passed over as a regrettable and correctable offense; but the tide of nationalism is running strong in the world again, and there is little doubt that the vote in the House will probably be popular with the voters in this country.

Wherever you look in the advanced countries today, you will find leaders arguing for a new world order and pointing to the monetary crisis and the energy crisis as evidence that this is an increasingly interdependent world, requiring mutual aid and cooperation.

But at the same time, many of these same nations turn protectionist whenever they get in trouble. Europe is trying to form a more cooperative union, but when the Netherlands irritates the Arab oil-producers, the Dutch are left to fend for themselves.

Likewise, though Europe is engaged in the most delicate monetary negotiations in order to bring stability to its currencies, the French float and devalue the franc on their own. Now it is the House of Representatives that recognizes the danger of world hunger but votes against relief.

The leadership on both sides of the aisle was appalling during the debate. A White House preoccupied with its personal and legal problems gave its bill very little support—in fact, the President's name was seldom mentioned by his own House leaders—and the Democrats were just as bad.

Representative George Mahon of Texas, who is normally a sensible man except in election years, warned the House that he wouldn't be for appropriating the money requested by the President even if the House authorized it, and Representative Wayne Hays, Ohio's gift to diplomacy, was worse.

He argued that money voted for the poor countries would merely be used to pay for higher gas and oil prices, and thus would probably wind up in the pockets of the oil sheiks. This was like saying that if you're gouged by the rich, you are justified in turning round and kicking the poor.

The situation is particularly awkward now, not only because the World Bank will run out of "soft-loan" funds at the end of June but because no nation is obliged to meet its commitments to I.D.A. if other nations refuse to meet their quotas.

State Secretary Kissinger and Treasury Secretary Shultz reacted strongly against the House vote, but the following day, Mr. Kissinger was condemned on Capitol Hill for doing so.

Accordingly, they are now turning to the Senate for a more careful reappraisal of the problem. Their aim is to get the decision reversed or at least modified before Feb. 11, when the world oil producers, and consumers meet here to discuss cooperative action on the cost and distribution of fuel.

"How can we expect cooperation on oil if we will not cooperate to relieve hunger" Mr. Kissinger asks. But Congress has its mind on other things and so has the President.

[From the Washington Post, Jan. 25, 1974]

NO AID, NO TRADE

The House of Representatives threw much more into jeopardy than its members may have realized when it refused to authorize funds for an enlarged development loan pool to be operated by the World Bank for the poorest nations of the world. Several reasons for defeat of the Administration's proposal are obvious; there are many more reasons why this unthinking action should be quickly reversed, if it is not too late.

The mass defections among Republicans—only 47 supported the measure despite strong urging from the White House—gives one more sign of weakened Presidential influence, even in his own party. Neither among voters nor, more inexcusably, among their elected representatives does the notion of foreign aid seem able to overcome its earliest years of being considered an American "giveaway." However often it is argued, the Congress seems reluctant to recognize that development assistance brings mutual benefits to industrialized and less developed nations alike.

The program just defeated a $1.5-billion contribution to the World Bank's International Development Association, represented a positive and sophisticated approach to foreign aid. First of all, it is multilateral in its funding, avoiding the dangers inherent in attaching political strings. Through its multilateral structure, the I.D.A. is equipped to draw on the new resources of oil-rich countries, as well as the conventional donors, for redistribution among countries still in need of investment funds.

Secondly, the World Bank sponsors development projects of direct benefit to the poorer segments of the population in the less developed countries, as opposed to the earlier practice of strengthening national economic institutions from the top and hoping that the benefits would "trickle down" to the poor—hopes that were often shown to be futile.

Finally, the I.D.A. loan pool, negotiated last September at the World Bank meeting in Nairobi, represents a genuine trend toward burden-sharing among the richer states—another retort to the traditional critics of American giveaways. The United States share would have been dropped from 40 per cent to one-third; Japan, in contrast, had agreed to triple its contribution; West Germany's share would have more than doubled.

The essence of worthwhile foreign aid in the coming decade is to create productive economic ties among richer and poorer nations, to realize the benefits from cooperation as opposed to short-term advantages that might be gained from embargoes, unilateral price hikes and expanding cartels. The threats of economic warfare that have arisen over the Middle Eastern oil powerplays should stand as ample lesson of what is endangered when a country or group of countries goes its own way into economic confrontation rather than cooperation.

GREEN GROW THE PROFITS

Mr. ABOUREZK. Mr. President, on December 21, 1973, the ABC television network broadcasted a special news program entitled "Green Grow the Profits." This program offered a very insightful examination of a trend in the American food industry that I find disturbing.

That trend is the growing tendency for the industry to be dominated by giant conglomerate corporations who are in a position to make decisions regarding the quality, taste, price, and even quantity of food available to the American consumer.

These decisions, of course, are made in the interest of the corporation, not the consumer. In fact, the interests of the corporation and the consumer may be directly opposed to one another. For example, it is the interest of the company to maximize production efficiency. This means getting as much product out as quickly as possible. To the consumer, however, the question of quality and safety of the product is more important. He wants to be sure that the food he eats is safe. Making sure that the food is not contaminated adds expense to the company and slows down the production line.

There is no industry more important to America than the food industry. We care about the quality of our housing, our clothing, our automobiles. But the quality of the food we eat can be, literally and immediately, a matter of life or death.

The retention of competition in the food industry is, in my mind, one of the most important issues that America must face. Because of the value of this broadcast, I ask unanimous consent that the transcript be printed in the RECORD.

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

ABC NEWS CLOSEUP: FOOD: GREEN GROW THE PROFITS

(Produced and written by James Benjamin)

NARRATOR. Where are the meals of yesteryear . . . the tastes, the feel, the smell of good food? At holiday time, when families gather, we remember and savor those meals in our minds . . . the food that came from the millions of American farms, with only a stop at the grocer or butcher before it got to our homes.

Today this is no longer so. Why?

This may be the tomato of the future—genetically redesigned to be oblong and firm for mechanical harvesting and packing . . .

This long-feathered crested chicken may be marked for commercial success. The bangs block out distractions. Result: Such chickens with limited vision fight less and have fewer bruises when they're ready for slaughter.

Tax supported research is changing the food we eat—why?

WORDHAM. These chicks are two weeks old, and in seven weeks one of them may be on your dinner table. This chicken house in the South is part of the Agribusiness assembly-line method of raising food, which is said to be more efficient and a way to make the products more wholesome.

But the chicken you eat may be contaminated. Why?

INSPECTOR. Main thing they're interested in is getting the product out the back end of the building. Shipped.

WORDHAM. What are you told to do?

INSPECTOR. To pass chickens that to the best of our knowledge and training are chickens that should go in the condemned can.

Secretary BUTZ. Last year we spent less than 16% of our take-home pay for food . . . This year it's going to be less than 16% . . . That's less than ever before in the history of America . . . I think that will continue on downward.

NARRATOR. The 16% is an average which includes take-home pay spent for food at home and outside the home. Using the Agriculture Department's own statistics which are restricted to money spent for food eaten at home, we find that an average urban family with two school-age children, on a moderate food budget—take-home pay eight thousand a year—spends 32% of its budget on food. A family that takes home $12,000 spends 21% on groceries.

And food remains cheapest for the rich. If you take home $50,000 or more—average food cost, six percent per year or less.

PETERSON. There is a fundamental change occurring in the ways our foods are being grown, processed and delivered to us. Seasonal crops are now available year round. Prepared foods have drastically cut time in the kitchen. This is now possible because giant corporations and cooperatives handle our food from seed to supermarket. The system is known as Agribusiness. I'm Roger Peterson. In the next hour, we'll examine some aspects of Agribusiness, in fruits, vegetables and poultry, see how assembly-line agriculture operates, what abuses, if any, are occurring because of this changing system and, if so, what we can do about it. What we eat is important to us all. So, Agribusiness is everybody's business.

PART I

NARRATOR. Food becomes something special during the holiday season. But holiday—or every day, we never know enough about our food. Just check the credentials of your holiday meal. You may find that not only has your turkey come from Greyhound, but your chicken from Continental Grain Company, through its subsidiary Wayne Poultry . . . your ham from IT&T . . . your roast from John Hancock Mutual Life Insurance Company . . . your vegetables from Terneco, formerly Tennessee Gas & Transmission Company and from Gulf & Western, owners of Paramount Pictures . . . potatoes from Boeing Aircraft . . . fruit from Purex, peaches from Westgate which also owns the Yellow Cab Company in California . . . and after-dinner nuts from Getty Oil.

Many of the corporations are conglomerates with no agricultural background. They've bought into food as a fertile field for growing, processing, distributing and controlling the supply. Agribusiness corporations now control 51% of our fresh vegetables and 95% of processed vegetables . . . 85% of our citrus crops . . . 100% of sugar cane . . . 97% of broiling chickens . . . and 40% of eggs.

"Efficiency" and "quality" are the two claims of Agribusiness. To achieve this in the farming end, machines replace or help man. Animals are penned up and fed chemically-enriched feed that research shows will make them grow bigger faster. Fertilizers and pesticides are used heavily. Most research by the food industry is toward finding new products and food supplements. The bulk of agricultural research in this country, however, is by the Department of Agriculture and Land Grant Colleges who spend an estimated 600 million dollars of tax money each year. The public paid for the mechanical tomato harvester which can't harvest the tomatoes it was meant to pick. It also required genetically changing the old-style tomato to one which the harvester wouldn't squash.

Dr. Allen Stevens at the University of California at Davis has been tailoring tomatoes to machines. ABC News correspondent Dick Shoemaker talked with him:

Dr. STEVENS. As we have gone to mechanical harvesting, we have had to develop tomatoes which have smaller fruit size, the fruits have to be tougher, they have to be firmer, they have to be able to stand the bumping and the pressure that they get during mechanical harvesting.

SHOEMAKER. I see here there's quite a difference between the old style, and the one that you've developed for mechanical harvesting.

Dr. STEVENS. Right, you can see, the older tomatoes have a thin wall, they have a lot of seed area, a lot of juice, and as we have developed a firmer tomato we have gotten to a much thicker wall, a reduced seed area, and the tomatoes are much firmer and harder.

SHOEMAKER. How do they taste right now?

Dr. STEVENS. Not so good.

JIM HIGHTOWER. This little hard nugget that you buy at the supermarket wrapped in cellophane, there today, is the product of your tax expenditures.

NARRATOR. Jim Hightower is Director of the Agribusiness Accountability Project which is a private, non-profit organization supported by foundations. To him, the tomato story illustrates what's wrong with tax supported research being done for Agribusiness.

HIGHTOWER. Del Monte, Hunt, and Heinz and the giant processors wanted to mechanically harvest tomatoes, because they wanted to eliminate labor in the fields.

And the land grant colleges said yes we'll do that for you. So they genetically redesigned the tomato. But then they had to harvest the tomatoes green, because they still aren't hard enough. So they developed a system of applying ethylene gas to tomatoes, which turns them red, but it doesn't ripen them, necessarily. It just turns them red, uniformly and at the same time. They're chemically ripened. Now they've isolated 70 chemicals that cause flavor in tomatoes and they're going to artificially inject those back into that tomato.

NARRATOR. Let's examine what other work is being done to prepare crops for the industrial revolution to come. At the University of California at Davis, cantaloupes that now grow on vines are being redesigned to grow on bushes, for mechanical harvesting. Dr. Frank Zink.

Dr. ZINK. Ag engineering department is working with me here, on the campus and working with the ag engineer, I develop the plant and they develop the machine. And it's a kind of hand in glove operation. It's the same approach we used for the mechanical harvesting of tomatoes. We're just about 10 years behind the tomato people, that's just it.

NARRATOR. Another project, at the University of Georgia, is developing a machine to prepare peaches for the public, by, among other things, defuzzing them. Dr. John Perry.

Dr. PERRY. This machine that we see here is what we refer to as a mobile in-orchard grading, sorting, and packaging unit for peaches. The machine will remove the fuzz that exists on all peach fruit. It will coat the fruit with a water-soluble wax containing fungicides to prolong storage life and prevent weight loss during storage. After this is done the fruit comes to the rear of the machine and can be packaged into the trays and boxes that you see here.

NARRATOR. Another project: the commercial use of this chicken is being investigated at the University of Georgia. Dr. Kenneth Washburn.

Dr. WASHBURN. This chicken that I am holding is called a "naked neck"—obviously because of the fact that it has no feathers on its neck. I am looking into the possibility of developing this into a commercial strain because in processing, one of the processing problems is the fact that when the chicken is killed, and the head cut off, there is usually a ring of feathers in this area, that has to be removed by hand, and it is very difficult to remove. There is another mutation called "naked" in which the entire bird may have a total of three or four feathers. If you think this is a weird looking bird then you should see the naked bird.

NARRATOR. At the Richard Russell Laboratory, Athens, Georgia, another search—to isolate the taste of chicken. Dr. Robert Horvat.

Dr. HORVAT. The instruments in this room are all being used to attempt to solve the problem of chicken flavor and what compounds or materials are responsible for what we call chicken flavor. This problem arose because certain people questioned whether a modern chicken is equal to the chicken that grew up on grandpa's farm. So we trap the small amounts of material such as this, and this is equivalent to about ten pounds of chicken, this material here. What we hope to do is find that maybe five or six or seven major or minor components will reproduce the odor of chicken, and help the feed formulators decide on a diet that would produce the superior flavor chickens.

NARRATOR. For several years cattle have been collected in lots and fed chemically-enriched food. This has been successful. They have grown fatter, faster, but problems have developed with one of the most widely used chemicals . . . DES.

DES was developed at Iowa State University and licensed without competitive bidding to Eli Lilly, the pharmaceutical corporation, which distributed it for 18 years. During that time, its cancer-causing ability in animals was established. But, so long as no residue of DES was found in edible meat, its use was permitted by Congressional amendment . . . until 1972.

ANNOUNCER. Document: "Department of Health, Education and Welfare. Food and Drug Administration. Diethylstilbestrol order denying hearing and withdrawing approval."

"The animal feeding industry, the pharmaceutical industry and the U.S. Department of Agriculture have been unable to come forward with restrictions and controls on the use of DES in animal feed that will result in

the absence of detectable residues in the edible portions of the animals. Accordingly, the law requires that use of the drug must be discontinued."

Dr. FEINGOLD. I have a youngster, four and a half year old youngster who had been in, all the places like so many of them . . . They see psychologists, psychiatrists . . . They have all kinds of electroencephalography . . . Everything . . . But nothing's of any avail.

NARRATOR. The effect of adding chemicals to our food is a source of growing concern. Dr. Ben Feingold, chief emeritus, department of allergy, Kaiser Medical Center, San Francisco, believes artificial colors and flavors, along with naturally occurring salicylates, contribute to extreme over-activity in otherwise normal children, a condition known as hyperkinesis. Eighty-five percent of his patients improve on a diet free of these chemicals.

Dr. FEINGOLD. I had a youngster for instance who was doing extremely well and his mother put the child on a diet . . . He cleared up.

And one day he got a hold of a box of ice cream cones. Ice cream cones are dyed with the yellow dye—tartrazine. Right after that he hit the ceiling . . . she said she had to scrape him off the ceiling. Originally our work started with adverse reactions to aspirin and we included that in the diet. And then we found that many foods contain natural salicylates. We added that to our diet. Then we found out that there are other chemicals, that, although they're not structurally related to aspirin, produce adverse reactions and accordingly we included a diet to eliminate all artificial flavors, all artificial colors regardless of whether or not they're related or not. And when we did that, that's when we started getting the results. Now, we'll have to go ahead and study, and try to pinpoint them if we can.

Now most of the cereals that are fruit flavored, new cereals particularly designed for children are all with artificial colors and flavors.

Now, I think one of the worse areas of offenders are the soft drinks. Then we get into all the convenience foods, TV foods.

NARRATOR. Dr. Feingold allowed ABC News to be present when he interviewed Mrs. Tracy Stevenson and her son, Dean. Dean, hyperactive from early childhood, had been taking drugs to calm him for three years. He has been on the Feingold diet for some two weeks.

Mrs. STEVENSON. We had taken him off his medication initially and, then he was totally unable . . . especially in the evenings, when I would see him after work, to sit down, to concentrate, and you would see this wildness, like he . . . there was no control of what was happening with his body or even with his head at that point.

So then we started on the diet, and for five days I didn't see anything and was beginning to get a little bit depressed and on the sixth day it was like . . . there it happened. He's just plain manageable now, and his therapist says she sees no sign of hyperactivity in him at all.

NARRATOR. The Feingold diet does not work for all cases as there are multiple causes for this disorder. Further study is needed. Other research at Georgetown University has revealed that chemical preservatives inhibit growth of human tissue culture cells, alter their shape, and in some cases even destroy them.

PETERSON. During the preparation of this broadcast we asked the major food industry associations for representatives of industry to reply on film to some of the statements made regarding the nutritional value of food today, additives placed in food during processing, and research being conducted by the industry.

The Grocery Manufacturers Association told us it was unable to obtain statements from individual member companies. But it did agree to comment on research being done on the safety of chemical flavors and colors and other additives in processed foods. It said quote . . . "Dr. Feingold's recent research has yet to be scientifically reviewed and verified. All substances added to food, however, are approved for safety by the Federal Food and Drug Administration. These substances are either categorized as Generally Recognized As Safe or are subject to specific FDA testing and approval." The National Canners Association agreed to a filmed interview. I talked with its president, Charles J. Carey.

Segments of the food industry have been criticized for not looking at nutrition, to just sort of turning out a product, and not wondering about the quality of the product, the nutrient quality of the product . . . Do you think that's a fair criticism?

CHARLES CAREY. Well, I certainly wouldn't think it was a fair criticism of the canning industry. By and large the products that our industry processes are the natural farm products, the basic farm products, and they are preserved in their natural state. Work has been done through genetics to try and improve some of the characteristics of the products from a nutritional standpoint, as well as for other reasons. One very interesting piece of research that was done not too long ago, improved the protein quality of beans, through the amino acid structure, through changing the genetics or through, through the typical work in plant genetics.

PETERSON. What, what does a tomato that can be mechanically harvested add to my diet?

CAREY. It doesn't add to your diet, but it makes it more economical for, to process and to deliver to the consumer, and the consumer, of course, is very concerned about the cost of food as well as she is about the nutrition of the food.

Many of the most common products you see on the grocery shelf today, would be in the luxury category, if it weren't for mechanization.

PETERSON. Sir, is there a reason why the consumer should be concerned about the quality of his food?

CAREY. Certainly not canned foods. We are delighted to have the opportunity whenever it's offered, to spread the record of our industry for the public to see.

NARRATOR. Dr. Jean Mayer is professor of Nutrition, Harvard University. He headed the White House Conference on Food, Nutrition and Health in 1969.

Dr. MAYER. There is no reason why the same large companies which have developed these extreme technological marketing efficiency cannot produce better foods than many of the foods now on the market are. I had a great deal to do with the chief executives of all the largest food companies in the country at the time of the White House Conference, and I have remained on very good terms with many of them since, and I am impressed with the fact that I think that all of them . . . express a very sincere interest in nutrition and in nutrition education, and would like to see people, American people, better fed. Unfortunately, as you go down from those professions of faith at the top to the level of the sales and advertising executives, then you get a very different sort of viewpoint and the viewpoint is still that they're not really sure that they can sell nutrition, and—taste, yes; advertising, yes; but nutrition . . . they're not quite sure. I think they've got to be convinced that they not only have to but they should and they can.

ANNOUNCER. Document: "An Evaluation of Research on Human Nutrition," an independent survey for the U.S. Department of Agriculture and the State Universities and land-grant colleges: "Most of all of the health problems underlying the leading causes of death in the United States could be modified by improvements in diet. . . . Death rates for many of these conditions are higher in the U.S. than in other countries of comparable economic development."

"Improper diet may also affect learning directly through its effect on brain and central nervous system development during the fetal period, infancy, and early childhood."

"Processed and fabricated foods are often not comparable nutritionally to the foods they replace."

NARRATOR. Next, we'll look at the chicken industry which was reorganized by Agribusiness for the purpose of greater productivity and efficiency.

PART II

ANNOUNCER. Document: "Don't Be Afraid of Integration," a 1959 magazine article by the Dean of Agriculture, Purdue University.

"The fact that an individual producer may surrender some of his managerial freedom and may transfer part of his risk-taking to someone else, is really a very small price to pay for the advantages that flow, out of an integrated system . . . 20 years from now, we'll look back on 1959, and be a litle amused that we were so fearful of change. The future belongs to those who prepare for it."

NARRATOR. The author, Earl Butz, is now Secretary of Agriculture. Butz was on the board of directors of Ralston-Purina when he wrote it. Purina led the vertical integration in broiler raising—one of the first industries to be revolutionized. Broilers are grown, mainly, in the South. We visited Alabama to see how the system operates.

It's been controlled by a handful of companies such as Wayne Feed, a subsidiary of Continental Grain Company and Holly Farms . . . Pillsbury . . . Gold Kist and Conagra.

Once, chickens were raised by farmers in barnyards. Now there is an assembly line process. Laying hens, hatcheries, the chicks themselves and what they eat are owned and provided by the corporation. Farmers have become contract growers for the company and rent the chicks. The feed is delivered weekly by the corporation. There are rules which growers must follow during the 7–9 week growing stage to provide a uniform product. Growers must also pay for building their large expensive chicken houses and the equipment. Special insulation, heaters, watering trays and automatic feeding troughs. Growers must update equipment as the company decides.

After 7–9 weeks, the chickens are picked up by integrator corporation trucks and taken to the processing house for slaughter.

The same corporations kill, dress and distribute the broilers. They say that vertical integration is efficient and provides good, uniform broiler quality.

Despite an expansion of broiler production due to mechanization, the price of broilers has gone up. And the system may be far from foolproof.

WORDHAM. This is chicken feed in a big modern mass production chicken house in the South. The feed is heavily laced with arsenic. Growers and scientists for the Agribusiness companies tell us that arsenic makes the birds grow fatter faster and also kills parasites. Federal regulations prohibit the use of arsenic in the final feed before the bird is killed because much of the arsenic would still be in the body of the bird when it reached your supermarket shelf. And yet, growers have told us that there is arsenic in final feed delivered to them by the big companies.

REPORTER. I am Debra Kram, a reporter for ABC News. While on assignment in the South a grower and I called other growers who were feeding chickens. We asked permission of those who were in the final feeding stage to take samples of their feed . . . and some agreed. I gathered this feed from empty

chicken houses. In three houses I saw the chickens picked up. In two other houses I was told the birds had been picked up the night before and I picked random samples from the feed troughs from which the chickens had eaten immediately before they went to slaughter. This feed had been provided for the growers, under contract, by major integrators.

ANNOUNCER. Document: Laboratory Analysis Report to: American Broadcasting Company; Sample of: Animal feed; Analysis Requested: Arsenic content; Results: Five samples of final feed tested. Four of the five contained arsenic.

THOMAS. If you mention this to the field men out here and they laugh about it and say it's no concern of yours. You're just producing the chickens.

NARRATOR. W. O. Thomas was a grower until two years ago.

WORDHAM. Did you complain about it?

THOMAS. Right.

WORDHAM. Nothing happened?

THOMAS. Nothing happened.

NARRATOR. Charles Van Houweling is director of the Bureau of Veterinary Medicine, Food and Drug Administration. I asked him about our finding arsenic in the final feed samples.

VAN HOUWELING. That kind of a mistake, if it occurred would lead the producer to get into some trouble because it might cause sufficient residue to be detectable and be over the tolerance.

PETERSON. Just the producer? This is an integrated operation, where a man is under contract to grow these chicks.

VAN HOUWELING. Well, that involves the entire corporation, actually. The penalty could be as high as a thousand dollars fine or one year in jail, for each count for the first offense.

PETERSON. Have you ever brought charges against a company?

VAN HOUWELING. Not as fas as arsenic. We have investigated a good many but we have not had the second offenses which we normally require and we have not had what, you know, would seem to be willful misuse.

PETERSON. Doctor, have you had any complaints from people who have received chicken with too much arsenic in it?

VAN HOUWELING. Well, certainly not from arsenic. We have had occasional reports where someone would eat a TV dinner or some other food and then have a reaction and perhaps go to a doctor or a hospital and they would immediately suspect there might be some residue and we've tried to check those out in every instance. We have never been able to document the connection between any residue and any illness.

NARRATOR. We will examine more of the broiler industry in a moment.

PART III

NARRATOR. Mechanization and speed are hallmarks of broiler raising. This is a mechanical chicken harvester now being perfected at the University of Georgia with tax money. The harvester is to replace present commercial equipment. It will mechanically herd the broilers down toward the middle of the broiler house and on to a conveyor belt that's recessed in the floor. This can carry 100 to 200 birds a minute to waiting trucks for slaughter.

Still on the drawing board: a ten-tier model, to transport 6,000 birds.

In speeding up production today, there have occurred some questionable practice in broiler processing—in the slaughtering, dressing and packaging. Federal poultry inspectors charge that the companies pressure them to rush their inspection and pass contaminated poultry on the inspection line.

Wayne Poultry, a division of Continental Grain Company, allowed us to film the processing operation in their Albertville, Alabama, plant. They feel there are no infractions here. The white-hatted inspectors have three seconds to check each bird for more than 10 diseases. Those birds rejected go into USDA condemned cans to be later chopped up for pet food.

ABC's Bill Wordham spoke with Hugh Allison, a retired USDA inspector, who said that violations of Federal poultry inspection rules are widespread.

WORDHAM. You were a Federal inspector and you had to insure that the chickens in these plants met minimum Federal Health Standards. Were you able to do that?

ALLISON. Well, in plants, yes, some plants but you do have a problem of doing your job without being . . . pressure put on.

WORDHAM. What kind of problems did you have?

ALLISON. The fact they wanted to keep the lines running at full speed regardless of the errors which they might make.

WORDHAM. Regardless of errors? You and other inspectors in plants like these, did you get more than just that kind of pressure? Was there any physical violence involved?

ALLISON. Well, there has been physical violence, yes.

WORDHAM. Any directed against you?

ALLISON. I have been threatened, yes.

WORDHHAM. What kind of threats, Mr. Allison?

ALLISON. Life, threatened to be shot.

WORDHAM. You were threatened to be shot?

ALLISON. Yes.

WORDHAM. How did that threat reach you?

ALLISON. By the supervisor, who was the immediate supervisor over the line at which I was working. And the reason, I was doing a job I was directed to do.

NARRATOR. We met several other Federal inspectors in a dark parking lot one night. Some of them feared for their jobs and would not be filmed. A few agreed to talk, next evening, but would not mention the names of the companies where they were assigned.

WORDHAM. Is it true some of these stories that I have been hearing that there has been violence from time to time, threats issued against Federal employees to bow to company wishes for a faster line? Has anybody here had physical threats issued against them?

INSPECTOR. Yes, I have.

INSPECTOR. I have, too.

WORDHAM. And you have, too?

INSPECTOR. Right.

WORDHAM. You all are or were Federal employees. And yet, it seems you get a certain amount of pressure from these places where you work from private company employees. People who are not Federal, not over you in a supervisory capacity. Is that right?

INSPECTOR. The main thing that they're interested in is getting the product out the back end of the building. Shipped.

ANNOUNCER. Document: USDA Regulations for Meat and Poultry Inspection: "Diseases of the Leukosis Complex: Carcasses of poultry affected with any one or more of the several forms of the avian leukosis complex shall be condemned." "Inflammatory Processes: Any organ or other part of a carcass which is affected by an inflammatory process shall be condemned." "Contamination: Carcasses of poultry contaminated by volatile oil . . . which render the carcasses adulterated shall be condemned."

WORDHAM. Gentlemen, I would like you to tell me, if you will, about the problems you have with the chickens that come through the line which are not healthy.

INSPECTOR. Aerosaccolitis is the greatest one condemnation we have, and the regulation positively says that any bird that has liquid, frothy, runny aerosaccolitis in any part of the body . . . that the carcass will be condemned. And in our plant now we're salvaging that type of bird. They're attempting to remove the aerosaccolitis with lung guns and cutting out certain parts.

INSPECTOR. And there's also mechanical grease; because there is quite a bit of machinery in the processing plant. And, failure to clean it the mechanical grease of that nature.

WORDHAM. Now, these chickens that you pass because you are told to pass them, they go on and become available for human consumption?

INSPECTOR. Yes, sir.

WORDHAM. Anybody else have a similar experience?

INSPECTOR. Well, I think we've all had it at one time or another.

WORDHAM. Do you inspectors, and former inspectors, do you eat chicken now?

INSPECTOR. I raise some at home and dress them myself.

WORDHAM. But do you buy chicken from a store? And eat it?

INSPECTOR. No, sir.

WORDHAM. Is there any way, when you pick up a chicken breast or leg or wing, that you can tell it came from a diseased chicken, any way that the layman and the housewife could tell?

INSPECTOR. No.

WORDHAM. Is buying chicken parts risky?

INSPECTOR. Yes.

WORDHAM. Why?

INSPECTOR. Because it might be just part, well, maybe one part from a diseased chicken, and where the other is cut and condemned, and you're not sure that it's really a good chicken.

NARRATOR. We asked Secretary of Agriculture Earl Butz about these complaints.

PETERSON. We've seen and we have on film, your own poultry inspectors, who say they have been so intimidated by the processing plants, threatened, that they've been forced to pass on tainted meat to the consumer.

Secretary BUTZ. Oh, I've heard those stories, Roger, and we run 'em down. If we have any case in which one of our inspectors, has okayed tainted meat, he's not an inspector any more. I want to assure you of that, that our inspectors are pretty careful about that. The complaints I get are from the processing plants that our inspectors are too tough and I get to looking into that. And, I don't think they ever are too tough. But our inspectors do have the power of shutting down the processing plant. They push a button and shut the processing line here.

PETERSON. When the choice is between shutting down the plant and having their family threatened what happens then?

Secretary BUTZ. Oh, they, they've been told that, in that case we'd move our inspectors around, and we haven't had any cases of moving inspectors around.

REPORTER. Sir, we have men on film who say they've been physically threatened. One man has actually been assaulted. They say that when they, when they reported this to their supervisors, they're told to keep their mouths shut, and they have to or they'll lose their jobs . . . these are people being paid by taxpayers. And yet the processors are forcing this upon them.

Secretary BUTZ. Well, I'm . . . well, let me say I'm going to view your film, then to see who it was that said that, and we'll follow up immediately on this.

NARRATOR. Dr. Butz was unable to see the film. We asked Dr. Francis Mulhern, director of the USDA's Animal and Plant Health Inspection Service to view it.

PETERSON. How many complaints such as we've just seen reach your level?

Dr. MULHERN. Well, these, these inspectors have a union, a very powerful and effective union, that's one way in which those complaints come to my level. They meet with us periodically during the year with their grievances and so forth. There are other ways. Just like this has given me insight now as to my first reaction to this is, where's that and what can we do to get in there and take a look at it? The other part is there's the consumer protection groups have opened up

a newsletter and many of our inspectors are writing to them. I'm kind of embarrassed in this that we can't create an environment in which they'll write directly to me, but, I'm well aware of these, of these criticisms and I know that they exist there and I'm not defensive against it. I'm saying that we got to get to it. And react to it.

PETERSON. What guarantee, what percentage of protection does the consumer have, a consumer goes out to buy something, what chance does he have of buying something contaminated?

Dr. MULHERN. My feeling is that it's well over 99 percent that it's pure, that it's a wholesome product going out and I don't think we can be perfect, the volume is just too great.

PETERSON. How many companies do you feel are putting pressure on the inspectors to pass tainted meat?

Dr. MULHERN. It shouldn't be misleading that this is general throughout our country. That it exists in some locations I have no doubts that that's so. We even have a plant, one plant I know of that shut down because of this condition. They are trying to produce a product to make the most profit that they can. And we are there to see that that product is wholesome. In some cases where our inspection system is slowing lines down or making it more difficult to produce there's friction that develops, and I think that's true wherever government is regulating industry.

So that it doesn't surprise me that this takes place.

NARRATOR. There are other problems with this vertically integrated industry. The growers, most of them ex-farmers, now depend on the corporation for chicks and the price paid for growing them. Sam Chumbly is a grower.

W. O. Thomas was a grower who tried, with the National Farmers Organization, to organize Alabama growers so they would get more money. The attempt failed—Thomas quit growing.

THOMAS. Now, you're talking about approximately a three and a half pound chicken that you're getting two cents per pound or less.

CHUMBLY. Right.

THOMAS. Or seven cents per chicken.

CHUMBLY. Seven cents per head. I talked to a guy the other day that asked his fieldman, he said, chickens are going so high, said, when are you all going to give us a break out of it? He says, when we have to . . . he says, we're not going to give it until we have to.

THOMAS. And, Sam, you know you're very unusual of the ones that are still in the broiler business. Why so are you willing to be interviewed on camera this way?

CHUMBLY. Well, I tell you there ain't much difference in being in and being out . . . we don't make enough to, to authorize a fella to stay in.

NARRATOR. The profits may be low for the growers—but the investments are high. This lady was willing to talk with us—but would not show her face or allow mention of the company for whom she grows chicks . . .

WORDHAM. What did it cost you to put up these houses?

GROWER. It cost us 29,600 for a lock and key job. I mean . . . ready to put the chickens in.

WORDHAM. And how did you raise that money?

GROWER. We borrowed it.

WORDHAM. So your home was mortgaged to pay for the houses?

GROWER. Yes.

WORDHAM. To pay for these houses?

GROWER. Yes, it is.

WORDHAM. Now how about the money you've been getting for your chicks, is that working out all right?

GROWER. No. It sure isn't. It has dropped in the last bunch of chicks I sold. I didn't get nothing for them, hardly, period.

WORDHAM. And how about the number of chickens or chicks that you've been raising this year as compared to last year?

GROWER. Well, they was six weeks between bunches of chickens this time.

WORDHAM. Did the growers give you any reason why they didn't deliver the chicks?

GROWER. No. No, they don't.

WORDHAM. Why do you stay in the business of chicken raising?

GROWER. We have to! We'll lose our home. Our farm. Everything we've worked for.

NARRATOR. There were those growers who hid from our cameras even while allowing Thomas to show us through their chicken houses.

THOMAS. The man that owns this house is right in the house here with us but he's not being shown for fear of reprisals from the companies on this because they do not like for the public to know of the conditions that goes on in this vertical integration. Now this man over here is just as much American as any one of you or I, and yet he has these real fears. I've seen growers more frightened than these chickens here.

You've seen these baby chickens run as I walked toward them; and I've seen growers much more frightened than that, of what would happen to them.

NARRATOR. I talked about broiler intergration with Donald P. Corbett, chairman of Corbett Poultry Products Corporation which owns 16 broiler-raising companies in the East and South.

PETERSON. Are the growers making any more money nowadays, sir?

CORBETT. My answer to that is yes . . . Now, when you say yes to a general question like that, I mean, you know, I can't speak for all growers, but basically today we're growing more chickens, more flocks of chickens in the house than we've ever grown. And we're going to continue to grow more, and this will mean that the grower will have more total dollars for his facilities and effort for the year.

PETERSON. Mr. Corbett, some growers have expressed a fear of being tied to the integrator. How do you answer criticism like that?

CORBETT. We have got to earn as an integrator, the confidence of our growers, and I'd hate to think that the majority of growers live with us in fear.

PETERSON. One of the products that's also put in the feed is arsenic, which is used to help promote growth, and it's supposed to be cut off at a certain point . . . so it gets out of the chick.

CORBETT. It is.

PETERSON. In some of our investigations we've found where arsenic is used in the final feed.

CORBETT. Well, that's not allowed, and basically I doubt if you'd find that many people are doing this because the inspection program monitors that pretty thoroughly.

PETERSON. Some inspectors say that they have been threatened by companies for doing their jobs.

CORBETT. Roger, I think that's the most irresponsible thing I've heard. I'm not saying it doesn't happen, but we are living in a civilized society . . . There's laws and so forth. If it did, the people that made those threats should be prosecuted to the full extent of the law.

PETERSON. Why is it that with all of the efficiencies of vertical integration that as a consumer I have to pay so much for chicken now?

CORBETT. We are still committed to bringing efficiency, but we're not going to bring the price of chickens back to where it was two or three years ago, because we think that the people involved in this business—the growers, the people in the plant, are entitled to more reward than what they've got. And we must take that responsibility, and the consumer's gonna pay for it.

PETERSON. Do you think the public is being adequately protected from contaminated meat?

CORBETT. Yes, sir. I'd say that the public is getting the finest meat, poultry that exists in the world and they need have no reservations about it.

ANNOUNCER. Document: United States versus National Broiler Marketing Association.

Department of Justice Antitrust suit . . . "the defendant and the co-conspirators have been engaged in a combination and conspiracy to fix, maintain, and stabilize the price of broilers in violation of Section One of the Sherman Act."

The Association denies the allegation. The case is still in court.

NARRATOR. Next, we will examine profits, how they're obtained and who pays for them.

PART IV

PETERSON. When we began this broadcast, we pointed out that there is a fundamental change occurring in the ways our food is being grown, processed and delivered to us. The very efficiency and profitability of agribusiness has attracted non-farmers to it . . . some to increase its efficiency, others merely to take advantage of its good return on investment. One way is through tax laws.

NARRATOR. Branding time at a feedlot in Atkinson, Nebraska. One hundred thousand head of cattle are fed here each year, for investors, who are far away and never see their cattle.

Owners who may be individuals or large corporations with extra money to invest. The investor sends a check, the cattle are bought, fattened and sold for slaughter. Another method for non-farmers to make profits out of agriculture.

WELLS. I have, within this week received a beef deal; it's a syndication; it's a method of investing $300,000 and getting a two hundred and one . . . two hundred and one percent tax write-off.

SHOEMAKER. Two hundred and one percent.

WELLS. That's right. For every dollar you invest in this program you get to deduct two dollars from your tax return.

NARRATOR. Special tax laws have drawn individuals and corporations toward agriculture. They can use the laws made for farmers to spread profits and losses over several years and obtain tax shelters. Los Angeles tax lawyer Michael Wells.

WELLS. Much of our law was written to, to help individuals, the small farmer, and it has been, the laws have to be applied to all people and the corporations are taking advantage of it.

They've done nothing illegal about that. They have just seen where the law was and gone right into it.

BUTZ. Let's get the point across here that there's nothing wrong with the firms in agribusiness making money. That's what they're in business for. They've invested their capital. They perform an essential service.

The steer in Omaha isn't worth very much until he becomes an attractive roast in a Philadelphia meat counter. And somebody has to do some work to make an attractive roast on a Philadelphia meat counter. And they get paid for that service.

PETERSON. But the quest for profits in this newly-emerging system of agriculture has led to harsh errors in judgment. Agribusiness corporations encouraged many small farmers to extend themselves, borrowing money to expand. These ventures resulted in some farmers losing their land.

NARRATOR. In California, for example, many lost their land when they tried to expand to meet the demands of large corporations for more crops.

Tom Ellerd of Modesto, a successful farmer for 40 years, was one of them.

Del Monte Corporation became not only his buyer, but also lent him money to expand, an arrangement no longer legal. A few bad years for peaches and Del Monte foreclosed. A court denied Ellerd's petition which tried to establish that a partnership existed with Del Monte.

ABC News asked Del Monte for a comment. It replied that when the Ellerd indebtedness exceeded the value of the property, Del Monte reluctantly foreclosed, since it too had lost money. Ellerd now lives in this three-room house owned by a relative. He and his son lost over $100,000 worth of land and buildings.

This is a photo of the ranch they lost.

ELLERD. It was one of the best farms in the country, best taken care of, even the canneries complimented us on our way of operating, taking care of the place. We had two homes. One of them was a new home we built in '65.

SHOEMAKER. Why couldn't you go and find the money someplace else, why did you have to go to Del Monte?

ELLERD. Well, after you get started with Del Monte and they have a mortgage on the peaches and your crop, your equipment and no bank or anything will touch you because they've got everything in their control. They wouldn't release the crop for you to get money or anything. They wanted it all.

PETERSON. Mr. Ellerd is not an isolated case, but, an example of a pattern that has developed as agriculture has become big business. Yet, Secretary Butz feels that the threat of agribusiness is not that great.

Secretary BUTZ. Less than 1% of our . . . less than 10% of our farms are corporation farms and 9 out of 10 of them are family corporations. I think the invasion of the large non-farm corporations, the invasion of the conglomerate in agriculture has not been alarmingly large.

PETERSON. Do you still feel that integration in the food industry is a good thing?

Secretary BUTZ. I think integrated production and processing, marketing is the trend of the times. I think it's good for consumers. I think it can be done and still maintain a large degree of independence and competitiveness at the family farm level. We're dedicated in this department, to keep that kind of family farm in a strong position.

PETERSON. In the past hour we've looked at some aspects of Agribusiness.

We've seen how technology can increase supply and variety of produce . . . how, as Mr. Carey of the National Canners Association told us, crops which were once in the luxury class are now available to all. Bigness is not necessarily badness. Making profits is no sin. What we've seen, however, is that abuses are developing.

We've seen how our foods are being genetically changed and their nutritional values altered. We've seen a Department of Agriculture official affirm that 99% of chicken meat is pure. Yet we've also learned that some tainted chicken is slipping through. What can be done about this?

The way to stop this is for existing laws to be enforced . . . for Federal inspectors to be pressured by the government to follow the rules, rather than, as we've heard, to be pressured by corporations—in the name of speed and efficiency.

Or, what should be done about arsenic appearing in the final feed of broilers?

We've seen how helpless growers are because they must accept what the corporations deliver to them, or go out of the broiler business.

But consumers are not helpless. They can insist that the law against arsenic in final chicken feed be enforced, by the government—without, perhaps, the need for two offenses before an offender is prosecuted.

This broadcast has reported that Agribusiness is expanding and is here to stay. Despite the fact that the Agriculture Department says only 1% of our farms are owned by large firms, it is the control over crops that matters; and that control is increasing. At this stage of Agribusiness development we can see that this control does not get out of hand—or go hand-in-hand with abuses against consumers and taxpayers. This is the time to look closely at the new system . . . with the same kind of drive that has been demonstrated by Agribusiness itself.

For, as we said when we began this broadcast, Agribusiness is everybody's business.

FUEL STANDDOWN OF ALL RESERVE AND GUARD FLYING UNITS DURING HOLIDAYS

Mr. THURMOND. Mr. President, between December 21, 1973, and January 7, 1974, the Defense Department ordered a standdown of all Reserve and Guard flying units throughout the United States in an effort to conserve fuel.

This action seriously affected the readiness and training efficiency of a number of units. In addition, many crews which had worked themselves nearly to the point of proficiency qualification were set back and in many cases will have to go back over training procedures they had already covered.

In other situations aircraft were ready to come out of maintenance but could not because of the total grounding by the Defense Department. Also, the operational readiness and maintenance of some aircraft were adversely impacted because of the total standdown.

Finally, the standdown had an adverse effect on flying safety which is always a problem but especially so during the winter months. Accident rates since the standdown should be watched closely.

While we all recognize the desirability of steps to economize in the face of the energy crisis, it would have been a wiser course to reduce flying hours for the Reserve and Guard rather than to order a total standdown.

This would have permitted pilots at key points in proficiency qualification training to perform essential flying. Also, aircraft in repair could have been picked up and other essential missions could have been flown.

While my primary concern is for the overall adverse effect resulting from the total standdown the fact that the standdown was applied only to Reserve and Guard units brings into question the validity of the total force concept.

A partial standdown would have been a more economical step and it would have also preserved the total force concept as Active Force aircraft were under similar restrictions.

Of additional concern is the fuel reductions imposed on Reserve and Guard units which will take them to the borderline in maintaining proficiency and readiness. These restrictions also will make flying safety a matter of great concern, especially when it is realized that Reserve and Guard units have unique safety problems by the very nature of their limited operations.

A recent committee investigation into this matter revealed that the standdown adversely impacted on the readiness of a number of units. Further, unit personnel indicated that it would be difficult to increase or even maintain readiness ratings if flying hours are reduced to the extent being considered in some quarters.

The lessons of the recent standdown should be sufficient for those in authority as they plan future policies affecting the air units of the Reserve and Guard Forces.

THE GI BILL AND TODAY'S VET

Mr. INOUYE. Mr. President, 1 year ago the official cease-fire agreement between North Vietnam and the United States went into effect. As a cosponsor of S. 2789, the Comprehensive Vietnam Era Veterans Education Benefits Act, I am well aware that this anniversary is not being celebrated with much enthusiasm by many of the men who fought for the United States in that tragic conflict. Those men who have yet to be given fair treatment in terms of veterans benefits, who realize that the veterans of World War II, including a number of U.S. Senators and Congressmen, received better educational benefits than are now available, and who question our national commitment to honor the men who bore the burden of fighting, are not in a celebrating mood.

I request unanimous consent for printing in the RECORD an article which was sent to me by a Hawaii constituent explaining the plight facing any Hawaii veteran who wishes to further his education on the GI bill.

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

THE GI BILL AND TODAY'S VET

Today's GI Bill has no direct tuition payment to schools but pays the single vet a flat $220 per month. Education costs at many colleges are now five times greater than 1948. The cost of living has more than doubled, and the vet must consider that plus tuition out of the $220 he receives. In many areas, this barely covers rent and food. A tight job market has also made part-time jobs hard to find.

A study of the effectiveness of today's GI Bill shows great disparities. Veterans are a small percentage of college students today. After World War II, veterans were 50 percent of all enrollees in college; today they are only nine percent. Although there were 15 million World War II vets versus 6.2 million Vietnam-era veterans, today's vets are still a potential audience. They choose not to pursue further education. However, more than half of those who have not applied for the GI Bill said they would certainly apply if benefits were increased.

After World War II the GI Bill took 7.5 percent of the federal budget; today, it takes only one percent. According to Senator Vance Hartke, only a small portion of the federal dollar is spent on veterans' benefits and services today than ten years ago, despite the addition of six million plus veterans.

Roughly 20 percent of the 6.2 million Vietnam-era veterans have preservice college; 60 percent are high school graduates, and 20 percent are high school dropouts. Of these,

only 20 percent of the high school dropouts use their GI Bill, while almost 50 percent of the high school graduates do. 50 percent of those with pre-service college go on to use their GI Bill. It seems that those who need the GI Bill most do not use it.

But dropouts and high school graduates make the greatest use of the GI Bill for correspondence courses. About 800,000 persons have done so, with 75 percent of those dropping out prior to completion, according to a GAO study.

Here in Hawaii, the two-year community college and its inexpensive tuition provides some advantages to the veteran. But, woe to the vet when he goes on to the U.H. at Manoa and faces the higher charges of $225 per year. If he is not accepted at Manoa, he will need to make arrangements to pay out about $1,200 per year for tuition at one of our private colleges.

The estimated minimal expenses of attending the U.H. at Manoa for the 1973–74 academic year was computed at $2,662 for residents and $3,172 for non-residents. This estimate includes costs for board, room, tuition, books, supplies, and fees, but does not include medical, dental, clothing, recreational, personal, extracurricular, or miscellaneous expenses.

Today's veteran receives $1,980 in payments for the school year. Supposedly, he only needs to raise $682; but those extra expenses can be a burden on him. Unfortunately, it doesn't work out too nicely for the vet, and he is forced to seek a part-time job. Most do. Working long hours at minimum wage rates in jobs requiring a lot of physical exertion can be pretty heavy on a full-time student. Especially when he needs the time and energy to perform his school work.

Recently, a meeting of several veteran students took place at Leeward's Office of Veterans' Affairs which revealed that vets are plagued with adjustment problems, financial troubles, and critical housing conditions. One vet stated that while the advanced GI Bill payment is an improvement over previous delays in getting the first check, the task of meeting initial school tuition, books, supplies, advance rent payments, and clothing can set a vet back so far that he never recovers from his debts even if he obtained a part-time job. As many as five vets team up to share housing expenses due to exorbitant rental rates. Obtaining adequate food medical and dental services, and part-time jobs are problems that the vet has to face in his pursuit of higher education.

Every day we hear the complaints and rumblings of the dissatisfied vets. How do we parry the questions when young vets vocalize their claims that the unemployed person gets more bread of doing nothing, or that unwed mothers get more money from the government than they do? Or that the VA is an unhelpful bureaucratic agency? These are real questions of the times.

We try to turn a deaf ear to their pleas and mentally call them radicals and trouble makers. Perhaps this is no accident. Public reaction to the Vietnam war has not been favorable or pleasant. In fact, despite the recent ovation for some 600 POWs; the public has barely noticed six million ex-soldiers as they returned from active duty in a constant though imperceptible trickle. Always, they seem to unobtrusively disappear before their existence can come to public attention. The country that wants so badly to forget the war, can forget its warriors as well.

Despite community unresponsiveness to the veterans' existence and needs, the vet faces overwhelming odds against his successful integration into civilian life.

One does not have to look far to note that the federal benefits and privileges for the vet are wholly inadequate and state benefits nonexistent. We do not owe the veteran total support while he is pursuing higher education, but we should at least provide a reasonable opportunity for him to exist as decent human beings like the rest of society does.

Despite slogans of "Hire the Vet," the veteran is always the last to be hired and the first to be fired. The jobs he can apply for are limited.

He is finding out that the training he received in the service is not being recognized at all; no matter how much they told him his training and experience would qualify him for a good job on the outside.

When a top notch sheet metal worker is turned down for a metal inscribing sign job, or a 20-year career mess sergeant is refused a hotel restaurant cook's job because he doesn't have a junior college food service certificate, the veteran finds he cannot compete or cope with the civilian world. It can be emotionally and financially disheartening. Many veterans never overcome this feeling of alienation and distress. The vet needs schooling and more besides.

With rents sky high, real estate costs beyond reach, and apartments so limited; it is a wonder that the vet in school can afford to live here in Hawaii. Paradise is not for the poor vet.

Mr. INOUYE. Mr. President, as pointed out in the article, Senator HARTKE and the Senate Veterans' Affairs Committee have documented the low level of present Federal assistance to our ex-servicemen. Senator HARTKE and his committee colleagues have in past years created significant increases in veterans benefits despite legislative and executive obstacles. I am sure that the Comprehensive Vietnam Era Education Benefits Act which almost one-third of the Senate is now cosponsoring will receive a fair hearing in the Senate Veterans' Affairs Committee.

President Nixon's message to the Congress dealing with veterans benefits was a disappointment to me. His request for an increase of $200 million or 8 percent in veterans education benefits will not cover the cost-of-living increase for 1973, nor will it make up for prior gaps between benefits and economic realities. Also, the President ignored the problems of inflexible administration of educational programs and the need for tuition assistance for GI's. The growing number of Senate cosponsors for S. 2789 should tell the President that the Senate believes the veterans of the Vietnam war deserve better than what the President has proposed.

BOOTT MILL CULTURAL COMMUNITY CENTER

Mr. BROOKE. Mr. President, the city of Lowell, Mass., like so many old American manufacturing centers, has suffered tremendously from the rapid growth of modern technology. Once the proud and booming center of the New England textile industry, its mills now lie silent, its canals undisturbed. Worse, there is a chance that these monuments to our economic history could disappear entirely.

Faced with this possibility, the local citizenry banned together to devise an urban national cultural park, the legislation for which I introduced last February. Such a park would capture the unique atmosphere of the 1850's and preserve it for generations to come.

The challenge to create such a park has attracted creative urban planners from all over the country. Two such planners, Michael and Susan Southworth, have come up with a most interesting plan for Lowell's largest mill, the Boott Mill, which would fit nicely into the overall concept. Their design—for a "Boott Mill Cultural Community Center"—received the highest award in the annual Progressive Architecture magazine design contest.

The project was described in depth in an article which appeared in the Washington Post on Saturday, January 26, 1974.

I bring this article to the attention of my colleagues not only because of its description of the Southworth project, but also because of the interesting glimpse it provides of Lowell's rich history.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

[From the Washington Post, Jan. 26, 1973]

A CULTURAL COMMUNITY CENTER IN THE LOWELL TRADITION

(By Wolf Von Eckardt)

"Art is the Handmaid of Human Good," said Lowell's textile manufacturers 150 years ago, teaching poetry, drama, music and crafts to the young women who worked in their mills.

The town has now remembered this motto.

Having nearly renewed itself to death a few years ago, Lowell, Mass., (pop. 100,000, 25 miles northwest of Boston), now plans to recycle its remaining cotton mills, canals, locks, gatehouses and historic ambience into an "urban national park" an industrial Williamsburg, as it were.

And Art being the Handmaid of Human Good, the capstone of this encouraging endeavor is to be the conversion of the old Boott Mill complex into a cultural community center.

The project, designed by Michael and Susan Southworth, a Boston urban design team, has just received the top award in the annual Progressive Architecture magazine contest. The P/A awards are particularly interesting because a discerning jury examines new concepts and ideas rather than just pretty buildings.

This shows us the trends, the uncompromised achitectural thinking, the avant-garde. Young architects, it appears, are no longer concerned with architecture for art's sake, but with solving environmental problems. P/A singled out five projects for the imaginative reuse of old buildings, not because they are historic, romantic or nostalgic, but because their reuse provides possible answers to socio-economic problems.

Lowell's socio-economic problems are considerable. One of America's oldest industrial cities. Lowell was carefully planned 150 years ago as a utopian mill town at the confluence of the Merrimack and Concord Rivers. Its energy source was a waterfall. The town still has almost as many canals as Venice, although neglect has all but made them invisible.

Lowell's planning was part of a daring social and economic experiment. The Lowells, Cabots, Lawrences and other American industrialists knew that they had to do better than the British in building their company towns.

At Lowell they tried to provide a decent living environment for their "American Manchester" and imbued it with a high moral and religious tone. Handmaid Art served to recruit farm girls from all over New England.

Paternalistic goodness was rewarded by prosperity.

But not for long. After the Civil War, waves of immigrants supplied cheap labor without Art, Handmaids and Human Good. When labor began to organize, the textile industry shifted South. Lowell declined.

It is still declining. Only one of the cotton mills is still spinning—nylon. There has been industrial diversification and uglification. Some residents work in the new plants around Rte. 128. Unemployment, however, is the highest in the commonwealth.

Then came urban renewal to demolish the last resource for genuine renewal. A number of handsome old cotton mills and stately workers' dormitories were bulldozed into parking lots.

The Southworths were among the first to cry out, "What are you doing to this town?" A citizens effort was launched. Michael and Susan Southworth drew up a map of Lowell's many fascinating historic assets: the mills, the locks, all kinds of ethnic churches, taverns, Indian burial grounds. "The Lowell Discovery Network," they called it. It helped Lowell discover itself.

So Whereas having now discovered its unique charms, and Whereas these remnants of industrial history "contribute in great measure to our American Heritage" as well as to a lucrative tourist business, the city council last fall Resolved to seek state and federal funds for an Urban Cultural Park and Further Resolved to develop new programs which will restore the old buildings and waterways in order to restore the town's economic vitality.

The Boott Mill's Cultural Community Center is to be the center piece of this effort. Most of the mill complex, which covers two city blocks along the river, was built between 1835 and 1843. It consists of nine interconnected buildings, ranging in height from three to six stories, framing several courtyards that resemble Italian piazzas. The dominant feature of this town within the town is a clock and bell tower with a splendid, 19th-century weather vane, that beckons from far away.

The Mill is now about half occupied by a variety of small factories. The canal running along it generates all the electric power needed by the community that is to replace them.

The community will include riverview apartments, exhibit halls, artist studios and apartments, a theater, a dance studio, a concert hall, a cinema, a covered shopping mall, restaurants, a library, more shops, a hotel and duplex apartments. Outdoor activities will focus on two courtyards. One is to be enclosed for year round use. The other is a grand space for summer festivals and ceremonies.

As the Southworths see it, this won't be a Kennedy or Lincoln Center. "This should be a blue-collar place for blue-collar art," says Michael Southworth, he points out that Lowell residents have cultural roots in 20 different countries. And by way of explaining what "blue-collar art," might be, he raves about Puerto Rican hand weaving, Irish lacemaking and American Indian beadwork.

Ten years ago Ghirardelli Square—the conversion of a San Francisco chocolate factory into a high-style shopping center—changed historic building preservation in this country from musty pedantry into something that was fun

Boott Mill will be fun with an important social and economic purpose—morally uplifting fun, as it were.

And that is in the old Lowell tradition.

THE BICENTENNIAL CENTER FOR THE DISTRICT OF COLUMBIA

Mr. HOLLINGS. Mr. President, earlier this month, the Bicentennial Center for the District of Columbia was dedicated. Dignitaries from throughout the city, and even a representative of the White House, came to the celebration.

What they expected to find, of course, was a center commemorating the pageant of America. And in the art work of the center, they expected to see something of the great names and events which took America from wilderness to preeminence among the nations of the world.

Instead they found a mural painting which featured such un-Americans as Karl Marx, Friedrich, Engels, Joseph Stalin, and Mao Tse-tung. Thrown in for added insult was a gross caricature of President Nixon.

Mr. President, I think this is disgraceful. That the officials of the District Bicentennial Commission should allow such brazen insult to 99 percent of America's 210 million citizens is indecent beyond belief. It reflects not only bad taste, but an ignorance of America and its people totally unexpected from a group charged with commemorating the Nation's history.

Mr. Howard Flieger, editor of U.S. News & World Report last week devoted his editorial column to this unfortunate incident. His column, entitled "Worst Joke in 200 Years," deals with the perpetrators of this libel exactly as they deserve to be dealt with.

Mr. President, I hope that officials of the District of Columbia will take prompt and resolute action to remove this desecration from the center's walls at once.

I ask unanimous consent that Howard Flieger's column, which appeared in the January 28, 1974, issue of U.S. News & World Report be printed in the RECORD. It deserves the widest possible reading audience.

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

[From U.S. News & World Report, Jan. 28, 1974]

WORST JOKE IN 200 YEARS

(By Howard Flieger)

With varying degree of originality, communities all across the nation are getting ready to celebrate the 200th anniversary of the United States in 1976.

In 1776, when the country was born, the population was 2.5 million.

Now it exceeds 210 million.

If you are one of those millions of American citizens, you have just been insulted.

The Bicentennial Center for the District of Columbia, the nation's capital, was dedicated on January 14 by the Mayor of Washington. A representative of the White House was there. So were other dignitaries.

Looking down on the occasion was a new mural, done for the Bicentennial office by an artist named H. H. Booker II.

Among the personages depicted—

Karl Marx, the father of Communism.

Friedrich Engels, Marx's associate.

Joseph Stalin of the Soviet Union.

Mao Tse-tung of the Chinese Communists.

For extra measure, the muralist included a caricature of President Nixon wearing a mustache and clad in the costume of a movie gangster. He sketched the President's daughter, Tricia Nixon Cox, with an Afro hairdo. He included a portrait of Angela Davis.

This is Americana?

Where are Washington, Jefferson, Tom Paine, Ben Franklin and the Adams family?

Where are such symbols of American culture and uniqueness as Washington Irving, Mark Twain and Carl Sandburg? Winslow Homer, Frederic Remington and Thomas Hart Benton? Francis Scott Key and George M. Cohan? John Philip Sousa and Louis Armstrong? Samuel Gompers and Andrew Carnegie? Thomas A. Edison and Mary Bethune? Where are the pathfinders—Lewis and Clark, Charles Lindbergh and Neil Armstrong, to name a few?

The list is endless. If portraits are needed to dramatize two centuries, you can take your pick from within our own borders, including many immigrants from other lands.

Granted, the planning for the Bicentennial observance has been uneven, often halting and short of real achievement on a national scale. But hundreds of communities, many States and regions have pitched in with their own projects and are moving ahead to the anniversary with enthusiasm and pride.

Granted, too, there has been honest disagreement. One group, for example, feels that the basic aims of the American Revolution are being overlooked. But such things are legitimate dissent—which is the American way.

The mural in Washington is something else.

A member of the staff of this magazine asked an official of the District of Columbia Bicentennial Commission about the inclusion of the Communist figures. The explanation was that those people are a valid part of the American scene because "all were involved in some way with the United States over the past 200 years."

When asked what Marx, Engels, Stalin and Mao had to do with the U.S., the official, irritated, broke off the conversation.

The muralist explained to a reporter for "The Washington Star-News" that his employer told him to "make faces" on the walls, so he sketched those he considers interesting. He called it a "lot of fun" and seemed to regard the whole affair as a very clever joke.

Marx, Stalin and Mao as characters in an American panorama—this is a joke?

It is a coarse insult to the very word, a desecration of everything truly American from 1776 to today. It is high jinks of the lowest order, done in the poorest taste.

Those who had anything to do with it—whether through deliberate participation, irresponsibility, arrogance or plain ignorance—should hang their heads in shame.

PASSING OF DISTINGUISHED KANSAN C. I. "CY" MOYER

Mr. DOLE. Mr. President, last Sunday, January 27, Kansas lost one of her finest citizens and most distinguished public servants.

C. I. "Cy" Moyer, the first and only regional director the Kansas City office of the Small Business Administration has had in its 20 years of existence, succumbed to a heart attack at the age of 69.

SBA POST CAPPED DISTINGUISHED CAREER

Cy Moyer assumed the post of regional SBA director in 1953. Under his guidance, the regional office was several times named as the best in the Nation, most recently in ceremonies last fall which I was privileged to attend.

But by the time he took over the SBA position 20 years ago, Cy Moyer had already accumulated a record of achievement and experience in law, business, politics, and civic affairs which few men can equal in a lifetime.

He had served 14 years in the Kansas Legislature, 10 in the house and 4 in the senate. He had enjoyed a successful 3-

year tenure as Kansas Republican State Chairman, during which he managed two successful gubernatorial campaigns. He had made his mark on the contemporary history of my State of Kansas.

SMALL TOWN BEGINNINGS

Born in the small town of Severance, Kans., in Doniphan County, an area he represented in the legislature, Cy Moyer knew well that smallness was no deficiency to be overcome but rather it could be an asset and a virtue to be fostered.

The Small Business Administration, therefore, was like home to him. The special challenge of helping small businesses to develop and prosper was well suited to Cy Moyer, and he excelled at it. In 1969, he received the highest accolade awarded by the SBA, its Gold Medal for Superior Performance. The service he performed in the four State region of Iowa, Nebraska, Missouri, and Kansas, won him not just that award but it won him the respect and the friendship of thousands. And I am proud to say I include myself among those thousands who looked upon Cy Moyer with the highest regard.

As public servant, as lay leader in the Methodist Church, as member, officer, and driving force in so many Kansas civic and fraternal associations and as citizen, Cy will be long remembered and sorely missed.

He is survived by his gracious wife Ruth, his son, two daughters, and seven grandchildren in whom he always had a bursting pride. He leaves behind as well, an important legacy of achievement and example of excellence in which they, too, will find cause for pride and which all Americans would do well to emulate.

LONG-TERM SETTLEMENT OF MIDDLE EAST CONFLICT

Mr. BENTSEN. Mr. President, the issue of a long-term settlement of the Middle East conflict once again occupies our thoughts following talks resulting in a preliminary disengagement agreement between Egypt and Israel. A number of proposals for a long-range, comprehensive settlement have been advanced. Among these is a plan enunciated by Ambassador George McGhee, a well-known and able scholar of international affairs. As a former Ambassador to Turkey and West Germany and a former Under Secretary of State for Political Affairs, Ambassador McGhee makes a thoughtful presentation of one of many alternatives that will undoubtedly be under consideration. I ask unanimous consent that Ambassador McGhee's article, which appeared recently in the Washington Post, be printed in the RECORD.

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

[From the Washington Post, Jan. 14, 1974]

PEACE WITH A GUARANTEE

(By George C. McGhee)

In the "Tripartite Declaration of 1950" the United States, England and France, as the great powers with responsibility and influence in the Mideast, stated their determination to protect the existing boundaries of all states in the area against aggression by any other state. Israel and the individual Arab states were included on the same basis. At the same time the three powers resumed limited arm supplies to the area under the control of a Tripartite Committee.

Since it helped alleviate Israeli fears of Arab aggression, as well as the concerns of Arab leaders over possible aggression by Israel or other Arab states, the declaration was generally welcomed and provided increased stability to the area. Although eroded over the years by neglect and even misuse, as in the Anglo-French-Israeli invasion of Egypt in 1956, it has nevertheless been given lip service by succeeding American Presidents and, even today, provides the only formal basis for United States alliance policy in the area. A venerable and ambiguous policy can sometimes be very useful.

In 1956 Adlai Stevenson, running for the second time for the presidency, urged the inclusion of the Soviet Union as a signatory of the declaration. This proposal was widely criticized and was perhaps premature, since it would have given the Soviets the status of a Mideast power which they had not yet earned. Nevertheless, it may have pointed the way to a step which could overcome the present impasse resulting from the recent Arab-Israeli conflict.

It has been proposed that the United States alone guarantee Israel against Arab aggression. This would presumably permit Israel to make territorial and other concessions required for an agreement with the Arabs which, on grounds of security, she would not otherwise deem possible. Israel is, with some justification, determined to end up with "secure" borders, i.e., by maintaining some of the captured territory beyond her 1967 borders, particularly the Golan Heights, where required by the local tactical situation. It is, on the other hand, obvious that there will never be a voluntary agreement by the Arabs to any settlement which is not essentially a return to the 1967 boundaries as called for by the United Nations Resolution of Nov. 22, 1967.

It is this difference, which on the face of it seems negotiable, that poses the greatest single obstacle to a successful agreement. The prospect is made even more tragic by the fact that in reality there are no "secure" boundaries as such for either Israel or the Arab states, no matter how they are drawn.

The danger in a U.S. guarantee to Israel alone is that it invites the Soviets—indeed it makes it necessary for them—to offer similar assurances to the Arab states through an upgrading of their present commitments. This would, therefore, only formalize at a higher and more binding level the present U.S.-Soviet confrontation in the Mideast. A new outbreak of hostilities would be even more likely to bring U.S. and Soviet forces into direct conflict. Such a guarantee would not, moreover, appear even-handed in regard to the Arabs. It would evince no interest in them or indicate what we would do in the event of Israeli aggression.

A preferred alternative would be for the outside powers involved—the Tripartite Powers but this time including the Soviet Union—to declare that they will guarantee a peace settlement—and the resulting boundaries—once accepted by the states of the area. This time our ratification should—as was not deemed feasible in 1950—be submitted to the Senate for approval as a treaty. Only in this way can our guarantee be made credible.

Since the Soviets are now a Mideast power in their own right, our invitation to join us would not further enhance their status. They should find in such a guarantee a convenient way to "get off the hook" with the Arabs. Although it will preclude the Arabs winning a new Mideast war, it will also save them from losing one.

The British and French, although they "sat out" the last round of hostilities, should be included. They are traditional arms suppliers in the Mideast and have a residual moral influence there. They would expect to be signatories and could help depolarize a U.S.-Soviet confrontation. It would be tempting to try to include Japan; however, Japan is not an arms supplier, is too vulnerable to the stoppage of Mideast oil and has never had influence in the area.

The new declaration should, as before, emphasize primary reliance on the United Nations in stopping any conflict. In the event of hostilities, the United Nations would, through the Security Council, take any steps it considered necessary and feasible to limit and stop the war and negotiate a settlement. Only if it failed would it call on the Four Powers. The agreement should provide that the Four Powers would limit their activities to those which can be accomplished external to the area—the denial of arms, blockade and, in extreme cases, air action based outside the area. Any "forces" sent in would be U.N. Forces.

The problem of defining aggression should be facilitated by demilitarized buffer zones and a permanent U.N. Peace and Observer Corps between the opposing forces. In the event there is not agreement among the powers as to a joint course of action following a United Nations failure to stop aggression, each power would carry out its interpretation of its obligations under the declaration—within the agreed ground rules designed to prevent direct confrontation in the area.

The declaration should pledge the Four Powers, as did the Tripartite Declaration of 1950, to the creation of a joint arrangement to allocate arms supplies to the various countries of the area. The objective would be to prevent an arms race while assuring all states broad arms parity and discouraging aggression.

The actual settlement including permanent boundaries, demilitarized areas, conditions of access, status of Jerusalem and the Holy Places, satisfaction of the rights of refugees, the problems of Palestine, financial security and other arrangements would not be dictated by the great powers. If there is to be any hope for permanence, the final settlement must be accepted voluntarily by both sides as the best they can obtain under the circumstances and as one they can "live with."

It is unrealistic, however, to believe that agreement can be reached without influence on the negotiating parties by those states that now support them. Israel and the Arab states are not independent variables in the Mideast equation. They have all been supported by the great powers since their inceptions. The level of assurances given by us to Israel and by the Soviets to the Arab states affect directly the negotiating sights and bargaining power of the states involved. Too great a support for either side not balanced by support to the other could result in intransigence, overconfidence or renewed war.

"Pressure" is not the right word to describe discussions between a power and its "protected" state. What is involved is the reaching of an agreement between the two as to the conditions under which support can be provided. It is comparable to a bank's negotiations with a borrower as to how he will use the borrowed funds. In supporting Israel, we must take into account not only whether her aims are legitimate and realistic, but whether they are compatible with the relevant U.N. resolutions and with our own interests, which any nation disregards at its peril.

The vital element that the Four Powers alone can supply is the assurance that, once an agreement is reached, it cannot be upset by threats or unilateral action—but only by further agreement. This assurance should provide a powerful incentive on both sides to arrive at a peace settlement.

THE LEXICON OF ARMS CONTROL LITERATURE

Mr. BROOKE. Mr. President, the subject of deterrence is extremely difficult to understand, let alone master. We who are not experts must nevertheless seek to come to grips with its complexities. One of these is the unique vocabulary associated with deterrence thinking and arms control. Such terms as "terminal accuracy," "inertial guidance," "assured destruction" and acronyms like MAD, MIRV, MARV seem to cloud rather than enlighten the understanding. Yet, familiarity with these and related terms is necessary if intelligent evaluations are to be made of proposals such as those recently advanced by Secretary of Defense Schlesinger concerning "retargeting" and increasing the accuracy of our strategic nuclear weapons. In this regard, a glossary of arms control terms recently published in a volume entitled "SALT: Implications for Arms Control in the 1970's" has been useful to me. In inserting it into the RECORD I hope it will be equally useful to others.

Mr. President, I ask unanimous consent that the "Glossary of Terms Used in Arms Control Literature" be printed in the RECORD.

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

GLOSSARY OF TERMS USED IN ARMS CONTROL LITERATURE

Active defense. The type of defense that seeks, by use of defensive missiles or airplanes, to intercept an offensive missile strike before it reaches its targets.

Active sensor. Devices designed to gather evidence concerning incoming missiles by the emission of energy impulses that reflect back from objects in the air. The most obvious example is the radar.

Air-to-surface missile. A missile fired from a vehicle in flight against a target on the ground.

Antiballistic missile (ABM). A defensive missile fired to intercept an offensive ballistic missile at either an endoatmospheric or exoatmospheric level.

Antisubmarine warfare (ASW). The type of "defensive" warfare whereby an attempt is made to combat the unique advantages of the submarine. There are five basic steps in antisubmarine warfare: (1) detection—the ability to determine that a submarine actually exists in the area under observation; (2) classification—the ability to identify friendly from hostile submarines, real from false targets like schools of fish, and types of hostile submarines; (3) localization—determining the accurate position of the detected hostile submarine; (4) attack—the use of weapons capable of reaching the submarine at varying depths; and (5) destruction—the actual ability to render the submarine inoperable. All five of these steps require a high degree of technical sophistication. At present, antisubmarine warfare capabilities lag behind the mobile offensive capabilities of submarines.

Area type of defense. Defense systems that seek a capability to defend valued property over a fairly widespread geographical area.

Assured destruction. The ability to inflict an "unacceptable" degree of damage upon an aggressor, even after absorbing his surprise first strike. The degree of unacceptable damage is a function, in part, of target selection, value preferences, and economic considerations. Mutual assured destruction is a condition in which this capability is possessed by opposing sides, resulting in deterrence by "mutual terror."

Ballistic missile. A missile fired from land or sea sites against surface targets. Such a missile reaches, at the apex of its flight, an altitude outside of the earth's atmosphere before falling back toward its target under the influence of gravity.

Ballistic Missile Defense (BMD). A system designed to destroy offensive ballistic missiles before they reach their targets. The system is composed of antiballistic missiles, radars, and control equipment.

Bipolarity. The model of the international system that is characterized by two opposed primary actors whose strength clearly outclasses that of the other participants in the system.

Bus. The portion of a multiple warhead missile containing the warhead packages and from which the individual packages are launched at their targets.

Catalytic war. Nuclear war between the superpowers triggered by the nuclear attack on one or the other by a third nuclear power.

Circular error probable (CEP). The measure of accuracy of an offensive missile's warhead package against a target. CEP is the radius of a circle centered on the target within which 50 percent of the warheads can be expected to fall. The accuracy figure is usually given in nautical miles (NM) (one NM=1.152 statute miles). A missile system with an accuracy of 0.5 NM CEP is therefore one that can be expected to deliver 50 percent of its warheads within a radius of one-half a nautical mile around the target.

Civil defense. *See* Passive defense.

Counterforce first strike. An initiatory attack aimed at an adversary's strategic weapons.

Counterforce weapons. Weapons aimed at an opponent's strategic weapons—missiles or bombers—while they are still in prelaunch status.

Countervalue second strike. A retaliatory attack aimed at an opponent's cities or industries.

Countervalue weapons. Weapons aimed at civilian targets. They are termed-*countervalue* because their targets are the economic and human resources of the opponent state. (They are sometimes termed *countercity weapons*.)

Cruise missile. A missile fired from sites on land or at sea against surface targets. Such a missile remains in the earth's atmosphere during its flight.

Damage denial. The capability of precluding any significant damage from an opponent's nuclear attack.

Damage-limiting capability. The ability to minimize the injury that a nuclear attack could cause within "acceptable" bounds, if deterrence were to fail.

Depressed-trajectory missile. A ballistic missile fired at a much lower angle than normal. Consequently, such a missile rises above the line-of-sight radar horizon at a later stage of flight, thus making detection and interception more difficult.

Deterrence. The strategy which seeks to persuade an opponent that in his own interest he should avoid certain courses of action, or in a nuclear sense that the costs and risks attendant to nuclear aggression clearly outweigh any calculable gains to be drawn from such aggression.

Endoatmospheric defensive missile. A defensive missile designed to carry out interception of an offensive missile *after* the latter has *reentered* the earth's atmosphere. The interception thus is designed to take place in the terminal phase of the offensive missile's flight.

Exoatmospheric defensive missile. A defensive missile designed to carry out interception of an offensive missile *while* the latter is still *outside* the earth's atmosphere. Interception is thus designed to take place during the mid-course phase of the offensive missile's flight.

Finite deterrence (FD). A deterrent strategy designed to create credibility by exclusive emphasis on countervalue targeting, that is, targets such as enemy cities.

First strike. The launching of an initial nuclear attack before the opponent attacked has used any strategic nuclear weapons himself.

Forward-based systems (FBS). Aircraft and other capabilities that could strike the Soviet Union, at least in one-way missions, although such systems are designed primarily for missions in Western and Central Europe in support of NATO ground forces.

Fractional orbital bombardment System (FOBS). A missile that achieves an orbited velocity but fires a set of retro-rockets before the completion of one revolution in order to slow down its re-entry system and to drop the warhead that it carries into a normal ballistic trajectory toward a target on the earth's surface.

Hardening. The process by which land-based missiles or bombers are made less vulnerable to the blast effects of a nuclear attack through protective structures such as missile silos.

Hard-point defense. Defenses designed to protect ICBM sites or other key facilities that possess a relatively high degree of ability to withstand a high level of psi overpressure (also known as hard-site defense).

Inertial Guidance System. The basis guidance system for ballistic missiles consisting generally of an encased mechanism capable of detecting and correcting for deviation from planned trajectory and/or velocity.

Intercontinental ballistic missile (ICBM). A ballistic missile launched from land with an approximate range of 4,000+miles.

Intermediate-range ballistic missile (IRBM). A ballistic missile launched from land with an approximate range of 1,500 to 3,000 miles.

Invulnerability. The condition in which a nuclear force is protected from destruction by an enemy counterforce attack. Invulnerability is sought in several ways: (1) *dispersal*, whereby nuclear forces are positioned at multiple staging areas; (2) development of preattack *warning systems*, such the U.S. Ballistic Missile Early Warning System (BMEWS); (3) development of *mobility* and *concealment* capabilities, the Polaris system being an example; and (4) *hardening*.

Kiloton (KT). The energy of a nuclear explosion that is equivalent to that produced by the explosion of 1,000 tons of TNT. The Hiroshima bomb had an approximate yield of 20 kilotons.

Medium-range ballistic missile (MRBM). A ballistic missile launched from land with an approximate maximum range of 1,500 miles.

Megaton (MT). The energy of a nuclear explosion having a yield equivalent to one million tons of TNT. Equivalent of 1,000 kilotons.

Multiple independently targeted re-entry vehicle (MIRV). A reentry vehicle containing several warhead packages capable of wide separation and independent targeting. MIRV capability will be incorporated into Minuteman III and Poseidon missiles.

Multiple re-entry vehicle (MRV). A re-entry vehicle containing several warhead packages of limited separation capability.

Multipolarity. The model of the international system in which several states exist whose individual power capabilities and/or potential, although not equal in all respects are nevertheless comparable.

Mutual and balanced force reductions (MBFR). Arms-control concepts for Europe that would provide for reduction in the military forces of NATO and the Warsaw Pact.

Mutual assured destruction. *See* Assured destruction.

Nuclear delivery vehicle (NDV). The component of a delivery system designed to carry nuclear weapons to their target.

Nuclear Non-Proliferation Treaty. Treaty negotiated by the United States and the Soviet Union and subsequently adhered to by many other states that seeks to inhibit the spread of nuclear weapons by requiring that signatory nonnuclear states agree not to acquire nuclear weapons and existing nuclear powers agree not to assist nonnuclear powers in acquiring such weapons.

Nuclear proliferation (Nth country problem). Designation given to the problem of the possible spread of nuclear weapons to an indeterminate or "N" number of countries by national development of nuclear capability or procurement of nuclear weapons from existing nuclear powers.

Offensive missile phases. An offensive missile can be postulated to go through three phases in its flight. The first is the boost phase, in which the missile is thrust upward from its launching pad by the rocket motors of the propulsion system. For an ICBM this phase lasts approximately from three to five minutes. The second phase is the mid-course one, which begins when the booster rockets have burned out. The remainder of the missile continues upward without power until the force of gravity overcomes the impetus provided initially by the rocket motors. After reaching its zenith, the missile, reacting to the pull of the earth's gravitational field, begins to descend toward the target. The end of the mid-course phase occurs when the downward course of the missile approaches the upper limits of the earth's atmosphere. For an ICBM this mid-course phase lasts approximately twenty-five minutes. The last phase, the terminal phase, begins with the re-entry of the missile into the earth's atmosphere and ends with its impact on the target. In the case of the normal ICBM this phase lasts approximately one to two minutes.

Passive defense. A defense against a nuclear strike whose objective is to gain the ability to absorb an attack by either removing the targets in question from offensive reach or protecting them against the effects of nuclear explosions. This latter objective usually involves the building of protective shelters, hardening, etc.

Passive sensor. An information gathering and processing device that receives and identifies phenomena produced by an offensive missile itself. An example would be an infrared sensor capable of detecting and distinguishing the infrared radiation of a missile.

Payload. The weight that the rockets of a missile are required to lift. This includes both the weight of the booster stage of the missile and the re-entry vehicle with its warhead package.

Penetration aids (Pen-Aids). Capabilities designed to neutralize the effect of ABM and to assure that a missile reaches its target.

Pounds per square inch overpressure (PSI). The measure commonly used to determine the capability of an object to withstand the pressure exerted by a nuclear blast. Current Minuteman silos in the United States are estimated to be hardened to approximately 300 PSI overpressure.

Preemptive strike. A nuclear attack launched in anticipation of the opponent's decision to resort to nuclear war.

Preventive war. War initiated in order to forestall an opponent's acquisition of military preponderance.

Re-entry System (RES). Those parts of the missile, including the warhead, intended to fall back into the earth's atmosphere under the influence of gravity and to deliver the warhead to its target.

Re-entry vehicle (REV). Each separate package of a multipackage re-entry system designed to fall back through the atmosphere separately.

Second-strike force. A missile attack launched in retaliation against an initial attack by an opponent.

Second-strike force. A force capable of extensive retaliation after absorbing an opponent's first strike.

Soft facilities. Missile sites, command and control centers, and other potential targets that have not been hardened to a degree sufficient to protect against the effects of nearby nuclear blasts.

Stable strategic deterrence. A situation in which both opposing nuclear powers have available weapons systems so numerous and diversified that neither side can hope to upset the balance either through war or through technological innovation.

Strategic nuclear forces. Those forces defined as having the capability of delivering nuclear weapons against countervalue or counterforce targets; also defensive forces designed to defend against such attacks. In the superpower context such forces are commonly thought to include those having intercontinental capabilities, such as long-range bombers, ICBMs, missile-launching submarines, and defenses built to counteract such offensive capabilities.

Strategic nuclear parity. A relationship between opposing nuclear military forces wherein such forces are roughly equal to one another in military capacity. Nuclear parity usually is measured in terms of megatonnage, numbers of launch vehicles, or deliverable nuclear warheads.

Strategic nuclear sufficiency. A term used by U.S. strategic security planners to denote a situation in which the United States possesses a nuclear capability able to: (1) maintain an adequate second-strike capability to deter an all-out surprise attack on U.S. strategic forces; (2) provide no incentive for the Soviet Union to strike the United States first in a crisis; and (3) prevent the Soviet Union from gaining the ability to cause considerably greater urban/industrial destruction than the United States could inflict on the USSR in a nuclear war.

Strategic nuclear superiority. The possession by one power of a decided advantage in nuclear weaponry measured in terms of megatonnage, launch vehicles, and deliverable warheads. In addition to quantitative and qualitative factors, strategic superiority includes a psychological component. The impression by Power A that Power B has attained a condition of strategic superiority may confer on the latter a *political* advantage in its international relationships.

Submarine-launched ballistic missile (SLBM). A ballistic missile launched from an underwater-capable vehicle. The missile is capable of being fired while the vehicle is either on the surface or submerged.

Surface-to-air missiles (SAM). A missile launched from the surface and designed to intercept a target in the air.

Terminal defense. The type of ballistic missile defense that seeks to intercept incoming missiles in the terminal phase of flight.

Theater nuclear forces. Those nuclear forces designated for use in a limited "battlefield" situation where conditions inhibit the use of weapons capable of causing extensive damage through actual nuclear explosion of fallout.

Throw weight. The weight of the re-entry vehicle with its warhead package. In contrast with payload, the weight of the booster stage of the missile is not included in the calculation of throw weight.

Triad. The term used in referring to the basic structure of the U.S. strategic deterrent force. It is comprised of land-based ICBMs, the Strategic Air Command (SAC) bomber force, and the Polaris/Poseidon submarine fleet.

Undersea Long-range Missile System (ULMS). The proposed successor to the U.S. Polaris submarine fleet. It will consist of submarines capable of extended periods at sea and requiring less time in port for overhaul. There will be an increase in on-board missiles in comparison to Polaris. (Current unclassified estimates are twenty-four as compared to sixteen on Polaris.) The expected range of the missile will be approximately 6,000 nautical miles, allowing the submarines, in their deterrent capacity, to be on station much closer to their home bases than is the case with Polaris. The missile is expected to have a sophisticated MIRV capability.

Variable-range ballistic missile (VRBM). Missiles located in the Soviet Union capable of intercontinental range but able to be targeted also on Western Europe.

Warhead. The explosive charge, nuclear or conventional, to be delivered by a missile.

Yield. The force of a nuclear explosion expressed in terms of the number of tons of TNT that would have to be exploded to produce the same energy. The effects of the yield are caused by nuclear radiation, thermal radiation, blast, and shock. The extent of destruction is primarily a function of the medium in which the explosion takes place. The type of nuclear weapon and the time after detonation are also important factors in determining the extent of anticipated destruction.

SOARING COSTS OF HIGHER EDUCATION

Mr. CRANSTON. Mr. President, Washington Post Columnist Carl T. Rowan has provided a perceptive commentary on the rising cost of getting a college education.

Writing in the January 6 edition of the Post, Mr. Rowan observes that "the American dream of tuition-free public colleges has gone the way of the nickel subway ride."

While not entirely true in my State of California, where 98 community colleges provide tuition-free higher education, the cost squeeze is still threatening potential students with the possibility that many avenues of no- or low-cost post-secondary education will close.

Mr. President, I commend Mr. Rowan's column to the attention of Senators and ask unanimous consent that it be printed in the RECORD.

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

KEEPING COLLEGE COSTS WITHIN REACH

(By Carl T. Rowan)

Any parent who's seen the bill for a son's or daughter's college expenses is well aware of a painful fact—the cost of sending youngsters to college is soaring out of sight.

The median tuition charged a resident at a four-year public college or university is $520 during the current school year, a 67 percent increase since 1965. Add room, board, books, transportation and other expenses, and it costs $2,100 a year for a young man or woman to go to a public college or university in his or her home state. For nonresidents, the total runs to more than $3,000 a year, including $1,336 tuition.

At a private university, the average tuition now is in the neighborhood of $2,000 a year and total annual costs are around $3,500.

Now multiply those figures by four (the number of years it normally takes to get a bachelor's degree) and again by two or three (the number of children many families send

to school). You see the financial burden that confronts today's families.

You also see that the American dream of making a decent college education available to all who are qualified is in trouble. Although almost 60 percent of America's high school graduates now go on to some form of higher education, the Carnegie Commission on Higher Education has estimated that 1 million potential students are barred from attending college because of finances. A study by the Committee for economic Development (CED), a businessmen's organization, found that children from families making less than $3,000 a year are one fifth as likely to attend college as those from $15,000-a-year homes.

The financial crunch of individuals reflects that faced by colleges and universities. Inflation, expansion, poor management, leveling off of enrollments and other factors have combined to threaten the very survival of many institutions of higher education.

Everybody agrees a problem exists, but they don't agree on how to deal with it. Should families with children in school bear a greater portion of the cost of their education, through increased tuition? Or should federal, state and local governments provide more help? At present, the public pays about $3 for each $1 spent by private sources on higher education.

The issue was spotlighted in recent months when the Carnegie Commission and the CED recommended higher tuitions at public colleges and universities, to be offset by direct aid to students who need it. Those who do not qualify for grants could get loans.

The basic arguments for raising tuition is that many students at tax-supported schools can afford to pay more of their own way. By getting them to do this, money will be freed to aid low-income students, it is claimed.

The idea of increasing tuition evokes strong protest from many educators, labor leaders, students and others. They argue that higher tuition will squeeze middle-income families—especially those in the $10,000 to $15,000 range—who will not be eligible for much, if any, financial help. The result, they say, will be that only the rich, who can afford it, and the poor, who get scholarships, will be able to go to college. The surest long-term guarantee of access to higher education is low tuition, not student aid, they argue.

This is not a case of good guys vs. bad guys. Both sides claim to seek the same goal—making sure that college gates do not clang shut on large numbers of students because of lack of money. The problem is how to reach that goal.

Much has been done in the last decade to make college more accessible to the poor, and it would be foolish to halt that progress. Education is a vtial factor in their effort to climb out of second-class status. But to add substantially to the growing burdens of middle-income Americans raises serious problems.

The answer lies in a combination of efforts.

Schools must make the most efficient use of available funds. They should continue to experiment with new approaches in higher education. We need all kinds of post-secondary schools, from community colleges to private universities.

Maybe some increase in public college tuition would help spread the costs more equitably, though doubling charges, as some suggest, seems drastic. If tuition is increased, sufficient grant and loan funds must be available for all who need them.

And the government must not shirk its commitment to students or schools. Aid to higher education has risen considerably in recent years, but only 70 percent of congressional authorizations are actually being spent and the outlay represents only 3 percent of the total federal budget.

The American dream of tuition-free public colleges has gone the way of the nickel subway ride. Maybe that was unavoidable. But we can avoid losing another dream—access to higher education for all who are qualified.

METHODS OF CONTROLLING ABUSE OF POLICE POWER

Mr. TOWER. Mr. President, the July 1972, issue of the OEO Clearinghouse Review contained a number of articles which illustrate the reasons for the concern several of my colleagues and I share with regard to the Legal Services program.

The first, an article entitled "Methods of Controlling Abuse of Police Power" urges active involvement of legal services staff attorneys in limiting police authority. Emphasis is placed on "the right to the streets," and the suggestion is made, by inference, that the kind of activity engaged in by the District of Columbia Police Force during the 1971 disorders is a proper area of concern for legal services attorneys.

Another indication of the importance accorded this subject is the attention given it by the Bureau of Social Science Research, an OEO grantee. I call the attention of my colleagues to the article entitled "Report on Abuses of Police Authority."

Next, in an article entitled, "Indigents Cannot be Incarcerated Without Right to Counsel," we have one more example of Legal Services involvement in what is essentially a criminal matter, despite apparent prohibition to the contrary. As noted, this was a landmark Supreme Court case.

An article entitled "Suspended Students Seek To Protect Right to Leaflet" explains that legal services attorneys brought a class action on behalf of students allegedly threatened or disciplined for circulating leaflets and petitions attacking a member of the faculty of Los Angeles Community College and books used in course work. The plaintiffs represented by Legal Services in this suit were attempting to organize an SDS chapter on the campus.

"Challenge 'Tracking' in Public High Schools" is an article explaining the action of one of OEO's backup centers which challenged the right of the San Francisco school district to run a high school for superior learners. It was argued that the school was discriminatory since minority students were "unable to achieve grades as high as white students" because white students attend better elementary schools.

In the next article, the appellant challenges the authority of a juvenile court judge to determine whether juvenile court jurisdiction shall be waived in matters involving acts which would be felonious if committed by adults.

Finally, we have an example of one of the series of cases in which Legal Services attorneys challenged the right of the courts and others to require information concerning the eligibility of Legal Services clients. The absence of precise statutory language setting forth clear eligibility standards, in effect, waives such standards.

Mr. President, I feel these articles speak for themselves, and ask unanimous consent that they be printed in the RECORD.

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

METHODS OF CONTROLLING ABUSE OF POLICE POWER

(By Stephen E. Gottlieb, the Legal Aid Society of the City and County of St. Louis*)

INTRODUCTION

The relationship of the police to the poor is presently suffering from various conflicts over the allocation and use of police resources. Charges and countercharges of abuse and lawlessness are the symptoms of police failure to deal with questions of police policy. Nevertheless few suits are brought against the police.[1] Charges of breaching the peace and resisting arrest, which are often the countercharges to the brutality charge, are often avoided by Legal Services attorneys, public defenders and the private bar alike, and poorly handled by the courts.

The courts have dealt with police abuse largely in terms of the exclusionary rule. That rule is not well suited to prevent abuse but it is well adapted to inflaming the public. Other means of controlling police abuse do exist, concentrating on the rights of innocent people as opposed to alleged criminals, which may well prove more effective and which put the issues in more sensible perspective. This article will help develop some of these more positive approaches to police practices or abuses.

1. FAILURE OF THE EXCLUSIONARY RULE BOTH AS WEAPON AND AS EDUCATION

Half a century ago the Supreme Court attempted to minimize police harassment and brutality by adopting the rule that evidence illegally obtained could not be used in a criminal prosecution.[2] The rule was intended to prevent illegal searches and seizures by the police. The Court expected the exclusionary rule to accomplish this goal by rendering illegal searches and seizures useless in obtaining convictions.[3] Critics like Wigmore [4] and Cardozo [5] shared the same assumption, only arguing that the officer should be prosecuted along with the defendant.

The distinction between permissible and impermissible searches and seizures is based on the effort, embodied in the fourth amendment, to protect the person and privacy of the innocent.[6] The fourth amendment was ratified to keep the government from seizing people it had no right to hold and information it had no right to know.[7] It was intended to protect people from abuse of legal power by personal, social, or political enemies. It was designed to prevent harassment, blackmail, intimidation and extortion.[8]

The fourth amendment strives to reach these goals by its requirement of probable cause and a warrant for an arrest, search or seizure. Presumably, the requirements of probable cause and a warrant should lead law enforcement officers to concentrate on apprehending criminals, and prevent them from wasting and abusing their time on political opponents, personal enemies, or beleaguered minorities. The real vice of uncontrolled arrests, searches and seizures—"fishing expeditions"—is not that they may catch criminals but that they may be used to harass and intimidate. The likelihood of illegal searches and seizures in the homes of persons unpopular to the officer does not depend on the ability to convict. As demonstrated by the late Senator Joseph McCarthy, public exposure of ideas, friendships, or

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Footnotes at end of article.

hatreds, can easily be a weapon. The same is true of disclosure of confidential business or professionals information or information about sexual relations. The notoriety of the search itself may cause embarrassment and injury. The vice of the baseless arrest is not that it may lead to a conviction but that the citizen has already been embarrassed, punished and confined.

In fact, however, the exclusionary rule limits inquiry only when its purpose is proper:

Only occasional and flagrant abuses come to the attention of the courts, and then only those where the search and seizure yields incriminating evidence and the defendant is sufficiently compromised to be indicted. If the officers raid a home, an office, or stop and search an automobile but find nothing incriminating, this invasion of the personal liberty of innocent persons too often finds no practical redress. There may be, and I am convinced that there are, many unlawful searches of homes and automobiles of innocent people which turn up nothing incriminating, in which no arrest is made, about which the courts do nothing, about which we never hear.[9]

Thus the officer suffers no penalty at all from the rule unless his object, thwarted by the rule, was to obtain the conviction of a criminal.[10] When the officer legitimately suspects a crime his premature invasion of personal liberty is likely to be censured but only if it prevented conviction in an otherwise manageable case. If, for example, an officer without probable cause but with some desire to harass encounters incriminating evidence in an illegal search, he is unlikely to incur departmental censure because there was no probable cause and, therefore, there was no possible conviction lost. If the officer's purpose is extra-legal the sanction doesn't work at all.

Where police, neither intending nor undertaking to prosecute, take the law in their own hands for purposes of harassment, threat or revenue, the courts have no means of control at all. . . . Clearly no court rule of evidence is likely to deter police from making such a search and seizure. In fact, as one commentator has suggested, the strictness of the exclusionary rule may increase the incentive for this type of infraction.[11]

Thus the exclusionary rule misses the mark entirely as a device to protect the innocent from intentional harassment.

It is possible that the rule prevents harassment based on discriminatory assumptions of probable cause. For example, some officers may be disposed to assume that long-haired men carry narcotics and that black persons in strange areas are stealing. A strict interpretation of probable cause may well inhibit some such arrests.[12] It is also possible that the rule has prevented some unintentional harassment by overzealous officers. And, more important, the rule may be essential lest, as Brandeis argued, the courts sanction lawlessness and contribute to the demoralization of the police.[13]

But since the exclusionary rule was developed the defense of the constitutional right to be free of abuse of governmental power has been left largely to persons convicted of relatively serious crimes who were seeking to eliminate incriminating evidence against them. A more inappropriate context for defining constitutional rights could hardly have been developed. By contrast the Supreme Court has discouraged civil litigation, with the notable recent exception of *Bivens*,[14] By providing limited immunity to the officer in *Pierson v. Ray*,[15] and damage immunity to the city in *Monroe v. Pape*,[16] it has prevented civil damage litigation from being the instrument for defining civil liberties. In addition, it has declined to entertain suits for injunction,[17] and avoided an opportunity to compensate the innocent.[18]

Footnotes at end of article.

By failing to develop at least a parallel line of cases giving innocent persons access to the courts for more ligitimate purposes regarding these rights, the courts have necessarily abdicated any moral leadership they might have exercised, and poisoned constitutional rights with a meal of crime.

Recently Justice Burger suggested he may be inclined to limit or replace the exclusionary rule.[19] Nevertheless the problems which the rule was meant to deal with are still very real, and more effective protection for civil liberties is essential.[20] Assuming that judicial regulation of police practices can be effective only in an atmosphere of broad acceptance of civil liberties. both by the police and the public, it is essential for attorneys to develop and pursue cases concerning direct injury to innocent persons instead of just their guilty counterparts.

Legal Services attorneys have a peculiar advantage in this field: since they are not members of the criminal bar they are often sought out not to defend criminal prosecutions to take affirmative action against abusive practices. Such attorneys must learn to take full practical, strategic and polemical advantage of those facts. Affirmative action against abusive practices is quite difficult,[21] the more so because it is relatively uncharted. There are, however, several crucial areas which offer important possibilities for legal development of the rights of innocent persons and client groups. Several issues involving freedom versus abuse will be considered. These issues are suited to litigation but legislative or administrative action should also be considered. The article concludes with a brief discussion of several broader issues which dominate citizen-police relations. These issues can probably benefit most from advice and counselling by attorneys rather than directly from litigation.

II. IMPROVING POLICE COURT PRACTICE

The police, justice of the peace, or city courts are generally the first and perhaps most important jurisdiction in which relations between citizens and police are tested.[22] In these courts persons alleging police abuse generally meet their first hurdle endeavoring to defend charges which cover, conceal or justify the use of official force. A complaint of false arrest can only succeed if the defendant is acquitted or not charged. A complaint of excessive use of force can generally succeed only if the defendant is acquitted of resisting arrest or not charged. As a practical matter those original charges and countercharges do come in pairs.[23] Thus it is essential to provide counsel to defend those original charges or otherwise assure a fair trial of the issue in order to deal effectively with police abuses.

Dealing with such charges is largely a matter of court reform. Most minor offenses are summarily tried, often on short notice, in mass production fashion, before judges who have seen thousands of criminals parade before them.[24] Sympathies lie with the police. The patrolman's job is difficult; split second misjudgments are excused and the "authority" of the police upheld against defiance, however sincere.[25] Defending these minor offenses therefore requires securing substantial due process so that the defendant has a chance of acquittal.

A. The right to counsel

The most basic issue is the absence of counsel in the police courts. Although indigent defendants have a right to appointed counsel in all prosecutions for serious offenses (and this may include a large portion of the non-traffic cases in police courts) this right is seldom enforced.[26] If not found indigent and appointed an attorney by the court most defendants simply find the cost of hiring an attorney prohibitive—often higher than the likely, as opposed to maximum, fine. Neither uncompensated counsel nor overburdened public defenders will solve the problem because of the common temptation to settle (a practice similar to plea bargaining but revolving around the size of the fine rather than the nature of the offense). Because of their critical place in the legal system these charges have an importance beyond the value of the typical fines. Similarly, the procedures in the police courts have a significance well beyond their limited jurisdiction. Thus despite the theoretical availability of counsel in some cases, police courts must be properly equipped to handle *pro se* cases. (See the section on trial procedures, *infra*, for specific suggestions.)

B. Jury trial in police courts

The right to jury trial for municipal ordinance violations appears to depend solely on ordinance or local law. The Supreme Court has exempted petty offenses from the jury trial requirement and defined petty as any offense punishable by less than six months in prison.[27] A recent decision the double jeopardy provisions to a 90-day ordinance in Florida.[28] It would seem that if an ordinance is criminal for purposes of double jeopardy it is criminal for purposes of a jury trial, but apparently the Court by applying a "balancing" test sees no inconsistency. There may be another constitutional approach in states where citizens of some communities are granted juries and some are not for identical offenses. There might be a denial of equal protection in that disparity. However, unless the court considers a trial by jury to be an important right and applies a stringent equal protection test, it may be inclined to accept an argument supporting the distinction on the basis of local autonomy.

Provision for jury trials can often be found in state or local statutes, ordinances or rules. But resistance to their use is likely to be strong. In *State of Missouri ex rel. Butler v. Cady*,[29] the St. Louis Circuit Court granted a writ of mandamus requiring a jury trial in a city court pursuant to Sections 175.010 and 175.020 of the Revised Code of the City of St. Louis at the prescribed rate of $18 per day. But the city's response was to amend the ordinance so that jury trial is now discretionary and now costs $144 per day—a pyrrhic victory indeed. This incident emphasizes the general thesis of this article that it is essential to take steps to alter the climate in which judicial and legislative decisions are made through appropriate rhetoric and choice of issues and clients.

The argument against jury trials is time and expense. Yet in many police courts a small number of judges contrive to dispose of a large number of cases on part-time or half-day dockets. If justice occasionally requires a jury trial, such "efficiency" is no justification for avoiding it. Jury trials must be available to keep the court system responsive whenever lawyers discover there is no alternative. Indeed on minor cases if lawyers are satisfied of the impartiality of the bench they have the same reasons to avoid jury trials that the judges do—time and expense—and the resulting impact on dockets, time and personnel is slight.[30] But where a civil action for false arrest or excessive force is planned a jury trial of the prosecution of charges should be employed in most instances.

C. Trial procedures in city courts

City or police courts are often the successors of the old justice of the peace courts and not uncommonly their practices are but slightly improved. Persons held in custody have all the rights necessary to a fair trial—that is to defend themselves and show their innocence. In practice due process seldom extends down to the level of these courts.[31] As the President's Commission on Law Enforcement and Administration of Justice reported,[32] assembly line procedures are the rule rather than the exception.

Although local practices vary, defendants are often brought into court the morning after arrest, at which time the judge or clerk asks for their plea, and the judge directs the trial to begin. Thereafter the judge directs the policemen to step down and defendant to testify, thus sacrificing each and every one of defendant's rights.[33]

Despite these practices, local rules may offer the defendant a host of rights. Missouri rules, for example, provide the defendants with the right to retain counsel,[34] a continuance,[35] bail and the reduction of bail,[36] witnesses and subpoenas to compel their attendance,[37] an opening statement,[38] appeal,[39] and silence.[40] The Missouri constitution guarantees the right to cross-examine prosecution witnesses [41] and, for most jurisdictions, the right to trial by jury.[42] Regardless of state law or local rules, most of these rights (with the exception of appeals [43] and jury trials [44]) should be available on federal constitutional grounds because these are criminal proceedings.[45] State law may treat city court proceedings as civil despite all the effects of a criminal adjudication.[46] But even defendants in civil cases have a right to a fair trial or hearing which includes most of these specific rights.[47]

Without help from the bench or bar defendants' rights to due process in police courts are meaningless. Without being advised of their rights or being told that they can take time to obtain witnesses or to consult with counsel most defendants lose their rights automatically. With the judge directing the pace of proceedings he is effectively causing defendants to abandon those rights. If no one asks the defendant whether he is ready or whether he needs help to gather witnesses in his defense, he will find himself on trial without the resources to defend himself. If he does not understand these basic procedural rights it is impossible to give him a fair trial.[48] Thus the court has a duty to inform defendants of their rights.[49] Indeed it is this precise problem which underlies the requirement of counsel for indigents in serious cases.[50]

Defendants do not waive their rights by submitting to assembly line procedures. Waiver is an intentional abandonment of a known right. Therefore, such constitutional rights cannot be waived without knowledge and willingness.[51] Consistent with due process the court should publicly ascertain for itself whether defendant waives those rights, if at all.[52]

Regardless of the ground of decision it is essential that the trials which oversee the relations between lay persons and "authority" be conducted fairly, impartially and with understanding of the needs of both sides. It is equally essential that courts which try large numbers of persons unrepresented by counsel develop procedures to ensure fair trials, and to do this the full panoply of due process rights should be accorded. In practice, however, there is too little judicial time or personnel to provide justice is these cases. But this is no excuse. It is necessary to extend the guarantee of due process to these courts by appeal if the matter was apprehended in time (a useless procedure for law reform purposes if the appeal is by trial de novo), by habeas corpus if the defendant was incarcerated, or by collateral attack or suit for injunctive relief if the defendant is at liberty. Civil liberties are more commonly at stake in these courts than in more carefully regulated higher courts.

III. PROTECTING CLIENTS FROM ARREST RECORDS AND WARRANTLESS ARRESTS

In addition to improving police court practice, another problem is to counter the use of arrest itself as a harassment device. An arrest record, even if unsubstantiated by later warrant or conviction, causes severe embarassment and bars access to many jobs. Arrest procedures also need reform. In some cities no warrants are required by local law or custom and therefore the police almost always make arrests without them. This practice makes a mockery of the constitutional requirement of a warrant. It also thwarts the purpose of the warrant requirement by exposing men to repeated arrest, personal and financial disgrace, damaging police records, loss of wages and other damage based only on an arresting officer's on-the-spot decision.

A. Expunging arrest records

There is some authority for expunging arrest records. But despite decisions favorable to their obliteration, the request is still treated as extraordinary; the burden remains on citizens to take affirmative action to clear their names.

In *United States v. Kalish*,[53] the court held:

No public good is accomplished by retention of the material (records of arrests not resulting in conviction) while a great imposition is placed on the citizen. His privacy and personal dignity are invaded.

The court ordered the Attorney General to destroy the records.

A number of decisions by other federal courts have reached the same conclusion. The Fifth Circuit ordered records of arrests destroyed in *United States v. McLeod*,[54] when the arrests were made for harassment. The suit was brought under the Civil Rights Acts. In *Hughes v. Rizzo*,[55] the court ordered arrest records destroyed where no charges were brought and there was no probable cause for arrest. Records of arrests made without probable cause were also expunged in *Wheeler v. Goodman*.[56]

Although *McLeod* and *Rizzo* dwelt on the improper actions of the police, in *Menard v. Mitchell*,[57] the D.C. Circuit adopted a rationale closer to *Kalish*.[58] The court held that even if probable cause was found, relief should still be available to the person arrested and later released. In the court's view, if the person was exonerated there would be no reason for continued punishment by adverse use of his criminal records. The court also held that a criminal court has inherent power to effectuate its order dismissing the case by ordering the records destroyed.[59] The court found "extensive documentation of the harm which comes from dissemination of arrest records to employers," that this damage falls disproportionately on minorities, and that the practice had no valid purpose. Indeed the United States is unique in expanding police records to include arrests for which no conviction resulted.[60]

In *State ex rel. Reed v. Harris*, [61] the Missouri Supreme Court held that an action may be maintained to enjoin the dissemination of photographs and fingerprints. The court noted that such dissemination might cause serious and irreparable damage. While it did not deal explicitly with arrest records, the ground for relief would appear to rest on the same foundation.

In *Cissel v. Brostron*,[62] the Missouri Court of Appeals refused to order the destruction of records, holding that the arrest had happened and that a record of it could not be obliterated. But it did not reach the dissemination question, holding that there was, unlike *Reed*, no proof that the records would be disseminated. The Seventh Circuit has also taken the position that the police have the duty to keep such records.[63]

The different philosophies of those courts which granted relief are strategically decisive. Where expungement or injunctive relief is granted because of police error the suit tests arrest procedures and is an instrument for law reform in that area. Some specific implications of that kind of relief are discussed below. Where relief is granted on the ground that there was no conviction regardless of the justification for arrest, the suit offers more far reaching relief with respect to arrest records. A suit of this nature could be used to obtain class relief. Although this has not yet been accomplished, it may be the result of the deliberate strategy of the attorneys in developing facts showing lack of probable cause and otherwise emphasizing the specific injustice. Certainly the possibility of class relief seems inherent in the *Kalish* and *Menard* decisions.

B. Reforming arrest procedures

The cases on arrest records outlined above raise another important problem and opportunity. In the context of the exclusionary rule cases under the fourth amendment. The United States Supreme Court has said two things: first, that evidence resulting from an arrest without a warrant is admissible if there was probable cause for the arrest,[64] and second, that arrests without warrants will be more closely scrutinized because the Constitution favors warrants.[65] In the area of searches, however, the search and its fruits are invalid where despite probable cause there was no necessity for proceeding with the search without a warrant.[66] These two rules are therefore somewhat inconsistent. Part of the problem appears to lie in the factual situation presented by the exclusionary rule. In every exclusionary rule case the defense is seeking to ground important constitutional rights on the damage done to a man who is by the logic of the situation presumably guilty—*i.e.*, if the evidence is not excluded the defendant will be convicted. Yet the purpose of the exclusionary rule is not to free criminals. The purpose is to prevent the harassment, embarrassment, loss of liberty, intimidation and defamation of innocent persons. Thus an important breakthrough in the climate of decision may be possible if cases are developed in which the litigant is, by the logic of the situation, presumably innocent instead of presumably guilty.

This problem of repeated groundless arrests penalizing minorities is poignantly posed by clients with long arrest records and no convictions. But instead of attacking this situation on appeal from a conviction as is generally done, where the only remedy has been release of a criminal, it makes more judicial and administrative sense to attack the practice by suit for injunctive or declaratory relief which is less burdened by the necessity of releasing a criminal.[67] This approach differs from the usual contest over warrantless arrests both in the nature of the clients (already found innocent) and in the nature of the complaint (against arrest records rather than convictions and centered more on the future than the past). Arrest is itself a severe punishment and its use and duration prior to trial must be placed under constitutional restraint. Thus the first advantage in shifting the battle to civil litigation may lie in putting teeth in the requirement that a warrant be obtained.

There is another advantage to splitting the doctrine of illegal arrest into two branches, one applicable in the criminal proceeding and one applicable in civil suits. That advantage lies in the opportunity to strengthen the doctrine of probable cause without the penalty of freeing criminals. Although police departments require an explanation if a suspect escapes, they do not generally require an explanation for mistaken or malicious arrests. The officer is bound by the requirement of probable cause, but neither local regulations nor judicial decisions require that he take reasonable care to avoid arresting the wrong person. For example, if the alleged victim of an assault on a residential street tells an officer that a named neighbor was the attacker and that there was a crowd, does the officer have probable cause to make an arrest prior to checking for corroborating witnesses among the neighbors? If the thought of subjecting the officer to responsibility for his own negligence is too frightening, then

Footnotes at end of article.

let the government act as his insurer as Justice Burger has suggested.[68] Civil litigation on behalf of persons arrested but not convicted should seek to subject the right of arrest to the duty of care.

In a recent decision the Supreme Court held that there was no constitutional right to reimbursement for bonding expenses incurred in connection with an unsubstantiated charge.[69] In searching for ways to protect the innocent from abuse of power that decision should be overruled. Part of the problem with an arrest is that it is a badge of dishonor, a burden the arrested person must bear without regard to fault or expense. It would be appropriate to require not only repayment of bonding expenses but also payment or reimbursement for unjustified time spent in jail. The innocent person does not escape the burdens of imprisonment, bonding expenses, counsel fees and the disgrace which accompanies the whole affair. Nor is it unusual for men to lose their jobs because they could not report to work as the result of an arrest. Therefore although the legal system presumes that a person is innocent until proven guilty, in fact being innocent is often to no avail. Eliminating arrest as a form of harrassment requires recognizing and compensating an individual for the burdens which society places on him for its protection.[70]

IV. POLICE POWER AND THE RIGHT TO THE STREETS

The third problem is to deal with the substantive relationship between the police and the community and to define how much power the policeman has. Some policemen believe and act on the assumption that they can tell anyone at anytime to move along or leave the area. Many men believe that the streets are public, and can and do react with shock and anger at such orders. As a result of this difference of opinion about police power, the stage is set for a confrontation which works to everyone's disadvantage. It creates a bad impression of police abusiveness in the public mind, and results in many otherwise law-abiding persons spending time in jail and being burdened with a criminal record.[71] Similarly members of the public do not see themselves as violating the criminal law by arguing with the police. Yet to many policemen such behavior is a challenge to their authority. Again the criminal law is misused to settle a dispute between persons both of whom are concerned with seeking justice.[72]

The use of breach of the peace or loitering laws to support demands that citizens move along or stop arguing is frequent but illegal.[73] The challenge to those concerned with preventing arrogant abuse of power is to extend these holdings across the country.

Loitering ordinances have their origin in efforts to provide labor by punishing idleness following the plague in England.[74] They are plainly an anachronism. In *Palmer v. City of Euclid*,[75] the Supreme Court held unconstitutional an ordinance which made punishable:

> Any person who wanders about the streets or the public ways or who is found abroad at late or unusual hours in the night without any visible or lawful business and who does not give a satisfactory account of himself.

The Court held the ordinance unconstitutionally vague and held that no man may be held criminally responsible for conduct which he could not reasonably understand to be proscribed, citing *United States v. Harriss*,[76] *Bowie v. Columbia*,[77] and *Wright v. Georgia*.[78] The decision was unanimous. Harlan concurred in the result without opinion and Stewart and Douglas concurred on the ground that it was vague on its face, not merely as applied. The case reversed a conviction and sentence of $50 and 30 days.

In *Coates v. City of Cincinnati*,[79] the Supreme Court held unconstitutional an ordinance which made it a criminal offense for "three or more persons to assemble . . . on any of the sidewalks . . . and there conduct themselves in a manner annoying to passers by. . . ." The ordinance was punishable by a fine of not more than $50 or imprisonment for one to 30 days, or both. The record was devoid of facts since appellants argued that the ordinance was unconstitutional on its face. Five justices—Stewart, who delivered the opinion, Douglas, Harlan, Brennan and Marshall—held that the ordinance was:

> [U]nconstitutionally vague because it subjects the exercise of the right of assembly to an unascertainable standard, and unconstitutionally broad because it authorizes the punishment of constitutionally protected conduct.

Justices White, Burger and Blackmun dissented on the ground that the court should have awaited a situation in which the ordinance was applied either to conduct not clearly proscribed or to protected conduct. In effect, therefore, even the dissenting justices do not close the door to attack on ordinances of this kind. Justice Black for similar reasons wanted to remand to expand the record.

The Court's position that these laws do not warn a citizen that he is violating the law reflects a basic fact about American ethics. That is, a large number of Americans do not believe it is criminal to stand on a corner and argue with a policeman about what should be done while apparently a large number of policemen do. Given this fundamental disagreement it is impossible for the citizen to determine when his protests to the police officer become legally actionable. Put another way, to many Americans those protests are protected speech. Hence it is highly inappropriate to apply peace disturbance laws in such situations.

Most recently in *Gooding v. Wilson*,[80] the Court made clear that its concern was largely for ordinances which made the criminality of the conduct depend on the sensibilities of the victim or observer. The Court excluded ordinances restricted to generally recognizable fighting words. Presumably, however, any prosecution under an ordinance so drawn and so interperted must involve some form of proof of community standards and some clarification of whose community standards are reflected in the law in determining whether the words used were fighting words. The courts can hardly be permitted to take judicial notice of "fighting words" in an era when acceptable use of language is rapidly changing. Moreover even unacceptable speech may be part of speech with "redeeming social value" and therefore properly protected on free speech grounds.[81]

Despite these complexities stemming from the manner in which the ordinances are being applied, this recent line of Supreme Court decisions makes such ordinances highly suspect (especially where no limiting construction has been developed by the state courts) and open to challenge. Nevertheless, such ordinances are universal and are not being removed or rewritten. The dearth of lawyers in this field who could effectively litigate this issue in each municipality is a challenge to both legal and judicial activism. Police court judges are well aware of these decisions but disinclined to follow them. It is a major and important task to see that these changes are effected.

V. CHANGING THE CLIMATE OF OPINION OTHER THAN BY LITIGATION

The discussion above has centered on alternatives to the exclusionary rule in litigation designed to protect the constitutional rights of innocent persons. The purpose of this concluding section is to focus attention on strategies which do not require litigation to affect both the climate of opinion and the reality of police practice.

Perhaps the most damaging simplification in American public life appears to be the widely held belief that it is necessary to sacrifice constitutional rights in order to catch criminals. It seems almost useless to argue from statistical evidence that this is grossly exaggerated. The fear of crime requires solutions, not explanations. This fear coupled with intolerance toward strangers or persons of different color or habits or beliefs[82] makes successful judicial regulation of police practice difficult since the desire to clear the streets of persons who seem dangerous is too often used to justify unsupportable arrests and practices.[83] Judicial regulation of police practice can accomplish only limited objectives unless it is supported by public opinion.

Client groups whose interests and demands normally span both justice and safety present an important opportunity to cut through the barrier of fear by redefining the issues in terms which all sides can support, such as expansion, efficiency, progress, and creative management. These groups need to develop working relations with lawyers, criminologists and penologists who can help them formulate programs by which the police can provide both justice and safety more satisfactorily.

For example, the crime commission suggests hiring a new group of unarmed police assistants.[84] Assistants could patrol the streets, initiate investigations and perform service functions of police departments. Without reliance on force they could calm the ordinary neighborhood argument without making a criminal case out of it. The employment effects are not to be ignored, and in larger jurisdictions the opportunity for mutual non-coercive education across class and geographical boundaries is an important by-product if by reducing fear of strangers and increasing tolerance and sympathy for other groups one can strengthen the climate of opinion supporting constitutional liberties for all people.[85] Another by-product might well be the diminution of police corruption which would become far less manageable for those dishonest policemen with a large and changing number of assistants whose willingness to keep secrets could not be counted on.[86]

The crime commission also suggests eliminating entirely the enormous amounts of police time spent arresting drunks and loiterers in favor of greater efforts in felony cases in order to increase efficiency and decrease the opportunity for ugly confrontations over control of the streets as discussed above.[87]

Another fruitful area of scrutiny is the promotion system. Traditional police practice is to start every one at the bottom and promote only from the ranks. The loss to the department in cross-fertilization both from other departments and from the academic community is enormous.[88] Moreover policemen are now rewarded largely for bravery and arrests. It might be useful to reward policemen with promotion for a record of calming disputes without having to make arrests.[89]

Control of the police is critical.[90] Community control is probably counterproductive for poor communities which cannot support independent police units and for society in general because of poor organization and parochialism of small departments. But it may make a great difference whether the governor or mayor appoints the head of the police department; or whether the head of the department is appointed or elected; or serves full or part time; or is an individual or board. The local political climate will determine which option is best. No one solution is always ideal. Any solution may degenerate in time. Change may be valuable in itself. The essential problems are to achieve fresh, continuing and expert evaluation of police policies and practices by independent and well staffed evaluators reporting directly to the

Footnotes at end of article.

head of the department,[91] and to develop policies in pursuit of justice rather than only of arrests. These obectives can be served through change in structure and personnel.

Issues such as these offer the possibility of achieving greater respect for constitutional liberties while improving the general operation of the police department. They offer the possibility of transcending the apparent contradiction between policies which support civil liberties and policies which provide safety on the streets. If client groups with appropriate assistance from lawyers and other experts can reach consistent positions on problems such as these they might make an immense contribution to reducing abuse of official power.

There is also room for important improvements in press relations. Demonstrations attract attention, but frequently draw attention to the decorum of the demonstrators instead of the repression of the authorities. The genius of Martin Luther King as a strategist was to expose to public scrutiny the illegal behavior of his adversaries. Recently one ACLU affiliate invited the press to witness harassment of a kind that is normally hidden from public view—the arrest of several persons for standing on a corner. They were able to do this because they could predict the response of the police to a small group on a particular corner.[92] The results may prove far more important than litigation. Legal Services attorneys can assist in carefully planned exposure of police harrassment against law-abiding persons if they are prepared to offer advice and representation to prevent those who take part from violating the law and to protect them from false charges.

The issues and approaches discussed in this article offer important improvements in libertarian strategy. They offer alternatives to judge-made law and alternatives to the divisive exclusionary rule. Such alternatives, insofar as they recast public understanding of the issues, may be far more important for Legal Services clients than judge-made law.

FOOTNOTES

* The author is indebted to the following colleagues: Robert Thomas, Charles Bobinette, Cynthia Holmes and Ron Elliot, who contributed research on various issues raised in this article.

[1] Bivens v. Six Unknown Named Agents, 39 U.S.L.W. 4821, 4822 n.4 (U.S. June 21, 1971).

[2] Weeks v. United States, 232 U.S. 383 (1914).

[3] Elkins v. United States, 364 U.S. 206, 217 (1960).

[4] 8 Wigmore, Evidence, Section 2184 (3d ed. 1940).

[5] People v. Defore, 242 N.Y. 13, 21 (1926).

[6] 58 Yale L. J. 144, 148 (1948).

[7] Boyd v. United States, 116 U.S. 616, 628 (1886).

[8] 58 Yale L. J. 144, 148 (1948).

[9] Brinegar v. United States, 338 U.S. 160, 181 (1949) (Jackson, J., dissenting opinion).

[10] Allen, *The Wolf Case*, 45 Ill. L. Rev. 1, 18 (1950).

[11] 58 Yale L. J. 144, 148, 163 (1949).

[12] *See* Elkins v. United States, 364 U.S. 206 (1960), and Bivens v. Six Unknown Named Agents, 39 U.S.L.W. 4830 (U.S. June 21, 1971) (Burger, J., dissenting opinion) for judicial assessments of the statistical evidence.

[13] Olmstead v. United States, 277 U.S. 438, 485 (1928).

[14] Bivens v. Six Unknown Named Agents, 39 U.S.L.W. 4821 (U.S. June 21, 1971).

[15] 386 U.S. 547 (1967).

[16] 365 U.S. 167 (1961).

[17] Boyle v. Landry, 39 U.S.L.W. 4207 (U.S. 1971).

[18] Schilb v. Kuebel, 40 U.S.L.W. 4107 (U.S. 1971).

[19] *See* Bivens v. Six Unknown Named Agents, 39 U.S.L.W. 4828, 4830 (U.S. June 21, 1971) (Burger, J., dissenting opinion).

[20] *Id.*

[21] Allen, *supra* n. 10.

[22] Chevigny, Police Power (1969).

[23] *Id*, at ch. 8.

[24] President's Commission on Law Enforcement & Administration of Justice, the Challenge of Crime in a Free Society 128 (1967) [hereinafter cited as President's Commission].

[25] Changing and increasingly restrictive law on this subject is noted in State v. Brothers, 445 S.W.2d 308 (Mo. 1969).

[26] Carnley v. Cochran, 369 U.S. 506, 516 (1962); Beck v. Winters, 407 F.2d 125 (8th Cir. 1969); MacDonald v. Moore, 353 F.2d 106 (5th Cir. 1965); Harvey v. Mississippi, 340 F.2d 263 (5th Cir. 1965).

[27] Baldwin v. New York, 399 U.S. 66 (1970).

[28] Waller v. Florida, 397 U.S. 287 (1970).

[29] Missouri *ex rel.* Butler v. Cady, No. 26685F (St. Louis Cir. Ct., Oct. 28, 1971).

[30] Baldwin v. New York, 399 U.S. 66, n. 22 at 75 (1970); Burch & Knaup, *The Impact of Juvenile Justice*, 4 Clearinghouse Rev. 345, 359 (December 1970).

[31] Koen v. Long, 302 F. Supp. 1383, 1392–3 (E.D. Mo. 1969), *aff'd*, 428 F.2d 876 (8th Cir. 1970).

[32] President's Commission *supra* n. 24 at 128.

[33] *See* Koen v. Long, 302 F. Supp. 1383, 1392–3 (E.D. Mo. 1969), and the deposition of Judge George Cady taken in that case.

[34] Rule 37.17 and 37.89.

[35] Rule 37.39.

[36] Rule 37.15 and 37.100.

[37] Rule 37.41.

[38] Rule 37.54(b).

[39] Rule 37.78.

[40] Rule 37.54(b) and 37.59.

[41] Art. 1, § 18 (A).

[42] Art. 1, § 22 (a) guarantees the right "as heretofore enjoyed" and Section 98.080, 98.-380 and 98.550 guarantees the right for certain classes of cities.

[43] Griffin v. Illinois, 351 U.S. 12 (1956).

[44] Baldwin v. New York, 399 U.S. 66 (1970).

[45] *See* Waller v. Florida, 397 U.S. 287 (1970); Pointer v. Texas, 380 U.S. 400 (1965).

[46] City of Clayton v. Sigloff, 452 S.W. 2d 315 (St. Louis App. 1970).

[47] Greene v. McElroy, 360 U.S. 474 (1959); Goldberg v. Kelly, 397 U.S. 254 (1970); Bell v. Burson, 39 U.S.L.W. 4607 (U.S. 1971); California Dep't of Human Resources v. Java, 39 U.S.L.W. 4491 (U.S. 1971); Sniadach v. Family Finance Corp., 395 U.S. 337 (1969); Hanna v. Larche, 363 U.S. 420 (1960); *In re* Grobah, 352 U.S. 330 (1957); Slochower v. Board of Higher Education, 350 U.S. 551 (1956); Speiser v. Randall, 357 U.S. 513 (1958).

[48] Carnley v. Cochran, 369 U.S. 506 (1962).

[49] Koen v. Long, 302 F. Supp. 1383, 1393 (E.D. Mo. 1969).

[50] Carnley v. Cochran, 369 U.S. 506 (1962).

[51] McCarthy v. United States, 394 U.S. 459 (1969); Johnson v. Zerbst, 304 U.S. 458 (1937).

[52] *See* Boyken v. Alabama, 395 U.S. 238 (1969); Carnley v. Cochran, 369 U.S. 506, 516 (1962).

[53] 271 F. Supp. 968 (D. P.R. 1967).

[54] 385 F.2d 734 (5th Cir. 1967).

[55] 285 F. Supp. 881 (E.D. Pa. 1968).

[56] 306 F. Supp. 58 (W.D. N.C. 1969).

[57] 430 F.2d 486 (D.C. Cir. 1970).

[58] United States v. Kadish, 271 F. Supp. 968 (D. P.R. 1967).

[59] Morrow v. D.C., 417 F.2d 728 (D.C. Cir. 1969).

[60] 14 Crime & Delinquency 494, 501 (1967).

[61] 153 S.W.2d 834 (1941).

[62] 395 S.W.2d 321 (St. Louis App. 1965).

[63] Herschel v. Dyra, 365 F.2d 17 (7th Cir. 1966).

[64] McCrary v. Illinois, 386 U.S. 300 (1967); United States v. Ventresca, 380 U.S 102 (1965); *see also* Amsterdam, Segal, & Miller, Trial Manual for the Defense of Criminal Cases, Section 241 (1967).

[65] United States v. Ventresca, 380 U.S. 102 (1965).

[66] *Id. See also* Carroll v. United States, 267 U.S. 132 (1925); Preston v. United States, 376 U.S. 364 (1964).

[67] Reiss, the Police and the Public 192 (1971).

[68] Bivens v. Six Unknown Named Agents, 39 U.S.L.W. 4821, 4830 (U.S. June 21, 1971) (Burger, J., dissenting opinion).

[69] Schilb v. Heugel, 40 U.S.L.W. 4107 (U.S. 1971).

[70] *Cf.* Frankel, *Preventive Restraints and Just Compensation: Toward a Sanction Law of the Future*, 78 YALE L. J. 229 (1968).

[71] Chevigny, *supra* n. 22.

[72] *Id.* at 70; REISS, *supra* n. 67, at 149–50.

[73] *See* Shuttlesworth v. City of Birmingham, 382 U.S. 87, 90 (1965); Territory of Hawaii v. Anduha, 48 F. 2d 171 (9th Cir. 1931); Baker v. Binder, 274 F. Supp. 658, 662 (W.D. Ky. 1967); Alegata v. Commonwealth, 231 N.E. 2d 201 (Mass. 1967); Graham v. State, 447 P. 2d 200 (Okla. 1969); Goldman v. Knecht, 295 F. Supp. 897 (D. Colo. 1969); Broughton v. Brewer, 298 F. Supp. 260 (S.D. Ala. 1969); Kirkwood v. Ellington, 298 F. Supp. 461 (W.D. Tenn. 1969); Fenster v. Leary, 264 F. Supp. 153 (S.D. N.Y. 1967); City of Moore v. Cook, No. CRM 70–129 (Okla. Dist. Ct., Cleveland County, Nov. 12, 1970).

[74] Statute of Laborers, 32 Edw. 3, Stat. 1; II Holdsworth, History of English Law, 459–62 (1927).

[75] 39 U.S.L.W. 4612 (U.S. 1971).

[76] 347 U.S. 612, 617 (1954).

[77] 378 U.S. 347 (1964).

[78] 273 U.S. 284 (1968).

[79] 39 U.S.L.W. 4630 (U.S. 1971).

[80] 40 U.S.L.W. 4329 (U.S. 1972).

[81] *Roth v. United States*, 354 U.S. 476 (1957), generally applied to written words but the issue is closely parallel.

[82] President's Commission *supra* n. 24, at v.

[83] Chevigny, *supra* n. 22.

[84] *Id.* at ix; and National Advisory Commission on Civil Disorders, Report, 317 (1968).

[85] The author's observations suggest that the Peace Corps, and the Iranian Literacy and Medical Corps do just that. The major effect of service is to increase the respect and sympathy of the corpsman for the people he serves.

[86] Reiss, *supra* n. 67, at 156.

[87] President's Commission *supra* n. 24, at viii.

[88] Reiss, *supra* n. 67, at 162.

[89] *See* Chevigny, *supra* n. 22, at 154–58; Reiss, *supra* n. 22, at 214.

[90] *Cf.* Weigley, History of the United States Army (1967), for a study of the comparable problem in the military.

[91] Reiss, *supra* n. 67, at 203–7.

[92] Civil Liberties 5 (May 1972).

REPORT ON ABUSES OF POLICE AUTHORITY

The Bureau of Social Science Research has revised and reprinted its report entitled *Abuses of Police Authority: A Literature Review*. The report is a review of the literature on abuses of police authority and mistreatment of citizens, concentrating on abuses which occur on the streets, in day-to-day encounters between policemen and individual citizens. The report is available free of charge to Legal Services attorneys from the Bureau of Social Science Research, Inc., 1200 Seventeenth St., NW. Washington, D.C. 20036.

INDIGENTS CANNOT BE INCARCERATED WITHOUT RIGHT TO COUNSEL

8245. Argersinger v. Hamlin, No. 70–5015 (U.S. Sup. Ct., June 12, 1972). Petitioner represented by Bruce S. Rogow, Economic Opportunity Legal Services Program, 622 N.W. 62nd St., Miami, Fla. 33150, (305) 379–0822. On the brief, J. Michael Shea and P. A. Hubbart. Amicus curiae, William E. Hellerstein, Legal

Aid Society of New York. [Here reported: 8245A Opinion (14 pp.).]

The Court, in reversing a Florida Supreme Court decision, has held that an indigent criminal defendant's constitutional right to counsel does not depend upon the classification of the offense or whether or not a jury trial is required and that no accused may be deprived of his liberty pursuant to a criminal prosecution in which he was denied assistance of counsel. The Florida Supreme Court had held that right to counsel extends only to trials for non-petty offenses.

The Court noted that all of sixth amendment protections, only that of right to trial by jury has historical support for limiting its application to more serious crimes. The Court stressed that nothing in the language of the amendment, history, or recent decisions indicated a similar limitation for the right to counsel. The Court instead found the *Powell v. Alabama* and *Gideon v. Wainwright* rationale relevant to any criminal trial where there is deprivation of liberty. The Court reasoned that the prejudice which results to misdemeanor defendants from "assembly-line justice" indicates that the requirement of counsel may be necessary for a fair trial even in prosecutions for petty offenses.

The Court emphasized that the majority of misdemeanors will not be affected by the decision and effectively placed the burden of deciding when to offer and appoint counsel on the trial judge. Justices Burger, Brennan, and Powell wrote concurring opinions.

SUSPENDED STUDENTS SEEK TO PROTECT RIGHT TO LEAFLET

7453. Pryor v. Los Angeles Community College District, No. C20533 (Cal. Super. Ct., Los Angeles County, filed Jan. 14, 1972). Plaintiffs represented by Robert E. Mundy, 10925 S. Central Ave., Los Angeles, Cal. 90050 (213) 564–6971; Ernest L. Aubry, c/o Western Center on Law and Poverty, 1709 W. Eighth St., Los Angeles, Cal. 90017, (213) 483–1491. [Here reported: 7453A Complaint (21 pp.); 7453B Points and Authorities (40 pp.); 7453D Preliminary Injunction (3 pp.).]

A preliminary injunction was issued ordering community college officials to vacate the plaintiffs' suspensions and probations; to renew proceedings only with proper notice and opportunity for hearing; and to consider a waiver of the school's requirements for a faculty advisor to sponsor plaintiffs' SDS group. Two college students have brought a class action on behalf of themselves and other students threatened or disciplined for circulating leaflets and petitions and on behalf of those desirous of doing the same. Plaintiffs had attempted to secure a faculty sponsor for their SDS organization. Although some members of the faculty expressed interest, they were prevented from accepting because of threatened harmful reaction from their superiors. The plaintiffs were suspended for leafleting against what they felt were racist books and a racist teacher. Although published school procedures require written notice and an opportunity for a hearing, the plaintiffs were suspended after only an oral warning as to the possibility of future disciplinary action. The plaintiffs contend that this is a violation of the first and fourteenth amendments and that, as a minimum, the college administrators must adhere to the safeguards contained in the school's duly promulgated rules.

CHALLENGE "TRACKING" IN PUBLIC SCHOOLS

6583. Berkelman v. San Francisco Unified School District, No. C–71–1875 LHB (N.D. Cal., filed Apr. 12, 1972). Plaintiffs represented by Suzanne Martinez and Kenneth Hecht, Youth Law Center, 795 Turk St., San Francisco, Cal. 94102, (415) 474–5865. [Here reported: 6583B Amended Complaint (29 pp.); 6583C Plaintiffs' Memo in Support of Preliminary Injunction and Partial Summary Judgment (72 pp.). Previously reported: 6583A Complaint (14 pp.), 5 CLEARINGHOUSE REVIEW 469 (December 1971).]

The plaintiffs, minor school children, bring this class action under the Civil Rights Act to challenge the maintenance by the San Francisco Unified School District of Lowell High School, an elite academic high school. Plaintiffs contend that students of low-income backgrounds, black and Spanish-surname students, and female students are systematically and arbitrarily excluded from Lowell, and therefore from its greater educational opportunities, under the existing admission policy of "tracking" in violation of the due process clause of the fourteenth amendment. At present, despite existing alternative methods, Lowell admits students almost exclusively on the basis of their junior high school grades, females needing higher grades than males. In addition to the obvious sex discrimination, plaintiffs allege that low-income groups, blacks and Spanish-surnamed individuals are discriminated against because they are unable to achieve grades as high as white students, due to the educationally superior elementary and junior high schools which the whites attend. Plaintiffs further contend that the concentration of academic resources at one high school and the denial of similar resources to students at other high schools is damaging and detrimental to the students enrolled in the other high schools and is in violation of their right to an equal educational opportunity.

CHALLENGE CONSTITUTIONALITY OF STATUTE PERMITTING WAIVER OF JUVENILE COURT JURISDICTION

7270. *In re* A.D.R., No. 56,658 (Mo. Sup. Ct., filed January 1972). Appellant represented by Richard J. Habiger and Harvey L. McCormick, The Legal Aid and Defender Society of Greater Kansas City, 1029 Oak St., Kansas City, Mo. 64106, (816) 474–6750. Of counsel, T. E. Lauer, National Juvenile Law Center, St. Louis University School of Law, 3642 Lindell Blvd., St. Louis, Mo. 63108, (314) 533–8868 [Here reported: 7270A Appellant's Brief (109 pp.).]

The appellant challenges the validity and construction of the Missouri statute permitting waiver of juvenile court jurisdiction of children over 14 years of age who have been charged with an act which would be a felony if they were adults. The statute (Mo. Rev. Stat., § 211.071 (1969)) conditions waiver upon the juvenile court judge's finding "that such child or minor is not a proper subject to be dealt with under the provisions of [the Juvenile Code]."

The appellant challenges this statute as unconstitutionally vague on its face, in that it provides no standards as to whether a juvenile is "not a proper subject" to be dealt with under the Juvenile Code. In addition to challenges to the application of the statute in this case as allegedly based on hearsay and otherwise inadmissible evidence, the appellant charges that the statute has been applied to deprive him of his constitutional rights to freedom of speech and freedom of association, in that its application was based upon his alleged political education, associations, attitudes, manners, and social and political beliefs.

LEGAL SERVICES COURT MAY NOT INVESTIGATE CLIENT ELIGIBILITY

7805. *Hernandez* v. *Stockton Board of Education*, No. 101016 (Cal. Super. Ct., San Joaquin County, Feb. 1, 1972). Petitioner represented by California Rural Legal Assistance Cooperative Legal Services Center, 1212 Market St., San Francisco, Cal. 94102 (415) 863–4911. [Here reported: 7805A Decision (3 pp.).]

The court denied respondents' motion to compel counsel employed by California Rural Legal Assistance to show authority for representing allegedly ineligible clients.

Respondents maintained that CRLA represented clients who were financially ineligible for their services. They challenged counsel's representation in the absence of authority and maintained that allowing them to proceed in this action would permit the expenditure of taxpayers' money to finance their efforts contrary to federal statute, regulations and the terms of the grant of funds used to finance their activities. CRLA contended that in the absence of statutory authority the courts have no power to remove counsel on the ground that the client is ineligible for his services.

Respondents offered no evidence that counsel was not authorized to represent the client. The court held that even if it assumed that CRLA counsel were representing those whom they should not that there was adequate review of such impropriety through the political process. It stated that it could not interfere with the attorney-client relationship of petitioners and CLRA counsel, and that protection of the taxpayers' funds is properly overseen by the political branch of government, not by the judiciary.

HEROISM OF HAWAIIAN POLICEMEN

Mr. INOUYE. Mr. President, too often we read in the headlines of new instances of police brutality, of graft and corruption within the police force, or further examples of the incidents which encourage citizen disrespect toward the police.

Today, I wish to bring to the attention of my colleagues an act of heroism by members of the Honolulu police. An article from the Honolulu Advertiser of December 26, 1973, tells the story of one of the finest examples of heroism which has ever come to my attention.

Sgt. John Peiper and Officer Donald Wong of the Honolulu Police Department displayed great courage and determination in their prevention of a suicide attempt. These men grabbed hold of a young man just as he released his grip on a crane, 240 feet above a city street, and pulled him to safety.

I believe these men are deserving of great recognition and honor for their heroic action. Therefore, I would like to have the article telling of that event included in the CONGRESSIONAL RECORD as a tribute to these valiant men and as a needed reminder that the police are daily involved in acts of heroism which go unsung while the incidents where they fail to meet the expected standards gain great attention.

Mr. President, I ask unanimous consent that the article by Tim Toner be printed in the RECORD.

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

POLICE SAVE YOUTH FROM 25-FLOOR FALL

(by Tim Toner)

"Could you hear the wind whistling?"

"No, I couldn't. He was trying to talk to me."

That's the way two police officers described their daring rescue yesterday of a 19-year-old would be suicide. They got him from the edge of a construction crane 25 floors high, as one officer grabbed the youth's wrist the second he began to fall.

"He was just dangling in the air. Man, I thought he was going to drop," said Sgt. John Peiper, 39, who first gripped the youth—

identified as Marine Gary Caudell—on the crane atop the recently completed Four Paddle condominium at Lewers and Launiu streets in Waikiki.

"The road was a long way down," said motor patrolman Donald Wong, who grabbed Caudell's other wrist and, with Peiper, gripped Caudell's clothing and pulled him to safety.

Caudell first was seen climbing the building by the exterior construction elevator at about 3 p.m.

Police arrived soon after, and Peiper, Wong and officers Gary Loo and Bonifacio Pabillano followed him up. A crowd had gathered below.

Peiper said he kicked down a ground-floor door and the officers climbed the 25 floors by the stairs inside the building.

Peiper said that when they got to the top Caudell was sitting on the edge of a T-crane which extended out over Kuhio Avenue.

"We watched him for a few seconds. We didn't want to spook him," said Peiper.

He said Caudell took out a letter and began to read it, then threw it away.

Peiper said motor patrolman Isaac Sanga—on the ground floor—retrieved the letter and radioed up that the man's name was Gary.

"From there on we could at least refer to him by his name," said Peiper.

Police said later that the letter was a "Dear John" communication from Caudell's girl friend.

Peiper said he walked out to about one-fourth the length of the boom, where Caudell cautioned "not to come any farther" and threatened to jump.

"All the while we were telling him not to jump, that it's not worth it," said Peiper.

"Then things got worse."

Caudell had moved from his sitting position to the bottom of the crane, placing his elbows on the bottom frame and his feet on a cable running back to the building—like a sailor on a ship's top mast.

Peiper said he moved closer to Caudell but "I had difficulty hearing what he was saying. Finally, I asked Gary if he wanted help.

"He nodded. I took that to mean he wanted us to go and get him," said Peiper.

He said he and officer Wong moved toward Caudell.

"Just as I reached to grab him, he let go," said Peiper.

He said he snatched Caudell's left wrist and saw the man's "two feet kicking in the breeze." Wong said he coud "hear the people scream" below.

Wong immediately came around Peiper and grabbed Caudell's other wrist "and, together we pulled him up, grabbing anything we could . . . we grabbed him every place," Peiper said.

The cliff-hanging scene was so graphic that Peiper remembered Caudell wore a Levi jacket "with the sleeves cut off, so when I grabbed I had to reach for the jacket itself.

"I also remember he had a big white belt," Peiper said.

He said he and Wong pulled Caudell into the cross-bar midsection of the crane, where Caudell's waist was encircled by a rope that Pabillano had cut with a piece of pipe from construction material.

Peiper said two men from the Fire Department's Pawaa rescue squad came out on the crane to rig a line to guide Caudell back to the top of the building.

"You could feel the crane sway when all five of us were out there," said Peiper.

He said Caudell got back by inching his way along the top of the crane on his rear, with Peiper following him.

Peiper said everyone involved in the rescue did a "tremendous job."

Peiper said they did not ask Caudell any personal questions as they walked down 25 floors to the ground. "We didn't want to upset him. There were no questions, other than to comfort the guy," he said.

Caudell was taken last night to the Tripler hospital for observation.

Peiper, a veteran of some 15 years on the force who was named the Police Department's 1973 father of the year, said he had never been involved in a rescue "that high" before.

He said Caudell weighed "about 160 pounds." Peiper weighs about 180 pounds and Wong about 175 pounds.

Wong, who has been on the force about two and a half years, said he felt no fear while performing the rescue.

"Then," said Wong, "when we had the rope around him, I looked down. I think I'm scared of heights."

ENTIRELY NEW KIND OF CRIME STATISTICS AND INFORMATION REPORT

Mr. HRUSKA. Mr. President, the Sunday editions of the New York Times reported on a significant new development in the Federal Government's war on crime. The National Crime Panel, supported through grants by the Law Enforcement Assistance Administration, has compiled new and updated statistics which will permit criminal justice practitioners to measure the performance of the criminal justice system.

It is a landmark study that shows—for the first time—that many American victims of crime do not bother to report the incident to the police. There are probably many reasons for this, but the Crime Panel said that the two main ones were that the victims of crime do not think the incident important or they feel the police can do little about it.

Until the release of the Crime Panel's preliminary results, the uniform crime reports—UCR—prepared by the Federal Bureau of Investigation, were the primary basis for gaging the incidence of crime in the United States. Although the UCR statistics serve as a valuable tool for compiling statistics on crime reported to police in the larger cities, the Crime Panel measures victimization regardless of where it occurs.

The new data base will not replace or make less important the UCR data compiled by the FBI. The two reporting systems will, in fact, complement one another.

In my view, it behooves criminal justice planners, administrators, and practitioners to establish measures to overcome the apparent apathy and disenchantment that the National Crime Panel has uncovered in its report.

The Panel's findings, I think, provide us with an excellent starting point. For the first time in the Nation's history, we will have a statistical profile of crime, its characteristics, its victims, and the havoc it wreaks through personal injury, loss of property, and fear.

With this information in hand, criminal justice planners can fashion effective weapons to first cope with this attitude among citizens and then conquer crime. I am sure that the value of this new tool will not go unnoticed by the Nation's State and local criminal justice agencies.

I commend the Law Enforcement Assistance Administration for taking the necessary steps to investigate, fund, and provide the technical assistance to keep the program going.

Before effective programs to deal with crime can be launched, we need to know more about criminality in all its aspects. In the LEAA-funded National Crime Panel report we find a multitude of facts about crime. It is information that can be used to develop programs and projects that get at the root of crime and its causes.

Mr. President, I ask unanimous consent that an article by David Burnham from the New York Times of January 27, 1974, discussing in detail the work and results of the National Crime Panel survey be printed in the RECORD.

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

FEDERAL SURVEYS TO GAGE CRIME LEVELS IN BIG CITIES

(By David Burnham)

The Federal Government is about to give the people of America's major cities a scientific yardstick to help them measure the crime-fighting performance of their policemen, prosecutors, judges and jails.

The yardstick is a continuing series of public surveys in which a sampling of close to a half million Americans each year is being asked such questions as whether they have been the victim of a crime, what the crime was and whether they reported it to the police.

The program will for the first time permit the citizens of one city to compare their crime experience with that of another without having to depend upon the honesty and counting ability of the single agency most responsible for crime control—the local police department.

The $10-million-a-year surveys—a project of the Justice Department's Law Enforcement Assistance Administration—are viewed by top officials of that agency as a way to force local criminal agencies to do a better job by making them more accountable to informed citizen pressure.

One preliminary finding is that the citizens of eight selected cities were raped, robbed and assaulted last year approximately twice as often as was suggested by the police statistics published by the Federal Bureau of Investigation. One reason for this disparity, according to criminologists, is that people, for a variety of reasons, often do not report crimes to the police.

EFFECT ON CITIES CITED

The first results from the eight selected cities have been made available to The New York Times and are in an accompanying article.

Donald E. Santarelli, head of the Law Enforcement Assistance Administration, which is responsible for pumping Federal dollars to the police, courts and jails, said of the new program:

"This is the ultimate strategic tool and should make each city a lot more responsive to the public concern about crime."

Dr. Lloyd E. Ohlin, a leading criminologist at Harvard Law School, agreed with Mr. Santarelli. "The real value of these surveys lies not so much in the absolute number of crime incidents found in different cities and areas, but in our ability to assess with much greater accuracy the trends in crime," he said. "In short, we now will be able to measure the effectiveness of our law-enforcement agencies, policies and programs."

Publication of the results of the surveys in the years ahead is expected to bring about

more than strong new political pressures on local criminal justice officials.

The program—which many experts believe will provide the most accurate and complete picture of crime ever produced—will probably end abruptly the decade-old domination by the F.B.I. of this important area of public policy through its regular publication of crime statistics provided by local police departments.

Some officials also think that the consequent increased public discussion of crime may result in the Nixon Administration's being unfairly viewed as somehow responsible for the crime that will now be more thoroughly documented.

Because people often choose not to report crimes to the police—because the police sometimes choose not to officially record all the crimes that come to their attention—many criminologists and police officials have questioned whether the annual crime reports of the F.B.I. are an accurate index of crime in the United States.

The experts, including members of the F.B.I. itself, especially warn against trying to compare the specific levels of reported crime in one city with those of another.

There are two parts to the Federal survey program, which is conducted by the Census Bureau. One is nationwide and involves the questioning every six months of what is called the National Crime Panel—persons in 60,000 households and 15,000 business concerns. Every six months one-seventh of the respondents will be dropped and new ones will take their place.

From the answers given by this scientific sampling of more than 150,000 persons in the first survey, the Law Enforcement Assistance Administration this June will begin publishing an entirely new kind of crime report, according to George E. Hall, in charge of the National Criminal Justice Information and Statistics Service, a part of the L.E.A.A.

The first report will compare the crime levels found throughout the country during the first and second quarters of 1973. It will show the crime victimization rates for the whole country and four regional subdivisions—Northeast, North Central, South and West.

In addition, for the first time, the report will provide detailed statistical portraits of the race, age and sex of victims of various crimes and when and where these crimes are most likely to occur.

As the information is processed during the continuing program, annual reports will be published.

CITY SURVEYS

The second part of the crime surveys will provide similar information for specific major cities. In each city, residents in about 10,000 households plus 2,000 businessmen—a total of about 25,000 persons—are questioned about their experience with crime.

Surveys have already been completed in 13 cities. They are the nation's five largest cities—New York, Chicago, Los Angeles, Philadelphia and Detroit—and eight so-called "impact cities," where the Law Enforcement Assistance Administration has been making a concentrated effort to curb street crime.

The impact cities—the ones for which preliminary information has been made available—are Atlanta, Baltimore, Cleveland, Dallas, Denver, Newark, Portland, Ore., and St. Louis.

The information gathered in the five largest cities is still being processed and is expected to become available in about two months.

While statisticians in Washington are working on the information already collected from the National Crime Panel, and in the 13 cities, Census Bureau questioners have already begun conducting surveys in a second set of 13 cities. In this group are San Diego, Oakland, San Francisco, Minneapolis, Milwaukee, Cincinnati, Boston, Washington, Miami, New Orleans, Buffalo, Houston, and Pittsburgh.

Under present plans, the L.E.A.A. intends to pick a third set of 13 cities. Then, each set of 13 will be examined once every three years.

The agency's decision to develop the surveys represents the first time the Federal Government has applied such a technique on a regular basis to crime. The survey technique has been used previously in other important areas. National, regional and local unemployment statistics, for example, are based on surveys rather than on reports from industry, unions or welfare agencies.

The crime surveys have become a part of a broad new effort by Mr. Santarelli and the L.E.A.A. to make the police, prosecutors and judges more responsive to victims of crime and witnesses of crime.

"Policemen, and judges, and corrections officials, and prosecutors cannot be in business for themselves," Mr. Santarelli said in a recent speech to law-enforcement officials. "Their job is not to erect empires and operate outside the gaze and control of the public."

Observing that it often seemed the criminal justice system was operated for the convenience of bureaucrats, Mr. Santarelli said: "The victim of a criminal can also find he is a victim of the criminal justice system."

"Crime reduction: That's our business. That's the yardstick by which our success and failures will be measured," he said.

In addition to giving the nation and individual cities a dependable way to measure crime, later surveys will question citizens about how they were treated by the police, district atorneys and judges—either as witnesses or as victims. These results also will be published, Mr. Santarelli said.

The official was asked whether law enforcement agencies could fairly be held accountable for crime in a given community, considering the reality of factors such as broken homes, poor schools and high levels of unemployment.

"It is fair to say they must do better, it would be unfair to say they must do it all," Mr. Santarelli replied.

REPORTED AND UNREPORTED CRIME

	Incidents reported by police and published by the FBI's uniform crime reports	Estimated crime incidents projected from impact cities crime survey
BY OFFENSES		
Total all offenses	409,208	913,900
Rape	3,090	6,600
Aggravated assault	24,095	87,600
Robbery	34,274	78,100
Burglary	119,984	325,600
Larceny $50+	60,714	140,700
Larceny $50−	101,085	259,600
Auto theft	65,966	65,700
BY CITY		
Total all cities	409,208	913,900
Atlanta	43,104	96,700
Baltimore	69,554	151,100
Cleveland	48,921	116,900
Dallas	64,676	166,500
Denver	47,704	139,800
Newark	35,423	493,300
Portland	35,736	93,700
St. Louis	64,890	95,800

Note: Rates drawn from statistics of the FBI's uniform crime reports and the impact cities crime survey of the Law Enforcement Assistance Administration.

EIGHT CITIES SHOW A CRIME DISPARITY

Denver had three times more rape assaults—in relation to its population—than Newark. Atlanta's robbery rate was three times higher than that of Portland, Ore. Three times more cars were stolen in Cleveland than in Dallas.

These are some of the first findings to emerge from a continuing Federal study aimed at measuring the levels and kinds of crime in the United States as a whole and in its major cities without relying on the crime reports made either to or by local police departments.

The initial findings of the program, in which citizens and businessmen are being questioned throughout the country, are based on answers given to a scientific sampling of persons living in eight selected cities—Atlanta, Baltimore, Cleveland, Dallas, Denver, Newark, Portland and St. Louis. The cities were chosen for the first part of the study by the Law Enforcement Assistance Administration.

Among the findings drawn from the answers given by the approximately 200,000 persons questioned in the eight cities were the following:

The official police statistics, on the average, show only half the serious crimes the survey respondents said had occurred. The non-reporting varied from crime to crime. There were 2.1 actual rapes, 2.3 robberies and 2.7 burglaries for each one of these crimes that was recorded. Almost all stolen cars were reported.

The nonreporting of crime varied widely from city to city. In Denver, there were almost three crimes for every one noted in police records, while in Newark there were only 1.4 crimes for every one recorded.

Contrary to expectations, the white and black residents of the eight cities told the Census Bureau questioners that they had suffered a roughly similar rate of over-all criminal victimization. Whites living in three cities—Atlanta, Dallas and St. Louis—said they had been subject to more criminal attack, in relation to their population, than blacks reported.

A VARYING PATTERN

The survey found wide variation in the totals of different kinds of crimes committed in the eight cities.

For every 100,000 residents, for example, there were 17,000 robberies in Atlanta, 15,900 in Baltimore, 12,400 in Newark, 10,700 in St. Louis, 9,800 in Cleveland, 6,900 in Denver, 5,700 in Dallas and 5,500 in Portland.

For rapes and assaults, an entirely different pattern emerged, with Denver leading with 4,100 for every 100,000 persons, Portland had 3,500, Dallas 2,800, Atlanta 2,700, Baltimore 2,500, Cleveland 2,500, St. Louis 2,200 and Newark 1,200.

Donald F. Santarelli, head of the Law Enforcement Assistance Administration, which sponsored the survey, and George E. Hall, head of its National Criminal Justice Information and Statistics Service, expressed surprise at some of the findings.

They were especially puzzled by the comparatively close rates of victimization experienced by whites and blacks in the eight cities, because early experimental surveys and precinct-by-precinct studies in New York City had indicated that blacks were far more likely to be attacked and robbed than whites.

HOMICIDE EXCLUDED

"The most startling find to me," said Mr. Santarelli in an interview in his Washington office, "is that approximately half the victims of crime did not have enough confidence in their criminal justice agencies to seek their assistance when victimized by crime."

Homicide was not included in the study,

partly for the obvious reason that there were no victims to interview and partly because it happens relatively infrequently.

According to Mr. Hall, the interviews on which the eight city crime patterns are based were conducted between July and October of 1972, and the results pertain to victimization occurring in the latter months of 1971 and most of 1972. There was some variation in the period covered because each interview covered only the 12 months immediately preceding it.

FOOD, AGRICULTURE, AND FOREIGN POLICY

Mr. HUMPHREY. Mr. President, last month in Hershey, Pa., the Governor of that State, the Honorable Milton Shapp, with the able assistance of his State Secretary of Agriculture, Mr. Jim McHale, sponsored a conference on the world food situation. Speaking at that conference were many knowledgeable and competent personages. Among them was a new, yet highly knowledgeable young Senator from the State of Kentucky, Senator WALTER D. HUDDLESTON. Senator HUDDLESTON delivered one of the most perceptive and comprehensive addresses given at this important conference.

Mr. President, I ask unanimous consent that Senator HUDDLESTON's Hershey, Pa., address be printed in the RECORD immediately following completion of my remarks.

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

(See exhibit 1).

Mr. HUMPHREY. Mr. President, I would like to urge every Member of both the Senate and the House of Representatives to read and study the junior Senator from Kentucky's remarks. In his address, Senator HUDDLESTON not only lays out the major problems we face today in meeting man's need for food, but also lays out what we as a nation must do in the future in order to meet our responsibilities in this regard.

I am proud to serve on the Senate Committee on Agriculture and Forestry with capable men such as Senator HUDDLESTON, who through this work on the committee and now through this address, clearly demonstrates how well he both understands and is able to provide leadership regarding these global agricultural matters.

EXHIBIT 1

SPEECH BY SENATOR WALTER D. HUDDLESTON

In 1789, England's Reverend Thomas R. Malthus, declaring that trouble was ahead for the world, stated as part of his premise, that first: "Food is necessary to the existence of man, and, secondly that the passion between the sexes is necessary and will remain nearly in its present state."

For over 150 years, most of the world paid little attention to his warning that man would outpropagate his capacity to feed himself.

But in recent months, there has been ample evidence to cause us to reconsider the proposition.

The American housewife paying her weekly grocery bill, the Japanese citizen learning of last summer's embargo on U.S. soybean exports and the livestock farmer paying double for his feed grains know that there is trouble in the U.S. and world agricultural systems.

The food machine is out of whack—and little drops of oil in the form of abolished set-asides and optimistic predictions—are not guarantees of a smooth-running future. Instead, we need major overhauls of transportation facilities, energy and fertilizer supplies, marketing production and trade policies, and several other factors necessary to insure an efficient and adequate system for the future.

Unfortunately, the mechanics of the overhaul will not be simple. We can no longer deal with the components one by one, in isolated fashion, for we have reached a point where linkages are important. In a nation and a world where non-renewable resources are both limited and often controlled by a few nations, distortions in the production and distribution of one resource can have far-reaching implications for many other resources.

As Dr. Lester Brown of the Overseas Development Council noted in a recent article, "A shortage of fresh water with which to restore strip-mined areas holds down the level of coal extraction, adding pressures not only on available coal supplies, but on all other energy resources as well. A fall-off in the growth of the world fish catch raises global demand for soybeans in order to produce substitute protein products. Scarcity of cotton pulls cropland needed for soybean production into cotton production, intensifying the protein shortage."

Thus, today and in the days ahead, we must deal not only with inputs but also with the implications of substitutions and dislocations in the usual input patterns—as the shortage of one resource often begets another. Several factors are basic to our current position in the area of food supply and demand.

First, there are 3 problem-situations. In the U.S., where foodstuffs have traditionally been abundant and inexpensive, we are now experiencing both high prices and scarcities of some familiar items. In Japan and Western Europe, where incomes have been continuously rising, there are new demands for high protein foods, especially meats. In the less-developed countries, where population growth continues at high rates and where there have been a number of natural disasters, millions of people face disaster.

Second, grains are basic to food supply. The two billion people who live in the hundred developing nations depend on grains for most of their protein and caloric intake. Annually, they consume something less than 400 pounds of grain per person. The average North American consumes close to a ton each year, with the major portion utilized indirectly in the form of meat, eggs and milk. The Europeans and Japanese fall somewhere between the two relative extremes.

Third, the North American continent has in recent years become the major exporter of grain.

Fourth, food production, in the next few years at the least, will be vitally affected by the availability of a number of necessary inputs. Furthermore, changes in the availability of these inputs are likely to cause distortions not only in food supplies, but also in supplies of various other materials.

What, then, can the United States do in the next several years to anticipate and meet the developments which do occur, and to guide food policy in a direction that will be beneficial to our citizens and the world at-large?

In general, our efforts will have to be made on three levels: (1) farm programs, (2) trade, and (3) development assistance to foreign nations.

During most of the post World War II period, the U.S. lived with agricultural surpluses, a set-aside program which idled close to 50 million acres of farmland, a support program which led to government acquisition of grains, and relatively low food costs.

Now those situations have changed. Surpluses are gone, food costs are up, set-asides are to be abandoned over a two-year period, the government has removed itself from the acquisition process and a new agriculture program has been adopted which will provide support payments only when farm prices fall below "target levels."

In other words, a decision was made to go all-out on production and to leave supplies in private hands.

At the moment, that production policy appears desirable. Even with record yields, 1974 and 1975 are years of anticipated tight supplies. We must, however, closely monitor the trends to determine whether or not all-out production is advisable on a continuing basis and whether or not we should maintain some type of emergency stocks.

I am a cosponsor of a bill to provide for a minimal domestic reserve designed to protect our basic foods and I believe careful consideration should be given to an international program—along with the attendant problems of who will pay, who will administer and how. Undoubtedly, the best forum for discussion of such a program is the World Food Conference proposed by Secretary of State Kissinger.

Special attention must be given to the production input factors. The Cost of Living Council acted recently to lift the ceiling on domestic fertilizer costs and a reporting system has been imposed to help monitor the movement of fertilizer abroad. But, this situation must be monitored in the upcoming months and efforts made to increase domestic production and availability and efficient use must be made of the plant nutrients which are available. For without adequate use of this input, production will undoubtedly fall below the current optimistic estimates

Priority in propane and petroleum allocations must continue both for production and distribution of foodstuffs. The farmer must be assured of energy supplies for planting, harvesting, drying, obtaining fertilizer and getting his crop to market.

Continuous attention must be given to the economic viability of our farming community. Agriculture is capital intensive and heavily dependent upon borrowing, which is in turn, quite dependent upon the prevailing fiscal and monetary situation.

Research should be expanded in soybeans. World demand for soybeans is growing, as is production. Yet, most of the recent increase in production has resulted from the planting of additional acres, not from increased yield per acre. With the increasing demand—particularly if the Peruvian fish catch does not return—and the declining number of available agricultural acres, it is highly important to achieve a breakthrough on per-acre yield.

A second policy closely related to the food and agricultural situation is that of trade. In recent years, U.S. farm products have proven to be the bright spot on the trade spectrum. The U.S. farmer is efficient and he can produce grains at a competitive cost and this fact has substantially helped our balance of payments situation.

During the 1972–73 year, U.S. agricultural exports reached $12.9 billion and contributed $5.6 billion to the trade balance (exports minus imports). Projections for the upcoming year suggest the figures may reach $19 billion and $10 billion, respectively.

There are several important implications of this trade. First, it helps stabilize the U.S. dollar abroad and assists in offsetting the expenditures which the U.S. must make in other countries for raw materials we lack and items in scarce supply at home.

Second, it allows the U.S. to pursue full

production without causing a glut on the domestic market. The U.S. production picture, taken alone, is not a bleak one. Even with the reduced production of 1972, total wheat harvested in the U.S. was twice that required for domestic use. When the previous year's carry-in is added, the U.S. domestic requirements accounted for only one-third of over-all supply.

In 1973, a record wheat harvest of 1.7 billion bushels is anticipated, but only between 750–780 million bushels will be used domestically for food, seed and livestock feed. With corn, 5.5 billion bushels will probably be harvested, while domestic use is estimated at 4.7 billion bushels. So it's easy to see that exports are essential to the well-being of U.S. agriculture. The problem lies in the handling of those exports.

During the past year, the export situation simply got out of hand, forcing our nation to embargo certain products.

Every nation must, of course, seek to protect its own food supply. The United States is no different. At the time they were initated the controls were probably necessary—the situation had degenerated to that point. But, what we should strive for is a policy which will preclude the necessity for "drastic" actions (to use the Administration's own terminology) on exports. Our trading partners throughout the world must be assured that the U.S. is a dependable supplier of food products.

The export monitoring system now in effect is a step in the right direction, but it can be improved. Information on exports should be obtained more promptly and additional date on exports held for "unidentifiable" destinations should be required.

Consideration should be given to licensing of the export of any such commodities expected to be in especially tight supply. Any such licensing considered should, however, go hand in hand with planning and should be implemented when data collections warn of potential shortages—not after some crisis is upon us. This means that we must keep close tabs on our exports and their relation to the domestic supply/demand situation and that we must be foresighted about our needs.

Furthermore, improvements should be sought in world-wide data collection and dissemination, with new attempts to include expanded information on the Soviet Union and the People's Republic of China. Both of these countries are potential market-forces, but the information we have on their agriculture situations is limited at best.

Coupled with this should be a *policy* for fulfilling obligations should trade restrictions become necessary. For years, the U.S. has been encouraging the European Community and Japan to import additional U.S. grains. The summer embargo and then licensing of soybean exports dealt a blow to U.S. arguments for increased grain trade and raised questions about the stability of the U.S. as a supplier nation, which we, in effect, are. Thus, it would appear advisable to develop a policy, known to our trading partners, for dealing with scarce situations.

Such a policy should seek, after consideration of our own interests, to protect the traditional U.S. purchasers—the ones who have been there in years past and will be there in the future—and then to provide assistance to those nations where it may make a difference in terms of survival. Development of such a policy would not only lend credibility to the U.S. as a supplier, but would also contribute to more stable trade patterns.

Movement toward such a policy might also provide the incentive for those nations which are now outside the major trade patterns, but which can disrupt the market—notably the Soviet Union and the People's Republic of China—to become more co-operative on trade matters.

In short, each nation can proceed on the basis of pure self-interest and haphazard planning, fulfilling its own needs and then letting the trade chips fall where they may. Or nations can seek to utilize a mechanism—perhaps the General Agreement on Tariffs and Trade (GATT)—which would allow them to protect their own supplies, but also one which would provide policy guidelines and bring order to the distribution of scarce commodities when exports must be restricted.

Another policy related to food and agriculture is *development assistance*. Some two billion people live in the developing nations of Asia, Africa and Latin America. More than two-thirds of these people live in rural areas and most of them earn their living by farming.

Yet, in these areas, a large segment of the population spends as much as 80 percent of its income on food, and these countries annually import billions of dollars of foodstuffs from the industrialized nations.

Insuring an adequate supply of food for these nations, especially when supplies are limited and affluent nations can bid prices up, is a major concern. If no provision is made, millions can starve; stability can be threatened in many parts of the world; and, development which would enable these nations to participate in the world trade flow is retarded. Thus, humanitarian concerns, security and economic well-being, especially in a time of resource and raw material shortages, argue for attention to the needs of these peoples and nations.

To permit the industrialized nations' preoccupation with their own needs and the prevailing disillusionment with development aid, to eliminate concern for the requirements of two-thirds of the world's inhabitants would be a long-term mistake.

There are, furthermore, other steps which can be taken relating to world food supply and demand. Voluntary population control programs can be pursued and expanded. Despite the efforts that have been made, population increases in the less developed nations continue at more than twice the rate in most industrialized countries, enlarging the youth population which drains from rather than contributes to development.

New efforts can be made with fortified and formulated foods—and with the distribution and education activities necessary to guarantee that such foods are properly utilized.

The directions taken by the World Bank and the U.S. Agency for International Development to improve the infrastructure of agriculture in LDCs should be supported and encouraged. The average farmer cannot benefit from the development of a new variety of wheat or rice if he is unable to obtain the seed, to gain the knowledge and technology to grow the crop, to have access to a road to get his product to market.

Finally, careful study should be given in the GATT negotiations to the needs of the LDC's. Without access to markets for products which they do grow and manufacture the LDCs cannot secure the foreign currency required to purchase foodstuffs and technology they need or to pay the growing debt service charges on loans which are essential to their development.

This all seems to leave us with more questions than answers, more to do than has been done. That is, in my opinion, the way it is.

We cannot adequately address our food and agricultural problems without addressing a host of other problems—energy problems, transportation problems, economic problems. We cannot adequately determine food and agricultural policy without looking at trade policy, foreign policy, fiscal and monetary policy. We cannot forecast nor plan for future U.S. food and agricultural needs without surveying and analyzing the trends in other nations—both in agriculture and in the input or supportive areas—as well as current and potential food consumption.

All of this tends to spell interdependence, a policy fraught with questions in view of what dependence has meant in the current energy crisis. But, what that crisis should teach us—especially our nation, Western Europe and Japan—is that we are interrelated, that the events and developments which affect one are likely to affect all—and affect all in a growing number of ways. Thus, each nation can play its oil politics, or its food politics, its grain politics or we can seek to avoid such situations.

That means planning—and planning on a co-ordinated basis. We must, first, come to grips with our domestic problems—with, for example, the question of a domestic food reserve. Unless we are on known and solid ground at home, we cannot have a sure footing elsewhere. Then, we must move forward to encourage co-operation among nations.

On the international level, we are engaged in or preparing for a number of meetings. GATT negotiations are underway; a Law of the Sea Conference has convened; a population conference will be coming later; a world food conference has been proposed. While each of these has its purpose and each has its own technical aspects which require attention, we must not miss the inter-relationships among them. We must develop an over-all view, one which will identify not only the inter-relationships, but the dislocations which will result if we are not adequately apprised of the implications of substituting inputs or resources from one area to compensate for scarcities in another.

The new challenge is not so much in identifying problem areas—in fact, problems have had the all too obvious propensity for identifying themselves—but, in understanding the linkages. Otherwise, we will transfer a shortage from area to area as substitutions occur, and the movement from anchovy fishing to soybeans will prove to be but the first in an echoing series of demands on the constantly closing doors of supply.

I commend Governor Shapp and the state of Pennsylvania on the convening of this conference. I note the schedule includes discussions on the major problems confronting our nation and the world—relating to food production, supply and distribution. Your work here will undoubtedly contribute to a better understanding of these problems and hopefully will develop workable solutions.

THE PART OF VICTIMS, LITIGANTS, JURORS, AND WITNESSES IN LAW ENFORCEMENT.

Mr. HRUSKA. Mr. President, the Law Enforcement Assistance Administration has made significant progress in strengthening law enforcement efforts against crime during the past 5 years. While a great deal has been accomplished, much more remains to be done to assure that Americans will regain that sense of security and safety they once had.

Thus, it was with great interest that I read a speech given by Donald E. Santarelli, the LEAA Administrator, to state criminal justice planning administrators in Williamsburg, Va., last week.

Mr. Santarelli's remarks go to the heart of the issue: the criminal justice system must be made more responsive to the needs of citizens. For too long, the citizen has been the forgotten element in the criminal justice equation. As Mr. Santarelli so eloquently puts it,

A victim of a criminal can also find he is a victim of the criminal justice system.

To conteract public disenchantment with the criminal justice system, Mr. Santarelli outlines a major new LEAA program to foster citizen involvement in the criminal justice system and to make sure that citizen interests are accorded high priority.

If there are any who question the need for action in this area, I would refer them to an article which appeared in the New York Times on January 11, 1974. The picture it presents of a Manhattan courthouse where addicts, prostitutes, pimps, and known criminals roam the halls is a shocking confirmation of what Mr. Santarelli is talking about. Can justice truly emerge in such a setting? I think not.

Mr. President, I strongly urge my colleagues to read the material I have been discussing, and I ask unanimous consent that Mr. Santarelli's speech of January 14, 1974, and the article from the New York Times, "Manhattan Courthouse a Sordid Setting for Justice," by Marcia Chambers, be printed in the RECORD.

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

ADDRESS BY THE HONORABLE DONALD E. SANTARELLI

I appreciate this opportunity to discuss with you a number of matters of substantial importance to us all.

This conference takes place at a particularly appropriate time, for we are beginning a new year—traditionally a time of viewing opportunities to be grasped during the next 12 months. We also are beginning the new three-year authorization for LEAA approved by Congress. And we in LEAA are in the early phase of charting new directions and initiatives vitally needed if the Federal role is to be totally productive.

Since we face sober—even somber—realities, I would like to recall some sobering words.

The Safe Streets Act says: "Congress finds that the high incidence of crime in the United States threatens the peace, security, and general welfare of the Nation and its citizens." That is a harsh indictment of this society's ability to protect its citizens.

After a struggle by local, state, and Federal agencies, serious reported crime declined in 1972 by two percent—the first reduction in 17 years. That was a major achievement, though it was somewhat flawed by the fact that crimes of violence continued to rise.

But we now see something of an ominous pattern reasserting itself. The FBI reports that serious crime increased nationally by one percent in the first nine months of 1973, and crimes of violence rose by even higher rates.

Congress created LEAA to help the states and localities reduce crime—through financial and technical assistance, and by leadership. Though it may seem obvious, there are a number of things Congress did not create LEAA to do. It did not create LEAA so that its funds could be frittered away—as has happened in some instances in a number of states.

Crime reduction is the yardstick by which we will be judged—by the people, by Congress, by future generations. Our work is not academic. The fact of crime and the fear of crime are very real, and are affecting our national life and national fiber in drastic ways.

We should ask what we can say to the victims of those crimes—to the nearly 400,000 victims of aggravated assaults in 1972, to the more than 46,000 victims of rape, to the families of nearly 20,000 victims of homicide. I don't believe any of us could say we are doing enough.

LEAA has been in business for more than five and one-half years. The time for trial periods, test-runs, and shakedown cruises is over. In two and one-half years, LEAA's legislative authority will expire. We will have to go back to Congress to ask for its renewal—and Congress is going to want to know what we have accomplished. So are the people.

We sometimes read of Americans being prisoners in their own homes and hear of proposals on how to reduce the fear of crime. The fear of crime is very real—and, we might note, with very good reason. There is only one way to reduce the fear of crime—and that is to substantially reduce crime itself.

After five and one-half years in business, and LEAA budgets that total nearly $3.5 billion, there can no longer be any excuse that there isn't enough money. It may not be sufficient to cover every item on every laundry list of needs, but it is enough to have produced more results than we see today. We are here today to join together in doing a better job.

I am relatively new as Administrator of LEAA. The LEAA program has accomplished a great deal—and against great odds. LEAA has made errors—there is no doubt of that. And with a program that deals with thousands of projects—and upwards of $1 billion a year—I'm sure LEAA will make mistakes in the future.

But I want us to learn from those mistakes. I want to see a program that produces more—so those crime rates are reduced permanently, so our citizns are saved from harm.

And now I want to turn to a discussion of some of the ways in which we can reach our goal. One of my first priorities is to foster a new spirit of partnership between the Federal government and our partners at the state and local level. We are now well along on the task of defining how LEAA will carry out this role under my administration.

The State Planning Agencies are going to be brought into the family even more than they have been in the past. And I pledge that you will have full participation in defining the LEAA role as well as in helping us construct a broad range of new national initiatives.

LEAA takes this leadership role very seriously. We really have two basic roles. One is to provide financial and technical assistance—a support role for state and local efforts. The other is to have a leadership role, in charting initiatives and in helping decide how funds will be used to carry them out.

We cannot abdicate this Federal leadership role. Stronger leadership may be exerted in some areas than in others—for instance, we are vitally interested in full civil rights compliance—but there will be leadership shown in every facet of our joint efforts.

From a management point of view, I see no more important function for me as Administrator than strengthening the ties between LEAA and the State Planning Agencies. For that reason, I am relying on Charles R. Work, my Deputy Administrator for Administration, to be the major point of contact for your organization within LEAA. I'm sure most of you know Chuck by now, and are aware of his skill and dedication. He feels as strongly as I do about this concept of closer cooperation.

But he will be more than a contact point for you within LEAA. He will be the man to whom this organization can frankly give its views, suggestions, and, yes, complaints. Naturally, the state planning agencies can continue to deal individually on matters with the appropriate regional office. We want to hear everything you have to say. Nothing was ever accomplished on a diet of good news.

No important program or policy development will be made by LEAA without your views first being heard. I cannot promise we will agree with everything you say, either individually or collectively. But we will solicit your views on everything of substance—and we will consider them carefully. We will give you our views on everything, as well.

We are building a new team at LEAA, and it is a team dedicated to excellence in leadership. Pete Velde's in charge of policy development. Chuck is my chief of staff for day to day operations, and please remember that when you talk to him it is the same as talking to me or Pete. He speaks for us. His goal is achieving results. Our motto of "Quality and Candor" is a two-way street. Pete, Chuck and I want your views. And you can be certain you also will receive ours.

Since LEAA provides both leadership and support, I look upon the network of State Planning Agencies as the very important and basic system of delivery. And I would like to turn now to a discussion of some of the things we are going to provide to the states to aid in reaching our common goals.

Please remember that we are now developing a new relationship, and out of it is coming a number of new initiatives. Pete, Chuck, and I will be discussing some of them in detail with you in the days and months to come.

We want—and must have—new initiatives in evaluation, so we will know what works best and what doesn't work very well or at all. An in-depth evaluation effort is now well along the road to reality. New efforts also are being fashioned to help make a greater impact on the crimes of violence. The work of the Standards and Goals Commission was of exceptional importance—both its specific recommendations and the process it represents. But we are not mandating the standards and goals, or forcing them upon anyone. They are for voluntary adoption as states and localities see fit. What we want to see adopted is the process of planning and carrying out improvements of excellence—with you setting your own priorities and goals. And we will support you in those efforts. We also will be discussing this with you in detail, for I know not only of your interest but of your concern in how needed help can be obtained. New efforts are needed to upgrade and improve the efficiency of courts, and that, too, is a priority. Effective corrections and police programs also will be stressed.

No part of the criminal justice system is going to be given short shrift on funding. What we plan is more emphasis on certain areas—the courts, for instance—which have gotten too little attention in the past.

In addition to the other areas of new emphasis I have briefly discussed, I now want to turn to another priority which we are in the process of developing—and discuss it in some detail.

We want your full contribution here as we gather information and construct another vehicle that I believe will contribute to crime reduction.

As I mentioned earlier, our goal is the reduction of crime in America. There are many paths we must follow simultaneously to reach that goal.

One of them that has been overlooked in the past is the citizen—and the role he can play in helping to fashion advances in crime reduction.

Some may view this as a new perspective for solutions to old problems. It is that, in part. But it is also something more. And that is developing within the criminal justice system mechanisms to make it truly responsive to the citizens.

Naturally, the foremost way in which the

criminal justice system can aid citizens is by protecting them, by reducing crime. But we also have to face the fact that in much of the nation today the criminal justice system seems to be operating to serve its own needs, running things to suit its own preferences, carving out spheres of influence to suit its own convenience.

But the criminal justice system must not be the master of the people. It can only aspire to be the servant of the people.

Policemen, and judges, and corrections officials, and prosecutors cannot be in business for themselves. Their job is not to erect empires and operate outside of the gaze and control of the public.

We hear and read a great deal these days of the lack of public confidence and trust in the institutions and mechanisms of government.

There are two ways in which the criminal justice system can reclaim that trust. The first is by reducing crime in significant and permanent ways. The second is by the criminal justice system treating citizens as though they are what they are—decent, law-abiding people who comprise the heart of our democracy. It is time the criminal justice system began viewing citizens in that fashion—rather than as pawns who can be moved on life's board at the whim of officials who occupy posts only at the public's tolerance.

It is time for us, as men and women who carry out the will of Congress through the LEAA program, to become the spokesmen and advocates of the people—to make certain that their interests are the primary factor in everything that we do.

The criminal justice system, in working to achieve the goal of crime reduction, must make citizen interests and citizen participation an integral part of all of its operations.

We must march to the tune of a different drummer—the people. Everything we do—everything that is done with LEAA funds—must include a component for treating citizens better and making the system more responsive to them.

It is easy to discern the reasons for public disenchantment with the criminal justice system. The odds are better than even that any citizen who comes into contact with the system will come out of that experience with a sour taste in his mouth, with his or her confidence eroded.

The public's most frequent point of contact with the criminal justice system is the traffic offense—when a policeman stops you or me or our friends for speeding or failing to stop at an arterial highway, or one of a hundred other things. And what is the usual experience? The citizen comes away feeling a real anger. Not because he didn't violate a traffic law—but because the traffic policeman treated him in such a demeaning way in the process of giving him a ticket.

Anyone who has ever been to traffic court recognizes the shortcomings of the judicial part of our system. Endless waiting, numerous delays, frequent postponements—all of the things that make the citizen wonder if he is living in a free America or in some sort of oligarchy where decisions are made to suit the fancy of the aristocrats—or, more properly, the bureaucrats.

But if things are bad in traffic court, where the stakes are relatively small, they grow even worse for the citizens who come in contact with the criminal courts—whether the citizens be victims, witnesses, or jurors.

A victim of a criminal can also find he is a victim of the criminal justice system. If he shows up to testify, he can find the case is postponed—and then postponed again and again. That is money out of his pocket, time out of his life. He begins to wonder who the system is supposed to be for—him, the victim, or a host of other people—the defense attorneys, the prosecutors, the judges.

The citizen has every right to be dismayed by high crime rates. He has every right to be dismayed by low clearance rates of crimes—for he knows, for instance, that less than 20 percent of all burglaries nationally are cleared. And he has every right to be dismayed at the even lower rates of convictions. Put yourself in the shoes of a crime victim—who finds himself to be that pawn on the criminal justice chessboard, who has to suffer all sorts of indignities, and then sees, as the final straw, the accused offender walking out free.

In another two months or so, we will have the results of a landmark study in one major urban jurisdiction of how criminal prosecutions wash out—and why. We will make those results available to all parts of the criminal justice system, because they will show us some fascinating things about what happens in the courts and prosecution sections of the system.

While we do not have hard data in hand yet, the preliminary material shows clearly that fear of reprisal is a significant factor in witnesses failing to cooperate—in failing to testify—with the result that many accused offenders are freed.

We know that non-cooperation from witnesses is a major factor in prosecutions washing out—perhaps responsible for half the cases that are scrubbed. And that fear of reprisal seems to be the reason in a significant number of cases. If we ponder that for a moment, it is a chilling indictment of the criminal justice system and its ability to bring the accused to justice and to achieve justice for the victim and for society. It means that we not only cannot protect huge numbers of our citizens against crime in the first place, but we cannot even instill confidence in significant numbers of citizens that the law can protect them if they testify against the accused.

Something has to be done about that—and now. We must create programs to protect witnesses: Not some sort of cosmetic effort, but perhaps witness protection units that will really safeguard citizens against reprisals for doing their duty.

The same study also gives some indication that a significant number of witnesses fail to cooperate because of the way they are treated by prosecutors—presumably because too often nobody ever explains anything to them or tells them how the system works or how they fit into the case that is being developed. That, too, must be changed.

The litany of failures of the criminal justice system could go on and on.

Recent published reports show that in one major city jurors spent 62 percent of their time in the waiting room. We can imagine the impressions those jurors gained of our criminal justice system, and what effect that may have on their willingness to support the system in the future.

We know from test studies in LEAA's national victimization surveys that an awesome amount of crime is unreported. In two cities surveyed, we learned that the actual number of crimes in certain categories was five times higher than that reported to police. We know, too, that citizens often fail to report crime because they lack confidence the police will be able to do anything about it. Or because they feel they will be caught up in a maze of legalisms and procedures that could extract even more costs from them. And because some feel they will be hassled or ignored or shunted aside by the very people sworn to help and protect them.

These sentiments are voiced by people of all backgrounds, all ethnic groups, all economic classes. But there is a particular problem, it seems to me, with the ways in which minority groups are treated by the criminal justice system. In many cities today, police-community relations programs have no more substance or no more relation to reality than the false-front stores erected on the sound stages of a film studio for a western movie.

We have to tear down the walls that separate the residents of the inner cities from their fellow citizens. Where the walls cannot yet be torn down, then we have to build bridges. And where bridges cannot yet be constructed, then we will have to erect catwalks. But the dissension, the isolation, the suspicion must be overcome—and with programs that protect and serve the people, not mere cardboard structures.

The criminal justice system cannot continue following its misdirected course of ignoring or abusing the very citizens it was originally designed to serve.

Neither can it abdicate its responsibilities by saying to the citizens that they must support the system without being shown how that can be done.

One of the parts of the new citizen program LEAA is now creating calls for a massive program of public education—ranging from telling citizens how they can better protect themselves against crime to how they can join together in responsible citizen action with information from a national clearinghouse.

There are relatively simple, inexpensive steps that citizens can take to make their homes secure against burglars. There are simple precautions that citizens can take to protect themselves against robbers and muggers and rapists. There should be no higher priority in these new initiatives than showing citizens how they can protect themselves and their loved ones.

Criminal justice can benefit enormously from the efforts of citizen and civic groups throughout the nation which are either working for crime reduction or which want to if they only had some assistance. Through the Standards and Goals Commission, we now have a blueprint—the Community Crime Prevention Task Force Report, with its hundreds of specific recommendations.

It is the process of Standards and Goals that is most important. But many states and localities probably will find in the reports a number of things they may wish to do—quickly and at little cost.

Public corruption—especially in police agencies and other parts of the criminal justice system—is one of the greatest obstacles to effective law enforcement that we face. Yet it costs virtually nothing to reproduce and disseminate broadly the Standards and Goals checklist on signs of public corruption that the citizens should be on the watch for.

Each state should have a clearinghouse of information for citizen action groups, tied into a Federal clearinghouse which we will develop.

Other reasonably easy steps can also be taken rapidly. As so many crimes go unreported, police departments should set up procedures to make it easy for citizens to report crime—and obtain effective action.

When people go to report crimes, they sometimes can find no one to talk to. Or they have to wait endlessly. Or they find themselves given two minutes and then shunted off. Or, even worse, they find that they are being badgered by the police. This is especially true of victims trying to report certain kinds of crimes—for instance, rape.

Courts can set up new procedures that serve the public rather than wasting the time of victims, litigants, jurors, and witnesses. On this point, it might be instructive to recount a story attributed to Associate Justice Byron White of the Supreme Court, who went for a dental appointment one day only to find the waiting room filled with 25 patients. When he finally got to see the dentist six hours later, he asked what had caused the delay. The dentist replied: "It's very simple. A few days ago, I had to go to court. I was told to be there at 9 a.m., along with 50 or 60 other people. My case didn't come up until 4 o'clock. I figured if that's the right way to run a courtroom, I can do the same thing

as the judges, so from now on all of my patients have to be here at 9 o'clock every morning. It may not be so good for them, but, like the judge, it's great for me."

We do not yet have a complete plan for our new citizen initiatives. My reason for discussing the matter with you today is to seek your views and ideas and contributions, so that a program of the greatest possible excellence can be developed.

A high-level task force within LEAA already is at work on this project. In addition to the ideas it is generating, staff members are screening all state plans for relevant projects. We have invited representatives from your organization to give their views. We invite each of you individually to make your input. We are looking at research and development efforts that have been carried out over the years—within LEAA as well as outside of the agency. We are seeking a wide range of views from criminal justice specialists and organizations.

The effort to help citizens—to bring them into the system, to meet their needs—is going to be a major new direction for LEAA. We want your help. And in turn we will devise the best program possible and back up our beliefs with technical assistance and very substantial funding, though we do not yet have the price-tag for the latter.

The ideas are many: central citizen complaint and service bureaus for all criminal justice elements; witness coordinators at police stations, courthouses, district attorneys' offices, and defenders' offices; new techniques of construction and communication so that, for instance, people can hear what is going on in courtrooms; community relations bureaus for police and courts and prosecutors; participation of the victim in plea bargaining by prosecutors; video-taping of testimony; reports at some point by police to victims on whether they are making progress in investigating or solving cases; family crisis intervention units; citizen advisory boards for all criminal justice agencies; and citizen action program of all kinds.

The list of needs—and of symptoms—stretches on. And while our plans are not yet complete, we do know that our new programs to evaluate the effectiveness of LEAA programs must include a component to make certain that all citizen needs are met.

When Joseph Pulitzer published The New York World, he had on the masthead his credo for public service. It said, at one point: "Always remain devoted to the public welfare." And at another point: "Never be afraid to attack wrong, whether by predatory plutocracy or predatory poverty."

We are in the business of attacking wrong—the wrong of crime that claims millions of victims each year, the wrongs of a criminal justice system that fails to do everything it can to prevent and reduce that crime.

If some in the criminal justice system interpret my remarks as unfair criticism, let me say that I certainly do mean to criticize and that it is not unfair. My point—the point of the LEAA program—is to achieve results, and it is no more unfair to criticize bungling public officials than it is to criticize a surgeon who bungles an operation or a public health scientist who fails to detect quickly enough an outbreak of typhoid.

For the thing that every single person in the criminal justice system has to understand—with his heart as well as his mind—is that we, too, hold human lives in our hands. And if we fall short, if we fail to protect, then we bear burdens too heavy for even the most hardened conscience.

We are not talking about academic matters or impersonal statistics or flow charts. We are talking about saving human lives and preventing human suffering. We are talking about preserving our cherished freedoms, freedoms that cannot co-exist with crime at the present levels. The views I express here today are not mine alone. They are the views of the Congress, which created this program to achieve results. They are the views of the people of this nation, whose patience is remarkable—but not endless.

[From the New York Times, Jan. 11, 1974]

MANHATTAN COURTHOUSE A SORDID SETTING FOR JUSTICE

(By Marcia Chambers)

Enter the lobby at 100 Centre Street. A half-dozen vagrants who have spent the night in the building wander up and back, up and back. A spaced-out addict dances by, bumping into people.

At the information desk, prostitutes, pimps and a well-known pickpocket drink soda pop and grind cigarettes into the filthy floor. No information is dispensed at the information desk. It has not been staffed for years.

In the corner of the lobby, John Murken, a 53-year-old blind newsdealer, is selling chewing gum to a customer. Mr. Murken can remember that, when the building opened in 1941, it was one of the most beautiful in the city. Now he is afraid to cross the lobby at any time of the day.

"This place is treacherous," he said. "It's a zoo. The lower depths. There is simply not enough security. Once there was great dignity here.

"But in the last eight years or so, things have changed. People steal all day. Three years ago a guy leaped over my counter and took my strongbox. It contained $1,000. The week's receipts. In the old days I could play chess over my counter. Now I can't be distracted for an instant."

The place Mr. Murken is talking about is the Criminal Courts Building of New York County, through which hundreds of witnesses, police officers, lawyers and potential jurors who are required to presume the innocence of those on trial pass daily.

Citizens called for jury duty enter elevators whose walls and doors are covered with obscene graffiti. At any time of the day or night, derelicts, usually drunk, sleep in window alcoves along the court's corridors. Remnants of food are everywhere—on floors, spilling over receptacles, sometimes in courtrooms.

On a recent tour of the 16-story building, a New York Times reporter found a glassine envelope, usually used to hold heroin, on a bathroom floor. Several lawyers said they had witnessed addicts shooting heroin in the men's rooms.

Those who work in the building—judges, court clerks, court officers, defense, prosecution and Legal Aid lawyers, and police officers have described the court's atmosphere as "degrading," "disturbing," "a pigsty," "a hangout for vagrants," "a depressing, sad place."

Supreme Court Justice David Ross, administrative judge of the Criminal Court and the Manhattan and Bronx Criminal branches of the State Supreme Court said:

"The building looks like a stable. But after awhile, if you work in a stable long enough, you don't smell the horse manure." Neither judges nor lawyers could measure the effect of such an environment on justice in general and jurors in particular. "It has an effect on the system. We have to start with an image of the law. How do you have respect for the law when you start out with dirty courtrooms?" Justice Ross asked.

IN "TERRIBLE SHAPE"

Howard E. Meyer, the attorney-in-charge of the Legal Aid Society's Division of Narcotics, who for three years had offices in the building, went a step further. "The presumption of innocence is a bit tarnished. It would be nice if we could helicopter jurors in."

Alfred J. Scotti, the acting District Attorney of Manhattan, said the lobby was in "such terrible shape" that it "offended one's aesthetic sense." Such an environment might make a person—juror or witness—unhappy, he said.

While few involved in the criminal justice system care to discuss it, the Times has learned through numerous interviews with building employes and through a check of records for 1972 at the Fifth Precinct, in which the building is situated, that crime flourishes at 100 Centre Street.

Office equipment, particularly typewriters, has been stolen, Judges' robes have disappeared from chambers. Two con game artists have plied their trade in the arraignment section. Wallets are taken regularly from employes' purses. Vandals break windows and slit the leather on courtroom doors.

Few people interviewed could precisely pinpoint the year when the building's decline began, but several courthouse veterans believe that the disappearance of dignity and the atmosphere of degradation and hopelessness appeared along with the thousands of narcotics cases that moved through the court system in the past eight years.

MANPOWER SHORTAGE CITED

Judge Ross and others place the blame on two factors: the extremely high volume of traffic and an insufficient number of court officers and cleaning staff.

Lester Goodchild, administrator of the courts, said that over an 11-month period, from January to November, 1973, there were 192,212 cases on the Criminal Court calendars.

"I have insufficient men to man the courtrooms, how can I afford to place any men in the corridors?" Justice Ross asked. An additional 107 court officers are needed, he said, adding that while 72 positions had been authorized this year, the jobs remain vacant because of the "job freeze."

Justice Ross and the Police Department are reluctant to place police officers on patrol in corridors of a court of law, a place where impartiality is required. A police spokesman also said yesterday that manpower was insufficient for daily assignments, although the police from time to time have been used to buttress court personnel during "politically sensitive trials."

Recognizing that the city's Department of Public Works, which oversees the building's cleaning, has also sustained job cutbacks, Justice Ross said he could hardly criticize the department's inability to clean the building.

Charles S. Foti, director of Operating Services for the Department of Public Works, conceded the building was in a sorry state. But, he said, 11 years ago a staff of 99 was required to clean the building. By 1973, the staff, he said, had been reduced to 61 men and women, some of whom work part time.

Three potential jurors, all women, said the sleaziness annoyed them. "This courthouse is dirty," one of them said during a luncheon recess. "It's not like the kind you see on television. Those seem nice and clean and comfortable."

OPEN 7 DAYS A WEEK

At night the court's warmth attracts the neighborhood's homeless, and the frantic daytime pace is reduced to those few dozen on hand for night court. The building, open to the public seven days a week, from 9:30 A.M. to 1 A.M. is easily accessible.

No court officers check identification, as in Federal court, and often it is difficult, if not impossible, to distinguish between a vagrant seeking shelter and a vagrant arriving for his court case. Nonetheless, after three days of observation, it became clear that the building is home for six or seven lonely and sick men and women, who usually spend the night sleeping in bathrooms and corridors on the second floor.

Larry, 50 years old, is one of them. He has been living in the courthouse for 11 months. His threadbare overcoat and torn trousers are

filled with lice. He said he needed a bath. He tries hard not to get in anybody's way, and several court officers and luncheonette employes look after him.

"If you're quiet about it and don't raise hell, you can spend the night," he said at 11 P.M., as he sat in a phone booth.

Outside the fourth-floor complaint and docket room, another courthouse habitué was happily snoring as he sat sprawled on a bench, his shoes and socks drying out from the snow on the bench beside him, and the remainder of his worldly possessions—jackets, shirts, hat and cane in a shopping bag nearby. Police officers and lawyers passed by never noticing him. He returned the following night, too.

"NO RESPECT"

Meanwhile, Police Officer Paul M. Alaimo, 27, of the Midtown North precinct, was waiting for a case he was involved in to be called in night court. Judge Leon Becker was presiding in robes ripped at the elbows.

Officer Alaimo, who joined the force four years ago, recalls how shocked he was when he first entered the building. "It hasn't changed. It's still a hangout for pimps bailing their women out." Then he added: "In the halls of justice there's just no respect—even for property."

In recent years, the building has become so dangerous that even the court buffs, who roam from courtroom to courtroom following the best cases, have deserted the building. But for an occasional trial, they can be found in the gleaming courtrooms and marble corridors of the United States Court House three blocks away at Foley Square.

"It's dangerous over there in Criminal Court. We're elderly people and we're always afraid of a flare-up. Sometimes people throw bottles at each other in the corridors. And we're afraid of getting mugged in the men's rooms," said James Shiro, 75, a retired vaudevillian, who has been a courtroom "regular" for 12 years.

Charles Herzog, 76, a court buff since he left the grocery business 18 years ago, made one of his infrequent visits to the courthouse one day in November. He was in the courtroom when a defendant pulled out a revolver and critically wounded himself and a woman friend. Like the judge, Mr. Herzog ducked for cover. He has not returned since.

LACONIA, N.H.'S RIGHT-TO-READ CENTER

Mr. McINTYRE. Mr. President, the Right-To-Read Center at the Memorial Junior High School in my hometown of Laconia, N.H., has been cited by the International Reading Association for its "unique and innovative features." I am always proud when New Hampshire programs receive recognition and honor, but especially when it happens in my hometown.

One of the key factors in any reading program is the training of staff. The national right-to-read effort stresses the importance of having well trained and understanding teachers who are fully supported in their efforts by the school administration. The article by the International Reading Association points out that the Memorial Junior High School had an "exemplary program in staff development." In particular, they noted the following distinguishing features:

A comprehensive, well integrated inservice program, the administration and staff were enthusiastic, ample planning time and additional pay were available to the staff, and the well-equipped, beautiful, two room lakeside reading lab provided the right ingredients for a successful program.

I want to commend all those involved in the development, administration, and teaching of this program. Most especially I want to congratulate Principal Martin Harwood, reading specialist Phillip Yeaton, and librarian Helen C. Colby for fine efforts in making this program such a success.

Mr. President, I ask unanimous consent to print in the RECORD the entire text of the International Reading Association reports on the right-to-read effort in the Memorial Junior High School, Laconia, N.H.

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

AN EXEMPLARY PROGRAM

In our search for exemplary programs in staff development numerous programs were cited to us as outstanding with unique, innovative features worth disseminating. One such program at Memorial Junior High School in Laconia, New Hampshire attracted our attention because it seemed to have all the key components working for it. The Task Force planned a comprehensive, well integrated inservice program, the administrators and staff were enthusiastic, ample planning time and additional pay were available to the staff, and the well-equipped, beautiful, two room, lakeside reading lab provided the right ingredients for a successful program. In an on-site visit we observed how these components worked together.

Briefly, the Task Force designed a program which included:

1. An orientation period of several months to assess student and teacher needs.
2. A plan for involvement and training of teachers and volunteers.
3. Strategies and activities to train personnel and involve specialists.
4. Facilities for in-depth reading studies and preparation of materials.
5. Opportunities a) for a variety of inservice programs, b) to visit other schools and reading conferences on released time, c) to integrate programs with the librarian, guidance counselor, specialists and other teachers, d) to work in a clinic experience program with a student under the guidance of the coordinator and others, e) to develop a prescription for improvement for the clinic student, and f) to develop a unit which could be integrated with the school curriculum.

INSERVICE ON READING FUNDAMENTALS

The first inservice workshop was held for two weeks for 25 classroom teachers from Memorial Jr. High and local elementary schools. All received remuneration as did others working on outside time. The workshop was a general exploration into individualized instruction and included topics such as reading in the content areas. All topics were relevant to student needs at the junior high level and to the target program. Another 10 hours of in-depth study was held several months later. The staff continued weekly study programs on released time. They were also released to attend appropriate reading conferences, and the school hosted reading groups, area teachers, and out-of-state teachers for workshops: Free periods were used for staff planning.

INSERVICE FOR CONTENT AREAS

As a result of intensive reading clinic training in the content areas, seventh grade target teachers have initiated individualized prescriptive programs in heterogeneously grouped science classes, replaced part of the ancient history material in social studies classes with a Career Exploration Study, and developed an integrated Language Arts program in place of traditionally taught English. Fifteen teachers, who were paid, participated in the clinic which totaled 70 hours and was held in the local district. Each participant was required to: tutor a student 2½ hours daily; write a prescription for the student which would emphasize reading in the content areas; and integrate the content reading skills. All tutoring was supervised by the reading coordinator. The participating teacher also attended 2½ hours of workshops and seminars daily.

Principal Martin Harwood of Memorial Junior High reports that the teachers are very enthusiastic about their inservice training in reading and the students seem to enjoy changes in the curriculum. The inservice program coupled with the well-equipped reading lab and skilled specialists which operate it have worked together to produce a highly successful, well integrated reading program at Memorial.

THE NECESSITY FOR SENATE ACTION ON THE AUTHORIZATION FOR THE INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. PERCY. Mr. President, on January 23, 1974, the House of Representatives defeated the bill authorizing continued U.S. support of the International Development Association—IDA. This was not a partyline vote. It was a frustration vote, reflecting the turmoil in our own political system and the chaotic state of the world economy fostered by the energy crisis. The vote is a double tragedy. It represents a vote against responsibility and a vote against those who need aid the most, the world's poor.

IDA funds are loaned at low interest rates only to the poorest countries, countries with a per capita income below $375. Most of the countries receiving aid from IDA are in Africa. Many of these countries are being ravaged by the drought that grips a large area of Africa. The majority of IDA funds, though, flow into the densely populated and deeply impoverished nations of South Asia. In most of these nations development planning does not involve raising the standard of living, but rather planning for the survival of the population.

On June 30 IDA will be out of funds. For the last 2 years the United States and 25 other donor nations have been meticulously laboring over negotiations to replenish its reserves. The executive branch, in close coordination with the congressional committees responsible, worked out an agreement very beneficial to the United States. U.S. participation in the replenishment was allowed to drop from 40 percent to 33 percent and the payment schedule for the United States was expanded from 3 to 4 years. In turn, other countries increased their contributions: West Germany doubled and Japan tripled their previous participation.

Under this new agreement, each dollar of aid extended by the United States will be matched by $2 from other donor countries. For 20 years we have worked for this type of burden-sharing agreement, and now it is in jeopardy. If the United States does not hold to its negotiated share, other major contributors can be expected to reconsider their own participation. There is a good chance that IDA and the entire concept of long-term, low-interest loans to the poorest countries in the world could die.

Development assistance serves our national purpose in a multiplicity of ways—political, economic, security and humanitarian. Some of these purposes are long term in nature such as expanded export markets, access to raw materials, cheaper semimanufactured products and opportunities for foreign investment. Other interests are more short term in nature such as influencing other nations to perceive a common interest in our own international policies. In this effort both bilateral and multilateral aid complement each other.

The multilateral aid program, of which IDA is an important part, has the additional advantage of providing a very low political profile. The World Bank can help coordinate aid efforts from numerous donors to a given country, something neither the United States nor any other single nation could hope to do. This coordination helps guarantee that aid is not duplicative. IDA also brings together the donor and receiver nations in an institution where conflicts can be understood and resolved.

A lack of congressional support for IDA, moreover, could reach far beyond just the structure of our assistance program. Our foreign economic policy and the concern it displays toward the less developed world will influence both the monetary and trade negotiations now pending before the nations of the non-Communist world. Monetary stability, trade and economic development are interrelated. Cooperation and good faith are needed by all concerned. The Arab oil embargo is an example of how quickly hostile economic acts between interdependent countries can cause hardship or tragedy for both rich and poor alike. The road we must follow is one of cooperation and international responsibility, not isolationism and withdrawal.

We in the Senate now have the responsibility of resurrecting the issue of IDA and its companion in legislation, the authorization of funds for the Asian Development Bank. This legislation has already been presented in public hearings, and I urge the leadership of this body to bring it before the Senate prior to the February 11 meeting of the key industrial states here in Washington. At this meeting we need to impress upon the members of our economic community that if we all stand together and accept our responsibilities we will all benefit. These are the nations who have committed themselves to IDA in cooperation with us. We cannot afford to project an image that we only want cooperation when our immediate short-run interests are at stake. If we wish the cooperation of others, then we too must cooperate.

IMPROVING RELATIONS BETWEEN THE UNITED STATES AND INDIA

Mr. HUMPHREY. Mr. President, encouraging year-end assessments of Indo-U.S. relations recently appeared on the editorial pages of two major Indian newspapers, the Statesman and the Hindustan Times.

Both assessments cited a significant improvement in our relations with India. The Statesman pointed to "signs of a mutual desire to restore trust and understanding," while Krishan Bhatia reported to the Hindustan Times that "[both countries] have acquired a new sense of international maturity and a compulsion to build a reasonably durable working arrangement between themselves."

The key to the improvement of Indo-U.S. relations, according to these articles, has been a new willingness on the part of both countries to respect differences, to be more restrained in their reactions to each other's policies, and to build on the common ground that exists.

India did not overreact to the U.S. naval presence in the Indian Ocean. Indian leaders have been less inclined to regard every indication of friendship between the United States and Pakistan as an expression of hostility to India. Dr. Kissinger has stated that the United States does not mind the recent improvement of relations between India and the Soviet Union and that he hopes the Soviet Union would not mind an improvement of Indo-American relations. According to Krishan Bhatia, the United States realizes that neither she nor the Soviet Union will be able to dictate Indian political and economic policies. All these are cited by the Indian newspapers as indications that the United States and India have reached a new level of "maturity" and "realism" in their relations with each other.

Both articles emphasize the importance of this new mutual understanding and respect for differences in the effort to improve economic relations between the United States and India.

An important first step was made in the building of stronger economic ties in the recent renegotiation of India's Public Law 480 debt to the United States. The settlement reached reflected a pragmatic understanding by each country of the political and economic constraints faced by the other. Hopefully, this success will be repeated as the United States and India strive "to discover and possibly increase common ground" in the economic as well as the political sphere.

An article in the New York Times of Sunday, January 20, shows that one major area of common concern for the United States and India is the energy crisis. The article points out that India faces a severe economic setback, both in food production and in industrial growth, as a result of the increase in oil prices. Food production, relying heavily on petroleum-based fertilizers, is expected to drop at least three million tons this spring. Both the United States and India will be faced with a severe fertilizer shortage in the next year. Both will be faced with high rates of inflation and unemployment, coupled with low or negative economic growth rates resulting from the oil shortage. Like the United States, India will have to meet its oil crisis by developing alternative, domestic sources of energy, such as coal. We must build on the improvement in political relations between the United States and India over the past year in working together to solve these common economic problems.

Mr. President, I ask unanimous consent that the December 31 editorial in the Statesman, the January 3 article from the editorial page of the Hindustan Times, and the January 20 article in the New York Times be printed in the RECORD.

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

[From the Statesman, Dec. 31, 1973]

INDO-U.S. RELATIONS

Dr. Kissinger's remarks on Indo-U.S. relations at his Press conference on Thursday contain the encouraging assurance, since the 1971 "tilt" and its consequences, of a steady improvement in Indo-American relations. Signs of a mutual desire to restore trust and understanding were apparent more than a year ago. Some minor irritants intervened; but both Governments seem to have been patiently pursuing the same basic objectives. Dr. Kissinger's testimony to the Senate Foreign Relations Committee on September 11 did much to dispel Indian misgivings regarding American arms supplies to Pakistan. He also confirmed that Indo-U.S. relations were improving and that Washington wanted the process to be accelerated. His meeting with Mr. Swaran Singh in Washington in October, followed by Mr. Moynihan's talks in New Delhi, cleared the way for an agreement on PL–480 funds. U.S. officials have now indicated that talks on trade and aid are likely to begin after Congress ratifies the settlement on the U.S.-owned rupee account. Meanwhile, both countries have done well to avoid political controversy. There was no Indian over-reaction to reported U.S. plans for a regular American naval presence in the Indian ocean. Washington, on its part, refrained from any provocative comment on the outcome of Mr. Brezhnev's visit to India. Indeed, Dr. Kissinger said that the USA did not mind an improvement in Indo-Soviet relations and hoped that Russia, too, would not mind an improvement in Indo-American relations. New Delhi could not have hoped for a more reasonable and potentially helpful stand.

This does not necessarily mean that Mr. Nixon and Dr. Kissinger have undergone a complete change of heart or that there is no longer any scope for conflict between Indian and American interests. There is no call here for euphoric visions of everlasting friendship of the "bhai-bhai" variety. New Delhi has no reason to regret that there is not. Sentimental effusions serve no purpose in sustaining mature political relations; these are best built on a recognition of each other's interests. Neither side has a right to expect these interests to be identical; what is needed is a mutual willingness to discover and possibly increase common ground and thereafter respect such differences as remain. Washington seems to have been steadily coming round to this view; and this calls for an adequate response. It is encouraging that the Nixon Administration is not disappointed. Dr. Kissinger has acknowledged that U.S. efforts to improve relations have been reciprocated. He has also said that the two countries have "no conflicting national interests". Yet differences may arise. Fortunately American acceptance of new realities in the subcontinent has removed a major source of misunderstanding. The U.S. disengagement from South-East Asia should enable India to avoid provocative command on a subject which has often caused unnecessary bitterness. Washington's new relations with Moscow have already enabled Dr. Kissinger to take a more dispassionate view of India's foreign policy. New Delhi needs now to be far more businesslike than it has been in the past in assessing its priorities, which are economic rather than political.

[From the Hindustan Times, Jan. 3, 1974]

MORE MATURE RELATIONSHIP

(By Krishan Bhatia)

Now that the recent Indo-US agreement about the future of the PL-480 funds is expected to be formally ratified within the next few weeks, one hopes 1974 will witness the "new relationship" between the two countries take concrete shape.

Mr. Nixon and others holding important positions in the Administration have spoken of the new relationship on virtually all major occasions since the beginning of 1972 but all this time the suggestion has lacked substance. The confrontation over Bangladesh proved the last straw for the previous relationship which in any case had been rendered irrelevant by changed circumstances in the world. However, neither side was clear in its mind about the lines along which the new association may be evolved.

APPROPRIATE TIME

The time now appears to be ripe for both countries to do some serious and frank talking about the future pattern of relationship. The aggravations that each suffered from the other during 1971 have more or less disappeared. In this past two years, they have also acquired a new sense of international maturity and a compulsion to build a reasonably durable working arrangement between themselves.

The impending approval by the Congress here and Parliament in Delhi of the PL-480 agreement is revelant to the two countries' search for a new relationship. Nearly six months ago, the Administration had sent an aide-memoire to New Delhi expressing its readiness to begin discussions about the nature of the new relations covering not only economic aid but also trade, investment and exchange of technology. New Delhi had then responded with the view that a more appropriate time for such an exchange might be after the PL-480 problem and the emotional burden it caused in India were out of the way. This approach was reiterated more recently when India's Ambassador here, Mr. T. N. Kaul, met Dr. Henry Kisinger on the eve of the initialling of the rupee agreement.

It may be some months before Indo-US parleys begin and reach a meaningful stage but certain basic, if negative, features of the future association are already obvious. One does not have to have access to "inside information" to be able to say, for example, that US involvement in India will be on a very modest scale and that aid will not be the principal basis of the new relationship.

Whatever the magnitude of the US role in India, the Administration is determined that it will not be "intrusive". It is with some irritation and perhaps even a measure of embarrassment that officials recall the way previous Administrations tried to twist India's arm and often tried to tell it what it should do. President Johnson used the 1966 drought and India's need for American foodgrains to shape India's agricultural policy. If Indians resented this foreign interference in their processes of decision-making, US diplomats and experts instead of desisting only tended to suffer acute exasperation over their seeming inability to see what was good for them and their country.

Such close involvement with India's thinking and work, however well-intentioned it might be, is definitely going to be excluded from the new relationship. The US officials here claim to be quite happy to let India manage its affairs according to its own lights. For years now, the US or other Western friends of India, they note, have not influenced any of its major decisions and they are now fully conscious of the pointlessness of trying.

MATURITY DISPLAYED

Even on the question of economic aid, the Administration would like to gauge India's thinking before finalising its own plans. The volume of US aid has been drastically cut in deference to domestic, political, and economic considerations but before any of the limited funds go to it, India would be required clearly to indicate its willingness to receive it and even suggest the form in which it would prefer to get it.

Administration officials, in fact, seem just as eager as their counterparts in India to revamp economic ties and let trade and commerce between the two countries be the main basis for them. Even in respect of scientific and technological research, the US thinking seems to place greater emphasis on co-operation and exchange than on one-sided help or donations.

The Indo-U.S. confrontation in 1971 undoubtedly caused much bitterness and resentment then; but apparently it was not without the proverbial silver-lining. Some of the maturity that both sides have displayed in recent months, particularly in negotiating a settlement over the PL-480 funds, may well be attributed to their experience of each other during that unhappy episode.

US leaders are beginning to believe that the Soviet Union, too, cannot dictate to India and that Moscow's widening economic links with India give it, at best, only limited political influence in New Delhi. Significantly, Mr. Brezhnev's visit to India last month and the elaborate agreements the two countries signed with each other did not cause here the usual consternation. When he stated the other day that the US did not mind the improvement in Indo-Soviet relations, Dr. Kissinger was not making a polite after-dinner remark but reflecting the Administration's considered reaction to the Brezhnev visit.

NEGOTIATORS IMPRESSED

On their part, Indian leaders and officials seem to have mellowed on the question of US relations with Pakistan. Their tendency to get agitated over any US show of cordiality towards Pakistan and automatically to regard it as an act of unfriendliness towards India has been markedly less evident in recent months. There is also in their demeanor an element of self-confidence and realism which much impressed the US negotiators during the PL-480 talks.

On one point, which may have some bearing on the shape of the new relationship, there is still sensitiveness here. Responsible Americans in the Administration as well as in Congress worry about the Indian penchant for what they call "loud-mouthing." A Senator inquired of me recently "why Indians must denounce us publicly whether what we do concerns them or not." An official expressed the same exasperation somewhat differently. "If you are angry with us over something, why do you not summon Moynihan to the Foreign Office and let him have hell? Why must we always learn about it first from a press report of S. D. Sharma's speech somewhere in Madhya Pradesh?" he asked.

WHEN WILL THE YELLOW TIN CAN BE REPAIRED AND WHY DOES THE GOVERNMENT NOT CARE?

Mr. PERCY. Mr. President, some excerpts from the December 10 and 11, 1973, editions of the Chicago Daily News serve to point up the gravity of the problem of schoolbus safety:

When peppery, handsome Jeffrey Kaiserman, 9, stepped into the street from behind the schoolbus that had just dropped him across from his Skokie home, he was struck by a taxicab and thrown more than 100 feet.

He died minutes later in the arms of his anguished father—killed just as surely by the inaction . . . of the federal government as by the taxicab. . . .

Federal safety regulations for alighting from schoolbuses could have prevented little Jeffrey Kaiserman's death.

Flashing rear lights on the bus might have alerted the onrushing cab. But the owner of Jeffrey's bus had been directed to disconnect these lights by—of all people—an inspector at a State-supervised safety lane.

The Daily News continues:

Six weeks ago five children died near Madison, Indiana when a tractor-trailer carrying 40 tons of railroad ties plowed into the side of a schoolbus trying to cross rainswept U.S. 421.

Investigators said seat belts doubtless would have saved two boys who were killed after being buffeted in the bus "like they were inside a washing machine."

And, in Colorado, a schoolbus careened down a mountain pass highway . . . and finally rolled over at a filling station, spewing victims from the bus like rag dolls.

Of 39 children thrown from the bus, 9 died. Of nine passengers who remained inside only one even required hospitalization. Again federal investigators said seat belts would have saved lives.

But no schoolbuses are equipped with seat belts.

In fact, the yellow bus is so defective in body design that the seat anchorages of most models are not strong enough to take the emergency stress of seatbelts.

As the Daily News points out:

Even if seatbelts were installed, their use would jackknife the torsos of children during sudden stops, hurling them forward and smashing teeth, noses, necks, and foreheads into the tubular handgrip or metal edging found along the tops of most seat backs.

The seats and anchorages all should have been redesigned and replaced years ago and the metal handrails and edging banned.

The fact that they were not has been nobody's fault it seems.

Every year more than 4,500 children are severely bruised or cut; have teeth knocked out, are crushed, maimed, or mangled; incur mashed cheeks or noses or suffer other injuries on schoolbuses—and that, too, apparently is nobody's fault or somebody else's fault.

When will we take our children's safety out of the hands of blind fate and feeble buckpassers? With 20 million students riding the buses each day, every roll of the yellow tin can is a particularly grim form of Russian roulette.

The conclusion of the Daily News is poignant:

(Schoolbus accidents) happen largely because riding in a schoolbus has been widely touted as the safest form of motorized transportation.

In reality, schoolbus accidents in Illinois are soaring. Accidents have more than doubled, and deaths tripled since 1968—although the statistics are mostly hidden from the public. The same situation almost certainly prevails nationwide.

BUREAUCRATIC BUMBLING

The National Highway Traffic Safety Administration in the Department of Transportation has been promising comprehensive standards for years. Both it and the Vehicle Equipment Safety Commission have long acknowledged the need for basic safety measures. But none have been forthcoming.

The vacillation to date has been a most disturbing example of bureaucratic bum-

bling verging on negligence. Judging from the record of systematic nonaction, the agency apparently considers lip-service—empty promises in the form of proposed standards—as a means of brushing serious safety problems under the rug. How many more children have to die, how many innocent bodies must be piled how high, before promises yield to performance?

For example, in February of 1970, then Secretary of Transportation John Volpe assured Congress that rulemaking action on seats had already begun. In July 1971, Douglas Toms claimed the Department was "moving forward" and that a rulemaking docket on stronger seats was to be issued in late summer or early fall of 1971.

It was not. But in April 1972, a press release promised a proposed standard "shortly." In September 1972, the Department issued, not the standard, but another promise to have it "in a few weeks."

DOT eventually issued the long-awaited proposed rulemaking in January 1973, with all comments to be in by May 15. The docket has been closed for 8 months now and still no word on when schoolchildren will be protected by a safe seat standard. It is still only a proposal.

Similarly, on January 7, 1974, the National Highway Traffic Safety Administration issued a proposed rulemaking on schoolbus body integrity, including joint efficiency.

Each year, too many children incur severe lacerations and death as a result of the structural collapse of schoolbus bodies during accidents. Standards in this area are extremely important.

But, the point is that merely proposing standards does not mitigate the extreme hazards of unsturdy schoolbus bodies. The proposals must be finalized and implemented as soon as possible.

ACTION NEEDED

S. 847, which I am cosponsoring with Senators NELSON and MAGNUSON would require such standards. To be realistic, they must be developed, of course, in a coordinated Government-industry program. Without the expertise of schoolbus manufacturers, regulations originating somewhere deep within the Washington bureaucracy may have so little relation to reality that they fail to afford needed protection.

With this in mind, I initiated correspondence several months ago with major schoolbus manufacturers to get ideas on making their vehicles safer.

Charles Ward, president of Ward School Bus Manufacturing Inc., urged the following safety improvements:

A. I would strongly recommend that the Department of Transportation adopt uniform lighting requirements for all schoolbuses. At the present time lighting requirements for flasher lights, stop lights and turn signals vary greatly from state to state. The coloring, placement and method of operation required by various states can be very confusing to a motorist when he is on a cross country trip or when he is confronted with an out of state bus.

B. Padded stanchions—I think there is a need for stanchions in buses; however they should be padded.

C. Reflective markings—All schoolbuses should have a band of at least 3" reflective tape the entire length of the bus in addition to the reflectors that are now required. A great percent of schoolbus accidents occur in early morning or late afternoon and a reflective band would enable a motorist to distinctively identify these markings.

D. Escape exits—At least two emergency windows should be located on each side of the bus and two escape hatches in the roof. These should all be equipped with a positive latch mechanism so they would not open under rollover conditions.

E. Window glazing—All windows in schoolbuses should be equipped with laminated type safety glass that could preclude hostile objects from entering the bus and also would preclude children from being thrown from the bus in the event of rollover and the glass broken. Most states now use tempered glass, which completely disintegrates when broken and documents show that there have been children thrown through these openings and have been killed as the bus turned over them.

F. Bow strength requirements—Every schoolbus manufacturer to a great extent relies on the strength of his body bows for side impact and rollover conditions. Weaknesses have been demonstrated in accidents that have occurred in the past. I strongly suggest a rollover or Rack Test to demonstrate body and roof bow strength.

G. Joint efficiency and panel attachment to underlying framework—Possibly the most important safety proposal that is being discussed is the increased use of rivets and other fasteners to create a greater joint efficiency in schoolbuses. The National Transportation Safety Board has at least three reports vividly pointing out the need for such additional fasteners.

Mr. Ward lamented the National Highway Traffic Safety Administration's inexcusable delay in promulgating safety standards but noted—

The DOT has standards in existence that could be modified to include all of these safety improvements.

Concerning the ease and speed with which the manufacturers could implement these safety features, Mr. Ward was optimistic:

Our company would be in a position to comply with all of the safety standards I have recommended within 30 days.

Mr. Ward estimated that in some areas, such as lighting, Federal standards may actually cut production costs by making uniform the now widely varying local regulations with which he must comply. The itemized cost estimates for all the safety improvements he suggests total under $500.

Also in response to my inquiry, Chester Devenow, chairman of the board and president of the Sheller-Globe Corp., poignantly remarked:

We cannot consider our engineering and research commitments fulfilled as long as even one child is killed or injured in a schoolbus.

Mr. Devenow outlined a general course of action:

. . . Further improvement in the schoolbus safety record is attainable through continued soundly-engineered advances in construction of schoolbuses together with advances in bus driver qualifications and training, vehicle maintenance, and prompt replacement of worn out buses; wider use of optional safety equipment currently available and strengthened traffic law enforcement.

Albert Luce, president of the Bluebird Body Co., affirmed the industry's healthy attitude toward safety improvement, but pointed out that the highly competitive schoolbus market necessitates Federal safety regulations uniformly imposed on all schoolbus manufacturers. He stated—

The manufacturers are under pressure not to price themselves out of the market by putting more cost into a product than the market will bear.

Similarly, John Thomas, president of Thomas Built Buses Inc., called for Federal assistance to reduce the hazards of schoolbuses:

Our industry needs help. Experimentation and research by individual members of our industry is limited considerably by our size. It is in this area that I feel the Federal government can provide leadership. . . .

The schoolbus body industry needs a national uniform construction standard that considers the total bus body, the total bus chassis and the matching of the two.

Mr. Thomas warns that in the absence of uniform Federal safety regulations, the cost of hazard-reduced schoolbuses will be high:

Each state that has reacted to the recent emphasis on schoolbus safety has devised a different means of solving what they feel is the problem. A continuation on this course will result in custom-produced schoolbus bodies which in turn will be translated into much higher manufacturing costs than is necessary.

Robert Kurre, director of engineering for the Wayne Corp., advocates:

Performance standards on the following items should be the subject of additional regulations for schoolbuses: Crash-worthiness; roll-over strength; emergency exits; direct and indirect fields of view; passenger lateral restraint; windshield defrosting and defogging; windshield retention; and standees.

Mr. Kurre concurs with almost all of his colleagues in the industry that Federal action is necessary:

The schoolbus industry is a competitive one and in most cases schoolbuses are purchased on a low bid basis. Often times, the low dollar evaluation of a bid does not take into account safety features. . . . We believe that Federal regulations specifying performance standards are essential for an effective uniform and economic schoolbus safety program.

In conclusion, two things are clear. Safer schoolbuses should be a top priority of the Federal Government. And, important segments of the industry are our allies in this objective.

More injury and death from failure to act by Federal authorities will be especially tragic, in view of the tender young ages of these particular citizens. I urge immediate action.

Mr. President, because the responses of the manufacturers afford important insight into the problem of alleviating schoolbus hazards, I ask unanimous consent that the correspondence be appended to my remarks. I also request unanimous consent that the two Chicago Daily News articles referred to above be printed in the RECORD.

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

MARCH 5, 1973.

Mr. CHARLES D. WARD,
Ward Schoolbus Mfg., Inc.,
Conway, Ark.

DEAR MR. WARD: In response to the pleas of many parents whose children travel daily on schoolbuses, and in the interest of elementary safety for those children, I have joined Senators Nelson and Magnuson in sponsoring legislation (S. 847) to require the Department of Transportation to issue, within a fixed time period, comprehensive safety standards for schoolbus construction. This legislation has received bipartisan support. A companion measure has been introduced in the House of Representatives.

While the National Highway Traffic Safety Administration within DOT has recently issued a new standard for safer seat design (including the use of modesty panels for the front seat passenger), I am convinced from the accident data and from studies done in this area that additional Federal standards are needed to provide greater occupant protection. At a minimum, there should be a requirement for the elimination of stanchions, for rollover strength, and for the integrity and efficiency of joints.

I anticipate that hearings will be held on this legislation in the near future before the Senate Commerce Committee. And, unless responsive action is forthcoming by the Department of Transportation, I intend, as ranking minority member of the Senate Government Operations Committee, to urge oversight hearings into this matter. There would be considerable support within the committee for such an inquiry.

In order to assist me in focusing on the areas most in need of Federal motor vehicle safety standards, I would appreciate your responses to the following questions:

i. What aspect of schoolbus safety design and construction should be the subject of additional regulation under the 1966 Motor Vehicle Safety Act?

ii. Could you suggest performance standards that would help to alleviate these problem areas to give more reasonable protection to schoolbus occupants?

iii. What do you estimate to be the cost for implementation of each of these suggestions?

iv. How long a lead time would your company need to implement such standards?

v. In what way would your proposed standards affect your own competitive position in the industry if they were to be incorporated by you but not uniformly required as part of a Federal regulatory program?

I am certainly aware of the outstanding initiative of your company in producing a prototype safety schoolbus and I am certain that your suggestions will be of considerable assistance to me in promoting our mutual concern for the safety of the 20 million American children who daily ride to school on schoolbuses. I look forward to hearing from you soon.

Sincerely yours,

CHARLES H. PERCY,
U.S. Senator.

WARD SCHOOL BUS MFG., INC.,
Conway, Ark., March 28, 1973.

HON. CHARLES H. PERCY,
U.S. Senator, Committee on Government Operations, Washington, D.C.

DEAR SENATOR PERCY: I certainly share with you a great interest in school bus safety. As you know, I have been quite outspoken about my feelings concerning the Department of Transportation and their lack of initiative in requiring safety standards for school buses.

Our engineers are now studying the new standards for safer seat designs and we plan to respond to the Department of Transportation within the required time set forth in the original publication in the Federal Register.

I join with you in feeling that seating is an area that is long overdue for some additional standards.

I do not agree that stanchions should be eliminated as they do serve, in my opinion, a useful purpose in keeping children from falling as they depart from the bus. However, I do think that a very stringent pad requirement should be introduced requiring padded stanchions.

I agree with you that additional standards should be established for rollover strength and I think that the most important standard that has been completely neglected is the integrity and efficiency of joints and the attachment of sheet metal panels to underlying framework.

I certainly hope, Senator, that you will be successful in your effort to secure hearings in (S. 847). I would be happy to testify and supply any information that I have at my disposal to your Committee.

I will answer your questions in the same sequence that you asked them.

I.

A. I would strongly recommend that the Department of Transportation adopt uniform lighting requirements for all school buses. At the present time lighting requirements for flasher lights, stop lights and turn signals vary greatly from state to state. The coloring, placement and method of operation required by various states can be very confusing to a motorist when he is on a cross country trip or can be confusing to a motorist when he is confronted with an out of state bus. I would be happy to give you information on the requirements state by state if you so desire.

B. Padded stanchions—As I have stated before, I think there is a continuing need for stanchions in buses; however, they should be padded.

C. Reflective markings—All school buses should have a band of at least 3" reflective tape the entire length of the bus in addition to the reflectors that are now required. A great percent of school bus accidents occur in early morning or late afternoon and a reflective band would enable a motorist to distinctively identify these markings in the road ahead.

D. Escape exits—At least two emergency windows should be located on each side of the bus and two escape hatches in the roof. These should all be equipped with a positive latch mechanism so they would not open under rollover conditions.

E. Window glazing—All windows in school buses should be equipped with laminated type safety glass that could preclude hostile objects from entering the bus and also would preclude children from being thrown from the bus in the event of rollover and the glass broken. Most states now use tempered glass, which completely disintegrates when broken and documents show that there have been children thrown through these openings and have been killed as the bus turned over them.

F. Bow strength requirements—Every school bus manufacturer to a great extent relies on the strength of his body bows for side impact and rollover conditions. Weaknesses have been demonstrated in accidents that have occurred in the past. I strongly suggest a rollover or Rack Test to demonstrate body and roof bow strength.

G. Joint efficiency and panel attachment to underlying framework—Possibly the most important safety proposal that is being discussed is the increased use of rivets and other fasteners to create a greater joint efficiency in school buses. The National Transportation Safety Board has at least three reports vividly pointing out the need for such additional fasteners. The delay by the Department of Transportation in implementing these requirements is inexcusable. This specification, I feel, will assure adequate joint strength and adequate attachment of the skin to the underlying framework.

II.

Senator, the Department of Transportation has standards in existence that could be modified to encompass Items A, B, C, D and E. Item F would require the recent Rack Test that was devised by the University of Colorado. I think all manufacturers can comply with this specification by strengthening their buses.

Item G, joint efficiency requirement, Exhibit #1, which I have attached to my letter, is a specification that was recently adopted by the Department of Transportation of Pennsylvania.

III. ESTIMATED COST

A. Lighting cost would actually be reduced. The customer would receive a better quality lighting system if all states required the same lighting.

B. Padded stanchions—Our company, at one time, charged approximately $30.00 extra for padded stanchions. We have since made this a standard part of our bus, but for those companies who do not pad stanchions, it would increase their cost approximately $20.00.

C. Reflective markings—A 3" reflective band similar to the band used by the Post Office Department on their small vehicles would cost approximately $25.00 per bus.

D. Escape exits—If escape exits were made standard, I feel that it would cost no more than $12.00 per exit and if six were required per bus, the total cost would be $72.00.

E. Window glass—Laminated window glass would cost $120.00 more per bus body to supply if you buy the glass through normal channels. Our company manufactures its own laminated safety glass to meet all Federal Standards and by doing so, we are able to supply this glass at a cost comparable to that of purchased tempered glass.

F. Bow strength requirements—It cost our company approximately $60.00 to supply the additional bow strength as required by the Colorado Rack Test. I cannot estimate how much it might cost other companies. Some may comply with their standard body; some might require additional expenses.

G. Joint efficiency—When we first announced our safety bus to comply with VESC–6 joint efficiency requirements, we implemented the additional price of $390.00 per unit in our price. It is my feeling that if this were made a nationwide standard, our company could supply the additional rivets at a cost of no more than $180.00 to $200.00 per unit.

IV.

Our company would be in a position to comply with all of the safety standards I have recommended with the exception of roof hatches, within 30 days and I feel that we could develop and tool for production a roof hatch within six months of its proposal.

V.

All the standards that are proposed could be complied with by our company and our competitors at approximately the same cost, with the one exception being that we now manufacture the laminated safety glass. However, if laminated safety glass were required, our competitors could certainly begin production just the same as our company has.

I do not think that any of the safety standards that I have proposed would give our company a competitive advantage over others; however, it would be impossible for our company to implement these standards unless they were part of state or federal requirements. At least 95% of the buses purchased by school districts in the United States are purchased strictly as low bid items. Our company could not stay in business very long if it supplied these safety items as standard and our competitors did

not. As you know, some states are now adopting these safety standards on their own; however, I feel very strongly that the federal government should take the initiative in these areas.

If you will note from the enclosure marked Exhibit #1, the State of Pennsylvania has recently adopted joint efficiency requirements as part of their state specifications. Maryland has adopted a modified version of this specification. Two other states, Wisconsin and your own State of Illinois, are strongly considering adopting these specifications next year.

Senator, I know that you are concerned about federal specification, but I think it would be extremely helpful also if you would make your feelings known to the appropriate officials in Illinois so that your state and the children of your state can start receiving benefits of the increased joint strength early next year. All six major school bus manufacturers have indicated that they can comply with VESC–6 joint strength specification as it is required.

I certainly hope that I have given you the information you requested. I am sorry I have not been more timely, but have been on vacation for the last ten days. If you need any further assistance, please let me know.

Sincerely yours,

CHARLES D. WARD,
President.

[From the Beaver Falls (Pa.) News-Tribune, Mar. 19, 1973]

PENNDOT GETS TOUGH ON SAFETY

Pennsylvania Department of Transportation has taken the initiative in the field of traffic safety.

Julius A. Trombetta, director of PennDOT's Bureau of Traffic Safety, announces the School Bus Section has notified all school bus manufacturers that the state plans to adopt three additional safety regulations to go into effect Jan. 1, 1974.

Most important of the three would set minimum metal thickness and body strength of structural joints for steel components of school bus bodies.

Pennsylvania is the first state in the nation to adopt rigid guidelines as set forth by the Vehicle Equipment Safety Commission last year. The VESC, a group made up of safety representatives from all states, is charged with establishing vehicle safety standards.

The new regulation is intended to insure that all metal sheets used to manufacture school bus bodies for use in Pennsylvania are of uniform thickness and are attached to the underlying framework by fasteners to better protect passengers.

The regulation would require greater strength at the joints of the inner and outer sheet metal panels of the bus to reduce the possibility of separation in an accident.

FEBRUARY 21, 1973.

COMMONWEALTH OF PENNSYLVANIA—NOTICE OF INTENT TO ADOPT REGULATION

To: All School Bus Manufacturers.

From: John F. McElhany, Chief. School Bus Division.

Notice is hereby given that the School Bus Division of the Bureau of Traffic Safety, Department of Transportation intends to amend the school bus regulations effective January 1, 1974 by adopting the following standard of VESC–6, Section 5.6 in the following language.

MINIMUM METAL THICKNESS AND STRENGTH OF STRUCTURAL JOINTS FOR STEEL COMPONENTS OF SCHOOL BUS BODIES

This section is intended to insure that all metal used to manufacture school buses for the State of Pennsylvania is of uniform thickness and is attached to underlying framework and all joints have such strength as to insure as much safety as possible for the children riding the buses. Listed below in Table I is the requirement for the thickness in decimal inch equivalent for all sheet steel components used to manufacture a bus body.

TABLE I.—MINIMUM METAL THICKNESS FOR STEEL COMPONENTS

Item Number	Components	Type I
1	Bow frames	0.062
2	Bows, roof	.062
3	Cowl, front	.062
4	Doors, Emergency and service:	
4a	Exterior panel	.038
4b	Interior panel	.032
5, 5a	Door Posts: Emergency door	.076
6	Floor panels	.076
7	Longitudinal frame members:	
7a	Floor line	.062
7b	Seat line	.062
7c	Belt line	.062
7d	Window header line	.062
8	Panels, exterior:	
8a	Front	.038
8b	Rear	.038
8c	Roof	.038
8d	Side	.038
8e	Skirts	.038
9	Panels, interior:	
9a	Headlining	.032
9b	Front lap	.032
9c	Rear lap	.032
9d	Lower (below windows)	.032
10	Posts, side	.062
11	Rub rails:	
11a	Floor line	.062
11b	Seat line	.062
11c	Window line	.038
12	Safety panel	.038
13	Strainers (bow spacers)	.062
14	Wheel housing	.062
15	Window jambs (post caps)	.038
16	Window sills	.038

Only plus tolerance allowed for metal thickness requirements.

On all joints in both the inner and outer sheet metal panels, it shall be demonstrated by calculation that the strength of such joints is at least 60% of the tensile strength of the thinnest joint member. In addition to the joint strength requirements, all sheet metal panels, both exterior and interior, shall be fastened to the underlying framework by fasteners and the pitch of the fasteners shall not exceed 24 times the thickness of the thickest metal used in the joint.

SHELLER-GLOBE CORP.,
Toledo, Ohio, May 4, 1973.

Hon. CHARLES H. PERCY,
U.S. Senator, U.S. Senate, Committee on Government Operations, Washington, D.C.

DEAR SENATOR PERCY: As a school bus manufacturer, we are gratified that you sought our views as to how school buses can be made even stronger and safer.

I would like to preface our replies to the specific questions in your letter with some general observations which may help make those replies more informative and useful to you.

We urge most strongly that any new federal regulations for school bus construction be on the basis of total vehicle performance standards, reached through sound engineering studies. It is equally important that such standards be applied uniformly throughout the states.

The cause of further improvement in strength and safety of school buses, a continuing commitment for our company, is not well served, in our opinion, by piecemeal application of individual new design specifications, unrelated to performance standards for the vehicle as a whole.

Few major individual changes in design specifications can be implemented without having an effect on many other phases of bus construction. An example is the seat standards being advanced by the National Highway Traffic Safety Administration, which, our studies indicate, will involve additional changes extending through underbody and chassis. A similar effect can be expected from the requirement for passenger seat belts currently being considered by several states.

Without total performance standards it is difficult to evaluate the desirability of the number of individual design specifications currently being proposed for school buses. With performance standards established, however, we can have greater assurance of attaining the combination of design features calculated to reach the performance goal most effectively and economically.

For example, performance standards should include the maximum impact against which school bus body should be designed to maintain structural integrity. Reaching this goal may not necessarily be determined by the number of rivets used, or by the strength of joints alone, but may very well be answered primarily by the overall strength, or load bearing capacity of the total structure and panel assembly.

For 25 years the school bus manufacturing industry has worked with the states to establish uniformity in basic school bus construction, essential to providing buses of the best quality at the lowest possible cost to the taxpayers who fund most pupil transportation. That uniformity is being threatened today by the pressure in various states for unilateral application of new design specifications.

A sound engineering approach to school bus construction need not involve lengthy or indefinite delay. Much of the required data and methodology are being developed.

Our Superior Coach Division is expanding on its own original studies, started with Battelle Institute a year ago, and directed toward development of computerized structural strength analysis and physical testing of school bus designs. In a separate study, the School Bus Manufacturers Institute is seeking criteria for school bus performance standards, using the engineering resources of its members and the input of representatives of universities and transportation directors of a number of states. We understand studies are also being conducted by the Department of Transportation in this area.

Now as to the answers to the specific questions you posed:

I. Structural performance standards, including such areas as roof loading, diagonal loading, and side impact which would improve roll over and crash worthiness capabilities of the total vehicle.

Interior design to provide a total systems approach for the elimination of hostile environments inside the bus. This would involve such things as seat construction and padding, elimination of such items as stanchions and overhead racks, and substitution of 3–2 seating for the current 3–3 seating to accommodate larger average size of pupils.

Escape exits.

Driver vision, particularly as it relates to chassis hood to provide better downward visibility in front of bus.

II. We are not yet in a position to propose consideration of any specific structural performance standards. However, we would anticipate that our own structural analysis program, referred to above and to be completed in about four to five months, and the SBMI program which should produce some conclusive results in several months, may provide a basis for some recommendations, as will the continuing studies by the Department of Transportation. In the area of the school bus interior, the National Highway Safety Administration has proposed new standards dealing with seats and other aspects of the bus' interior environment in Docket 73–3. The docket requests comments by May 15, 1973, and provides for an effective date for new standards by September 1, 1974.

III. Cost impact of any of the standards referred to above cannot be projected at this time. In regard to the seat requirement in Docket 73–3, we are making design studies

and have scheduled sufficient prototyping and testing to enable us to submit comments, although it may be extremely difficult to attain sufficient test data for comment by May 15. Preliminary studies, however, indicate that seats designed by these requirements may weigh as much as 100 pounds more than those in current use. Effect of this additional weight will extend through the entire bus body, requiring a substantially heavier underbody structure, and an overall addition, including seats, of some 2,000 to 2,500 pounds. This, in turn, will require a chassis of higher GVW rating. It is conceivable that these requirements could add as much as $1,500 to $2,000 to the cost of a 66-passenger bus. In addition, it appears that the seat configuration which may be required will involve seat spacing which would decrease the passenger capacity of each bus.

IV. As noted above, specific requirements for any standard are yet to be determined. Lead time, like cost, cannot be accurately determined until detailed design requirements are set. For most standards, lead time of one to two years should be allowed, and at least two years' lead time should be provided for standards involving major body changes.

V. Obviously, any unilateral application by Sheller-Globe of a standard not generally applied throughout the highly price competitive school bus market would adversely affect our competitive position to a substantial degree. Extent of such adverse effect could not be determined until engineering, tooling, and production costs are known.

I believe our contribution to the impressive safety record of school buses, the safest form of transportation in terms of deaths and injuries per miles traveled, evidence our willingness and ability to meet any generally applied construction requirements.

Our Superior Coach Division, source of some 30% of the school buses on the road today, has participated in the two instrumented crash tests for school buses held to date. Over recent years, we have made available a Super-Pad school bus seat which meets the Department of Transportation's Standard 201 for padding of passenger car seating, and in 1971 we offered a higher padded seat which offered excellent containment against passengers being thrown to the front of the bus by impact. Our 1973 model school buses embody no less than six structural changes designed to further protect occupants against roll-over or crushing, and we offer numerous options for protective padding throughout the bus interiors.

However, we cannot consider our engineering and research commitments fulfilled as long as even one child is killed or injured in a school bus.

We believe further improvement in the school bus safety record is attainable through continued soundly engineered advances in construction of school buses, together with advances in bus driver qualifications and training, vehicle maintenance and the prompt replacement of worn-out buses; wider use of optional safety equipment currently available, and strengthened traffic law enforcement.

Thank you for the opportunity to present our views on the question and we hope they prove helpful.

Sincerely yours,

CHESTER DEVENOW,
Chairman of the Board and President.

BLUE BIRD BODY CO.,
Fort Valley, Ga., March 15, 1973.

Hon. CHARLES H. PERCY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: Thank you for your letter of March 5. I will try to answer questions numbers 1 and 2 together.

The School Bus Manufacturing Institute is putting together a group made up of engineering professors from several leading colleges, state transportation supervisors who have a proven track record of being practical as well as being constructive in the areas of safety, and the engineering committee of the SBMI.

It is the hope of our industry that this group will be able to develop performance standards which will give more reasonable protection to school bus occupants.

I am sure these will include such items as methods of joining metal together, padding, warning devices, and strength of various body parts.

A performance standard is much better than a theoretical standard since it can be measured and proven.

In reply to question number 3, I cannot give a realistic cost figure on what these might cost until we can evaluate the specific recommendations.

In the meantime, we are working on better padding for seats and stanchions, fewer joints and other items which have been written into either state or federal specifications.

Safety is the name of the game and we never have new models without new features which we feel will improve the safety of our product.

I think the same can be said for all manufacturers of school buses.

Your question number 4 regarding lead time is somewhat hard to answer until we know the specific requirements.

School bus companies have an annual model year similar to the automotive industry. Changes required during the year can be costly since they may upset production runs or obsolete inventory that has been purchased.

These major model changes usually come in the fall after our heavy production season which is necessary during the summer in order to have new buses ready for school opening.

Your question concerning lead time is a significant one and I hope adequate lead time will be given for changes which may be required.

Crash programs are always costly and don't always produce the desired results.

Your question number 5 needs a little bit of background in order to answer. In most cases, school buses are sold on competitive bids.

All bidders will usually meet the state specifications required for the bids.

In addition to the state specifications, some local school units may write in additional requirements which go beyond the state specifications. Most bidders would try to meet these.

However if a bidder had extra features that were beyond the bid requirements, there would be many cases when these would not be considered or taken into consideration in awarding the bid.

Sometimes a bidder is given an adequate chance to present and sell extra features but sometimes they are not.

In cases where you would not have a chance to present and sell extra safety features, then any bidder with extra features which increases his cost would be at a definite price disadvantage in a situation where a low bid is the determining factor in who is awarded the business.

School boards can come under local criticism for not purchasing on low bids so they have to take this into consideration.

Frequently they are under budget pressure and are trying to manage a given amount of funds in order to purchase the necessary number of buses to transport all the pupils.

The manufacturers are under pressure not to price themselves out of the market by putting more cost into a product than the market will buy.

The specific answer to your question is that anything that increases cost significantly beyond state and local specifications can definitely affect the sale of our products.

Until the public will specify and pay for these features, there is a limit as to what any manufacturer can do in going beyond what the specifications call for.

I trust this gives you some answers to your questions.

If you have time to read on, there are several other things which may be helpful to you.

The manufacturers of school buses have always been concerned with safety of school buses and the children who ride in them.

A study of school bus literature over the past 30 years or more would show that safety has been a prime concern with all manufacturers.

The state supervisors of transportation are a group of dedicated men who have worked with school bus manufacturers giving us their ideas based on actual experiences with buses regarding both safety and maintenance cost of buses. These men have made a great contribution to the safety of school buses.

Out of these have come the National Specifications which have been jointly developed by manufacturers, state supervisors of transportation and the National Education Association.

National Specifications have been the guideline for many states and have greatly contributed to school bus safety.

We all realize that we are dealing in a sensitive area when it comes to transporting school children. I love my children as much as you love yours and anything which affects them, affects me. The same applies to all parents.

Whenever anyone offers an idea regarding a school bus and proclaims it in the name of "SAFETY" then anyone who questions this is immediately labeled as being anti-safety.

As I am sure you can appreciate, this is an untenable position for a school bus manufacturer to be in and it leaves us at a loss to know how to best evaluate and comment on recommendations which are made from time to time in the name of safety.

As an industry, we are all in favor of safety. Privately we might not always think that everything that is promoted in the name of safety will decrease accidents. On the other hand, as an industry, I think you will find that we have been cooperative in making available things requested by various state specifications to make our products safer.

In addition to this all manufacturers have developed ideas which we feel have contributed to safety and we have adopted ideas developed by competitors when it seems they contribute to the safety of our products and our passengers.

I am attaching a sheet which gives some interesting figures regarding school bus safety and other means of transportation.

While there are always ways for improvement and we all regret any accidents, as an industry we tend to get a lot of bad publicity for the few serious accidents which do occur and no one ever points out the millions of passenger miles that are travelled by school buses that are accident free.

Perhaps you can help us at this point.

Your letter mentioned requiring modesty panels for the front seat passengers. These have been in state and national specifications for many years for the front right seat. The driver's seat offers some protection for the front left seat passenger. There are current specifications requiring padding on stanchions and more and more states are requiring these.

Several years ago, we conducted crash tests in which we drove automobiles into the side and rear of our buses.

We also conducted roll-over tests that

rolled a bus down a steep hill 4½ times and it landed on its top without collapsing. We have movies of this.

The question has come up from time to time concerning the elimination of stanchions in buses. This must be weighed against the protection these stanchions give students who, day in and day out, get up and start down the aisle of the bus as it is stopping. These students may be propelled into the windshield if there is nothing for them to hold on to.

It is my understanding that many of the figures which show the number of school children involved in school bus accidents also include children involved in accidents in crossing the roads to and from the school bus. Accidents of this type distort the figures and do not have any relationship to the construction of the school bus or safety features designed into the bus.

I mention these things in order to help you evaluate the record of school bus transportation which I know is better than some of the recent publicity might indicate.

Very truly yours,

ALBERT L. LUCE, JR.,
President.

THOMAS BUILT BUSES, INC.,
High Point, N.C., April 5, 1973.

Hon. CHARLES H. PERCY,
U.S. Senator, Senate Office Building, Washington, D.C.

DEAR SENATOR PERCY: I apologize for the delay in answering your letter. You have, however, posed some thought provoking questions which took some time to consider. Your approach at this time to the belated emphasis on school bus safety seems to me to be a proper one—an unemotional, open-minded, hard look at the present state of affairs. This is in contrast to the wild-eyed, emotional, closed-mind look we read about daily in our newspapers.

I have taken time to acquire and read through S. 847. With the exception of two questionable items, I wholeheartedly support S. 847. I question the reference in the preamble to design standards. In my opinion, a performance standard is the better choice. Page 3, section (5), beginning on line 17, is not clear. There is ambiguity in the statement of responsibility concerning the inspection and test drive. To me, the intent and purpose is clear, but the ambiguity would make this entire section subject to too many interpretations. Some of the questions that may be posed are as follows: Should the bus body manufacturer, his distributor, or the chassis manufacturer or his dealer or local service representative be responsible for test driving the completed bus prior to delivery? Interestingly enough, the chassis manufacturers have within the last two years instituted a predelivery service program at the body manufacturer's location which incorporates a test drive. However, there was considerable argument between the body manufacturers and the chassis manufacturers as to responsibility about this very item and, therefore, if not stated clearly, the argument may arise again. As stated above, I would wholeheartedly support S. 847 and urge its enactment with these two corrections.

The school bus body industry needs a national uniform construction standard that considers the total bus body, the total bus chassis and the matching of the two. Each state that has reacted to the recent emphasis on school bus safety has devised a different means of solving what they feel is the problem. A continuation on this course will result in custom produced school bus bodies which in turn will be translated into much higher manufacturing costs than is necessary.

The need for uniformity is great, but the need for a clear definition of what the school bus structure should withstand in an accident is even greater. The design standard approach promoted by some to this point, if continued, will result in a patchwork quilt of detailed design standards.

We feel strongly that the only way to arrive at a sound, practical, uniform bus construction standard is to rely on those most knowledgeable in this field. The School Bus Manufacturers Institute (SBMI), of which we are a member, is funding a task force comprised of the leading authorities in pupil transportation, school bus design and light gauge sheet metal structures to develop criteria for a body construction standard.

It is of paramount importance that the final construction standard be based on the principal of performance as opposed to a detailed design standard.

Performance standards set forth desired objectives in terms of how the product should react or perform under certain conditions. On the other hand, a design standard is concerned primarily with the details of "how to build" the product.

As an example, many states specify that the interior of the bus is to be heated to at least 50 degrees when the outside air is at the average minimum January temperatures for that area. This is a performance standard.

In some few instances, a local school board will require that his supplier furnish a bus with an 85,000 BTU front heater and a 65,000 BTU rear heater. This is a design standard.

The performance standard author tells us how warm he wants to keep the children under conditions. It is then the supplier's complete responsibility to furnish equipment that keeps the passengers warm.

The design standard author tells us precisely what he wants in his bus to keep the passengers warm. He has accepted the complete responsibility to keep the passengers warm. His experience proves that the installation of these two heaters will keep passengers warm in his area. The design standard, however, does not take into account that there may be other more economical and more efficient means of keeping his passengers warm. The design standard may inadvertently omit reference to required basic items that definitely affect the efficiency and effectiveness of the heating system such as: insulation, water pumps and thermostat.

With the assistance of outside engineering consultants, School Bus Manufacturers Institute has developed a performance standard for bus body construction. Along with this standard static tests have been developed to determine if the standard has been met. This performance standard makes no demands on the manufacturers as to how the product should be manufactured—only that it meet the performance required. The fulfilling of the requirements must be verified by a series of tests after which the bus body will be certified by the manufacturer as meeting their performance requirements. This work was accomplished over a year ago. It is a beginning to the right kind of solution to the problem.

A copy of the SBMI performance standard 007 is attached.

It is impossible to estimate the cost for implementation of the performance standard 007; however, an educated guess would result in an increased body cost of approximately $150 to $200. We hesitate to implement our own proposal since there is considerable emphasis placed on price in the purchase of bus bodies.

The lead time required for this particular proposal for our company is very short. However, consideration should be given for delivery problems, and consideration should be given to an implementation date of any standard of January 1 in any year. School bus purchases are very seasonal. Our high production season is the spring and summer and early fall months. It seems to me to be reasonable to expect changes to be implemented somewhere in the vicinity of the model year changeover.

As stated earlier in this letter, our industry needs help. Total industry volume for school bus bodies would represent less than 200 million dollars annually. Experimentation by individual members of our industry is limited considerably by our size. Our industry cannot absorb the losses generated by failures in research and development from standards proffered by the federal government such as the air bag for the automotive industry. Extreme care and consideration must be exercised in the drawing of standards such as the new standard for a safer seat recently issued. It is in this area that I feel the federal government can provide leadership and, quite frankly, the money for experimentation.

Thomas Built Buses, Inc., along with others in the bus industry, is continuing to search for ways to improve school bus safety. We feel that a performance standard accompanied by required tests to substantiate the performance will result in the bus structure the public desires while allowing each manufacturer latitude to meet the performance in the most economical fashion.

Your very truly,

JOHN W. THOMAS, JR.,
President.

WAYNE CORP.,
Richmond, Ind., April 6, 1973.

Hon. CHARLES H. PERCY,
U.S. Senate, Committee on Government Operations, Washington, D.C.

DEAR SIR: Mr. Kevitt has asked me to comment for him on the questions contained in your letter of March 5, 1973. Before we get into the specific questions, we would like to comment briefly on the Department of Transportation's proposed Passenger Protection Standard. Of course, we will comment to the Department of Transportation in much greater detail.

We believe this proposed standard is definitely a step in the right direction, and based on our studies, will help to eliminate death and injuries in school bus accidents. We are bothered by the fact that the proposed standard is silent on and does not provide any lateral restraint for the passengers, and the problem of passenger seating space has been completely ignored. This will become even more critical when the seat belt option is used.

We believe that the proposed standard effectively deals with the stanchion problem inherent in current designs. We visualize the hand-hold and passenger assist functions which are currently being met by the stanchions will be incorporated into the front side of the front seat "retaining barriers" required by the proposed standard. Located in this manner, such passenger assist devices will be separated from the seated passengers and will not present a safety hazard.

We share your concern for the safety of the children who travel daily in the big yellow school buses. This concern is reflected in the many thousands of hours and dollars which Wayne has expended into putting into production the new Wayne Lifeguard bus body. Now, as you may have heard, this new safety bus is coming off our assembly lines. The youngsters who ride school buses can enjoy the advantages of the new Wayne now. Unlike others who manufacture a regular school bus and a safety bus, Wayne has only one standard and every conventional school bus that leaves the Wayne plant is a safety bus.

We would like to point out a few of the advance safety features available only with Wayne, and have enclosed a Lifeguard booklet which illustrates these features. After each feature, we have listed the page in the booklet on which the feature may be examined.

1. One-piece full-length longitudinal panels inside and outside (Pages 4 thru 7).

(A) Only two one-piece longitudinal roof panels (Page 6).

(B) Only two one-piece longitudinal inside side panels (Page 6).

(C) Only three one-piece longitudinal outside roof panels (Page 4).

(D) Only two one-piece longitudinal outside side panels (Page 4).

2. Staggered joints for the roof and headlining panels (Page 7).

3. Inside panel edges folded, eliminating razor panel edges (Page 7).

4. Eight one-piece full-length rub rails Huckbolted to panels and structure (Pages 8 and 9).

5. One-piece bow frame at each seating position (Page 11).

6. One-piece bow frame at the front and the rear of the bus (Pages 8 and 9).

7. Upper corners of bow frame reinforced for extra roll over protection (Page 11).

8. The heaviest main floor sills used in the school bus industry at each bow frame (Page 11–A).

8. Huckbolt construction in our high-strength fool-proof fasteners (Page 11–B).

10. Big 12-inch side widow escape openings. Up to 5,760 square inches of side window escape area in a 66-passenger bus (Page 14).

11. Bottom of window opening raised to prevent extension of head and arms (Page 14).

12. New increased driver vision and convenience (Pages 16 and 17).

We will respond to the questions in the same order listed in your letter.

I. Performance standards on the following items should be the subject of additional regulations for school buses: Crash-worthiness, roll-over strength—emergency exits—direct and indirect fields of view—passenger lateral restraint—windshield defrosting and defogging—windshield retention—and standees.

II. A performance standard for crash-worthiness and roll-over strength should be directed towards retaining the passenger within the bus and at the same time providing a survivable environment. This is the kind of performance requirements we used for the new Wayne. A performance standard would demonstrate the bus bodies structural integrity, joint efficiency and roll-over capabilities under various accident conditions.

Emergency Exits. We believe that the emergency exits requirement of Motor Vehicle Standard #217 should be expanded to include school buses.

Direct and indirect fields of view. The Department of Transportation's visibility standards as proposed in Docket #70–1 and 71–3A are being delayed, pending further research. The deaths and injuries resulting from youngsters being hit by the bus they are going to board or have just gotten off of should indicate a high priority for driver visibility standards.

Passenger lateral restraint. Passenger lateral restraint should be included in the Department of Transportation's proposed Passenger Protection Standard.

Windshield defrosting and defogging. Motor Vehicle Safety Standard #103 should be revised with performance requirements for buses. Currently, the standard does apply to buses, but does not list any performance requirements for buses.

Windshield retention. Motor Vehicle Safety Standard #217 should be revised to include bus windshields.

Standees. Contrary to popular opinion, Standard No. 17 does not prohibit standees in school buses. From Section IV, C, (6), d, (1), "Seating shall be provided that will permit each occupant to sit in a seat in a plain view lateral location, intended by the manufacturers to provide seating accommodations for a person at least as large as the fifth percentile adult female, as defined in 49 CFR-571.3", which provides 12.8 inches of lateral seating space for each passenger.

Most school buses are purchased with 39-inch wide seats which are intended to seat three passengers. This seating allowance is sufficient for very small children through the third or fourth grade—but what about the rest? The larger child sitting on the aisle is only half on the seat. In an accident, this child will be thrown up the aisle even if the seats have high backs and are padded; also this arrangement encourages standees. Dr. Severy, after the U.C.L.A.-I.T.T.E. school bus crash test his team conducted, recommended, "Safety regulations for school buses should be standardized without allowances for the intended size of school passengers to be hauled." If we are to effectively protect the children riding school buses, standees must be eliminated and a minimum of 15-inches of lateral seat spacing must be provided.

III. We will be able to estimate the cost for these suggestions when the requirements and specifications are finalized.

IV. Many of the suggestions we have made above are already available in the new Wayne bus, in one form or another, but the lead time could vary up to eighteen months, depending on the final requirements and specifications.

V. As you know, the school bus industry is a very competitive one, and in most cases, school buses are purchased on a low bid basis. Often times, the low dollar evaluation of the bids does not take into account safety features furnished but not specified in the request for bid. We believe that federal regulations specifying performance standards are essential for an effective, uniform and economic school bus vehicle safety program.

Sincerely,

ROBERT B. KURRE,
Director of Engineering.

[From the Chicago Daily News, Dec. 10, 1973]

SCHOOL BUS SAFETY: DEADLY MYTH

(By Charles Nicodemus)

When peppery, handsome Jeffery Kaiserman, 9, stepped out into the street from behind the school bus that had just dropped him across from his Skokie home, he was struck by a taxicab and thrown more than 100 feet.

He died minutes later in the arms of his anguished outraged father—killed just as surely by the inaction of the state of Illinois and the federal government as by the taxicab that was driven by an 18-year-old Evanston youth with three speeding convictions.

The story of Jeffery Kaiserman's death six weeks ago is the story of an accident that never should have been.

It happened largely because riding in a school bus has been widely touted as the safest form of motorized transportation.

In reality, school bus accidents in Illinois are soaring. Accidents have more than doubled, and deaths tripled, since 1968—although the statistics are mostly hidden from the public. The same situation almost certainly prevails nationwide.

Under Illinois regulations governing school bus operations, Jeffery Kaiserman ordinarily would have been let out of the bus on the same side of the street as his home at 3645 Davis, if possible. There was nothing to prevent it. But he was not.

Alternatively, when crossing to his house under the driver's watchful eye, he should have walked up the curb 10 feet in front of the bus, then stayed there until the driver checked traffic and gave him the signal to cross.

But Jeffery had never been taught this. Neither had the youthful school bus driver, a second-year Northwestern University graduate student from North Carolina, driving here with an out-of-state license.

Another factor ordinarily might have saved Jeff. Those big red lights on the school bus, flashing on and off during unloading, might have alerted the onrushing cab.

But the bus signal lights weren't working. The owner later said he had been directed to disconnect them by—of all people—an inspector at a state-supervised safety lane.

The bus, a remodeled 14-passenger van, did not measure up to inspection standards as a fully equipped school bus. There were only three lights instead of four, plus other deficiencies.

So the lights were ordered disconnected, and the vehicle was passed through the lane as a truck.

However, chances are that this particular sequence of events never would have happened—and Jeffrey Kaiserman, one of the best-liked boys in his 4th grade class at Skokie's Walker School might be alive today—if it had been a public school bus from which he alighted.

But Jeff had been coming home from Tuesday afternoon Hebrew school, and the bus was a private vehicle, owned by a school bus contractor, Howard Becker of Skokie.

Federal safety standards require the state of Illinois to supervise Becker's three buses and their part-time drivers, just as it is supposed to supervise public school buses and drivers.

But because school bus transportation is supposed to be super safe, there has been no apparent sense of urgency, and Illinois has not yet passed the federally required law that would have brought Howard Becker's bus fully under state control.

Furthermore, because school bus transportation is presumed to be so safe, the federal government has not pressured Illinois or any other state into speedy full compliance with its school bus operating safety standard No. 17. This despite the fact that:

The content of most of the proposed standard was first publicized in June, 1970.

It was formally made effective in May, 1972, 18 months ago.

Illinois' failure to enact the required law is not entirely characteristic. Ironically, Illinois is one of the more progressive states in school bus safety.

Just last week, State Supt. of Public Instruction Michael Bakalis published an updated manual, effective April 1, 1974, that sets toughened-up requirements for the manufacture, equipping and operation of all types of school buses, sold in Illinois.

Only a handful of other states have gone as far or farther.

"We're proud of our record in Illinois," said Ralph Sarto, Bakalis' state director of public transportation.

Sarto is a hardworking public servant who says he took considerable heat from certain sections of the school bus industry in pushing through several of the new and updated regulations.

"We carry more than a million students a year, in more than 10,000 buses," he points out.

"In 1972, there were just 3 school bus-connected deaths in Illinois, and only 223 reported school bus accidents," he wrote in a recent state publication.

Unfortunately, through no fault of Sarto, his key statistics are substantially in error.

The state's Department of Transportation, which compiles its statistics directly from police accident reports, says there were 10 school bus related deaths in 1972, not 3, and 1,676 school bus accidents, not 223.

Why the staggering discrepancy?

Sarto is dependent for his statistics on reports submitted by school principals through school districts and county superintendents. That system apparently has two serious shortcomings:

In most states, including Illinois, only accidents, injuries and deaths involving public school buses or bus contractors serving pub-

lic schools, get reported as the "official" published statistics, compiled and publicized by the National Safety Council.

Accidents involving parochial and private school buses of all sizes are left out.

Since the number of nonpublic school buses is by no means that sizable, a significant part of the disparity must come from the failure of local schools and school districts to report all accidents and injuries. The police, however, learn the true picture—because they either are called to the scene or are notified for insurance purposes.

But Bakalis' office is not told.

ACCIDENT "NEVER HAPPENED"

This means, for instance, that Jeffrey Kaiserman will never be dead—in the eyes of the superintendent's "official" tabulators.

This means that even though two standard-sized parochial school buses got banner headlines when they slammed into each other Sept. 26 in southwest suburban Worth, injuring 19 people, the accident never happened—as far as Illinois' "official" statistics are concerned.

This means that when an erring motorcyclist crashed headon into the small yellow school bus serving west suburban Glen Ellyn's Junior Village private nursey school, the bus driver, Mrs. Doris Mercer, 41, of Wheaton—who was killed by the impact—wasn't an "Illinois school bus fatality."

The importance of those omissions—and the hundreds of others like them in Illinois, and the thousands in other states—cannot be over-stated.

For the purportedly low rate of accidents, injuries and deaths claimed for school bus transportation is widely hailed by the school bus "establishment."

Most (but not all) of the major manufacturers; virtually all of the private school bus contractors (who operate more than one-third of the nation's 310,000 school buses), public pupil transportation officials and, most important, key federal officials trumpet the "outstanding" safety record of the buses, which carry more than 20 million youngsters a years, as justification for the unconscionably slow pace at which school bus safety measures have been pushed.

The school bus manufacturers Institute, in testimony submitted last May to a House subcommittee weighing new school bus safety legislation, warned several times against "panic" measures, saying school buses were the "safest form of transportation" known to man and should not be criticized by the news media, members of Congress and others who lack "understanding."

A task force of experts with the National Highway Traffic Safety Administration, (NHTSA)—a branch of the Department of Transportation—reported six months ago that school buses are eight times safer than cars.

Top officials of the agency, testifying before a House Commerce subcommittee, said accident statistics establish that school buses "are 40 times safer" than automobiles.

Based on such "facts" NHTSA traditionally has given low priority to setting and enforcing school bus safety standards.

Not only are those statistics perhaps drastically understated, but a new type of analysis indicates that even according to the accepted, under-reported statistics, school buses actually may be as dangerous as autos.

WHAT'S WRONG WITH FIGURES

Thomas J. Grenchik of Greenbelt, Md., a tracking data analyst with the federal space agency, has taken a hard look at long-accepted methods of computing school bus safety statistics.

He decided that computing accidents "per passenger mile" really told little about school buses themselves, in comparison with automobiles, since the large number of students carried by each bus ballooned the percentages to favor the school bus.

Instead, he compared nationally accepted figures on school bus accidents per vehicle mile against the totals of auto accidents per vehicle mile, and concluded that "school buses are, by that more meaningful standard, in reality no safer than cars—and perhaps slightly less safe."

Grenchik has submitted his study to the NHTSA, which is analyzing it.

Meanwhile, the National Safety Council, which accumulates the "official" nationwide school bus statistics from the states, acknowledges the obvious margin for error in its data.

And the NHTSA task force has conceded the inadequacy of current school bus accident reporting procedures.

More accurate, complete figures are "essential," the task force said. Standard 17 calls on the states to produce them, but it doesn't say how or when.

School bus defenders and critics alike agree on one key act:

Nearly two-thirds of the children who die in school bus-related accidents are killed—as was Jeffery Kaiserman—just outside the bus, either by cars or trucks, or by the school buses themselves.

That phenomenon, which has been apparent for more than five years, would seem to have called for a "crash" program of pupil and bus driver education to reduce avoidable fatalities.

Yet, while Standard 17 calls for pupil and driver education programs, NHTSA gave the states five years, until mid-1977, to comply.

In Illinois, a broad smattering of students and drivers receive quality, state-sponsored guidance, through "workshops" and newly required in-service training programs. Many of the larger contract operators, like Willet in Chicago and Scholastic Transit in Northbrook, have excellent programs for drivers. So do some parochial schools. But many don't. And pupil-rider education is badly lacking.

Before he died, Jeffery Kaiserman and his father had been planning the family's first camping trip, and Jeffery was permitted to buy a small sheath knife that set his eyes shining. The knife was buried with the boy.

"I just hope my son's death will at least serve as a warning, so that lives of other children can be spared," said Kaiserman, tears welling in his eyes.

But if experience is any indicator, it's more likely that Kaiserman's hopes for swifter action in the field of school bus safety will be buried, too.

[From the Chicago Daily News, Dec. 11, 1973]

THE SCHOOL BUS SAFETY LOGJAM

(By Charles Nicodemus)

A school bus careened down a mountain highway from Colorado's Monarch Pass and finally rolled over at a filling station, spewing victims from the bus like rag dolls.

Of 39 children thrown from the bus, 9 died. Of nine passengers who remained inside, only one even required hospitalization. "Seat belts would have saved lives," federal investigators aid.

Six weeks ago, five children died near Madison, Ind., when a tractor-trailer carrying 40 tons of railroad ties plowed into the side of a school bus trying to cross rainswept U.S. 421.

Investigators said seat belts doubtless would have saved two boys who were killed after being buffeted in the bus "like they were inside a washing machine."

The chronicles are long on school bus accidents in which children have died when flung from buses, or battered inside by impact with seats or sides, or were slashed by ripped metal panels or glass.

Seats belts would have saved lives, the federal government's accident investigator, the National Transportation Safety Board, keeps saying.

But no school buses are equipped with seat belts. In fact, the well-known yellow bus—touted as the safest vehicle in the motor transport world—is so relatively weak in places that the seat anchorages and flooring of most models are not guaranteed strong enough to take the emergency stress of seat belts.

And the seat backs in most of the nation's 310,000 school buses are such blatant safety hazards that even if seat belts could be installed, their use might jack-knife the children's upper torsos forward during sudden stops, smashing teeth, noses, necks or foreheads into the tubular handgrip or metal edging found along the tops of most seat backs.

The seats and anchorages all should have been redesigned and replaced years ago, and the metal handrails and edging banned.

The fact that they were not has been nobody's fault, it seems.

Every year, more than 4,500 children are severely bruised or cut; have teeth knocked out, are crushed, maimed or mangled; incur mashed cheeks or noses, or suffer other injuries on school buses—and that, too, apparently is nobody's fault, or somebody else's fault.

That's because, if there is one thing the nation's school bus establishment can do better than transport 20 million children a day, it is pass the buck on safety.

That is one of the main conclusions of a two-month long Daily News survey that involved more than 100 interviews with school bus chassis and body makers; contractors; local, state and federal officials; congressmen and legislators; school board members; administrators, bus drivers and parents.

For years, the National Transportation Safety Board has been running detailed post-mortems of major school bus accidents, and has been reporting that:

School bus bodies are poorly put together. In severe accidents, they come apart at the seams because they are not sufficiently riveted, bolted or screwed.

The safety board said that because of this "long standing failure to employ (even) normal engineering practices in school bus construction," the vehicles' metal panels are ripped apart, permitting children to be thrown from the bus or sliced up or jagged or knife-like metal edges.

Gas tanks should be moved away from their present site just to the left and beneath the front door of the bus, where their location is an invitation to disaster. And the tanks should be strengthened, or crash shields should be added.

High-backed, well padded seats would have prevented countless injuries.

The reaction of the "school bus establishment"—with the exception of two body manufacturers—usually has been to point at somebody else when confronted by these reports.

Most school bus body manufacturers emphasize that they'd be happy to put all kinds of safety options in their products.

But they complain that the nation's chronically underfinanced school boards buy most buses through state-required competitive bids, which means they buy vehicles at the lowest cost available and settle for bare minimum construction and equipment standards.

"If the federal government would promulgate reasonable, comprehensive performance standards that applied to the entire industry, we would welcome it" said Berkely Sweet, School Bus Manufacturers Institute executive director.

Private contractors, who run about one-third of America's school buses also insist they welcome uniform federal standards.

Meanwhile, if one firm buys better-built buses or too many safety options, another firm operating with minimum standard buses

can cut costs and take all the business, they complain.

Cost-conscious school board members often contend they are unaware of safety options available, or are convinced by dealers that minimum standard buses are adequate.

As for those unsafe seat backs most school officials queried said they had never heard that there are relatively inexpensive retrofit kits available for padding seat back tops. Maryland made such retrofitting mandatory two years ago.

State legislators, such as Illinois' Rep. Peter Pappas (R-Rock Island), chairman of the House Motor Vehicles Committee, often say they are marking time on new school bus safety laws "because we don't want to do something and then have the feds come along and require something different."

Pappas, a longtime friend of most vehicle industry lobbyists, has all school bus safety legislation bottled up "under study" in his committee. It's been there since last spring, even though only one new federal safety standard is pending that would relate to any of those proposals.

One bottled measure, sponsored by Rep. Susan Catania (R-Chicago), calls for safety belts in new school buses. Another, introduced by Rep. Sam McGrew (D-Geneseo), would require use of laminated safety glass throughout the bus; the use of safety gas tanks (now mandatory in New Jersey), plus padded seats and side-rails.

The school bus industry denies that it ever fights such measures.

The School Bus Manufacturer's Institute (SBMI) describes the industry as self regulating with a proven concern for safe buses. But the industry's performance seems somewhat at variance with its assertions.

By the almost-universal estimate of the safety board, reform-minded legislators, and Ralph Nader's Center for Auto Safety, only two bus body makers—Wayne, of Richmond, Ind., and Ward, headquartered in Conway, Ark.—have initiated significant structural changes to enhance vehicle strength and safety.

Both Wayne and Ward also have campaigned vigorously for tougher federal safety standards.

In contrast, the manufacturer's institute warns Congress and the National Highway Traffic Safety Administration (NHTSA) not to push for "piecemeal" adoption of new safety requirements, saying that standards must be considered for the whole bus. And then, only after lengthy research and testing.

Meanwhile, the school bus manufacturing group this year belatedly set up a task force of its own, to study such overall standards. But the industry has failed to provide sufficient financing and government funds are being sought.

At the center of the school bus controversy is the National Highway Traffic Safety Administration.

The National Highway Safety Act of 1966 required the safety administration and its predecessor agency to set safety standards for all motor vehicles—including school buses. But for years, the agency concentrated mostly on passenger cars, almost ignoring school buses, because accident statistics indicated school buses were "40 times safer than cars."

Now those often-trumpeted statistics appear open to serious question. School bus accidents are soaring. In Illinois, The Daily News found the totals were 6 times higher than those formerly reported by the state to the National Safety Council, the only agency that compiles and publicizes them. Similar problems have been found in other states.

The safety administration's reaction to mounting pressure from Capitol Hill and the public has been to give more lip service to progress, while increasing the actual speed of its efforts from the pace of a snail to that of a turtle.

Initially, NHTSA "met" its obligations to school buses by promulgating some 40 safety standards—most of them for autos—and then announcing, much later, that 21 applied to school buses. However, only five dealt primarily with school buses' unique problems. And most of the buses' crucial problems were ignored.

Here is a breakdown on the agency's action and inaction on school bus safety, as of early December:

Joint and seam structural strength: The issuance of a proposed standard, belatedly adopting the tougher joint strength requirements recommended two years ago by the federal Vehicle Equipment Safety Commission, has been promised by NHTSA for "this calendar year." But it is not out yet; its final effective date remains a mystery . . . and probably is far off.

Seating: A long-delayed standard—calling for padded, high-backed, safety anchored seats—finally was proposed in February, 1973, and scheduled for "issuance" this year, to be effective in September, 1974. But it hasn't been issued yet, and NHTSA aides privately concede the padded seats probably won't be required until January, 1975.

Operational safety—best known as Standard 17. First promised by the agency for July 1967, it was eventually proposed in July, 1970, and finally made effective in June 1972—then the states were given an incredible five years to implement it.

Eighteen months later, NHTSA still has not even sent the states a model training curriculum—of the sort that repeatedly stresses defensive driving, where it is drummed into the bus drivers that they must never take chances—such as venturing rashly into speeding cross-traffic on a rainy, murky afternoon. That's what caused the Madison, Ind. crash.

Brakes, whose malfunction the safety board found to be the most frequent cause of "catastrophic" school bus accidents. The effective dates for implementing 2-year-old standards requiring improved air and hydraulic brakes are September of 1974 and 1975, respectively, for all heavy vehicles including school buses. Yea Detroit is pushing to delay the air brake standard until September, 1975.

Now, having finally lost patience with NHTSA's documented history of procrastination and obfuscation, Congress is preparing to move under the leadership of the House members such as Representatives John Moss (D-Calif.), Les Aspin (D-Wis.) and Fred Rooney (D-Pa.), and Senators Warren Magnuson (D-Washington), Gaylord Nelson (D-Wis.), Jacob Javits (R-N.Y.), and Charles Percy (R.-Ill.).

Moss' House Commerce subcommittee already has approved a new auto recall bill that includes flat requirements that NHTSA promptly issue certain school bus safety standards. And Magnuson's Senate Commerce Committee opens hearings on a similar measure next month.

In preparation for the Senate hearings, NHTSA submitted data on the progress it is achieving in making the yellow school bus safer.

The agency once more said it is moving ahead "rapidly"—which, Percy notes, is just what the agency has been saying since 1967 . . . many, many deaths ago.

VACANT AMBASSADORIAL POSTS

Mr. KENNEDY. Mr. President, in conducting relations between the United States and other countries, our ambassadors abroad play a critical role. This is true with regard to the major countries of the world, especially during times of delicate negotiations with adversaries, and strained relations with allies. It is also true with regard to countries that are not in the mainstream of current policy, where their relations with the United States only rarely command the attention of the President, the Secretary of State, and other senior officials. There, the American ambassador becomes even more important than he would be otherwise, and often plays the central role in shaping day-to-day policies of the United States, and relations between us and the country in which he serves.

Ambassadors also play an important symbolic role. Appointing a man or woman who is highly capable is a mark of respect, and can pay direct benefits in the process of conducting relations. By contrast, appointing second-rate people as American ambassadors can make matters worse. And not appointing an American ambassador at all can be regarded as an insult and a direct impediment to good relations, or—at best—as a handicap to working out diplomatic problems and difficulties.

It is important for us in the Senate, therefore, to note vacancies of long standing in U.S. ambassadorial posts abroad.

It is with particular regret that I note the continued absence of a U.S. ambassador to Sweden, since August 30, 1973. We all know the reasons for this: Swedish criticism of U.S. bombing policies at the end of our involvement in the Vietnam war, and the granting of asylum by Sweden to some Americans who refused to fight in that war.

Whatever we think about these Swedish policies, the failure to appoint an Ambassador to Stockholm, at this critical time in the energy crisis and in the reordering of international economic relations, is clearly not in the best interests of the United States.

In addition, we also have not had an Ambassador in Libya since November 7, 1972, a period which has seen the most serious turmoil in international oil markets. I do not wish to imply that the presence of a U.S. Ambassador in Tripoli would have had a decisive impact: But at least we would have had better opportunities for direct communication at the appropriate level.

Far more important, the United States has not had an Ambassador to the Organization for Economic Cooperation and Development—OECD—since September 1972—nearly a year and a half. And yet this has been a critical period in trying to reach common positions in the supply of energy, through the OECD's oil committee.

On February 11, the U.S. Government will convene a meeting of foreign minister from eight major oil importing nations, to discuss the formation of an energy action group. I have supported that initiative by Secretary Kissinger, as a first step toward worldwide cooperation in energy research, development, production, and trade. Yet we must wonder about the administration's seriousness of purpose during recent months, when it failed to provide appropriate U.S. representation at the OECD, where energy cooperation was being pursued. The diffi-

culties of cooperating that we face today might not be as severe, if the administration had taken the established organization more seriously before.

Mr. President, during hearings before the Senate Foreign Relations Committee last September, Secretary of State-designate Henry Kissinger pledged that all vacant U.S. ambassadorial posts abroad would be filled within 2 months. Sweden was given particular emphasis by the committee.

Since then, many posts have been filled, including Bulgaria and Bangladesh—the latter vacant for 15 months—last Friday. Several have not, including Sweden, and in the normal course of events some others have become vacant. This last group includes Japan, which—despite today's crisis in energy relations—has not had a U.S. Ambassador since last November 16.

Mr. President, I urge the Secretary of State and the President to fill those U.S. ambassadorial posts that are now vacant, especially those which have been vacant for any significant period of time.

I ask unanimous consent that a list of vacant ambassadorial posts be printed in the RECORD.

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

VACANT U.S. AMBASSADORIAL POSTS

Jamaica: Vacant since July 18, 1973.
Japan: Vacant since November 16, 1973.
Jordan: Vacant since November 29, 1973.
Khmer Republic: Vacant since September 26, 1973.
Libyan Arab Republic: Vacant since November 7, 1972.
Mauritius: Vacant since July 23, 1973.
New Zealand: Vacant since October 31, 1972.
OECD: Vacant since September 16, 1972.
Rwanda: Vacant since September 3, 1973.
Sweden: Vacant since August 30, 1973.

WORLD FOOD CONFERENCE

Mr. PERCY. Mr. President, I want to bring to the attention of my colleagues a resolution adopted by the United Nations General Assembly in the closing days of the 28th session in December that went largely unnoticed at the time. The resolution calls a World Food Conference to be convened in Rome in November 1974.

The General Assembly's resolution sets out a number of goals for the conference. Its "principal task—consists in developing ways and means whereby the international community as a whole could take specific action to resolve the world food problem within the broader context of development and international economic cooperation." The conference "would provide members with a forum in which to bring about the improvement of world food security and emergency assistance." The emphasis should be placed "on additional measures for increasing the food production, consumption and trade of developing countries."

The convocation of a World Food Conference under the auspices of the United Nations could not be more timely. As the United States permanent representative, John Scali, said last October in a letter to the Secretary-General:

> The problem of the world's food supplies requires urgent attention. The world has had a clear warning that we need to develop better means to assure adequate food supplies over the longer term.

The "clear warning" to which Ambassador Scali referred was underscored by the Food and Agriculture Organization's annual report entitled "The State of Food and Agriculture." The report made these points:

In 1972 world agricultural production fell for the first time since World War II.

Food production was 3 percent lower in developing countries and as much as 6 percent lower in the Far East region.

Production shortfalls were largely the result of widespread unfavorable weather conditions, particularly drought, which was most vividly demonstrated by the conditions in the Sahelian zone of Africa.

World grain stocks were by mid-1973 at their lowest levels in 20 years and the prices of wheat on world markets tripled between mid-1972 and mid-1973.

Shortages in other commodities—soybean and fish meal, for example—also sent prices up.

In 1973 world agricultural production is likely to increase by 3 to 4 percent over 1972.

Secretary of Agriculture Earl Butz predicted during the 17th biennial session of the Food and Agriculture Organization held in Rome in November:

> That 1973–74 consumption of food will exceed production, but not by very much.

According to the Secretary, wheat and feed grain stocks of the United States, Canada, Argentina, and Australia should make up the deficit.

Latest reports from the U.S. Department of Agriculture indicate that about 200 million bushels of wheat, roughly equivalent to a 7-week domestic and export supply, will be left over from the 1973 crop at the time the 1974 crop starts coming in. This would be the lowest carryover since 1946.

Given this precarious state of U.S. stocks, think of the dimensions of the world food crisis should the present crop year turn out as badly as last year. The human suffering and hardship flowing from the food crisis would far exceed those difficulties that stem from the so-called energy crisis.

Mr. President, I firmly believe we can avoid a future world food crisis if we face facts rather than ignore them, if we take action now to avoid a crisis rather than wait for the crisis to overtake us, and if we recognize, as Ambassador Scali pointed out, that these problems "call for cooperative action by the entire world community," rather than assume that we here in the United States can and should be agriculturally self-sufficient and independent of the rest of the world.

I want to commend the Secretary of State, Dr. Kissinger, for his initiative in recommending a world food conference in his address to the General Assembly on September 24. He has shown great wisdom and foresight in recognizing the need for international cooperation and common action and in placing the matter before the United Nations General Assembly. The United States was then in a position to join with the nations represented at the Algiers conference of heads of state or government of nonalined countries which had called for the convening of a conference on food problems in sponsoring the resolution which the General Assembly adopted.

The U.N. resolution recommends an intergovernmental conference at the ministerial level and assigns the responsibility for the conference to the Economic and Social Council. It directs the U.N. Secretary-General to appoint a Secretary-General for the conference and to set up a small conference secretariat drawing particularly on the Food and Agriculture Organization of the United Nations and the United Nations Conference on Trade and Development. I understand that a small preparatory committee has been formed and will meet in New York City on February 11.

Because of Secretary Kissinger's role in initiating the World Food Conference, I am certain that the matter will receive attention at the very highest levels of Government.

I am informed that Secretary Kissinger has appointed Edwin Martin as senior adviser to the Secretary and U.S. coordinator for participation in the World Food Conference. Mr. Martin is presently chairman of the Development Assistance Committee of the Organization for Economic Cooperation and Development in Paris. He has served as an Assistant Secretary of State for Economic Affairs and for American Republic Affairs and as U.S. Ambassador to Argentina.

Mr. Martin will be setting up a staff which will include officials from the Department of Agriculture as well as from the State Department and AID.

I know Mr. Martin will have the support and cooperation of the Congress in preparing for U.S. participation in the World Food Conference. I know that Mr. Martin will want to do everything possible to assure the success of the conference. I believe this means not only seeking out the advice and counsel of the Congress but also the recommendations of scholars, businessmen, and the general public who are concerned with food and nutrition.

The potential of a world food crisis is too great a challenge to mankind for the United States merely to adopt a defensive stance responding to the proposals of others. The United States must be prepared to offer concrete proposals to assure international action to eliminate the threat of a severe food shortage and to provide adequate diets for all the world's people.

Mr. President, I ask unanimous consent that the General Assembly resolution convening a World Food Conference, together with related materials from both the United Nations and the Food and Agriculture Organization, be printed in the RECORD.

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

RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

[On the report of the second committee A/9403)] 3180 (XXVIII). World Food Conference.

The General Assembly,

Recognizing that the principal task of a world food conference, on which the greatest effort should be concentrated, consists in developing ways and means whereby the international community as a whole could take specific action to resolve the world food problem within the broader context of development and international economic co-operation.

Believing that a world food conference would provide members with a forum in which to bring about the improvement of world food security and emergency assistance,

Recognizing that the conference should, in the first instance, place emphasis on additional measures for increasing the food production, consumption and trade of developing countries,

Recalling that the Fourth Conference of Heads of State or Government of Non-Aligned Countries, held at Algiers from 5 to 9 September 1973, called for the convening, as a matter of urgency, of a conference on food problems at the ministerial level, sponsored jointly by the Food and Agriculture Organization of the United Nations and the United Nations Conference on Trade and Development,[1] and further recalling the proposal of the United States of America for the convocation of a world food conference under the auspices of the United Nations,[2]

1. Decides to convene a World Food Conference under the auspices of the United Nations for about two weeks, in November 1974, in Rome;

2. Recommends that the Conference be an intergovernmental conference at the ministerial level;

3. Entrusts the Economic and Social Council with over-all responsibility for the Conference;

4. Requests the Secretary-General, after consultation with the Director-General of the Food and Agriculture Organization of the United Nations and the Secretary-General of the United Nations Conference on Trade and Development, to appoint as soon as possible a Secretary-General of the Conference and to set up a small Conference secretariat drawing particularly upon the expertise and competence of the Food and Agriculture Organization of the United Nations, the United Nations Conference on Trade and Development and other relevant bodies of the United Nations system;

5. Recommends that in preparing for the World Food Conference, proper account be taken of the recommendations of the seventeenth Conference of the Food and Agriculture Organization of the United Nations and of the recommendations made by legislative bodies of other organizations in the United Nations system concerning the goals and objectives of the Conference, as requested by the Economic and Social Council in its decision of 18 October 1973; [3]

6. Invites all the competent organizations of the United Nations system to collaborate closely in the organization of the Conference;

7. Accepts with appreciation the invitation of the Government of Italy to act as host to the Conference in Rome.

2204th plenary meeting December 17, 1973.

[1] A/9330, p. 99.
[2] A/9194.
[3] E/SR.1885. p. 20.

REQUEST FOR THE INCLUSION OF AN ADDITIONAL ITEM IN THE AGENDA OF THE 28TH SESSION—CONVOCATION OF A WORLD FOOD CONFERENCE JNDER THE AUSPICES OF THE UNITED NATIONS

(Letter dated 4 October 1973 from the Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General.)

The Government of the United States of America proposes the inclusion on the agenda of the twenty-eighth session of the General Assembly, as an important and urgent matter, of an item entitled "Convocation of a world food conference under the auspices of the United Nations".

The general purpose of the proposed conference, as explained by the Secretary of State in his address to the General Assembly on 24 September,[4] would be to discuss ways to maintain adequate food supplies, and to harness the efforts of all nations to meet the hunger and malnutrition resulting from natural disasters.

The problem of the world's food supplies requires urgent attention. The world has had a clear warning that we need to develop better means to assure adequate food supplies over the longer term.

We must act to develop better ways of coping with the danger of a recurrence sizeable declines in production simultaneously in many critical areas of the world. At the same time, we cannot take for granted that the increasing demands on the world's food supplies as a result of population growth and rising incomes will be automatically met by the policies of the past. Nor can we remain indifferent to the fact that in the developing countries as a whole food production is not increasing quickly enough to improve over-all nutritional levels.

Problems of this order call for co-operative action by the entire world community. Rich and poor, large and small, market or centrally-controlled economy, each nation has its interest, its obligation, its role to play.

Major producing countries, including the United States, are already engaged in discussions of the situation in order to determine the true dimensions of the problem of supply. The wheat grain situation has been reviewed by the members of the International Wheat Council. At the seventeenth Conference of the Food and Agriculture Organization of the United Nations in November, member nations will consider proposals for an undertaking on minimum world food security.

The proposed conference would bring these and similar activities into one central focus. It is our hope that the conference will produce guidelines for individual and co-operative action which will enable the international community to meet the tests it will face in this area in the years ahead.

I should be grateful if you would consider this letter as an explanatory memorandum within the meaning of rule 20 of the rules of procedure of the General Assembly and if you would circulate it as an official document of the General Assembly.

JOHN SCALI.

FAO ENDORSES UNANIMOUSLY WORLD FOOD CONFERENCE IN 1974

WASHINGTON, November 27.—Member nations of the Food and Agriculture Organization have endorsed unanimously a proposal for a World Food Conference in November 1974 under the auspices of the United Nations and voted $500,000 towards the costs of the Conference.

A report proposing general objectives and format for the Conference was approved in plenary session of FAO's 130-nation biennial conference, meeting in Rome November 10–29. The FAO conference recommended that, because of the availability of technical expertise in FAO, the World Food Conference be held in Rome.

The report will now be transmitted to the Economic and Social Council of the United Nations in New York which will place its recommendations before the U.N. General Assembly, where a final decision is expected before the middle of December.

"The principal task of the World Food Conference," the FAO report declares, "should be to bring about a commitment by the world community as a whole to undertake concrete action towards resolving the world food problem within the wider context of development problems."

In its report the FAO conference indicated that the world food problem which had undergone a serious deterioration during the past year, could not be solved within the agricultural sector alone. It suggested that the next year's World Food Conference should be at the ministerial level with full participation of all members of the United Nations, or of its related agencies including those not members of FAO. In earlier debate on the question many delegations stressed the importance of participation of the USSR which is not a member of FAO.

As envisaged by the FAO report, major emphasis of the World Food Conference should be placed on additional measures for increasing the food production consumption and trade of developing countries.

"Particular attention," the report declares, "should be paid to maximizing the production potential of available land to an extension of the area under irrigation, and to the expansion of the availability of agricultural inputs, which should increasingly be manufactured in the developing countries. Action should also be foreseen to reduce losses, both before and after harvesting."

The question of what role trade matters should play in the World Food Conference was the focal point of considerable debate as the item moved through commission and plenary sessions of the FAO conference.

The report does not envisage the World Food Conference as a negotiating forum. It suggests that the aim should be to reach agreement on specific objectives and programs, which would subsequently be carried out through existing international machinery. Since questions of food balances and trade are highly interlinked, the area of international trade and international agricultural adjustment has particular significance, the report indicated.

During earlier debate many delegations had emphasized the urgency of improving unfavorable conditions on international markets for the agricultural commodities produced in developing countries.

Under arrangements which the U.N. General Assembly is expected to make, UNCTAD would be invited to cooperate in the work of the Conference. While the Conference would not be expected to duplicate the work of UNCTAD or the General Agreement on Trade and Tariffs—GATT—it could give "valuable support and impetus to it".

Following the report's unanimous adoption by the FAO conference plenary, FAO Director-General Addeke H. Boerma expressed "great satisfaction" that member countries had been able to agree on a report which would give the U.N. General Assembly "clear guidance as to what this Conference thinks should be done."

"The World Food Conference," said Dr. Boerma, "presents a great challenge and a great opportunity . . . provided that it can express the political will of all member states to put an end to the shameful state of affairs in which millions of people still suffer from hunger."

[4] A/PV.2124, p. 21.

He hoped that the spirit of collaboration evident here in Rome would be sustained when the issue came before the U.N. General Assembly and in subsequent discussions.

While preparations for the World Food Conference cannot be decided upon until the U.N. General Assembly reaches its final conclusions on the proposals, the FAO conference authorized Dr. Addeke Boerma, FAO's Director-General, to enter into appropriate arrangements for FAO participation if U.N. General Assembly endorsement is received. It also authorized the Director-General to draw on the Organization's working capital fund up to a maximum of U.S. $500,000 to cover costs connected with the Conference. The FAO report recommends that the Conference be held in Rome where FAO Headquarters facilities would be available to the Conference preparatory committee, Secretariat and the Conference itself.

PROPOSALS FOR A SPECIAL WORLD FOOD CONFERENCE UNDER UNITED NATIONS AUSPICES

SUMMARY

The United Nations General Assembly, at its current session, will take up a proposal for the convocation of a World Food Conference under United Nations auspices. The FAO Conference is invited, under the terms of a decision of the Economic and Social Council, to consider this question as a matter of priority and to submit its report to the Economic and Social Council. In this paper the Director-General submits some suggestions on the various topics which the FAO Conference may wish to cover in its report.

INTRODUCTION

1. The sudden deterioration of the short-term outlook for world food supplies during the summer months of 1973 created widespread concern in developed and developing countries alike. It was in the face of this disturbing situation that the idea of a Special World Food Conference took shape. In point of time, the idea first received formal collective expression at the Conference of Heads of State or Government of the Non-Aligned Countries held in Algiers from 4 to 9 September 1973. After an analysis of current problems in its Economic Declaration, the Conference stated in its Action Programme for Economic Cooperation:

"The Heads of State or Government urged that in the context of the serious food crisis confronting vast areas and populations of the world an emergency joint Conference of FAO and UNCTAD should be convened at Ministerial level in order to formulate a programme of international cooperation to overcome the increasing shortage of food and other commodities, and to maintain stable prices."

2. Within the United Nations system, the idea was formally proposed for the first time by the Secretary of State of the United States, Dr. Henry Kissinger, in a speech to the General Assembly on 24 September 1973. In his statement Dr. Kissinger put forward a United States proposal:

"That a World Food Conference be organized under United Nations auspices in 1974 to discuss ways to maintain adequate food supplies, and to harness the efforts of all nations to meet the hunger and malnutrition resulting from natural disasters; that nations in a position to do so offer technical assistance in the conservation of food. The United States is ready to join with others in providing such assistance."

Subsequently, the United States formally proposed the addition to the General Assembly's agenda of an item entitled "Convocation of a World Food Conference under the auspices of the United Nations". The General Assembly has agreed to include this item in its agenda and has referred it to the Second Committee. At the time of preparation of this document it is expected that the Second Committee will take up the subject on or about 10 December.

3. The United Nations Economic and Social Council (ECOSOC) also took up the matter at its resumed Fifty-Fifth Session from 15 to 18 October in view of the obvious need for coordination not only with FAO but also with UNCTAD, IBRD and other United Nations agencies with an interest in aspects of the world food problem. ECOSOC did not adopt a formal resolution, but after informal consultations between delegations agreed on the following decision:

"The Economic and Social Council Decides:

"1. To recommend to the Twenty-Eighth Session of the General Assembly the convening of a World Food Conference in 1974 under the auspices of the United Nations;

"2. To invite the Secretary-General of the United Nations, taking into account the remarks of the competent Organizations of the United Nations System, to submit to the Twenty-Eighth Session of the General Assembly through the Economic and Social Council a report on the convening of the World Food Conference;

"3. To invite the governing bodies of the Organizations of the United Nations System, as appropriate, to consider this question as a matter of priority and to submit their reports to the Economic and Social Council."

4. This text was formally communcated by the United Nations Secretariat to the Director-General, who informed Member Nations through his note dated 26 October 1973. In accordance with the invitation of the Economic and Social Council the FAO Conference is expected to take up the question of a World Food Conference as a priority matter, and this paper has been prepared to assist the Conference in its deliberations. The Conference report on the matter, as soon as it has been adopted in plenary, will be transmitted to the Economic and Social Council, which will also have before it a report by the Secretary-General of the United Nations taking into account the remarks received from all interested organizations of the United Nations system. ECOSOC is expected to transmit its recommendations to the General Assembly in time to assist the Second Committee when it takes the matter up on or about 10 December. The final decision regarding the holding of a Special World Food Conference, and the arrangements for it, will then be taken by the General Assembly.

Role of the proposed special Conference

5. The Conference being considered by the General Assembly would be held "under United Nations auspices". Within the United Nations system problems relating to food and agriculture are the primary responsibility of FAO. Nevertheless the Director-General endorses the idea of a Special Conference as a recognition of the fact that the world food problem, which in the last few months has given rise to the gravest apprehension, cannot be solved within the agricultural sector alone. Indeed, in its ramifications and linkages the world food problem requires the action and cooperation of Governments and international Agencies on many fronts, agricultural and industrial, production and trade, processing and conservation, services and institutions. It is directly connected with issues such as population, environment and employment. The Director-General sees the convening of a Special Conference as a unique opportunity for a synthesis of all factors affecting the world food problem and for the launching of an integrated attack on the problem as a whole. Such an integrated attack should clearly involve a number of organizations of the United Nations system.

6. It could therefore be hoped that, after considering the problem as a whole, the Special Conference could adopt a package of broad longer-range goals for action. Within the framework of each such goal the Conference might proceed to formulate specific objectives and as far as feasible define or endorse specific action programmes. The governments of the world would thus have in the Special Conference an opportunity, not merely to analyse the world food problem, but to crystallize a willingness to act on the main elements of that problem. The output in real terms might therefore take the form on the one hand of a series of specific actions launched by the Special Conference itself, and on the other hand of strengthened support for action already underway through organizations of the United Nations system. Indeed, a decision by the General Assembly to convene a Special World Food Conference should be based on the political will of governments to undertake additional action on the national and international levels to help solve the world food problem, along lines that will be clarified by the Special Conference itself.

Possible subjects for consideration at special conference

7. The Director-General believes that the FAO Conference will wish to give its views to ECOSOC and the General Assembly regarding the subjects which might be discussed at a Special World Food Conference. He has had the benefit of brief preliminary consultations on this matter with the Secretary-General of the United Nations and also with the Executive Heads of other United Nations agencies within the framework of the Administrative Committee on Coordination (ACC), which met in New York on 25 and 26 October 1973. These consultations are being continued and intensified. In the meantime the Director-General presents the following ideas on his own responsibility.

8. The work of the Conference might be broadly divided into two phases: first, an *assessment* of the world food problem, and second the formulation of goals and possibly programmes for *action* at international and national levels.

A. ASSESSMENT

Review of data on current food consumption levels

9. Although the present food crisis is generally discussed in terms of food supplies at national and international levels, the real food problem is that faced by underprivileged individual consumers. Any World Food Conference surely has a moral obligation to start by examining current levels of food consumption in average years throughout the world in order to arrive at an appreciation of the present dimensions and causes of hunger and malnutrition. The analysis should as far as possible be broken down not merely by regions and countries, but also by economic classes with particular emphasis on vulnerable groups, and should compare actual consumption levels with minimum nutritional standards. In policy terms, it would inevitably focus on poverty as the root cause of hunger and malnutrition, and would draw attention to a nexus of closely interrelated questions including rates of general economic growth, distribution of income and employment and the special nutritional problems of vulnerable groups such as infants and young children, nursing mothers and low-income workers and their families in both rural and urban areas.

Possible future evolution of world food problem

10. Under this heading the Conference would deal with the food problem in terms

of the imbalance between supply and demand at world level. After a brief historical evaluation, the Conference documentation should focus on three time horizons: 1976 or 1977 (i.e. the problem of the following two or three harvests); 1985 (a date up to quantitative estimates of likely developments); and the year 2000 (a brief outline only, in order to identify the types of problem which should be tackled soon in view of the very long time-lag in bringing about change in agriculture, which moves at the slow rhythm of the seasons).

11. The documentation would not be of a highly technical nature, although it would of course be based on technical work by FAO and other organizations. In arriving at broad conclusions on the probable evolution of demand for foodstuffs, account might be taken not only of population increases and income growth and distribution, but also of the likely future scope for supplementary feeding programmers both for vulnerable groups and through public works projects utilizing food aid for the promotion of employment. On the supply side, the historical trends and production potentialities of both developed and developing countries would be examined. Requirements for physical inputs such as fertilizers necessary for achieving production goals would be estimated. Account should be taken of the perspectives for technological advance, including the possible future role of non-conventional food sources. Special attention would be paid to the importance of social objectives. In particular, the analysis should identify the main bottlenecks to the realization of the full production potential of developing countries.

12. Among the external factors to be considered, attention would be devoted to international trade and the possibilities of international agricultural adjustment through changes in production and trade policies. The extent and pattern of international aid to agriculture and the options in agricultural investment assistance should also be examined.

13. The Special Conference could also make an assessment of factors that affect the security of world food supplies, i.e. fluctuations of production in developed and developing countries; fluctuations in commercial supply and prices due to reductions in stocks held by major exporting countries; and fluctuations in supplies of food aid. It could then assess, after taking into account the work of the FAO Conference in this area, the need for any additional initiatives or measures that may be necessary to assure adequate availability of basic food stocks.

B. NATIONAL AND INTERNATIONAL ACTION

Expanding the food production of developing countries

14. While the Conference findings under the assessment item cannot at this stage be forecast in any detail, it is reasonably certain that expanding the food production of developing countries will emerge as the most important area for intensified national and international action. The Conference might establish a long-term goal, for instance a doubling of the food production of developing countries over a period of fifteen years. It could consider the nature and extent of the resources, both domestic and international, that would have to be mobilized to achieve such a goal, allowing for increased participation by small farmers in the growth of production. Particular attention might be given to the scope for capital and technical aid to agriculture, including assistance for research. While all aspects of the problem should be examined, the Conference might concentrate mainly on specific bottlenecks where a major effort could result in significant breakthroughs. Attention should be given not only to quantitative factors but also to the quality of diet. Measures for improving the diet of vulnerable groups should be particularly emphasized, including the possibility of expanded food and nutrition programmes related to the achievement of minimum nutritional standards.

Limitation of food losses

15. As a corollary to measures for increasing production, action should be promoted to control losses in plant and animal production, and to decrease waste and losses during harvest, handling, storage and preservation of food commodities.

World food security

16. The problem of world food security, which has emerged as a major issue during the current period of production setbacks, will certainly continue to be vital for a very long time to come. Even if the food production of developing countries in particular achieves a strong upward trend, output in specific countries and regions will continue to be subject to wide year-to-year swings induced by weather variations.

17. Based on Conference findings under the assessment item, agreement might therefore be reached on:

(a) additional measures, going beyond action taken by the FAO Conference at its current session, necessary to ensure the availability of adequate *food stocks*, including the resources needed for a significant action programme to assist developing countries in creating storage facilities and building up and carrying stocks;

(b) the supplementary role of an international food reserve for *emergencies*, for instance in the form of specially pledged supplies to be handled by the World Food Programme;

(c) a long-term policy and target level for *food aid*, combining food security with development assistance, as long as food deficits remain.

International trade and agricultural adjustment

18. In any long-term strategy for resolving the world food problem, international trade and international agricultural adjustment must be important elements. Certain long-term objectives might therefore be set by the Conference, based upon the International Strategy for the Second Development Decade and the work already carried out by UNCTAD and GATT in the trade field and by FAO in international agricultural adjustment.

Organization of the special conference

19. The Economic and Social Council, in its decision quoted in paragraph 3 above, recommended the convening of a World Food Conference "under United Nations auspices". While the Conference would thus be convened by the General Assembly, the FAO Conference will no doubt wish the Organization, as the agency in the United Nations system responsible for food and agriculture, to be associated in an appropriate manner with this initiative. In the Director-General's view, specific provision might be made for the Conference to be organized jointly by the United Nations and FAO, in cooperation with UNCTAD and other interested organizations and programmes of the United Nations system.

20. With regard to the Secretariat, the Director-General suggests that a Secretary-General or Executive Secretary for the Conference be appointed jointly by, and responsible to, the United Nations Secretary-General and himself. It may be expected that the greater part of the technical preparations for the Conference will have to be carried out by FAO, with the cooperation of other Agencies for specific agenda items, and consequently he would propose that the Conference staff be located at FAO Headquarters.

Considerations regarding the time and place of the special conference

21. In view of the difficult world food situation the holding of a Special Conference is considered by all concerned as a matter of urgency. However, time must be left for adequate preparation if the Conference is to serve any useful purpose. The Director-General feels that October or preferably November 1974 would be the earliest feasible date. Here again the views of the FAO Conference would undoubtedly be of value to ECOSOC and the General Assembly.

22. From FAO's point of view there would be obvious advantages in holding the Conference in Rome, since most of the technical preparation and servicing will presumably have to be made by FAO. Furthermore 1974 being a non-Conference year the Organization's facilities would be available for this purpose. Ideally the timing of the Special Conference should be coordinated with that of the Sixty-third Session of the FAO Council, which would normally be held in November 1974. In reaching a decision on this point the General Assembly may also wish to take into account any offer of host facilities that may be received from Member Nations.

Preparations for the conference

23. It appears likely that an Intergovernmental Preparatory Committee will be required for the Conference, both to finalize the agenda and to prepare the discussion of the main issues at the Conference itself. If timing had permitted, it would have been possible to consider such a Preparatory Committee being established jointly by (for instance) ECOSOC and the FAO Council. However, there will be no Session of the FAO Council at the time required for such action, and a special session of the Council just for this purpose would hardly seem justified. It may be expected, therefore, that the Preparatory Committee will be designated by ECOSOC or possibly by the General Assembly itself.

24. In the Director-General's view, the Preparatory Committee should not be large in size. While the Committee would formally consist of Governments, he would hope that the members would designate as their representatives individual experts with a knowledge of the various aspects of the world food problem. The Director-General presumes that meetings of the Preparatory Committee would, like the Special Conference itself, be organized jointly by the United Nations and FAO, and would be serviced by the Conference staff.

25. The Director-General believes that the bulk of the technical preparation for the Conference and for meetings of its Preparatory Committee will have to be carried out by FAO, although there would also be contributions from other organizations. An estimate of the workload for FAO is not possible until the agenda and timing of the Conference have been decided. In general terms, the Director-General envisages the greatest possible use of consultants in order to minimize disruption of the approved programme of work. He would, however, be prepared to reorient the work of certain technical officers towards Conference preparation.

26. To ensure the coordination of contributions from all United Nations organizations and programmes an inter-agency coordinating committee will almost certainly be required. This will be a matter for further consultation with the Secretary-General and the Executive Heads of the organizations and programmes in question.

Financial implications for FAO

27. At the present stage of uncertainty, when the General Assembly has not yet started its consideration of whether to convene a World Food Conference, it is impossible to produce an analysis of financial implications for FAO. It is not known, for instance, to what extent provision would be made in the United Nations budget for the Conference, and to what extent other organizations participating would be expected to cover their own costs. Nor is it known

whether, and to what extent, the country hosting the Conference might contribute to the expenses. As a matter of principle, however, the Director-General considers that FAO, as the organization in the United Nations system responsible for food problems, should make a financial as well as a technical contribution to the Conference.

28. In the circumstances, the Director-General suggests that he be authorized to draw on the Working Capital Fund, up to a maximum amount of $500,000, to cover costs connected with the preparation for, or servicing of, the proposed Special Conference if the General Assembly decides to convene it.

RURAL HOUSING IN 1974

Mr. ABOUREZK. Mr. President, the administration's housing plans for the balance of fiscal 1974 deserve close watching by Congress, especially by those of us from States in which the Farmers Home Administration is a primary source of mortgage credit.

As you may recall, Congress appropriated $2.1 billion for the basic rural housing program, the section 502 FHA home loan program. Some 60 percent of that was earmarked for subsidized housing under the interest credit program.

About 10 percent of the unsubsidized loan funds have been placed in reserve. Nearly a third of the subsidized loan funds have also been placed in reserve.

In addition, 54 percent of these moneys have been earmarked for housing rehabilitation.

There are two possible interpretations of this strategy.

The first is that the strategy amounts to an attempt to cripple the already sufficiently meager rural housing program. This interpretation bears weight when you recall last year's impoundment, the Administration efforts both on the Hill and in the courts to defend the impoundment, and considering Farmers Home's severe manpower bottleneck and the fact that housing rehabilitation loan processing requires more manpower.

We will be watching very closely to see whether this is true.

The second interpretation of the strategy is that it represents a sincere effort to maximize utilization of the existing housing stock.

I am told that Farmers Home Administrator Elliott, whom I have not hesitated to criticize in the past when I thought him wrong, feels that he needs to earmark these funds in order to drive his message home to his 1,700 field offices: Use the existing stock as much as you can, and use it in a way which effectively lowers the total mortgage costs so as to be able to serve lower-income families.

I am also told that Administrator Elliott has said that the reserves, as they are called now, do not amount to impoundments, that they can be used as soon as they are needed. I hope so.

It will be fairly easy to judge which of these interpretations is correct. By March we should have a good idea whether the second strategy is working or whether those reserves do amount to a new euphemism for impoundments.

Granting Administrator Elliott the benefit of the doubt, I would further say that even if his strategy proves to be a smashing success, there will be much remaining undone and un-do-able until we have put a comprehensive rural housing delivery system in place.

We will still need a clear designation of a houser of last resort for places of up to 25,000 under a plan which provides total areawide coverage of rural America, and we will still need some kind of program to serve nearly 1 million rural American households, mostly elderly, whose average rent-paying ability is a mere $14 a month. As yet we have no program for them.

OMB IMPOUNDMENT REPORTING MISLEADS CONGRESS AND THE PUBLIC

Mr. HUMPHREY. Mr. President, recently I received an analysis prepared independently by the Congressional Research Service, entitled "Impoundment Reporting by the Office of Management and Budget." The report raises major questions regarding the quality of the OMB's impoundment reporting. The four reports submitted by the OMB to date are vague and often misleading to both Congress and the American people.

Among other things, the CRS analysis clearly shows that there has been no effort by the OMB to improve its reporting on impoundments, during the past year. My comments of last February 9, as noted in the CRS study, that the OMB's first report—

> Was unacceptable . . . did not specify full reasons for fund impoundments and contained little information as to when Congress and the public can expect funds to be released.

remain as true today as they were last year.

The OMB appears to have formally complied with the "Humphrey impoundment information amendment" by simply submitting listings of specific impoundments to Congress. But, because of bureaucratic gobbledygook and other administrative slight of hand the impoundment data fails to clearly delineate the full impact of impoundments on programs lawfully authorized by Congress.

The CRS study shows, for instance, that while the OMB report of September 30, 1973, indicates more dollars were impounded from the DOD military budget than for HUD, it fails to indicate that when considered as a percentage of the total departmental budget authority, impoundment of the DOD budget amounted to a mere 1.37 percent, while fully 12.28 percent of the HUD budget is being withheld, even using OMB's own narrow definition of impoundment.

When data is disguised in this manner, the OMB report simply confuses the public and Congress regarding the real impact of impoundments. If the OMB intends to be responsive to Congress, it must as a minimum submit impoundment data as percentages of the budget authority of departments and agencies.

The CRS analysis also shows that the executive branch did not even report on four major impoundment actions. By defining impoundment in the narrowest possible way, OMB has circumvented the information requirements of the law. Not included in the OMB reports are: First, $6 billion in contract authority under the Federal Water Pollution Control Act; second, $382 million proposed for budget reductions by the administration; third, $441 million in contract authority for HUD programs; fourth, $1.9 billion in HEW and Labor Department funds.

The exclusion of these large sums of money for major domestic programs could mislead the Congress and the public into believing that the President is not using impoundment for policy reasons. This clearly is not the case.

In the case of the impoundment of HUD funds, the report notes that, "existing tax laws and the statutory limitation on national debt, and, action taken pursuant to President's responsibility to help maintain economic stability without undue price and cost increases" were the grounds for impoundment given by the OMB. But these reasons do not explain why HUD programs were singled out for impoundment, an obvious policy decision beyond the legal authority of the President to make alone.

Probably the most deceptive aspect of the OMB reports is their use of codes to indicate the reason for such impoundment. There is a clear implication in these codes that impoundments for allegedly routine fiscal accounting purposes were used more frequently than impoundments based on major policy decisions. However, the CRS study documents the fact that 65 percent of impounded moneys actually reflected basic administration policies, while routine impoundment only amounted to 35 percent.

As long as the OMB is allowed to submit deceptive data, exclude large sums of money, and offer vague reasons to rationalize unilateral domestic policy changes by the President, the purposes of Congress in passing the "Humphrey impoundment information amendment" will not be achieved.

And I would suggest to my colleagues, and the public, that they be skeptical of OMB Director Ash's recent statement to reporters that "you can retire the word 'impoundment' from your type."

When the President withholds funds for policy purposes, contrary to the expressed will of Congress, as the CRS report clearly indicates he has, regardless of whether he and Roy Ash choose to call it impoundment or not, it is an illegal act and shall be vigorously attacked by the Congress and in the courts. No simple change in rhetoric will change the substance of these constitutional acts.

I have asked the CRS to expand their preliminary analysis of OMB, reporting on impoundment and to report to Congress their recommendations for assuring that Congress and the public are provided with the information needed to understand what is being impounded by the President and for what purpose. I believe it is time to let the OMB know that we will not stand for any more bureaucratic subterfuge.

Mr. President, I ask unanimous consent that this excellent report by the CRS, entitled "Impoundment Reporting by the Office of Management and Budget," be printed at this point in the RECORD.

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

IMPOUNDMENT REPORTING BY THE OFFICE OF MANAGEMENT AND BUDGET: A PRELIMINARY ANALYSIS

(By Dennis M. Sherman)

I. INTRODUCTION

This report represents a preliminary analysis of the Office of Management and Budget's impoundment reports to the Congress. While much of the information contained here applies generally to the four reports issued to date by OMB pursuant to law, we will examine specifically the last report listing budgetary reserves as of September 30, 1973.

This preliminary analysis provides background information on the legislative history of the reporting requirement, including OMB justifications for impoundments. Since the majority of impoundments were justified by the Antideficiency Act (majority by frequency of justification, not dollar amounts), a brief analysis and review of the Antideficiency Act is also included. In addition, we review other OMB justifications and try to distinguish between "routine" and "policy" impoundments.

This report concludes with a short analysis of the September 30 report. Several tables have been prepared to provide information and insight into the impoundment practices of the Administration.

II. REPORTING REQUIREMENTS

On November 13, 1971, Senator Humphrey offered an amendment to the Revenue Act of 1971, requiring that whenever any funds are appropriated by Congress and then impounded by the President, the President "shall promptly transmit" to the Congress and to the Comptroller General of the United States a report containing the following information: [1]

(1) the amount of funds impounded;

(2) the date on which the funds were ordered to be impounded;

(3) the date the funds were impounded;

(4) any department or establishment of the Government to which such impounded funds would have been available for obligation except for such impoundment;

(5) the period of time during which the funds are to be impounded;

(6) the reasons for the impoundment;

(7) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the impoundment.

In offering his amendment, Senator Humphrey argued that "not only does the President refuse to spend billions of dollars . . . but he refuses to inform the Congress of the precise amount of Congressionally appropriated funds that the Office of Management and Budget has placed in reserve." [2] Casper W. Weinberger, then Deputy Director of OMB, charged that the legislation—if enacted—would create excessive work for OMB and confuse the public.[3] Senator Humphrey rejected that argument:

It is clear to me that OMB is unwilling to support this legislation because the President is able to impound billions of dollars in a semi-secret fashion away from the eyes of the Congress and the public.[4]

The Humphrey amendment, adopted by a 48 to 18 vote, was deleted from the Revenue Act of 1971 by the House because it was considered nongermane under House rules.[5]

The Humphrey amendment was finally incorporated into the Public Debt Limitation bill in October, 1972. The Senate adopted the Humphrey provision on the floor without debate by voice vote.[6] The conference report on the Public Debt Limitation bill merely mentioned the amendment and included it without discussion.[7] The Public Debt Limitation bill, containing the Humphrey amendment, was enacted into law on October 27, 1972.[8]

Prior to enactment of the Humphrey amendment, there had been no existing requirements for the President to report impoundments to the Congress. Nevertheless, the Administration had prepared several reports with data concerning impounded funds. The first such report was released in March of 1971 (showing reserves as of February 1971) just prior to the Ervin Subcommittee hearings on Executive Impoundment of Appropriated Funds.[9] There were three more resports before the Humphrey amendment became public law, showing impoundments as of January 25, 1972,[10] as of April 14, 1972,[11] and as of June 30, 1971.[12]

It is interesting to note that the voluntary reports in 1972 were broken down into two separate tables: one showing "Budgetary Reserves for Routine Financial Administration" and the other representing "Reserves for Other than Routine Financial Administration." OMB regarded "routine reserves" as temporary deferrals of funds, whereas "nonroutine reserves" (or policy impoundments) represented funds that could be used, i.e., obligated, but had not been apportioned for any one of several reasons: the Executive's responsibility to (1) help keep total Government spending within a congressionally-imposed ceiling, (2) help meet a statutory limitation on the outstanding public debt, (3) develop a government-wide financial plan for the current year that synchronizes program-by-program with the budget being recommended by the President for the following year, or (4) otherwise carry out broad economic and program policy objectives.[13]

Routine impoundments were by far the larger:

Report, "routine", and "policy":

January 25, 1972, $10,588,778,000, $1,748,000,000.

April 14, 1972, $9,394,669,000, $1,551,897,000.

June 30, 1972, $9,110,078,000, $1,527,861,000.

On January 6, 1973, more than two months after the Humphrey amendment had been enacted, the President had yet to comply with the reporting provisions. Nor was there any indication when the required impounding report would be transmitted to Congress. In view of this situation, Senator Robert C. Byrd offered an amendment to House Joint Resolution 1 to provide for a deadline of January 29 for the impounding report. Senator Byrd noted that the Humphrey amendment provided no interpretation or definition of what "prompt" reporting meant.[14]

Senator Griffin, minority leader asked Senator Byrd if he would change the date of compliance to February 5, in view of the heavy workload OMB was under to finish preparation of the budget. Senator Byrd did so without objection.[15]

On January 15, Representative Mahon asked the House to accept an amendment to Senator Byrd's amendment. Mr. Mahon told the House that OMB had requested a five-day extension to February 10 to submit the required impounding reports. The House agreed.[16] The following day the Senate accepted the deadline date of February 10.[17]

On February 5, 1973 the President submitted the first report to the Congress required by law.[18] Senator Humphrey, in a strongly worded speech on the floor of the Senate on February 9, called the report "unacceptable," arguing that the report did not specify "full reasons for fund impoundments" and contained little information "as to when the Congress and the public can expect funds to be released." Nor did the message delineate what effects the reported impoundments would have on employment, inflation and the economy.[19]

Humphrey criticized the delay in informing Congress on impounded funds. He charged that with regard to compliance with the reporting provisions the Administration had displayed a ". . . special propensity for avoiding the law, changing the law, or disobeying the law." [20]

He cited what he called "glaring errors" in the report and dismissed the explanations of impoundments (required by law) as "burueacratic gobbledygook . . . that does not tell anyone anything. It does not relate to anything that is meaningful and practical." [21]

In response to Humphrey's complaint of the time it took for the Administration to file a report, Senator Robert C. Byrd suggested that the difficulty was one of interpretation, in that the Humphrey amendment used the word "promptly" in requesting impoundment reports. Senator Byrd's suggestion led to a statutory requirement for quarterly reports.[22]

The Office of Management and Budget has issued four reports to date pursuant to law. The first was issued on February 5, 1973;[23] the second, April 27, 1973;[24] the third July 13, 1973;[25] and the last on Oct. 15, 1973.[26]

These reports differ in format from the previous voluntary reports in that they no longer divide impoundments (or the amounts in reserve) into routine and non-routine. The table below represents the total amount in reserve for each report.

AMOUNT IN RESERVE

Report as of—	
Jan. 29, 1973	$8,723,000,000
Apr. 14, 1973	8,456,000,000
June 30, 1973	7,732,000,000
Sept. 30, 1973	7,446,000,000

At least four Executive withholdings of funds were not included in the January report. If they were included, the total would more than double. These four withholdings include:

(1) $6 billion in contract authority under the Federal Water Pollution Control Act Amendments.

(2) $441 million in contract authority for various HUD programs.

(3) $382 million proposed for rescission by the Administration.[27]

(4) $1.9 billion in HEW and Labor Department funds. This represents the difference between the authorized level of expenditures and the rate of expenditures planned by the Administration.

III. OMB JUSTIFICATIONS FOR IMPOUNDMENT

All four reports required by law employ a code of justification for impoundments, based either on constitutional or statutory authority. The codes are reproduced below.

REASON FOR CURRENT RESERVE

Code:

1—"To provide for contingencies" (31 USC 665(c)(2));

2—"To effect savings whenever savings are made possible by or through changes in requirements, greater efficiency of operations, or other developments subsequent to the date on which such (funds were) made available" (31 USC 665(c)(2));

3—To reduce the amount of or to avoid requesting a deficiency or supplemental appropriation in cases of appropriations available for obligation for only the current year (31 USC 665(c)(1)). This explanation includes amounts anticipated to be used to absorb or partially absorb the costs of recent pay raises grant pursuant to law;

4—"To achieve the most effective and economical use" of funds available for periods beyond the current fiscal year (31 USC 665(c)(1)). This explanation includes reserves established to carry out the Congressional intent that funds provided for periods greater than one year should be so apportioned that they will be available for the future periods;

5—Temporary deferral pending the establishment of administrative machinery (not

Footnotes at end of article.

yet in place) or the obtaining of sufficient information (not yet available) to apportion the funds properly and to insure that the funds will be used in "the most effective and economical" manner (31 USC 665(c)(1)). This explanation includes reserves for which apportionment awaits the development by the agency of approved plans, designs, specifications;

6—The President's constitutional duty to "take care that the laws be faithfully executed" (U.S. Constitution, Article II, Section 3):

6a—Obligation at this time of the amount in reserve is likely to contravene law regarding the environment; or the amount in reserve is being held pending further study to evaluate the environmental impact of the affected projects (activities) as required by law;

6b—Existing tax laws and the statutory limitation on the national debt are not expected to provide sufficient funds in the current and ensuing fiscal years to cover the total of all outlays in these years contemplated by the individual acts of Congress;

6c—Action taken consistent with the President's responsibility to help maintain economic stability without undue price and cost increases;

6d—Amount apportioned reflects the level of obligations implicitly approved by the Congress in its review of and action on the appropriation required to liquidate obligations under existing contract authority;

6e—Other. See footnote for each item so coded;

7—The President's constitutional authority and responsibility as commander in Chief (U.S. Constitution, Article II, Section 2);

8—The President's constitutional authority and responsibility for the conduct of foreign affairs (U.S. Constitution, Article II, Section 2);

9—Other. See footnote for each item so coded; and

10—Not applicable or no reason required. (In most cases where a previous reserve has been apportioned in its entirety.).

The Senate Committee on Government Operations, in its report on the impoundment bill (S. 373), expressed dissatisfaction with the OMB report. The Committee recommended that the reporting requirement be strengthened. For example, whereas PL 92-599 called for "the reasons for the impoundment." S. 373 added the language "including any legal authority invoked by him [the President] to justify the impoundments." Although OMB did cite statutory and Constitutional authority, it was of a vague nature in some instances. For impoundments of HUD funds, the OMB report cited "existing tax laws and the statutory limitation on the national debt" and "action taken pursuant to President's responsibility to help maintain economic stability without undue price and cost increases." The Committee found those reasons "wholly inadequate," arguing that they did not explain why HUD programs had been singled out for impoundment.[28]

Another example cited by the Committee was funds impounded for Health, Education, and Welfare programs. OMB's first report gave the reason for impounding those funds as "temporary deferral pending the establishment of administrative machinery (not yet in place) or the obtaining of sufficient information (not yet available) properly to apportion the funds and to insure that the funds will be used in 'the most effective and economical' manner (31 USC 665 (c)(1)). This explanation includes reserves for which apportionment awaits the development by the agency of approved plans, designs, specification." The Committee regarded that as "pure bureaucratese," stating that it was "not the least bit instructive to Members of Congress." [29] The Committee went on to argue that impoundment actions must be justified in terms that are "straightforward," "comprehensible" and "in accordance with external standards of judgment." Without that type of report Congress could not discharge its review responsibilities.[30]

In complying with the Humphrey amendment, OMB abandoned its earlier practice of distinguishing between "routine" and "policy" impoundments. Nevertheless, it is possible to reconstruct those two categories. The justifications denoted by code numbers one through five are all related to the Antideficiency Act, or what can be regarded as "routine" reserves. Code numbers six through nine may be called policy impoundments—actions based on such factors as the Administration's anti-inflation policy or administrative disapproval of certain programs.

While we have included code number five as a "routine impoundment," an alternate interpretation would place it in the policy category. The Antideficiency Act does not stipulate that reserves can be established while waiting for administrative machinery to be put into place or pending approval of plans. Moreover, the section of the Antideficiency Act cited in code number five applied only to money appropriated until expended, that is, "no-year money." And yet code number five is sometimes used for multi-year accounts, such as for military procurement.

Antideficiency Act

The Antideficiency Act has been cited in the various OMB reports as statutory justification for executive impoundment of funds. The Act permits the establishment of reserves:

To provide for contingencies, or to effect savings whenever savings are made possible by or through changes in requirements, greater efficiency of operations, or other developments subsequent to the date on which such appropriation was made available. Whenever it is determined by the officer responsible for apportionment] . . . that any amount so reserved will not be required to carry out the purposes of the appropriation concerned, he shall recommend the rescission of such amount . . .[31]

While this language provides authority to set aside funds, the scope of that authority is a point of contention between Members of Congress and the President.

The Antideficiency Act has its roots in an 1870 law which prohibited an executive department from expending or contracting for future payment of sums in excess of an appropriation for the given fiscal year.[32] The 1905 and 1906 Antideficiency Acts established a procedure of monthly or quarterly allotments of appropriated funds to departments so as to avoid deficiencies or supplemental appropriations.

The Antideficiency Act was amended in 1950. To comprehend the purpose of the new language, the context of an earlier Post Office dispute is relevant.

In the spring of 1947, the Post Office Department announced that it would exhaust its funds prior to the end of the fiscal year. It had apportioned 99.2 percent of its funds for the first three quarters, leaving only $9.5 million for the fourth quarter. The Senate Committee on Appropriations called upon the Budget Bureau and the General Accounting Office to recommend ways to improve the Antideficiency Act. Several weeks later the joint BOB-GAO report proposed language which, among other things, encouraged agencies to set aside reserves for contingencies and to effect savings. These surplus funds would be used to cover unanticipated expenses. In establishing such reserves, the report noted that the legislation "must be exercised with considerable care in order to avoid usurping the powers of Congress." It was not until the 1950 omnibus appropriation act that the BOB-GAO recommendations were enacted into law. Section 1211 of the act closely followed the 1947 report.

The legislative history of the 1950 language indicates that Congress wanted the agencies to build up surpluses as a means of paying for unavoidable deficiencies. There was no implied authority to set aside reserves which would cancel or curtail a program.

This was a well-established principle. In 1949, when the Hoover Commission recommended that the President should have authority to reduce expenditures, it did so on the condition that the purposes intended by Congress be carried out.[33]

The Nixon Administration has interpreted the Antideficiency Act broadly. Roy Ash, Director of the Office of Management and Budget, had the following exchange with Senator Chiles in 1973.

Mr. ASH. As we read the Antideficiency Act, it does provide that if there are other developments subsequent to the date on which the appropriation was made available, that subjective judgments should be changed. This is an obligation of his.

Senator CHILES. Do those other developments just go to thoughts or opinion of the President?

Mr. ASH. No sir; his other development—as a good example, in 1966 when President Johnson chose to impound some funds, an eminent Member of the House of Representatives explained that his reason for doing so was under the Omnibus Appropriations Act and under the Antideficiency Act. He did so because of the then developing inflation and he was responding to that other development, the then developing inflation, in the impounding of the funds. That is clearly another development since these funds were made available and one not contemplated by this act itself.[34]

Neither the wording of the Act nor its legislative history suggests that the phrase "other developments" included authority to impound for anti-inflation purpose. Rather, impoundments seem permissible only to the extent that they do not subvert the purposes of Congress with regard to the particular programs involved.

IV. PRELIMINARY ANALYSIS OF THE SEPTEMBER 30, 1973, REPORT

The report on reserves, as of September 30, 1973, begins with a summary of impoundments listed by agency (table 1). The impoundment figures, by themselves, do not indicate the full impact on agencies and functions. For example, impounded funds for the Department of Agriculture and the Department of Defense-Military, are comparable. However, the funds withheld from Agriculture represent over eleven percent of DOA's budget authority for fiscal 1974, while the military funds withheld represent less than one and one half percent of DOD's budget authority. Thus, one instructive measure would present budgetary reserves as a percent of budget authority. We have recast the OMB figures to show the impact of impoundment on each agency (table 2).

TABLE 1.—OMB SUMMARY OF BUDGETARY RESERVES, 1974 PROGRAM

[Dollars in millions] [1]

Agency	Amount as of June 30, 1973	Amount as of Sept. 30, 1973
Executive Office of the President	$2	
Funds appropriated to the President	126	$96
Department of Agriculture	1,316	1,173
Department of Commerce	140	63
Department of Defense—Military	1,618	1,143
Department of Defense—Civil	33	1
Department of Health, Education, and Welfare	21	23

Footnote at end of table.

Footnotes at end of article.

TABLE 1.—OMB SUMMARY OF BUDGETARY RESERVES, 1974 PROGRAM—Continued

Agency	Amount as of June 30, 1973	Amount as of Sept. 30, 1973
Department of Housing and Urban Development	$460	$456
Department of the Interior	473	162
Department of Justice	36	14
Department of State	6	
Department of Transportation	2,885	3,838
Department of the Treasury	22	22
Atomic Energy Commission	118	27
General Services Administration	262	258
National Aeronautics and Space Administration	2	2
Veterans' Administration	44	43
Other Independent Agencies:		
National Science Foundation	62	4
Small Business Administration	50	31
All other	51	90
Total	7,732	7,446

[1] Details may not add due to rounding.

TABLE 2.—BUDGETARY RESERVES AS PERCENT OF BUDGET AUTHORITY,[1] 1974 PROGRAM

[Dollars in millions]

Agency	Budget authority	Reserves	Percent of budget authority
Executive Office of the President	$121		
Funds appropriated to the President	5,115	$96	1.88
Department of Agriculture	10,400	1,173	11.28
Department of Commerce	1,242	63	5.07
Department of Defense—Military	83,481	1,143	1.37
Department of Defense—Civil	1,514	1	.07
Department of Health, Education, and Welfare	101,880	23	.02
Department of Housing and Urban Development	3,713	456	12.28
Department of the Interior	(356)	162	[2]
Department of Justice	1,834	14	.76
Department of State	648		
Department of Transportation	9,025	3,838	42.53
Department of the Treasury	32,612	22	.07
Atomic Energy Commission	2,429	27	1.11
General Services Administration	175	258	[2]
National Aeronautics and Space Administration	3,015	2	.06
Veterans Administration	12,209	43	.35
Other Independent Agencies:			
National Science Foundation	15,765	4	.79
Small Business Administration		31	
All other		90	

[1] Fiscal 1974. Budget authority is not necessarily the best index to use when evaluating impoundment. Agencies vary greatly in the extent to which their budget authority includes uncontrollable items. A better index might involve budget authority after uncontrollables have been excluded

[2] Percentage computations are complicated because these agencies derive extensive funds from sources other than appropriations. Thus, Interior shows a negative sum for budget authority, while GSA reserves actually exceed GSA budget authority.

We reiterate that the dollar amounts listed as "reserves" are OMB figures. Because of technical reasons (OMB terminology and other factors), "impounded" amounts might be considerably higher than amounts "held in reserve." That is particularly evident with HEW funds. According to OMB, only $23 million is held in reserve. But a number of cases are being litigated in the courts to release HEW funds withheld in far larger sums, with decisions being handed down against the Administration. For example, as a result of Commonwealth of Pennsylvania v. Weinberger (Civ. Action No. 1125–73, D.D.C.), the Administration was ordered to release $380.4 million in education funds. Even more striking was the announcement by the Administration on December 19, 1973—two months after the OMB report was issued—that $1.5 billion in health and education funds were being released. Of that amount, $968 million represented funds that were being contested in the courts. (See discussion on page 8 regarding Labor-HEW funds).

We have constructed another table (table 3) to show the frequency of code justifications. While there are thirteen possible justifications, only nine are used. (Code ten is not applicable; it merely indicates that impounded funds have been released and therefore no explanation is necessary). This table reveals that there is sometimes a wide divergence between the frequency with which a justification is used and the actual dollars impounded. Greater frequency need not mean greater dollar amounts. For example, code five is employed 57 times and accounts for $859,137,000, while code 6a is employed only twice but accounts for almost double that amount.

Table 4 attempts to divide reserves into "routine" and "policy" impoundments. "Routine impoundment" justifications (represented one through five) cover 35.75 percent of impounded funds. "Policy impoundments" (represented by codes 6a through 6e) account for 64.25 percent.

To calculate these figures we had to contend with the fact that some budgetary reserves were explained by a single justification, while others involved multiple justifications. Of the 131 accounts in the September 30 report, seventy-five are justified with a single code, that is, an exclusive explanation of the impoundment. Fifty-six accounts have multiple justifications. In such cases, we divided the dollar amount by the number of justifications and assigned an equal share to each code. Thus, all explanations in a multiple justification were given equal value; no value or weight was given.

Some of the justifications suggested further questions. For example, several accounts are justified by codes 4 and 6b. Code 4 is presumably a routine impoundment, based on the Antideficiency Act, but code 6b is evidently a policy matter ("Existing tax laws and the statutory limitations on the national debt are not expected to provide sufficient funds in the current and ensuing fiscal years . . ."). The Administration decides which programs to delay because of debt limit problems.

TABLE 3.—FREQUENCY BY CODE JUSTIFICATION

Code	Type of justification: Exclusive	Multiple	Total	Total dollars impounded[1]
1	4	3	7	819,000
2	3	4	7	282,169,000
3				
4	25	24	49	1,448,746,000
5	36	21	57	859,137,000
6a		2	2	1,708,110,000
6b	3	15	18	613,516,000
6c		10	10	2,167,306,000
6d	3	2	5	165,705,000
6e	1		1	100,000
7				
8				
9				
10	NA	NA	NA	NA
Total				[2] 7,245,608,000

[1] Not identical to OMB's total of $7,446,000,000 because of rounding, computational grouping and other factors.

[2] As listed in the OMB report, as of Sept. 30, 1973.

TABLE 4.—ROUTINE AND POLICY RESERVES[1]

Code	Total dollars impounded	As percent of impounded funds
1	819,000	[2]
2	282,169,000	3.89
3		
4	1,448,746,000	20.00
5	859,137,000	11.86
		35.75
6a	1,708,110,000	23.57
6b	613,516,000	8.48
6c	2,167,306,000	29.91
6d	165,705,000	2.29
6e	100,000	[2]
		64.25
7		
8		
9		
10	NA	NA
Total	7,245,608,000	100.00

[1] We treat codes 1 through 5 as routine impoundments and codes 6a through 6e as policy impoundments.

[2] Negligible.

FOOTNOTES

[1] 117 Cong. Rec. p. 41102. Senator Humphrey had previously introduced this legislation in the form of a bill (S. 2604, 92d Cong., 1st Sess., September 29, 1971).

[2] *Ibid.*

[3] 117 Cong. Rec. p. 41103.

[4] *Ibid.*

[5] H. Rept. No. 92–708, 92d Cong., 1st Sess. p. 59 (1971).

[6] 118 Cong. Rec. p. 35966.

[7] H. Rept. No. 92–1606, and H. Rept. No. 92–1614, 92d Cong., 2d Sess. (1972).

[8] Public Law 92–599 (86 Stat. 1324).

[9] Hearings on *Executive Impoundment of Appropriated Funds* before the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary, 92d Cong., 1st Sess. 877 (1971).

[10] 118 Cong. Rec. pp. 8031–8035.

[11] 118 Cong. Rec. pp. 18292–18296.

[12] 118 Cong. Rec. pp. 28522–28527.

[13] *Ibid.*, p. 13668.

[14] 119 Cong. Rec. p. 418.

[15] *Ibid.*, at p. 419.

[16] *Ibid.*, at p. 1055.

[17] *Ibid.*, at p. 1209.

[18] S. Doc. No. 93–4, 93d Cong., 1st Sess. (1973).

[19] 119 Cong. Rec. pp. 4100–4101.

[20] *Ibid.*, at p. 4100.

[21] *Ibid.*

[22] See *Ibid.*, at S. 2949; Public Law 92–9.

[23] "Budgetary Reserves as of January 29, 1973," 38 *Fed. Reg.* 3474 (Feb. 6, 1973), reprinted at 119 Cong. Rec. pp. 3282–3285.

[24] "Budgetary Reserves in Effect as of April 14, 1973," 38 *Fed. Reg.* 12137 (May 9, 1973).

[25] "Budgetary Reserves as of June 30, 1973," *Fed. Reg.* 19582 (July 20, 1973).

[26] Budgetary Reserves as of Sept. 30, 1973," 119 Cong. Rec. p. 36803.

[27] In its first report on impoundments as of January 29, 1973, the Office of Management and Budget explained that the rescission funds had not been included in the impoundment total because they had been apportioned to the agencies. Therefore, they were not in "budgetary reserve."

[28] S. Rept. No. 93–121, 93d Cong., 1st Sess., p. 22.

[29] *Ibid.*

[30] *Ibid.*

[31] 31 USC 665(a)(2).

[32] This section relies heavily on a study by Louis Fisher, "Anti-Deficiency Act," in Hearings on *Impoundment of Appropriated Funds* by the President before the Ad Hoc Subcommittee on Impoundment of Funds of the Senate Committee on Government Operations and the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary, 93d Cong., 1st Sess., pp. 396–399 (1973).

[33] The Commission on Organization of the Executive Branch, *Budgeting and Accounting*, A Report to the Congress, February 1949, p. 17.

[34] *supra* note 32, p. 286.

HYDROGEN AS A FUEL

Mr. MOSS. Mr. President, as our scientists and technicians push for development of alternate sources of supply of energy, I have often made the suggestion that hydrogen might become the ideal fuel, since it is nonpolluting when it goes through the combustion process. I have pointed out on several occasions that the National Aeronautics and Space Administration has had valuable experience in the use of hydrogen as a fuel in our space program, and therefore ought to be commissioned to utilize its technological expertise to adapt hydrogen for use as a fuel in automobiles.

There was recently published in the Provo Herald in Utah an article concerning a hydrogen powered automobile which has been assembled by a Provo scientist. I found the article to be very interesting, and it certainly offers a peek at the possibilities of an alternate fuel supply to use in our transportation system. I therefore ask unanimous consent that the text of this news article be printed in the RECORD.

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

HYDROGEN POWERED AUTO UNVEILED BY PROVO SCIENTIST

A Provo scientist unveiled a hydrogen-powered auto in Santa Barbara, Calif., on Wednesday, calling the car's modified fuel system "a significant milestone" in the reach for a practical alternative to petroleum fuels.

Roger Billings, president of Billings Energy Research Corporation of Provo, Utah, preparing to speak before a national attended energy symposium here this evening, showed fellow scientists, members of the press and other participants the new state-of-the-art automobile, then allowed press representatives to drive it around Santa Barbara.

USES CONVENTIONAL ENGINE

The 1973 Chevrolet, an experimental model known as the HL-1, utilizes a conventional engine to which Billings' organization has added a modified carburetion system and a specially packaged hydrogen fuel supply.

Billings called the automobile "the first hydrogen-fueled car with a reasonable fuel system," defining "reasonable" as operationally and financially feasible for powering automobiles.

At the same time he cautioned his audience that the new design is not yet production ready, citing a number of developmental hurdles that must be overcome before hydrogen-powered automobiles can be placed in mass production.

These include further improvements in the present hydrogen storage containers in the cars, and development of hydrogen production and distribution systems for automobile use.

NEW STORAGE TANKS

The experimental model actually has two types of hydrogen systems, which operate independently: a sophisticated "powdered metal" hydride model in which the hydrogen is stored in iron titanium contained in a special tank in the normal fuel tank area; and a liquid model consisting of a thermos-like tank containing supercold (minus 423 degrees F) liquid hydrogen, which is fed into the engine through a specially designed carburation system.

The metal hydride storage system was designed by Billings Energy Research Corp., and is claimed to be the first of its kind ever installed in an automobile. It is based on the hydrogen absorption capability of iron-titanium alloys discovered at Brookhaven National Laboratory in New York during the late 1960's.

The alloy is contained in a bundle of tubes resembling a steam boiler located in the conventional fuel tank position. The hydrogen is held inside the metal powder by chemical bonds which are broken by heat from the engine's cooling fluid.

COSTS NOT FIXED

Production cost estimates are not yet available but the materials are not expensive, Billings stated.

Representatives of Beech Aircraft Corporation, designers and builders of the liquid fuel tank for the HL-1's alternate system, were on hand Wednesday to witness the demonstrations.

The firm's Boulder, Colorado division gained international recognition for developing oxygen and hydrogen cryogenic storage systems for NASA's Apollo and Skylab space programs, and on January 4 was selected to provide cryogenics for the Space Shuttle.

Together, the two systems give the Monte Carlo a driving range of approximately 145 miles, but enlargement of the small prototype storage tanks could easily increase the range, representatives stated.

The HL-1 conversion kit, in its present configuration, could provide automobile owners a practical alternate source of energy, making it possible for the driver to switch back and forth between hydrogen and gasoline.

Even at present production costs, hydrogen needed to operate the engine is not unreasonably high, the developer stated.

HYDROGEN RELATIVELY CHEAP

"We are now buying liquid hydrogen at an operating cost of 2.5 cents per mile, vs. a cost of 3.5 cents per mile for gasoline at 50 cents per gallon (figured at 14 miles per gallon of gas)." Some projections on the cost of producing hydrogen from coal gassification indicate a possible two-thirds reduction—to eight cents per pound or less—said Billings.

Asked about safety aspects of the new hydride system, Billings stated, "Those who suffer from the 'Hindenburg Syndrome' or from subconscious word association between 'hydrogen' and 'bomb' can relax. If a crash were severe enough to break the tough little fuel box open, the fuel would escape so slowly that the possibility of fire casualties would be remote."

Speaking on the liquid system, Beech claims that its hydrogen storage tank has been vibration tested for the equivalent of 200,000 miles, and the tank's double steel walls provide excellent crash protection, considerably more than the conventional gas tank.

Frank Lynch, vice president and director of engineering for the Billings firm, elaborated on clean air aspects of the engine:

FOG NOT SMOG

"The obvious advantages of fueling an automobile with hydrogen—so that it exhausts fog instead of smog—have intrigued engineers and scientists for years, for several vehicles have been built to demonstrate the concept.

"Until now, virtually all such vehicles, which have used hydrogen gas, have been burdened with unreasonably bulky fuel storage systems and unforgiveably short ranges. The problem is that no matter how highly hydrogen is compressed at normal temperatures it remains a gas with very little energy per cubic foot.

This means that a tank large enough to propel the family sedan for 100 miles might weigh over half a ton and would usurp all of the trunk and most of the back seat.

"By switching to supercold liquid hydrogen and by developing a practical powdered metal hydride storage system, we believe we have achieved a major breakthrough in the use of hydrogen for automotive energy."

USES EXTENSIVE

But Lynch didn't limit the scope of his remarks to automobiles.

"Hydrogen is perfectly feasible as a power source for everything from lawn mowers to locomotives. Home heating units, boats, and aircraft might well receive energy from hydrogen," he added.

Because of its high energy output per pound of fuel, Lynch said aircraft might realize a 30 per cent weight reduction by switching to hydrogen systems.

Billings began his study of hydrogen-fueled internal combustion engines in the early '60's. His efforts resulted in a series of academic and scientific awards ranging from the 17th International Science Fair at Dallas, Texas in 1966, to the 1972 Intercollegiate Urban Vehicle Design Competition at General Motors Proving Grounds near Detroit, Michigan.

LOWEST EMISSIONS

By means of the latter award (lowest emissions in a field of 63 vehicles) which accrued to his hydrogen-fuel Volkswagen, built while he was attending Brigham Young University, he was able to demonstrate publicly that the hydrogen powered automobile surpasses all future Federal Emission Standards.

Billings Energy Research Corporation was organized in June, 1973, when The Kipper Corporation of Salt Lake City merged with Energy Research Company of Provo, Utah.

To strengthen the scientific nucleus of the organization a partnership was formed between Roger Billings and Lynch, a UCLA graduate student responsible for the development of a hydrogen-fueled Gremlin.

MANPOWER NEEDS

Key manpower needs have been filled by a hydrogen researcher, Nathaniel Baker, who worked with Lynch at UCLA.

CONSUMERS HIT HARD BY INFLATION IN 1973

Mr. HUMPHREY. Mr. President, as chairman of the Consumer Economics Subcommittee of the Joint Economic Committee, I feel it is my responsibility to provide the Congress and the public with a brief wrap-up report on the most serious economic problem that faced the American consumer in 1973—uncontrolled and rampant inflation.

In 1973 the United States suffered its worst inflation since the post-World War II year of 1947. It was obvious to most of us, and to the American consumer, early in the year, that inflationary pressures were very strong. Only the administration seemed oblivious to the spiraling prices and the erosion of real incomes. In February 1973, Mr. Nixon told Congress that "we have a good chance to reduce the overall inflation rate to 2½ percent by the end of 1973." At about that time the administration moved to phase III of its economic stabilization program. The inflation statistics for 1973 eloquently document the total failure of that program. In the first quarter, prices, as measured by the Consumer Price Index, rose 8.6 percent at an annual rate, up from 3.4 percent in the last quarter of 1972. Wholesale prices jumped even more, rising at a staggering 21 percent annual rate in the first quarter.

By June it was obvious, even through the rose colored glasses of the adminis-

tration's economic policymakers, that phase III was a disastrous mistake. A second freeze and phase IV were then imposed, with no visible effect on the rate of inflation. In the third and fourth quarters of 1973, the CPI rose at annual rates of 10.3 and 9 percent respectively. Wholesale prices jumped by 13.2 percent in the third quarter and 15.5 percent in the fourth.

In spite of the clear evidence of accelerating inflation at the retail level, the administration continued to insist that price increases abated in 1973. Just last week, President Nixon sent a message to Congress, reporting on the Economic Stabilization program. Let me quote an excerpt from his statement:

> Phase IV was designed to provide a tough program of controls that would enable this country to return to the free market system as soon as possible. Since its introduction, Phase IV has made admirable progress toward reducing the danger of inflation.

With these kinds of statements coming from the White House, it is no wonder that the President's credibility is at an alltime low.

Mr. President, in the second half of 1973, inflation accelerated to over 9 percent as measured by the CPI. As measured by the gross national product deflator, perhaps the most comprehensive measure of price change in the economy, the rate of inflation was 6.7 percent in the first half of 1973 and 7.5 in the second half.

I can find no basis in fact for Mr. Nixon's claim that we have made "admirable progress toward reducing the danger of inflation." This rather complacent attitude of the administration about inflation rates of up to 9 percent is certainly a far cry from Mr. Nixon's statements as he first took office, when he described a 6 percent rate of price increase as "runaway inflation."

I also want to emphasize today that the 1973 inflation was broadly based and not simply the unfortunate result of extraordinary shortages of a few major commodities. Every major component of the Consumer Price Index increased faster in 1973 than during the 1960 to 1972 period. It is true, as the administration has claimed, that food price increases accounted for a significant portion of the overall price rise, but food was by no means the only component which increased.

Housing prices, which accounted for almost 30 percent of the inflation in 1973, rose 7.1 percent.

Apparel prices were up 4.1 percent, more than one and a half times their historical rate of increase.

Medical care and personal care prices were up 5.2 percent and 6.3 percent respectively. In the fourth quarter alone, medical care service prices rose a whopping 11.5 percent.

At the consumer level, energy price increases accounted for about 12 percent of the 1973 inflation. Household fuel and utility prices rose 11.4 percent in 1973, shooting up at a 30 percent rate in the fourth quarter. When we exclude regulated electricity and natural gas from this component, we find that prices for heating oil and coal for residential use increased at an annual rate of 177 percent in the fourth quarter.

Gasoline and motor oil price increases were only slightly less dramatic. For the year, gas and oil prices were up 18.6 percent, with increases of 55.8 percent in the fourth quarter accounting for much of the rise.

In spite of these disheartening statistics, Dr. Herbert Stein, Chairman of the President's Council of Economic Advisers, said in August 1973:

> There is apparently the feeling in the country on the part of the people that they are worse off than they were, say a year ago, whereas our statistics would seem to indicate that on the whole they are better off.

Statistics on real income and earnings bear out the consumer's perception that quite to the contrary, as a result of inflation, he was worse off in 1973 than in 1972. Even though wages and salaries rose during the year, inflation eroded these income gains. Almost all measures of real income, that is, dollar income adjusted for inflation, showed a decline in 1973. Disposable income per household dropped 1.3 percent from the third quarter of 1972 to the third quarter of 1973. Gross average weekly earnings, in real terms, fell 1.5 percent during 1973, and real hourly earnings dropped 1.9 percent from December 1972 to December 1973.

Mr. President, the working men and women of this country—those on hourly or weekly wages—have borne the brunt of the 1973 inflation. And no amount of rhetoric by Mr. Nixon on the admirable progress we've made on fighting inflation, and by Mr. Stein on how the consumer is better off, will carry any weight with them. They know better. Consumers know that they worked more hours for more pay last year and yet have less to show for it. They know only too well that administration controls have been a failure, as they pay higher grocery bills, utility bills, rent, gasoline prices, and clothing prices.

Now that the final whistle has blown, and the much heralded Nixon economic game plan for 1973 has run its course, the American consumer knows for sure that it put no points on his side of the economic scoreboard.

Mr. President, I ask unanimous consent that a table showing price changes for the last 13 years as measured by the GNP deflator, the Consumer Price Index and the Wholesale Price Index, be printed in the RECORD. These data document well the severity of the 1973 inflation and the failure of the administration's anti-inflation policy.

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

TABLE 1.—CHANGES IN SELECTED PRICE INDEXES, 1960–73

[Percent change per year][1]

Period	GNP deflator			Consumer Price Index				Wholesale Price Index			
	Total	Private	Private nonfarm business	All items	Food	Nonfood commodities	Services	All commodities	Farm products	Processed foods and feeds	Industrial commodities
1961	1.1	0.7	0.8	0.7	−0.9	0.6	1.9	−0.2	−0.9	1.1	−0.1
1962	1.1	1.0	.8	1.2	1.5	.7	1.7	0	1.5	.5	−.2
1963	1.4	1.1	1.1	1.6	1.9	1.2	2.3	−.1	−4.1	.3	.5
1964	1.7	1.4	1.4	1.2	1.4	.4	1.8	.4	−.6	0	.6
1965	1.7	1.5	1.0	1.9	3.4	.7	2.6	3.4	11.1	6.9	1.4
Average: 1961–65	1.4	1.1	1.0	1.3	1.5	.7	2.1	.7	1.4	1.8	.4
1966	3.5	3.3	3.2	3.4	3.9	1.9	4.9	1.7	−1.2	2.2	2.2
1967	3.5	3.0	3.1	3.0	1.2	3.1	4.0	1.0	−2.7	−1.2	1.9
1968	4.1	3.8	3.5	4.7	4.3	3.7	6.1	2.8	4.4	3.0	2.7
1969	5.3	5.0	4.7	6.1	7.2	4.5	7.4	4.8	8.4	6.8	3.9
1970	5.4	4.8	5.3	5.5	2.2	4.8	8.2	2.2	−4.7	.8	3.6
Average: 1966–70	4.4	4.0	4.0	4.5	3.8	3.6	6.1	2.5	.8	2.3	2.9
1971	3.6	3.2	2.7	3.4	4.3	2.3	4.1	4.0	8.1	4.7	3.2
1972	3.3	3.2	2.4	3.4	4.7	2.5	3.6	6.5	18.7	11.6	3.6
1973	7.1	7.1	6.8	8.8	20.1	5.0	6.2	18.2	36.1	20.3	14.8
1972:											
I	5.7	4.9	4.5	3.3	6.5	3.1	4.4	4.6	7.1	5.6	4.1
II	1.6	1.6	.6	2.5	.3	2.0	3.1	4.9	12.4	2.4	4.3
III	2.8	2.7	1.8	4.4	7.7	3.7	3.0	7.2	32.6	9.7	3.4
IV	3.3	3.5	2.9	3.4	4.9	1.3	3.9	9.4	23.6	30.9	2.4
1973:											
I	6.1	5.7	4.1	8.6	28.6	4.0	3.6	21.1	77.3	37.1	10.2
II	7.3	7.6	5.5	7.4	14.7	5.4	4.5	23.4	61.0	31.9	14.9
III	7.0	7.3	4.3	10.3	28.8	2.6	7.4	13.2	67.3	14.8	4.5
IV	7.9	7.7	13.4	9.0	9.2	7.9	9.4	15.5	28.1	1.3	31.3

[1] All quarterly data are at compounded seasonally adjusted annual rates.

Source: Department of Labor—Bureau of Labor Statistics, Department of Commerce, and Joint Economic Committee.

COMMITTEE FOR INTELLECTUAL FREEDOM

Mr. McGOVERN. Mr. President, the persecution of writers, artists and scientists in the Soviet Union, including the renowned author Alexander Solzhenitsyn, has aroused the concern of Americans of all political views.

Recently members of the Ad Hoc Committee for Intellectual Freedom rallied to protest the repression of ideas in the Soviet Union. Mr. Eric Sevaried, the distinguished CBS commentator, was one of those who joined in the protest. Mr. Sevaried spoke movingly of the effort in his commentary of January 22. I ask unanimous consent that the Sevareid commentary and a statement of the Ad Hoc Committee for Intellectual Freedom including the names of the members of the committee be printed in the RECORD:

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

EXCERPT FROM CBS NEWS WITH WALTER CRONKITE

WALTER CRONKITE. Another group of demonstrators gathered today in Washington, and here is Eric Sevareid's analysis.

ERIC SEVAREID. Washington's slack season for protest demonstrations picked up a bit this week. Yesterday, it was truckers about their money and pro-Nixon people about impeachment; today several thousand about abortion, and a small knot of people about an abstract principle and a man. Most of them were authors and journalists, naturally undemonstrative demonstrators at best, out in front of the National Press Building.

They were protesting ugliness, not ugliness in the natural environment, but ugliness in the landscape of the mind. The ugliest idea in the modern world, they said, is the idea that ideas may not be freely expressed. They were talking about Alexander Solzhenitsyn, his historic expose of the political prison system in the Soviet Union, the peril of his death or disappearance, unless a lot of people in a lot of countries make a lot of noise about it.

The Soviet news agency, Tass, is in the forefront of the savage attack on Solzhenitsyn. Tass is a news agency, a propaganda agency and also an integral cog in the Soviet government. The Tass people here opened their office door the two inches permitted by the chain inside and received the demonstrators' statement. No bets were made that it would be transmitted to Moscow. Dissenting writers are silenced, sometimes permanently, in other places beside the Soviet Union, but the Solzhenitsyn case is the case of the century, more important than Zola and the Dreyfus affair in France, because the Solzhenitsyn story is about millions of human beings, because his personal risk seems worse than that run by Zola, and because he is an authentic genius, a world commodity not only scarce but irreplaceable.

The other Washington item today that Tass probably will not transmit is the picture of those seven heads of the seven giant oil companies lined up like schoolboys to be scolded by U.S. senators. Tass will have trouble with this. It is their article of faith that oil barons and their like tell the Congress what to do, not the other way around. They sometimes try; they sometimes win on points. But fairly surely their easy days with politics are over. For one thing, their operations are going to be laid bare, like those of various other industries, and at long last. The oil companies acknowledge that they pay very little in American taxes, because, they said, they pay so much to other countries—all more than faintly reminiscent of 1932, when senators had the mighty J. P. Morgan, himself, in the witness chair. He, too, paid taxes abroad, in Great Britain. It turned out he paid no American income taxes at all in '30, '31 and '32. This made sense to him, not to the public.

HANDS OFF

We who have come here today from the Washington area represent a wide diversity of political backgrounds, of professional activity and of ideological belief.

Within the political framework, for example, we have both served—and opposed—recent American Presidents. We have campaigned for well-left-of-center Democratic and well-right-of-center Republicans—and at almost every way-station in between. We have been called, variously, liberals, moderates and conservatives. Moreover, we have not—for the most part—been involved in "demonstrations" before this. For many of us we are learning only today which end of the picket sign is up.

We share in common perhaps only two attributes.

We are all active in the world of ideas: as writers, artists, scientists, actors, or in the realm of politics.

And we are dedicated to the proposition that the ugliest idea in the contemporary world is the one that says ideas may not be expressed openly and freely.

So strong is this belief in the primacy of the free expression of ideas that we nondemonstrators are here today to demonstrate.

The immediate cause of our demonstration is Alexander Solzhenitsyn, a lonely beleagured man who has earned the right to be called a hero by many persons of every free political persuasion.

Almost alone, he has withstood the force of a mighty government dedicated to repressing and eliminating the right of people to speak their mind.

For some years, and especially since the publication of *Gulag Archipelago*, Solzhenitsyn has been the target of a campaign of threats and vilification which each day grows more intense. A lynch mob is now being formed in the Soviet Union. Solzhenitsyn stands in danger of being destroyed by the very oppressive forces he has so powerfully described.

Officials of the Soviet Writer's "Union" now openly accuse Solyzhenitsyn of treason and push him to leave his homeland for a life of exile. Abusive phone calls, threatening letters, and threatening police tactics have become the daily lot of Solzhenitsyn, his family, and his friends. Others who speak out have been sent to insane asylums.

We have come to TASS, because TASS has been in the forefront of this disgraceful campaign to silence a man of intellectual heroism. We who have insisted upon, and protected, the independence of the American press cannot remain silent while the Soviet news agency acts shamelessly as an instrument of government repression, as a hatchetman for the Soviet state.

All that stands today between Solzhenitsyn and his destruction is the force of world public opinion. We are here to help bear witness to a simple notion that must be explained to the Soviet government again and again: *The whole world is watching.*

For many of us, the fate of Solzhenitsyn represents a litmus test of whether the Soviet leadership will revert to the barbarism of the Stalin era described in *Gulag Archipelago*. Alternatively, the Solzhenitsyn case provides the Soviet Union a clear chance to begin to move toward a credible respect for those human rights without which there can be no durable detente for the benefit of mankind.

If the concept of "detente" is to mean more than the absence of military confrontation, it must mean mutual accommodation and exchange. It must mean mutual openess if it is eventually to mean trust. We are here to suggest that *freedom* is a legitimate part of the exchange between our societies. All the grain, all the computers, all the gas and oil, all the vodka and all the Pepsi Cola stand as little, compared with the sovereign idea that men must be allowed to speak their mind.

We favor detente with a government prepared to allow the sun of freedom to shine into the Soviet Union. But we ought not encourage forces that would turn back to darkness.

Our demand then is an elementary one: Hands off Solzhenitsyn. Let him be heard.

EVALUATION OF REPORT OF THE PRESIDENT'S ADVISORY PANEL ON TIMBER AND THE ENVIRONMENT

Mr. McGEE. Mr. President, upon the release, last September, of the Report of the President's Advisory Panel on Timber and the Environment, I immediately responded with an expression of concern about what I believed to be the serious implications of the forest management policies which it recommends. Although several of the Panel's conclusions were timely and well-advised, the overall tenor of this supposed report on timber and the environment was unnerving. In short, its recommendations constituted a general advocacy of abandoning the multiple-use concept in favor of an all-out program to expand timber production.

It was not long thereafter that I began to have some doubts about the statement I had made, because several of my colleagues, whose views on forestry issues I generally esteem, praised the Panel's findings. It seemed as though I had read an entirely different report. The disparity between my views and those of my colleagues was of no small concern to me; but try as I might, I could find nothing in the report to prompt a reconsideration of my initial evaluation of the Panel's report.

In this month's issue of Audubon, however, an article by Gary Soucie has appeared which will do much to dispel the many confusing and contradictory statements prompted by the Report of the President's Advisory Panel on Timber and the Environment. Mr. Soucie has meticulously traced the backgrounds and perspectives which each of the Panel's members brought to bear on the final conclusions of the report. He has sought to reevaluate, without the heavy influence of the National Forest Products Association, the principal arguments offered by the Panel in support of its dubious recommendations; with the result that Mr. Soucie has deflated much of the authority and credibility with which this report was first presented.

Mr. President, much ado was made when the Panel's report was first released. I would commend, therefore, my

colleagues most careful consideration to Mr. Soucie's incisive examination of the Report of the President's Advisory Panel on Timber and the Environment. Mr. President, 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:

HOW MUCH WOOD WOULD A WOODCHOPPER CHOP IF A WOODCHOPPER COULD CHOP WOOD?

(By Gary Soucie)

The French have a saying, *Chacun tire de son côte:* "Everyone pulls for his own side." To which it seems appropriate to add, after reading the REPORT OF THE PRESIDENT'S ADVISORY PANEL ON TIMBER AND THE ENVIRONMENT, "but some pull harder than others." Which is to say the woodchoppers got nearly everything they could have wished for in the conclusions and recommendations of the panel, and conservationalists got rhetorical platitudes and bland assurances.

This 541-page report (dated April 1, 1973, but actually delivered to President Nixon and released to the public on September 24th) is difficult to categorize. Brock Evans, the director of the Sierra Club's Washington office and the man who has provided most of the leadership and direction in fighting the woodchoppers in recent years, has called it "simply the latest in a long series of actions by the current Administration on behalf of the timber industry." It is that, but more than that. One cannot help concluding that the panel (a) misinterpreted its mission, (b) wandered seriously off course, or (c) was inappropriately, perhaps even deceptively, named: a far more accurate title, if a title is supposed to be a fair representation of the content, would have been the REPORT OF THE PRESIDENT'S ADVISORY PANEL ON TIMBER AND THE ECONOMY. Its dominant theme is increasing the supply of timber, principally from the National Forest System, as an instrument of national economic policy. Its subdominant theme, less well developed, is protection of the forest environment.

Throughout, the report is marred by jarring discord between environmental and economic philisophies:

"The panel disavows any need for a strict 'even flow' harvest policy at the national forest level" (page 9), vs. "It is an interesting paradox that over the long run no more timber can be harvested than grown, and that no more can be grown on a given land base than is harvested by man or natural mortality" (page 22).

"The panel states unequivocally that in its opinion the protection of environmental quality over the long run should take precedence over all uses of forest resources (page 42), vs. "The panel concludes that the role of the national forests must be different in the future from what it has been in the past . . . that greater attention must be directed to economic considerations in the future" (pages 81–2).

"The protection of soil and watersheds, shelter for a host of wild creatures, preservation of seed stock of native plants and animals, and provision of natural beauty of forests and the amenities they add to suburban and rural life . . . some of these "non-commodity' benefits are of great public significance, perhaps equally or more important to national welfare than is timber (page 23), vs. "National forests are big business . . . the panel feels that timber programs should not be sacrificed to other, less well-funded programs" (pages 84–5).

The entire report displays this schizoid confusion, but there is no question where the weight is; and when it came time to vote, the timber-harvesting philosophy won hands down. Some four dozen recommendations are made, twenty of which are singled out as "major recommendations" in the summary. First the good news: the panel recommends the accelerated completion of the National Wilderness Preservation System. And now the bad news: timber harvest on the national forests should be "increased substantially . . . on a schedule commensurate with their productive capacity and sufficient to make their proportionate contribution to national timber needs," and "commercial forest lands not withdrawn for wilderness or other specific uses should be designated for commercial timber production."

Harvesting timber is obviously, in the panel's judgment, the heart of the matter, and other forest uses and benefits are minor issues. The need for timber is supported by a plethora of facts, statistics, charts, tables, graphs, and data drawn from staff and consultants' reports and from unspecified "source of information utilized by the panel in the conduct of its work." All other forest uses are, in the main, accorded homilies and lip service. Timber production, of course, is to proceed in ways that will not harm the forest environment, but "the panel finds the popular conception that timber-cutting causes severe damage to soil, watersheds, streams, water quality, wildlife habitat, and forest regeneration to be grossly unjustified." To take care of the timber-environment issue once and for all, the panel "recommends that appropriate forest management and timber harvest practices be adapted to the circumstances of the particular forest area, and worked out on the ground by competent professionals."

Who sat on the President's advisory panel that made these judgments and recommendations? The chairman was Fred A. Seaton, a Nebraska newspaper publisher and the second Secretary of the Interior in the Eisenhower Administration (1956–61). The other members were:

Marion Clawson, an agricultural economist who serves as director of land and water programs at Resources for the Future and who was, from 1948 to 1953, director of the federal Bureau of Land Management.

Ralph D. Hodges Jr., a lawyer and executive vice-president of the National Forest Products Association, the principal lobby of the timber industry.

Stephen H. Spurr, a forest ecologist and president of the University of Texas.

Donald J. Zinn, a professor of marine zoology at the University of Rhode Island and formerly president of the National Wildlife Federation (1968–71).

Having spoken to a number of people who know these men or who were close to the panel's work, one gathers that their positions on a scale, from good to bad from an environmental standpoint, were: Zinn, Spurr, Clawson, Seaton, Hodges. Everyone categorized Dr. Zinn and Hodges as occupying the opposite poles, which is cause for concern because the National Wildlife Federation could not fairly be called a preservationist group, and Dr. Zinn's grasp of forestry issues could hardly match Hodges'. By dint of the strength of his commitment to an extreme point of view and the enormous staff support at his disposal, Hodges overwhelmed the panel.

Just how the head of the timber industry's lobby came to sit on the panel is a mystery, especially since he was not balanced by a knowledgeable and severe critic of the industry like Brock Evans or David Brower. In June 1970, when creation of the panel was urged by another lumber advisory body, President Nixon directed that its members "should be persons of outstanding ability and experience, *with no ties or commitments that might prejudice objective judgment*" (emphasis added). Apparently Mr. Nixon considers the timber industry's point of view to be objective, a fact reflected in many of the President's actions and statements on timber matters.

The importance of Hodges' seat on the panel cannot be overestimated. According to John P. Milton, formerly deputy director of international programs for the Conservation Foundation and who served briefly as the panel's staff ecologist, "The amount of work produced by Hodges and the National Forest Products Association was awesome. They put their whole staff to work and inundated the panel and its staff. They produced about four times as much paper as everyone else put together." The President's Advisory Panel on Timber and the Environment had a professional staff of six and an administrative staff of eight; the National Forest Products Association has a staff of 65.

Just how effectively the timber industry, through Hodges, overwhelmed the advisory panel can be gleaned from this remark by Dr. Zinn, who is quite pleased by the report, its conclusions, and its recommendations: "Ralph had to give a little, and I had to give a little, but I think we can both live with the recommendations. You can't have it both ways, and it's obvious the timber is available and you can get at it without wrecking the environment."

DOUBLING THE ALLOWABLE CUT

The main point of controversy in the report's recommendations, as it has been between industry and conservation groups in recent years, is over the level of logging (allowable cut) in the National Forest System. It is worth examining how the panel addressed itself to that question and came up with its recommendation.

The panel's consultant in these matters—Dr. Carl Newport, a partner in Mason, Bruce and Girard, a major consulting firm to the timber industry in Portland, Oregon—first looked at the methods and policies presently used by the U.S. Forest Service in calculating the annual allowable cut (about 13.6 billion board feet), and concluded they offered little opportunity for achieving increased harvests: "Under such circumstances, from where and how are any needed increases in timber supply from the national forests to come? The alternatives implied seem to be: (1) that the industry will have to develop suitable harvesting methods for the special and marginal areas, or (2) that the Forest Service's environmental and multiple-use constraints will have to be relaxed or violated, and/or (3) the standard areas will have to be overcut."

Extrapolating from generally unstated data used by his firm on behalf of timber industry clients in examining and "correcting" Forest Service methods for calculating the allowable cut on four national forests, Dr. Newport estimated that the Western national forests would permit harvests "at least 30 percent above current allowable cuts."

The panel members, on the other hand, proceeded from national timber volume statistics and calculated "the possibility of increasing the harvest in Western national forests by up to 50 percent for the next two decades." The panel did note once that "foresters allied with the conservation movement" believed strongly that the allowable cut should be decreased substantially, after which no more was said about that.

By the time the panel was drafting its recommendation on increasing the allowable cut on the national forests, the numbers had somehow sneaked up. "Analyses based upon nationwide forest inventory data," the panel states, "indicate possibilities for increasing the old-growth cutting rate in the range of 50 to 100 percent."

True, this recommendation is the longest and most heavily qualified in the whole report. (Dr. Zinn said, "We wanted to leave as much latitude as possible; obviously a lot more work needs to be done before this recommendation can be implemented.") But how many timber-harvesting zealots are going to carefully read the whole recommendation and its nuances, let alone the whole report? Immediately upon receiving the report, President Nixon issued glowing praise, especially for the recommendation that the allowable cut be increased. Dr. Earl Butz, Secretary of Agriculture and the Forest Service's boss, told a timber group in Portland: "We should meet the challenge of doubling our timber cutting in all our forests, including the national forests, regardless of what the environmentalists shout about."

WHAT TIMBER SHORTAGE?

At this point it is opportune to ask: Is there really a timber shortage or a timber supply crisis so severe that we must seriously entertain turning over our national forests to dominant-use management, logging everything that hasn't been specifically set aside for wilderness preservation, high-density recreation, or other uses?

First, there is no overall shortage of forests, trees, wood, or timber in America. Forests occupy about one-third of the total land area of the United States, 754 million acres. Of that total, commercial forests—those capable of growing at least 20 cubic feet of useful timber per acre each year, and which are technically and legally available for logging—cover some 500 million acres, equivalent to one-fourth of the land area of the 48 contiguous states.

Second, all the shouting about timber supplies applies to only one category of timber products: softwood lumber. No one is overly concerned (whether the lack of concern is justified) about supplies of hardwood lumber, plywood and veneer, pulpwood, fuelwood, or any of the other categories of timber products. And there isn't even a shortage of softwood lumber. The U.S. commercial forests contain about 1.9 trillion board feet of softwood sawtimber, or about 40 times as much as was harvested in 1970 (47.74 billion board feet). But because our commercial forests are only growing at about half capacity, the annual growth of softwood sawtimber—40.3 billion board feet—is lagging behind the annual harvest. So the real crisis, if indeed there is any crisis, is in getting our forestlands to grow timber at or near their potential. Even the timber industry's much-vaunted tree farms are growing wood at only 60 percent of their productive capacity.

Third, demand—the other half of any supply question—is not growing so fast that we must succumb to drastic measures. While the use of nearly every other commodity seems to double every decade in our wasteful society, use of softwood lumber is climbing moderately after several decades of relative stability, and per capita use actually has declined. The panel recognized this: "Total lumber consumption in the United States remained fairly constant from about 1908 until the mid-1960s. . . . Since the mid-1960s, lumber consumption has risen about 20 percent."

Fourth, the only significant change in the lumber supply-and-demand situation has been an economic one. In the panel's words, "In general, increased demand for lumber has taken the form of increased prices for essentially the same quantity." Since 1800, lumber prices have risen steadily at a compound rate of about 1.7 percent annually. Outdoor recreational use of the National Forest System, on the other hand, is rising about 8 percent annually, doubling every eight years.

Fifth, the whole timber supply issue comes down to the industry's wish to increase supply during periods of relatively high prices and to keep prices from getting too high and pricing lumber out of a highly competitive market in which non-wood substitutes have made considerable inroads; and to the Nixon Administration's wish to influence lumber prices as a means of economic regulation. The panel makes this point clear: "If prices are artificially high, there will be overproduction unless means are found to increase demand or contract supply. . . . Demand will exceed supply only if price is somehow controlled; if prices are allowed to move freely, then demand and supply will be brought into balance. From the market viewpoint, timber 'famine' or timber 'shortage' results only at some price other than a freely determined one. . . . A national government may be dissatisfied with the supply-demand-price situation for any product and may undertake programs to bring about a new balance."

Sixth, and last, the most convenient way to manipulate the lumber supply-demand-price situation (whether in the interest of improving industry's profits or of demonstrably attemtping to control inflation) is to increase the harvest of softwood sawtimber from the National Forest System.

While the national forests account for less than 20 percent of the country's commercial forest acreage, they contain 51 percent of the standing volume of softwood sawtimber. Because the national forests, particularly the Western national forests, have so many stands of large trees, and because young trees grow much faster than old trees, harvesting that old-growth timber is the fastest way to increase the overall annual growth of softwood sawtimber.

From the industry's point of view, the national forests are conveniently located near their Western sawmills, and they do not have to pay an ad valorem property tax on a timber supply growing on government land. From the Administration's point of view, the national forests are the most easily influenced source of timber supplies. Hence these perennial timber raids on the public's forests.

HOUSING VERSUS WILDERNESS

A number of side issues that bear on the timber supply question also demand review.

The timber industry has a long and baleful history. After many decades of liquidation (logging off all the timber on its own lands and then moving West to new lands and virgin forests rather than practicing the tree farming it preaches), the industry's rapaciousness has backed it up against the Pacific Ocean. There are no more virgin forests for sale, and the industry is heavily dependent on timber from the National Forest System. Of the major timber companies, only one—Weyerhaeuser, the industry's giant—owns enough timberland to fully supply its own mills. All the others depend on timber purchased from the federal government and private owners of forestlands. Even Weyerhaeuser is still "liquidating capital assets." In recent years the company has closed several mills and sold logged-off holdings in California, Oregon, and Washington, and has invested in a billion-dollar expansion program in the southeastern United States, eastern Canada, British Columbia, and Indonesia. Other large timber companies have been converting forestlands into real estate developments through subsidiary land sales companies. A great many smaller timber companies own mills but no forestland at all.

Besides braking the general inflationary trend in the economy, the Administration's interest in reducing lumber prices is concerned with the perennial failure of the government to achieve its housing goals. Housing starts fluctuate in response to numerous pressures including the overall health of the economy, the cost and availability of mortgage money, and the price of materials.

To hear the timbermen and their friends in government talk, the most important reason that America's poor have to live in wretched tenements and slums is the high cost of lumber, a cost driven up by wilderness preservationists—a privileged, advantaged, selfish minority. This is nonsense, of course. Last March, U.S. Forest Service Chief John McGuire, in a letter to Representative Mike McCormack of Washington, admitted that the price paid by timber companies for the standing timber to produce the lumber and plywood for an average house "would be about $635 or 2.4 percent of the selling price." By the time the consumer pays for it, the cost of that wood is much higher. The President's advisory panel calculated that "in 1969, the wood products including furniture in the average house cost $4,580."

Then, projecting lumber prices by the end of this decade based on two levels of harvest in the national forests—at the 1970 level and at a rate 60 percent greater—the panel produced an astonishingly feeble justification for ripping off the public's forests. At the lower cutting rate, it estimates, the higher price of wood would increase the cost of that house, including furniture by $460 in 1980.

Because the timber industry is not a regulated utility, opening up the National Forest System to heavy cutting would not necessarily increase the total timber harvest all that much. As the panel pointed out, "Increased federal timber harvest would affect lumber prices if demand were constant, and this in turn would tend to depress harvest from other ownerships and also to depress imports." A table in the report showing the anticipated effect of raising the national forest harvest to 22.1 billion board feet—a 62.5 percent increase over the current allowable cut and almost double the actual annual harvest—indicated only a 7.5 percent increase in total lumber supply.

The United States is a net importer of wood products—the world's largest importer, in fact. Nearly an eighth of all wood products consumed in this country are imported: three-fourths of our newsprint comes from Canada; half of our hardwood plywood and veneer comes from Southeast Asia; a fifth of all the softwood lumber comes from Canada.

At the same time the United States is a major exporter of wood and wood products, our exports amounting to about one-half the volume of our imports. By far the most controversial element in our foreign trade of wood products is the export of sawlogs to Japan. We are exporting 4 billion board feet of sawlogs each year, 80 percent of them to Japan, and most of the balance to Canada. Most of the sawlogs come from western Washington, but also from western Oregon and northern California.

Relatively few of these logs come directly from the national forests because the 1968 Morse Amendment to the Foreign Assistance Act limits log exports from Western national forests to 350 million board feet a year. But a lot of those logs are coming indirectly from the national forests—because the timber companies buy logs from the public forests for their own sawmills to substitute for the logs they export, or because it is possible, through multiple transfers and other schemes, to get around the legal limitation.

How important are these log exports to the domestic timber supply situation? Conservationists oppose the exports on the grounds that the wood should be entering U.S. markets to defuse the pressure to increase the allowable cut on federal forests. The timber industry believes the log exports should continue (it is very profitable) but supports a ban on exports from the national forests to protect those companies that depend on public timber for their sawmills

and who can't compete with the prices the Japanese are willing to pay. The President's advisory panel thinks the level of exports to Japan should be controlled through governmental negotiations—at least until we can step up logging the national forests—but that in general foreign trade in wood products should be free.

Downgrading the impact of log exports on domestic timber supplies, the panel points out that 80 percent of the exports to Japan are logs of species not very important to the U.S. market; hemlock, true firs, and Port Orford cedar. But the panel also admits that, despite a ten-fold increase in exports since 1960, the Pacific Northwest has not increased its total timber production, which would indicate a net drain of timber away from the domestic market.

Moreover, since the timber supply issue is basically an economic one, the log exports cut two ways. The Japanese appetite for timber is so strong they have bid up the price of sawlogs on the West Coast to two and three times their previous levels. This has driven some sawmills out of business and played havoc with the timber-price situation. Log exports are defended on the ground that they help offset our imports thus aiding the balance of payments. But economist Gerry Pratt, writing in the *Portland Press*, wonders just how these exports help the balance of payments: "We paid Canadians $765 million to replace the lumber we could have manufactured from that $400 million worth of logs we sold to the Japanese."

DOWN WITH THE FOREST PRIMEVAL

Implicit in all timber industry thinking, and that goes for the President's advisory panel report, is the conviction that a managed forest—one that has been cut and restocked—is better than a natural forest. Not just because it grows more wood faster, but better in all respects; better for wildlife, better for recreation, better for scenery, better for America. The thrifty, young, vigorous, manicured, managed forest is the great gift that scientific forestry has to give to the world, and it is a mystery to the logger and his ilk that anyone would say "no thanks."

Conversely, the forest primeval, with its dead and dying trees, its thick layer of duff and leaf litter, its mix of plant and animal species, is anathema to the sawlog forester and the delight of the nature lover, and never the twain shall meet. That is why all forest controversies finally come down to a slugging match over wilderness preservation. Never mind that all the wilderness areas in the National Forest System have "locked up" only 6.7 million acres of commercial forest on which stand only 58 billion board feet of sawtimber, barely enough to sustain one year's consumption of lumber against an eternity of wilderness recreation and inspiration. (According to the panel, the equivalent volume of sawtimber could be produced in 60 years by Douglas fir on but 1.2 million acres of good quality land in western Oregon, [or] in 50 years by Southern pines on 2.3 million acres of good quality land.) For this is a holy war, a battle for men's minds.

"But ye shall destroy their altars, break their images, and cut down their groves," it says in the Bible (Exodus 34:13), and that is exactly what the woodchoppers would like to do to the wilderness heathen. They cannot even understand why conservationists cringe upon hearing hardwood trees, the noble oaks and elms of poetry, referred to as "weed trees" in their managed forests. But they do understand this little verse the turkey and squirrel hunters in the South throw at them, for barn-burning has as long a tradition as oral literature south of the Mason-Dixon Line:

You've got the money,
We've got the time;
You kill the hardwoods,
We'll burn the pine.

Having studied the REPORT OF THE PRESIDENT'S ADVISORY PANEL ON TIMBER AND THE ENVIRONMENT, I decided to ask Brock Evans, the timberman's archnemesis, how he would manage America's forests if he were an administrator rather than a wilderness advocate. His response:

"First, I would protect the national forest wilderness areas, for we won't even know the size of the timber-growing base from which to make plans until the wilderness issue is settled.

"Current information indicates that the national forests contain about 50 million acres of unprotected *de facto* wilderness, 20 million acres in Alaska and 30 million in the Lower 48 states. I'd settle for about 20 million acres of wilderness in the Lower 48, but the Alaskan wilderness needs more study. About one-third of that *de facto* wilderness is classified as commercial forest, but most of the areas are of low potential for timber production.

"Once the wilderness was protected, I would manage the national forests on a *true* sustained-yield basis, and I would make sure we didn't mine timber from the land. No cutting would be allowed on land with timber-growing potential lower than 35 to 40 cubic feet per acre per year.

"I would practice cautious intensive forestry on the national forests, to reduce the area required for wood production. Precommercial thinning would be required, and so would prompt reforestation of harvested areas.

"To reduce the pressure on the national forests, I would press for incentives for timber production on the two-thirds of the nation's commercial forests owned by farmers and other nonindustry private owners.

The real potential for increasing our wood supply is on these miscellaneous private woodlands, but we've got to stop talking about it and start doing something. The industry's tree farm program is a joke. The vast majority of the acreage in the 35,000 tree farms the industry boasts about is in big timber company holdings.

"I would take steps to force better wood utilization. In northern Idaho, for example, 60 to 80 percent of the timber is left lying on the ground in the woods. The Environmental Protection Agency estimates that 50 percent of this slash from logging is usable, as is as much as 40 percent of mill wastes. There are plenty of ways to get more wood out of the timber that's being cut now, including more efficient logging practices and using thinner saws."

WHO'S IN CHARGE?

These paragraphs are only a sample of the management program that Brock Evans described for getting more wood out of fewer trees. None of the ideas is new; it is just that they are moldering away in the textbooks and panel reports.

But Brock Evans isn't in charge, and it is hard to say just who is. The loggers are in the woods, the science of forestry is giving way to the industry of logging and the U.S. Forest Service is tending toward atrophy. More than one commentator on the history of forestry in America has observed that we might be heading full cycle, through the reckless ravage of the woods, through more cautious forestry and silviculture, and back again. Over the past two decades, during which the nation's annual consumption of sawtimber increased by 20 percent, the annual allowable cut of timber on the national forests has more than doubled.

The timber supply question is more than the issues of woods or wilderness, timber or trees, sawlogs or scenery, the economy or the environment. It is a question that goes to the heart of the choices we must make about the kind of world we want for ourselves and for our descendants. We need to ask ourselves the question that poet Gary Snyder posed in MYTHS & TEXTS:

What bothers me is all those stumps:
What did they do with the wood?

WHEAT SUPPLIES AND INFLATION

Mr. HUMPHREY. Mr. President, recently two excellent editorials appeared in the Minneapolis Star and the Washington Post on the current wheat situation. These editorials clearly highlight the complicated situation in which we find ourselves with regard to wheat supplies and their effect on inflationary trends.

We apparently have not learned anything from the experience of the past year. The Post editorial accurately states that only after the mismanagement of the soybean crop did the administration begin to require exporters to register export commitments. Now we find that we are selling far more wheat abroad than we should be in terms of maintaining adequate supplies here at home. The Star goes on to point out that there is little or no definitive information available to pinpoint how much wheat we have in supply, or even how much we need for domestic uses.

On several occasions I have warned of the danger of depleting our reserves as a result of the administration's preoccupation with export earnings. I am concerned about the reliability of Department of Agriculture wheat export estimates and carryover figures, and the disastrous effect of very tight supplies on already inflated markets. In addition, I have mentioned on several occasions that much of this year's expected increase in production will necessarily go into rebuilding exhausted reserve inventories. While many other nations throughout the world have recognized this fact and have learned important lessons from the past year, it seems that the United States has not learned anything.

We have failed to take urgently required action, such as establishing reserves and monitoring our commodity exports. I am pleased to note that the Star agrees with me that an amendment to the Export Administration Act to monitor commodity exports is necessary.

To add insult to injury, the administration insists that it has no role to play in protecting the American consumer against crop failure or changes in world demand. As the Post editorial further notes, the great stabilizing North American stocks of grain are now greatly diminished, and there is no longer any cushion to guard against minor fluctuations in demand which may set off spurts of buying at panic prices.

Mr. President, I request unanimous consent that these excellent editorials be printed in the RECORD.

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

[From the Minneapolis Star, Jan. 23, 1974]

THE GREAT WHEAT MYSTERY

As if there isn't enough mystery about the oil shortage, Americans are being told they have something else to puzzle over whether there is enough wheat available to keep the price of flour, and of bread, from going through the roof.

There was a general discounting of the prediction of a baking industry official that bread would go to $1 a loaf (the price now ranges from 45–50 cents). But there the agreement stops. The Department of Agriculture has been spreading the word, through

Secretary Earl Butz, that there is no wheat shortage. Grain traders, flour millers and bakers aren't so sure, and point to the rising prices of wheat and flour.

Sen. Hubert Humphrey, D-Minn., isn't so sure, either. He has been casting a worried eye at the department's estimates of export demand and warned earlier this month that those estimates are too low. The wheat carryover for the current marketing year could drop below 200 million bushels, he said, with the price then going "through the ceiling."

The U.S., Humphrey said, is "currently living on a hand-to-mouth supply basis with no allowance for reserve. If any unforeseen development should occur within the next 10 to 12 months—such as bad weather—which may adversely affect production prospects in any of the world's major wheat producing areas . . . much of the world could be faced with . . . food shortages."

Humphrey called for a grain reserve system, which would include some holding and ownership of grain by the government. Butz has pooh-poohed the need for such a reserve, saying the American farmer, once freed from production restrictions, can meet domestic as well as export needs.

One of the problems—as with the oil shortage—is that there are no firm statistics on the amount of wheat on hand in this country, and the amount committed for export. The Agriculture Department has predicted that there will be 210 million bushels of wheat on hand at the end of the current growing season. Other government figures show that the supply could go as low as 33 million bushels. Similarly, there is little agreement on how much wheat is enough.

We agree with Butz and other federal officials that an embargo on wheat exports would be self-defeating. But we are concerned about the lack of hard facts about the domestic supply of wheat and the amount committed for export. Without such facts, realistic policy decisions are almost impossible to make. For this reason, we support Humphrey's proposed amendment to the Export Administration Act, which would establish a system for the monitoring of commodity exports.

[From the Washington Post, Jan. 18, 1974]

WHEAT AND INFLATION

The price of wheat is moving steadily upward, promising future rises in food costs. The baking industry is putting out anxious warnings that we might actually run out of wheat before the next crop comes in. Foreign nations are beginning to wonder whether they will actually get delivery on the American grain that they have already bought.

Does all that sound familiar? You bet it does. We are right back where we were last year, with the interesting exception that wheat today costs more than twice as much as it did a year ago. The Nixon administration is once again full of excuses. A year ago it was clearly culpable of a gross lack of foresight. This year, the charge can only be negligence. The administration is displaying, in its management of agricultural prices, a perverse unwillingness to learn from its own mistakes.

In July 1972 the standard bushel of hard winter wheat sold for about $1.55. That was before the Russians started buying. At that time, the government assumed that our grain surpluses were everlasting and inexhaustible. The assumption proved to be wrong. Because there were bad crops in several major wheat-producing countries and because most of the world was simultaneously improving its diet, even the vast American stocks were all but emptied out. By January 1973, the price of that bushel of wheat was up to $2.75. The Agriculture Department complained that it had no way of knowing how much wheat was being bought for export. The whole run-up of prices was a product of highly unusual circumstances that would never be repeated, the administration argued.

But here we are again. The price of wheat was up to $4.75 a bushel by mid-November, $5.25 by mid-December, and now by mid-January it is approaching $6. Last July, after the mismanagement of the soybean crop led to the politically disastrous embargo on exports, the administration belatedly began to require exporters to register their commitments. By mid-summer registrations were high enough to generate real concern that we were selling abroad more than we could spare at home. The Agriculture Department angrily replied that the registration figures were unreliable. But a lot of professional brokers evidently disagree. The current export registrations, added to our normal domestic requirements, would bring our supplies down to zero. That is why the price is marching rapidly upward.

Long before the total wheat stocks reached statistical zero, we would have run out of many types and grades of wheat. The recent talk by the American Bakers Association about bread at $1 a loaf can be discounted as a hysterical exaggeration. But it is simple truth to say that, while it took only two and a half cents worth of wheat to make the standard loaf of bread 18 months ago, it now takes nine and a half cents' worth. The bakers may well be correct in suggesting that this cost could double again before the next harvest begins in May.

The administration has been scurrying surreptitiously around the world, trying to persuade foreign buyers to accept late delivery on the wheat for which they have already contracted. It has also been trying to buy Canadian wheat to cover our own needs. It is urgently trying to avoid an eleventh-hour embargo, in the manner of the soybean fiasco.

Why do we keep making the same mistakes? Partly it is the administration's excessive reliance on agricultural exports to balance the country's foreign trade accounts. The White House evidently fears that any formal and orderly restraint on grain exports will threaten the trade balance and set off a flight from the dollar. Perhaps another reason is the political appeal of high farm prices. Still another is the administration's ideological commitment to a free market, although no reasonable definition of a free economy requires a nation to leave the security of its food supplies exclusively to the speculators and international brokers.

Once again, the administration is displaying its peculiar inability to grasp a fundamental change in the world's economy. From World War II to 1972, the two great North American producers carried the grain stocks for the entire world and stabilized its wheat market. The United States and Canada carried out this valuable service, not really by design, but to support the prices paid to their own farmers. Regardless of the reason for it, the system worked very well until the disastrous crop year of 1972 when an increasingly rich and populous world ate up most of those reserves. Worldwide crops over the past year have been quite good, but now the great stabilizing North American stocks are greatly diminished. There is no longer any cushion, and each minor fluctuation of demand sets off spurts of buying at panic prices

The rebuilding of reserves is essential, as the United Nations' Food and Agricultural Organization has been saying for some months. But even this process will put a strain on delicately balanced markets. For the short term, the only recourse for this country is a firm and public agreement stating the amount of grain that we will export each year. If the administration really intends to hold down food prices, there is a limit to the foodstuffs that we can export. It is much better to state that limit at the beginning of the crop year, rather than waiting until we have sold too much.

The soaring price of wheat carries a somber implication for the Nixon administration's whole strategy for controling inflation. The prevailing theory at the White House is that the world is going through a sudden dramatic adjustment in commodity prices and, however painful, it is a one-time shift that will not be repeated. That's a nice theory but, as the case of wheat suggests, countries that keep making the same mistakes can expect to keep paying for them.

NATIONAL ENERGY EMERGENCY ACT OF 1973—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 12 o'clock having arrived, the Senate will now resume the consideration of the conference report on S. 2589, which the clerk will state.

The assistant legislative clerk read as follows:

A report of the committee of conference on the disagreeing votes of the two Houses to the bill (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.

The Senate resumed the consideration of the conference report.

The ACTING PRESIDENT pro tempore. The time between now and 2 p.m. today is to be divided between the distinguished Senator from Washington (Mr. JACKSON) and the Senator from Arizona (Mr. FANNIN).

Mr. JACKSON. Mr. President, I shall reserve my main statement for a later time this afternoon. At this time I should like to yield to the able Senator from Wisconsin (Mr. PROXMIRE) who, I believe, wishes to propound some questions.

Mr. PROXMIRE. I thank the distinguished Senator from Washington. I do have some questions to ask but first would like to make a short statement before asking them.

Mr. President, when the energy bill was before the Senate on November 16, it adopted an anti-limousine amendment, which I proposed, by an overwhelming vote of 53 to 16. That amendment did two things.

First, it reduced the number of chauffeur driven limousines and heavy and medium sedans from over 800 to about 27. Only the President, Vice President, Members of the Cabinet, the Chief Justice, and a handful of "elected" officials of the Congress were provided individual cars.

Second, my amendment provided that except for these 27 or so officials, no Government car could be used to chauffeur Government officials to and from their home. This is already the law—title 31 section 638a restricts the use of all Government cars to "official purposes" and explicitly states that official purposes shall not include driving officials to and from home. The only exceptions to that rule—except for doctors and officials in remote areas—are Members of the President's Cabinet, period.

Now that the energy crisis is with us, this is an important item. Driving an

official to and from home doubles the mileage.

If he drives himself, he drives in and drives home. If he is chauffeured the car makes two daily round trips—out and back in the morning and out and back in the evening. Further, hearings I held indicate that chauffeurs cost from $14,000 to $17,000 a year. So it is time we made this law stick.

When the bill got to conference, the Senate conferees accepted the House language.

SENATE BOUGHT A PIG IN A POKE

But I am here to tell the Senate and the managers of the bill, that they bought a pig in a poke. The final version they brought back to the Senate is a farce. The House and the bureaucrats took them for a cleaning. In fact, under the final version, there could even be an increase in the more than 800 limousines provided Government officials. Here is why. And here is why the provision is a farce.

First, the House version affects only class 6 vehicles. These are the big Fleetwood Cadillacs of 5,500 pounds or more. But the only officials in the executive branch who have class 6 vehicles—the President, the Cabinet, and some ambassadors in class I diplomatic posts—are those whom the amendment exempts from its provisions. So, the amendment outlaws class 6 vehicles but allows everyone in the executive branch with a class 6 Fleetwood Cadillac to keep it.

Second, the 775 or so officials who are now chauffeured around in heavy—class V—and medium—class IV—sedans are not touched. The under secretaries, the assistant secretaries, about 100 of the Pentagon brass, consulars and aid mission officials abroad, and the heads of such obscure agencies as the Battle Monuments Commission, the Foreign Claims Settlement Commission, and the Railroad Retirement Board legally keep their chauffeured cars. These class V and class IV, vehicles include Lincoln Continentals, Chrysler Imperials, Mercury Marquis, Chrysler New Yorkers and Newports, Buick Electras, and Mercury Montereys. These are not touched by the final version of the amendment.

Third, under present regulations, only a limited number of class I diplomats get Cadillac Fleetwoods. Under the energy bill conference report, the number is legally increased to any diplomat the Secretary of State designates. This is why there can be an increase in the actual number of limousines under the final provision.

Fourth, the legislative and judicial branches are exempted altogether. I am not against the Vice President, the Speaker of the House, and the majority leaders and whips of the House and Senate having cars. But I am against some 20 or more congressional staff or legislative agency heads having a chauffeured limousine provided them. That practice continues under the final version.

Fifth, the anti-limousine amendment in the conference report does nothing about the chauffeurs for some 775 big cars. Hearings I held indicate that routinely chauffeurs earn $14,000 to $17,000 a year including overtime. My amendment banned them for all but the 27 or so major officials. Under the final version, at least 775 Government officials will still be driven around in chauffeured limousines.

Sixth, the conference report language does nothing about the illegal practice of driving officials to and from home. The public does not understand, and rightly so, why a member of the Home Loan Bank Board or the Chief Counsel of HUD cannot drive himself to and from work.

The amendment is worse than useless. It pretends to do something while doing nothing at all. In fact, because of the diplomatic exemption, it could make matters worse.

There is a great credibility gap in the country about the actions of Government. When the Congress passes a so-called antilimousine amendment which does nothing about limousines, that increases the credibility gap.

It would be wiser to kill the entire amendment than to try to fool the American people.

Of course the President may take action on his own. But once the present energy crisis is over or there is a change in administration, the bureaucrats will be back again, fighting tooth and toenail to keep their gas guzzling status symbols.

What we need is a law, not regulations, to do the job. The antilimousine amendment in the energy bill is a farce.

I would like to ask the manager of the bill some questions. There are two possible circumstances—namely, the bill or conference report may pass or it may be sent back to the conference committee.

First, if the bill does not go back to the conference committee does the Senator from Washington agree that it is now mandatory on the executive branch of the Government to enforce title 31, section 638a, which outlaws the use of limousines, heavy and medium sedans, and in fact all Government cars with minor exceptions for the Cabinet, doctors, and remote employees, from being used to drive officials to and from home?

Mr. JACKSON. That is the existing law, which came into being as a result of the legislative effort, outstanding effort, of the Senator from Wisconsin. That is the law. This will not change it. That will apply, as I interpret the language in the conference report.

Mr. PROXMIRE. I thank the Senator very much. As he knows, unfortunately, that law has not been enforced. Even the White House staff does not abide by the law.

Mr. JACKSON. The Senator knows that I voted with him on every one of these proposals, including the one adopted by the Senate.

Mr. PROXMIRE. Indeed, the Senator did, and I am grateful for that.

I ask the Senator if he agrees that the legislative history of this bill and this amendment means that title I, section 638(a) as modified only by title V, section 101, must be strictly interpreted?

Mr. JACKSON. The Senator is correct. If it is not being enforced, it certainly should be enforced, and I will back the Senator in any and all efforts to achieve effective enforcement of existing law.

Mr. PROXMIRE. I thank the Senator. I have other questions.

Mr. JACKSON. May I just respond in general by saying that we tried very hard in conference to sustain the Senate's point of view. We got no support from the House side.

As the Senator knows, the White House was very active in its opposition to the Proxmire amendment. We did everything we could to make the Senate position prevail; because I agree with the Senator from Wisconsin that, at a time we are asking that sacrifices in one form or another, be made by more than 200 million Americans, in order to meet this energy crisis, the least we can do is to set an example at the Federal level of government.

Mr. PROXMIRE. As the Senator knows, when the House, as a whole, had a chance to act on a similar amendment to the HUD appropriation bill, they came very close to supporting the position taken by the Senate in knocking out all limousines for HUD, except for the Secretary, himself.

Mr. JACKSON. The Senator is correct.

Mr. PROXMIRE. That was over the opposition of the leadership.

The second question deals with the alternative possibility. If this bill is recommitted to the conference committee, will the Senator do his best to do three things?

First, instead of limiting the prohibition for cars through class VI Fleetwood Cadillacs, will he also define the cars to be prohibited to class V and class IV vehicles?

Mr. JACKSON. I think that is a reasonable request. The chairman of the committee, the junior Senator from Washington, will do everything he can to achieve that, if it goes back to conference.

I must say that if the bill is recommitted to conference, as proposed here, I am afraid it may be dead, period.

Mr. PROXMIRE. Will the Senator work to write into the amendment a provision calling on the executive branch to enforce title 31, section 638(a)?

Mr. JACKSON. If it is within the power of the conference, and I think it should be, because it is relevant, unless some point of order is made, I would strongly support appropriate language calling upon the executive branch to implement the existing law, pointing out that as outlined by the distinguished Senator from Wisconsin the law has not been enforced.

Mr. PROXMIRE. I realize that the Senator was up against it in a complicated bill which was extremely hard to handle. I think he has done a marvelous job, a great job for the country as well as for the Senate, in handling the energy situation.

I hope the Senator will raise the issue with the House, to seek to have the provisions of the Senate bill apply.

These chauffeurs cost a great deal of money—$14,000 to $17,000 a year. As we know, the average family in this country earns $11,000 a year. To ask them to subsidize cars and chauffeurs for Government officials, servants of the people, making four to six times as much, does

not seem to be fair or logical at this time.

The Senate provisions outlawed giving the head of the Battle Monuments Commission or the Chairman of the Commission on the Ryukyu Islands a chauffeur-driven limousine. Will the Senator fight for the Senate position if the bill is sent back to conference?

Mr. JACKSON. I certainly will.

I drive a 1961 Chevrolet to and from work every day, and I think that is a sufficient clue as to how I feel about someone passing me with a chauffeur, some bureaucrat, who even has a light in the back of the car and is reading the paper. I do not even get a chance to read a paper, except on weekends, if we are lucky enough to get off. I want to make that disclosure so that the Senator will fully understand the sincerity of my point of view. I get sick, seeing some of these characters in this town driving around in that manner.

Mr. PROXMIRE. May I say to the Senator that I appreciate that very much, recognizing that his car is 14 years old—a 1962 Chevy——

Mr. JACKSON. 1961. It is an Impala.

Mr. PROXMIRE. However old it is, I hope the Senator will forgive me if I speed past him as I run to work. [Laughter.]

Mr. ROBERT C. BYRD. Mr. President, may we have order in the galleries and in the Chamber?

The PRESIDING OFFICER. The Senate will be in order. The galleries will refrain from outbursts.

Mr. JACKSON. Mr. President, I shall not endeavor to compete with the Senator from Wisconsin in the art of jogging. I think he has the best possible franchise on that. I do that in the Senate gym every night—as long as we do not outlaw that. I swim my half mile every day. That is not as good as—how many miles?

Mr. PROXMIRE. Five in and five out.

Mr. JACKSON. Just think of the gas the Senator is saving. We reserve it for the Senate.

Mr. President, I yield to the Senator from West Virginia such time as he may require.

Mr. ROBERT C. BYRD. Will the distinguished Senator, the manager of the conference report, yield me 15 minutes?

Mr. JACKSON. I yield 15 minutes to the distinguished Senator from West Virginia; and if he needs additional time, I yield it, also.

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

Mr. President, I ask unanimous consent that I may be permitted to speak out of order.

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

Mr. ROBERT C. BYRD. Mr. President, for the purpose of knowing precisely what the rules and precedents require, we are operating on controlled time now. Am I required to ask unanimous consent that I be permitted to speak, having been yielded time, on a subject that is not germane to the pending conference report?

The PRESIDING OFFICER. Under the precedents as ruled by the Chair, the Chair does not take the initiative to enforce the rule of germaneness of debate, but any Senator could invoke the rule by calling for the regular order. Therefore, it would appear that the Senator correctly get unanimous consent to speak out of order since another Senator could invoke the rule against him unless he had obtained unanimous consent.

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

THE UNITED STATES AND LATIN AMERICA

Mr. ROBERT C. BYRD. Mr. President, in March of 1973, I called for a thorough review of U.S. policy toward Cuba. Today, I would like to suggest a broadening of the foreign policy horizons of the United States with respect to the whole of Latin America.

Geographically, strategically, economically, and to some extent, philosophically, our hemispheric neighbors in Latin America represent a potential for friendship and mutual security equal to any of our present international alliances. Traditionally, however, Latin America has occupied a relatively minor place in the perspective of those responsible for establishing the U.S. position in world affairs. There have been brief flashes of positive action. President Franklin D. Roosevelt established the Good Neighbor policy. President John F. Kennedy initiated the Alliance for Progress. But the bright promise of both of those attempts dimmed in a sea of indifference and neglect. Today there is more than ever a need for hemispheric solidarity and cooperation between the United States and the countries of Latin America. It is time that the United States stopped taking Latin America for granted. It is time that our Government opened its eyes and ears to the problems, the realities, and to the opportunities that exist in our relationships.

President Nixon, in his annual foreign policy message in May 1973, described the administration as following a "low-keyed course" in its Latin American policy. Lately, however, there have been encouraging signs that more positive movement is contemplated, and that a new era in United States-Latin American relationships may be about to emerge.

The most recent and most encouraging sign was given by Secretary of State Kissinger when he addressed the Western Hemisphere delegations to the United Nations Assembly in October 1973. At that time, Mr. Kissinger invited Latin American governments to suggest changes and participate in the shaping of a new U.S. policy for the hemisphere.

Secretary Kissinger said that the policy should be "a policy designed by all of Latin America for the Americas." He also indicated that an urgent examination of U.S. policy toward the hemisphere was being launched. The recently signed agreement between the United States and Panama regarding the principles for a new Panama Canal Treaty is a positive indication that perhaps attitudes are taking a turn for the better.

It is only natural, however, given the performance of this, and past administrations to view even good signs with a certain degree of skepticism. The Latin Americans have heard the rhetoric of the U.S. Government before. The only way to convince them that there is, or will be a change of policy is to proceed with actions, and not words.

President Nixon has made only one major statement on Latin America since he has been in office, and that statement was made in October 1969. The "mature partnership" envisioned by the President in that speech has frequently been alluded to by administration spokesmen as the guiding light for U.S. policy toward Latin America. Latin Americans, however, conscious of lowered U.S. initiative in their countries, discount the rhetoric, and point to what they regard as blatant neglect and lack of interest on the part of the United States toward policies directed at promoting genuine mutual advantages.

Former Secretary of State Rogers, in his annual report on U.S. foreign policy in April of 1973, achieved a classic of understatement when he said, in reference to the "mutual partnership" that—

> We have not yet been able to move as fast as we had hoped, and the development of a mature partnership has not yet been fully achieved.

Though the administration must bear a substantial portion of the blame for the low state of our relationship with Latin America, the Congress is not blameless. We have shown little interest and we have done little to spur the administration into action. This may be because the Latin American fields are not regarded as politically fertile. But while Latin America does not rate the urgency of Vietnam of the 1960's or the Middle East and the energy crisis of the 1970's, it is, nevertheless, much too important to the United States to be continually ignored.

As a trading area, Latin America is one of our best customers. In 1972, the major Latin American countries purchased almost $6.5 billion in U.S. goods. U.S. direct private investment in 1972—according to AID estimates—totaled more than $13 billion. Venezuelan oil, heretofore taken for granted, now looms as a vital resource, especially for the east coast of the United States. Prospects are that Peru, Ecuador, and Bolivia will also become important sources of oil, and the availability and cost of that oil to the United States will depend to a significant extent on how friendly our relationships are with these producing countries.

In addition, there are some major practical problems that have to be solved before satisfactory relationships with Latin America can be established. For one thing, Latin America needs better and freer access to U.S. markets. Some basic Latin American commodities are prevented from entering this country by discriminatory tariffs. Since President Nixon's October 1969 speech, the administration has been promising Latin America a liberal system of generalized tariff preferences. Finally, after years of

delay and bitter anti-American sentiment over the issue in Latin America, trade preferences for Latin America were included in the administration's trade bill in 1973. This bill is still under consideration by the Congress, and it is too early to assess whether the measures proposed by the administration will satisfy Latin American needs. I consider it unfortunate that the United States did not take the lead in this area, but instead had to follow the example of Western Europe and Japan, which granted trade preferences to Latin America 3 years ago.

In this connection, it is gratifying to note that U.S. economic assistance is increasingly moving in the direction of multilateral assistance through international agencies. This removes some of the sting of "strings attached" and the paternalistic attitude connected with bilateral aid, and should serve to lessen the bitterness felt by many Latin Americans who resented the "handout" aura that has existed for so long. President Nixon has acknowledged that the countries of Latin America would much prefer trade to aid, but it has taken much too long for trade liberalization to reach the verge of reality.

Again, there is the vexing issue of private U.S. investment in Latin America. While it generally is recognized that private investment is important to the economies of the individual nations, actions and attitudes of various American corporations have been responsible for a great deal of anti-American sentiment in Latin America. The recent example of the ITT fiasco in Chile strongly suggested that there was collusion between the corporation and the U.S. Government to prevent the late President Salvador Allende from taking office after his victory in a democratic election. This gave new life to the time-worn suspicion that U.S. companies operating in Latin America, and the U.S. Government—principally the CIA—constantly meddle in the internal affairs of Latin American States.

Much would be done to alleviate this suspicion if the U.S. Government was not so quick to defend the companies in every expropriation case, but rather judged each case on its merits. General harangues against nationalization in Latin America do not serve any interest, and often serve only to exacerbate an already difficult situation. I would further suggest that it be impressed on corporations operating in Latin America that they are the most obvious symbol of the United States in the areas in which they do business, and they have the responsibility to conduct their business both as responsible corporate citizens of the host country and as unofficial representatives of the United States.

As I mentioned at the beginning of this speech, I called last March for a thorough review of U.S. policy toward Cuba, but the administration still maintains its intransigent position and refuses to see Cuba as a factor influencing our relations with the rest of Latin America. Recently, the press has reported a flurry of activity and rumors concerning a possible change in attitude on the part of the Cuban Government as well as our own on the matter of improving relations. I sincerely hope that these reports have substance, as it is certainly within our self-interest to overcome the problems with Cuba that have disrupted the fabric of unity, however frail, that has developed over more than a century of United States-Latin American relations.

I urge the administration to pursue any course of action that might lead to a solution of this unrealistic United States-Cuban impasse that has festered for 13 years.

Though I have been critical of the years of "benign neglect" toward our neighbors in Latin America which has characterized every U.S. Government since the early thirties, I believe that I am justified in concluding this statement on a note of optimism, which I draw from the results of a meeting of Latin American foreign ministers which took place in Bogotá on November 14–16, 1973, at the invitation of the Government of Colombia. From this meeting emerged a document entitled "Bases for a New Dialog Between Latin America and the United States." The document lists major Latin American concerns and they are as follows:

Development cooperation should be extensive and carried out through the Inter-American system; Latin American products should be permitted free access to the U.S. market.

An effective mechanism should be established to protect against economic coercion methods.

The Inter-American system should be restructured so as to adapt to the new political, economic, social, and technical conditions in the Americas.

The Latin American governments reaffirm their solidarity with Panama over the Panama Canal question.

Latin America must participate fully in matters involving the structure of international trade and the international monetary system.

The Latin American governments recognize the importance of transnational enterprise but call on the United States to cooperate in surmounting problems arising from the conduct of companies.

The transfer of technology from various countries, including the United States, is vital.

The governments are willing to discuss these and any other issues in the interest of improving relations with the United States.

Secretary of State Kissinger is scheduled to meet with the Latin American foreign ministers in Mexico on February 21, at which time the points listed above, and other matters will be discussed. Mr. Kissinger is currently riding a wave of popularity as a result of his successful conduct of diplomacy in several areas of U.S. interest. I believe that the Secretary of State, as spokesman for the President, and for the Government of the United States, has a unique opportunity to show Latin America that the United States can adapt to the realities of the 1970's in the Western Hemisphere, as we have in Asia, Eastern Europe, and the Middle East. There exists an opportunity to demonstrate that the United States values its relations with its neighbors in this hemisphere and that we will take positive steps in areas such as trade, economic development, and sovereign state understanding.

We could be on the threshold of an historic era in United States-Latin American cooperation and mutual interest. It will be tragic if the United States once again passes up the chance to cement friendships and commercial exchanges that could be of immense importance to this Nation as we approach the beginning of our third century of existence.

I thank the distinguished Senator from Washington for yielding and I thank the distinguished Senator from Arizona, the manager of the conference report on the other side of the aisle, for his patience, cooperation, and courtesy.

Mr. FANNIN. Mr. President, I wish to give praise to the distinguished Senator from West Virginia for his remarks regarding the great opportunities we have with the Latin American countries. It is my good fortune to live in the State of Arizona, a neighbor of the good people of Mexico.

Mexico is a country that exemplifies what can take place in a Latin American country. Mexico is now one of the leaders of the Latin American countries. A stable economy now exists in Mexico, and we are looking forward to greater developments in the relations between these two great nations.

This also holds for most of the other Latin American countries. We have had our differences with some of them. Perhaps we have not always taken full advantage of our opportunities there. However, it is certainly significant that we will be working with those countries that are developing their resources and that may be in a position to be of great assistance both to our country and to many other countries in the world.

So I want to commend the Senator. I believe what he has said contributes meaning fully to what we are talking about—ways of solving our energy problem.

I noted in the press this morning an article regarding the State of West Viginia, wherein there are coming to fruition—I think greatly due to the efforts of the distinguished Senator from West Virginia—the efforts he has been making as far as coal is concerned.

It was brought out in the article that methane is now being taken from coal mines—very successfully, as I understand it. It bodes a good picture for the future in this regard.

I was extremely impressed by the estimates made in the article. I knew of the potential as far as coal gasification and liquefaction were concerned. This is the first time I realized the full potential of methane from coal mines.

We have a twofold objective in bringing about the beneficial use of that product, which I understand has been previously practically wasted—creation of safer mines and utilization of the methane gas.

I want to commend the distinguished Senator from West Virginia, because he has been a leader in this field over the

years, exemplifying what can be done if we take advantage of the potential of the coal reserves of this Nation.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Arizona for his overly generous remarks. I especially appreciate them coming as they do from a Senator who represents a State which rests on the border of our immediate neighbor to the south—Mexico. I am also very grateful for his comments with respect to the possibilities inherent in coal to solve our great energy problem at this time.

He has also been very generous in his comments concerning my personal efforts in this regard. As a Member of the other body for 6 years, I repeatedly called attention to the danger of our dependence on vulnerable and interruptible foreign sources of energy. Back as far as 1953, 1954, 1955, 1956, 1957, and 1958, I talked about those dangers. I talked about them in the Eisenhower administration. I talked about them in the Kennedy administration. I talked about them in the Johnson administration. I have talked about them in the Nixon administration.

As a member of the Appropriations Committee that has jurisdiction over appropriations for research in the Bureau of Mines and Office of Coal Research, I have been very active in amending bills to include additional moneys for research dealing with coal gasification, coal liquefaction, and improved mining technology, and I shall continue these efforts.

I appreciate more than I can say the observations made by my friend. Working together, I know we are all going to try to reach solutions to the onerous energy problems that confront our country.

I thank the Senator.

Mr. FANNIN. I express my appreciation to the distinguished Senator from West Virginia and acknowledge the contributions he has made over the years. I am sure we will work together to try to solve problems which seem insurmountable today. I am sure that with the development of the natural resources he is talking about and the natural resources we have in some other States, in different categories, we can overcome this problem.

Mr. ROBERT C. BYRD. I am delighted to see that the President has included in his budget for 1975, $427 million for coal research, which represents about a 160-percent increase—to be exact, $262 million—over the 1974 budget.

Five years ago the Office of Coal Research was operating on a budget of about $11 million. Today, that budget is well over $100 million. I was successful in adding $39 million of unbudgeted funds to the Office of Coal Research budget last year for fiscal 1974 programs dealing with coal research. But even so, the appropriations for the Office of Coal Research are only today what they should have been 5 years ago.

I have been able to get coal research funds increased through the years, only through grinding, difficult, constant effort, in the face of failure to recognize need for such, on the part of administrations—Democratic and Republican—through those years. It has been an uphill battle hammering away, amending bills, putting in the moneys, going to conferences with the House, and trying there to save the items in conference. It has been a difficult struggle, and I am glad to say, as I have already indicated, that the President has at last included in his budget for this coming year enough money to at least launch the kind of research programs that should have been launched half a dozen years ago.

There is energy R. & D. money in the budget, amounting to $1.8 billion for research into solar energy, nuclear fusion, geothermal, environmental technology, oil and gas exploration, and so on, but I am delighted to say that $427 million is for coal research alone. I shall do the best I can to see that every dollar of it is appropriated.

Mr. FANNIN. I am glad to have the comments made by the Senator from West Virginia. His persistence has paid off. We have not solved our problems, but we are now going along the path in the right direction. I feel that in the next few years we will see tremendous development of our coal reserves in a way which will not be detrimental to the environment as far as air quality is concerned.

I would like to report that in my State of Arizona one of the utility consortiums is spending $150 million on emission controls alone. It is working on sulfur dioxide controls. It spent $100 million even before determining what equipment will be selected.

The PRESIDING OFFICER. The 15 minutes of the Senator have expired.

Mr. FANNIN. Mr. President, I yield myself 10 minutes.

These are the steps that are going to help in the future.

I just want to extend my commendations to the distinguished Senator from West Virginia.

NATIONAL ENERGY EMERGENCY ACT OF 1973—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses to the bill (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. ALLEN. Mr. President, will the Senator yield?

Mr. JACKSON. Yes, I will be delighted to yield.

Mr. ALLEN. Mr. President, I read from Senate Conference Report No. 93-663, page 45:

> Does this language mean that the intent of the conferees is to accommodate the do-it-yourself movement of both people and their personal possessions from one job site to another during these times of national stress, when jobs in the country are either opening up or closing down and people may be very mobile, seeking better opportunities or greater economic security?

Mr. JACKSON. Mr. President, the needs of the armed services necessitate the periodic reassignment of personnel and the transport of these personnel, their families, and their household goods from one duty station to the next. In addition, we Americans are a very mobile people. The family move from one city to another in search for new or better employment is probably more common here than in any other nation. It is a routine facet of our society and of our economy. In incorporating in the conference report the passage which my esteemed colleague has cited, it is the intent of the conferees to acknowledge those two facts.

Furthermore, it is their intent that, insofar as it may be possible, and consistent with the other provisions of this act and of the Emergency Petroleum Act of 1973, end use rationing plans should be so developed as not to unduly inhibit this normal movement of people and their personal possessions be it by van line or by hired vehicle.

Mr. ALLEN. I thank my colleague for this clarification.

I am pleased that such is the intent of the conferees for unless we provide the fuel for a person to move himself, his family, and personal household possessions to his place of employment, we have, for the first time in our Nation's history, effectively prevented him from getting to employment. His family will be living on the unemployment compensation provided in this bill instead of being the useful, productive family it would like to be. Fuel is the lifeblood of a man's mobility to get to employment. Without it, he is confined to the area and can become a financial burden to the State.

I would like to compliment the managers for their attention to the needs of our Nation's physically handicapped persons which I find in the conferees' report on page 45 and for their attention to the needs of families who must face the psychic and monetary traumas that are connected with moving from one locality to another while finding new jobs or other kinds of employment during this time of crisis.

However, under the most recent regulations as set forth in the Federal Register of Tuesday, January 15, 1974, volume 39, No. 10, part III there are certain allocations for users of gasoline at page 1944. The servicemen and other people using do-it-yourself moving methods are not included. Their only recourse would be to apply to the State under the set-aside provisions. The State in turn must justify the hardship application to the appropriate Federal office. This would compound the problems of the 1-out-of-5 families who are relocating for employment purposes.

No group of people in the economy feel these economic adjustment pressures so acutely as the young unmarrieds, young couples, and younger families with school-age children. Theirs is the age group that has the lowest job stability, rising needs, and limited savings. This group provides the primary "customer" for the do-it-yourself household moving industry. All the features that make do-it-yourself moving attractive, appeal to these younger individuals and families. It should be a matter of national con-

cern that this mobile, educated, eager, creative segment of our populace be able to carry out considered decisions on where to live to best meet the economic and social demands of their era.

Family moving is rarely undertaken lightly—it is a difficult experience involving large psychic costs as well as considerable monetary expenditures.

Each year 1 family in 5 will move. In 1973, 12.5 million families moved, or 18.7 percent of the Nation's 66,890,000 households. 46.8 percent of these household moves utilized do-it-yourself moving equipment. Lower-income families have no other viable alternative except to liquidate their household belongings.

Families have to move. Nearly 75 percent of one-way do-it-yourself moves are directly employment-related:

Ten percent unemployed, seeking a job.

Fourteen percent being transferred by current employer.

Thirty-one percent accepting new employment opportunity.

Twenty percent entering, leaving or being transferred by the military.

The balance includes moves for reasons of health, education opportunities, change of marital status, retirement, voluntary and involuntary housing change, and others.

These are essential, purposeful, nonrecreational moves for both the individual and the Nation.

The expected displacement of people due to the energy crisis will further intensify the need for mobility to where the jobs are, and the need for an economic, flexible system of household moving. But when a family must set out for a destination hundreds or even thousands of miles away, they should have assurance that they will not become stranded enroute in an unfamiliar area due to lack of fuel.

The do-it-yourself household moving industry is unique in that its vehicles are gasoline-powered, in that the consumer purchases the gasoline himself at retail and at several successive independent service stations along the route to his destination.

The group we are talking about consists of heads of households in the age bracket of from 25 to 44 years of age, young marrieds or families with small children. It is a unique group. It is free enterprise in operation.

Those with sufficient financial resources generally choose among van lines, a rental truck, and a large trailer for household moving. Their primary considerations are the cost savings of the rental equipment versus their time and effort to pack, load, drive, unload, and unpack. Dollar savings average about $340 on an average 490-mile move when truck rental equipment is used; on the average, a 63.4-percent savings.

Although the services provided are different and the out-of-pocket costs to the consumer vary considerably, competition between the van lines and the do-it-yourself household moving industry is stiff. The do-it-yourself household moving industry must price considerably below the van lines to offer sufficient savings to a person moving his household belongings to induce him to choose to rent a truck or trailer. Competition within the industry is also severe, and even within individual corporations smaller rental trucks compete with larger rental trailers.

Potential customers in the lower-income brackets tend to choose between a small rental trailer and the alternative of disposing of excess—more than a car load—of personal goods. They usually decide by comparing the value of those goods with the cost of the trailer rental. This effectively limits the rates the do-it-yourself moving industry can charge for small trailers. The resulting pricing limitations, taken in toto, represent free enterprise operating at its best.

This consumer group—using do-it-yourself equipment—should be differentiated from the moving van industry, and from the commercial truck and general car leasing industry, most of which is covered under the regulated carrier section—section 113 of the bill reported by the conferees.

My concern is that the conferees intent be, as expressed on page 45 of the report in the aforementioned paragraph, clearly brought to the Federal Energy Office and that this be enforced as it is not now in the allocation regulations or the proposed gasoline rationing plan of January 16, 1974.

Mr. FANNIN. Mr. President, we have a conference report on S. 2589 pending before the Senate today. I would like to discuss the conference report, principally one section. I will have more complete remarks to make at a later time. At this time, however, I would like to cover the section of this legislation which is referred to as windfall profits.

WINDFALL PROFITS HEARINGS EXCERPTS

The Committee on Finance invited former high officials of the Treasury Department, concerned with the administration of tax laws, to testify on a windfall profits tax proposal based on the definition of windfall profits in S. 2589. These former officials were asked to comment on the administrative problems which would be created if such a vague standard were enacted, and they were asked, as tax practitioners, what kind of advice they would give a company to which the tax would apply. Excerpts from the testimony of these witnesses is set forth below:

GENERAL COMMENTS

Former Commissioner Mortimer Caplin of the IRS had this to say:

For reasons discussed before, the proposed "windfall profits" tax is not a suitable solution: it is erratic and inequitable in application, and complex and costly to manage.

We then have the testimony of Edwin S. Cohen, former Under Secretary of the Treasury for Tax Policy, who said:

I do not believe it feasible to give adequate guidance to administrative officials, taxpayers or the courts on a subject of such complexity in a statute that is as brief and vague as the one proposed.

John S. Nolan, former Deputy Assistant Secretary of the Treasury, testified:

While it is possible to develop a reasonable windfall or excess profits tax applicable to energy companies which preserves and even increases the incentive for development of new energy sources, the form of tax under consideration today is wholly unsatisfactory. Similarly, the recapture of windfall profits by the renegotiation process, as contemplated in section 110 of S. 2589, the proposed Energy Emergency Act, would be an equally poor system. These particular proposals are probably unconstitutional because of their uncertain application. They would greatly discourage new capital investment in energy development because of this extraordinary uncertainty that they would create. Finally, they are totally unadministrable, either through our tax administration structure or the renegotiation process.

Mr. Johnnie M. Walters, former Commissioner of the IRS, had this to say:

In addition to the administrative and litigation problems, enactment of a "windfall" profits tax presents other serious problems. It seems clear today that we ought to be finding and developing new and greater sources of energy, in other words, encouraging development, exploration, and research. A "windfall" profits tax certainly will not do this. Instead, it will discourage investment of dollars, effort, and time. Those who otherwise might make significant investments to improve our energy supplies without doubt will be dissuaded to some extent by the "windfall" profits tax. Even if an energy corporation is willing to do what patriotism suggests, i.e., live with non-windfall profits, the necessity to justify actions will have a chilling effect on corporations. Unquestionably, this will delay needed action—just the opposite of the Nation's critical need.

Former IRS Commissioner Randolph W. Thrower had this to say:

Finally, the difficulties foreseen in the administration of the proposed excess profits tax pale into insignificance compared with the renegotiation provisions of S. 2589. The excess profits tax would be applied in the first instance by the taxpayer in filing his return. Thereafter, it would be audited by the Internal Revenue Service. Unresolvable differences could end in litigation. Under the renegotiation provisions, however, any purchase of petroleum products could initiate an appeal directly to the Renegotiation Board with no screening processes whatsoever. The Board could be swamped. Its decisions would be subject to judicial review. It seems probable that issues raised in this manner would be tied up in litigation long after the present crisis had subsided and little but confusion would have been contributed to the resolution of the crisis.

The following are statements made by professionals in this field:

Crane C. Hauser, a former Chief Counsel of the Internal Revenue Service, said:

In my view, this proposed statute unhappily combines the vagueness of the Renegotiation Act of 1951 (from which the factors enumerated in determining a "reasonable profit" were derived) with the basic unfairness of a base period income excess profits tax.

One need only consult the Tax Court reports on Renegotiation cases to see that a "reasonable profit" is simply a matter of opinion, regardless of how many underlying factors are enumerated.

ADMINISTRATIVE PROBLEMS

Johnnie M. Walters, a former Commissioner of the IRS, said:

As indicated earlier, what is "a reasonable profit"? What are reasonable costs? And who can determine satisfactorily the true efficiency of an energy corporation at any time, and particularly during a period of crisis?

The determination of "windfall" profits in many cases will not be easy. In fact, only in the simplest of cases will it be easy. For instance, where an "energy corporation" derives some income from sale of energy products and some from production or sale of other products, it may be difficult, or even impossible, to ascertain what profits, if any, should be subjected to the "windfall" profits tax. While the accounting profession has developed the specialty of cost accounting, the profession does not acclaim the specialty as a science. At best it is an art, and certainly not one on which to base an 85% tax!

The kinds of subjective questions the proposed tax will raise (reasonable profit, extent of risk, efficiency, etc.) can only result in serious problems of administration and litigation. * * * Does the provision apply where the corporation generates and uses energy or energy products, without sales to others? And does the restriction of profits to "reasonable profits" raise a constitutional question? It may.

John S. Nolan, former Assistant Secretary of the Treasury, said:

Such a tax would call for income determinations by product lines, since the products of energy corporations extend far beyond the usual concept of "energy products," particularly in petrochemicals and chemical and plastic products. Our tax system has never been required to determine taxable income by product lines, and it cannot readily be done. Few, if any, companies have product accounting which would provide profit data according to product lines which coincide with the concept of "energy products." Product accounting requires proper *intra*-company pricing between one division and another, as where the oil refining division sells refined products as raw materials to the chemical division, a determination which may be extremely difficult to make and is beyond the present scope of our section 482 *inter*-company pricing regulations.

Since the proposed tax would require such determinations for the past period 1967–1971, 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 tax would not be administrable.

Mortimer Caplin, also a former Commissioner of IRS, made this statement:

In determining a "reasonable profit" of a particular seller, consideration would have to be given to "the reasonableness of its costs and profits, with particular regard to the amount and source of capital employed," "extent of risk assumed," "efficiency and productivity, particularly with regard to cost reduction techniques and economics of operation," and "other factors the consideration of which the public interest and fair and equitable dealing may require." What an awe-inspiring responsibility! Whereas today we have an energy administrator, tomorrow under this proposal the Commissioner of Internal Revenue would become an "energy industry czar."

This is the statement of Randolph Thrower, another former Commissioner of IRS:

The formula provided in S. 2589 and incorporated in the excess profits tax provision in the press release would seem deficient in several respects including the following:

1. It is unprecedented in establishing profits of a base period as a maximum standard for current profits. It authorizes the administrator, by referring to a number of vague generalities, to reduce the standard of normalcy provided by the base period. Excess profits tax provisions traditionally have established the base period as a minimum standard, with a possible upward adjustment due to equitable considerations peculiar to the taxpayer or the segment of his particular industry. The factors listed in Paragraph (b)(2) of the proposed windfall profit tax are of the type which should be referred to as a justification, in the public interest or in the interest of treating equitably the taxpayer or seller, for increasing the base period standard rather than reducing it.

2. The proposed formula is vague and uncertain in referring to "average profit" of the base period. Does this mean average profit in terms of absolute dollars? This would be determinable for a single operator but not for the entire industry which has a wide range in the size of sellers. Does it then refer to a margin of profit as related to gross sales or units produced or sold or does it refer to return on investment? If all measures are referred to, which would control, the one most favorable to the taxpayer or the least favorable one?

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. FANNIN. Mr. President, I yield myself an additional 15 minutes.

The PRESIDING OFFICER. The Senator is recognized for an additional 15 minutes.

Mr. FANNIN. I thank the Chair.

Senators will understand that I am quoting from men who have great expertise in this field. In most instances they favor an excess profits tax, but, in these remarks they are commenting on the stipulations in the conference report on S. 2589.

Mr. President, to continue with my statement regarding the windfall profits and the hearings excerpts I would like to quote from the testimony of Edwin Cohen:

As contrasted with the brief "windfall profits" tax provision being considered by the Committee today, the Korean War excess profits tax—which was drafted with care in the light of the experiences with the World War I and II taxes—contained 35 lengthy sections that were necessitated by the complexity of the subject matter. While the Korean War excess profits tax dealt with substantially all business corporations, whereas the proposed tax would deal only with sales of "energy products" by "energy corporations," it would seem that most of the same problems would exist in this narrower segment; and they would be compounded by the necessity of determining separately the profits on energy products sold by corporations which are also engaged in the sale of other goods and services. I do not believe it feasible to give adequate guidance to administrative officials, taxpayers or the courts on a subject of such complexity in a statute that is as brief and vague as the one proposed.

Then Mr. K. Martin Worthy, a former Chief Counsel at IRS, testified:

While I do not intend for a minute to deprecate the efforts of the Renegotiation Board, which must, of course, administer the law as it finds it, the lack of any precise rules as to how the various factors enumerated—such as reasonableness of cost and profits, volume of production, net worth, risk, and efficiency—are to be taken into account, make any objective determination of excessiveness of profits virtually impossible to attain. The lack of adequate guidelines for applying and weighing the statutory factors was the subject of criticism in a report by the Comptroller General to the Congress on the Renegotiation Board last May. The Comptroller General said that as a result it was unable to evaluate the reasonableness of the Board's determinations. Even if authority were to be granted to the Renegotiation Board, with its familiarity with such standards to determine excessiveness of profits, it is quite apparent that extended litigation would ensue—just as it has under the Renegotiation Act—before the amount of excessive profits of many companies would finally be determined.

Charles W. Davis, former Chief Counsel of IRS, had this to say:

The single most important element of such a system is a law which a taxpayer can understand and apply to his own affairs—sufficiently clear and well defined to give him distinct pause at the thought of noncompliance. Stated somewhat differently, if the system is to work, a taxpayer ought to be on notice of what would constitute noncompliance. The proposed Windfall Profits Tax is utterly deficient in this respect. It fails to provide a workable premise for self assessment, even by the most sophisticated corporate taxpayers. By failing to prescribe adequate standards by which even major corporate taxpayers can compute and report their liability, it erodes the very foundation of our tax system, by courting—and perhaps even inviting—massive noncompliance.

Johnnie M. Walters, the former Commissioner of IRS, whom I have quoted before, had these additional comments:

With a "windfall" profits tax, we can expect two basic approaches by those subject to the tax:

(1) Longrun: To the extent feasible delay actions requiring investments necessary to meet and resolve the energy crisis until the "windfall" profits tax expires.

(2) Shortrun: Bill and charge conservatively in order to avoid the "windfall" profits tax in order to avoid controversy and to avoid adverse public relations. (This means investors will keep their funds out of the very corporations needing them to meet and solve the crisis, i.e., the energy corporations will be weakened.)

Thus, both the short-run and the long-run effect of a "windfall" profits tax are counter to what the Nation needs, i.e., a great enthusiastic charge to discover and develop new and greater energy sources for the decades ahead.

Mr. President, I commend that statement. I know that Johnnie M. Walters is very familiar with the mandate that was given by the Senate to the oil companies of this Nation. Many of those companies are independents, and must have the ability to raise the funds for exploration. That is why Mr. Walters was so concerned about the effects of this legislation.

Then John E. Nolan, whom I have quoted before, a former Assistant Secretary of the Treasury, had the following comments on this particular provision of the conference report:

I would feel obligated to counsel my clients to challenge in court the constitutionality of the statute; to challenge in court the validity of regulations and rulings interpreting its scope and attempting to amplify the statutory factors; and to challenge in court any determination of windfall profits. I would advise my clients that no reliable estimates of profitability or rate of return on investment for new capital expenditures could be made, at least for a number of years until the application of the statute in operation could be determined. In my judgment, this would greatly inhibit new capital investment for the purpose of expanding energy reserves—particularly in such vital projects as recovery of oil reserves from tar sands and oil shale, gasification of coal, use of thermal and steam energy resources, and similar projects.

Mr. President, I shall continue to quote from the testimony given, because I think it is essential in explaining the widespread opposition to this conference report. It is absolutely unworkable. It could result in a great burden upon the companies, but more importantly, it would result in a diminution of the efforts toward exploration and development of our resources, and this, of course, could be disastrous in the years ahead.

Mortimer Caplin, the former Commissioner of IRS, had this to say:

In each instance, judgments would then have to be made on the possible existence of "windfall profits" and the prudence of making commitments notwithstanding the threat of the 85% penalty tax. Differences of interpretation, and potential controversy and litigation, would always be lurking in the background.

Until final Treasury regulations were adopted, therefore, lawyers would tend to proceed with extreme caution and would normally prefer to give only tentative advice. Even with final regulations, the statute would not lend itself to clearcut decisions, and advice to clients would in all probability have to contain numerous qualifications.

In these circumstances, management would undoubtedly proceed with similar caution in making final investment decisions.

Mr. President, I further quote Randolph W. Thrower's testimony—another former Commissioner of the IRS—as follows:

One must assume that the client has the choice whether or not to risk his investment in an area covered by the excess profits provisions. Additional investment will be determined by the return (perhaps, depending on the definition of "profits," including cash throw-off from percentage depletion) on marginal capital invested, not by the overall average return. The 85% tax rate may be too high to leave sufficient capital for reinvestment by petroleum producers. Moreover, the use of base period profits as a maximum return, without regard to inflation, impact of the devaluation of the dollar, extent of new investment or marginal risks in the present emergency, combined with the vast uncertainties of the language, might constitute too great a disincentive to new investment. Ultimately these are questions for economists rather than lawyers, but one would tend to advise a client to look elsewhere for investment opportunities.

Mr. President, I have quoted several former IRS commissioners, and now I should like to quote another excerpt from Edwin Cohen, former Under Secretary of the Treasury:

At least until appropriate guidelines had been developed and published, it would be most difficult to advise an energy corporation with respect to proposed capital investments. Inability of the companies to ascertain the effect of capital investments under an 85 percent rate would seem to provide a serious deterrent to development of additional production and capacity, which is a prime objective in the energy program.

Another statement that was made during the hearings on the constitutionality of this particular amendment by John S. Nolan, former Assistant Secretary of the Treasury reads as follows:

Against this background, several conclusions may be drawn. If implemented through the renegotiation process, such a system would probably be unconstitutional. The renegotiation statutes have traditionally provided for recapture of excessive profits on contracts with the Government, principally defense-related. They have not applied to affect dealings wholly between private parties. Their constitutionality was upheld on the basis of the war powers of Congress. *Lichter* v. *United States*, 334 U.S. 742 (1948). Where the Government's interest is far less direct, as where the transactions are wholly between private parties, the proposed system would involve an unconstitutional delegation of Congressional power, or a taking of property without due process of law, because of the vagueness of the statutory standards and concepts.

Now another quote on the same subject of constitutionality from Mortimer Caplin, former Commissioner of the IRS:

For reasons discussed before, the proposed "windfall profits" tax is not a suitable solution: it is erratic inequitable in application, and complex and costly to manage. An alternative approach is called for—either through different new methods of taxation or, perhaps through modification, reduction or elimination of existing tax benefits available today to various elements of the energy industry. In making its decision, Congress clearly will want to procure and consider data on energy inventories, production, costs, reserves, sources of supply, and quantities sold. Undue haste could lead to unwise layering of the Internal Revenue Code with additional complexity.

Now a quote from K. Martin Worthy, former Chief Counsel of the IRS:

It would seem clear, Mr. Chairman, that the enactment of legislation determining excessive profits in the manner set forth in the proposed legislation before the Committee today would create not only great inequity to many companies—and by the same token, windfalls to others—but also tremendous administrative problems and almost endless litigation, which could be expected to ensue for a long period to come.

Let me quote Charles W. Davis, former Chief Counsel of the IRS:

An eminent authority in the field of Federal taxation has observed that the "the excess profits tax is an excrescence of crisis. Typically it has been one element in an emergency fiscal program designed for a mobilizing economy." (Mertens, Law of Federal Income Taxation, Introd. V. 6A.) Judges who have been required to consider the provisions of the Excess Profits Tax Act of 1950 have observed that it is perhaps the most intricate and baffling enactment ever to receive Congressional approval. Accordingly, it may be appropriate to evaluate the current proposed windfall profits tax in the light of the most recent experience of the Congress in the imposition of the Excess Profits Tax Act of 1950.

Although that law was enacted during a period of approximately 6 weeks, from the beginning of hearings in the House Committee on Ways and Means to its signature by the President, there was a consistent theme expressed by witnesses before the tax writing committees and by committee membership that the standards for computation of excess profits subject to the excess profits tax should be explicitly stated in the statute, with much less reliance upon vague generalities than had been the case under the World War II Excess Profits Tax.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be taken from both sides.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FANNIN. 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. FANNIN. Mr. President, I have touched on the windfall profits matter only, but this is just one of 13 major infirmities in the bill. Let me enumerate the sections for the RECORD.

Section 103 needs to be corrected.

Section 105, congressional review, has its limitations and certainly needs correction.

Section 107, contingency plans, is also faulty.

I have covered the windfall rebates, on which I have gone into detail.

Section 112, standards for allocation, certainly needs reconsideration.

The antitrust section is faulty and is very much in need of correction.

The export controls section is unclear and not explicit.

The unemployment provision section would be of tremendous cost without hearings giving full consideration to determining what would be involved.

The car pool section is one that also presents problems.

The judicial review section has been questioned by a number of my colleagues.

There are questions on the air quality section to be brought up this afternoon.

The special interest section on mass transit subsidy is another matter that must be reconsidered.

Mr. President, I want to make it clear that my objection to this legislation is not on one item alone. We do need an excess profits bill; the Senate Finance Committee and the Ways and Means Committee of the House will be working on such a bill. The FEA Organization bill has already passed the Senate, and the House will consider its version next week.

I feel that these separate energy measures are superior to the corresponding provisions of the conference report, which, as I stated earlier, was hastily drafted and heavily amended in the closing days of the session.

Mr. President, this is no time for Congress to act irresponsibly. We must accept the responsibility and provide the administration with adequate legislation to manage the problems they face in this emergency. We are on the road to accomplishing the objective of dealing with our energy situation. I believe the conference report should be defeated.

Mr. President, I ask unanimous consent that during the consideration of the Conference Report on S. 2589, and during votes related thereto the following staff members be granted the privilege of the floor:

Bill Van Ness, Jerry Verkler, Grenville Garside, Jim Barnes, Lucille Langlois, Ben Cooper, Mike Harvey, Dan Dreyfus, Russ Brown, Fred Craft.

Dave Stang, Harrison Loesch, Brent Kunz, Ron Frank, David Russell, Roma Skeen, Nolan McKean and Maureen Finnerty.

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

Mr. FANNIN. Mr. President, I suggest the absence of a quorum, and I ask unan-

imous consent that the time be charged equally against both sides.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Who yields time?

Mr. MUSKIE. Mr. President, I yield myself such time as I may need.

I ask unanimous consent that the following staff members of the Public Works Committee be granted the privilege of the floor during the consideration of the conference report: Leon Billings, Karl Braithwaite, Sally Walker, Barry Meyer, Phil Cummings, and Dr. Arton Tussing, of the Committee on Interior and Insular Affairs.

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

Mr. MUSKIE. Mr. President, in view of the limited time for the debate on the motion to recommit, it seems to me it might be useful to the Senate and for the RECORD if I began the discussion of the issues in a preliminary way before the hour of 2 o'clock, when the motion to recommit will be offered.

I was a member of the conference, as a representative of the Public Works Committee, together with the distinguished Senator from West Virginia, the chairman of the Public Works Committee (Mr. RANDOLPH), and the distinguished Senator from Tennesseee (Mr. BAKER). Our special responsibility in the conference had to do with the issues involving environmental legislation which ultimately found their way into the conference report. Because that is a technical subject, I thought I might get some of the technical discussion out of the way before we get into the heat of the debate.

I would like to make it clear at the outset that I will oppose the motion to recommit, and will vote against it for reasons in addition to those which I will discuss in the next 15 or 20 minutes. Those reasons will become apparent in the course of the debate. But I might say at the outset, Mr. President, that the conference report before us represents long, hard work, over a period of some days on both sides of the conference.

It represents long hours of careful deliberation and work between the House and Senate conferees, and the compromises that it represents were not easily agreed to. I think it would be a waste of all those days and hours of effort to recommit this legislation to the conference. But I will get into that question in a little more detail a little later.

I would at this time like to summarize the provisions of the pending conference report which relate to the Clean Air Act. Those provisions fall into three categories.

First are the sections of the bill which would permit extension of deadlines for compliance with stationary source emission limitations for major fuel burning stationary sources which convert to coal to reduce demand for oil. Second are those provisions which relate to emissions from automobiles. And third are amendments which relate to the transportation control strategies required by the Clean Air Act to implement and maintain health levels of air quality.

In regard to the first and second categories, similar matters were considered by the Senate as a part of this or other legislation last year.

Coal conversion was an important element of the bill reported by Senator JACKSON's Interior Committee. Extension of compliance schedules for sources required to convert to coal, together with a requirement for obtaining continuous emission reduction systems, was a primary thrust of the amendment which I offered to Senator Jackson's bill on the Senate floor, which the Senate subsequently approved.

The conference agreement on this provision is narrower than either the House or the Senate proposal.

In other words, from the environmentalist's point of view, it is a better deal than either the House or Senate proposal.

While the compromise deadline for compliance with the Clean Air Act requirements is 18 months later than would have been permitted under the Senate bill, the scope of both the House and Senate bill has been narrowed to apply only to those facilities which convert to coal and decide to continue to use coal after November 1, 1974. Only facilities which do not intend at sometime in the future, to reconvert to the use of oil will be allowed an extension of present deadlines. This means that only facilities which either have a commitment to stack gas control techniques or a long-term contract for low-sulfur coal will be allowed to utilize this 18-month extension from current deadlines.

This does not mean, however, that concern for public health can or will be abandoned during this interim period, even for those facilities. There are three important features of these amendments which will make possible adequate public health protection.

First, under section 119(2)(C), the Administrator has authority to require any fuel-burning stationary source to which the conversion section applies to use coal of the type, grade, or pollution characteristic as the Administrator may decide. This authority is also vested in States and local governments and is conditioned only upon the availability of coal of the stipulated type, grade or pollution characteristic.

Second, the Administrator has the authority to require the Federal Energy Administrator to issue exchange orders to redistribute available low-sulfur coal to areas to "avoid or minimize the adverse impact on public health." As amendments to the Clean Air Act, this authority continues after expiration of the energy emergency legislation. It is sufficient authority, in my opinion, to assure that low-sulfur coal is used in highly polluted areas during the extended compliance periods, limiting the use of high-sulfur coal to those areas where its use will have the least impact.

Third, the Administrator has the authority to require compliance with the applicable emission limitations "no later than January 1, 1979," which gives the Administrator adequate authority to require earlier compliance by those stationary sources which avail themselves of this procedure if he determines the public health and welfare requires more rapid compliance with applicable emission limits. At the same time this later date should permit the orderly development of stack gas control technology and the orderly phasing-in of available stack gas control equipment. In some States where the status of the implementation plan is still unclear, some questions may arise. It is the intent of this legislation that the term "implementation plan in effect on the date of enactment" means the applicable implementation plan as defined in the original Clean Air Act, section 110(d). Mr. President, I realize that these deadlines are longer than the Senate approved, but they represent a significant compromise for the other body. And more important, this provision may reduce the potential whipsawing between environmental requirements and the vagaries of imported fuel supply.

The second aspect of the legislation which relates to automobile emission standards is also familiar to the Senate. On December 17, the Senate passed, by a vote of 86–0, a 1-year extension of 1975 interim automobile emission standards for hydrocarbon and carbon monoxide. I will not, at this point, discuss that amendment in detail. However, I ask unanimous consent that remarks explaining that bill at the time the amendment was considered be printed in the RECORD at the end of this statement.

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

(See exhibit 1.)

Mr. MUSKIE. Mr. President, the conference agreement goes beyond the limited 1-year extension passed by the Senate. Under the agreement, the Administrator can extend the deadline for compliance with the statutory standards for hydrocarbon and carbon monoxide for 1 additional year beyond 1976. The House version made that extension mandatory. The conference report makes it discretionary with the Administrator. Also the conference agreement establishes a standard for oxides of nitrogen for 1977 of 2 grams per mile. The latter is the recommendation of the administration; the former requires an administrative determination that the statutory standards for hydrocarbons and carbon monoxide are neither technically nor economically achievable. The Administrator has already found that those statutory standards can be met. I doubt, therefore, he will reverse his previous findings, the 1975 standards, for another year.

The additional year provided by the Senate bill to achieve those standards was intended to provide an opportunity to evaluate the implications of the technology chosen by the industry for compliance and also to permit an additional year to improve and refine that technology both as to emission efficiency and fuel economy.

The third aspect of the conference agreement relates to transportation control strategies arising out of air quality implementation plans required by the Clean Air Act. This is the area in which the Senate conferees had the greatest reservations. We did not believe it was necessary or appropriate to deal with these issues in the context of the energy emergency. However, the House conferees insisted.

As I indicated before the recess, I would have been reluctant to accept the provisions regarding transportation control under circumstances other than the pendency of this legislation. The Senate conferees did succeed in narrowing these questions sufficiently so as not to prejudice the validity of parking management regulations as elements of achieving and maintaining air quality protective of public health.

The Subcommittee on Air and Water Pollution will review these questions during oversight hearings this year. We will attempt to determine whether or not the parking surcharge should be an element of the Administrator's authority and we will decide whether or not the Administrator should utilize, as a means to protect and enhance air quality, authority which he has to regulate parking and other facilities which encourage vehicle use.

Mr. President, I believe it is essential that my colleagues understand the scope, purpose, and intent of those provisions of this legislation which relate to the Clean Air Act. I think we have narrowed the scope of the conference agreement sufficiently to protect environmental values while encouraging the utilization of domestic coal resources. Under the provisions of this act, these resources can be utilized with minimum adverse impact on the environment. To the extent that the provisions contained herein are not adequate for that purpose, I assure my colleagues that necessary modifications will be made in the Clean Air Act Amendments which will be forthcoming this year.

Mr. President, I would like to say a word or two about the strategy that is about to be proposed to the Senate, the strategy of recommitting the conference report to the conference.

I have already said that my own responsibility in the conference had to do primarily with the amendments of the Clean Air Act. And the conference carried out its responsibility and met separately until it had discharged that responsibility.

We were therefore brought into the discussion of other issues involved in the bill. We had an opportunity to evaluate the attitudes of the House conferees on the issues which were the greatest sticking points.

I may say, Mr. President, that two of the issues which constituted the greatest sticking points are the windfall profits provision and these environmental provisions. And I can say to the Senate that the House conferees in my judgment are not likely to change the stand which they took on these issues and stayed with until the end.

I had the privilege in the next to the last day of the first session, Mr. President, of listening to the debate in the House on the bill which the Senate sent over to the House in an attempt at the last minute to get the energy emergency legislation enacted. It was not the conference report. It was the conference report stripped of the windfall profits section.

And I say, Mr. President, that anyone who had the privilege of listening to that debate throughout that long evening could not help coming away from that debate with a clear understanding that the House conferees reflected the overwhelming sentiment in the House.

The House is going to insist upon a windfall profits provision, and I doubt that the House will accept any changes to strengthen the environmental safeguards in the provisions which we agreed to with respect to the Clean Air Act.

The PRESIDING OFFICER. All time available to the Senator has expired. The Senator from Arizona has 10 minutes remaining.

Mr. JACKSON. Mr. President, do I have any time left?

The PRESIDING OFFICER. The Senator from Washington has no time remaining.

Mr. JACKSON. I ask unanimous consent that, despite the previous unanimous-consent agreement, the Senator from Maine may proceed for 2 minutes.

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

Mr. MUSKIE. May I say, just to wrap up that point, Mr. President, there is an enormous tide against environmental values and the environmental legislation that we have put on the books, which is very visible on the House side. What we have in this bill, on the environmental issues, is a good deal, and the tide against this moderate kind of approach is rising very rapidly, as Senators who returned to their States during the recess, I am sure, understand. Under the pressure of the energy emergency, there is a tendency on the part of rank and file citizens and Congressmen to throw overboard all of the safeguards which we have written to protect the environment.

This conference report does not undermine any of the fundamental values which we have protected in such legislation, and to open up the legislation to further modification is to risk losing far more than we have any chance, conceivably, of gaining.

EXHIBIT 1

AUTOMOBILE EMISSION STANDARDS

Mr. MUSKIE. Mr. President, this legislation is the result of 18 days of hearings and 8 executive sessions devoted to the review of the implications of auto emission standards required as result of Clean Air Amendments of 1970. While the language of the bill is simple, its implications are important and complex.

The legislation extends for an additional year the interim emission requirements which the auto industry must meet for the 1975 model year. The effect of this amendment is to postpone for an additional year, the statutory standards established in 1970 for hydrocarbons and carbon monoxide. This amendment also vacates the 1976 interim not standard.

The Committee on Public Works is not unaware of the implications of this proposed legislation. Much controversy has surrounded the technology which the auto industry selected to meet statutory emission control requirements. While the catalyst controversy alone raises sufficient questions to urge moderation on the part of the Senate and the Congress, there are other issues regarding emission control requirements.

The committee was concerned with the questions raised about public health-related air quality requirements, fuel economy, oxides of nitrogen emission controls, nitrogen dioxide air quality standards, and transportation control strategies.

This bill would mean something less than a total, national commitment to catalysts—as few as 25 percent and as many as 50 percent of vehicles could meet these standards without catalysts and without fuel economy loss—because noncatalyst cars are small cars.

This bill would vacate 1976 standards which are more stringent than the 1975 interim standards but less stringent than the 1977 standards. Two years' experience with these interim standards will provide ample opportunity to evaluate catalyst issues; evaluate fuel economy questions related to stricter standards; and provide the auto industry with an opportunity to gear their technical efforts and resources to 1977 rather than the present moving target of different standards in 1975, 1976, and 1977.

This bill is a logical outgrowth of the procedure established in the 1970 act; that is, when administrative remedies were exhausted, the Congress would evaluate industry progress and ramifications of the statutory standards. This is the first result of that evaluation. After the NAS studies the committee will have additional recommendations.

The Senate, through the Committee on Public Works, is paying $500,000 to the NAS to evaluate the need for current auto standards from a public health point of view and an evaluation of the cost effectiveness of alternative strategies to deal with auto emission. This bill will place a hold on auto standards for a sufficient period to evaluate the results of those studies. Any more would prejudge those results—any less would foreclose NAS input.

I would like to discuss the history of the issues with which this legislation deals and the basis for committee proposal.

The 1970 Clean Air Amendments (P.L. 91–604) required that all 1975 model cars achieve a reduction in emissions of hydrocarbons and carbon monoxide of 90 percent over the emissions from 1970 model cars. In section 202(b)(5) of the act, the Administrator of the Environmental Protection Agency is authorized to extend the date for compliance with that statutory standard for 1 year, upon a determination that:

"(i) such suspension is essential to the public interest or the public health and welfare of the United States; (ii) all good faith efforts have been made to meet the standards established by this subsection; (iii) the applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available for a sufficient period of time to achieve compliance prior to the effective date of such standards, and (iv) the study and investigation of the National Academy of Sciences conducted pursuant to subsection (c) and other information available to him has not indicated that technology, processes, or other alternatives are available to meet such standards."

The Administrator made such a determination in April of this year. In accordance with the statute, at that time an interim emission requirement for 1975 model year cars was established. Test procedures for the certification of emission controls on light duty vehicles and engines for model year 1975 have also been established. This legislation provides that the certification proce-

dure for 1976 model cars shall be the same as that for 1975 model cars.

This legislation extends the Environmental Protection Agency interim emission requirements and the implementing test procedures for 1 more year and extends the final date for compliance with the statutory 90-percent reduction of hydrocarbons and carbon monoxide to model year 1977. The statutory standards for oxides of nitrogen will also become effective in model year 1977.

And, this legislation preserves the separate standard established by the administrator for California for model year 1976 as well as model year 1975. The statutory authority for a waiver at the request of the State of California for stricter emission controls in model year 1976 remains in effect.

The available evidence indicates the need to continue efforts to reduce air pollution emissions from automobiles. This finding is confirmed in a preliminary report to the committee from the National Academy of Sciences which concludes regarding present public health-related standards of air quality:

"Present knowledge of health effects appears to afford no compelling basis for suggestions to either raise or lower the currently mandated primary air quality standards at this time."

The available evidence from the Environmental Protection Agency, the National Academy of Sciences and from other independent sources indicates that public health-related air quality standards are no more stringent than needed to protect the health of sensitive groups in our population from the adverse impact of air pollution.

The committee intends to continue its investigation of the validity of health standards which are the basis for the control requirements of the act. A final report from the National Academy of Sciences on the validity of present standards will be available in August, 1974.

This report and associated reports from the Academy on the feasibility of technology to control oxides of nitrogen emissions and on the costs and benefits of alternative strategies to achieve air quality standards will provide the committee with a basis for an evaluation of a number of aspects of the Clean Air Act, including statutory auto emission standards and transportation control strategy requirements.

Conflicting evidence was presented to the committee on the potential impact of unregulated emissions from catalyst-equipped vehicles.

One serious question relates to emissions of sulfates and sulfuric acid from catalyst-equipped vehicles. While there is considerable disagreement as to the validity and implications of available data, the Environmental Protection Agency scientists and contractors have found significant emissions of sulfates and sulfuric acid in tests and catalyst-equipped vehicles. Projections made by agency researchers from this data indicate a potential for roadside concentrations of sulfates and sulfuric acid in excess of those levels required to assure protection of public health.

Information provided the committee indicates that the projections were based on insufficient evidence and did not justify action by the committee which would delay the introduction of catalysts.

Present marketing trends in the industry show that smaller cars will have a large portion of the market by 1975 and 1976. Thus catalyst-equipped vehicles will have a significant on-the-road test without a total national or industry commitment to the technology.

Also, the Environmental Protection Agency is committed to a major field test of the unregulated emissions and other effects of catalyst control systems in California in late 1974 and early 1975. Reports of this full field investigation should be made available to the Congress by April 1975.

Another issue is emission of potentially toxic noble metal compounds. While no substantiated data was submitted as to emissions of such compounds, the committee expects the Environmental Protection Agency, the auto and catalyst manufacturers to direct adequate resources to monitoring the evaluation of this question to ascertain whether pollutants such as platinum compounds are released from catalyst-equipped vehicles in actual use.

The committee underscores the need to continue the development of alternative pollution control strategies and alternative engine systems which have inherently low emissions. Should the concerns expressed regarding unregulated emissions be borne out in field tests and should other alternatives such as desulfurization of oil prove impractical, the Congress will want options available which would permit immediate abandonment of catalyst technology on the model years subsequent to 1976.

Much controversy exists regarding fuel economy or diseconomy associated with auto emission standards required for 1975 and subsequent model year vehicles.

There are two issues involved: the first is the extent to which there will be as a significant penalty in crude oil requirements associated with the manufacture of lead-free gasoline. The second is the extent of the penalty or savings associated with catalyst-equipped vehicles.

The committee is satisfied that the fuel penalty associated with production of lead-free gasoline, if any, is not a sufficient justification for abandoning our clean air efforts.

On the other hand, there is little controversy as to the fuel economy relationship between 1975 and 1974 cars. Virtually all testimony received by the Subcommittee on Air and Water Pollution and the Senate Committee on Public Works this year indicates that the poorest fuel economy was achieved with 1973–74 vehicles, in part as a result of exhaust gas recirculation required to reduce oxides of nitrogen levels in intermediate and large cars.

The auto industry testified that the catalyst would permit an increase in engine efficiency and thus a decrease in fuel use. The auto companies agreed that the use of catalysts could permit up to a 5 percent to 6 percent increase in fuel economy depending on the efficiency of the postcombustion emission control system and the extent to which the engine is "detuned from an emission point of view to maximize fuel economy and performance. General Motors and the Environmental Protection Agency have placed this fuel economy improvement at anywhere from 13 to 18 percent.

The committee believes on the basis of the evidence cited that implementation of the 1975 interim standards would result in improvement of both emission control and fuel economy.

EXHIBIT 2

ENERGY EMERGENCY LEGISLATION: COMPARISON OF HOUSE-PASSED BILL WITH CONFERENCE REPORT

1. House: Extend auto deadlines for HC and CO for two years (Senate one year-Conference one year plus 1 yr. discretion).

2. House: Void Statutory .4 gm/mile NO_x Standard and set permanent 2.0 NO_x Standard (Senate didn't address. Conference sets one year at 2.0)

3. House: Extends deadline for achievements of public health related air quality for auto related pollutants to 1985 (Senate no, Conference no).

4. House: Voids use of parking surcharges, parking management controls and car pools and bus lanes to achieve health related standards (Senate had none. Conference has only surcharges, and gives authority to suspend parking management regulations).

5. House: Effectively voids current State deadlines for achievement of all secondary standards (Senate no, conference no).

6. House: Voids use of enforceable emission controls to implement air quality standards (Senate no, conference no—goes the other way to insist on same).

7. House: Extends deadlines for electric power plants which convert to coal to Jan. 1, 1980 (Senate July 1, 1977; Conference January 1, 1979).

8. House: Extends deadline for all other fuel burning stationary sources to June 30, 1979 (Senate no, conference no—narrowed to include only conversions except for short term).

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

Mr. MUSKIE. I yield.

Mr. JACKSON. Mr. President, I want to pay high tribute to the able and distinguished Senator from Maine for his outstanding leadership in the conference in handling this very, very difficult matter. The House practically repealed the Clean Air Act; that is what the Senator was confronted with in carrying out his responsibilities.

I think we passed a very sensible provision in the action by the Senate, and in the conference we worked out a proposal that to me was statesmanlike. The Senator from Maine deserves great credit, not only on this particular part of the conference report but on the report as a whole. With the Senator from West Virginia (Mr. RANDOLPH), he played a very vital role in bringing it about.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. President, I yield the Senator from Oklahoma such time as he may require.

Mr. BARTLETT. Mr. President, I thank the distinguished Senator from Arizona for giving me this time.

WHAT IS A WINDFALL PROFIT?

Mr. President, considerable discussion has been given in the past few months to the term "windfall profits." It appears that there is much misconception about profits in general.

Just what constitutes a windfall profit? To answer that question we first must review a few general principles that apply to profits and profitability.

The attractiveness of an investment is based on its profitability, that is, the rate of return on the investment of capital required. In other words, how much in earnings does the money tied up in an investment generate for the investor. A basis for comparison would be the interest that is earned on money placed in a savings account.

Net profits by themselves do not necessarily give an indication of the profitability of an investment. Net profits must be compared to the capital investment required to generate those net profits. For instance, $1 million net profit is a very poor annual return on invested capital if $20 million was required to generate the $1 million profit. On the other hand, $1 million net profit would be a tremendous return on an investment of

only $5 million. The same $1 million in net profits represents only a 5 percent return in the first instance and a 20 percent return in the second. Even if the net profits in the first example increased 100 percent to $2 million the return on the investment of $100 million would be only 10 percent—still much below the 20 percent figure in the second case.

Increases or decreases in net profits and return on investment should only be used on a comparative basis because of general fluctuations in the economy as a whole. No single industry's profits can be reasonably analyzed unless compared to the performance of other industries at the same time.

Oil industry net profits are up in the first 9 months of 1973 compared to the very poor first 9 months of 1972. Oils—domestic and international—showed net profits up 47 percent. However, compared to increases in net profits for other corporations such as the New York Times, up 93 percent; the Washington Post, up 57 percent; the American Broadcasting Co., up 45 percent; International Harvester, up 47 percent; U.S. Steel, 116 percent; and Kaiser Industries, up 601 percent; and oils—domestic and international—hardly seem out of line.

The same is true when oils—domestic and international—are compared to representatives of other industries on a rate of return on equity basis for the first 9 months of 1973 compared to the first 9 months of 1972.

The Columbia Broadcasting System showed a rate of return above 20 percent. Dr. Pepper had a corresponding figure of 29.4 percent; Ford Motor Co., 17.6 percent; Dow Chemical, 18.8 percent; appliances reported a 16.5 percent return; automotive, 17.5 percent; building materials, 14.5 percent; chemicals, 14 percent; drugs, 19.9 percent; electronics, 15.2 percent; food, 13 percent; instruments, 15 percent; office equipment and computers, 16.6 percent; publishing, 13.9 percent; compared to 13.2 percent for oils—domestic and international.

Unfortunately, there seems to be a fever spreading today that profits are bad. Profits are bad only if they do not act in some way to solicit additional supplies for the consumer's ultimate use.

If the energy industries within the United States are to provide adequate supplies of energy for you and me they must have profits so they can reinvest them into projects that will increase energy supplies.

John Winger of the Chase Manhattan Bank estimates that the petroleum industry must find twice as much new oil in the 1970 to 1985 period as it did in the preceding 15 years. He says $450 billion in capital must be spent in the search for oil between 1970 and 1985. That is compared to only $104 billion which was spent the preceding 15 years.

An additional $360 billion must be invested in refineries, tankers, pipelines, storage equipment, and marketing facilities; therefore, a total of $800 billion must be spent between 1970 and 1985 or 4 times the amount spent in the previous 15 years. Debt service, working capital, and dividends will require another $550 billion in the 1970–85 period for a grand total of $1.350 trillion which must be spent worldwide.

The recent report entitled "U.S. Energy Outlook" by the National Petroleum Council estimated total capital requirements for the U.S. energy industry between 1971 and 1985 to range from $451 billion to $547 billion. These estimates do not include other major sums required for petroleum marketing, gas and electricity distribution, and the development of overseas natural resources to satisfy U.S. imports requirements. They were strictly related to requirements for domestic energy resource development, processing, and primary distribution.

These sums are staggering. Referring to the petroleum industry alone, capital outlay in the United States increased steadily during most of the decade in the 1960's, rising above the $8 billion level in 1968. Since then spending has failed to increase—remaining at about the 1968 level despite the rapid growth in the petroleum market.

Both increased profits and increased financing would be required if these investments are to be made. Financing will not be readily available to any industries which might have trouble retiring the debt due to limitations on profits.

How do we know that any increased financing would be required if these industries hands due to price increases would be reinvested to increase supplies of energy for the people of the United States?

Mr. President, on October 5, I asked both integrated and independent companies engaged in the production of domestic oil and gas to answer the following question:

Assuming that sufficient new acreage will be available in the United States for the exploration for new reserves of oil and natural gas and that price controls on either or both commodities are lifted, what percent of the additional cash flow resulting from the removal of existing price controls on natural gas or crude oil or both, would you invest in the exploration for and development of new domestic petroleum and natural gas reserves including domestic oil and gas pipelines, domestic refineries, and domestic natural gas processing plants?

Mr. President, as I said in my remarks of October 5, 1973, I have spoken freely many times concerning our Nation's energy situation. I have given many speeches on energy on the Senate floor, and have spoken about energy on numerous other occasions before interested groups. In most of those speeches, in the interest of achieving adequate domestic supplies of energy, I have urged that all price controls on natural gas and crude oil be removed. I have said specifically that there needs to be increased economic incentive, that there must be considerably more capital available, and that the consumers must assume part of the responsibility by paying higher prices if adequate supplies of energy are to be developed.

Most people agree that a free market will increase our supplies more rapidly than a controlled market—even a controlled market which provides for price increases for natural gas and crude oil. But many wonder if the petroleum industry would invest the increased cash flow resulting from decontrol of prices into areas that will help to solve our domestic energy shortage.

I asked over 400 integrated and independent companies engaged in the production of domestic oil and gas to answer the question I read earlier.

My office has received replies from 115 integrated and independent companies. Not one of those replies gave any indication that a large portion of the additional cash flow resulting from the removal of existing price controls would not be used to increase domestic energy capabilities.

On the contrary, 93 of the companies responded by saying that "virtually all or 100 percent of their increased cash flow would be so utilized." The remaining few companies, although they did not say that they would reinvest virtually all the additional cash flow, did imply that they would reinvest significant amounts such as "90 percent, a minimum of 90 percent, or a minimum of 75 percent."

It makes sense that these companies, as they have indicated to me, would continue to invest in that industry which they know best, especially when the opportunity for a reasonable rate of return is improved by price decontrol.

A shortage of energy was inevitable, and it has been no surprise. Michael T. Halbouty, past president of the American Association of Petroleum Geologists, was one or many who could see the writing on the wall. He said in 1960,

> I can safely predict that between now and 1975 we will have an energy crisis in this country. Then people will say "the industry is to blame, why weren't we told?" Well, I'm telling them now.

That was in 1960 and I could recite numerous similar warning over the years.

In 1965 a high of 16,173 exploratory wells were drilled—in 1972 only 7,587 exploratory wells were drilled—less than half the 1956 amount. Also exploratory geophysical crew activity dropped to half as much in 1970 as it was in 1960. The reason we are not drilling more wells is easy to see. Profits have been insufficient.

The price for crude oil in 1957 was $3.09. The price of crude oil decreased slightly after 1957 and then again reached $3.09 per barrel in 1969. In constant 1958 dollars the price of crude oil in 1957 was $3.17. By 1972 in constant dollars the price of crude oil per barrel had decreased to $2.32. The price of crude oil was not keeping up with the increasing costs to produce it.

In 1969 the depletion allowance was changed from 27½ percent to 22 percent. The additional tax burden upon the petroleum industry removed $500 million from profits that might have been used to increase supplies of energy.

The now abandoned import quota system has over the years acted to hold down domestic crude oil prices because of the constant threat to allow cheaper foreign oil to be imported if prices domestically were to rise.

Also, the import quota program, with provisions promulgated under pressure

from the New England States to allow fuel oil to be imported quota free, led to refineries being built outside the United States.

Over the years these actions have caused decreases in domestic drilling activity. Only 21 percent of all domestic wells are drilled by the 30 largest companies—including the multinationals—with their large profits from their foreign operations, 79 percent of all domestic wells are drilled by the independents who are not the beneficiaries of large profits. Yet they will drill the great majority—over 75 percent of all the domestic wells—drilled in 1974. If we adopt this conference committee report with the windfalls tax rebate, we will seriously hamper the ability of the independents to do their job of increasing sharply the number of domestic wells drilled in 1974.

Small producers have been forced out of the crude oil producing business. Not by lack of competition but rather by lack of profits Fifteen years ago there were about 20,000 small producers, now there are only 10,000. They went into other businesses that were more profitable.

Many people talk of the rich oil men. For every person who has made any money in the oil industry, I can show you many who have gone broke. If it were such a bonanza why have so many gone broke? The answer is simple. The oil industry has been no bonanza.

The recent increases in the price of crude oil and natural gas have spurred activity in the oil and gas fields of the United States. This incentive should have occurred long ago.

Drilling rigs have been running in numbers 13 percent to 15 percent greater than last year. Marginal producing wells that would have been plugged and abandoned by now at old oil prices have been held in production because new higher prices justify their operation.

Many people have tried to sensationalize the increases in net profits of companies in the petroleum industry. Claims of price gouging by the big companies are unfounded. The Cost of Living Council has had controls on domestic prices of the petroleum industry as it has had on all industries.

The real increase in profits has come to major international petroleum companies because of their profit increases in the Eastern Hemisphere. These profits are not necessarily paid by Americans—the whole world is served by American companies. We are fortunate indeed to have major petroleum companies that are aggressive in the world petroleum market. Look at the precarious position of Japan and Western Europe, and other industrialized nations, compared to us.

The problem is that the petroleum industry as a whole and in this country is not big enough today. Lack of sufficient profits have stunted its growth and now we face inadequate supplies of oil and gas.

This Congress should, after thorough hearings and deliberation, pass legislation that would assure to the consumers in the United States that no price gouging will occur. But at the same time, Congress must be very careful not to enact a law that will be counterproductive to increasing the supply of energy.

The Senate Finance Committee and the House Ways and Means Committee are having or are going to have hearings to determine how to accomplish the desirable goal of increasing energy supplies while preventing excessively high prices in a time of shortages.

We must pass an excess profits provision which will penalize those with large profits who do not reinvest those profits in exploring for new domestic reserves of oil and gas and provide an incentive for those with large profits to reinvest those profits in new domestic reserves of oil and gas.

Bill Simon, Administrator of the Federal Energy Office also is studying the petroleum industry's profits.

For Congress to act now with an unworkable rebate is playing political poker and the stakes are the welfare of the Nation.

So, Mr. President, let me emphasize some of the highlights of the situation we are facing right now.

First, I think it is important to note that the role of the independents in drilling oil and gas wells is a very big role. They drill some 79 percent of all the wells drilled in this country.

The number of wells drilled, compared to 1956, has dropped to half, and yet the demand currently, today, is double that of 1956.

The question is, Why did the drilling drop off during that period of some 18 years? The reason is that the price of oil in 1957 was $3.09, and then dropped, and stayed below that figure until it got back to $3.09 in 1969, at the end of the 13th year.

At this point, the profits in the domestic industry were severely eroded. The number of independents had declined from about 20,000 to 10,000. Congress passed a bill to reduce the depletion allowance from 27.5 percent to 22 percent, which had the effect of increasing the taxes on the oil industry by some $500 million, and reducing very substantially the money available for investment in the oil industry.

During this period, we had mandatory import controls because of the pressures for cheap foreign oil. The tendency of the Government was to lower the restrictions on imports and increase the amount of oil that was coming in, in order to keep the domestic price down, so as to prevent increases in the price of crude oil that the domestic oil industry needed to offset increases in the cost of steel and labor.

This particular conference report includes a proposal to limit windfall profits that is not workable. It has been stated by many experts in economics and by the IRS that it would be very difficult to administer this particular proposal. Also it does not give the independent producer any assurance of receiving the capital they will have to invest in 1974. It is really the independents who are going to be called upon to do a lot of drilling. It is not the independents who have been the beneficiaries of large profits.

There is no question that the multinational companies have experienced large profits. These large profits come from foreign nations. The independent companies have not been the beneficiaries of the large profits. Yet they are going to be required to do most of the drilling that will be done in 1974. The increase in drilling in 1973 over the previous year has amounted to only some 15 percent. So in our haste to write this proposed legislation, we do not want to be remiss to the point of handicapping the independent companies in this most worthy enterprise of increasing the amount of oil wells that can be drilled.

So far as the multinationals are concerned, certainly we want them to reinvest as much as they possibly can in domestic wells. It is important, so far as the total supply and demand of production is concerned, that the American companies now participate in increased drilling activity around the world, in order to bring some balance to the supply and demand. If this does not take place, then the extremely high prices of foreign oil, which are prevalent today, are going to continue. This will not only work to our detriment, because we still remain large importers of oil, but it may well lead to a worldwide depression.

I favor the recommitment of this proposal, so that there will be an opportunity to consider carefully an excess profits provision—which would provide an incentive to companies having large profits to invest in domestic exploration and production.

I think it is vital that we take our time to write a good law, so that the United States can be independent, and not have our foreign policy dictated by other countries which oppose our own sound judgment.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD, as an appendix to my remarks, a further statement concerning this problem.

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

APPENDIX

It was interesting to note that all of the 8 largest major oil companies replied to the question and 16 of the top 20 producing companies responded.

The replies received represent 7,079,980 barrels per day of crude oil and natural gas liquids and 32,499,827 million cubic feet of natural gas per day. That is 60 percent of 1972's daily average crude oil and natural gas liquids production and over 50 percent of the daily average gas production.

The small fellow—the independent producer—almost without exception said unequivocally that he would invest all additional profits back into the petroleum industry.

Common phrases used by the small producers were—

I would expect to invest every additional dollar of cash flow generated in new domestic oil and gas exploration.

Any additional monies received because of decontrol of above products would likewise be invested in exploration for new energy reserves. And any increase in our cash flow resulting from higher crude oil and gas prices would be immediately reinvested in a search for, and development of, more reserves.

Exxon Co., U.S.A., the largest domestic producer with 1,114,000 barrels per day of crude oil and natural gas liquids in 1972 and 5,952,000 million cubic feet of natural gas per day stated:

We would anticipate investing all of the incremental cash flow resulting from decontrol of prices in the domestic energy operations after providing for royalties, taxes and dividends.

Texaco, Inc., pointed out the difficulty encountered when a major oil company tries to forecast investments under hypothetical circumstances. Texaco said:

While the exact amount of increase in cash flow which would result from lifting of controls is impossible to quantify, we believe nevertheless, that Texaco's investment performance in the past provides a realistic view of how our company would employ any additional cash flow resulting from deregulation.

Texaco also said:

You may be assured that the lifting of price controls on oil and natural gas would be of significant assistance in helping to meet the enormous capital investment required for the exploration and development of additional domestic petroleum and natural gas reserves and associated downstream facilities.

Gulf Oil Corp. directed attention to its capital expenditures in relation to net income. In no year from 1968 thru 1972 did Gulf have as much income as it had capital expenditures. Gulf said:

To help finance these programs, corporate debt increased almost 50 percent, or from 1.31 billion dollars to 1.94 billion dollars. The increasing need to resort to debt financing put a restraint on these programs.

Shell Oil Co. in its response said:

A unique answer to your question depends on difficult estimates, including the method of timing of new acreage awards, the fraction of increased revenue actually available for investment, and the effects of many constraints, such as availability of steel and other materials. . . . We also believe that greatly expanded offerings of acreage could result in logistical problems in such areas as exploration and drilling equipment, ship yards, and steel.

I call attention to my statements on this floor of November 29 and December 3, 1973, addressing these problems to which Shell has referred.

Standard Oil Co. of California estimated that about "90 percent of any additional cash would be so reinvested."

Atlantic Richfield Co., proposed that:

Not only would essentially all such increases be reinvested in the domestic oil industry, except for that portion of the after-tax book profit that is generally distributed in the form of dividends to the millions of company stockholders, but also that increased profits have a multiplying effect on the borrowing capacity of the company. This generates additional funds for investment in the domestic industry.

This is an important point that should not be forgotten—that increased cash flow increases the ability of companies to obtain additional financing.

Standard Oil Co. (Indiana) demonstrated the effects of the 1969 decrease in the depletion allowance in their investments. They said:

Our exploratory expenditures in 1969 were 56% above 1968, but in 1970 exploratory spending was reduced 68% below 1969. This significant decrease clearly was related to the cut in the depletion allowance of 1969.

To show further the effect of higher prices Standard Oil Co. (Indiana) said:

In contrast, our exploration budget for 1974 will be increased by a substantial margin over 1973. Due principally to higher oil and gas prices that will justify exploratory activities previously judged to be uneconomic.

Mobil Oil Corp., pointed out that much of the additional spending by the petroleum industry has been paid to the Federal Government. Mobil said:

Over the last five years Mobil has been consistently increasing its domestic capital in exploration expenses as a percentage of its total net income.

I should point out, however, much of the increase in spending levels have resulted from higher lease bonuses paid, principally to the Federal Government. To this extent, the increased spending flows directly back to the consumer through the Federal Government.

Mobil's chairman of the board, Rawleigh Warner, Jr., made an important observation when he said:

To the extent that prices of new supplies of natural gas are decontrolled we will have a direct test of the value of such action, since the higher price will not be paid unless the new supplies are forthcoming.

Getty Oil Co. noted that it anticipated that a smaller part of its future discretionary corporate cash flow will be invested in domestic programs than historically. The reasons:

This is primarily the result of current unavailability of attractive domestic acreage and projections of a very low rate of return on future domestic investments due to present pricing restrictions and high capital investment requirements.

This statement by Getty Oil Co. serves to indicate the need to remove the "present pricing restrictions."

Sun Oil Co. in its response, made an important observation as to why it is difficult for a company to quantify the percentage of additional cash flow that would be reinvested for the purposes that I had indicated in my question. Sun said:

Investment decisions depend upon a rather precise knowledge of a substantial number of facts current at the time the decision is made, coupled with judgments related to the future. Forecasting the facts is beyond our ability; the judgments alone are difficult enough, and prove often enough to have been incorrect. Unless someone can guarantee the future levels of supply, demand, price, cost of materials and wages, interest rates, trends in these factors at different time intervals, decisions to be made by competitors that will affect opportunities for Sun, new discoveries to be made that open unexpected provinces, etc., attempts to calculate additional cash flow are hypothetical.

Marathon Oil Co.'s reply carried the competitive spirit of the oil industry when it said:

It is Marathon's intention to continue to grow, and in doing so, we hope to at least maintain the company's share of the Nation's output of liquid and gaseous hydrocarbons. These objectives can only be accomplished by expanding the company's outlays for exploration and development. Accordingly, we can assure you that the great bulk of any increase in cash flow would be plowed back into our activities.

Continental Oil Co. anticipated that—

Conoco would invest 100% of the additional cash flow so generated into the operations described above. Further, if a healthy capital and stock market is available, Conoco would probably secure additional financing, either debt or equity, and likewise invest these funds.

Phillips Petroleum Co., as background for the decontrol of prices, called attention to the fact that:

In 1972 Phillips Petroleum Company had approximately 1.7 billion dollars of total assets employed in the United States in exploring for, producing, pipelining, refining and marketing crude oil, natural gas and petroleum products. The rate of return in 1972 in this investment was 6.3%, which reflects a decline from 7.9% in 1967. Our rate of return on these operations for the first nine months of 1973 has declined further to 5.3% compared to 5.8% on oil-wide assets. This continuing decline in our rate of return vividly illustrates the need for improved earnings if this segment of our national economy is to be able to compete for new capital to invest in supplying energy to the Nation's consumers. When compared with rates of return in excess of 8% authorized to relative risk-free interstate transmission companies by the Federal Powe: Commission, it becomes obvious that Phillips' rate of return has not kept pace, and contrary to apparent public misconceptions our investment in domestic oil and gas activities at present price levels is far from a bonanza.

Cities Service Co. itemized important limitations that must be removed if new supplies of energy are to be forthcoming within the United States. Cities Service said:

Our ability to carry out our dedication to expand our energy producing activities depends on the following assumptions about the future: (1) That new prospective exploration acreage is available and that sites for building new processing facilities can be located in economically advantageous areas. (2) That the market place will be free of direct government intervention in the form of price controls and allocations effecting supply and demand of alternative energy forms. (3) That a prospective rate of return on the resources so dedicated will be sufficient to justify the risk. (4) That sufficient numbers of qualified geologists, engineers, and other technicians will be available to get the job done. (5) That a healthy and vigorous infrastructure will be available upon which the industry counts heavily for: Supply of materials; the design and construction of facilities; providing trained rig crews; financial market to provide both equity and borrowed funds, etc.

Skelly Oil Co. replied:

If a substantial relaxing of price controls does not occur, it is certain that we will spend substantially less than we are now forecasting in domestic areas, perhaps even less than during the last five year period. In other words, a susbtantial increase in the selling prices is necessary to jutify this increased investment we are planning. We believe that with the proper incentive from higher prices, we will commit to domestic expenditures for oil and gas exploration, production or related facilities virtually all of the additional cash flow that results from removal of price controls.

The Louisiana Land and Exploration Co., in response to my question said:

The answer is emphatically "yes" provided that prospective areas which can be reasonably expected to produce are available in the U.S. in the past we have been able to find such areas and we expect to be able to do so in the future if governmental policies including those of the environmentalist will permit us to do so.

These short excerpts which I have just read are from the responses received from 16 of the largest 20 producing companies in the United States. They represented 6,556,535 barrels per day of crude oil and natural gas liquids production in 1972. They represented 28,751,662 million cubic feet of natural gas production per day in 1972. That amounts to approximately half of the total domestic production in both instances.

I submit that these major companies and a large number of smaller companies are unquestionably willing to invest all or a major portion or any additional cash flow that might accrue because of the deregulation of the price paid for natural gas and crude oil into the domestic petroleum industry—to make our domestic energy industry stronger.

It makes no sense to me to pay American dollars to foreigners for additional foreign oil—if and when this foreign oil is available—instead of paying American dollars to Americans to help the American economy, to give Americans jobs, to improve America's national security, to increase American energy supplies so that the American people will not have to sacrifice because the Federal Govern-

ment for several sessions of Congress and through several sessions of Congress and through several administrations has failed to recognize the importance of the free market's ability to solicit ample energy supplies.

Higher prices of conventional fuels will not only encourage producers to increase their output of these fuels but also to use other techniques as they become commercial—such as degasification and liquefaction of coal and extracting of oil from shale and tar sands—and further to undertake research on geothermal, solar, nuclear fusion, and other sources of energy.

The obstacles and uncertainties created by Government regulation must be minimized and eliminated in all those areas where the free market can operate effectively to increase energy supplies.

Mr. BARTLETT. Mr. President, I ask unanimous consent that the following members of my staff be given the privilege of the floor during the votes and consideration of this bill:

Ron Frank, David Russell, Bud Scoggins, and Jim Trickett.

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

Mr. LONG. Mr. President, will the Senator from Wisconsin yield at that point?

Mr. NELSON. I am happy to yield.

Mr. LONG. Mr. President, first, I ask unanimous consent that during discussion of this measure the following staff members of the Finance Committee may be permitted the privilege of the floor:

Bob Willan, Bob Best, Bill Morris, Mike Stern, and Tom White of the Joint Committee on Internal Revenue Taxation.

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

Mr. NELSON. Mr. President, I ask unanimous consent that Richard Fay and Jeffrey Nedelman, of my staff, be accorded the privilege of the floor during the debate of the conference report on S. 2589.

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

Mr. BAKER. Mr. President, I ask unanimous consent that Mr. Rick Herod and Mr. R. Hellman, of my staff, also be accorded the privilege of the floor during the debate.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, informed the Senate that pursuant to the provisions of section 4(b), Public Law 93–191, the Speaker had appointed Mr. UDALL, Mr. CHARLES H. WILSON of California, Mr. HOWARD, Mr. GROSS, Mr. DERWINSKI, and Mr. QUILLEN, to serve as members of the House Commission on Congressional Mailing Standards.

The message announced that the House had passed a bill (H.R. 12253) 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, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 12253) 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, was read twice by its title and referred to the Committee on Labor and Public Welfare.

NATIONAL ENERGY EMERGENCY ACT OF 1973—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses to the bill (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.

The PRESIDING OFFICER (Mr. HELMS). Under the previous order, the hour of 2 p.m. having arrived, the Senator from Wisconsin (Mr. NELSON) is recognized to offer a motion to recommit the conference report (S. 2589).

Mr. NELSON. Mr. President, I move to recommit the conference report (S. 2589).

The PRESIDING OFFICER. Time for debate shall be limited to 2 hours to be equally divided between——

Time for debate shall be limited to 2 hours, to be equally divided and controlled by the Senator from Wisconsin (Mr. NELSON) and the Senator from Washington (Mr. JACKSON), with the vote to occur at 4 p.m. today.

Who yields time?

Mr. NELSON. Mr. President, I yield myself such time as I may need.

Mr. President, my sole interest in moving to recommit the conference report is to see whether, once again, in conference, it would be possible to modify the environmental provisions which are in the conference report and substitutes for them the very carefully designed provisions of the Senate bill which were drafted by the distinguished Senator from Maine (Mr. MUSKIE) and, which in my judgment are better provisions, than what came out of the conference.

Of course, that conference occurred last year. The distinguished Senator from Maine and the distinguished Senator from Washington came out of it, I am sure, with the best provisions they could get at that particular time. However, a number of things have changed since then. I think there may be an opportunity to modify the environmental provisions and remove the section dealing with an excess profits tax, which is not, in fact a tax at all.

There should be some reasonable opportunity to remove that section now, because as contrasted with last December, the Ways and Means Committee will begin hearings on taxes on the oil industry, next week, on February 4. The Finance Committee, under the chairmanship of the distinguished Senator from Louisiana (Mr. LONG) will shortly conduct hearings on proposals involving taxes on the oil industry.

So we are going to have before us legislation which will give us the opportunity to vote on an excess profits tax. There will be legislation before us which will give us the opportunity to vote on a price rollback. There will be legislation before us which will give us the opportunity to vote on abolishing the depletion allowance. Therefore, I am hopeful that it might be possible to modify the environmental section and to remove the so-called excess profits tax section.

If that is not possible, I want to make it clear on the floor of the Senate, that if they cannot reach agreement to modify the conference report, and they come back to the Senate with the same proposal, then I shall vote for it. But I think there is an opportunity to improve both sections. My judgment may be wrong, but I hope it is not.

I am moving to recommit this conference report for several reasons:

First. It unnecessarily and dangerously compromises the law respecting air emissions from stationary sources.

Second. The so-called excess profits tax is a total and complete misnomer. It is not an excess profits tax. In fact, is is not even a tax of any kind whatsoever. The press and the Members of Congress who refer to it as an excess profits tax are confusing both the public and themselves. This proposal establishes a procedure by which an individual citizen who feels he has been overcharged for an oil product may file a claim with the renegotiation board to seek reimbursement for the alleged overcharge. It is quite clearly unworkable, unenforceable and almost certainly unconstitutional.

Furthermore the Senate is going to have ample opportunity to debate and vote on several oil tax measures in the very near future. The Ways and Means Committee starts hearings next week on February 4. And very shortly the Finance Committee will commence hearings. The Senate will have the opportunity to vote on an excess profits tax, a price rollback and the depletion allowance.

Third. All of the various significant provisions of the bill have either already been separately adopted by the Senate or are momentarily scheduled for hearings and action by the Senate or are contained in other provisions of law already enacted or can be expeditiously passed by both Houses because they are noncontroversial.

Mr. President, there are six major provisions in the conference report on the Energy Emergency Act, S. 2589 that deserve attention.

First, the conference report contains a provision that goes much too far in compromising the Nation's primary and secondary ambient air quality standards over a long period of time. The House-Senate conferees should reconsider and look toward the language drafted by the

Senator from Maine (Mr. MUSKIE) for guidance on this matter.

If the conference report is recommitted EPA will not be constrained, limited, or hampered from granting variances from air pollution regulations. In fact, EPA has already granted variances and will continue in their efforts to balance the needs for increased energy production against its legislative mandate to uphold and protect the quality of the Nation's air. The Clean Air Act contains an "expedited procedures" section designed to meet the needs of such emergencies.

The Senate language was carefully and thoughtfully drafted by Senator MUSKIE, the chairman of the Air and Water Subcommittee of the Senate Public Works Committee, and subsequently cosponsored by all 14 members of the full committee. This measure which the Senate approved on November 15, 1973, by a vote of 83 to 2 permits temporary variances to be granted while the EPA carefully gathers information and prepares a comprehensive report to the Congress on the need for further action. This language will grant variances without substantially compromising the Nation's efforts to improve the quality of its air.

The language proposed by Senator MUSKIE provides for an initial short-term variance from air pollution regulations. It calls upon the EPA to study the situation and report back to the Congress with recommendations 7 months before the initial variances expire. There is a built in recognition that if the energy crisis grows worse and the need persists the variances can be extended. And the Muskie amendment underlines the concept that this is a temporary measure, a short-term suspension and relaxation of regulations only until 1977.

The conference substitute language basically allows a 5-year delay in meeting air pollution regulations. It permits that plants that were either in the process of converting from natural gas or oil to coal or that are ordered to convert under other sections of the bill will be able to apply for a variance which will suspend primary and secondary standards for these installations until January 1, 1979.

Second, the conference report correctly speaks to the need to organize the Nation's energy programs in one independent agency, in this case, the Federal Energy Office. The conferees acknowledge that this organization will be replaced by the Federal Energy Emergency Administration. This section of the conference report is unnecessary. On December 19, 1973, by a vote of 86 to 2 the Senate passed and sent to the House a comprehensive and farsighted bill, authored by Senator JACKSON to provide for the efficient management of the Nation's energy policies and programs. This bill formally establishes the Federal Energy Emergency Administration.

Third, the conference report that we have before us contains language which would authorize the President to ration petroleum products that are in short supply. Whereas, the Senate may at some future time wish to enact a straightforward single piece of legislation we are not in an emergency situation now.

Mr. Simon informs us that rationing may not become necessary until this fall. Certainly that leaves us plenty of time to consider this issue and report out a thoughtful piece of legislation.

The President is not now without adequate tools to handle a rationing situation. The Defense Production Act passed during the Korean crisis allows the President to take whatever steps are necessary to allocate, products in the civilian marketplace in the case of a national or defense emergency.

Recognizing in advance that this Nation will be in an energy crunch for the foreseeable future and that the President may need additional authority to deal with specialized energy problems the Congress enacted an amendment to the Economic Stabilization Act which was offered by the distinguished junior Senator from Missouri (Mr. EAGLETON). This amendment authorizes the President to issue such executive orders and directives as he deems necessary to assure equitable distribution of scarce petroleum products to assure that all areas of the country have sufficient fuel to meet vital needs and to prevent anticompetitive effects within the petroleum industry.

So far this authority has only been exercised for allocations of refined products at the wholesale level which is tantamount to rationing.

Fourth, the conference report contains a section establishing a national conservation policy. We must all reduce the amount of fuel and energy we use. While this provision of the conference report speaks to a great need, again, the able Senator from Washington has provided us with a better and more comprehensive piece of legislation in the form of S. 2176, the National Fuels and Energy Conservation Act which passed the Senate by a vote of 75 to 15.

The realities of the energy crisis have already forced many States to devise energy conservation programs. Hawaii has gone to mandatory rationing, Oregon has a volunteer program now and many States, like Wisconsin have already established statewide energy efforts to reduce energy consumption.

Finally the conference report contains a section dealing with employment impact and worker assistance.

The language of the conference report severely limits those workers that would be eligible to receive the proposed benefits. The provisions of the act would apply to persons unemployed directly "as a result of the provisions of this law," and it does not apply to workers laid off before the legislation is signed by the President.

This section will not help many people in the automobile, steel, rubber, and other industrial businesses that have recently been laid off. We need a much broader bill.

What we really need is a general change in the unemployment compensation and insurance provisions of the Federal statutes.

If this report is not reported back I will introduce legislation that will provide an adequate program of unemployment assistance to State governments that is adequate to cover essential needs.

Mr. President, I ask unanimous consent to insert in the RECORD at this time, an editorial by the New York Times questioning the need to suspend Clear Act Standard until January 1, 1979.

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

OR DIRTY AIR BILL?

The pending energy bill permits the postponement of strict auto emission standards for yet another year. Because of the controversy among Detroit's "big three" automobile manufacturers about catalytic converters to control those emissions, much publicity has naturally focused on this part of the bill.

Overlooked and potentially more significant is the bill's provision that would permit the Federal Energy Office to compel electric power companies and other industries to switch from oil or gas back to the use of coal—and would compel the Environmental Protection Agency to exempt such firms from clean air standards for the next five years.

The worst victims of this indiscriminate rush to coal conversion would be the people in the New York-New Jersey area and their neighbors in the eastern air corridor running from Boston to Baltimore. The Federal Power Commission has already listed 46 power plants in this corridor that have the capability of converting from oil to coal within sixty days.

If these power plants and other industrial firms, irrespective of locations, all switch to the use of coal, the danger to concentrated populations will be severe. The American Public Health Association has estimated that such conversion will lead to "an increase of 20 per cent to 40 per cent in both morbidity and mortality due to respiratory and cardiovascular diseases."

The truth is that no one is yet certain that this flight from the standards of the Clean Air Act is necessary. Senator Henry Jackson of Washington, the principal author of the pending energy bill, began public hearings this week on the scope and character of the oil shortage. In opening the hearings, he stated: "The facts are—we do not have the facts." Senator Jackson pointed out that his committee has discovered discrepancies between Federal and oil company statistics—"so significant as to raise fundamental questions whether existing data systems provide any rational basis for policy making."

Against the background of this factual confusion, Senator Jackson and his colleagues would do better to lay aside the emergency energy bill, at least in its present form, and concentrate first on finding out the facts about the emergency. Disease-laden air, smoggy with coal dust, is a high price to pay for political haste and competitive headline-grabbing between White House and Congress.

Mr. NELSON. Mr. President, section 110 addresses itself to one of the most important problems of the present energy shortage. The energy shortage which has meant to most Americans increasing prices and lowering thermostats, has meant to the oil companies a bonanza of profits. While private initiatives and industry should be rewarded, these profits do not reflect increased productivity or production, but rather reflects the oil companies' positions as beneficiaries of monopolistic pricing decisions of a few Arabian shieks.

The distinguished chairman of the House Interstate and Foreign Commerce Committee, Congressman STAGGERS, is to be commended for being one of the first

to see that the energy shortage does mean unconscionable profits for oil companies. The Nation is in his debt for bringing this issue so promptly to the attention of Congress and for moving so vigorously in proposing legislation insuring oil companies do pay their fair share of taxes.

Recent headlines dramatically demonstrate the validity of Congressman STAGGERS' concern. For the year just ended, the 21 top oil companies accumulated profits estimated at almost $10 billion, which was not only an industry record but was twice what the Nation's automobile makers generated—1973 was Detroit's best sales year ever—and 10 times what the country steelmakers could manage. For the entire oil industry profits rose by almost 60 percent.

While 1973 profits were spectacular, 1974 profits will be unbelievable. According to estimates by Walter Heller, former Chairman of the Council of Economic Advisers under President Kennedy, and George L. Perry, the recent 50-percent increase in oil prices will result in approximately $24 billion in additional profits.

These figures demonstrate the need for substantial additional taxation of the oil industry. I join Congressman STAGGERS in his valiant efforts to tax windfall profits of oil companies, but I cannot, in good conscience, support section 110 of S. 2589 as reported by the Senate and House conferees. Last week the Senate Finance Committee conducted 2 days of panel discussions on this section. 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 an expert panel and they were unanimous in their condemnation of this proposal.

After careful consideration and study of their testimony and section 110, I am compelled to the conclusion that it is unconstitutional, unworkable, and counterproductive. It should be clearly understood that section 110 is not a tax and has none of the characteristics of a tax. Rather, it establishes a system of restitution. 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.

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 this concept to transactions wholly between private parties and where no party to that transaction, unlike the circumstances of the Renegotiation Act, has contractually agreed to a system of recapture of excessive profits. Section 110 is of doubtful constitutionality because its application is uncertain. The recapture of windfall profits is completely haphazard, dependent totally upon a petition of an interested party, involving any sale of any petroleum.

Furthermore, 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.

At a time when everything should be done to stimulate production, section 110 would result in a cutback of production. Section 110 establishes a base year for purposes of imposing a refund and since oil producers are receiving more today for their present level of production, they would have to cut back their production just to remain within the permissible level.

It is argued that section 110 should be enacted because it does not go into effect until January 1, 1975, before which Congress will enact a better law which would, among others, repeal this section. Section 110 while taking effect on January 1, 1975, applies to all sales in petroleum products during this year. While this law exists, petroleum sellers must assume it has some meaning. The witnesses for the Senate Finance Committee were unanimous in their testimony that they would have to advise their clients not to undertake any new production if this law was in effect. The following testimony by Mr. Walters is typical:

> I would advise any client I had definitely against making any investment which would subject him to this windfall profits except in the case of the greatest urgency where it was a necessity to retain a lease or some rights. I do not see how any attorney could advise any client to do anything that would subject him to this tax. I think it would be a very definite deterrent to development of greater energy resources.

It is my belief there is a need for substantial additional taxation of oil companies. The first step is to end immediately existing tax preferences granted the oil industry. Trying to tax away excess profits while continuing to present tax breaks is like trying to scoop water out of sieve. On January 24, I introduced a bill which would totally repeal the percentage depletion allowance. This tax preference, costing the American taxpayer over $1.5 billion a year, has failed to provide America secure sources of energy or to encourage domestic production. A 1969 Treasury Department study showed that although $1.4 billion in Federal revenue was being lost annually through the depletion allowance, it had little influence on exploration and resulted in additional oil reserves valued at only $150 million. If the depletion allowance is not changed, this tax gift to the oil companies could soar to $3 billion this year.

In addition, Congress should reevaluate the special provisions which permit the current writeoff of intangible drilling and developing costs for producing oil and gas wells. Cost of labor, materials, and other goods incidental to drilling are considered "intangible costs of drilling" and can be expensed. This is a benefit because it permits the immediate tax-free recovery of capital investments. By most criteria, exploration and development costs for productive wells would be considered an investment in capital and, therefore, subject to a depreciation allowance over the useful life of the capital asset.

Third, there is a need for a critical examination of the oil companies' use of the foreign tax credit. The foreign tax credit is conceptually a good device to prevent double taxation, but in the oil industry this tax provision has a peculiar effect. Royalties are artificially termed taxes and then are used as a shelter to protect other earnings and operations of international oil companies from paying even a modicum of Federal income taxes.

A small portion of these huge payments to the producing nations could be considered as a tax on profits and the oil industry should be treated the same as other industries that can offset taxes paid to foreign governments against U.S. taxes. But, the bulk of the sums are obviously royalty payments, no different than the cash bonuses and royalty paid to the U.S. Government for offshore leases. They should be treated as a cost of doing business, not as a tax.

One of the few benefits of rising oil prices is that it provides Congress with a unique opportunity to restructure our tax code, and to achieve a more rational taxation of the oil industry. The first step of this more rational tax policy is to remove the special tax provisions and let the oil companies pay their fair share of taxes.

Mr. LONG. Mr. President, as the Senator has stated, we will be conducting hearings on the excess profits tax proposal which has been made by the administration and which the House has indicated it proposes to send us. We can expect to be conducting hearings in the next 2 weeks.

The Senate has already voted on one tax reform type of suggestion that would affect the oil companies, but as the Senator knows, we will be recommending a great number of revenue bills all during this year; and in connection with any of those bills, anyone who wants to can offer either the administration's excess profits tax proposals, or any other.

I am sure that the Senator is aware of the fact we have had lawyer after lawyer state that the proposed renegotiation thing in this bill is unconstitutional. I have yet to hear a single lawyer state that in his judgment the proposal is constitutional.

As a matter of fact, in view of the fact that everyone selling any oil, any gas, or any petroleum product under this bill, including 220,000 service stations, could be the subject of litigation by every person who makes a single purchase from them, this could result in hundreds of millions of lawsuits before the so-called Renegotiation Board.

The unconstitutional potential of this measure is such that it has been testified to that it threatens the entire bill, having everything in it stricken, not just

the tax thing, but the whole thing, because it has become such a major part of the whole proposal, to say that anyone who sells any petroleum product at all could be subject to an unconstitutional renegotiation process.

Mr. NELSON. The Senator is correct. As the Chairman knows, there were 11 witnesses before the committee and they included former Commissioners of the Internal Revenue Service who served under four different administrations and all of them said that in their opinion the proposal was unworkable. Several said that it was unconstitutional and that the President would not sign it. I think it is most doubtful that he would. I do not see how he could sign it. Several of them stated that if he did sign it, its unconstitutionality would have to be tested.

The Senator is correct. I carefully followed the hearings and read the testimony, and it is clear that any individual any place in the United States who is aggrieved by a price charged to him by a filling station, any one of thousands all over this country, may then file a complaint with the Renegotiation Board. Then there will be before the Renegotiation Board an application for a refund for part of the price of 10 gallons or a hundred gallons of gasoline that were purchased by this individual. The Renegotiation Board has to decide whether it was an excess charge by an individual filling station at the retail level. Of course, the same is true of an individual complaint against a wholesaler or a producer of oil.

It should be understood that this is not a tax. It is a method for allowing individuals to raise tens of thousands of complaints before the Renegotiation Board about the prices that are being charged to them.

Mr. LONG. The Senator is not talking about tens of thousands of complaints. The old renegotiation law, which involved the Government proceeding against a Government contractor, has expired; and 20 years after the conflict for which it was passed has come and gone, they still have 50,000 unfinished cases over there, where only the Internal Revenue Service could file the complaint.

Think of where we are going to be when any one of 200 million citizens can file a complaint against 220,000 gasoline stations and anybody else who is in the oil and gas business in any respect whatever.

For example, anybody who is selling pipe or equipment, even selling mud to put in the ground in the process of drilling a well, is a subject of the Renegotiation Board if they made any more than they made in the base period or anything more than the renegotiation board might feel is a fair profit, whichever is the lesser.

The testimony before the committee is that that would amount to taking a man's property without due process of law, because it fails to specify what the man is entitled to keep and what he must give back under the law.

The only way a renegotiation law can be upheld is where there is a contract between the Government and a contractor in which the contractor agrees that he will give back anything more than the Renegotiation Board would think would be a fair profit. There is no contract here. There is something that proposes to proceed on the taxing principle, without any contract and without it stipulating what the man is entitled to keep and what he is not entitled to keep. It mentions five or six different things they are supposed to take into consideration in determining what they think is a fair profit.

In the case of a company that had more that $500 worth of business, if a hundred people looked at those standards in an attempt to determine how much the company is entitled to keep—or a producer or filling station is entitled to keep—and how much they must give back, every one would arrive at a different figure, because there is no firm guideline as to what they could and could not keep.

Even when talking about what one would hope would be the simplest part of the proposal, just to say that he cannot keep more than the average of what he made during the period 1967 through 1971, it fails to say whether it is talking about how much he made in taxable profits or how much he made in terms of the accountant's profits—even the accounting principles vary, and there is some dispute about that—or how much he made from a banker's point of view, or how much he made from lender's point of view, or how much he made from an investor's point of view, or how much he made from the point of view of the tax code. It fails to specify.

The Senator knows, as does everyone else, that there are things in the tax laws that are subject to debate, as to whether or not they are proper deductions. Take the oil depletion allowance, which has been attacked by the Senator from Wisconsin and many others. Is that going to be regarded as an expense? Is it going to be regarded from the bankers' point of view? Will they be permitted to take only cost depletion?

In other words, looking at the language of the bill, I would challenge any two Senators who have something to do with bringing this foolishness here to take the same set of facts and arrive at the same conclusion as to how much a person should be permitted to keep out of what he earns and how much he has to give back.

Mr. NELSON. I say to the Senator that I have the guidelines here. No Philadelphia lawyer would be able to interpret them. This is what it says:

(6) For the purposes of subparagraph (B) of paragraph (3), the term "windfall profits" means that profit (during an appropriate accounting period as determined by the Board) derived from the sale of any petroleum product determined by the Board to be in excess of the lesser of—

(A) a reasonable profit with respect to the particular seller as determined by the Board upon consideration of—

(i) the reasonableness of its costs and profits with particular regard to volume of production;

(ii) the net worth, with particular regard to the amount and source of capital employed;

(iii) the extent of risk assumed;

(iv) the efficiency and productivity, particularly with regard to cost reduction techniques and economies of operation; and

(v) other factors the consideration of which the public interest and fair and equitable dealing may require which may be established and published by the Board; or

Mr. LONG. I ask the Senator to stop there.

Does the Senator think that any two Members of the United States Senate—if this is not being applied to anything but a small corner filling station in a small neighborhood—could take those standards and arrive at the same figure?

Mr. NELSON. No two people could arrive at that. What makes it worse is that those who are subject to the law, including the 220,000 retail outlets, will not be able, for themselves, to determine what they may charge, using these guidelines.

As the Senator knows, we are not in agreement on the depletion allowance, because I would eliminate it. I have introduced a bill providing for its elimination. I am sure that I would go further than the Senator from Louisiana on the question of excess profits. I would probably go further than the Senator from Louisiana in roll back of prices. I am for doing one, two, or all three of those, and I will be supporting them on the floor of the Senate. But I do not think we ought to be going through the exercise of adopting a piece of legislation which is called an excess profits tax and is no such thing at all, although most Members of the Senate think it is and most Members of the House think it is, and the press thinks it is, because that is what they are calling it in the newspapers. It is not an excess profits tax. It is just a technique for letting millions of people take a complaint to the Renegotiation Board about a purchase they think was excessive, and then these people will be run through these guidelines, which I, as a lawyer, certainly could not interpret and I doubt whether any other lawyer could. I think it falls on these guidelines alone.

We had 11 people appear before the committee. A former general counsel to the Military Renegotiation Policy and Review Board said it was unworkable. Another, from the Renegotiation Board, said it was unworkable. Nine tax lawyers, four of them former Commissioners of Internal Revenue—Republicans, Democrats, conservatives, and liberals—all said it would not work; and several said it was unconstitutional.

So I do not think we ought to kid the public by passing a piece of legislation that will not work and is unconstitutional and would require the President's veto. If he did not veto it, he would create great confusion all over this country.

Furthermore, it could wind up in the Supreme Court when, in fact, we have an orderly procedure in these institutions, in the Ways and Means Committee and in the Committee on Finance and in action on the floor, to bring up the issue we are interested in, to debate it, and take action.

Unfortunately, people around the country think this was an excise profit tax. I have received letters which state, "I hope you will support the excise profits

tax." I would, but there is none in this bill. Some 999 people out of 1,000 do not know it unless they were on the conference committee or in the hearings held before the Ways and Means Committee or the Committee on Finance on this subject.

Mr. President, I ask unanimous consent to have printed in the RECORD the names of the various former Commissioners of the IRS and experts who appeared against this proposal saying that it was either unworkable or unconstitutional or both.

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

Sheldon S. Cohen: Former Chief Counsel to the IRS 1964–1965, Former Commissioner of the IRS 1965–1969, 1730 M Street, N.W., Washington, D.C. 20006.

K. Martin Worthy: Former Chief Counsel to the IRS 1969–1972, 1776 F Street, N.W., Washington, D.C. 20006.

Charles Davis: Former Chief Counsel to the IRS 1952–1953, 1750 K Street, N.W., Washington, D.C. 20006.

William S. Whitehead, Chairman, The Renegotiation Board, July 1973, Washington, D.C.

Mortimer Caplan: Former Commissioner of the IRS, 1961–1964, 1101–17th Street, N.W., Washington, D.C. 20036.

John S. Nolan: Former Assistant Secretary of the Treasury, 1969–1971, 1700 Pennsylvania Ave., N.W., Washington, D.C. 20006.

Johnnie Walters: Former Commissioner of the IRS, 1971–1973, 1730 Pennsylvania Ave., N.W., Washington, D.C. 20006.

Edwin Cohen: Undersecretary of the Treasury (former) 1972–1973, Washington, D.C. 20220.

Jerome Kurtz: Former Tax Legislative Counsel, Treasury Department 1966–1968, 12th floor Packard Building, Philadelphia, Pa. 19102.

Barron K. Grier: Former General Counsel to the Military Renegotiation Policy and Review Board, 1948–1951, 1700 Pennsylvania Ave., N.W., Washington, D.C. 20006.

Mr. LONG. Mr. President, will the Senator yield further?

Mr. NELSON. I yield.

Mr. LONG. There is a group known as Tax Analysts and Associates. I have never found myself in agreement with those people, but they have great respectability with the Washington Post and persons with whom I disagree on tax matters. That group proposes that the oil companies should be denied their percentage depletion, their intangible drilling costs, and foreign tax costs. They say they should be taxed like any other manufacturing company. One would think that certainly that group and certainly the Washington Post, having advocated to take away from the oil companies, would advocate this, but they are against it. One finds that people against everything that will benefit the companies, anything tailored to their advantage, are in favor of taking it away from them. But people say it would do more harm than good, that it would result in wasteful practices, and result in less oil.

Mr. NELSON. And it would not raise a single penny in tax revenue.

Mr. LONG. It would not raise a nickel.

Mr. NELSON. It would not result in a refund to the consumers.

Mr. LONG. It would give only the impression that Congress has done something when in the last analysis the whole thing would be declared unconstitutional by the Supreme Court, and the Supreme Court would throw it into the trash basket. So we would have enacted a nullity, and it would have resulted in diminishing the ability of this Nation to provide energy in a time of crisis because business people from the filling station man up and down do not know where they stand, and they could not invest money with any degree of certainty to make any given amount of money as a return on their investment.

All we would have done would be a complete nullity eventually and stricken down by the Supreme Court. Why do that when we have an effective law to enact the things in this measure and pass an effective tax on windfall profits, rather than an unconstitutional law?

Mr. NELSON. I agree. We are going to have opportunities on the floor, either with bills from the Ways and Means Committee or the Committee on Finance or the debt limit, and we will all have an opportunity to offer amendments, to debate, and vote on all the propositions we are interested in, after there have been hearings.

I wish to interject at this point that I give Representative STAGGERS credit for having raised the issue and waved the flag. He was the first person around the Hill to do it. I could not have drafted the bill. I could not draft an excise profits tax bill. I could draft one on the depletion allowance; we just repeal it. That is simple enough. But Representative STAGGERS raised the issue and I give him credit for it. But it is an impractical proposal that cannot be administered and I do not think we should pass it.

If they go back to conference and cannot modify it in any way—and I am not critical of the chairman of the committee or the distinguished Senator from Maine, two of the leading environmentalists in this country; I am not critical in any way about the failure to get what I would like to see them get because I have been in conference and had to come back with modifications I did not like. But I think now, as to the tax provisions, since there are hearings now scheduled and we are going to have a chance to act on it, it is unnecessary to have this provision.

The argument for it is that it puts a burr under the saddle, so to speak, and it makes the administration come forward to support something, because they could not support this one. I think that is a risky approach, but if it is passed and the President signs it, we surely are going to pass a piece of legislation to replace it after all kinds of confusion in the country because that proposal will not work, and no one that I know, no tax expert, will tell you that this proposal will work. So why pass it and then pass a substitute for what we did already, if, in fact, the President signed it and the Supreme Court declared it constitutional, both of which I think are doubtful.

Mr. LONG. Mr. President, will the Senator yield further?

Mr. NELSON. I yield.

Mr. LONG. There is one thing the Senator should think about when and if he gets ready to pass a constitutional, realistic windfall profits tax proposal. If this measure is on the books, he will be accused of doing something to help the oil companies because the charge will be that the 100 percent windfall profits tax—which is not a tax at all; it is a mirage—but this 100 percent windfall proposal would apply to the companies except for the excise profits tax which we would be passing, and they will contend that it would be better for the oil companies than what is then on the books. There is a question. I know what is on the books would be a nullity.

Mr. NELSON. I shall vote on the floor of the Senate for taxes on the oil companies that will be effective and constitutional.

I would like to ask the Senator from Louisiana if it is the Senator's intent to send to the floor some tax bill, if he has a majority of support, upon which we will be able to debate and offer our amendments at some early date.

Mr. LONG. Yes.

Mr. NELSON. May I ask one other question? There is a provision here which authorizes $500 million that the President may spend at his discretion for the purpose of extending additional unemployment compensation to employees who have lost their jobs as a consequence of any action taken under this Energy Act; that is to say, if some wholesaler is denied oil and has to lay off two truckers, they would qualify under this. I hope this goes to conference and that the provision stays in. If it should happen the bill is not reported from conference, would the Senator from Louisiana support a proposal, at least as good as the one here, to a tax bill which he will report out of committee?

Mr. LONG. I certainly will. I hope we will do something more effective than that. I hope we will be able to find something more effective with respect to people who lost their jobs due to the energy crisis.

Mr. NELSON. I would like the record to show that I discussed the issue—I could not get hold of Mr. George Shultz, because he was out of town, but I talked to Mr. Paul O'Neill, his deputy at OMB, and he assured me that in a matter of days the administration will be recommending an unemployment compensation measure, that will be broader than the one that is included in this bill, which limits the benefits only to those who lose their jobs as a direct consequence of some oil allocation that has been made as a decision under the authority of the current conference report. In other words, it will apply across the board, because, you know, Mr. President, it is just as hard to be unemployed if one is among the 20,000 Chevrolet workers in Janesville, Wis., who have lost their jobs, not because of the energy shortage, but because General Motors is retooling to make smaller automobiles. So it is just as serious a situation whether one loses his job for that reason or any other. But he assured me that they will be offering a proposal that will have a trigger provision that will apply unemployment com-

pensation benefits to every concentrated area of unemployment.

Their estimate, as of now, looking to the future, which he knows may or may not be correct, is that they are talking about unemployment compensation in the neighborhood of $600 to $800 million. So it is a broader bill, covering people who have lost their jobs for whatever reason, and they are estimating that it will have from $100 to $300 million more in it than the one that is authorized here.

So in any event, if the conferees did not come back, or if they broke up because of nonagreement, we would still have an unemployment compensation bill that will be before the House Ways and Means Committee and the Senate Finance Committee.

Mr. LONG. Mr. President, I expect to support that kind of measure. My only question is if we can do better than that. I think we can. If necessary, I would favor it.

The Senator knows that the Senator from Louisiana has helped the Senator from New York to get insurance bills through. He has helped the Senator from Connecticut get unemployment compensation bills through. I will be glad to join the Senator from Wisconsin in helping the Senator from Washington (Mr. MAGNUSON), as he was helped in getting an unemployment insurance bill through when they had a high amount of unemployment in those States. So we are together on that. The only thing we are talking about is whether we ought to encumber what is a good bill with provisions that should not be in the bill, unconstitutional provisions, measures that would impede the effectiveness of what we ought to be trying to do.

Mr. NELSON. I agree with the Senator. I emphasize, for the third time, if the House were unwilling to make any accommodation, based upon the history that has passed since the last conference, then I think we are going to have to drop the conference report and then move very quickly to pass a very effective, sensible, administratively effective tax law, to take the place of the one in this bill.

Mr. LONG. I thank the Senator.

Mr. MAGNUSON. Might there be under this energy bill a shift of electric power from one area to another?

Mr. JACKSON. Yes, there could be.

Mr. MAGNUSON. Since this shift would be on the basis of one area conserving power, is it contemplated that the area to which it is shifted would also conserve power in at least a like amount?

Mr. JACKSON. Yes, we would anticipate each area would conserve a like proportion of its power.

Mr. MAGNUSON. In the Pacific Northwest, we serve a lot of interruptible industrial load. Would this interruptible load be regarded differently from firm load, or would it be regarded as the same in considering any shifts in power?

Mr. JACKSON. Those loads would be regarded the same as in the Pacific Northwest. For example, for planning purposes and the proposed new rate schedules of Bonneville, there is no distinction between interruptible and firm loads.

Mr. MAGNUSON. At the present time, Public Law 88–552 does not permit hydropower from the Federal system to be shipped out of the Pacific Northwest if it can be used by a market in the Pacific Northwest. Would this law (Public Law 88–552) take precedence over any shifts under this energy act before us today?

Mr. JACKSON. Public Law 88–552 would take precedence. Therefore, if there is Federal hydro energy available, it can be applied to firm or interruptible loads or to any loads in the Pacific Northwest. There could not be any order for it to be shifted to another area under the provisions of this bill. However, with conservation there possibly could be a surplus of energy in the Northwest that otherwise would not be available and that surplus might be shifted to another area.

Mr. BIBLE. Mr. President, section 118 of the bill would establish special procedural requirements, including minimum time of public notice before promulgation of final rules or orders, and a right to present oral views and arguments concerning proposed rules or orders.

I am concerned about the extent to which these special procedural rules would apply to rules and orders issued under the Emergency Petroleum Allocation Act. Would their new procedural requirements apply, either retroactively or prospectively, to rules and orders promulgated under the allocation act?

Mr. JACKSON. I will be pleased to respond to the gentleman's question. Section 118(a) is clear in specifying that these special procedures apply only to rules and orders issued under this title that is, title I of this bill. And there are in the same section several exceptions, including the new subsection 4(h) of the Emergency Petroleum Allocation Act added to this bill. Thus, the special procedures do not apply to the Emergency Petroleum Allocation Act.

PROBLEM DEEPER THAN PROFITS ALONE

Mr. McINTYRE. Mr. President, I will not vote to recommit the Emergency Energy Act despite some serious reservations about its approach to the problem.

I believe it is critical for the Congress to go on legislative record right now in clear opposition to the unconscionable profiteering made possible by the energy crisis.

America's oil barons must be put on notice that the American people will not tolerate being taken advantage of in this way.

That said, let me add that I have some doubts about the way in which this particular bill goes about solving the problem. I am by no means convinced that it is possible to construct tax laws tight enough to put an end to windfall profits. I believe this is true because the legislation moves to treat a symptom and not a cause.

The problem, or cause, is not windfall profits themselves. It is the system which produces these profits. It is a system characterized by special privileges, tax loopholes, and monopolistic practices which make it possible for oil companies to earn excess profits in time of crisis.

In short, it is a mollycoddled, spoiled industry which needs a healthy dose of old-fashioned free enterprise.

The challenge for Congress, Mr. President, is to administer the dosage with caution, making sure the cure is strong enough medicine for the oil giants, but not so strong as to kill off the little independents who pose the only element of competition left in the industry.

Mr. President, we face tough questions. Is percentage depletion as it is currently used a satisfactory incentive to oil production? For small companies and large ones as well? Is expensing of intangible drilling costs a viable means of encouraging investment in oil well drilling? Is the foreign tax credit a useful tool for American-based oil companies or is it little more than a billion dollar giveaway?

Let us create a quiet, reasonable atmosphere in the next few months and get down to the business of answering these questions. The American people want results, not rhetoric.

I applaud the thrust of this bill—to put a stop to profiteering which is today accompanying the energy crisis. But I believe the problem is more serious than can be solved by a tax on excessive profits. It has to do with the structure of the energy industry and this is the year to attack that problem with all our might.

Mr. HANSEN. Mr. President, I strained my voice in speaking of the windfall profits section of this bill at the end of the last session and I will, therefore, make my remarks brief.

I have distributed a letter to each of you which summarizes my reasons for believing that the act should be sent back to conference for deletion of the windfall profits provision.

Some of you may have noticed at the top of the front page of last Sunday's Washington Post an article that was headlined "Sampling Shows 'Massive Ambiguities' Clouding America." In an interview, a Mississippi doctor told a Washington Post reporter that he thought America had been drifting toward socialism for some time. He said:

> The more the government regulates, the more inefficient the economy becomes; and the less productive the economy, the more regulation you need.

I am not defending industry profits although I do think they have not been excessive or at the levels necessary to develop the domestic energy resources we must have. What I am saying is that the concept of confiscation of such profits is the wrong way to go. We may need a reinvestment requirement to insure the quickest possible development of our abundant energy resources and a return to energy self-sufficiency. But a continuation of the policies that have brought the Nation into this dilemma through application of further stifling price ceilings and controls will do nothing but continue and worsen the shortage.

As the distinguished senior Senator from Louisiana (Mr. LONG) and the able ranking minority member of the Senate

Interior Committee (Mr. FANNIN) have said, I would hope that Senators here today after contemplating the hastily drafted legislation before them would vote to recommit the bill so that we might hear further from experts in the tax area who have already analyzed the windfall profits section as unconstitutional and unworkable.

As Henry S. Houthakker, professor of economics at Harvard University and a former member of the Council of Economic Advisers, recently said:

The consuming nations should not assume they are at the mercy of OPEC, even though for the moment they can do little except curtail consumption. All the talk about energy being "essential" should not blind us to the fact that it is subject to the laws of supply and demand. These laws may take some time to operate with full effect. But they have not been abrogated. When the governments of the importing countries assemble at President Nixon's invitation they should not be misled by industry projections of an inexorable rise in demand and a lack of productive capacity in North America. Consumption is already responding to higher prices, and supply will catch up too.

But supplies will not increase but rather stagnate under a windfall profits section that eliminates profits and incentives.

I know of no better example than Federal regulation of the wellhead price of natural gas since 1954 that has contributed so largely to our present energy dilemma.

Let us not compound that error.

And in the words of Vermont Royster of the Wall Street Journal, there is another reason for the public suspicion that it is some kind of a dire plot, one that has nothing to do with the facts and one that cannot be allayed by facts:

If we have a beef shortage a lot of people simply aren't going to believe that it's because of a failure of the feed crop, or because consumer affluence has increased the demand beyond the supply, or because inflation has made it impossible for farmers to grow beef at the ceiling price, or whatever the real reason may be. It's got to be a plot. "They" are conspiring to gouge "us."

The "they" varies with circumstance. Sometimes the impulse is to hang the butchers, they being closest at hand. Or maybe the middle-men, the meat-packers and wholesalers. But somehow when mysterious things happen there must be a "they" out there somewhere plotting against "us." In olden days the cure was to burn a witch.

Perhaps we do have here proof of the prevalence of witches. That is maybe all those oil company people have been clever enough to corner the whole world's oil supply and are gloating over all those exorbitant profits they are going to glean from wrecking the economies of the United States, Great Britain, Japan and practically the whole Western world, blithely unconcerned about the risk of being put to the torch.

If that isn't ridiculous, it's at least a puzzlement. For if it's true that all those exorbitant profits glitter while oil stocks languish there must be an awful lot of dumb people on Wall Street.

So concludes Mr. Royster.

I hope we in the Senate will do better than burn at the stake the only ones able and willing to solve our energy problems.

Mr. BAKER. Mr. President, I want to take this opportunity to reaffirm my support for the conference agreement on S. 2589 and to state my opposition to the motion which has been made to recommit this bill for further discussion by the House-Senate conference.

Many issues have been raised in criticism of the legislative product of that conference and I am sure that that product is far from perfect. The conferees on this bill worked long, hard hours during the last few days before the adjournment of the first session of this Congress in order to produce an emergency act in response to the energy shortage which faces this Nation. Although the dimensions and details of that energy shortage have at least appeared to change over the past several weeks, I do not think there can be any serious doubt as to the need for emergency action during the next several months to deal with shortages of gasoline and other petroleum products. On last Friday the Federal Energy Office issued a news release quoting Energy Administrator Simon as saying:

The energy crisis is here and it is not contrived. It is a global crisis that literally threatens the integrity of the world economy, to say nothing of our own national security.

Frankly, I find it disturbing that we are at this time urged by the administration under the threat of a veto to recommit and reconsider action on this proposal. I recall the urgent pleas of Energy Administrator William Simon in an 11th-hour appeal to the conferees to pass some form of energy emergency bill. The administration presented at that time several points of criticism which the conferees took up and considered. Several of these items were compromised and others represented matters on which the Congress and the administration have basic disagreement. I do not feel that under these circumstances a recommittal of this bill to the conference would produce progress in these areas and, indeed, further consideration of the measure could threaten provisions of the report upon which agreement was reached.

I would discuss briefly some of the criticisms which have been leveled at the conference report. It has been stated by critics of the report that the administrative provisions contained therein are inconsistent with the administration's recently created Federal Energy Office. Section 103 of the conference agreement establishes a Federal Energy Emergency Administration, which would endure only until May 15, 1975. Section 103(a) states that the agency so created shall continue "unless superseded prior to that date by law." It is clear, therefore, that the Congress could, and I am sure would, take steps to insure that further legislation to create an administrative framework in response to the energy crisis would not duplicate or overlap the authority of this bill. Furthermore it is my opinion that the authorities and responsibilities of the Administrator established under this section are not inconsistent with the parameters of the Federal Energy Office and in my opinion this administrative framework could be folded into the existing structure.

Section 110 of the conference agreement which provides for a prohibition against windfall profits and price gouging has come under intense criticism by both the administration and by the oil industry. It is clear that there is a consensus in the Congress that some action must be taken to prevent windfall profits. I think it is also safe to say that the Congress is nearly as unanimous in its feeling that section 110 of the conference report is a badly flawed mechanism for accomplishing that purpose. In response to criticism lodged against this section by the administration prior to its reporting, an effort was made in the conference to delete this provision. When this effort failed a motion was made and accepted to postpone the application of this section until January 1, 1975. This postponement was provided in order to afford the appropriate committees of the House and Senate the time and the opportunity to consider this proposal and to develop legislation thereon. Since it is clear that such revision is necessary and would receive rapid endorsement of both bodies, section 110 of the conference report will serve the purpose of committing the Congress to such action without delay. For that reason, and with the understanding that I shall support revision of the section to make it more effective and less onerous, I oppose those who would recommit this bill on this issue.

I am deeply disturbed by the assertion of critics of the clean air provisions of the conference report that these provisions go too far and threaten the integrity of the Clean Air Act. There are no Members of this body more dedicated to the preservation and protection of our environmental protection programs than Senator RANDOLPH, Senator MUSKIE, and myself. During the tense days of conference we deliberated as a subconference on these issues with Congressmen PAUL RODGERS and JOHN HASTINGS and reached a compromise which reflects, I feel, a deep regard for the Clean Air Act, a real concern for the impact of air quality strategies, and a pragmatic understanding of political realities. It is my opinion that those who seek to recommit this report for the reconsideration of title II do not understand what that title does or the situation which created the need for such a measure.

The clean air provisions of the conference report as they apply to stationary source controls are drafted very narrowly to apply only to such facilities that have the ready capacity and necessary plant equipment to convert to coal and are required to do so, because of the unavailability of low-sulfur fuels. If the source chooses by November 1, 1974, to make a long-term commitment to coal, they may obtain a revision of their State implementation plan so that they might be permitted to continue burning coal. This could potentially result in a violation of primary standards and in that connection the Administrator of EPA is given broad powers to protect the health and safety by preventing conversions or by requiring interim control strategies.

In return for the plan revision granted by the section, these converted sources

must undertake to meet emission standards through the use of continuous emission reduction equipment or through contracts for low-sulfur fuels by 1979, 18 months after the deadline presently contained in the law.

Two things motivated the conferees in providing this long-term provision. First, the realization that we cannot call upon the coal industry to make the capital investment necessary to enable them to meet our emergency needs without making a commitment commensurate with theirs. Second, that low-sulfur fuels strategies employed by the States to meet air quality standards may in the future, as they have now, prove undependable; and thus, revision of State plans toward a strategy of continuous emission control or toward the use of low-sulfur domestic fuels will improve the dependability and safety of air quality programs.

The deadline extension in the provision was inserted in recognition that present sulfur emission control technology is in a rudimentary state. To mandate such systems as an alternative to present strategies without providing development time for the technology could result in prematurely eliminating alternative approaches. I am not at all convinced for instance, that limestone scrubbing systems with their substantial solid waste production are the ultimate answer. For those plants choosing to go to low-sulfur coal as an ultimate strategy, the Administrator may require implementation as soon as practicable.

Additionally, I believe that the proposed changes in the automotive emission standards represent a viable compromise which permits us to proceed most of the way to eliminating the automobile as a significant contributor to air pollution. At the same time, I expect the domestic and foreign automakers to use the extension of the 1975 interim standards to maximize fuel economy and drivability of automobiles before they are required to go the next step to the full 90-percent reduction from the 1970 levels. I also look forward to the 2.0 grams per mile standard for nitrogen oxides to encourage the automakers to exploit fully such developing technologies as the stratified charge engine, the diesel, and still more exotic means of propulsion.

Mr. President, I am convinced that my colleagues in the conference arrived at the best possible resolution of these issues related to the Clean Air Act. This accomplishment, which was made doubly difficult by the press of time, ought not be undone in the vain hope that by recommitting this bill, we can avoid the hard choices imposed by the present energy emergency. I urge each of my colleagues to vote for the conference report as proposed.

Mr. NELSON. Mr. President, I wish to reserve some time for a rebuttal period, but I understand the distinguished Senator from Arizona (Mr. FANNIN) wants some time. How much time does the Senator wish?

Mr. FANNIN. The Senator from Kansas (Mr. DOLE) would like some time. How much time does the Senator——

Mr. NELSON. Mr. President, are we in the situation that the distinguished Senator from Kansas and I are on the same side?

Mr. DOLE. For the first time.

Mr. FANNIN. Yes; both Senators are on the same side on this question.

Mr. NELSON. I had better get my motion back.

How much time does the Senator from Kansas desire?

Mr. DOLE. Perhaps 7 minutes or less.

Mr. NELSON. I think I need to reserve some rebuttal time. Are there other Senators who wish to speak?

I yield 7 minutes to the Senator from Kansas.

Mr. DOLE. I thank the Senator.

Mr. President, on this matter, I am on the same side as the Senator from Wisconsin (Mr. NELSON). I do not think there is any doubt—that everyone is concerned about the energy problem. I know the people of Kansas are concerned, for I returned from there only this morning. Some are not convinced that we have one. Some are convinced that it is contrived. Some are concerned about excess profits. But they believe a serious situation exists, and they feel something should be done to deal with it—in an effective and responsible manner.

Mr. President, the job of equipping our country with the programs and plans required to manage the energy crisis is vitally important.

This Nation faces a great challenge over the remainder of this decade and beyond as we strive to reestablish our self-sufficiency in energy. Success in this effort is essential, for we must eliminate the intolerable drain on our balance of payments caused by the cost of foreign oil imports, and we must end our vulnerability to oil embargos and other foreign manipulations which threaten our military and economic security.

It is particularly unfortunate, therefore, that legislation needed to manage our energy effort has become entangled in dispute, disagreement, and no small amount of political gamesmanship.

TOO MUCH HASTE

I believe this situation is in large part due to the haste with which the Energy Emergency Act was considered in the House and Senate. This bill is highly complex, contains far-reaching grants of Presidential authority, and will directly affect nearly every citizen of this country. In these respects I believe it exceeds even a general tax reform measure in impact. But in contrast to the pending tax reform bill—which has been the subject of months of hearings in the House and has yet to be taken up on the House floor or in the Senate Finance Committee—the Energy Emergency Act was run through committee and floor consideration in the Senate and House in such a rushed and publicity-laden atmosphere that it was impossible to adequately explore its full impact.

Now, after a month-long opportunity for comment, study and assessment of the bill, several of its features are seen to raise serious questions regarding their necessity, their desirability, and their capacity to accomplish the purposes for which they are supposedly designed.

ENVIRONMENTAL CONCERNS

The Senator from Wisconsin (Mr. NELSON) and others have voiced their concern over the consequences of title II upon the many years of effort in Congress and throughout the Nation to restore and preserve the environment. In my 4 years of service on the Public Works Committee and its Air and Water Pollution Subcommittee, I was directly involved, under the leadership of the Senator from Maine (Mr. MUSKIE) in the consideration, drafting and passage of the Clean Air Act, the Water Pollution Control Act, and a number of other key laws which support our environmental programs. As the Senator from Maine knows, many long weeks and months of work went into those laws, and I certainly have great concern that the Energy Emergency Act's hasty changes, modifications, and suspensions of environmental statutes may do unforeseen damage to these programs—perhaps without accomplishing everything necessary to achieve our energy goals. I cannot say for certain that this would be the result, but at the moment it is difficult to see the results of these provisions one way or another.

I would observe, however, that with experience the winter daylight saving time legislation—which passed Congress with perhaps even less study and factual support than the Energy Emergency Act—gives reason for caution in our approach. The imposition of winter daylight time seems to have done little more than produce widespread inconvenience, disruption, and danger to school-age children. Negligible energy savings have been achieved, and there appears to be growing support for my measure which would bring about the new law's immediate repeal.

I would hope that the Energy Emergency Act will not backfire to a similar extent.

DANGERS OF SECTION 110

However, especially with regard to another area, I believe we are headed for just such a result, only much more serious.

While not wishing to be an alarmist or overly harsh in my criticism, I believe it is fair to say that section 110, the so-called "Prohibition on Windfall Profits—Price-Gouging" is one of the most unwise, ineffective, and transparently shallow examples of shoddy legislation to come before the Senate. And this is all the more unfortunate, because it claims to deal with a very serious and deep concern of the American people. There is no doubt about the fact that there is deep concern about excess profits and windfall profits.

In fact, however, section 110 only plays on the emotions of the people and if enacted would frustrate their legitimate expectations that Congress effectively deal with the problem of profiteering in the energy crisis. Section 110 would not be effective in blocking unfair economic advantages, and it poses the more dangerous prospect that it would seriously hamper our energy-sufficiency efforts.

INEFFECTIVE ENFORCEMENT

It would not be effective because it has no teeth, no real ability to combat the

problem of profiteering. It would not even become effective until January 1, 1975. And its only enforcement would be through a slow, drawn-out, and frustrating administrative procedure that is so vague and confusing that even experts in this area cannot say how or if it would even produce any final determinations.

UNLIMITED APPLICATION

In the second place, section 110 is so broad in its terms and application that in addition to the "major oil companies" it would cover every royalty owner, every local jobber, every corner service station operator, and who knows who else in the Nation.

Mr. President, I might say that this point was brought forth in the testimony before the Finance Committee on which the Senator from Kansas serves along with the Senator from Wisconsin. A question was asked directly as to what the impact of section 110 would be, how far it would go, whether it was limited just to major oil companies, and where we draw a line between the major oil companies, other oil companies, and independent oil companies. But no line is drawn in section 110—it is universal and undiscriminating. It would apply to hundreds of thousands of businesses and millions of transactions.

The possibilities for complaints, lawsuits and bureaucratic entanglement are almost unlimited. With it would come almost complete paralysis in every business which involves the sale at "any price" of "petroleum products"—from the Alaska pipeline to the local gas pump.

Now, one might say, so what? It would not make a great deal of difference if some obscure board was studying the prices charged for various petroleum products. After all, they might decide that there were no "windfall profits" involved.

But it would make a very great difference in a country that must maintain a strong, healthy domestic economy, and which must expand its efforts to locate and develop new sources of energy within its borders.

As the Senate Finance Committee, on which I serve, heard last week, the almost certain result of section 110's enactment would be a retardation of efforts to meet our energy needs.

I ask unanimous consent to have printed at this point in the RECORD excerpts of testimony received by the Finance Committee from a panel of tax experts on the advice they would offer a hypothetical energy client in response to section 110.

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

ADVICE TO ENERGY CLIENTS

Johnnie M. Walters, former Commissioner of IRS—"With a 'windfall' profits tax, we can expect two basic approaches by those subject to the tax:

"(1) *Longrun:* To the extent feasible delay actions requiring investments necessary to meet and resolve the energy crisis until the 'windfall' profits tax expires.

"(2) *Shortrun:* Bill and charge conservatively in order to avoid the 'windfall' profits tax in order to avoid controversy and to avoid adverse public relations. (This means investors will keep their funds out of the very corporations needing them to meet and solve the crisis, i.e., the energy corporations will be weakened.)

"Thus, both the short-run and the long-run effect of a 'windfall' profits tax are counter to what the Nation needs, i.e., a great enthusiastic charge to discover and develop new and greater energy sources for the decades ahead."

John E. Nolan, former Assistant Secretary of the Treasury—"I would feel obligated to counsel my clients to challenge in court the constitutionality of the statute; to challenge in court the validity of regulations and rulings interpreting its scope and attempting to amplify the statutory factors; and to challenge in court any determination of windfall profits. I would advise my clients that no reliable estimates of profitability or rate of return on investment for new capital expenditures could be made, at least for a number of years until the application of the statute in operation could be determined. In my judgment, this would greatly inhibit new capital investment for the purpose of expanding energy reserves—particularly in such vital projects as recovery of oil reserves from tar sands and oil shale, gasification of coal, use of thermal and steam energy resources, and similar projects."

Mortimer Caplin, former Commissioner of IRS—"In each instance, judgments would then have to be made on the possible existence of 'windfall profits' and the prudence of making commitments notwithstanding the threat of the 85% penalty tax. Differences of interpretation, and potential controversy and litigation, would always be lurking in the background.

"Until final Treasury regulations were adopted, therefore, lawyers would tend to proceed with extreme caution and would normally prefer to give only tentative advice. Even with final regulations, the statute would not lend itself to clearcut decisions, and advice to clients would in all probability have to contain numerous qualifications.

"In these circumstances, management would undoubtedly proceed with similar caution in making final investment decisions."

Randolph W. Thrower, former Commissioner of IRS—"One must assume that the client has the choice whether or not to risk his investment in an area covered by the excess profits provisions. Additional investment will be determined by the return (perhaps, depending on the definition of 'profits,' including cash throw-off from percentage depletion) on marginal capital invested, not by the overall average return. The 85% tax rate may be too high to leave sufficient capital for reinvestment by petroleum producers. Moreover, the use of base period profits as a maximum return, without regard to inflation, impact of the devaluation of the dollar, extent of new investment or marginal risks in the present emergency, combined with the vast uncertainties of the language, might constitute too great a disincentive to new investment. Ultimately these are questions for economists rather than lawyers, but one would tend to advise a client to look elsewhere for investment opportunities."

Edwin Cohen, former Under Secretary of the Treasury—"At least until appropriate guidelines had been developed and published, it would be most difficult to advise an energy corporation with respect to proposed capital investments. Inability of the companies to ascertain the effect of capital investments under an 85 percent rate would seem to provide a serious deterrent to development of additional production and capacity, which is a prime objective in the energy program."

NO PLOWBACK

Mr. DOLE. Mr. President, aside from these other objectionable features of section 110, I believe it omits an essential requirement for any measure designed to capture excess or windfall profits. It does not contain any provision to channel greater amounts of money into the broader program of energy development. This feature is often referred to as a plowback provision and means that a company is given the choice of either paying a tax or turning that money back into greater efforts to expand our energy supplies or develop better energy technology.

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

Mr. DOLE. Mr. President, would the Senator yield me additional time?

Mr. NELSON. Mr. President, I yield an additional minute to the Senator from Kansas.

Mr. DOLE. Mr. President, as I said in the Finance Committee hearings last week, it is not possible to step on the gas and brake at the same time and still make progress.

We must be realistic and recognize that operation independence will be successful in meeting our energy needs only if it is pursued in a sensible and constructive manner.

I would guess that those who are voting to recommit the bill will have their motives characterized—and inaccurately—as being in favor of excess profits for the major oil companies. This is a senseless charge. I would only say that as some others have stated, I believe in action against and in taxation on windfall profits. However, let us act in a way that has some sense and meaning.

MEANINGFUL PROTECTION REQUIRED

Of course, steps must be taken to assure the average American that his sacrifices are going to contribute to the national cause and not just fatten some big oil company's profits. Every citizen has a right to expect this, and Congress has an obligation to see that those expectations are met. And I share in the commitment to provide this protection.

But section 110 is a sham and a hoax. It would not protect the average citizen and would in the long run be seriously damaging to the public interest. And it is time to stop using the energy crisis as a political springboard.

APPROPRIATE STUDY

Windfall profits, excess profits and the like raise extremely complex and difficult questions. The taxing power of the Federal Government is by far the most appropriate means of dealing with these problems in a constructive and positive manner. No effort to do so, however, should be attempted without the fullest and most careful study. This is not to say that there should be delay, for there should not. But as last week's Finance Committee hearings disclosed measures in this area have the most serious and far-reaching impact throughout the economy.

I look forward to participating in February in the full-scale Finance Committee study of this field. I feel we must move with utmost dispatch to establish the protection needed to combat energy crisis profiteering and in a way which will contribute to—not detract from—the overall energy program.

Therefore, for the reasons I have stated, I believe it is essential that the conference report on the Energy Emergency Act be recommitted for further action that is consistent with the needs of America and the expectations of the people.

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

Mr. NELSON. Mr. President, I yield 5 minutes to the Senator from Arizona.

Mr. FANNIN. Mr. President, I thank the Senator from Wisconsin and commend him for the efforts he is making to accomplish our objective of relieving the energy situation of this Nation.

Mr. President, I ask unanimous consent that a letter from the President to the minority leader, the Senator from Pennsylvania (Mr. HUGH SCOTT) be printed at this point in the RECORD.

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

THE WHITE HOUSE,
Washington, D.C., January 29, 1974.

Hon. HUGH SCOTT,
U.S. Senate,
Washington, D.C.

DEAR HUGH: My conversations with you and other members of the Senate since the beginning of the Second Session have convinced me that the people have made their elected representatives very much aware of the real concern over the energy shortage. It would be most unfortunate if, through an understandable but misdirected response to this concern, the Senate approved the conference version of S. 2589, the pending Emergency Energy Act.

The time and opportunity now exist for refining this legislation which was so hastily put together during the closing days of the last Session. We have been able to make do without emergency legislation thus far, and I urge you and your colleagues to take the additional time required for developing a truly responsible product.

You have already been furnished with a listing of thirteen sections of the bill which present difficulties. Some of these provisions have no place in this bill and should be deleted, while others can be modified through the use of reasonable alternatives.

We do not need the Federal Energy Emergency Administration proposed in this bill—the Congress itself is close to providing us with a far better organization through separate legislation.

The subject of windfall profits should be addressed through a rational tax scheme using the normal legislative process. I am confident the Congress will quickly complete the work on a windfall profits tax.

Unemployment cannot be effectively dealt with by a system that seeks to find a tenuous connection with the energy crisis. Rather, it should be identified and treated swiftly for its own sake. We have an alternative for accomplishing this through a system which would respond in terms of the labor market conditions where the affected individuals work, regardless of the cause of unemployment.

I am already committed to a proposal which will provide both Government and the public with needed information from the oil industry—without the indiscriminate burden of work and the flood of unwieldy data which this bill would produce.

The pending Emergency Energy Act can provide useful authorities in helping resolve the energy emergency now before us, but not without further efforts from you and your colleagues.

I understand there will be a motion to recommit the conference report, and I strongly support such action. Should recommittal take place I pledge the full support and cooperation of the Administration in working with the Congress to produce the result we all desire.

Sincerely,

RICHARD NIXON.

Mr. FANNIN. Mr. President, as I stated to the Senator from Wisconsin, the President to my knowledge agrees that the subject of windfall profits should be addressed through the normal legislative process.

I am confident that Congress will quickly act on this matter.

The Senator from Wisconsin also covered the unemployment problem when he said that it cannot be effectively dealt with in this manner.

Mr. President, the chairman has sounded the alarm for immediate action on the conference report S. 2589. Senator JACKSON said,

> We must act now to provide the executive branch with the means to take needed actions in the country's interest.

For this reason he urged the Senate to vote in favor of the conference report.

I take note of the important staff analysis that the chairman of the committee ordered printed.

On page 76 of the report concerning natural gas policies, issues and options, the following is stated:

> In the face of such uncertainty, it is the hope of the "windfalls" on some ventures that encourages producers to bear the risk of losses on others. For this reason, a system that rigorously seeks to expropriate all "excessive profits" from exceptionally profitable investments can be expected to reduce the willingness of producers to take on the risk of losses from other ventures. Accordingly, such a regulatory regime could be expected to have a depressing impact upon investment in proportion both to the variability and to the uncertainty of future costs.

I agree with the chairman of the committee in the report's statement that:

> In short, a part of what are commonly called "windfalls" plays an important role in the energy economy. Cost-based price ceilings do not prevent consumers from paying for some extraordinary profits. Nor would it be desirable for any system of regulation to do so. To the extent that extraordinary profits or economic rents are due to geology, they are not windfalls strictly speaking, but are used to elicit exploration and development efforts.

That is exactly what we are trying to do. We hope that this legislation will be approved and that it will accomplish that objective.

Mr. President, I commend the distinguished chairman of the committee for his statements on the Face the Nation program yesterday. I was very impressed with what he had to say. He very effectively brought out the necessity of a free enterprise system.

I agree with the chairman that we need legislation. Unfortunately, the conference report not only fails to give the President the authority he needs, but it contains provisions which would hinder rather than enhance efforts to solve the energy crisis.

The chairman of the Interior Committee is asking his colleagues to support the action of the conferees which he himself recognized as inadequate, an overreaction, and just plain bad law. As it might be recalled, the day before we adjourned in December the chairman sponsored a substitute for the conference report, recognizing at the time its superiority to the conference report. The Senate supported him in this moderate, reasoned compromise.

That substitute which was sent to the House as a rider to the Wild and Scenic Rivers Act eliminated the windfall rebate provision because it was unworkable. The chairman knew it was unworkable.

That substitute modified the information disclosure provisions because they were unworkable as contained within the conference report. The chairman knew they were unworkable.

That substitute eliminated the FEA reporting requirements because they were not only infeasible but also unconstitutional. The chairman knew this to be the case.

Several other provisions in the conference report were also modified because they were unworkable. The chairman is familiar with these provisions.

At the time the compromise substitute was adopted we commended the chairman for his recognition of the infirmities of the conference report and his leadership in preparing a sensible substitute. Now that some of the powerful elements of the media have spawned a movement directed toward an unmitigated attack on the energy industry of the United States, it appears as though the chairman has decided to lead the antiindustry demagoguery by shifting his ground. Now he is calling for support of a conference report that a month ago he repudiated. The issue of supplying this Nation's energy needs is one which should be above partisan politics, but the chairman, despite his better judgment a month ago, now appears to have decided to put aside reasonableness and the welfare of energy-short U.S. citizens.

Instead he has chosen to play politics with energy. With regard to energy politics, let me read extracts from Joseph Kraft's column in the January 24 Washington Post. Mr. Kraft said:

> So what's new? Well, what's new is that many Americans are mad about the high prices they have to pay for gasoline and fuel oil. They don't like driving at limited speeds or lining up to buy gasoline or doing without it on Sundays. Since the explanation for these inconveniences is not simple, the populist disposition takes over. That's one thing that's new.
>
> Another thing that's new is that ambitious political figures are stepping forward to make the most of the discontent. Take, for example, Senator Henry Jackson, the Washington Democrat who is now leading the oil company hearings in his Senate permanent investigating subcommittee.
>
> Senator Jackson is one of the best informed men in the Congress. He is particularly knowledgeable about energy, which he has been studying for years. So he knows very well what the oil companies have been doing. Only now Senator Jackson is running for the Presidency.
>
> He is particularly eager to identify himself with the ordinary Joe, so suddenly he is full of righteous indignation about the companies.

"I'm flabbergasted," he said the other day when Exxon refused to release some information. "This to me is incredible. . . . This is more secret than the CIA."

Mr. President, this is no time to play politics with energy.

Playing politics by adopting the conference report is irresponsible.

Playing politics by adopting the conference report is a disservice to energy-short Americans.

This conference report is clearly unacceptable to the administration. Mr. President, this conference report was drafted in the late hours of the last session in that climate of uncertainty and near panic. We are all one month older and we should be much wiser as far as the energy crisis is concerned. We should all ask ourselves: Is this the mechanism that is needed today?

There is indeed an energy crisis, yet the predicted severity of the energy crisis has not come to pass, due to the effectiveness of administration energy conservation measures and to a mild winter.

The Federal Energy Administration is functioning under the strong leadership of Secretary Simon and he is equipped with existing laws which will suffice for the time being. Let us not now rush into any new legislation which may possibly hinder or interfere with that effort.

During the recess the administration analyzed the conference report and has clearly spelled out its many deficiencies.

Mr. President, I ask unanimous consent that the memorandum be printed in the RECORD in full at this point.

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

EMERGENCY ENERGY ACT—S. 2589: CONFERENCE VERSION

ADMINISTRATION COMMENTS

1. Section 103.—Establishes a Federal Energy Emergency Administration, into which all powers under the bill (and some previously existing powers now held by the President) are placed.

Establishes an independent agency with virtually no administrative authorities, no viable staff structure, no funding authorization, and no provision for continuity with existing activities under FEO. Would establish a marginal, if at all operable, agency.

Should be deleted in favor of well-tracked, separate Congressional action (S. 2776, passed Senate; H.R. 11793, reported to House Floor) proceeding on course.

Deleting this provision should also be accompanied by deletions of "Administrator" throughout the bill and substituting "President" where appropriate.

2. Section 105.—Provides a staged system of Congressional approval/disapproval for energy conservation plans proposed by the Administrator (President): (a) until March 1 plans are effective immediately, subject to disapproval by either House within 15 days; (b) between March 1 and June 30 plans must lie over for 15 days before taking effect, subject to disapproval by either House; (c) after June 30 plans must be approved through legislation.

The staging in this bill poses administrative difficulties. While we do not object to Congressional participation in conservation plans, there should be a uniform system of submission to Congress which permits the voicing of objections within 15 days. The objective would be to provide consistency and yet allow sufficient administrative flexibility.

3. Section 107.—Requires promulgation of a contingency plan for allocating energy-related supplies and equipment, which must be submitted to Congress before it can take effect under the same staged system applicable to conservation plans.

This should be authorized, as with conservation plans, rather than directed to be done within 30 days. This will permit greater responsiveness to rapidly changing conditions.

The submission to Congress ought to be modified as suggested with respect to Section 105, above.

4. Section 110.—Provides a mechanism designed to discourage windfall profits and price gouging. The Renegotiation Board is established as the agency which will receive petitions and complaints from "any interested person" who believes that in any transaction involving petroleum products the seller has obtained a windfall profit (as defined to include excesses beyond "reasonable profit", which the Board will determine considering several listed factors). Further judicial review is available. This procedure will become effective one year after the bill's enactment, but will then retroactively cover all transactions since enactment. During the intervening year the President is directed to exercise his price control authorities under existing law to avoid windfall profits.

The administrative and judicial workload which would be produced by the ad hoc type procedure strongly argues against its adoption. There would be major judgmental and procedural problems in determining price-cost relationships for individual transactions, producing both inequities and multiple appeals. The intervening year would additionally produce great uncertainty pending the effective date of the Renegotiation Board procedure and its retroactivity.

Immediate and effective action to preclude excess profits can be taken through an appropriate taxing scheme, which will be equitable and yet allow incentives for exploration and development. The Administration's windfall profits tax proposal will shortly be before Congress, and we urge deletion of this provision pending enactment of such a tax.

5. Section 112.—Requires factors of equity and fairness to be considered in taking action to allocate or restrict energy use.

Largely duplicates other similar requirements stated in Section 4 of the Emergency Petroleum Allocation Act. To the extent it goes further in speaking against arbitrary action and discrimination, could give rise to litigation since allocation can be by definition somewhat arbitrary and discriminating.

Proviso in 112(a) would require U.S. to allocate only 3 days' supply of energy to British firms in U.S. so long as England operates on a 3-day work week. This proviso and entire section should be deleted as unnecessary.

6. Section 114.—Deals with the potential antitrust difficulties which may arise through voluntary agreements and plans of action among members of the petroleum industry in order to assist the Government in resolving the energy emergency. Involves the Attorney General and the Federal Trade Commission in administering and monitoring such agreements or actions.

This provision is unduly restrictive and burdensome, to the extent that it would discourage potentially helpful voluntary agreements and plans of action.

Section 314 of S. 2589 as passed by the Senate takes a more reasonable approach which is favored by the Justice Department over the present provision. It would provide more effective results, and therefore should replace the present conference language. In the alternative, existing law may be relied upon.

7. Section 115.—Provides authority to impose restrictions on exports of fuels and related products.

In effect this duplicates existing authority now being exercised under the Export Administration Act and the Mandatory Petroleum Allocation Act. To avoid confusion this section should be deleted.

8. Section 116.—Provides for consideration of and assistance to those unemployed as a result of the administration of this legislation.

Unemployment should be avoided and eliminated where possible as an evil in itself, not through an attempt to determine its cause. Determining who fell within the scope of such a program would be impossible. It would be far preferable to enact the broad unemployment insurance program proposed last year by the President, which would assist all unemployed.

9. Section 117.—Provides for involvement by the Secretary of Transportation in a national carpool effort through grants and other assistance administered through an Office of Carpool Promotion in the Transportation Department.

This provision is unnecessary because of the Emergency Highway Conservation Act enacted just prior to adjournment, which provides sufficient authority to carry out the objectives of this provision.

10. Section 118.—Provides complex procedures for administrative and judicial review of rules and orders under this legislation.

Close study during the recess has raised a number of ambiguities and inconsistencies which seriously affect the ability of any organization to operate under this section. It is also difficult to determine to what extent this section applies to other sections of the bill. Because of the potential confusion which this section would create in its administration, deleting it and permitting the Administrative Procedures Act to apply in the ordinary course would be the better action.

11. Section 124.—Requires the promulgation of a regulation requiring persons doing business in U.S. engaged in exploring, extracting, and refining for petroleum, natural gas, or coal to provide detailed reports every 60 days on energy supplies. Retail operations are exempted from reporting and further exemptions may be granted persons where they now provide similar data to Federal agencies.

This requirement will place a huge administrative burden on persons engaged in such businesses as well as the Government, even though such data will not be needed bimonthly on such a comprehensive basis. On far more *selective* basis, the additional data not now collected by the Government can be gathered to develop the necessary information on petroleum, natural gas, and coal supplies in the energy development process.

We feel strongly that additional data is required from industry, and the Federal Energy Office has already instituted a plan to collect all appropriate data. To insure prompt collection, there is a need to carefully define the types of information needed and how it should be made available consistent with the preservation of full industry competition.

The Senate/House FEA bills have a general authority provision that provides the Administrator with authority to require reports from persons in the energy business. In addition, the Administration plans to submit draft legislation to the Congress for authority to gather the necessary data on a selective basis.

12. Section 203.—Provides with respect to automobile emissions that (a) interim standards for emission of carbon monoxide and hydrocarbons applicable to 1975 model year light duty vehicles and engines shall be ex-

tended to apply also to the 1976 model year; (b) the Administrator of EPA may extend these standards for one additional year under certain circumstances; and (c) that standards for oxides of nitrogen applicable to 1975 model year (3.1 grams per mile) shall also apply to the 1976 model year, and that the standard for the 1977 model year shall be 2.0 grams per mile.

The interim 1975 standards for hydrocarbons, carbon monoxide and oxides of nitrogen should be extended *now* for 2 years—to cover model years 1976 and 1977—so that there will be a steady target for a known and fixed period of time enabling manufacturers to concentrate on maximizing gasoline mileage. Extending the standards for 2 years would have no significant adverse impact on our progress in improving air quality.

13. Section 206.—Requires (a) a study and report to Congress within 6 months of potential methods of energy conservation; (b) an "Emergency Mass Transportation Assistance Plan" to expand and improve mass transit to be submitted to Congress in 90 days; and (c) a study of a proposed high-speed ground transportation system between Tijuana, Mexico and Vancouver, Canada to be reported to Congress and the President by December 31, 1974.

The "Emergency Mass Transportation Assistance Plan" contemplates a Federal program of operating subsidies for mass transit, which we strongly oppose. The appropriate Federal concern should relate, in our view, to extending service for the purpose of shifting riders from autos to transit, which studies show subsidies tied to fare reductions would not tend to accomplish.

The Transportation Department has already studied the Tijuana to Vancouver system issue, and has developed information which indicates serious technical and economic problems. Rather than devote additional resources to further study, it would seem more useful for the Department to discuss their findings with the appropriate Congressional committees.

Mr. FANNIN. Mr. President, to reiterate, let me call to my colleagues' attention five major points elaborating further on the deficiencies of the conference report.

First. The country does need energy legislation but not within the next few weeks. The administration is meeting this challenge head on and performing well.

Second. The conference report contains provisions which will complicate—frustrate—and neutralize the efforts of the administration. The conference report if enacted will create a climate of uncertainty and spur litigation on every front which will cripple the very efforts that are being made to promote self-sufficiency and bring new sources of energy on line.

Third. The bill was written in haste and prompted by inaccurate predictions.

Fourth. There is a definite need to meet the questions of windfall profits, data disclosure, and congressional oversight of executive action. We owe it to our Nation to take the necessary steps to insure that the legislation we pass is justified and has reasonable prospects of accomplishing the purpose for which it was drafted. Until last week, neither the Senate nor the House had had a single hearing on any windfall profits proposal. This scheme as written in S. 2589 has never been looked at by anybody outside of Congress. We have heard no comments from any sector. Something so important and vital as this must be subjected to the normal legislative process that allows full scrutiny.

None of us seek to support an industry in reaping excessive profits at the expense of the consumers of this Nation. Calm heads need to prevail and a system that can identify what excess profits are and prevent them must be adopted. Hasty unreviewed schemes could foul the industry that we must depend upon to search out and find new sources of energy. We must be careful not to penalize and use as a scapegoat that industry, because we in the Congress must take our own share of the blame for not anticipating and preparing for this energy shortage.

Fifth. Many of the provisions in S. 2589 will help provide the tools necessary to deal with the problem. In order to save these provisions we must recommit to conference. I am confident that our colleagues on the House side will feel the same way now that we have all had a brief respite and opportunity to listen to our constituents and heed their advice on this problem. With this change of climate we ought to be able to fashion a more rational and workable bill. It would be pure folly to pass this conference report when we know its shortcomings and when we know we have time to remedy them.

Sixth. The President has prepared an energy package of legislation far more adequate than the conference report now before us.

I urge my colleagues to recommit this conference report and salvage this opportunity to construct necessary legislation.

Mr. NELSON. Mr. President, I yield 3 minutes to the distinguished Senator from Texas.

Mr. TOWER. Mr. President, I would like to take a few brief moments to express to my distinguished colleagues why I am opposed to passage of the Emergency Energy Act of 1973 in its conference form. Although I disapprove of the hodge-podge approach to legislation, I could support most of the conference report in the absence of section 110, the so-called windfall profits provision. My opposition is underpinned by the fact that I do not know—nor, I suspect, does any other legislator know—what the term "windfall profits" means in the context of the oil industry.

This admission should shock no one, since to date no effort has been made in Congress to compile the necessary evidence to determine whether windfall profits, whatever they are, exist in the industry. The only hearings that have been held to date on the subject were before the Senate Finance Committee and the Senate Permanent Subcommittee on Investigations. Hearings before the committee, chaired by the distinguished senior Senator from Louisiana with admirable dispatch, resulted in a determination that section 110 was wholly unadministrable. Hearings before the subcommittee, chaired by the distinguished Senator from Washington, resulted in incomplete evidence since testimony was presented by only seven of several thousand oil companies.

That testimony was also probably inadequate because those seven companies are virtually integrated, and the profit picture of integrated companies could well distort the profit picture of smaller, nonintegrated companies.

At a time when many Americans are asked to sacrifice in order that our supplies of energy are not completely exhausted, we in the Congress should examine with thoroughness any possibilities of excess profiteering within the oil industry. However, I fear that the Congress in its zeal to find a culprit for the current energy shortfall would through this legislation erase profit incentives essential to continued exploration and development of domestic petroleum reserves thus quite possibly worsening the shortage.

It is my position that the Government should not be permitted to control windfall profits when those passing on the enabling legislation have not the foggiest notion what windfall profits are. To illustrate what we do not know, let us assume that there is a penicillin shortage and a concurrent scarlet fever epidemic, and that pencillin sellers are using their market position to increase their profits—defined for these purposes as return on equity—from 15 percent to 500 percent. I doubt that any of us would permit that kind of profiteering. On the other hand, assume that the profits in the agricultural industry have been about 6 to 7 percent, that farmers are leaving the industry, that a shortage occurs and profits double to 12 to 14 percent, that farmers begin to return to the agricultural industry, and finally that the shortage begins to disappear. Not many rational people would claim, under those circumstances, that the farmers are making windfall profits.

Now no one in Congress knows what the level of oil industry profits have been over the last few years, what the level of other manufacturing profits have been, what the profits in nonmanufacturing industries have been, or what the pending windfall profits proposal will accomplish. The fact that some would have us legislate in this state of ignorance deeply concerns me. As long as the matter has not been committed to the appropriate congressional committees for study, passing the proposed legislation would constitute the most intolerable irresponsibility.

Recent hearings in the Senate Permanent Subcommittee on Investigations confirm that there is a genuine energy crisis—not the result of an oil company conspiracy. The answer to that crisis is to increase domestic supplies. One of the most powerful economic functions of increased profits is to stimulate investment, which translates into increased supplies. But we have before us the specter of Government interference that might well eliminate that avenue of escape from the shortage.

Consider this scenario: The oil industry's profits have fallen below the level of the manufacturing industry as a whole, on the average, for a number of years. Producers have left and are leaving the industry. There is a shortage, and oil profits increase. Producers are returning to the industry, and the shortage begins to disappear.

Then the Government imposes a so-called windfall profits tax, forcing oil profits back to depressed levels. What happens to the shortage in that case? The Government, by its actions, has aggravated the problem, or at least blocked its solution. A bureaucracy, designed to allocate scarce supplies, develops a vested interest in the shortage because jobs depend on it, and suddenly there is a governmental impetus to perpetuate the shortage—for example, FPC regulation of wellhead prices of natural gas.

I do not postulate this scenario as the case, but I do insist that it could become a reality. In Forbes, January 1, 1974, page 54 and the following, we find that the average return on equity over the last 5 years for the Washington Post was 14.6 percent. The comparable figure for CBS was 18.3 percent. During the same period, Atlantic Richfield's—Arco—return was 7.8 percent, or about one-half that of the Post, and Standard of Ohio earned only 6.9 percent. Now who are making excess profits? I submit that we in Congress do not know, and that we must find out before we legislate on the issue. The people of this Nation have a right to expect no less from their Congress.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, I reserve the remainder of my time.

Mr. JACKSON. Mr. President, I yield myself such time as I may require. I ask to be notified at the end of 15 minutes.

The PRESIDING OFFICER. The Senator will be notified.

Mr. JACKSON. Mr. President, we today commence the final debate on the conference report on S. 2589, the Energy Emergency Act. I introduced this bill on October 18, 1973. The purpose of S. 2589 is to provide the executive branch with the statutory means to deal effectively with the shortages we experienced in 1973 and with those caused by the Arab oil embargo.

The fact that S. 2589 is not law today is a sad commentary on the leadership of this Nation. It reflects the fact that the special interest groups have a bigger voice in government than the people.

Mr. President, the failure to act on this measure in December could well have been catastrophic but for extreme good fortune in the form of abnormally warm weather which we have enjoyed this winter and the magnificent response of the American people in conserving fuel.

I am appalled that the Congress of the United States has yet to provide the authority for a standby rationing program and for fair and equitable energy conservation programs.

This represents an abdication of congressional responsibility. While Congress delays, the State of Hawaii and Oregon and States in New England are put in the position of having to develop, on a State-by-State basis, rationing and other energy conservation programs to deal with the critical problems they face. But in doing so, they are hampered because they do not have the authority to control or direct the activities of the major oil companies which operate in interstate commerce. The executive branch does not have this authority either, because Congress has failed to act on this conference report.

I think it is about time we acted.

The Senate has made every possible effort to work in a cooperative and bipartisan manner with the administration in order to provide the executive branch with the authority which they acknowledge that they must have to address the energy shortages.

Administration representatives attended and participated in committee executive sessions on October 24 and November 1. They testified in open hearings on November 8. In an unprecedented procedure, they actively participated, at my invitation in committee markups on November 8 and 9.

Our effort has failed. Unilateral efforts on the part of the Congress at cooperation and bipartisanship have been futile.

On October 24, Governor Love and Secretary Morton rejected any proposal that the Interior Committee staff and their counterparts in the executive branch work together to make changes and to amend S. 2589 as introduced so as to accommodate insofar as possible, administration views and needs. Governor Love stated that "I, for one, believe that we should come up with an administration bill, which we are momentarily prepared to do. Secretary Morton stated, "I think we can have a bill within a week."

Mr. President, we have seen no administration bill. The closest we came was when we were provided with what the administration sent up and categorized as a secret "nonbill." We have also seen various disjointed and often conflicting individual agency proposals.

On January 23, the President called upon the Congress to pass a Special Energy Act. I have not seen a draft of that bill either, but as I read the President's message, he is taking for everything that is already in this bill.

What we have seen from the administration is delay, indecisiveness, and obstructionism.

The only positive response of the administration to the energy crisis has been an appeal to the public for sacrifice balanced by a stout defense of the special interests of their natural constituency. For example, the administration has formed a coalition with the interests of big oil to defeat the windfall profits provision of the bill. While I realize this provision is not perfect, it does comprise an action forcing mechanism to assure that long-term tax reform is effected in earnest, and that oil companies are not allowed to reap billions of dollars worth of profits by charging exorbitant prices for gasoline and heating oil.

What is the administration's position? What do they favor? What do they oppose? Based on an unsigned document now in circulation in the Senate which is dated January 17 which purports to be administrative comments on the conference report, they oppose the following sections: 103. Federal Energy Emergency Administration; 105. Energy conservation regulations; 107. Materials allocation; 110. Prohibitions on windfall profits—price gouging; 112. Prohibitions on unreasonable allocation regulations; 114. Antitrust provision; 115. Exports; 116. Employment impact and unemployment assistance; 117. Use of carpools; 118. Administrative procedure and judicial review; 124. Reports on national energy resources; and 206. Energy conservation study.

What do they favor? They favor unlimited authority to implement any or all of the conservation actions in the following Draconian list inserted in the RECORD on December 21 by my esteemed colleague from Arizona:

LIST OF CONSERVATIONS ACTIONS TO BE FREE OF 15-DAY VETO BY CONGRESS

1. Retail gasoline sales may be banned from 9:00 p.m. Saturdays to 12:01 a.m. Mondays.
2. An additional day on which retail gasoline sales may be banned.
3. Maximum speed limit of 55 MPH for intercity buses and trucks and 50 MPH for automobiles.
4. Ban promotional, display and ornamental lighting by commercial establishments, including advertising identification lighting at times not essential.
5. Reduce fuel for use by general aviation.
6. Ban exterior residential ornamental lighting.
7. Turn down thermostats 6 degrees in residential and 10 degrees in commercial establishments.
8. Promote weatherizing of homes with insulation, weather stripping and storm doors and windows.
9. Require that retail sales of gasoline be limited to a specified amount per sale or per day.
10. Take necessary steps to encourage car pooling, including restricting driving to a certain number of days per week.
11. The ability to direct all facets of industry to function in a manner consistent with our goals.
12. Require conversion of oil burning electrical generating plants to coal to the greatest extent practicable.
13. Set indoor lighting standards for commercial, governmental and industrial facilities.
14. Restrict weekend and evening lighting in commercial and industrial facilities.
15. Set standards on highway lighting.
16. Reduce recreation on public lands.
17. Limit hours of operation for commercial, industrial and governmental establishments.
18. Reduce space heating in industrial establishments to the greatest extent practicable.
19. Require industry energy audit plans.
20. Ban advertising which encourages excessive use of energy.

They favor continued price increases as a demand control mechanism although they have not demonstrated that higher prices at the gas pump will in fact reduce demand.

Because of the windfall profits provision of this conference report they now profess to oppose unconscionable profits by the oil industry, although their initial proposals would in no way reduce them.

Let us discuss windfall profits a bit further, since the major opposition to this conference report is directed toward their defense. 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. 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.

Mr. President, I strongly urge my colleagues to adopt this interim emergency measure. Early implementation of those 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.

Mr. President, I think it is probably useful, first of all, for Members of the Senate to refresh their recollection for a moment about the history of this legislation.

First, Mr. President, in order to try to get some movement on this bill, I moved to lay on the table the conference report, and that motion was voted down 62 to 0.

Second, lest my colleagues forget—and some were not able to be here—in an effort to deal with what the Senator from Wisconsin and the Senator from Louisiana are talking about, the question of excess profits, we took that section out of the conference report, we then took the whole conference report and attached it to a bill that was on the calendar, sent it over to the House, and only 20 Members of the House of Representatives voted for that bill.

Mr. President, every Member of this body who votes to recommit this bill must understand what is then going to happen to it. It is going to die. And, Mr. President, Senators had better decide whether they want to kill all the necessary provisions that are in this bill.

I must say that we have brought together here the most unusual coalition I have seen in all the time I have been in Congress, and that is quite awhile. I know of no one who has been a greater conservationist than the distinguished Senator from Maine. He has led the fight for clean air, clean water, and clean land, and I played a small role in that myself.

But when you get one or two conservation groups working hand in hand with the oil industry and the White House, and a peculiar coalition on this floor, which the rollcall will reveal, then I think the American people ought to start asking some questions.

Mr. President, we have had a lot of time taken up here about the renegotiation provisions. I tried to be forthright with my colleagues. I did not claim this provision was the last word in solving the windfall profits problem. We did everything we could to do something about that in conference, and we failed.

I have made it very clear that we do not agree with all the provisions in this conference report, but it is rather amazing to me that we would spend all our time here for this first hour talking about the poor old profit situation. Look at that chart on the easel in the rear of the Chamber. What does it show? It shows that for the first 9 months of last year, the top 16 oil companies had a gain in profits of from a low of 27 percent to a high of 96 percent.

All of the discussion basically has been regarding the unworkability of this renegotiation section. Nothing is being said about all the other provisions in the bill, which I shall come to in a moment. Well, Mr. President, if there is anything that is stirring the conscience of America, it is the unconscionable profits and, Mr. President, unconscionable prices.

I say unconscionable prices. How many Members of this body realize what has happened to the price? Forget about Arab oil; I am talking about the price they are getting here in the United States for oil.

A year ago, domestic crude was $3.70 a barrel. For old domestic oil, they are now getting $5.20 a barrel, and for new domestic oil they get $10.35 a barrel. Let us not take that out on the Arabs; that is the price here.

When I asked the seven major oil companies how, with a tiny increase in sales volume, they reached those stratospheric heights of profit, they said they made it on the price of crude oil.

Mr. President, the pricing problem alone is doing great devastation to the American consumer, the person who goes to the gasoline station, the person who has his oil tank filled up to heat his home.

In addition, Mr. President, there has never been a greater threat to our free private enterprise system here in the United States than the terrific increases in fuel costs charged to American industry. It is even worse, as we know, in Japan and in Western Europe. This is what we ought to be talking about. What are we going to do about that?

Mr. President, if we recommit this bill, we are going to delay for a long period any real action to prevent price gouging and profiteering, and I think the Senate should understand that.

I have a high regard for my colleague from Arizona, who read the letter from the President. But, as in the case of the energy message that was sent up, Congress has acted on all but one item, in one form or another. It is all listed; we will put it in the RECORD if anyone wants to see it.

That was the new energy message. But it was against many of the things that were mentioned in that message, Mr. President, that the President, through his emissaries, waged one of the the greatest lobbying efforts of all time. The administration, during the closing days of the last session, opposed the following: They opposed action on windfall profits, opposed the section in this bill on unemployment insurance, opposed the provision in this bill that requires disclosure on the part of the industry, opposes the opportunity for congressional review dealing with such matters as conservation.

Now they are all for these things. Mr. President, that is fine. I welcome that. But I think we all ought to understand that had it not been for this emergency bill and the overwhelming vote in the House, and the earlier overwhelming vote in the Senate, there would not have been this change in point of view.

I would also point out now, so my colleagues will fully appreciate what they are doing and cannot come around later and say, "Well, I didn't know we had all these other things," that is what they are doing, if they vote to recommit this bill, is throwing the baby out the window with the bath water.

Let me emphasize what is being thrown out here. The first thing is, if there is anything that has hurt the American people it has been their recent experiences at gas stations all over the country. My colleagues have had lots of mail on this. Why, in Georgia one company closed 400 stations and, I gather, would not even discuss the matter with the two U.S. Senators. Section 111 in the conference report affords protection to franchised service station dealers from arbitrary cancellation my major oil companies.

How many Senators want to go on record to take that section out? That is what it will amount to, because they are killing the bill. There is no use dealing with the House. The House will not change. The bill will die and with it any safeguards to the individual, independent gasoline station operator.

We have in section 114 stringent antitrust protections against collusion by the

oil industry in dealing with energy emergencies. That will be taken out of there, if this is recommitted.

Section 115 deals with the problem of the export of needed fuel by providing for restrictions on such exports.

How many Members want to face their constituents and say, "Look, it is true that we did kill that provision and we are sorry, but we cannot do anything about it." That is what they are going to have to say.

Section 116 provides for unemployment assistance to those adversely affected by energy conservation measures. I am glad that the President now reportedly supports it, but they were up here lobbying against it when we had this measure in conference. My colleagues know that that is a fact. In fact, Mr. President, today I read in the Wall Street Journal that the Nixon administration has no intention of providing special unemployment assistance to workers unemployed by fuel shortages. Commenting on section 116 of the Emergency Act, the Labor Department announced that it would pay unemployment benefits only to those narrowly interpreted as being directly affected by implementation of the act. The reason given for taking this narrow approach is that a broad unemployment assistance program would be—and I quote—"an administrative horror."

Mr. President, this is a most appalling statement. At a time when hundreds of thousands of people face the prospect of long-term unemployment, because of reduced fuel allocations or other shortages, it is incredible that an agency of the Federal Government whose mission it is to serve the working public should abandon these people because it shies away from a possibly difficult task.

When we considered section 116 in the Senate, and later in conference, we recognized that major dislocations would occur in the economy as the fuel shortage grew worse. Specific direction was given to the President, in administering this act, to take all possible steps to minimize adverse impacts on labor and employment. If this most recent announcement is any indication of the diligence with which this mandate will be carried out, we could well face a major recession. Once again, Mr. President, we find that Congress has taken the initiative in looking out for the public interest only to have its efforts frustrated by the administration. They have opposed this section of the bill since its inception, and, having failed at blocking its adoption, apparently now will refuse to implement its provisions. I ask unanimous consent that a copy of the Journal article, and a letter from the United Auto Workers, are printed below to illustrate this point.

Now we also propose to help the States to administer the programs. Sections 122 and 123 authorize grants in aid and assistance to the States for coordinating energy conservation programs. We want these programs administered wherever possible by State and local governments. We do not want a huge Federal bureaucracy. We plan to reimburse the States for their efforts.

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

RULES FOR ENERGY-RELATED JOBLESS BENEFITS SHOULD BE STRICT, ADMINISTRATION INDICATES

(By Walter Mossberg)

WASHINGTON.—The Nixon administration is spreading the word that proposed energy-related unemployment benefits won't be made available to jobless auto workers or others laid off so far in the fuel squeeze.

Richard F. Schubert, Under Secretary of Labor, told a Labor Department advisory panel that special benefits for workers laid off due to the energy shortage, proposed as part of the emergency energy conservation bill pending in Congress, would be narrowly applied if Congress approves them.

He said the Labor Department would pay the benefits, designed for workers whose normal unemployment compensation has expired, only to workers whose employers released them due to a direct lack of fuel. Payments wouldn't go to workers who lose their jobs due to indirect factors, such as energy-related parts supply problems or the energy-related decline in car sales.

He also said the administration believes the benefits would apply only to layoffs occurring after the bill is passed.

"ADMINISTRATIVE HORRORS"

The decision to take a narrow approach in administering the proposed $500 million special benefits program was made, he said, to avoid "administrative horrors" involved in deciding which layoffs could be traced to energy shortages.

Public discussion of the administration's tough interpretation of the pending bill apparently is also designed to pressure Congress to drop the special benefits plan, which the administration opposes. Mr. Schubert said the administration prefers that any special jobless benefits be tied to a numerical formula determining which local areas have had large boosts in general unemployment, rather than to energy-related job losses.

His explanation of the administration view drew an immediate angry response from an official of the United Auto Workers union who is a member of the Federal Advisory Council on Unemployment Insurance, which met with Mr. Schubert.

Ken Morris, a member of the UAW's board, warned the Under Secretary that the federal government would be "buying a lot of trouble" by adhering to the narrow view. "You're never going to convince people laid off in an auto plant that they aren't suffering from the energy crisis," he said.

AUTO FACTORIES HARD HIT

The latest federal statistics show that, by early January, about 131,500 workers had been laid off for reasons the workers attributed to the energy shortage. Hardest hit have been the auto factories, many in the Midwest, where about 60,000 workers have been permanently laid off at the big three auto makers alone, and tens of thousands more have been idled temporarily.

These workers will still be able to collect normal unemployment benefits, until they are exhausted, usually in less than a year. And many have union contracts providing generous layoff benefits that, combined with unemployment compensation, provide up to 95% of their weekly pay for up to a year.

But Mr. Morris indicated that the auto union expects its hard-hit membership to be able to benefit from the added protection provided by the energy bill during what many foresee as a long and deep recession in the auto industry.

SPECIAL TASK FORCE

Mr. Schubert acknowledged that the auto industry is a major victim of energy-related problems and said the Nixon administration was responding to the auto problem by forming a special task force of federal officials and officials from Michigan, Ohio, Illinois and Indiana to find solutions to the problem. It will also convene a special meeting of auto industry and union leaders.

He said, however, that the task force wouldn't address itself to special benefit payments for auto workers but to ensuring a smooth flow of normal compensation payments and devising possible retraining and emergency job programs in areas dependent on auto industry employment.

The Labor Department is caught in an embarrassing squeeze in fighting the energy-crisis unemployment plan. Its own proposal to revamp the entire unemployment compensation system was proposed months ago but has gone nowhere in Congress. Organized labor opposes the measure because unions feel it fails to block states from imposing more stringent duration limits and qualification requirements.

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW,

Washington, D.C., January 28, 1974.

Hon. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: Ken Morris, a UAW regional director, was in Washington last week for a meeting of The Federal Advisory Council on Unemployment Insurance on which he serves. Among subjects discussed during the meeting were provisions of the emergency energy bill currently awaiting further action in the Senate.

I am informed by Mr. Morris that a Department of Labor official at the meeting claimed the unemployment compensation provisions of the emergency energy bill, as reported by the conference committee, would not apply to automobile workers because—and I quote—"they are not directly affected by the energy emergency." In addition, the Labor Department official said the provisions would not be applicable in the case of a worker who lost his job because of the energy situation if his employment loss occurred prior to the time the legislation is signed into law.

Our understanding of the emergency energy bill leads us to the conclusion that the Labor Department official was incorrect about the applicability of the unemployment compensation provisions. We believe the provisions would apply to automobile workers who might lose their jobs because of dislocation in the industry brought about by energy shortages. Likewise, we believe the provisions would apply to persons who lost their jobs because of energy shortages, even if the unemployment had occurred before the bill was signed into law.

There are 60,000 auto workers presently on permanent lay-off, and many more will be laid off before the crisis eases. Lay-offs indirectly related to supplier industries such as rubber and steel will be much higher. If the Labor Department persists in the above interpretations, the unemployment insurance provisions of the energy bill will become a cruel hoax.

We would appreciate your classifications of these points.

Sincerely,

JACK BEIDLER,
Legislative Director.

Mr. JACKSON. Section 124 provides for mandatory disclosure of oil industry data on storage and stocks, production, reserves, distribution, and other essential matters. The need for full disclosure on energy has been brought out in hearings held here last week before the Permanent Subcommittee on Investigations. For the first time, the large companies are being called to be accountable to the public.

But the executive branch cannot do a thing about it without this legislative authority.

Mr. NELSON. Mr. President, if the Senator will yield at that point, as to that provision in the bill, is it not correct that the distinguished Senator from Washington joined me in cosponsoring the Energy Information Act, which is a much more comprehensive bill than this one?

Mr. JACKSON. The Senator is correct. That would be permanent. That legislation would supersede this. But I point out to my friend from Wisconsin that this is an emergency act. Mr. Simon cannot now command submission of any information at all. It has to be voluntary. That is crucial. What is happening now is that the Permanent Committee on Investigations is turning over sworn testimony to the Federal Emergency Agency Administration so that they can analyze it.

I commend the Senator from Wisconsin. I have joined him as a cosponsor of that legislation but, in the meantime, what do they do? They do not have the authority they must have.

Then, I would point out, lest my colleagues forget, that section 129 deals with this arbitrary problem of price gouging.

Let me read that section in full so that every Member of this body will understand what he is doing if he votes to recommit this measure, because there is nothing that is driving the American people up the wall more than real and alleged price gouging.

Here is what section 129 says:

> The President shall exercise his authority under the Economic Stabilization Act of 1970, as amended, and the Emergency Petroleum Allocation Act of 1973 to specify prices for sales of crude oil, residual fuel oil, or refined petroleum products in or imported into the United States which avoid windfall profits by sellers. For purposes of this section, windfall profits shall be defined as those profits which are excessive or unreasonable, taking into consideration normal profit levels.

There is no definition of it? There it is. Let us not go around kidding people by trying to make them believe that the bill may be unconstitutional. We applied elementary law regarding the question raised by the Senator from Wisconsin (Mr. NELSON) and the Senator from Louisiana (Mr. LONG) as it relates to every section in the bill. That is the section on separability. That is standard legislative practice. If the renegotiation authority is declared to be unconstitutional, that does not bring the house down. We have gone through that routine.

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

Mr. JACKSON. I yield myself 5 more minutes.

I yield to the distinguished Senator from Maine.

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

Mr. JACKSON. I yield.

Mr. MUSKIE. I listened earlier with great interest, I say to the Senator from Washington, to the discussion between the Senator from Wisconsin and the Senator from Louisiana. I make this point: This issue, as it was discussed in the conference report—the provision in the conference report—was in the House bill. Of all the provisions in the bill on which they insisted, this is one in which they took the strongest position.

There were those on the Senate side who were not sure that it was workable. We had some doubts about aspects of it. The discussion went on and approached a stalemate. How does one resolve an issue which is strongly supported by the one side, but as to which the other side has only doubt as to the validity of the provision?

So I offered an amendment, as the Senator will recall, making the provision effective January 1, 1975. The idea was that in later legislation there would be ample opportunity for the appropriate committee either to revise and improve the program in which the House believed, or offer something further, something better, or something different. We thought 1 year would provide adequate time.

So it puzzles me, in light of the discussion I heard earlier this afternoon—the commitment by the Senator from Wisconsin and the Senator from Louisiana—that, of course, there would be legislation by the committee which would be reported to the Senate and debated on the floor of the Senate.

What I could not quite figure out for myself was why it was easier to bring legislation of an original generic nature to the floor. Why do they not act to bring to the floor legislation that will supersede the provisions of the conference reports, if there really is a commitment to deal with the children?

I can understand why they were going to strike it here and bring it to the floor of the Senate in the form of new legislation, on which the Senate would have a chance to deliberate for whatever time the Senate wants, but the other route is just as viable.

The House insisted on this provision. They insisted on it. They rejected the bill the Senate sent over to them. I listened to that debate. If any Senator believes that the House conferees can be shaken, he is completely mistaken.

Mr. JACKSON. I could not agree more completely with the Senator. As a matter of fact, there were only 20 votes for the attempted compromise in the House of Representatives. They fought the omission renegotiation provision. So the Senate is now on notice that if this bill goes to conference, they are killing all the things we have recited in here, all the things that are in this conference report.

The Senator from Maine deserves great credit for working out the compromise so that it would not be effective until January 1, 1975, giving Congress a whole year to deal with the problem of excessive profits.

We all want to be rational and reasonable about it. But what we have done here is to put a burr under the saddle of the House and Senate so that there will be some action on excessive profits and price gouging. That is the purpose of it.

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

Mr. JACKSON. I yield.

Mr. MUSKIE. The Senator made reference earlier to the nature of the opposition to this conference report. I have listened to this debate all afternoon. Just one target has emerged and that is the windfall profits section. That is the one target of the opposition that has surfaced, has been discussed, and has been debated. The administration proposes recommittal, and I take it that this is the administration's principal target. Spokesmen who reflect the views of the oil industry have done so. So this is the one target.

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

Mr. MUSKIE. I should like to finish, and then I will be happy to yield.

All we did, as Senate conferees, in the light of the adamant position the House took, was to make a commitment which we felt the Senate would be willing to make, a commitment that the issue of windfall profits would be dealt with this year. We made no commitment to this particular mechanism. We need no commitment to this particular provision, notwithstanding the enthusiasm of the House for it. We saw this as an opportunity to make a commitment to take action before January 1, 1975, and it is that commitment which we are being urged to abandon this afternoon.

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

Mr. JACKSON. I yield 1 additional minute.

Mr. President, this is the crucial question: Does it make any sense for this body to send the conference report back to conference, when we tried that course, in effect, by sending a bill to the House with this windfall profits section out and only got 20 votes for it?

We are on notice, every Member is on notice, that if we send it back, we are killing not just the question of renegotiation but also all the safeguards that deal with price gouging, unemployment insurance, a requirement on reporting, and all the other things that go with it, to protect the little dealer, to deal with antitrust.

Let us not kid ourselves. Why shed crocodile tears over all those increases that are on the graph? That is what it boils down to.

This issue was adjudicated in December, and the House turned it down cold. I must say that we are fooling ourselves when we move to recommit it.

There is no one in this body for whom I have a higher regard than the Senator from Wisconsin, but I am a little confused in this particular situation.

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

Mr. JACKSON. I yield 1 minute.

Mr. NELSON. I should like to say, with respect to the reference to the crocodile tears about the profits, that I am sure the Senator is familiar with my 10-year record here in support of removal of the depletion allowance and with the excess profits tax proposals.

Mr. JACKSON. The Senator and I have voted together on those issues. I voted to kill the foreign depletion allowance a long time ago when it was up. I voted against the special foreign tax credits. I voted to cut the depletion allowance, just as the Senator did. But what I do not understand, really, is why there is this constitutional concern about this section when, if it is unconstitutional, the courts will decide it, and it will not touch the rest of the bill. This I do not understand.

Mr. NELSON. May I respond?

Mr. JACKSON. Yes.

Mr. NELSON. There are two points. I am concerned about two provisions. One is the environmental provision, which I realize was the best the Senator could get at that time. I object to the waiver of the standards for a 5-year period.

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

Mr. JACKSON. I yield.

Mr. MUSKIE. I have been waiting all afternoon to get the specifics. I understand that the Senator objects to a 5-year waiver. There is no 5-year waiver of standards in this conference report.

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

Mr. JACKSON. I yield 1 additional minute.

Mr. MUSKIE. I would be glad to discuss that at further length; but I have been waiting, and all I have heard is a discussion of the windfall tax provision. That is why I addressed my remarks to it. I discussed the environmental provisions in the half hour prior to the offering of the motion to recommit, and I have been waiting for the case that I was told would be made on the floor. I shall be glad to get into it.

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

Mr. JACKSON. I yield.

Mr. NELSON. I never got to the provision, because the distinguished chairman of the Committee on Finance started asking me questions, and we carried on a dialog so long that I never got to read all of my remarks on that subject.

Mr. MUSKIE. I got the distinct impression that the Senator's case against the environmental provisions was not as important, in his mind, as his case against the windfall profits provisions.

Mr. NELSON. I think there is no doubt at all that the renegotiation provision is simply an incredible disaster. I would not say that about the negotiated settlement that the distinguished Senator from Maine made in the conference.

Mr. MUSKIE. I would hope not. I would challenge that with all the vigor at my command.

Mr. NELSON. But what the Senator put into the bill and took out of his committee, with a vote of 14 to nothing, was a better provision than what we got from conference.

Mr. MUSKIE. I respectfully disagree with the Senator, so that the record is clear.

Mr. JACKSON. In fairness to the Senator from Maine, in its bill the House virtually disposed of the Clean Air Act, and the safeguards that we had in the Senate were retained in conference. We came out of conference with a much stronger bill, from an environmental point of view, than what the House had passed.

Mr. MUSKIE. There was no comparison.

Mr. NELSON. To what the House had passed—that is correct.

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

Mr. JACKSON. I yield 1 additional minute.

Mr. NELSON. I agree with the Senator from Washington when he says that this is a burr under the saddle, because the bill is such a disaster that Congress will have to do something about it.

We have a situation in which the President is going to set the prices at the retail, wholesale, and production levels. Then, after he sets the price and the retail operator charges the price the President sets, I can come in and complain against the price and I go up to the Renegotiation Board, and they say that under the guidelines it is an excess profit and that he has to give it back.

Mr. JACKSON. As I understand the Senator's point of view, he is raising questions we all raised in connection with renegotiation and the Clean Air Act. But does it make much sense to turn around and throw out an emergency bill with this long list of safeguards that protect the little dealer——

Mr. NELSON. The motion to recommit does not throw it out. If the Senator goes to conference and they cannot agree, he can come back with it.

Mr. JACKSON. The Senator from Wisconsin and I have been here a little while. The House has gone through this exercise once, and they gave us 20 votes on the issue of renegotiation.

Mr. NELSON. But that was last year, was it not?

Mr. JACKSON. Last year, but it is not that long ago. It was last month, in the closing days of the session, not a year ago.

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

Mr. JACKSON. I yield 1 additional minute.

Mr. NELSON. Is it not correct that at the time this agreement was negotiated, to which the Senator from Washington is opposed and voted against and to which the Senator from Maine is opposed and voted against, which I think both will say privately is no good—and not a single tax expert in America thus far, that anyone can name, supports the renegotiation proposal—is it not true that now there are hearings, which were not existent then, with respect to the excess profits tax?

I thank the Senator for the time.

Mr. JACKSON. We have been whipping around this renegotiation provision dealing with windfall profits. But if it did nothing else—and I hope my colleagues will listen to this—2 days after the conference agreed on the windfall profits section, the administration came out for a windfall profit tax bill. Do I need to say more?

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

Mr. JACKSON. I yield.

Mr. LONG. The Senator certainly should say more. They told me about that a week before it came out.

Mr. JACKSON. The Senator has a better arrangement than I have.

Mr. LONG. The Senator ought to say more than that.

Mr. JACKSON. I know they got religion, Mr. President. I know they got religion when the conference agreed to section 110, just as they got religion when the conference agreed on an unemployment insurance provision. The list of items is long on which they have switched their position.

They opposed the windfall tax provision; they opposed the unemployment insurance provision; they opposed the public disclosure provision; they opposed congressional review of their conservation plans; and now they are all for them. If that terrible renegotiation provision did not do anything else, it really brought religion down to the other end of Pennsylvania Avenue.

Mr. FANNIN. We should be fair. We had information about the excess profits tax before that conference was over.

Mr. JACKSON. When did they make it public?

Mr. FANNIN. I do not know when they told the Senator.

Mr. JACKSON. They did not tell me anything.

Mr. FANNIN. Let us disclose it. Let us be fair.

Mr. JACKSON. I want to be fair.

Mr. FANNIN. I have a letter from the President as to what he wants to do. He certainly is in support of what the Senator is talking about. Sunday on "Face the Nation" the Senator from Washington said what should be done, but this conference report does not carry it through.

Mr. JACKSON. The press, which follows this matter closely, knows when they came out for the excess profits tax, after the conference agreed to this. They propose an excise tax for this purpose which would be passed on to the consumer, like a sales tax. I do not know how big a load the consumer can carry with the terrible escalation of prices now going on. We cannot afford many such new proposals that add to consumer costs, such as deregulating new oil. And I hope we do not have any more wheat deals for a while. We are now going to buy wheat from Russia and buy wheat from Canada. This is typical of this administration's mismanagement of the economy, for which we pay. A little more of this and we could be facing the greatest economic crisis since the 1930's.

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

The PRESIDING OFFICER. The Senator has 28 minutes remaining.

Mr. JACKSON. The Senator from New York (Mr. JAVITS) wanted to be heard.

Mr. RANDOLPH. Mr. President, will the gentleman yield for a question.

Mr. JACKSON. I yield to my good friend from West Virginia.

Mr. RANDOLPH. The conference report at section 301(2)(C) requires the Administrator to conduct a study regarding further development of the Nation's hydroelectric power resources.

This directive is altogether wise. A million kilowatts of hydroelectric capacity operating at 40 percent plant factor saves consumption of 6 million barrels of crude oil annually, or the amount needed to generate equivalent energy by an oil-fueled powerplant. Today we have eight million kilowatts of authorized unconstructed Federal hydroelectric capacity. We also have proposals for 18 million kilowatts before the Federal Power Commission. My question to the gentleman is, will the study directed by the conference report consider further hydroelectric development by all interests of our Nation, both Federal and non-Federal?

Mr. JACKSON. My good friend correctly states the intent of this provision. The study will consider possible development of the Nation's hydroelectric resources by whomsoever it might be undertaken, toward the end of increasing the conservation of fossil fuels.

Mr. RANDOLPH. I thank the Senator.

Mr. JACKSON. I yield 10 minutes to the distinguished Senator from Maine. He and the Senator from West Virginia were the real anchor men in that conference we have heard so much about.

Mr. MUSKIE. Mr. President, I would be happy to answer any questions that any Member of the Senate would like to put to me about the environmental issue. I have not heard a case made against these provisions. I would be happy to go into it in a colloquy with any Senator. I already have placed a statement in the RECORD today explaining the conference agreement on these questions; and last month when we reported the conference report to the Senate I made a statement at that time explaining it.

I have heard the conference report on these questions distorted, misrepresented and misunderstood, so I am available, and I have been since 1:30 this afternoon to go into these questions, and I would be happy to do so.

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

Mr. MUSKIE. I yield.

Mr. NELSON. Did I understand the Senator correctly a moment ago to say that the conference agreement was better than the provision that the Senate adopted?

Mr. MUSKIE. That is right. I explained that earlier this afternoon.

Mr. NELSON. I did not hear the Senator's explanation. In reading it, I do not see how. The environmental organizations do not agree with that.

Mr. MUSKIE. The only environmental organization comments I have seen are from the Sierra Club. I see this two-page analysis with many errors in it. I have been waiting all afternoon for someone to advance these arguments so I could respond, but it has not been done.

There are errors, I am sure, made in good faith. That is why I am here. That is my business. I was a member of the conference on these issues. I try to be knowledgeable about them, and accurate and objective about them.

The Senator, for example, referred to this as a 5-year suspension. The suspension of clean air standards is only until November 1 of this year. Thereafter, any fuel burning source which converts to coal before November 1, 1974, must file another compliance schedule which immediately puts them under standards of the act in a time frame compared to their implementation. There is no 5-year suspension. I heard that in some of these statements. To get into all the technicalities is a little bit of a problem. Let me read some of the language of the legislation which is enlightening. I wish to read section 106 which is a definition of the extent to which standards can be modified under this bill. I read subsection (c):

SEC. 106. COAL CONVERSION AND ALLOCATION.

(a) The Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this Act, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal.

So they must first have the capability present and necessary plant equipment have to burn coal. If they do and if on a plant-by-plant basis a balancing of the environmental effects is positive—that is, the result is not harmful to the health—then the procedures we included in this conference report will take hold. This authority here that I have just read is effective only until May 15, 1975. At that point by the terms of this bill it expires. There can be no conversions after that date. With respect to conversions that take place before that date, they must be made, if they are made, on a permit basis. They must follow the procedures outlined in section 119.

I wish to read from the language in section 119(b)(1):

"(b)(1) Except as provided in paragraph (2) of this subsection, any fuel-burning stationary source (A) which is prohibited from using petroleum products or natural gas as fuel by reason of an order issued under section 106(a) of the Energy Emergency Act, or which the Administrator determines began conversion to the use of coal as fuel during the 90-day period ending on December 15, 1973, and (B) which converts to the use of coal as fuel, shall not, until January 1, 1979, be prohibited, by reason of the application of any air pollution requirement, from burning coal which is available to such source.

Paragraph 1, which I have just read, shall apply to a source—

only if the Administrator finds that emissions from the source will not materially contribute to a significant risk to public health and if the source has submitted to the Administrator a plan for compliance for such source which the Administrator has approved, after notice to interested persons and opportunity for presentation of views (including oral presentations of views). A plan submitted under the preceding sentence shall be approved only if it provides (i) reasonable assurance that such source will achieve at least the same degree of emission reduction by January 1, 1979, as it is required to achieve by the applicable implementation plan in effect on the date of enactment of this section: (ii) for compliance by the means specified in subparagraph (B) in accordance with a schedule for compliance which meets the requirements of such subparagraph; and (iii) that such source will comply with requirements which the Administrator shall prescribe to assure that emissions from such source will not materially contribute to a significant risk to public health. The Administrator shall approve or disapprove any such plan within 60 days after such plan is submitted.

(B) The Administrator shall by regulation prescribe requirements that sources to which this subsection applies submit and obtain approval of schedules of compliance. Such regulations shall include requirements that such schedules shall include dates by which such source must (i) enter into contracts or other enforceable obligations for obtaining a long-term supply of coal or coal by-products (which contracts or obligations must have received prior approval of the Administrator), and (ii) take steps to obtain continuous emission reduction systems necessary to permit such coal or coal by-products to be burned in compliance with the applicable implementation plan (which steps and systems must have received prior approval of the Administrator). Such regulations shall also require that the source achieve as expeditiously as practicable considering the type of coal to be used (but not later than January 1, 1979) the same degree of emission reduction as it is required to achieve by the applicable implementation plan in effect on the date of enactment of this section.

It provides for the compliance, by the means specified in paragraph (B), in accordance with a schedule for compliance which meets the requirements of such paragraph.

Such source will comply with the requirements which the Administrator shall prescribe to assure that emissions from such source will not materially contribute to a significant risk to public health.

Now, paragraph (B):

The Administrator shall by regulation prescribe requirements that sources to which this subsection applies submit and obtain approval of schedules of compliance. Such regulations shall include requirements that such schedules shall include dates by which such source must (i) enter into contracts or other enforceable obligations for obtaining a long-term supply of coal or coal by-products (which contracts or obligations must have received prior approval of the Administrator), and (ii) take steps to obtain continuous emission reduction systems.

You know, Mr. President, the Sierra Club document which I hold contains this language:

Long-range expansion of coal-fired power capacity should involve development and installation of pollution control equipment and exploitation of low-sulfur reserves. Such expansion will then involve no violations of air pollution standards, and so would require no special exemptions.

The language which I have just read writes into this law the exact provisions which they prescribe in their document. That is what I mean by a lack of understanding and knowledge of what is in this conference report.

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

Mr. JACKSON. Mr. President, does the Senator want more time?

Mr. MUSKIE. I will be glad to continue if it is helpful at all to any Senator.

Mr. JACKSON. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 18 minutes.

Mr. JACKSON. I yield 3 minutes to the Senator, and I will add to that.

Mr. MUSKIE. Mr. President, may I say this? The Senator from Wisconsin may wish to put other questions. While he is considering that, let me make this observation.

Anybody who reads the House record of debate on the original House bill, or who reads the House record on the bill which we sent over to the Senate on the last day, has to be aware of the strong and vigorous and rising opposition to every piece of environmental legislation we have put on the books.

In the course of the debate on the House version of the original bill, the Representative from New Hampshire, Mr. WYMAN, introduced an amendment to wipe away all controls on automobile emissions—all of them—and he came within 20 or 30 votes of carrying that amendment.

During the recent recess, I—and I suspect many other Senators and many Members of the House—was asked to meet with automobile dealers across my State. Their mission was this: to pressure us or to persuade us to vote for the Wyman amendment.

Mr. President, if you open this thing up and send it back to conference, and perhaps back to the House, those of us who are really concerned about preserving the laws we have put on the books to preserve the environment had better consider whether we really want to open it up. Under the form of the motion to recommit the conference report, everything in the report is opened up. No agreement which we made in the original conference is binding upon anybody. So every provision we have in here—and those provisions touch not only stationary sources but automobiles and all the rest of it—is open again and is subject to whatever consequences the pressures brought during the recess may achieve. To you who are really concerned about protecting as much as we can of the environmental policies we have written over so many difficult and frustrating and agonizing years and that are now on the law books of our country, I urge you not to open this compromise up to the kind of attacks it could receive if it got back to the House, by any stretch of the imagination. The people who are fighting the windfall profits tax, the oil industry also, would like to see every piece of environmental legislation go down the drain. That is not to say that a Senator who may vote to recommit, for any number of reasons, is motivated that way, but I think it ought to be made clear that the oil industry has been one of the strong proponents for undermining environmental laws.

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

Mr. JACKSON. Mr. President, I will yield later to the Senator from Maine. I yield 3 minutes now to the Senator from New York (Mr. JAVITS).

Mr. JAVITS. Mr. President, I understand completely the arguments already made in respect of end-use rationing, allocation, new exploration, control of exports, unemployment assistance, franchise dealers, and so forth, and the disadvantages of the diminution of environmental protection, that brings the Senator from Wisconsin (Mr. NELSON) to bring this motion. Additionally, I have followed the arguments in respect of section 110, the renegotiation or windfall tax provision.

I think that renegotiation provision is bad. I believe it will be found invalid because of its indefiniteness. However, I believe it will be dealt with in an excess profits tax which we will be considering promptly, well before this provision takes effect. There is no liability until the Board actually acts. In other words, there is no right of action until the Renegotiation Board acts. So nobody will be prejudiced by that section if it gets wiped out in an excess profits tax provision.

What this conference report means is that it is of importance in trying to get an end to the oil embargo. It is my considered judgment that unless we act by adopting the report—and I shall vote against recommittal and for the report for this principal reason—we will not have served notice upon the Arab States that the United States intends to make itself strong and well nigh invulnerable in terms of its petroleum product consumption within very short order, and therefore that it is in an excellent position to lead, in respect of Western Europe and Japan, in an effort to coordinate their policies with ours, because it is the breakdown in that coordination which has put the world in such a disarray as to endanger all mankind.

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

Mr. JAVITS. May I have 2 minutes?

Mr. JACKSON. I yield 2 minutes to the Senator from New York.

Mr. JAVITS. This to me is the critical point. It is that we are taking this action in order to demonstrate that the United States is not going to be overcome by this oil embargo or by production cutbacks, or what may turn out even worse, the enormously escalating prices of oil, but that we are putting ourselves in a stronger position to deal with it.

I believe, in view of the uncertainty and delay that are bound to ensue if this matter is returned to conference and if this conference report is not approved, the tradeoff for the imperfections that admittedly are in this bill simply are not worth it. And it is much too dangerous from the point of view of hoping to bring an end to the high prices which the world simply cannot bear as well as the actual physical deprivation caused by the shortage of oil which neither the people of the United States nor Europe and Japan can bear.

The key answer to that now is the stance of the United States. Can we take on the responsibility? In my judgment we can serve notice to the world that we can and we will by acting now in terms of giving ourselves the power inherent in this act.

For those reasons, and because I believe the deficiencies in the bill can be corrected by appropriate and swiftly enacted legislation, I shall vote against the recommittal of the conference report.

Mr. JACKSON. Mr. President, I thank the Senator from New York for his very fine statement.

Mr. President, I yield 2 minutes to the Senator from South Dakota.

IS THE EMERGENCY BILL NECESSARY OR WORKABLE?

Mr. McGOVERN. Mr. President, the major oil companies and their friends in the administration have been pushing the line that present shortages of crude oil require higher consumer prices and sweeping new powers for the President.

There is no question in my mind that we face a long-term energy problem which must be met by expanded domestic petroleum production, the development of new fuels and sources of fuel and more rational consumption patterns.

But we must not permit this long-term question to obscure our judgment on whether the present alleged shortage warrants sweeping new Presidential powers and a full-scale retreat on emission standards.

I say alleged shortage because recent reports from Europe indicate a surplus of supply is causing the price of both crude and refined petroleum to fall. Ten days ago the Philadelphia Inquirer reported that European storage tanks were so full that tankers are backed up in the harbors because there is no room for their cargo.

Business Week in a follow-up article last week reported that European home fuel which cost $85 a ton before the October war and skyrocketed to $240 in the panic buying which ensued is now priced at $115 a ton and is falling. The article also notes:

> First to realize that a glut was developing were the major oil companies that were buying regularly in the spot market to buttress their own supplies. The majors stopped buying in mid-December.

Now we learn from the London Financial Times that the price for Arab crude oil is also falling by 25 percent or more from earlier sales. Perhaps the reason for this is also that "the majors stopped buying in mid-December." Their embarrassment over high petroleum stocks would certainly provide them with a motive to artificially stop replenishing their stocks and keep on the pressure for high consumer prices.

This evidence leads me to conclude that the emergency energy bill should be sent back to the Interior Committee for greater study of how serious the present shortage of petroleum really is.

In this connection I have been rather dissatisfied with the administration's description of its information on the oil industry and congressional willingness to accept their plea of ignorance.

Under the phase IV price control program, the administration's own regulations require that the major oil companies file quarterly and monthly reports on "prices, costs, profits, and production levels," as well as detailed justifications for proposed price increases—sections 150.151, 150.362. They also have the power to audit company books to verify those reports as well as to expand the reporting requirements.

So, in the face of that authority, the

administration's plea of ignorance of oil industry information sounds suspicious. Either they have the information and are not properly using it or they are not asking for sufficient information in their price control program. The problem is certainly not the absence of authority to get the facts. I hope this is a subject the Interior Committee will pursue in reconsidering the bill.

Lastly, I believe that the excess profits provision contained in the bill is inherently unworkable. Arbitrary judgments made by faceless bureaucrats without strict standards to follow never work out well. That is not to say that a good excess profits tax cannot be drafted. It only means that the present language is not satisfactory.

I introduced the first Senate excess profits bill last December and will shortly introduce a revised version. Other Senators will doubtless offer other proposals. Even the administration has an excise tax proposal mislabeled a "windfall profits tax." We must act to control runaway prices and profits promptly. But we should do it right.

In conclusion, Mr. President, I ask unanimous consent that the articles I referred to earlier and the text of a letter I recently sent to the Deputy Administrator of the Federal Energy Office be printed at the conclusion of my remarks.

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

[From the Philadelphia Inquirer, Jan. 20, 1974]

TANKS FULL ABROAD, OIL GOES BEGGING

(By Donald L. Barlett and James B. Steele)

The wholesale prices of oil products—from gasoline to jet fuel and home heating oil—are declining dramatically across Western Europe.

In sharp contrast with market conditions of a few months ago, when buyers were scrambling to purchase every barrel of oil they could, forcing prices up, a variety of oil products are now for sale in European ports—but there are no buyers.

The reason: European countries, which have been stockpiling record quantities of crude oil and petroleum products, have run out of storage space.

"Storage tanks are, in fact, full to the brim in Northwest Europe, the East Coast of the United States and in Italy" at the same time consumption has been cut back, said Platt's Oilgram Price Service, a daily price reporting service that monitors the worldwide activities of the oil industry.

Platt's is an authoritative oil pricing service whose subscribers include oilmen, bankers, financial analysts and foreign governments. Its circulation is about evenly divide between the United States and overseas.

The Platt's report confirms findings first published by The Inquirer in a continuing series of reports that:

There are record stockpiles of oil products in the United Kingdom, The Netherlands, Italy and other European nations as well as the United States—and no serious oil shortages.

The effects of the Arab embargo and the severity of the oil shortage in the United States have been grossly exaggerated by the Nixon Administration.

Of the Arab embargo, Platt's Oilgram quotes a European oil trader as saying that the last three months have shown the "Arabs either cannot, or really didn't want to pull off their embargo.

"Even singled-out Holland has ended up with the fullest tanks of any of us. In short, the panic factor has ironed out the market."

In Rotterdam, the largest oil port in Europe, Platt's reports that prices for jet fuel and heavy fuel oil used by electric utilities have declined more than 30 percent in recent weeks.

At the first of the year, the price of heating oil there ranged between $150 and $175 a ton, says Platt's. It now is selling for $107.50 and the price is still falling.

There have been four offerings of jet fuel at terminals in Italy and Spain—but no buyers, says Platt's. And a Platt's report from Italy says that the once frequent calls from the United States for jet fuel have ended.

In a dispatch from Milan, Platt's reported:

"Deadness of the market is the main topic of conversation in Italian oil circles. Buyers are a rare breed.

"A trading company reports at least five Italian refiners are in the market offering products from gasoline down to gas oil (heating oil).

"This broker gives a picture of full tanks at refineries and no takers of the oil. A trader notes the entire market has made a complete turnaround from two months ago."

Indeed, in Genoa, Italy's largest oil port, Antonio Orlando, press officer for the Genoa Port Authority, told an Inquirer reporter:

"There is no shortage of oil. In my opinion, the oil companies played a great deal on the Arab embargo to close off the taps of petroleum and get an increase in prices."

Statistics for the Genoa port, gathered by The Inquirer, show that oil imports for the last three months of 1973 were up 19 percent over the same period a year earlier.

And in December—the month when Arab production cutbacks should have been felt in a busy port such as Genoa—a record 5.1 million tons of crude oil was unloaded, the most for any month in 1973.

This, despite the fact that Italy is heavily dependent on Arab oil. In 1972, the latest period for which complete figures are available, 71 percent of all the oil imported into Italy came from the Arab nations, largely Libya, Saudi Arabia and Kuwait.

The large increase in oil imports into Genoa has some significance for other European countries, for Italy exports about 25 percent of the crude oil it receives.

Oil unloaded in Genoa is carried by pipeline to refineries in Switzerland, Germany and other Italian cities.

Even though Italy is receiving plenty of crude oil, the country has been hit with sporadic shortages of some oil products.

Indeed, there were scattered shortages of gasoline, diesel fuel and home heating oil in Italy off and on for months before the Arabs announced their reduction in oil production.

The problem appears to stem more from government price control policies and hoarding than from anything else.

Last week, the Italian government charged an independent oil refiner in Genoa with fraud and hoarding petroleum products, confirming the suspicions of many oil industry observers that there is substantial hoarding of petroleum.

The government has contended that the refiner is withholding its products from the market to get a higher price.

The Italian government, as part of its inquiry, said police had seized dozens of telegraph messages in a Rome refinery that were sent to oil tankers bound for Italy.

The messages, according to the government, indicated that the tankers were being urged to go elsewhere because there was no more storage space for crude oil in Italy.

The Italian government said it also is questioning the officials of a number of other oil companies about their stockpiling practices.

The companies being quizzed include at least one American oil company, Chevron, a subsidiary of Standard Oil Company of California.

A spokesman for Standard Oil Company of California, at the company's headquarters in San Francisco, had no comment, saying the company had not heard from its affiliate in Italy concerning the matter.

The purpose of the probe by the Italian government is to determine whether some oil companies refused to refine crude oil last year and thus helped create product shortages.

The Inquirer survey of oil supplies in Italy produced about the same results as its survey in The Netherlands and United Kingdom.

As The Inquirer has disclosed over the last two weeks, the Arab cutbacks have had little effect on Europe's two largest oil ports—Rotterdam in The Netherlands and Milford Haven in the United Kingdom.

In Rotterdam, for example, a port official said that oil was flowing into the port at a steady rate, even though The Netherlands was the only country besides the United States hit with a total embargo by the Arab states.

Prior to the embargo, about 70 percent of all oil shipments into Rotterdam came from Arab states. After the embargo, major oil companies diverted supplies of non-Arab oil to the Dutch.

Then the companies shipped Arab oil, which once was intended for The Netherlands, to countries the Arabs considered more sympathetic to their views, such as France and Britain.

While The Inquirer's continuing probe into the worldwide movement of oil has indicated that production is indeed down in some Arab states, there is little evidence to suggest that overall production has been slashed to the levels publicly announced by the Arabs.

In addition, oil production has been stepped up in a number of other countries, including at least one Arab state (Iraq), as well as Iran and Indonesia.

So it is, then, that the Italians, like the Dutch and the British, are more concerned with the spiraling retail prices of oil products than with the supply—which is considered adequate.

In the United States, on the other hand, the new Federal Energy Office and the Nixon Administration have expressed more concern over alleged oil shortages. This has tended to divert attention from steeply rising prices.

While there is a squeeze between supply and demand for oil products in this country, The Inquirer has pointed out, beginning last month, that the Federal Government has consistently overstated the severity of the problem.

The overstatement of the oil shortage has helped bring about a general slowdown in some businesses and industries, and the loss of jobs for tens of thousands of workers.

Meanwhile, in Europe, a Platt's Oilgram official says, "there's an awful lot of oil coming out on offer, but no one's buying."

In addition to cargoes of jet fuel and heating oil and even 200,000 tons of Russian naphtha for which there are no buyers, the Platt's spokesman said there have been price dropoffs in heavy fuel oil—a product which supposedly is in shortest supply of all.

Heavy fuel oil is used by industry and electric power plants and the Federal Energy Office has pointed to inventory levels of this product in the United States as evidence of the seriousness of the energy shortage.

Last week, according to the American Petroleum Institute (API), an industry trade association, stocks of heavy fuel oil totaled 52.2 million barrels—down 5 percent from the 55 million barrels on hand a year earlier.

Inventories of other petroleum products, however, such as home heating oil and jet fuel, are at much higher levels than this time last year.

Helping to account for declining oil prices in Europe, in addition to full storage tanks, the Platt's spokesman said, is that the energy scare has encouraged everyone to keep a full supply of petroleum on hand.

"It's just like what we have been doing here in the United States," he said. "You used to drive your car until the gas tank was empty. Now when it's half-empty, you get it filled up. When everybody who uses oil does that, it has quite an impact."

He added that there also had been a "speculative frenzy" in Europe, with speculators buying any kind of oil product they could get their hands on.

Now those speculators are trying to sell off those supplies and no one is buying at the higher prices.

Another Platt's representative said there were reports from New York harbor last week that some independent oil companies were refusing to pay inflated prices for heating oil that major oil companies had offered for sale.

[From the Washington Post, Jan. 29, 1974]

OIL PRICES DROP ON WORLD MART

LONDON.—Oil prices are beginning to fall on the international market after reaching record levels in December, the Financial Times of London said yesterday.

The trend was evident both at crude oil auctions by certain producer countries, and on the refined products market, particularly in Rotterdam, the paper said.

The newspaper thought the crude oil sales currently in progress in Kuwait and Tunisia would fetch only $12 a barrel, compared to $20 recently obtained by Libya.

At Rotterdam, refined products are reportedly being offered for immediate delivery at half the recent prices.

The Financial Times attributed the price slip to the mild winter temperatures Europe has been experiencing and the prospect of an easing in the Arab oil embargo.

As finance experts from major oil-exporting nations began framing a long-term price strategy in Vienna, meanwhile, there were signs of a split within the ranks of the 12-nation Organization of Petroleum Exporting Countries over a Saudi Arabian call for cuts in the present high cost of OPEC oil.

Saudi Petroleum Minister Sheikh Zaki Yamani, said in Tokyo Sunday that King Faisal would take "very important steps" soon to reduce oil prices.

OPEC Secretary General Abderrahman Kheme of Algeria said there were no plans to discuss the Saudi ideas in the OPEC Economic Commission.

Asked if he considered oil prices had reached their limits, Khene said, "I don't think prices have reached the maximum." But he declined direct comment on Yamani's statement.

Informed sources said Algeria and Iran are expected to resist any attempt to reduce the cost of crude oil, which has more than doubled in price since December. Iraq is expected to support Saudi moves to lower prices.

* * * * *

Jobert made plain in the talks that France is prepared to supply Kuwait with Mirage fighter planes, tanks and antiaircraft missiles free of political strings, the sources said.

He also expressed France's readiness to participate in petrochemical and oil refinery projects in Kuwait in return for guaranteed yearly deliveries of crude and refined oil, the sources added.

They said the French foreign minister left the size of Kuwaiti oil deliveries and French industrial investments to be determined in subsequent negotiations if the Kuwaiti government approved the barter principle.

In Saudi Arabia, the first and most important leg of Jobert's tour, unofficial reports said he had won King Faisal's tentative agreement to provide France with about 5.6 billion barrels of Saudi crude over the next 20 years. The amount would meet a fourth of France's oil needs.

In return, the reports said France has agreed to play a major role in Saudi's Arabia's industrialization programs, including the construction of petrochemical industries and joint oil refineries.

Detailed accords for these projects are to be negotiated by a joint ministerial commission the two countries agreed to set up during Jobert's three-day visit to Saudi Arabia, according to the reports.

[From Business Week, Jan. 26, 1974]

EUROPE—A GAS-OIL "SHORTAGE" TURNS INTO A GLUT

Speculative buyers who scrambled to snap up oil products in the limited "spot" market late last year are watching those prices come tumbling down all over Europe. The reason is simply that oil storage tanks from Rotterdam to Milan, and probably even as far away as the U.S. East Coast, are brimful. Says a London-based oil executive: "The market is flooded with oil products right across the barrel."

The upshot is that prices in the spot market, which accounts for 10% to 15% of European oil, are now only a little above those set by the major oil companies for the rest of the market. And, at midweek, the majors boosted their oil prices in Germany even closer to spot market prices.

The spot market's price plunge is showing up mostly in gas oil, an oil product used primarily for heating. Gas oil prices, which spiraled from the pre-Yom Kippur War level of $85 a ton to $240 a ton in mid-December, are back down to $115 a ton. And they could go lower. A Milan broker tells of an Italian refiner who offered him a cargo of gas oil for $152 a ton. f.o.b. on Jan. 4. The broker, unable to find a buyer, declined the offer. Five days later the refiner was back, trying to unload his cargo for $135 a ton.

Behind the price slump lies the growing realization in the oil industry that the European oil crisis stems more from Arab price hikes than any real shortage. Saudi Arabian oil minister Sheik Ahmed Yamani brought the point home last week when he noted that the 15% production cutbacks combined with the embargo on sales to the U.S. and the Netherlands mean that the non-boycotted European countries are now getting more oil than they were last September. What's more, a mild winter and the energy-saving measures instituted throughout Europe have kept demand down.

TRYING TO UNLOAD

First to realize that a glut was developing were the major oil companies that were buying regularly in the spot market to buttress their own supplies. The majors stopped buying in mid-December. The price was supported a while longer by speculators and by Germany's independent importers, who buy heavily in spot markets.

But by early January, the speculators were sitting with full oil tanks, and began to realize that the shortage was not materializing. So now the speculators are trying to unload their oil without knocking the bottom out of the market. Even so, they are finding that the few interested buyers knock off $5 a ton and then start to negotiate. Barring any further production cutbacks, the soaring prices caused by the panic buying of late 1973 appear to have been reined in and spot prices are now likely to move up at a more leisurely pace.

SELECT COMMITTEE ON NUTRITION AND HUMAN NEEDS,
Washington, D.C., January 22, 1974.

JOHN C. SAWHILL,
Deputy Administrator, Federal Energy Office, New Executive Office Building, Washington, D.C.

DEAR MR. SAWHILL: Again, many thanks for your testimony before the Select Committee this morning and your offer to provide us with further information.

In your testimony you stated that the data you use in energy planning derived from information provided by the American Petroleum Institute, the U.S. Bureau of Mines, and the U.S. Customs Bureau. Because that information "is not adequate and its reliability cannot be checked," you also described various new efforts to get more detailed information more rapidly. You further suggested that you need additional legislative authority to obtain full and accurate statistical information.

It occurred to me that you should have substantially more detailed information than you are apparently using, as well as the power to fill in whatever blanks may exist under the Phase IV price control program.

For example, the Cost of Living Council's regulations require the major oil companies to file quarterly reports on "prices, costs, profits and production levels" (Sec. 150.362). They are also required to file monthly reports on "price movements, costs, and other related information." (ibid.) In addition, Category I firms (revenues of $100 million or more) are required to file detailed justifications for proposed price increases (Sec. 150.151).

My understanding is that you inherited this data base and certain CLC employees when your office became responsible for petroleum industry price controls last fall.

I can understand that you may want to change the monthly and quarterly reporting requirements to a weekly basis and add certain categories for disclosure. But you clearly have the power to do this as well as to audit oil company books to check the accuracy of the figures without further legislative authority.

I would appreciate your furnishing the Committee with a copy of the forms used for the quarterly and monthly reports I referred to above, as well as the "prenotification" and price justification forms.

I would also like to know why your office is apparently not using the price control data you presently have in energy planning.

Finally, I would like your opinion on why the powers you have under both the Economic Stabilization Act of 1970 and the Emergency Petroleum Allocation Act of 1973 are not sufficient to obtain whatever further facts you need.

With every good wish, I am

Sincerely,

GEORGE MCGOVERN,
Chairman, Select Committee on Nutrition and Human Needs.

Mr. JACKSON. Mr. President, the Senator asks some very proper questions. The Subcommittee on Permanent Investigations had seven of the largest companies before it. They testified under oath. We asked them questions about the stocks on hand.

The committee had Mr. Simon before it and proceeded on the same basis. The testimony of those witnesses was to the effect that for the first quarter the supplies of middistillates was down and the supply of gasoline was up a bit. In part that was due, we think, to the weather that was most favorable in recent weeks and which caused the stocks to be up more than they were a year ago.

First, the gasoline stocks, however, are going down very fast. So, we are facing a very critical situation in the second quarter of this year barring some kind of solution in the Mideast. It is the judgment of a lot of people who are following this problem that gasoline rationing will take effect. The answer is that stocks are up a slight bit over a year ago, due primarily to weather conditions. But gasoline is going down.

Gasoline was up at one point. However, the testimony was that inventories are going down.

I do not know what the situation is overseas. We have asked these companies the questions under oath. We shall have follow-up interrogatories to get to the particular points that the Senator has in mind and to determine whether there are inventories anyplace else. They have sworn under oath that they do not have anything other than that which they have revealed.

Mr. McGOVERN. There are publicly released figures that show at least a modest increase in oil company reserves now over a year ago.

Mr. JACKSON. The Senator is correct. However, when we break it down, it is in the middistillate area. Gasoline is going down, because they are still refining heating oil. We have benefited from the weather. Because of the weather we may be faced with having a glut of heating oil.

Mr. McGOVERN. I know that the Senator from Washington has been very vigorous in his interrogation of these companies. I do not need to remind the Senator that these are the same companies that told us 3 or 4 years ago that there was not any shortage and that we did not need to lift the import quotas. I wanted to remind the Senator that their judgment and facts are not always right.

Mr. JACKSON. The Senator is correct. I wrote a letter to Secretary Shultz in 1969 denouncing the archaic quotas set on oil.

The problem is a difficult one which we are following up in the committee. The staff met with the representatives on yesterday. We are asking all of the questions the Senator referred to as a followup, so that we can find out specifically what happened.

Mr. McGOVERN. Mr. President, I commend the Senator from Washington for his action.

Mr. JACKSON. I commend the Senator from South Dakota for raising the questions on the floor of the Senate.

Mr. President, I wonder if the Senator from Wisconsin would take a little time now. I believe that the Senator has more time than we do.

The PRESIDING OFFICER. The Senator from Washington has 5 minutes remaining. The Senator from Wisconsin has 7 minutes remaining.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. NELSON. I yield 2 minutes to the Senator from Louisiana.

Mr. LONG. Mr. President, I have yet to hear anyone refer to the fact that this measure is unconstitutional. We have the testimony of tax lawyer after tax lawyer, many of whom have served as Commissioners of Internal Revenue Service under the Truman administration, the Johnson administration, the Kennedy administration, and the Nixon administration, who they say that they think the proposal is unconstitutional.

If that proposal is unconstitutional, it may well bring down the whole bill with it. So the whole bill may be declared unconstitutional. It is very simple. This constitutes a taking without due process. It says that if someone takes what we believe to be an unfair profit, we might look at all of his profits and tell the man to give back anything that he has received that is more than a fair profit.

Now the Renegotiation Act is able to bypass that issue because there is a contract between the Government and the Government contractor to give the money back.

I know a very able lawyer in New York who said that he thinks that provision is bad. I think that we can repeal it later and substitute something else.

Here is what the witnesses say. If a company produces more oil than it had in that base period, he has to give back 100 percent of everything that he has made or he is guilty of price gouging.

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

Mr. NELSON. Mr. President, I yield 1 additional minute to the Senator from Louisiana.

Mr. LONG. Mr. President, the people will say, "You will not accuse me of price gouging. I will not produce that much oil."

Look at the list of all the companies up there on the board. They made more profits than they made in a depressed period. We should not be giving them an incentive to produce less oil than they did before so that they will not be accused of price gouging. That is ridiculous.

We ought to be encouraging people to produce more energy.

When we put that provision on the statute books, lawyer after lawyer who has had responsibility in this matter has said that people will be confronted with uncertainty and that, if they invest their money, they cannot get it back. Bankers will not make loans to companies that want to produce more oil.

Mr. President, bankers will not make loans to companies who want to drill wells and produce more oil and process more oil. They will say that it is doubtful whether the company will be permitted to earn enough money to pay off the loan.

So, we would get less oil and less gas in due course if we were to follow this method. Why would we want to do that if we could take our time and pass a law that would be constitutional? We would then be doing what we swore to do when we took our oath of office, to uphold the Constitution.

Mr. BENTSEN. Mr. President, is it not true that there are approximately 220,000 service stations in this country, that 70 to 80 percent of those stations are independent operators, that there would be individual decisions with respect to each of them with respect to the sale of gasoline, that any citizen might object to any one of those stations and a hearing would have to be held, and that would result in a legislative nightmare. There is no way in which that could feasibly be accomplished.

Mr. LONG. And every one of those 220,000 service stations can be hauled into court under the Renegotiation Board for every sale they make to every customer. So that board could meet from now to eternity, and would not have settled all its cases.

Mr. BENTSEN. Does the Senator from Louisiana remember the service station operators who were here last year because they were having problems in this regard?

Mr. LONG. I certainly do.

Mr. BENTSEN. Does he not think they would be back again with the same kind of problems?

Mr. LONG. I certainly do. Mr. President, I expect to vote for the kind of excess profits tax that would work, and would not keep us from getting energy for the American people at a time when they need it desperately.

Mr. NELSON. Mr. President, what we are really doing if we approve this bill is playing a gigantic con game on the American public, because it is not constitutional, it will not work, and it is not a tax, and I do not think the President, on his worst day, could conceivably sign this bill.

Nevertheless, I think we ought to recognize who we are putting a burden on with this bill. That is, the local gasoline station owners and it will bankrupt them. They cannot live under it.

Think of a situation where the President sets the price at the retail level, and then the filling station operator follows the price the President sets. Then along come a bunch of customers and complain that the price he charged, based upon what the President set, gives him an excess profit, so they go up to the Renegotiation Board, which has the authority under the law to decide that in fact, after using all these guidelines I read into the RECORD, he is charging an excess amount. So then they haul him before the Renegotiation Board, with maybe 10 complaints or 50 complaints, and now he has got to pay back money.

There is no way in the world, under the free enterprise system, for any retailer to survive under this provision. The Senator from Washington and the Senator from Maine both know it is a bad provision. They will both say so. They both voted against it. Yet they want to stick by the provision because they say that is all they can get out of the conference.

Now let us look at the argument that there are a bunch of urgent things in here. I just called WILBUR MILLS and talked with him at home, and I asked him about whether, if something happened at this conference and they did not come back with any agreement, he considered it important that we have some unemployment compensation act provision such as is in this bill, or better.

He said, "Yes, we have got to do something about those who are unemployed."

So we have the chairman of the Ways and Means Committee who has a position on it, we have the chairman of the

Finance Commitee, and there is hardly a soul in either House who will vote against extending unemployment compensation at least as broad if not broader than what is in this bill.

It is argued that we need a Federal Energy Officer. An FEO is contained in this bill. I must say to the distinguished Senator from Washington that after he conducted hearings he came up with a far superior Federal Energy Office Act (S. 2776) and we passed it here in the Senate. So that is no problem.

Now, as to the question of rationing: I do not think the problem needs to be delineated further. However, the President can ration, under the Defense Production Act or under the Economic Stabilization Act, right now.

On the question of disclosure, we have the Energy Information Act, which the distinguished Senator from Washington has cosponsored with me, and it is far superior and much more comprehensive than what is in this bill. Hearings are going to start and we are going to complete them before the end of the recess, and they will be before the Senate within a matter of 15 or 20 days.

There are at least four good provisions in there that are not controversial; without this bill we can pass them any time we want to, and we will. One of them is the antitrust provisions. They have already been enacted on the floor of the Senate. We can pass those. There are the export limitations; everyone agrees on them. We can pass them. There is a franchise protection provisions; almost everyone agrees on that, and we will pass that, plus one on price gouging.

So I do not see the reason for all the fuss.

Mr. PACKWOOD. Mr. President, there are two very serious problems with the legislation before us today. They deal with windfall profits and environmental protection. Nothing in this measure prevents the oil industries from investing their profits in anything they want. The legislation is so vague on this point that not only would it allow the generation of excess profits, but it does nothing to insure that any profits, excess, or otherwise, will be used for the exploration and production of energy. In addition, Mr. President, there are grave questions regarding the long-range implications of the bill's provisions on coal conversion and the changes that will be made in title I of the Clean Air Amendments of 1970.

Let us look at these two issues today.

The provisions contained in section 110 of the Emergency Energy Act relating to windfall profits in the petroleum industry are ill-conceived, unworkable, counterproductive and, in all likelihood, unconstitutional.

Immediately upon our return to Washington, D.C., the Finance Committee began to inquire into the provisions of section 110. The first day of our hearings was particularly informative. We had before us former IRS Commissioners and Treasury tax officials spanning the entire political spectrum from Truman to Nixon. These were men who had no bone to pick with the oil companies, no particular ax to grind at all. They were before us solely to advise the committee as to the desirability of resolving the vexacious problem of excess profits in the manner proposed in the energy bill. To the last man, they were unanimous in their denunciation of the approach.

Several points were raised:

The provision would affect only petroleum companies, it would not direct itself to the coal industry, it made no reference to price gouging, if you will, by any other sector of the energy economy. In short, it is not comprehensive.

With specific respect to the petroleum industry, the proposal was vague as to degree of application. It was earlier presumed that the proposal would zero in on the "big oil companies." In fact, the language of the proposal would be equally applicable to the independent small businessman operating the corner gas station and to Exxon. It occurs to me that the two extremes simply cannot be fairly treated via the same mechanism.

The witnesses before the Finance Committee, speaking from their expertise as administrators of the tax laws, referred time and again to the fact that the language in section 110 was imaginatively vague. The witnesses unhestitatingly declared that passage of section 110 would result in such a state of confusion and duplicative litigation as to make future investment decisions impossible. In short, section 110 will likely result in less investment in the energy industry at the very time when we need to do all we can to encourage additional investment.

Another point is with respect to the workability of section 110: Will it accomplish its purpose without causing unduly harmful secondary impact? Mr. John S. Nolan, former Deputy Assistant Secretary of the Treasury, summed up the feeling of the panel when he stated that—

> While it is possible to develop a reasonable windfall or excess profits tax applicable to the energy companies which preserves and even increases the incentive for development of new energy sources, the form of tax [proposed in section 110] is wholly unsatisfactory. . . . These particular proposals are probably unconstitutional because of their uncertain application. They would greatly discourage new capital investment in energy development because of this extraordinary uncertainty . . . they are totally unadministrable either through our tax administration structure or the renegotiation process.

Finally, the proposal embodied in section 110 has been likened to placing a small tin cup under a sieve. The various special provisions contained in the Federal tax law with respect to treatment of energy company profits and tax liability allow vast sums of money to escape taxation. For purposes of my objection, I am assuming that these special provisions were completely justified and necessary when enacted. However, I am convinced that we must take a long hard look at these special allowances in light of present conditions to determine whether they are still justified.

The Committee on Finance will be working to develop a system of taxation that will insure the achievement of two objectives: First, the expansion of research, and exploration and development of new energy sources; and second, the prevention of any company taking undue advantage of the consumer by price gouging during the shortage. This will be an extremely delicate balance to attain. It goes without saying that section 110 of the energy bill does not even begin to approach the balance.

Section 110 is bad legislation and should not be enacted.

In turning to the environmental provisions of this measure it is evident that the present energy situation while extremely serious does not require the action proposed in this legislation.

Prior to the Christmas recess, the Congress labored hard and long to pass a bill to deal with the threat of a national energy shortage this winter. Inevitably, a bill assembled under such time pressure contained provisions that gravely disturbed those of us who have consistently voted to protect public health and the environment. I am particularly concerned about the long-range implications of the bill's provisions on coal conversion and its changes in title I of the Clean Air Amendments of 1970. In my opinion, the context in which this legislation is being considered has changed appreciably since December. We have now moved so far into the peak winter heating season that little can be done now to authorize additional substitution of coal for oil in powerplants and industrial facilities that would measurably affect this winter's fuel shortage. Meanwhile, the Environmental Protection Agency has moved expeditiously, through existing clean air amendment procedures, to allow coal to be used temporarily where it was needed and available. As expected, shortages of coal, caused by insufficient surge capacity in mines and transportation facilities, have limited the number of conversions possible in a short time also. Further, it has become apparent that the heating oil shortfall predicted for this winter was overstated, though there are clearly places where fuel shortages remain pressing. Mr. Simon has recently revised his estimate of the daily shortfall to a level which has been estimated to be well within the amounts that can be saved through conservation measures without exposing our populated centers to dangerous sulfur oxide and particulate pollution. While we must give all due consideration to our energy needs, this must not be done at the expense of our environment, nor need it be. Our pursuit of a sound energy policy can and should continue, and, at the same time, must not be made mutually exclusive of sound environmental policy. Past and projected short-term energy shortages cannot be blamed upon environmental factors. They have been basically economic in nature.

For these reasons, I feel it imperative that we reconsider the compromises made earlier with regard to the coal conversion sections in title I of the Clean Air Act. More appropriately, consideration of any longer term amendments to the act should be saved for later in the session when there has been time to

assess our energy position and to determine how we can optimize any tradeoffs between public health and energy supply that still seems necessary.

The VICE PRESIDENT. The time of the Senator from Wisconsin has expired.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. JACKSON. I believe I have 5 minutes remaining.

The VICE PRESIDENT. The Senator is correct.

Mr. JACKSON. I yield 1 minute to the Senator from Tennessee (Mr. BAKER).

Mr. BAKER. Mr. President, I thank the Senator from Washington for yielding.

I shall vote against recommitting the conference report. I was a conferee on this measure in the closing days of the last session. I remember the long and arduous hours we spent in that conference—on one occasion, at least, with the administration representatives in the adjoining room—trying to hammer out some kind of compromise to give the President the powers he urgently needs to deal with the energy crisis.

Many provisions were adopted in that conference report with which I disagreed, and with which I still disagree, Mr. President, particularly that section which deals with renegotiation. That section is poorly drafted.

But the fact that it is bad, it seems to me, is an urgent incentive for the jurisdictional committees, the Finance Committee and the Ways and Means Committee, to go forward with corrective legislation to prevent the major oil companies from reaping windfall profits as a result of the fuel shortage.

The one thing I fear, as senior Republican member of the Public Works Committee, which has jurisdiction of the environmental aspects of this bill, is that if we go back to conference we will come back with a bill not as good, and in fact maybe much worse, than that which we hammered out so laboriously in the course of that conference. We did a good job, and I do not want to take a chance on its going down the tube. Therefore, I shall vote against recommittal.

Mr. JACKSON. Mr. President, I ask unanimous consent to have various matters printed in the RECORD in connection with my remarks.

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

ENERGY EMERGENCY ACT—CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act, including the following table of contents, may be cited as the "Energy Emergency Act".

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TITLE I—ENERGY EMERGENCY AUTHORITIES

SEC. 101. FINDINGS AND PURPOSES.

(a)(1) The Congress hereby determines that—

(A) shortages of crude oil, residual fuel oil, and refined petroleum products caused by insufficient domestic refining capacity, inadequate domestic production, environmental constraints, and the unavailability of imports sufficient to satisfy domestic demand, now exist;

(B) such shortages have created or will create severe economic dislocations and hardships;

(C) such shortages and dislocations jeopardize the normal flow of interstate and foreign commerce and constitute an energy emergency which can be averted or minimized most efficiently and effectively through prompt action by the executive branch of Government;

(D) disruptions in the availability of imported energy supplies, particularly crude oil and petroleum products, pose a serious risk to national security, economic well-being, and health and welfare of the American people;

(E) because of the diversity of conditions, climate, and available fuel mix in different areas of the Nation, a primary governmental responsibility for developing and enforcing energy emergency measures lies with the States and with the local governments of major metropolitan areas acting in accord with the provisions of this Act; and

(F) the protection and fostering of competition and the prevention of anticompetitive practices and effects are vital during the energy emergency.

(2) On the basis of the determinations specified in subparagraphs (A) through (F) of paragraph (1) of this subsection, the Congress hereby finds that current and imminent fuel shortages have created a nationwide energy emergency.

(b) The purposes of this Act are to call for proposals for energy emergency rationing and conservation measures and to authorize specific temporary emergency actions to be exercised, subject to congressional review and right of approval or disapproval, to assure that the essential needs of the United States for fuels will be met in a manner which, to the fullest extent practicable: (1) is consistent with existing national commitments to protect and improve the environment; (2) minimizes any adverse impact on employment; (3) provides for equitable treatment of all sectors of the economy; (4) maintains vital services necessary to health, safety, and public welfare; and (5) insures against anticompetitive practices and effects and preserves, enhances, and facilitates competition in the development, production, transportation, distribution, and marketing of energy resources.

SEC. 102. DEFINITIONS.

For purposes of this Act:

(1) The term "State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(2) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (as defined in the Emergency Petroleum Allocation Act of 1973).

(3) The term "United States" when used in the geographical sense means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(4) The term "Administrator" means the Administrator of the Federal Energy Emergency Administration.

SEC. 103. FEDERAL ENERGY EMERGENCY ADMINISTRATION.

(a) There is hereby established until May 15, 1975, unless superseded prior to that date by law, a Federal Energy Emergency Administration which shall be temporary and shall be headed by a Federal Energy Emergency Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. Vacancies in the office of Administrator shall be filed in the same manner as the original appointment.

(b) The Administrator shall be compensated at the rate provided for level II of the Executive Schedule. Subject to the Civil Service and Classification provisions of title 5, United States Code, the Administrator may employ such personnel as he deems necessary to carry out his functions.

(c) Effective on the date on which the Administrator first takes office (or, if later, on January 1, 1974), all functions, powers, and duties of the President under sections 4, 5, 6, and 9 of the Emergency Petroleum Allocation Act of 1973 (as amended by this Act), and of any officer, department, agency, or State (or officer thereof) under such sections (other than functions vested by section 6 of such Act in the Federal Trade Commis-

sion, the Attorney General, or the Antitrust Division of the Department of Justice), are transferred to the Administrator. All personnel, property, records, obligations, and commitments used primarily with respect to functions transferred under the preceding sentence shall be transferred to the Administrator.

(d)(1) Whenever the Federal Energy Emergency Administration submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress.

(2) Whenever the Federal Energy Emergency Administration submits any legislative recommendations or testimony or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Federal Energy Emergency Administration to submit its legislative recommendations, or testimony or comments to any officer or agency of the United States for approval, comments, or review prior to the submission of such recommendations, testimony, or comments to the Congress.

(3) The Federal Energy Emergency Administration shall be considered an independent regulatory agency for purposes of chapter 35 of title 44, United States Code, but not for any other purpose.

SEC. 104. END-USE RATIONING.

Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection:

"(h)(1) The President may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with the objectives of subsection (b), for the establishing of a program for the rationing and ordering of priorities among classes of end-users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to end-users of such products of rights, and evidence of such rights, entitling them to obtain such products in precedence to other classes of end-users not similarly entitled.

"(2) The rule under this subsection shall take effect only if the President finds that, without such rule, all other practicable and authorized methods to limit energy demand will not achieve the objectives of section 4 (b) of this Act and of the Energy Emergency Act.

"(3) The President shall, by order, in furtherance of the rule authorized pursuant to paragraph (1) of this subsection and consistent with the attainment of the objectives in subsection (b) of this section, cause such adjustments in the allocations made pursuant to the regulation under subsection (a) as may be necessary to carry out the purposes of this subsection.

"(4) The President shall provide for procedures by which any end-user of crude oil, residual fuel oil or refined petroleum products for which priorities and entitlements are established under paragraph (1) of this subsection may petition for review and reclassification or modification of any determination made under such paragraph with respect to his rationing priority or entitlement. Such procedures may include procedures with respect to such local boards as may be authorized to carry out functions under this subsection pursuant to section 122 of the Energy Emergency Act.

"(5) No rule or order under this section may impose any tax or user fee, or provide for a credit or deduction in computing any tax."

SEC. 105. ENERGY CONSERVATION PLANS.

(a)(1)(A) Pursuant to the provisions of this section, the Administrator is authorized to promulgated by regulation one or more energy conservation plans in accord with this section which shall be designed (together with actions taken and proposed to be taken under other authority of this or other Acts) to result in a reduction of energy consumption to a level which can be supplied by available energy resources. For purposes of this section, the term "energy conservation plan" means a plan for transportation controls (including but not limited to highway speed limits) or such other reasonable restrictions on the public or private use of energy (including limitations on energy consumption of businesses) which are necessary to reduce energy consumption and which are authorized by this Act.

(B) No energy conservation plan promulgated by regulation under this section may impose rationing or any tax or user fee, or provide for a credit or deduction in computing any tax.

(2) An energy conservation plan shall become effective as provided for in subsection (b). Such a plan shall apply in each State, except as otherwise provided in an exemption granted pursuant to the plan in cases where a comparable State or local program is in effect, or where the Administrator finds special circumstances exist.

(3) An energy conservation plan may not deal with more than one logically consistent subject matter.

(4) An amendment to an energy conservation plan, if it has significant substantive effect, shall be transmitted to Congress and shall be effective only in accordance with subsection (b). Any amendment which does not have significant substantive effect and any recission of a plan may be made effective in accordance with section 553 of title 5, United States Code.

(5) Subject to subsection (b)(3), provision of an energy conservation plan shall remain in effect for a period specified in the plan unless earlier rescinded by the Administrator, but shall terminate in any event no later than May 15, 1975.

(b)(1) For purposes of this subsection, the term "energy conservation plan" means a plan promulgated by regulation proposed under subsection (a) of this section or an amendment thereto which has significant substantive effect.

(2) The Administrator shall transmit any energy conservation plan (bearing an identification number) to each House of Congress on the date on which it is promulgated.

(3)(A) If an energy conservation plan is transmitted to Congress before March 1, 1974, and provides for an effective date earlier than March 1, 1974, such plan shall take effect on the date provided in the plan; but if either House of the Congress, before the end of the first period of 15 calendar days of continuous session of Congress after the date on which such plan is transmitted to it, passes a resolution stating in substance that such House does not favor such plan, such plan shall cease to be effective on the date of passage of such resolution.

(B) If an energy conservation plan is transmitted to the Congress and provides for an effective date on or after March 1, 1974 and before July 1, 1974, such plan shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which such plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that such House does not favor such plan.

(C) An energy conservation plan proposed to be made effective on or after July 1, 1974, shall take effect only if approved by Act of Congress.

(4) For the purpose of paragraph (3) of this subsection—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 15-day period.

(5) Under provisions contained in an energy conservation plan, a provision of the plan may take effect at a time later than the date on which such plan otherwise is effective.

(c)(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2) For the purpose of this subsection, "resolution" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the _____ does not favor the energy conservation plan numbered _____ transmitted to Congress by the Administrator of the Federal Energy Emergency Administration on _____, 19___.", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy conservation plan.

(3) A resolution with respect to an energy conservation plan shall be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If the committee to which a resolution with respect to an energy conservation plan has been referred has not reported it at the end of 5 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to such energy conservation plan which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy conservation plan), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(C) If the motion, to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same plan.

(5)(A) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to an energy conservation plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote

by which the motion is agreed to or disagreed to.

(B) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution with respect to an energy conservation plan, and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to an energy conservation plan shall be decided without debate.

(d)(1) In carrying out the provisions of this Act, the Administrator shall, to the greatest extent practicable, evaluate the potential economic impacts of proposed regulatory and other actions including but not limited to the preparation of an analysis of the effect of such actions on—

(A) the fiscal integrity of State and local government;

(B) vital industrial sectors of the economy;

(C) employment, by industrial and trade sector, as well as on a national, regional, State, and local basis;

(D) the economic vitality of regional, State, and local areas;

(E) the availability and price of consumer goods and services;

(F) the gross national product;

(G) competition in all sectors of industry; and

(H) small business.

(2) The Administrator shall develop analyses of the economic impact of any energy conservation plan on States or significant sectors thereof, considering the impact on energy resources as fuel and as feedstock for industry.

(3) Such analysis shall, whenever possible, be made explicit and, to the extent practicable, other Federal agencies and agencies of State and local governments which have special knowledge and expertise relevant to the impact of proposed regulatory or other actions shall be consulted in making the analyses, and all Federal agencies shall cooperate with the Administrator in preparing such analyses except that the Administrator's actions pursuant to this subsection shall not create any right of review or cause of action except as otherwise exist under other provisions of law.

(4) The Administrator, together with the Secretaries of Labor and Commerce, shall monitor the economic impact of any energy actions taken by the Administrator, and shall provide the Congress with separate reports every thirty days on the impact of the energy shortage and such emergency actions on employment and the economy.

(e) Any energy conservation plan which the Administrator submits to the Congress pursuant to subsection (b) of this section shall include findings of fact and a specific statement explaining the rationale for each provision contained in such plan.

SEC. 106. COAL CONVERSION AND ALLOCATION.

(a) The Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this Act, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies shall be permitted to continue to use coal as provided in section 119(b) of the Clean Air Act. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact. A prohibition on use of natural gas and petroleum products under this subsection shall be contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area. The Administrator shall require that fossil-fuel-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant may be required under this section to be so designed and constructed, if (1) to do so would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether to impose a design and construction requirement under this subsection, the Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the capability of the owner or operator to recover any capital investment made as a result of the conversion requirements of this section.

(b) The Administrator may by rule prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in this section.

SEC. 107. MATERIALS ALLOCATION.

(a) The Administrator shall, within 30 days after the date of enactment of this Act, propose (in the nature of a proposed rule affording an opportunity for the presentation of views) and publish (and may from time to time amend) a contingency plan for allocation of supplies of materials and equipment necessary for exploration, production, refining, and required transportation of energy supplies and for the construction and maintenance of energy facilities. At such time as he finds that it is necessary to put all or part of such plan into effect, he shall transmit such plan or portion thereof to each House of Congress and such plan or portion thereof shall take effect in the same manner as an energy conservation plan prescribed under section 105 and to which section 105 (b)(3)(B) applies (except that such plan may be submitted at any time after the date of enactment of this Act and before May 15, 1975).

(b) Section 4(b)(1)(G) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of—

"(i) fuels, and

"(ii) minerals essential to the requirements of the United States,

and for required transportation related thereto,"

SEC. 108. FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES.

(a) The Administrator may initiate the following measures to supplement domestic energy supplies for the duration of the emergency:

(1) require by order or rule, the production of designated existing domestic oilfields, at their maximum efficient rate of production, which is the maximum rate at which production may be sustained without detriment to the ultimate recovery of oil and gas under sound engineering and economic principles. Such fields are to be designated by the Secretary of the Interior, after consultation with the appropriate State regulatory agency. Data to determine the maximum efficient rate of production shall be supplied to the Secretary of the Interior by the State regulatory agency which determines the maximum efficient rate of production and by the operators who have drilled wells in, or are producing oil and gas from such fields;

(2) require, if necessary to meet essential energy needs, production of certain designated existing domestic oilfields at rates in excess of their currently assigned maximum efficient rates. Fields to be so designated, by the Secretary of the Interior or the Secretary of the Navy as to the Federal lands or as to Federal interests in lands under their respective jurisdiction, shall be those fields where the types and quality of reservoirs are such as to permit production at rates in excess of the currently assigned sustainable maximum efficient rate for periods of ninety days or more without excessive risk of losses in recovery;

(3) require the adjustment of processing operations of domestic refineries to produce refined products in proportions commensurate with national needs and consistent with the objectives of section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(b) Nothing in this section shall be construed to authorize the production of any Naval Petroleum Reserve now subject to the provisions of chapter 641 of title 10 of the United States Code.

SEC. 109. OTHER AMENDMENTS TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 as amended by section 104 of this Act is amended by adding at the end of such section the following new subsection:

"(i) If any provision of the regulation under subsection (a) provides that any allocation of residual fuel oil or refined petroleum products is to be based on use of such a product or amounts of such product supplied during a historical period, the regulation shall contain provisions designed to assure that the historical period can be adjusted (or other adjustments in allocations can be made) in order to reflect regional disparities in use, population growth or unusual factors influencing use (including unusual changes in climatic conditions), of such oil or product in the historical period. This subsection shall take effect 30 days after the date of enactment of the Energy Emergency Act. Adjustments for such purposes shall take effect no later than 6 months after the date of enactment of this subsection. Adjustments to reflect population growth shall be based upon the most current figures available from the United States Bureau of the Census."

(b) Section 4(g)(1) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "February 28, 1975" in each case the term appears and inserting in each case "May 15, 1975".

SEC. 110 PROHIBITION ON WINDFALL PROFITS—PRICE GOUGING.

(a)(1) The President shall exercise his authority under the Emergency Petroleum Allocation Act of 1973 and under the Economic Stabilization Act of 1970 so as to specify prices for sales of petroleum products produced in or imported into the United States, which avoid windfall profits by sellers.

(2) Any interested person, who has reason to believe that any price (specified under any of the authorities referred to in paragraph (1) of this subsection) of petroleum products permits a seller thereof any windfall profits, may petition the Renegotiation Board (created by section 107(a) of the Renegotiation Act of 1951 and hereinafter in this subsection referred to as the "Board") for a determination under subparagraph (A) or (B) or paragraph (3).

(3)(A) Upon petition of any interested person, the Board may by rule determine, after opportunity for oral presentation of views, data, and arguments, whether the price (specified under any of the authorities referred to in paragraph (1)) of petroleum product permits sellers thereof to receive windfall profits. Upon a final determination of the Board that such 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. After such a final determination, no higher price may be specified (under any of the authorities specified in paragraph (1)) except with the approval of the Board.

(B) Upon petition of any interested person and notwithstanding any proceeding or determination under subparagraph (A), the Board may determine whether the price charged by a particular seller of any petroleum product permitted such seller to receive windfall profits. 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 to assure that sufficient funds will be available for the refund of windfall profits in the event there is a final determination by the Board under this subparagraph that such seller has received windfall profits. Prior to a final determination under this subparagraph, such seller shall be afforded a hearing in accordance with the procedures required by section 554 of title 5, United States Code. 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 for the purpose of refunding such profits, to reduce the price for future sales, to create a fund against which previous purchasers of such item may file a claim under rules which shall be prescribed by the Board, or to take such other action as the Board may deem appropriate.

(C) Notwithstanding section 108 of the Renegotiation Act of 1951 and section 211 of the Economic Stabilization Act of 1970, any final determination under subparagraph (A) or (B) shall be subject to judicial review in accordance with sections 701 through 706 of title 5, United States Code.

(4)(A) The Board may provide, in its discretion under regulations prescribed by the Board, for such consolidation as may be necessary or appropriate to carry out the purposes of this subsection.

(B) The Board may make such rules, regulations, and orders as it deems necessary or appropriate to carry out its functions under this subsection.

(5) The determination and approval authority of the Board under this paragraph may not be delegated or redelegated pursuant to section 107(d) of the Renegotiation Act of 1951 to any agency of the Government other than an agency established by the Board.

(6) For the purposes of subparagraph (B) of paragraph (3), the term "windfall profits" means that profit (during an appropriate accounting period as determined by the Board) derived from the sale of any petroleum product determined by the Board to be in excess of the lesser of—

(A) a reasonable profit with respect to the particular seller as determined by the Board upon consideration of—

(i) the reasonableness of its costs and profits with particular regard to volume of production;

(ii) the net worth, with particular regard to the amount and source of capital employed;

(iii) the extent of risk assumed;

(iv) the efficiency and productivity, particularly with regard to cost reduction techniques and economies of operation; and

(v) other factors the consideration of which the public interest and fair and equitable dealing may require which may be established and published by the Board; or

(B) the 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.

(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.

(8) For the purposes of this subsection, the term "interested person" includes the United States, any State, and the District of Columbia.

(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).

(10) This section shall take effect on January 1, 1975, and shall apply to profits attributable to any price (specified under any of the authorities referred to in paragraph (1) of this subsection) of crude oil, residual fuel oil, and refined petroleum products in effect after December 31, 1973.

(b) Notwithstanding any other provision of law, administrative proceedings before the Board under this section shall be governed by subchapter II of chapter 5 of title 5, United States Code, and such proceedings shall be reviewed in accordance with chapter 7 of such title.

SEC. 111. PROTECTION OF FRANCHISED DEALERS.

(a) As used in this section:

(1) The term "distributor" means a person engaged in the sale, consignment, or distribution of petroleum products to wholesale or retail outlets whether or not it owns, leases, or in any way controls such outlets.

(2) The term "franchise" means any agreement or contract between a refiner or a distributor and a retailer or between a refiner and a distributor, under which such retailer or distributor is granted authority to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or distributor, or any agreement or contract between such parties under which such retailer or distributor is granted authority to occupy premises owned, leased, or in any way controlled by a party to such agreement or contract, for the purpose of engaging in the distribution or sale of petroleum products for purposes other than resale.

(3) The term "notice of intent" means a written statement of the alleged facts which, if true, constitute a violation of subsection (b) of this section.

(4) The term "refiner" means a person engaged in the refining or importing of petroleum products.

(5) The term "retailer" means a person engaged in the sale of any refined petroleum product for purposes other than resale within any State, either under a franchise or independent of any franchise, or who was so engaged at any time after the start of the base period.

(b)(1) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless he furnishes prior notification pursuant to this paragraph to each distributor or retailer affected thereby. Such notification shall be in writing and sent to such distributor or retailer by certified mail not less than ninety days prior to the date on which such franchise will be canceled, not renewed, or otherwise terminated. Such notification shall contain a statement of intention to cancel, not renew, or to terminate together with the reasons therefor, the date on which such action shall take effect, and a statement of the remedy or remedies available to such distributor or retailer under this section together with a summary of the applicable provisions of this section.

(2) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless the retailer or distributor whose franchise is terminated failed to comply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out the terms of such franchise, or unless such refiner or distributor withdraws entirely from the sale of refined petroleum products in commerce for sale other than resale in the United States.

(c)(1) If a refiner or distributor engages in conduct prohibited under subsection (b) of this section, a retailer or a distributor may maintain a suit against such refiner or distributor. A retailer may maintain such suit against a distributor or a refiner whose actions affect commerce and whose products with respect to conduct prohibited under paragraphs (1) or (2) of subsection (b) of this section, he sells or has sold, directly or indirectly, under a franchise. A distributor may maintain such suit against a refiner whose actions affect commerce and whose products he purchases or has purchased or whose products he distributes or has distributed to retailers.

(2) The court shall grant such equitable relief as is necessary to remedy the effects of conduct prohibited under subsection (b) of this section which it finds to exist including declaratory judgment and mandatory or prohibitive injunctive relief. The court may grant interim equitable relief, and actual and punitive damages (except for actions for a failure to renew) where indicated, in suits under this section, and may, unless such suit is frivolous, direct that costs, including reasonable attorney and expert witness fees, be paid by the defendant. In the case of actions for a failure to renew damages shall be limited to actual damages including the value of the dealer's equity.

(3) A suit under this section may be brought in the district court of the United States for any judicial district in which the distributor or the refiner against whom such suit is maintained resides, is found, or is doing business, without regard to the amount in controversy. No such suit shall be maintained unless commenced within three years after the cancellation, failure to renew, or termination of such franchise or the modification thereof.

SEC. 112. PROHIBITIONS ON UNREASONABLE ACTIONS.

(a) Action taken under authority of this Act, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in the allocation of petroleum products and electrical energy among classes of users or resulting in restrictions on use of petroleum products and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among classes of users: *Provided*, That with respect to allocations of petroleum products applicable to the foreign trade and commerce of the United States, no foreign corporation or entity shall receive more favorable treatment in the allocation of petroleum products than that which is accorded by its home country to

United States States citizens engaged in the same line of commerce, and allocations shall contain provisions designed to foster reciprocal and non-discriminatory treatment by foreign countries of United States citizens engaged in foreign commerce.

(b) To the maximum extent practicable, any restriction on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restriction on all sectors of the economy, without imposing on unreasonably disproportionate share of such burden on any specific industry, business or commercial enterprise, or on any individual segment thereof and shall give due consideration to the needs of commercial, retail, and service establishments whose normal function is to supply goods and services of an essential convenience nature during times of day other than conventional daytime working hours.

SEC. 113. REGULATED CARRIERS.

(a) The Interstate Commerce Commission (with respect to common or contract carriers subject to economic regulation under the Interstate Commerce Act), the Civil Aeronautics Board, and the Federal Maritime Commission shall, for the duration of the period beginning on the date of enactment of this Act and ending on May 15, 1975, have authority to take any action for the purpose of conserving energy consumption in a manner found by such Commission or Board to be consistent with the objectives and purposes of the Acts administered by such Commission or Board on its own motion or on the petition of the Administrator which existing law permits such Commission or Board to take upon the motion or petition of any regulated common or contract carrier or other person.

(b) The Interstate Commerce Commission shall, by expedited proceedings, adopt appropriate rules under the Interstate Commerce Act which eliminate restrictions on the operating authority of any motor common carrier of property which require excessive travel between points with respect to which such motor common carrier has regularly performed service under authority issued by the Commission. Such rules shall assure continuation of essential service to communities served by any such motor common carrier.

(c) Within 45 days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the period beginning on the date of enactment of this Act and ending on May 15, 1975 while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—

(1) the type of regulatory authority needed;

(2) the reasons why such authority is needed;

(3) the probable impact on fuel conservation of such authority;

(4) the probable effect on the public convenience and necessity of such authority; and

(5) the competitive impact, if any, of such authority.

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to provide for the public convenience and necessity during such period.

SEC. 114. ANTITRUST PROVISIONS.

(a) Except as specifically provided in subsection (i), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil and criminal liability or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust laws" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) 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. 12 et seq.), as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c) (1) To achieve the purposes of this Act, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App. I), whether or not such Act or any of its provisions expires or terminates during the term of this Act or of such committees, and in all cases shall be chaired by a regular full-time Federal employee and shall include representatives of the public. The meetings of such committees shall be open to the public.

(2) A representative of the Federal Government shall be in attendance at all meetings of any advisory committee established pursuant to this section. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of sections 552 (b) (1) and (b) (3) of title 5, United States Code.

(d) The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil or any refined petroleum product may develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives stated in section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(1) Such agreements and plans of action shall be developed by meetings of committees, councils, or other groups which include representatives of the public, of interested segments of the petroleum industry and of industrial, municipal and private consumers, and shall in all cases be chaired by a regular full-time Federal employee.

(2) Meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission and to the public in the affected community;

(3) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views and arguments at such meetings;

(4) A full and complete verbatim transcript shall be kept of any meeting, conference or communication held to develop, implement or carry out a voluntary agreement or a plan of action under this subsection and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be available for public inspection and copying, subject to provisions of section 552 (b) (1) and (b) (3) of title 5, United States Code.

(f) The Federal Trade Commission may exempt types or classes of meetings, conferences or communications from the requirements of subsection (c) (3) and (e) (4) provided such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of implementing or carrying out a voluntary agreement or plan of action authorizd pursuant to this section. Such ministerial meeting, conference or communication may take place in accordance with such requirements as the Federal Trade Commission may prescribe by rule. Such persons participating in such meeting, conference or communication shall cause a record to be made specifying the data such meeting, conference, or communication took place and the persons involved, and summarizing the subject matter discussed. Such record shall be filed with the Federal Trade Commission and the Attorney General, where it shall be made available for public inspection and copying.

(g) (1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation and carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this Act. Each shall have the right to review, amend, modify, disapprove, or prospectively revoke, on its own motion or upon the request of any interested person, any plan of action or voluntary agreement at any time, and, if revoked, thereby withdraw prospectively the immunity conferred by subsection (i) of this section.

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented, where it shall be made available for public inspection and copying.

(h) (1) The Attorney General and the Federal Trade Commission shall monitor the development, implementation and carrying out of plans of action and voluntary agreements authorized under this section to assure the protection and fostering of competition and the prevention of anticompetitive practices and effects.

(2) The Attorney General and the Federal Trade Commission shall promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts and other records related to the development, implementation or carrying out of plans of action or voluntary agreements authorized pursuant to this Act.

(3) Persons developing, implementing or carrying out plans of action or voluntary agreements authorized pursuant to this Act shall maintain those records required by such joint regulations. The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Federal Trade Commission and the Attorney General may each prescribe such rules and regulations as may be necessary or appropriate to carry out their responsibilities under this Act. They may both utilize for such purposes and for purposes of enforcement, any and all powers conferred upon

the Federal Trade Commission or the Department of Justice, or both, by any other provision of law, including the antitrust laws; and wherever such provision of law refers to "the purposes of this Act" or like terms, the reference shall be understood to be this Act.

(i) There shall be available as a defense to any civil or criminal action brought under the antitrust laws in respect of actions taken in good faith to develop and implement a voluntary agreement or plan of action to carry out a voluntary agreement by persons engaged in the business of producing, refining, marketing or distributing crude oil, residual fuel oil, or any refined petroleum product that—

(1) such action was—

(A) authorized and approved pursuant to this section, and

(B) undertaken and carried out solely to achieve the purposes of this section and in compliance with the terms and conditions of this section, and the rules promulgated hereunder; and

(2) such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

(j) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act, (2) outside the scope and purpose or not in compliance with the terms and conditions of this Act and this section, or (3) subsequent to its expiration or repeal.

(k) Effective on the date of enactment of this Act, this section shall apply in lieu of section 6(c) of the Emergency Petroleum Allocation Act of 1973. All actions taken and any authority or immunity granted under such section 6(c) shall be hereafter taken or granted, as the case may be, pursuant to this section.

(l) The provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action authorized to be taken under this Act or the Emergency Petroleum Allocation Act of 1973.

(m) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every six months, a report on the impact on competition and on small business of actions authorized by this section.

(n) The authority granted by this section (including any immunity under subsection (l)) shall terminate on May 15, 1975.

(o) The exercise of the authority provided in section 113 shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing from the beginning an adequate opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division, who shall propose any alternative which would avoid or overcome, to the greatest extent practicable, any anticompetitive effects while achieving the purposes of this Act.

SEC. 115. EXPORTS.

To the extent necessary to carry out the purpose of this Act, the Administrator may under authority of this Act, by rule, restrict exports of coal, petroleum products, and petrochemical feedstocks, under such terms as he deems appropriate: *Provided*, That, the Administrator shall restrict exports of coal, petroleum products, or petrochemical feedstocks if either the Secretary of Commerce or the Secretary of Labor certifies that such exports would contribute to unemployment in the United States. The Secretary of Commerce, pursuant to the Export Administration Act of 1969 (but without regard to the phrase "and to reduce the serious inflationary impact of abnormal foreign demand" in section 3(2)(A) of such Act), may restrict the exports of coal, petroleum products, and petrochemical feedstocks, and of materials and equipment essential to the production, transport, or processing of fuels to the extent necessary to carry out the purpose of this Act and sections 4(b) and 4(d) of the Emergency Petroleum Allocation Act of 1973: *Provided*, That in the event that the Administrator certifies to the Secretary of Commerce that export restrictions of products enumerated in this section are necessary to carry out the purpose of this Act, the Secretary of Commerce shall impose such export restrictions. Rules under this section by the Administrator and actions by the Secretary of Commerce under the Export Administration Act of 1969 shall take into account the historical trading relations of the United States with Canada and Mexico and shall not be inconsistent with subsections (b) and (d) of section 4 of the Emergency Petroleum Allocation Act of 1973.

SEC. 116. EMPLOYMENT IMPACT AND UNEMPLOYMENT ASSISTANCE.

(a) The President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

(b) The President shall make grants to States to provide to any individual unemployed, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred.

(c) On or before the sixtieth day following the date of enactment of this Act, the President shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers and shall include legislative recommendations which the President deems appropriate to meet such needs, including revisions in the unemployment insurance laws.

SEC. 117. USE OF CARPOOLS.

(a) The Secretary of Transportation shall encourage the creation and expansion of the use of carpools as a viable component of our nationwide transportation system. It is the intent of this section to maximize the level of carpool participation in the United States.

(b) The Secretary of Transportation is directed to establish within the Department of Transportation an "Office of Carpool Promotion" whose purpose and responsibilities shall include—

(1) responding to any and all requests for information and technical assistance on carpooling and carpooling systems from units of State and local governments and private groups and employees;

(2) promoting greater participation in carpooling through public information and the preparation of such materials for use by State and local governments;

(3) encouraging and promoting private organizations to organize and operate carpool systems for employees;

(4) promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of carpool systems; and

(5) promoting other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

(c) The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll adjustments, and other incentives as may be found beneficial and administratively feasible to the furtherance of carpool ridership, and consistent with the obligations of the State and local agencies which provide transportation services.

(d) The Secretary of Transportation shall allocate the funds appropriated pursuant to the authorization of subsection (f) according to the following distribution between the Federal and State or local units of government;

(1) The initial planning process—up to 100 percent Federal.

(2) The systems design process—up to 100 percent Federal.

(3) The initial startup and operation of a given system—60 percent Federal and 40 percent State or local with the Federal portion not to exceed 1 year.

(e) Within 12 months of the date of enactment of this Act, the Secretary of Transportation shall make a report to Congress of all his activities and expenditures pursuant to this section. Such report shall include any recommendations as to future legislation concerning carpooling.

(f) The sum of $5,000,000 is authorized to be appropriated for the conduct of programs designed to achieve the goals of this section, such authorization to remain available for 2 years.

(g) For purposes of this section, the terms "local governments" and "local units of government" include any metropolitan transportation organization designated as being responsible for carrying out section 134 of title 23, United States Code.

(h) As an example to the rest of our Nation's automobile users, the President of the United States shall take such action as is necessary to require all agencies of Government, where practical, to use economy model motor vehicles.

(i)(1) The President shall take action to require that no Federal official or employee in the executive branch below the level of Cabinet officer be furnished a limousine for individual use. The provisions of this subsection shall not apply to limousines furnished for use by officers or employees of the Federal Bureau of Investigation, or to those persons whose assignments necessitate transportation by limousines because of diplomatic assignment by the Secretary of State.

(2) For purposes of this subsection, the term "limousine" means a type 6 vehicle as defined in the Interim Federal Specifications issued by the General Services Administration, December 1, 1973.

SEC. 118. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.

(a)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order (including a rule or order issued by a State or officer thereof) under this title (except with respect to any rule or order pursuant to sections 108 and 113 of this Act, section 205(a), (b), and (c), of this Act, or section 4(h) of the Emergency Petroleum Allocation Act of 1973) or under the authority of any energy conservation plan.

(2) Notice of any proposed rule or order described in paragraph (1) shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious impairment to the operation of the program to which such rule or order relates and such findings are set out in detail in such rule or order. In addition, public notice of all rules or orders promulgated by officers of a State or political subdivision thereof or to State or local boards pursuant to this Act shall to the maximum extent practicable be achieved by publication of such rules or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(3) In addition to the requirements of paragraph (2), if any rule or order described in paragraph (1) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the implementation of such rule or order, but in all cases such opportunity shall be afforded no later than 45 days after the implementation of any such rule or order. A transcript shall be kept of any oral presentation.

(4) Any officer or agency authorized to issue rules or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act or the Emergency Petroleum Allocation Act of 1973 (as the case may be), as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) when such denial becomes final. The officer or agency shall, in rules prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(5) In addition to the requirements of section 552 of title 5, United States Code, any agency authorized by this Act or the Emergency Petroleum Allocation Act of 1973 to issue rules or orders shall make available to the public all internal rules and guidelines which may form the basis, in whole or in part, for any rule or order with such modifications as are necessary to insure confidentiality protected under such section 552. Such agency shall, upon written request of a petitioner filed after any grant or denial of a request for exception or exemption from rules or orders furnish the petitioner with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. Such opinions shall be made available to the petitioner and the public within thirty days of such request and with such modifications as are necessary to insure confidentiality of information protected under such section 552.

(b) (1) Judicial review of administrative rulemaking of general and national applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the District of Columbia within thirty days from the date of promulgation of any such rule or regulation, and judicial review of administrative rulemaking of general, but less than national, applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within thirty days from the date of promulgation of any such rule or regulation, the appropriate circuit being defined as the circuit which contains the area or the greater part of the area within which the rule or regulation is to have effect.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under regulations or orders issued thereunder, except any actions taken by the Civil Aeronautics Board, the Interstate Commerce Commission, Federal Power Commission, or the Federal Maritime Commission, or any actions taken to implement or enforce any rule or order by any officer of a State or political subdivision thereof or State or local board which has been delegated authority under section 122 of this Act except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the constitutionality of this title or the validity of action taken by any agency under this Act). If in any such proceeding an issue by way of defense is raised based on the constitutionality of this Act or the validity of agency action under this Act, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code. Cases or controversies arising under any rule or order of any officer of a State or political subdivision thereof or a State or local board may be heard in either (1) any appropriate State court, and (2) without regard to the amount in controversy, the district courts of the United States.

(c) The Administrator may by rule prescribe procedures for State or local boards which carry out functions under this Act or the Emergency Petroleum Allocation Act of 1973. Such procedures shall apply to such boards in lieu of subsection (a), and shall require that prior to taking any action, such boards shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) at least 10 days before taking the action. Such boards shall be of balanced composition reflecting the makeup of the community as a whole.

SEC. 119. PROHIBITED ACTS.

It shall be unlawful for any person to violate any provision of title I of this Act (other than provisions of this Act which make amendments to the Emergency Petroleum Allocation Act of 1973 and section 113) or to violate any rule, regulation (including an energy conservation plan) or order issued pursuant to any such provision.

SEC. 120. ENFORCEMENT.

(a) Whoever violates any provision of section 119 shall be subject to a civil penalty of not more than $2,500 for each violation.

(b) Whoever willfully violates any provision of section 119 shall be fined not more than $5,000 for each violation.

(c) It shall be unlawful for any person to offer for sale or distribute in commerce any product or commodity in violation of an applicable order or regulation issued pursuant to this Act. Any person who knowingly and willfully violates this subsection after having been subjected to a civil penalty for a prior violation of the same provision of any order or regulation issued pursuant to this Act shall be fined not more than $50,000 or imprisoned not more than six months, or both.

(d) Whenever it appears to any person authorized by the Administrator to exercise authority under this Act that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of section 119, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any provision, the violation of which is prohibited by section 119.

(e) Any person suffering legal wrong because of any act or practice arising out of any violation of section 119 may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

SEC. 121. USE OF FEDERAL FACILITIES.

Whenever practicable, and for the purpose of facilitating the transportation and storage of fuel, agencies or departments of the United States are authorized, during the period beginning on the date of enactment of this Act and ending May 15, 1975, to enter into arrangements for the acquisition or use by domestic public entities and private industries of equipment or facilities which are surplus to the needs of such agency or department and appropriate to the transportation and storage of fuel, except that such arrangements may be made (1) only after the Administrator finds that such equipment or facilities are not available from private sources and (2) only on the basis of compensation for the acquisition or use of such equipment or facilities at fair market value prices or rentals.

SEC. 122. DELEGATION OF AUTHORITY AND EFFECT ON STATE LAW.

(a) The Administrator may delegate any of his functions under the Emergency Petroleum Allocation Act of 1973 or this Act to any officer or employee of the Federal Energy Emergency Administration as he deems appropriate. The Administrator may delegate any of his functions relative to implementation and enforcement of the Emergency Petroleum Allocation Act of 1973 or this Act to officers of a State or political subdivision thereof or to State or local boards of balanced composition reflecting the make-up of the community as a whole. Such officers or boards shall be designated and established in accordance with regulations as the Administration shall promulgate under this Act. Section 5(b) of the Emergency Petroleum Allocation Act of 1973 is repealed effective on the effective date of the transfer of functions under such Act to the Administrator pursuant to section 103 of this Act.

(b) No State law or State program in effect on the date of enactment of this Act, or which may become effective thereafter shall be superseded by any provision of this Act or any regulation, order, or energy conservation plan issued pursuant to this Act except insofar as such State law or State program is inconsistent with the provisions of this Act, or such a regulation, order, or plan.

SEC. 123. GRANTS TO STATES.

All funds authorized to be appropriated under section 127(b) shall be available for the purpose of making grants to States to which the Administrator has delegated authority under section 122 of this Act, or for the administration of appropriate State or local energy conservation programs which are the basis of an exemption made pursuant to section 105(a)(2) of this Act from a Federal agency conservation plan which has taken effect under section 105 of this Act. The Administrator shall make such

grants upon such terms and conditions as he may prescribe by rule.

SEC. 124. REPORTS ON NATIONAL ENERGY RESOURCES.

(a) For the purpose of providing to the Administrator, Congress, the States, and the public, to the maximum extent possible, reliable data on reserves, production, distribution, and use of petroleum products, natural gas, and coal, the Administrator shall promptly publish for public comment a regulation requiring that persons doing business in the United States, who, on the effective date of this Act, are engaged in exploring, developing, processing, refining, or transporting by pipeline, any petroleum product, natural gas, or coal, shall provide detailed reports to the Administrator every sixty calendar days. Such reports shall show for the preceding sixty calendar days such person's (1) reserves of crude oil, natural gas, and coal; (2) production and destination of any petroleum product, natural gas, and coal; (3) refinery runs byproduct; and (4) other data required by the Administrator for such purpose. Such regulation shall also require that such persons provide to the Administrator such reports for the period from January 1, 1970, to the date of such person's first sixty day report. Such regulation shall be promulgated 30 days after such publication. The Administrator shall publish quarterly in the Federal Register a meaningful summary analysis of the data provided by such reports.

(b) The reporting requirements of this section shall not apply to the retail operations of persons required to file such reports. Where a person shows that all or part of the data required by this section is being reported by such person to another Federal agency, the Administrator may exempt such person from reporting all or part of such data directly to him, and upon such exemption, such agency shall, notwithstanding any other provision of law, provide such data to the Administrator. The district courts of the United States are authorized, upon application of the Administrator, to require enforcement of such reporting requirements.

(c) Upon a showing satisfactory to the Administrator by any person that any report or part thereof obtained under this section from such person or from a Federal agency would, if made public, divulge methods or processes entitled to protection as trade secrets or other proprietary information of such person, such report, or portion thereof, shall be confidential in accordance with the provisions of section 1905 of title 18 of the United States Code, except that such report or part thereof shall not be deemed confidential for purposes of disclosure to (1) any delegate of the Federal Energy Emergency Administration for the purpose of carrying out this Act, (2) the Attorney General, the Secretary of the Interior, the Federal Trade Commission, the Federal Power Commission, or the General Accounting Office when necessary to carry out those agencies' duties and responsibilities under this and other statutes, and (3) the Congress or any Committee of Congress upon request of the Chairman. The provisions of this section shall expire on May 15, 1975.

SEC. 125. INTRASTATE GAS.

Nothing in this Act shall expand the authority of the Federal Power Commission with respect to sales of non-jurisdictional natural gas.

SEC. 126. EXPIRATION.

The authority under this title to prescribe any rule or order or take other action under this title, or to enforce any such rule or order, shall expire at midnight, May 15, 1975, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, May 15, 1975.

SEC. 127. AUTHORIZATION OF APPROPRIATIONS.

(a) There are authorized to be appropriated to the Federal Energy Emergency Agency to carry out its functions under this Act and under other laws, and to make grants to States under section 123, $75,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975.

(b) For the purpose of making payments under grants to States under section 123, there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975.

(c) For the purpose of making payments under grants to States under section 116, there is authorized to be appropriated $500,000,000 for the fiscal year ending June 30, 1974.

SEC. 128. SEVERABILITY.

If any provision of this Act, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SEC. 129. PRICE AUTHORITY.

The President shall exercise his authority under the Economic Stabilization Act of 1970, as amended, and the Emergency Petroleum Allocation Act of 1973 to specify prices for sales of crude oil, residual fuel oil, or refined petroleum products in or imported into the United States which avoid windfall profits by sellers. For purposes of this section, windfall profits shall be defined as those profits which are excessive or unreasonable, taking into consideration normal profit levels. This section shall be effective only until December 31, 1974.

SEC. 130. IMPORTATION OF LIQUEFIED NATURAL GAS.

The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new section:

"SEC. 8. Notwithstanding the provisions of section 3 of the Natural Gas Act (or any other provisions of law) the President may by order, on a finding that such action would be consistent to the public interest, authorize on a shipment-by-shipment basis the importation of liquefied natural gas from a foreign country: Provided, however, That the authority to act under this section shall not permit the importation of liquefied natural gas which had not been authorized prior to the date of expiration of this Act and which is in transit on such date."

TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

SEC. 201. SUSPENSION AUTHORITY.

Title I of the Clean Air Act (42 U.S.C. 1857 et seq.) is amended by adding at the end thereof the following new section:

"ENERGY EMERGENCY AUTHORITY

"SEC. 110. (a)(1)(A) The Administrator may, for any period beginning on or after the date of enactment of this section and ending on or before November 1, 1974, temporarily suspend any stationary source fuel or emission limitation as it applies to any person, if the Administrator finds that such person will be unable to comply with such limitation during such period solely because of unavailability of types or amounts of fuels. Any suspension under this paragraph and any interim requirement on which such suspension is conditioned under paragraph (3) shall be exempted from any procedural requirements set forth in this Act or in any other provision of local, State, or Federal law; except as provided in subparagraph (B).

"(B) The Administrator shall give notice to the public of a suspension and afford the public an opportunity for written and oral presentation of views prior to granting such suspension unless otherwise provided by the Administrator for good cause found and published in the Federal Register. In any case, before granting such a suspension he shall give actual notice to the Governor of the State, and to the chief executive officer of the local government entity in which the affected source or sources are located. The granting or denial of such suspension and the imposition of an interim requirement shall be subject to judicial review only on the grounds specified in paragraphs (2)(B) and (2)(C) of section 706 of title 5, United States Code, and shall not be subject to any proceeding under section 304(a)(2) or 307(b) and (c) of this Act.

"(2) In issuing any suspension under paragraph (1) the Administrator is authorized to act on his own motion without application by any source or State.

"(3) Any suspension under paragraph (1) shall be conditioned upon compliance with such interim requirements as the Administrator determines are reasonable and practicable. Such interim requirements shall include, but need not be limited to, (A) a requirement that the source receiving the suspension comply with such reporting requirements as the Administrator determines may be necessary, (B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and (C) requirements that the suspension shall be inapplicable during any period during which fuels which would enable compliance with the suspended stationary source fuel or emission limitations are in fact reasonably available to that person (as determined by the Administrator). For purposes of clause (C) of this paragraph, availability of natural gas or petroleum products which enable compliance shall not make a suspension inapplicable to a source described in subsection (b)(1) of this section.

"(4) For purposes of this section:

"(A) The term 'stationary source fuel or emission limitation' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under this Act (other than section 303, 111(b), or 112) or contained in an applicable implementation plan and which is designed to limit stationary source emissions resulting from combustion of fuels, including a prohibition on, or specification of, the use of any fuel of any type or grade or pollution characteristc thereof.

"(B) The term 'stationary source' has the same meaning as such term has under section 111(a)(3).

"(b)(1) Except as provided in paragraph (2) of this subsection, any fuel-burning stationary source (A) which is prohibited from using petroleum products or natural gas as fuel by reason of an order isued under section 106(a) of the Energy Emergency Act, or which the Administrator determines began conversion to the use of coal as fuel during the 90-day period ending on December 15, 1973, and (B) which converts to the use of coal as fuel, shall not, until January 1, 1973, be prohibited, by reason of the application of any air pollution requirement, from burning coal which is available to such source.

"(2)(A) Paragraph (1) of this subsection shall apply to a source, only if the Administrator finds that emissions from the source will not materially contribute to a significant risk to public health and if the source has submitted to the Administrator a plan for compliance for such source which the Administrator has approved, after notice to interested persons and opportunity for presentation of views (including oral presentation of views). A plan submitted under the preceding sentence shall be approved only if it

provides (i) for compliance by the means; and in accordance with a schedule which meets the requirements of subparagraph (B), and (ii) that such source will comply with requirements which the Administrator shall prescribe to assure that emissions from such source will not materially contribute to a significant risk to public health. The Administrator shall approve or disapprove any such plan within 60 days after such plan is submitted.

"(B) The Administrator shall prescribe regulations requiring that any source to which this subsection applies submit and obtain approval of its means for and schedule of compliance. Such regulations shall include requirements that such schedules shall include dates by which such source must (i) enter into contracts or other enforceable obligations for obtaining a long-term supply of coal or coal by-products (which contracts or obligations must have received prior approval of the Administrator), and (ii) take steps to obtain continuous emission reduction systems necessary to permit such source to burn such coal or coal by-products and to achieve the degree of emission reduction required by the following sentence. (Which steps and systems must have received prior approval of the Administrator). Such regulations shall also require that the source achieve as expeditiously as practicable considering the type of coal to be used (but not later than January 1, 1979) the same degree of emission reduction as it was required to achieve by the applicable implementation plan in effect on the date of enactment of this section. Such regulations shall also include such interim requirements as the Administrator determines are reasonable and practicable including requirements described in clauses (A) and (B) of subsection (a)(3).

"(C) The Administrator (after notice to interested persons and opportunity for presentation of views, including oral presentations of views, to the extent practicable) (i) may, prior to November 1, 1974, and shall thereafter prohibit the use of coal by a source to which paragraph (1) applies if he determines that the use of coal by such source is likely to materially contribute to a significant risk to public health; and (ii) may require such source to use coal of any particular type, grade, or pollution characteristic if such coal is available to such source. Nothing in this subsection (b) shall prohibit a State or local agency from taking action which the Administrator is authorized to take under this paragraph.

"(3) For purposes of this subsection, the term 'air pollution requirement' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation, including this Act (except for any requirement prescribed under this subsection or section 303), and which is designed to limit stationary source emissions resulting from combustion of fuels (including a restriction on the use or content of fuels). A conversion to coal to which this subsection applies shall not be deemed to be a modification for purposes of section 111(a)(2) and (4) of this Act.

"(4) A source to which this subsection applies may, upon the expiration of the exemption under paragraph (1), obtain a one year postponement of the application of any requirement of an applicable implementation plan under the conditions and in the manner provided in section 110(f).

"(c) The Administrator may by rule establish priorities under which manufacturers of continuous emission reduction systems shall provide such systems to users thereof, if he finds that priorities must be imposed in order to assure that such systems are first provided to users in air quality control regions with the most severe air pollution. No rule under this subsection may impair the obligation of any contract entered into before enactment of this section. No State or political subdivision may require any person to use a continuous emission reduction system for which priorities have been established under this subsection except in accordance with such priorities.

"(d) The Administrator shall study, and report to Congress not later than May 31, 1974, with respect to—

"(1) the present and projected impact on the program under this Act of fuel shortages and of allocation and end-use allocation programs;

"(2) availability of continuous emission reduction technology (including projections respecting the time, cost, and number of units available) and the effects that continuous emission reduction systems would have on the total environment and on supplies of fuel and electricity;

"(3) the number of sources and locations which must use such technology based on projected fuel availability data;

"(4) priority schedule for implementation of continuous emission reduction technology, based on public health or air quality;

"(5) evaluation of availability of technology to burn municipal solid waste in these sources; including time schedules, priorities, analysis of unregulated pollutants which will be emitted and balancing of health benefits and detriments from burning solid waste and of economic costs;

"(6) projections of air quality impact of fuel shortages and allocations;

"(7) evaluation of alternative control strategies for the attainment and maintenance of national ambient air quality standards for sulfur oxides within the time frames prescribed in the Act, including associated considerations of cost, time frames, feasibility, and effectiveness of such alternative control strategies as compared to stationary source fuel and emission regulations;

"(8) proposed allocations of continuous emission reduction technology for nonsolid waste producing systems to sources which are least able to handle solid waste byproduct, technologically, economically, and without hazard to public health, safety, and welfare; and

"(9) plans for monitoring or requiring sources to which this section applies to monitor the impact of actions under this section on concentration of sulfur dioxide in the ambient air.

"(e) No State or political subdivision may require any person to whom a suspension has been granted under subsection (a) to use any fuel the unavailability of which is the basis of such person's suspension (except that this preemption shall not apply to requirements identical to Federal interim requirements under subsection (a)(1)).

"(f)(1) It shall be unlawful for any person to whom a suspension has been granted under subsection (a)(1) to violate any requirement on which the suspension is conditioned pursuant to subsection (a)(3).

"(2) It shall be unlawful for any person to violate any rule under subsection (c).

"(3) It shall be unlawful for the owner or operator of any source to fail to comply with any requirement under subsection (b) or any regulation, plan, or schedule thereunder.

"(4) It shall be unlawful for any person to fail to comply with an interim requirement under subsection (1)(3).

"(g) Beginning January 1, 1975, the Administrator shall publish at no less than 180-day intervals, in the Federal Register the following:

"(1) A concise summary of progress reports which are required to be filed by any person or source owner or operator to which subsection (b) applies. Such progress reports shall report on the status of compliance with all requirements which have been imposed by the Administrator under such subsections.

"(2) Up-to-date findings on the impact of this section upon—

"(A) applicable implementation plans, and

"(B) ambient air quality.

"(h) Nothing in this section shall affect the power of the Administrator to deal with air pollution presenting an imminent and substantial endangerment to the health of persons under section 303 of this Act.

"(i)(1) In order to reduce the likelihood of early phaseout of existing electric generating facilities during the energy emergency, any electric generating power plant (A) which, because of the age and condition of the plant, is to be taken out of service permanently no later than January 1, 1980, according to the power supply plan (in existence on the date of enactment of the Energy Emergency Act) of the operator of such plant, (B) for which a certification to that effect has been filed by the operator of the plant with the Environmental Protection Agency and the Federal Power Commission, and (C) for which the Commission has determined that the certification has been made in good faith and that the plan to cease operations no later than January 1, 1980, will be carried out as planned in light of existing and prospective power supply requirements, shall be eligible for a single one-year postponement as provided in paragraph (2).

"(2) Prior to the date on which any plant eligible under paragraph (1) is required to comply with any requirement of an applicable implementation plan, such source may apply (with the concurrence of the Governor of the State in which the plant is located) to the Administrator to postpone the applicability of such requirement to such source for not more than one year. If the Administrator determines, after balancing the risk to public health and welfare which may be associated with a postponement, that compliance with any such requirement is not reasonable in light of the projected useful life of the plant, the availability of rate base increases to pay for such costs, and other appropriate factors, then the Administrator shall grant a postponement of any such requirements.

"(3) The Administrator shall, as a condition of any postponement under paragraph (2), prescribe such interim requirements as are practicable and reasonable in light of the criteria in paragraph (2).

"(j)(1) The Administrator may, after public notice and opportunity for presentation of views in accordance with section 553 of title 5, United States Code, and after consultation with the Federal Energy Emergency Administration, designate persons to whom fuel exchange orders should be issued. The purpose of such designation shall be to avoid or minimize the adverse impact on public health and welfare of any suspension under subsection (a) of this section or conversion to coal to which subsection (b) applies or of any allocation under the Energy Emergency Act or the Emergency Petroleum Allocation Act.

"(2) The Administrator of the Federal Energy Administration shall issue exchange orders to such persons as are designated by the Administrator under paragraph (1) requiring the exchange of any fuel subject to allocation under the preceding Acts effective no later than 45 days after the date of the designation under paragraph (1), unless the Administrator of the Federal Energy Administration determines, after consultation with the Administrator, that the costs or consumption of fuel, resulting from such exchange order, will be excessive.

"(3) Violation of any exchange order issued under paragraph (2) shall be a prohibited act and shall be subject to enforcement action and sanctions in the same manner and to the same extent as a violation of any requirement of the regulation under section 4 of the Emergency Petroleum Allocation Act of 1973."

SEC. 202 IMPLEMENTATION PLAN REVISIONS.

(a) Section 110(a) of the Clean Air Act is amended in paragraph (3) by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B)(1) For any air quality control region in which there has been a conversion to coal under section 119(b), the Administrator shall review the applicable implementation plan and no later than one year after the date of such conversion determine whether such plan must be revised in order to achieve the national primary standard which the plan implements. If the Administrator determines that any such plan is inadequate, he shall require that a plan revision be submitted by the State within three months after the date of notice to the State of such determination. Any plan revision which is submitted by the State after notice and public hearing shall be approved or disapproved by the Administrator, after public notice and opportunity for public hearing, but no later than three months after the date required for submission of the revised plan. If a plan provision (or portion thereof) is disapproved (or if a State fails to submit a plan revision), the Administrator shall, after public notice and opportunity for a public hearing, promulgate a revised plan (or portion thereof) not later than three months after the date required for approval or disapproval.

"(2) Any requirement for a plan revision under paragraph (1) and any plan requirement promulgated by the Administrator under such paragraph shall include reasonable and practicable measures to minimize the effect on the public health of any conversion to which section 119(b) applies."

(b) Subsection (c) of section 110 of the Clean Air Act (42 U.S.C. 1857 C-5) is amended by inserting "(1)" after "(c)"; by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and by adding the following new paragraph:

"(2)(A) The Administrator shall conduct a study and shall submit a report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate not later than May 1, 1974, on the necessity of parking surcharge, management of parking supply, and preferential bus/carpool lane regulations as part of the applicable implementation plans required under this section to achieve and maintain national primary ambient air quality standards. The study shall include an assessment of the economic impact of such regulations, consideration of alternative means of reducing total vehicle miles traveled, and an assessment of the impact of such regulations on other Federal and State programs dealing with energy or transportation. In the course of such study, the Administrator shall consult with other Federal officials including, but not limited to, the Secretary of Transportation, the Administrator of the Federal Energy Administration, and the Chairman of the Council on Environmental Quality.

"(B) No parking surcharge regulation may be required by the Administrator under paragraph (1) of this subsection as a part of an applicable implementation plan. All parking surcharge regulations previously required by the Administrator shall be void upon the date of enactment of this subsection. This subparagraph shall not prevent the Administrator from approving parking surcharges if they are adopted and submitted by a State as part of an applicable implementation plan. The Administrator may not condition approval of any applicable implementation plan submitted by a State on such plan's including a parking surcharge regulation.

"(C) The Administrator is authorized to suspend until January 1, 1975, the effective date or applicability of any regulations for the management of parking supply or any requirement that such regulations be a part of an applicable implementation plan approved or promulgated under this section. The exercise of the authority under this subparagraph shall not prevent the Administrator from approving such regulations if they are adopted and submitted by a State as part of an applicable implementation plan. If the Administrator exercises the authority under this subparagraph, regulations requiring a review or analysis of the impact of proposed parking facilities before construction which take effect on or after January 1, 1975, shall not apply to parking facilities on which construction has been initiated before January 1, 1975.

"(D) For purposes of this paragraph, the term 'parking surcharge regulation' means a regulation imposing or requiring the imposition of any tax, surcharge, fee, or other charge on parking spaces, or any other area used for the temporary storage of motor vehicles. The term 'management of parking supply' shall include any requirement providing that any new facility containing a given number of parking spaces shall receive a permit or other prior approval, issuance of which is to be conditioned on air quality considerations. The term 'preferential bus/carpool lane' shall include any requirement for the setting aside of one or more lanes of a street or highway on a permanent or temporary basis for the exclusive use of buses and/or carpools."

SEC. 203. MOTOR VEHICLE EMISSIONS.

(a) Section 202(b)(1)(A) of the Clean Air Act is amended by striking out "1975" and inserting in lieu thereof "1977"; and by inserting after "(A)" the following: "The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975."

(b) Section 202(b)(1)(B) of such Act is amended by striking out "1976" and inserting in lieu thereof "1978"; and by inserting after "(B)" the following: "The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1977 shall contain standards which provide that emissions of such vehicles and engines may not exceed 2.0 grams per vehicle mile."

(c) Section 202(b)(5)(A) of such Act is amended to read as follows:

"(5)(A) At any time after January 1, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1)(A) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1)(A) of this subsection) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1977."

(d) Section 202(b)(5)(B) of the Clean Air Act is repealed and the following subparagraphs redesignated accordingly.

SEC. 204. CONFORMING AMENDMENTS.

(a)(1) Section 113(a)(3) of the Clean Air Act is amended by striking out "or" before "112(c)", by inserting a comma in lieu thereof, and by inserting after "hazardous emissions)" the following: ", or 119(f) (relating to priorities and certain other requirements)".

(2) Section 113(b)(3) of such Act is amended by striking out "or 112(c)" and inserting in lieu thereof ", 112(c), or 119(f)".

(3) Section 113(c)(1)(C) of such Act is amended by striking out "or section 112(c)" and inserting in lieu thereof ", section 112(c), or section 119(f)".

(4) Section 114(a) of such Act is amended by inserting "119 or" before "303".

(b) Section 116 of the Clean Air Act is amended by inserting "119(b), (c) and (e)," before "209".

SEC. 205. PROTECTION OF PUBLIC HEALTH AND ENVIRONMENT.

(a) Any allocation program provided for in title I of this Act or in the Emergency Petroleum Allocation Act of 1973, shall, to the maximum extent practicable, include measures to assure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Administrator of the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impact on public health.

(b) In order to determine the health effects of emissions of sulfur oxides in the air resulting from any conversions to burning coal pursuant to section 106, the Department of Health, Education, and Welfare shall, through the National Institute of Environmental Health Sciences and in cooperation with the Environmental Protection Agency, conduct a study of chronic effects among exposed populations. The sum of $3,500,000 is authorized to be appropriated for such a study. In order to assure that long-term studies can be conducted without interruption, such sums as are appropriated shall be available until expended.

(c) No action taken under this Act shall, for a period of 1 year after initiation of such action, be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856). However, before any action under this Act that has a significant impact on the environment is taken, if practicable, or in any event within 60 days after such action is taken, an environmental evaluation with analysis equivalent to that required under section 102(2)(C) of the National Environmental Policy Act, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a 30-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act by the appropriate Federal agency. Any action taken under this Act which will be in effect for more than a one year period (other than action taken pursuant to subsection (d) of this section) or any action to extend an action taken under this Act to a total period of more than 1 year shall be subject to the full provisions of the National Environmental Policy Act notwithstanding any other provision of this Act.

(d) Notwithstanding subsection (c) of this section, in order to expedite the prompt construction of facilities for the importation of hydroelectric energy thereby helping to reduce the shortage of petroleum products in the United States, the Federal Power Com-

mission is hereby authorized and directed to issue a Presidential permit pursuant to Executive Order 10485 of September 3, 1953, for the construction, operation, maintenance, and connection of facilities for the transmission of electric energy at the borders of the United States without preparing an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969 (83 Stat. 856) for facilities for the transmission of electric energy between Canada and the United States in the vicinity of Fort Covington, New York.

SEC. 206. ENERGY CONSERVATION STUDY.

(a) The Administrator of the Federal Energy Administration shall conduct a study on potential methods of energy conservation and, not later than 6 months after the date of enactment of this Act, shall submit to Congress a report on the results of such study. The study shall include, but not be limited, to the following:

(1) the energy conservation potential of restricting exports of fuels or energy-intensive products or goods, including an analysis of balance of payments and foreign relations implications of any such restrictions;

(2) federally sponsored incentives for the use of public transit, including the need for authority to require additional production of buses or other means of public transit and Federal subsidies for the duration of the energy emergency for reduced fares and additional expenses incurred because of increased service;

(3) alternative requirements, incentives, or disincentives for increasing industrial recycling and resource recovery in order to reduce energy demand, including the economic costs and fuel consumption trade-off which may be associated with such recycling and resource recovery in lieu of transportation and use of virgin materials;

(4) the costs and benefits of electrifying rail lines in the United States with a high density of traffic; including (A) the capital costs of such electrification, the oil fuel economies derived from such electrification, the ability of existing power facilities to supply the additional power load, and the amount of coal or other fossil fuels required to generate the power required for railroad electrification, and (B) the advantages to the environment of electrification of railroads in terms of reduced fuel consumption and air pollution and disadvantages to the environment from increased use of fossil fuel such as coal; and

(5) means for incentives or disincentives to increase efficiency of industrial use of energy.

(b) Within 90 days of the date of enactment of this Act, the Secretary of Transportation, after consultation with the Federal Energy Administrator, shall submit to the Congress for appropriate action an "Emergency Mass Transportation Assistance Plan" for the purpose of conserving energy by expanding and improving public mass transportation systems and encouraging increased ridership as alternatives to automobile travel.

(c) Such plan shall include, but shall not be limited to—

(1) recommendations for emergency temporary grants to assist States and local public bodies and agencies thereof in the payment of operating expenses incurred in connection with the provision of expanded mass transportation service in urban areas;

(2) recommendations for additional emergency assistance for the purchase of buses and rolling stock for fixed rail, including the feasibility of accelerating the timetable for such assistance under section 142(a)(2) of title 23, United States Code (the "Federal Aid Highway Act of 1973"), for the purpose of providing additional capacity for and encouraging increased use of public mass transportation systems;

(3) recommendations for a program of demonstration projects to determine the feasibility of fare-free and low-fare urban mass transportation systems, including reduced rates for elderly and handicapped persons during nonpeak hours of transportation;

(4) recommendations for additional emergency assistance for the construction of fringe and transportation corridor parking facilities to serve bus and other mass transportation passengers;

(5) recommendations on the feasibility of providing tax incentives for persons who use public mass transportation systems.

(d) In consultation with the Federal Energy Administrator, the Secretary of Transportation shall make an investigation and study for the purpose of conserving energy and assuring that the essential fuel needs of the United States will be met by developing a high-speed ground transportation system between the cities of Tijuana in the State of Baja California, Mexico, and Vancouver in the Province of British Columbia, Canada, by way of the cities of Seattle in the State of Washington, Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, Los Angeles and San Diego in the State of California. In carrying out such investigation and study the Secretary shall consider, but shall not be limited to—

(1) the efficiency of energy utilization and impact on energy resources of such a system, including the future impact of existing transportation systems on energy resources if such a system is not established;

(2) coordination with other studies undertaken on the State and local level; and

(3) such other matters as he deems appropriate.

The Secretary of Transportation shall report the results of the study and investigation pursuant to this Act, together with his recommendations, to the Congress and the President no later than December 31, 1974.

SEC. 207. REPORTS.

The Administrator of the Environmental Protection Agency shall report to Congress not later than January 31, 1975, on the implementation of sections 201 through 205 of this title.

SEC. 208. FUEL ECONOMY STUDY.

Title II of the Clean Air Act is amended by redesignating section 213 as section 214 and by adding the following new section:

"FUEL ECONOMY IMPROVEMENT FROM NEW MOTOR VEHICLES

"SEC. 213. (a)(1) The Administrator and the Secretary of Transportation shall conduct a joint study, and shall report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committees on Public Works and Commerce of the United States Senate within 120 days following the date of enactment of this section, concerning the practicability of establishing a fuel economy improvement standard of 20 percent for new motor vehicles manufactured during and after model year 1980. Such study and report shall include, but not be limited to, the technological problems of meeting any such standard, including the leadtime involved; the test procedures required to determine compliance; the economic costs associated with such standard, including any beneficial economic impact; the various means of enforcing such standard; the effect on consumption of natural resources, including energy consumed; and the impact of applicable safety and emission standards. In the course of performing such study, the Administrator and the Secretary of Transportation shall utilize the research previously performed in the Department of Transportation, and the Administrator and the Secretary shall consult with the Administrator of the Federal Energy Administration, the Chairman of the Council on Environmental Quality, and the Secretary of the Treasury. The Office of Management and Budget may review such report before its submission to Congress but the Office may not revise the report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comments respecting such report. In connection with such study, the Administrator may utilize the authority provided in section 307(a) of this Act to obtain necessary information.

"(2) For the purpose of this section, the term 'fuel economy improvement standard' means a requirement of a percentage increase in the number of miles of transportation provided by a manufacturer's entire annual production of new motor vehicles per unit of fuel consumed, as determined for each manufacturer in accordance with test procedures established by the Administrator pursuant to this Act. Such term shall not include any requirement for any design standard or any other requirement specifying or otherwise limiting the manufacturer's discretion in deciding how to comply with the fuel economy improvement standard by any lawful means."

TITLE III—STUDIES AND REPORTS

SEC. 301. AGENCY STUDIES.

The following studies shall be conducted, with reports on their results submitted to the Congress:

(1) Within 30 days after the date of enactment of this Act:

(A) The Administrator of the Federal Energy Emergency Administration shall conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if such rulings and regulations are contributing to the shortage of fuels and of materials associated with the production of energy supplies.

(B) All Federal departments and agencies, including the Federal regulatory agencies, are directed to undertake a survey of all activities over which they have special expertise or jurisdiction and identify and recommend to the Congress and to the President specific proposals to significantly increase energy supply or to reduce energy demand through conservation programs.

(C) The Secretary of the Treasury and the Director of the Cost of Living Council shall recommend to the Congress specific incentives to increase energy supply, reduce demand, to encourage private industry and individual persons to subscribe to the goals of this Act. This study shall also include an analysis of the price-elasticity of demand for gasoline.

(D) The Administrator shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers, together with legislative recommendations appropriate to meet such needs, including revisions in the unemployment insurance laws.

(E) The Secretary of the Interior and the Secretary of Commerce are directed to prepare a comprehensive report of (1) United States exports of petroleum products and other energy sources, and (2) foreign investment in production of petroleum products and other energy sources to determine the consistency or lack thereof of the Nation's trade policy and foreign investment policy with domestic energy conservation efforts. Such report shall include recommendations for legislation.

(2) Within 6 months after the date of enactment of this Act:

(A) The administrator shall develop and submit to the Congress no later than May 15, 1974, a plan for providing incentives for the increased use of public transportation and Federal subsidies for maintained or reduced fares and additional expenses incurred because of increased service for the duration of the Act. For the purposes of Section ——, the plan provided for in this section shall be considered an energy conservation plan.

(B) The Administrator of the FEEA shall

recommend to the Congress actions to be taken regarding the problem of the siting of energy producing facilities.

(C) The Administrtaor of the FEEA shall conduct a study of the further development of the hydroelectric power resources of the Nation, including an assessment of present and proposed projects already authorized by Congress and the potential of other hydroelectric power resources, including tidal power and geothermal steam.

(D) The Administrator shall prepare and submit to Congress a plan for encouraging the conversion of coal to crude oil and other liquid and gaseous hydrocarbons.

(E) The Secretary of the Interior shall study methods for accelerating leases of energy resources on public lands including oil and gas leasing onshore and offshore, and geothermal energy leasing.

SEC. 302. REPORTS OF THE PRESIDENT TO CONGRESS.

The President shall report to the Congress every sixty days, beginning February 1, 1974, on the implementation and administration of this Act and the Emergency Petroleum Allocation Act of 1973, together with an assessment of the results attained thereby. Each report shall include specific information, nationally and by region and State, concerning staffing and other administrative arrangements taken to carry out programs under these Acts and may include such recommendations as he deems necessary for amending or extending the authorities granted in this Act or in the Emergency Petroleum Allocation Act of 1973.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the Senate bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the Senate bill, insert the following: "An Act to assure, through energy conservation, end-use rationing of fuels, and other means, that the essential energy needs of the United States are met, and for other purposes."

And the House agree to the same.

HENRY M. JACKSON,
ALAN BIBLE,
LEE METCALF,
JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
HOWARD BAKER,
ADLAI STEVENSON,
TED STEVENS,
Managers on the Part of the Senate.

HARLEY O. STAGGERS,
TORBERT H. MACDONALD,
JOHN D. DINGELL,
PAUL G. ROGERS,
JAMES T. BROYHILL,
J. F. HASTINGS,
Managers on the Part of the House.

Mr. JACKSON. Mr. President, the purpose of S. 2589 is to assure continuation of vital services during continuing energy shortages. It is the purpose of this measure to equitably distribute the burden of energy shortages and minimize, insofar as practicable, the adverse impacts of the energy emergency in all sectors of society.

There has been much discussion of what constitutes a vital public service. I would like to make clear, at this point, that continuance of education would indeed be considered a vital public service, and that continuation of their operations are essential.

I have received a letter from the president of the National Education Association describing a number of ways in which schools can contribute to energy conservation, and requesting equitable consideration of educational facilities under proposed allocation and conservation programs. I commend such spirit, and ask unanimous consent that portions of that letter be printed in the RECORD.

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

Those of us who work in the schools know very well that a part of the heat in the school room is body heat from the tremendous energy resources of the young people. Furthermore, the pupil in the classroom may actually use less scarce energy than the child in a heated home with the color TV or stereo blaring or the teenager cruising around aimlessly in a car. We question the premise that closing schools will result in a significant net saving of energy.

Some of the means being considered with regard to schools' efforts to conserve energy are obviously less disruptive than others.

Closing for an extended period is probably the most disruptive measure for the pupils, parents, and teachers. Learning progress would be impaired if the school term were interrupted for an extended period. Working parents have to provide daytime supervision for pupils. Summer work, school, and vacation plans of teachers, pupils, and parents would be interrupted. Wages of school employees on daily or hourly rates would be lost, and teachers' contract salaries would be in question.

The four-day week would necessitate rescheduling of classes. Pupils and teachers would have to adjust to a longer school day. Some employees on a daily or hourly wage basis would earn less money.

Shortening the hours schools are open during the day would curtail extracurricular activities, supervised study in school, and alter regular school adult and community programs.

Closing schools when the temperature is extremely low would be of some inconveniences to pupils, parents, and school employees. The severity of the damage would depend on the number of days schools were closed. In cold climates this would be extremely disruptive.

Fuller utilization of existing transportation facilities and lowering of school temperatures within limits of health and safety would obviously be the least disruptive of the options available.

Again, let me emphasize that we are not asking that schools be totally exempted from the constraints necessitated by the energy crisis. Obviously, we realize that all of us are going to have to tighten our belts and put up with inconveniences. But we are asking that the Congress and the Administration recognize the unique qualities and functions of the schools and the need for schools to operate at a near-normal level. We are ready to cooperate in whatever way possible to insure both short-range and long-range benefits to all of society, which must include the integrity of the education process.

Mr. CLARK. Mr. President, it is past time for the Congress to respond fully to the Nation's energy shortages. In the midst of the raging controversy over the role of the oil companies and confusion about the severity of the shortage, Congress has not been able to agree on positive action. I support the Energy Emergency Act—despite its faults—because it deals with several important problems that need attention.

The legislation is far from perfect. But it at least attempts to deal with the giant oil companies that have made such high profits while the Nation has been running short of fuel.

The conference report provides for a windfall profits tax. Although I would prefer a stronger provision—and, hopefully, one soon will be enacted—the conference report is at least a step in the right direction. Additionally, I would hope that we will soon move to decrease or eliminate the oil depletion allowance, the tax loophole that permits oil companies to pay only a few percent of their profits in income tax.

However, an increased tax on oil company profits is only part of the solution to the problem caused by high oil prices. We must also provide relief for the consumer who has paid and is paying the higher prices. A bill introduced by Senator MONDALE, S. 2906, does this, providing tax relief for those who need it most—those families earning less than $20,000 per year. Ninety percent of the tax relief provided by this bill will go to those with incomes below $15,000.

Together, the windfall profits tax, a lower depletion allowance and S. 2906 will do much to remedy the redistribution of income caused by the high price of oil.

One of the most important provisions of the Energy Emergency Act requires the oil industry to provide information necessary to compile an adequate assessment of the energy situation. Perhaps the most serious obstacle to meeting the energy problem has been the lack of adequate and reliable information. I would prefer an energy information agency independent of the Federal Energy Administration, an agency provided for in the Nelson-Jackson bill, but it is essential right now that we have the facts about energy—and that they are available on a regular basis.

The Energy Emergency Act contains a number of other worthwhile and necessary provisions:

It gives the President the authority to ration—which may be necessary this spring as the impact of gasoline shortages are felt.

It provides very clearly for unemployment compensation to people who lose their jobs because of the energy shortages.

And it gives the President the authority, under congressional review, to impose energy conservation measures—such as a ban on Sunday driving, closing of gasoline stations, and setting store hours.

Although I support the overall direction of this bill, I am disappointed and disturbed with the sections that affect the environment.

While I would greatly prefer that automobile emissions standards proceed as required by the Clean Air Act, I can accept the extension through 1976 because the 1975 standards, which will require the extensive use of catalytic converters—devices which increase gasoline mileage—will proceed on schedule.

I am far more concerned about the section on emissions from utilities and large industries. The Environmental Protection Agency has already granted variances to permit the burning of coal this winter. This action does seem reasonable under the present conditions. But the extension of deadlines for meeting the standards until 1979 goes far beyond the demands of the energy crisis. Fortunately, Senator MUSKIE who has led the fight for clean air in the Senate

has indicated it is unlikely that more than half of the 46 plants that qualify for the extensions will convert to coal. Those that do convert must have "clean-up equipment" by the end of 1978.

Another provision of the conference, which I do not support, would prohibit the use of a parking surcharge—a device which would encourage mass transit, and thus help in meeting energy shortages.

I am concerned about these provisions because I do not believe that environmental protection caused the energy emergency and it certainly should not be sacrificed to the energy emergency. We have limited supplies of energy—but we also have limited supplies of air and land and water.

It appears, however, that many Members of the Congress are determined to retreat even farther from clean air goals. From all indications, the provisions of the conference report represent the best possible compromise, considering the strength of the pressure to back off from the goals.

In spite of my doubts about some of its provisions, I support this bill because it begins to face the problems surrounding the shortages—oil company profits, the lack of vital information about energy, and the need to conserve energy.

Mr. MONDALE. Mr. President, I will support the motion of the distinguished Senator from Wisconsin (Mr. NELSON) to recommit S. 2589, the National Energy Emergency Act of 1973.

This is a complex piece of legislation, with many provisions affecting a wide spectrum of interests. In some instances, these provisions may have been felt necessary at the time this legislation was in committee and originally on the floor of the Senate. Since then, however, 2 months have passed. Now, we are more perplexed than ever as to the extent of the current crisis, and what types of legislative authority are really necessary to enable the President and the Congress to deal with the crisis.

We all want the President to have the tools he needs to deal with the present shortage situation. In particular, we all want our economy to remain strong and jobs to be given the top priority in decisions affecting the use of scarce oil resources.

But we must be careful not to grant more authority than is needed, and thereby to abdicate our own role in dealing with this crisis. And we must be certain that the type of authority we grant—be it in the area of mandatory conservation measures or measures affecting our economy or environment—responds to the present situation and not to our worst fears about the potential shortages at some earlier date.

Much of the controversy over this bill, however, does not center on rationing or environmental concerns or export controls.

Instead, it centers over the performance of the largest single industry in this country—the oil industry—in recent months, and whether the profit performance of that industry indicates that windfall profits have been and are being realized.

In my view, there is little question that the recent profit increases reported by the major oil companies of this country indicate that they are profiting immensely from a shortage situation. Regardless of the extent of the industry's role in helping to create the shortage situation, it is clear that they and they alone are now reaping its benefits.

But I strongly believe that the real issue has been and will continue to be distorted, so long as we concentrate our attention on windfall profits. The real issue is not windfall profits. The gut issue which affects every American working family is the incredible increases in the price of crude oil and petroleum products to which we have been subjected in recent months.

In fact, I believe that the longer we focus on the issue of windfall profits, and the longer we attempt to devise a windfall profits tax which the oil companies cannot avoid or evade, the longer we will be prolonging the agony of the American consumer. Americans are being slowly bled to death by rising prices, and rising oil prices are the most dramatic and most important source of this cruel inflation.

The real issue, I repeat, is price. I therefore believe that we should focus attention as quickly as we possibly can to legislation which attacks the real problem of price.

I have introduced legislation which seeks to deal with this problem by requiring the President to institute an immediate freeze on all domestically produced petroleum and petroleum products, and within 30 days thereafter, to roll back the prices on such crude and products to the levels prevailing on November 1, 1973.

This rollback would save the American consumer $6 billion per year on the crude oil level alone, with additional billions of savings on refined petroleum products. And once extortionate price increases have been controlled and rolled back, there will be little in the way of excess profits with which we must deal.

It makes little sense to force American consumers to pay embargo-induced prices for domestically produced oil, and then to attempt to collect some of the windfall. Instead, it is possible to lower prices and save consumers billions of dollars per year. A rollback of the type I have proposed would eliminate the vast majority of the Arab embargo-induced increases in domestic oil prices, while still maintaining the strong incentives for increased domestic exploration and production which we all want.

Of course, we may still wish to enact excess-profits legislation, to deal with those increases which any price rollback cannot absorb. But at this point we must continue to focus public attention on the central issue of price.

I, therefore, believe that the excess profits provision in this bill—which is quite clearly unadminstrable—should not be used as the justification for an otherwise problematical piece of legislation.

On balance, this legislation might gain much from recommittal. Hopefully, many of the problems now in the bill could be resolved in a satisfactory manner. Then, we might again consider this legislation in a way which will insure that in dealing with the present energy situation, we tailor the solution to the problem with creating more questions than we resolve.

Mr. BAYH. Mr. President, I have determined to oppose the motion to recommit this conference report, and, assuming that motion is defeated, to vote for final passage of the Emergency Energy Act.

As with any other multifaceted legislation, this is not a simple matter with all the evidence for or against the conference report. But on balance, although I do have reservations regarding certain provisions of the conference report, I am convinced that the national interest will best be served by passing this bill at this time.

American consumers are justifiably up in arms over the huge profits increases being realized by most of the major, integrated oil companies in the midst of our energy shortage. There should be little wonder that consumers are upset; the 20 percent rise in gasoline and 45 percent rise in fuel oil prices last year were only partly a result of worldwide increases in oil prices. The fact is that domestic crude oil prices rose sharply last year and contributed significantly to the jump in consumer prices for refined petroleum products.

Profiteering, Mr. President, is no more tolerable in the midst of the energy crisis than it would be in the midst of a war. And we have a heavy responsibility to prevent profiteering by the major oil companies, along with a parallel responsibility to keep the lid on consumer prices so that inflation does not go unchecked.

The provision of this bill—section 110—dealing with the problem of windfall profits and price gouging gives us our first opportunity to enact legislation protecting the consumer from unreasonable fuel prices and making certain the oil companies do not further exploit the fuel shortage.

The specifics of section 110 are not ideal by any means. I share the hope expressed by a number of my colleagues that this section, if enacted, will be replaced by an even better and more workable excess profits tax with or without some control on domestic oil prices. But I am deeply concerned that if we fail to pass this bill it may be a long time before the desired excess profits tax is forthcoming from the House of Representatives where it must originate.

So the need to enact the prohibition on windfall profits strikes me as a decided plus in favor of passage of the conference report.

The bill has a number of other important provisions which argue for its passage:

Recognizing that there are limits to which we can balance energy supply and demand by increasing supplies in the short term, the bill gives the administration needed authority to limit energy demand through mandatory conservation methods. Such conservation may be our best hope for avoiding economic disaster due to the energy crisis.

In a further effort to avoid energy

waste, the bill instructs the regulatory agencies to revise their regulations to permit fuel savings in interstate commerce.

Since end-use gasoline rationing may become necessary if the Arab oil embargo is effective and sustained, the bill creates the necessary authority for rationing.

Recognizing the pressing nature of the petroleum and natural gas shortages, the bill wisely directs that coal be used in lieu of oil or gas where it can be accomplished efficiently without endangering the public health. Air quality rules are to be suspended when necessary to permit the use of coal.

As part of the overall program of energy conservation the bill provides Federal assistance to States and localities in developing carpool programs.

Since the major, integrated oil companies have used the fuel shortage as a tool against gasoline service station operators who do not follow the company line, the bill contains needed protections for the franchise rights of these small businessmen.

The bill has tough, effective antitrust rules to make certain the oil companies do not act improperly in concert in responding to the energy crisis.

Very importantly, the bill authorizes $500 million in extended unemployment compensation for workers who lose their jobs as a result of action taken on the authority contained in this act. I saved this point for last, Mr. President, because I think it is an important step forward, but a step which requires amending at the first available opportunity.

My concern is that the way the amendment is drawn it will limiit extended unemployment benefits in a manner which was not the intent of Congress. As the Senate knows, the energy crisis has already had a severe effect on the economy in various parts of the country.

Only this morning I was in Elkhart, which a few months ago was a thriving city, in large part because it was the center of the Nation's recreational vehicle industry. Today, as a result of the energy crisis and the public's uncertainty about the availability of gasoline, the recreational vehicle business is severely depressed and Elkhart's unemployment rate is about 10 percent.

Yet the unemployed workers and their families in Elkhart are not technically covered by the extended unemployment compensation provisions of the pending legislation since these jobs were lost prior to enactment of the Emergency Energy Act. Had this bill passed before the Christmas recess in its present form, when it was blocked by a filibuster against the windfall profits section, most of the unemployed people in Elkhart would have come under the coverage in section 116.

In addition, I have been informed that the Labor Department is giving a very narrow interpretation to that provision of section 116 which extends the benefits of that section to persons who lose their jobs because of this act. This narrow interpretation of who qualifies for extended unemployment benefits is directly contrary to the goal of this bill as I see it.

To remedy the inadequacy of section 116 that results from the long delay in enactment of this bill, and to deny the Labor Department the chance to give an unduly narrow interpretation to Section 116, it is my intention to introduce a new bill amending this section of the Emergency Energy Act in the very near future. This bill, which I hope could receive prompt attention, would make certain that the extended unemployment benefits were available to all workers who lose their jobs due to the energy crisis and would be retroactive to last fall so persons now unemployed are covered.

I indicated at the outset, Mr. President, that there were sections of this bill about which I had reservations. One was the unemployment compensation section, which should be corrected easily through a separate piece of legislation.

Another part of the bill which causes me concern is that which goes farther than necessary in pushing clean air standards back to 1979. As I said before, I support the separate section of the bill which directs that coal be used in lieu of oil or gas when possible during the energy emergency. Such action may well be necessary for more than 1 year, but there simply is no evidence to justify a decision now to push the air quality rules back to 1979.

This problem should be approached on a reasoned basis, responding to real energy need, making case-by-case decisions as necessary. This is far more responsible than making a wholesale retreat from the environmental gains of recent years. While I recognize as much as anyone the importance of assuring an adequate energy supply, a broad abandonment of the Clear Air Act goes beyond the current energy need. It is clearly an attempt by some to undo much of the progress previously made in setting forth the goal of clean air for all Americans.

Mr. President, while this provision of the bill certainly appears to be broader than necessary in the context of the energy emergency, the Conference Report should be adopted because of the overriding national interest embodied in its other provisions. I trust that if the Conference Report is adopted that the Air and Water Pollution Subcommittee will not let the issue rest and will come forward with remedial legislation undoing the damage to the Clear Air Act that is in the conference report.

With such remedial legislation, a clarification of the scope of extended unemployment benefits, and the excess profits tax which I believe this bill will elicit, even these three parts of this bill which have provoked so much discussion would be resolved positively.

I hope, Mr. President, that the Emergency Energy Act will pass the Senate today, the House later this week, and become law within days. It will represent a significant gain in our national energy program, and permit us to move in those areas outlined just above, as well as taking other necessary steps to provide Americans with enough energy at affordable prices. That, after all, its the overriding goal of any national energy program.

Mr. PERCY. Mr. President, on November 20, 1973, on the floor of the Senate I expressed serious reservations about the original version of S. 2589, the National Energy Emergency Act, which was rushed through the Senate in near-record time. At that time I stated:

> I am concerned that S. 2589 represents another massive grant of authority to the President for instituting Federal controls, which the Congress and the public may regret for years to come.

More than 2 months have now passed since that hasty action by the Senate. The Federal Energy Office has been reasonably effective in coping with the fuel shortage, relying only on the Emergency Petroleum Allocation Act and on voluntary conservation measures. Now, even the chief sponsor of the bill, the distinguished chairman of the Interior Committee, has been quoted as questioning the need for legislation granting such unprecedented broad authority to ration fuels and mandate energy conservation measures.

Except for section 104, which allows the President to impose mandatory gasoline rationing without any congressional oversight, I believe the conference report on S. 2589 is generally preferable to the Senate-passed bill in its handling of the emergency powers. Nevertheless, I intend to vote to recommit the bill to conference in the hopes that other extraneous provisions, many of them added by the House, will be eliminated from the bill.

I object to section 103 which haphazardly sets up a Federal Energy Emergency Administration with no clearly defined functions or staff. A far superior bill to establish the FEEA, S. 2776, has already passed the Senate and a similar bill has been reported in the House.

I object to section 201, which permits powerplants that are ordered to burn coal instead of oil or gas, to continue burning coal for 5 years without adequate regard for air quality standards. This is too long a period of time for temporary relief. I believe the coal conversion and auto emission provisions of the conference report go too far in turning back the environmental clock for the sake of an energy emergency whose true extent is still very much in doubt.

Finally, I believe the purported "prohibition" on windfall profits in section 110 and the additional unemployment assistance program in section 116 are inequitable and unworkable in practice. I have proposed that appropriations be increased for the public employment program as a method of providing jobs, not handouts, for the energy-related unemployed.

For these and other reasons, I believe the conference report should be completely reworked in light of the better understanding we now have of the fuel shortage situation. This is extremely important legislation, which could have profound effects on our economy and our lifestyles. It deserves more careful deliberation, and I shall vote to recommit it to conference.

Mr. HASKELL. Mr. President, a great deal of attention has been paid in the press and recently in the Congress to the enormous profits that major oil pro-

ducers have been realizing since the energy problem became an energy crisis. The Congress has made an effort to address the problem in section 110 of the Energy Emergency Act. The matter continues, though, to be one of great concern to me because I am afraid that the Emergency Act fails to provide a solution, and, indeed, may in some cases do injustice to some of the small businessmen involved in oil production and sales.

As a general proposition, Mr. President, I agree that it is our duty to take a close and hard look at the profits being realized by the oil industry at a time when virtually all Americans must suffer in one way or another from the energy crisis. In times of crisis, the American people are brave and cooperative, but they are also accustomed to the principle that the burden of a crisis is to be shouldered equally by all. While everyone else in America must cope with a soaring rate of inflation, as well as the problems attendant to the energy crisis, there is something improper in a clearly unreasonable level of profiteering from these troubles by a single industry. The issue of windfall gains prompts us to consider the ways in which the good fortunes of the oil industry can be turned to the benefit of the country as a whole. We should be able to formulate a mechanism to return excess profits to consumers.

THE NEED FOR MEANINGFUL PRICE CONTROLS

I see the task before us as one involving a number of distinct, but interrelated concerns: Alleviation of the energy crisis, assurance that the suffering of the Nation is not the unfair good fortune of a small few, and adjustment of some of the tax inequities that have been made even more apparent than they were before the energy crisis began. With these considerations in mind, I have carefully considered the legislation pending before us and I find it inadequate in some respects. Recognizing as I do that it would be unwise at this time to move for recommittal of the conference report, I do want to register my reasons for giving only qualified support to this report, and to propose what I believe to be an appropriate solution to the problems raised by the bill and which I am certain will demand our attention in the coming months.

In the year just past, the 21 major oil companies earned more profits than any other segment of the economy. Profits rose 61 percent last year over the year before, and may well increase another 60 percent in the year to come. At the same time, the oil industry was the recipient of bigger and better tax breaks than any other industrial sector, and of course, than the average American family. These tax breaks—the oil depletion allowance, the tax credit for so-called income taxes paid to foreign governments, and the writeoff allowed for intangible drilling costs—constitute indirect subsidies that, in part, are what is known as the "hidden budget" of the Federal Government, escaping as they do the continuous or at least periodic reevaluation that we conduct in the case of a direct Government subsidy. Thus we are today faced with a situation in which the American people must pay higher and higher prices for petroleum products, while the industry brings in more and more profits, in large part thanks to literally billions of dollars of Government subsidization through tax breaks that the industry has received in the years past. This is the situation with which the Energy Emergency Act fails to come to grips—more particularly, which section 110 of the act inadequately addresses.

Section 110 directs the President to exercise the price control authority delegated to him several times in the past. Additionally, it directs him to set price ceilings on petroleum products by reference to a specific definition of "windfall profits" and gives authority to the Renegotiation Board to determine by rule or order whether prices charged by the industry are leading to windfall profits. In the event that there are windfall profits the Board has a wide range of powers to rectify "gouging," including the power to order a refund of the excess profit. On its face, the provision makes sense. In reality, it is unworkable and will lead to a double injustice. On the one hand, section 110 fails to address the fact that multinational oil industries are capable of finding many pockets in which to hide excess profits from the tax collector. The same profits will be hidden from the Renegotiation Board. On the other hand, the act applies indiscriminately to the petroleum industry; to Gulf and Exxon, to the one-well independent oil producer, to the corner gas station. Thus, the reality is that the biggest and most profitable of the oil companies, the multinationals, will likely escape the sanctions that may be imposed under section 110, while small independents or the single station owners will be subject to the act since they have nowhere to hide their "excess" profits. Furthermore, it is the independent that is the source of exploration in the industry.

The excess profits of the truly domestic segments of the oil industry can be controlled very easily through a meaningful program of price control—controls that do not exempt new oil or stripper wells. We could avoid the administrative nightmares that section 110 is likely to give the understaffed Renegotiation Board through a serious and comprehensive effort to control prices. Refunds would not be necessary for the simple reason that the prices would not be excessive. By a meaningful price control effort, I mean a rollback of the prices currently being paid for both new and old oil. New oil, exempted from price controls at this time, is bringing $10 a barrel, while the increases that have been allowed by the Cost of Living Council to old oil have pushed its cost from about $3.90 a barrel last year to at least $5.25 a barrel today, a 35 percent increase. An important consideration, of course, is the effect of such a rollback on the future of energy exploration. I am confident that an appropriate balance between price protection to the public and a continued incentive to exploration can be achieved. Only last October 24, when the price of old crude oil was $4.25 a barrel and the price of new crude was about $5.50, the chairman of the Standard Oil Co. of Indiana, stated that:

> Recent increases in the prices of domestic crude oil and natural gas have provided additional incentives and additional funds for intensified exploration for new supplies of oil and gas.

And, the Petroleum Independent, the magazine published by the Independent Petroleum Association, in its November 1973 issue reported this comment by a producer-geologist:

> There's no doubt that prospects are for increased drilling. . . . With new oil prices from $5.30 to $6 a barrel, there's incentive now to go looking for oil.

What these statements indicate is that long before—very long before—the price of new crude reached $10 a barrel, sufficient incentive existed to explore new sources. Clearly, there is room for a rollback.

THE NEED FOR EXCESS PROFITS TAXES ON MULTINATIONALS

What price controls in general, and section 110 of the legislation before us cannot do is to effectively control the prices of oil that moves through the hands of the multinational corporations. The processes through which these corporations hide their profits, or turn them into "costs," take many forms. For example, the multinationals commonly own the transportation systems that move their oil. A shipping subsidiary might fly a foreign flag for the purpose of taking advantage of that nation's absence of an income tax. Or, a multinational might own foreign producers such as the Aramco Corporation, whose stockholders are Exxon, Texaco, Mobil, and Standard of California. These stockholders set the price at which the oil is sold, and since they get back whatever they pay in dividends, they do not care how high the price is. The foreign subsidiary thus can take the profit, while the ultimate corporate stopping point, the U.S. side of the operation, has a higher cost basis for the products it sells to the American people. In this way, much of the multinational's own inflated costs are in reality the higher prices that they have charged themselves abroad and passed on to the American people. Form, not substance, is the name of the game in oil company accounting practices—and, unfortunately, in the tax treatment of the oil industry by the Internal Revenue Service.

Not surprisingly, it is just these companies, the multinationals, that are the biggest profitmakers. Standard of California's profits rose 54.3 percent last year, Exxon's rose 59.3 percent and Gulf Oil's rose 86.5 percent. It is just these corporations that will be able to escape the potential sanctions of the windfall profits section of the legislation before us today.

Thus, Mr. President, under the first of the criteria that I have used to evaluate the effectiveness of this legislation, its ability to limit prices and spread the burden of the crisis more fairly, section 110 must be regarded as an inadequate answer. Price control can be meaningful, under this legislation, only as far as the physical borders of the Nation. The biggest profitmakers will remain relatively unburdened and profitable beyond their needs. Equally as distressing, though, in

my judgment, is the utter failure of the legislation to strike a balance between profitmaking and energy development or to address the pressing issue of overall tax equity in our treatment of the petroleum industry.

EXPLORATION INCENTIVES

While the legislation before us contains a number of provisions aimed at energy conservation and development, the windfall profits section of the act, I fear, fails to take account of the delicate balance that must be struck between retaining an incentive to development and eliminating any unfair and unnecessary profit margins. Again, it is the small independent producer that shoulders a disproportionate burden in the exploration field. Since the act aims itself principally at this side of the industry for the reasons heretofore discussed, I think it would have been appropriate to spell out in greater detail than has been done in section 110 just how that balance ought to be struck.

I am convinced that only a combination of meaningful price controls on the domestic side of the industry and a carefully tailored excess profits tax on the multinationals will serve to accomplish the goals of this legislation. I have begun to work on such excess profit legislation, and hope to be able to introduce it in the Senate sometime in the very near future.

I should point out that I am well aware of the pitfalls posed by the concept of an excess profits tax. I realize the difficulty of definition that is presented by the term "excess profit," and I recognize that it is the responsibility of the Congress, not the Internal Revenue Service, to define it with precision. But, when all things are considered, I am convinced that this is the only approach that we can take to bring within the rubric of the regulation we are today considering the multinational oil industry. I find no comfort in effective control on the prices of domestic oil, while the biggest of our suppliers escape, not only price controls, but also any meaningful form of income taxation.

THE NEED FOR INCOME TAX FAIRNESS

What I am today suggesting is a tax patterned on the excess profits tax that was in operation during the Korean war. Its focus will be the multinational oil companies, and in operation, it will assure that, at least for purposes of this tax, the interest that a multinational corporation has in a foreign subsidiary will be reflected in the tax base utilized. In essence, the profits that a multinational oil company pockets in a foreign subsidiary, are not unlike income that an individual deflects to other recipients—and, income of this nature is taxable to the primary recipient, by virtue of the control that is exercised over the flow of funds.

I intend to combine with this tax proposal an amendment to the present Internal Revenue Code treatment of the of industry. Under the code, taxes paid to foreign governments are regarded as generating a dollar-for-dollar tax credit for purposes of U.S. taxes, on the theory that double taxation of income is inappropriate. That principle is quite justifiable where true taxes are involved. However, the Internal Revenue Service allows an oil company to treat what are really royalty payments to a foreign nation as though they were income taxes. I shall propose to eliminate this practice. No other industry, no individual, is allowed to treat a royalty as though it were an income tax. Royalties are essentially a cost of doing business, and, hence, should generate nothing more than an ordinary deduction. Treatment of the oil industry just as we treat everyone else in this respect is a long overdue first step in reform of the tax treatment accorded this industry without apparent justification.

Finally, Mr. President, I intend to vote for the Energy Emergency Act not because I like the form of its windfall profits section, but because I believe it will be helpful in finally forcing the needed rollback in domestic prices and excess profits tax on the multinationals that I have described. I am afraid that defeat of this act will serve only to delay the truly effective legislation that is needed to deal with the energy emergency.

Mr. BENTSEN. Mr. President, I have stated during the consideration of the Energy Emergency Act my reservations concerning some of its provisions. The country faces an energy shortage and the Congress must act to alleviate that shortage and to make sure that no one segment of our society unduly benefits or suffers in the process.

The manner in which we respond to this National energy shortage, however, may be more important to the future of the country than the present shortages themselves. We are establishing through the Emergency Energy Act both a program, and the bureaucracy to administer it, that will deeply effect the lives of every American citizen without exception.

This is not the kind of legislative step that should be taken in a crisis atmosphere. One that is charged with heated rhetoric, fraught with hastily contrived compromises and based upon inadequately developed information. The country expects better from us and I believe we can do better if we will give ourselves the chance.

My specific objections are as follows:

The proposed administration of the program devised under the bill is left to an independent agency which has little clear authority and which provides no guarantee of continuity with the existing programs of the Federal Energy Office. Second, the bill contains a labyrinth of administrative requirements and procedures that may very well hamper rather than help efforts to curb energy consumption and increase supplies.

Finally, the windfall profits provision of section 110 of the conference report offers little hope of real protection for the consumer and would further aggravate the fuel shortage by causing chaos in energy producing and distributing industries.

I am very concerned about the complex administrative and judicial procedures provided for in section 311 of the bill. The provisions of this section alter considerably the requirements of the Administrative Procedures Act and substitute a confusing amalgam of features contained in both the House and Senate bills. Some argue that the new Federal Energy Administration must be able to act with speed and without the delay of drawn-out administrative proceedings. I for one feel that regulations that will deeply effect the most essential aspects of our lives deserve the inspection and comment of the public. Just the brief experience we have had so far with the Federal energy allocation program demonstrates how monstrously complex the problems are when a Federal agency attempts to regulate some 200 millions lives. With these programs there is a ripple effect which can magnify a bureaucratic bungle into a major catastrophy for whole segments of our society.

This is why I offered an amendment in the Senate that would have guaranteed at least 5 days for interested parties to comment on a proposed regulation. That guarantee has been watered down in the conference report so that regulations can be implemented whenever the administrator feels they are essential to the program. We have already witnessed the cavalier manner in which the Cost of Living Council used a similar loophole to implement its rulings and I do not want to see the mistake repeated with the Federal Energy Administration.

Another point of concern to me is the weakness of the administrative provisions of the bill and the unclear authority that is to be used in carrying out energy conservation programs. The bill establishes an independent agency to administer Federal energy programs and then says virtually nothing about how that agency is to be staffed, funded, or to integrate its activities with other Federal agencies. The Congress has already made considerable progress on a separate bill, the Federal Energy Administration Act, which would provide us with a fully constituted and carefully considered energy administration to carry out what will be the most crucial Federal program to be undertaken in decades. The House will soon be considering this legislation and the Senate has already approved its version. I believe there is time to wait when the results will be so obviously better and the matter is so clearly important.

The most controversial feature of the bill in my opinion is that relating to so-called windfall profits. As I have said before, no industry, no company, and no individual should be allowed to make unconscionable profits from the troubles of this country. I believe some tax to deal with windfall profits should and will be enacted. Hearings are being held before the Finance Committee for that purpose. However, section 110 in this bill would not accomplish its purpose of preventing windfalls but it would aggregate the current shortage. I have spoken before about this section so I will only briefly describe here my objections to it.

By this section we are calling upon a Federal board with no background and little expertise to determine what are reasonable profits and to set individual prices for as many 278,000 sellers of petroleum products. That is the number of sellers, at all levels, of petroleum products in this country. Under the terms of this section each would be subject to complaints to the Renegotiation Board by any interested party.

The Board would be called upon to make individual determinations of profit levels and set individual prices for each seller. The Board would be buried in cases; complaints would go unheard; and litigation would be endless. The petroleum seller, most of whom are small independent operators, would be hamstrung by endless bureaucratic proceedings and the consumer would have little hope of a speedy or conclusive decision.

In addition to section 110 failing to accomplish its intended purpose, I am very concerned about the adverse impact of the provision on petroleum production and investment during 1974. The provision is not effective until 1975 but if it does go into effect it will be retroactive to 1974 profits.

As a result of higher crude oil prices, domestic producers are receiving more today for their present level of production than they were during the base period provided in section 110. To the extent their costs have not increased as fast as oil prices they are already over the profit margin allowed and for every barrel of increased production they sell this year they will be that much more over the allowed margin. This provision actually prohibits increased production during 1974 for most producers.

So at a time when the country is exploring every avenue to increase our energy resources the Congress is considering a bill that might very well stop new petroleum exploration dead in its tracks. Hardly a result that I believe most Members of this body would care to see.

Mr. President, in sum I find great flaws in the conference report we have before us. I cannot support its passage and I hope the Senate will seriously consider its weaknesses before passing this monumental piece of legislation.

Some have asked whether we can afford to wait another few weeks to pass additional energy legislation. Mr. President, I feel we cannot afford not to wait if time will give us a better view of the problem and a clearer understanding of what our response is to be. The people are not just expecting a bill—they are expecting a solution that works. I believe we must not fan their expectations and for that reason I will oppose the conference report.

Mr. McGEE. Mr. President, since I am opposed to S. 2589 in its present form, I am voting in favor of the motion to recommit the conference report on this legislation.

I am particularly disturbed over the windfall profits section of S. 2589 as it is presently written, but not because I do not favor enactment of legislation to prevent windfall profits or price gouging to protect the public during the energy crisis. I do favor such legislation. However, I am disturbed that the windfall profits section is unworkable in its present form; would create an administrative nightmare; and in all probability, would worsen the energy crisis, which in turn, would have an even greater detrimental impact on the consumer.

Testimony offered by a wide range of tax experts in the past few days warn that the windfall profits section of S. 2589 is completely unworkable.

We have heard former IRS Commissioner Sheldon Cohen warn that it is "virtually unadministerable."

We have also heard from other tax experts that oil industry investments in new energy sources would be deterred by significant uncertainties which this section promotes, as it is presently written.

In fact, not one tax expert has stepped forward in support of the windfall profits section of S. 2589 in its present form. Every expert who has offered his views on this section has been emphatic in his assessment of the difficulties associated with the section as it is now written.

I honestly believe that the Congress has the capability, and should exercise this capability, to draft legislation that would indeed block excessive profits while, at the same time, spur investments in the production of more energy.

It is for the reason I have outlined above that I will support the motion to recommit the conference report on S. 2589.

Mr. KENNEDY. Mr. President, I would appreciate the opportunity to explore some of the details concerning the conference provisions related to the Clean Air Act with the distinguished manager of the bill and with the distinguished Senator from Maine.

These provisions concern the people of my State and I have been extremely disturbed by them. I have received communications from the Governor of the State of Massachusetts and from the mayor of the city of Boston on this subject.

I hope that the clarification of the two distinguished Senators will resolve my problem.

On page 8, the report states:

> The Administrator shall, to the extent practicable and consistent with the objectives of the Act, by order, after balancing on a plant basis the environmental effects of the use of coal against the need to fulfill the purposes of this legislation, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel burning installations.

I interpret this "plant-by-plant balancing" to mean that, first, a prior determination must be made whether a major fuel burning installation is prohibited from burning natural gas or petroleum and converted to coal would indanger the public health. Second, a prior determination must be made that the plant is unable to directly secure those necessary clean fuels for operation and is unable to secure such fuels through the qualitative allocation authority granted under this act and the Emergency Petroleum Allocation Act of 1973 before it can be prohibited from burning natural gas or petroleum.

Is that the understanding of the Senators?

Mr. MUSKIE. That is correct.

Mr. KENNEDY. There is a second question that I would raise with the manager of the bill which refers to section 106. Does the manager of the bill assume that this is designed to provide for the allocation of low sulfur fuels, including coal, to those areas where there would be a health danger if high-sulfur fuels were burned and if such low-sulfur fuels are available. In other words, the EPA Administrator would have the power to require the allocation of low-sulfur fuels away from an area where burning high-sulfur fuels would have a minimal health effect to an area such as the high density areas in Massachusetts and the Northeast were burning such fuels could have a very damaging effect?

Mr. MUSKIE. The Senator is correct. That is what is intended.

THE ENERGY CRISIS AND PROPERTY TAX REFORM

Mr. President, as debate over the energy crisis has taken shape in recent weeks, it has become more and more clear that crucial to any solution of the problem is information—information which could tell us how bad the crisis really is, but which we are told is simply not available for those in government who are trying to define a national energy policy.

The optimists believe this information would tell us that there is no energy crisis.

The confirmed skeptics believe the information would prove that the crisis is a hoax.

And the pessimists insist that information would show that the crisis is worse than the most dire predictions we have heard.

No doubt, the truth lies somewhere in between. Just where is a factor which will affect the everyday life of this country for a long time to come. In the meantime we continue to operate in a partial vacuum, a situation which is clearly tolerable.

In the midst of all these charges and countercharges over the scope of the energy crisis, a new and interesting idea has been put forth by Ralph Nader and Jonathan Rowe, of the Tax Reform Research Group, which I would like to share with my colleagues.

Nader and Rowe draw a very credible connection between the need for information about energy reserves in this country and the issue of property tax reform. They point out that there is a body of public officials—the local property tax assessors—who should have at their command very detailed information about the size and value of energy reserves such as oil, coal, and natural gas in every State in the Nation. Mineral reserves are very much real property, and assessors are supposed to locate and value them accurately.

The fact of the matter, of course, is that many assessors are not performing this function, for a number of reasons ranging from a simple lack of resources for such complex assessments to collusion with the owners of mineral property. There is no shortage of examples of tax assessors simply accepting the valuation figures given them by the local mineral company instead of conducting their own assessment of the property. The result of such poor assessment practices is triply negative—no information, artificially low property taxes acting as an incentive for mineral companies to keep their reserves in the ground, and local communities cheated out of tax revenues needed to support local services.

By comparison, in those States where property tax assessment practices are sophisticated and up to date, the assessor's records can be the source of

highly reliable information on energy reserves which serve the public need in a number of ways, as the following article from the Los Angeles Times demonstrates.

The call for property tax reform has gone unheeded for a very long time. We now have a compelling new argument in its favor.

I ask unanimous consent that the following items on the energy crisis and property tax reform be printed in the RECORD at this point: "Tax Bribes Won't Work," from the January 12 issue of the Nation, "Less Talk, More Action," from the January 20 edition of the Washington Star-News, January 18 letter from Ralph Nader to William E. Simon, Administrator of the Federal Energy Office, "Pull the Oil Tax Lever," from the January 11 edition of the Boston Globe, and "Tax Windfall Seen for Oil-Producing Counties," from the Los Angeles Times of January 18, 1974.

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

TAX BRIBES DO NOT WORK

"We need the tapes," lamented ecologist Barry Commoner on *The Dick Cavett Show* the other night. He was saying that to chart our way out of the energy shortage, we need to know what the oil companies have, and where. But the companies aren't telling.

What Mr. Commoner and most others seem to forget is that at this very moment, all over the country, there are public officials with the legal mandate to get precisely this information. They are state and local property tax assessors. Energy resources like coal and oil are as much property as a house and its furniture. Assessors are supposed to locate and value them accurately.

In fact, of course, the mineral owners have co-opted the property tax system, just as they have every other facet of government with which they intersect. In Texas, local assessors contract out the task of appraising oil property to an engineering firm that frequently works for the oil companies themselves. A preliminary survey by Texas law students in 1970 found that much oil was either grossly undervalued or not on the tax rolls at all. Throughout Appalachia, assessors dutifully list on the tax rolls the figures the mineral companies give them. One assessor in Claiborne County, Tennessee, saved himself the trouble by just pasting in the coal company's submission.

When Tennessee began a statewide reappraisal, it contracted the work out to "mass appraisal" firms like Cole-Layer-Trumble [see "The Appraisal Conglomerates: What's Wrong with the Property Tax" by Peter Gruenstein, *The Nation*, May 7, 1973], whose sister firm, American Appraisal, Inc., does appraisals for many top corporations on the *Fortune* Five Hundred list. Coal and mineral property, though worth millions, was specifically excluded from the contracts.

Had our states been more diligent in their property tax assessing, we would already have the "tapes."

But there is more. The energy shortage should make us rethink our popular notions about the property tax. It was political cant in both camps in 1972 to condemn the levy (Nixon was much more successful in avoiding income than property taxes—could that be a reason?). The way we apply the tax to homeowners and renters of modest means may indeed need revision. Nevertheless, the property tax can be made to work as one of the best antimonopoly tools around.

The economics are simple. When you tax an asset—any asset—you make it expensive to hoard. The owner is moved to use the asset to generate revenue to pay the taxes. When there is no property tax, or when the assets are grossly underassessed, just the opposite occurs. Owners hoard their assets until the "price is right." It's cheap to do so. And they buy up as much as they can—monopolize supply—without fear of incurring holding costs.

As we confront energy monopoly, and possibly contrived shortages, perhaps we could take a cue from the Australians. Around the turn of the century they devised a *progressive* property tax—rates increasing with size of holdings—to help break up large estates and give more people a chance to own land. We could use the same device to control the energy monopoly.

Would we endanger the environment by encouraging resource owners to use instead of hoard? We have learned the hard way that *not* taxing these owners fails to protect anything—except themselves. Strip mining is rampant; land use is a disaster. Only direct controls can stop them. Tax bribes just don't work.

In short, one way to attack the energy shortage is through a dose of tax law and order; to start enforcing the state laws that say property should be assessed and taxed (strengthening the laws where necessary). We would get information on what resources are where. We would urge more supply onto the market. We would encourage more diverse ownership of energy resources. And hard-pressed state and local governments would get a revenue bonus as well.

JONATHAN A. ROWE,
Director, Property Tax Project, The Tax Reform Research Group, Washington, D.C.

LESS TALK, MORE ACTION

(By Ralph Nader)

Now that the people are accurately telling members of Congress that the present energy shortage was orchestrated by the oil industry and condoned by the big businessmen running the government, what will Congress do about it?

Here is a suggested program which senators and representatives could support that would go a long way toward providing justice for consumers, workers and small businessmen being squeezed so mercilessly.

Oil prices must be rolled back. Domestic oil costs have not increased so much and this oil supplies 70 percent of the nation's needs.

To permit energy chief William Simon to use foreign oil prices as a reason to allow domestic oil prices to skyrocket amounts to unarmed robbery of billions of dollars from the public. An export tax would prevent a speculative outflow of oil.

Legislation is needed to require a reluctant federal government to obtain the full facts about the energy situation.

This means obtaining and giving to the people the information about oil and gas reserves in this country (much higher than the industry claims), refinery output, storage levels, distribution policies, average production costs and profit rates of return from wellhead to retail.

Americans should realize that the ex-industry chiefs now fashioning federal energy policy do not even disclose the extent of oil and gas found on federal lands which belong to the people.

To insure that the giant multinational American oil companies do not desert this country and its consumers for higher profiteering abroad, the federal incorporation of these companies is necessary.

These companies now are chartered in states like Delaware which will not and cannot make them accountable. Federal chartering was supported for all national companies by Presidents Roosevelt and Taft early in this century. It is still a good idea.

Strong antitrust action is a high priority to make the oil industry less concentrated and more competitive.

Greater competition will break the monopolistic hold over the industry by the big seven oil companies and encourage smaller producers, refiners and retailers to get petroleum products to market cheaper and more consistently.

The Federal Trade Commission and several state attorneys general have such antimonopoly cases under way. But Simon and his aides are strongly against such action.

A major portion of new oil and gas is situated on federal lands—offshore and onshore.

These natural resources belong to the people. As proposed by Sen. Adlai Stevenson, a federal oil and gas company, to explore and produce such resources under strict environmental controls, would be highly beneficial.

Such a company would assure the nation of adequate fuel supplies in emergencies whether they are real or contrived. It would help stimulate competition in the oil industry—as much as TVA did for the electric power industry.

It would also provide independent gas stations and heating oil distributors with supplies when the big oil companies cut them off in order to replace them with their wholly owned outlets.

With a very small expenditure, Congress could provide technical assistance to state and local taxing districts to reassess the value of oil, gas and coal in the ground.

Minerals companies have historically underestimated the amount and value of their minerals in order to keep their property taxes unconscionably low.

The desperate needs of these poor localities have gone unmet because of this gross underpayment of property taxes by the companies that exploit their wealth.

There now are more compelling reasons than ever to reassess these lands and resources from West Virginia to Texas and recover hundreds of millions of dollars of uncollected property tax revenues.

Both directly and indirectly, through the "multiplier effect," this leap of fuel prices will jolt the economy into another inflationary spiral and an increasing inability to compete in world markets.

How many more devaluations can a further weakened dollar absorb under such circumstances in the future?

If such programs as noted above are not adopted, the created energy crisis of 1972–74 will become the trillion dollar economic trauma over the next twenty years.

JANUARY 18, 1974.

Hon. WILLIAM E. SIMON,
Administrator, Federal Energy Office, Washington, D.C.

DEAR MR. SIMON: Your proposed fact-finding trip to Texas, Louisiana, and other energy-producing areas will avail little if you rely solely on carefully-packaged industry and even official information once you get there. It will take independent digging on your part to get to the truth regarding the energy management fiasco. To this end I would urge you to explore such sources as the following, among others.

A first, and basic, step would be to establish the source of information which purports to be "official." For example, do the Texas Railroad Commission and the other state bodies concerned with the oil and gas industry conduct their own investigations? Or do they rely on the data and reports of industry and industry backed organizations like the Texas Research League, to which the Texas state government often turns for information? These are hardly the unbiased, disinterested sources your office needs for guidance in this critical period.

Here are some other suggestions:

1. Private Engineering Firms.—Firms such as Pritchard and Abbott Valuation Engineers

do extensive appraisal work, for property tax purposes, under contract with Texas taxing jurisdictions. In 1970 Pritchard and Abbott alone had contracts to appraise approximately 60% of the state, including oil and gas property. Such firms may do private appraisal work for oil and gas companies as well. They certainly have information that would be most pertinent to your inquiry.

2. Property Tax Assessors.—You should consult assessors not just in the oil-field areas, but in cities like Houston as well. In such places the oil companies have major installations and storage facilities, which in Texas are subject to the property tax along with the oil inventories they contain. As the price of oil skyrockets, the assessed value of oil reserves, processing facilities and inventories should go up accordingly. Millions of dollars in property tax revenues are at stake in local taxing units such as Houston and Harris County, Texas, in which reside petrochemical plants of firms like Exxon, Arco, and Texaco. The property tax assessors in these areas, if they are doing their jobs, have been keeping close tabs on oil production and inventories within their jurisdictions.

3. The Texas Attorney General.—Texas has strong anti-trust laws, and the Attorney General may as a result have gathered, or be gathering, useful information on the oil industry.

4. Dallas, Houston and New York Banks.—Oil companies, especially the large independents, may well have used their reserves as collateral for loans and for other financing purposes. The banks, along with investment and financial advisors, quite possibly have as yet undisclosed information on what the energy companies have, and where.

5. Dallas Office of the Interior Department's Bureau of Mines.—This office may have done, or be doing, studies on such subjects as the extent of energy reserves and of untapped production potential. The Interior Department does not always see fit to make such studies public, but certainly it could not withhold them from your office.

6. Texas Railroad Commission.—I would urge you to request whatever *raw* data it has, rather than rely on conclusions drawn from that data. The mission of your office is not the same as the Texas Railroad Commission's. Thus it is fitting for you and your staff to interpret the data according to your own lights.

I would urge you to pay particular attention in your travels to the condition of property tax administration as it relates to energy resources, and to how your office and the federal government generally can help to make this property tax administration more effective. This issue is not peripheral but is of crucial importance for getting information on energy reserves as well as for prompting a greater supply to reach the market. These are the reasons:

1. Energy-Resource Information.—If the states and localities were assessing mineral resources properly—as their laws and consituations in many cases already mandate—then the country would not have been caught in a sea of ignorance, notwithstanding the federal government's past derelictions herein. We would already know much more about how much coal, oil, gas and other resources we have.

At present the assessing of these resources is in an abominable condition—even more abominable than is property tax administration in general. In 1970 a pilot study in Ector County, Texas by Texas University law students found that much oil property was appraised either at a nominal value or not at all. Four hundred thousand dollars worth of Texaco oil leases in that single county were not even on the tax rolls! Throughout Appalachia property tax assessing is so decrepit that coal, oil and gas owners literally tell the assessor how much they have and how much it is worth. The assessor of Knott County, Tennessee told the St. Louis Post Dispatch:

"We have no system for finding what they (the mineral companies) own. Like they may tell us they own 50 acres at a certain place when they actually own 500 acres. Companies just send in what they say they owe, and a check."

And that is one main reason we know so little about our energy reserves.

It is important to note that the energy companies are as tight-lipped as they are in part to foil the property tax assessor. Frank Barnett, chief executive of Union Pacific (which has extensive mineral holdings), was quoted by Peter Barnes, the West Coast editor of the New Republic, as stating, "We don't even care to guess what (our minerals) are worth. If we did, we'd have tax assessors all over the place."

It is time to end the energy information anarchy. And the local assessor's office is one place to start.

2. Increase Energy Supply.—If the property tax were administered properly, it would be a most effective device for getting more energy resources onto the market. Simply stated, the property tax imposes a cost on the owners who do not tap their reserves, who try to hold them off the market waiting for prices to rise. It gives the owners an economic incentive to sell or use instead of hoard.

To date most talk of incentives has been mired in the ever-expanding bog of bonuses and bribes for the oil and energy industry. The public is expected to bear the cost of these tax breaks and other benefits and then cross their fingers and hope. The property tax balances out the bribe approach with an incentive from the other end, one that imposes costs on the companies that do not produce.

In short, the property tax, if well-administered, would be a consumer-oriented market force that could replace battalions of federal bureaucrats. And unlike the plethora of income tax loopholes for the energy industries, it would relieve, rather than increase, the tax burdens of ordinary taxpayers at the local level.

3. Help Federal Treasury.—Areas of the country that are literally groaning in mineral wealth—like Appalachia—have become the objects of expensive federal spending programs. A main reason is that their property tax administration is so weak. Would it not be far better—both for the people in those areas and for federal taxpayers generally—for the areas to meet their now needs by more fully using their own tax resources?

How your office can help is as simple as it would be effective. Express statutory authorization already exists for the federal government to share tax information with state and local officials, under 26 U.S.C.A. § 6103 (b). In addition, your office will no doubt be coordinating and expanding the ongoing information gathering activities of the IRS, the Department of the Interior, the Census Bureau, the Department of Defense, and of other federal agencies as they relate to energy. All that remains is to set up a system for sharing this data with the relevant state property tax authorities.

You could start to lay the groundwork for such a system in your travels.

In addition you could urge the Administration to support such measures as S. 1255, now pending in Congress, which would help and encourage the states to improve the way they administer their property taxes.

Such steps would be inexpensive—considering the potential returns. They would be in line with Congressional and Administration momentum, both for fuller disclosure of energy information and for more power and self-sufficiency for the governments closest to the people. They are in line too with the recommendation of the Advisory Commission on Intergovernmental Relations that federal agencies do more to share their property-tax related information with state and local tax officials. And perhaps most important, they could mean more energy supplies on the market and a better value for consumers and property taxpayers.

Sincerely,

RALPH NADER.

PULL THE OIL TAX LEVER

As long as petroleum supplies were plentiful and prices more or less stable no one thought very much about the way the industry worked. There were no cries for precise data on how much oil was where because no one had any particular need to know. The largest single complaint about the industry centered on its mineral depletion allowance, set at 27½ percent until its reduction to 22 percent in 1970.

But now with shortages or fears of shortages there are increasing demands for audits of oil company prices, profits and supplies if for no other reason than to improve the general level of understanding of an industry that has rather suddenly become an object of fear, if not loathing.

It appears inevitable that Congress will examine tax incentives and disincentives when it reconvenes on Jan. 21 and that it will look in particular for ways to discourage hoarding of petroleum supplies in the interests of pushing up prices.

The hoarding process can be a complicated one. The householder with a 273-gallon tank in his cellar is hardly a potential hoarder if he uses 2000 gallons a heating season. But if he owns three such tanks, it is possible he is standing on the borderline.

A corporation acting alone in its attempt to protect itself against vagaries of supply may only think of itself as protecting its best interests if it adds sharply to storage facilities and stocks up. But it is surely pushing up demand beyond "normal" levels and actually helping to bring about the shortage it fears.

A petroleum company sloshing oil from tank to tank or country to country may be a different matter altogether. There may be no need at all for oil companies to collude with each other to recognize the utility of keeping the flow of oil exactly at demand levels. As prices climb, the supplies on hand become noticeably more valuable.

In the past couple of weeks industry figures on supplies have come under increasing criticism. Without even doubting the veracity of the reporting system, some of the numbers are rather large. There are, for instance, more than 200 million barrels of distillate—heating and diesel oil. There are another 212 million barrels of gasoline and 238 million barrels of crude, according to figures supplied by the industry's American Petroleum Institute.

It has been suggested by the Tax Reform Research Group of Washington that property taxes be imposed on such inventories at the state and local level. Congress itself may want to look at the issue of whether taxes on inventory might be levied in ways that would discourage hoarding as opposed to taxing normal warehousing transactions designed to cope with fluctuations in demand for various fuels. Such a tax scheme would be complex, having to differentiate between precaution and predatoriness. Since this has implications about the length of holding reserves, the season, and perhaps the actual form of inventory, a great deal of information will be needed to build an appropriate tax structure.

But we have a feeling that a thorough investigation by Congress of the potential of such a tax system would by itself have a beneficial effect on the industry. The mere possibility of a tax system designed to discourage hoarding and withholding of oil from market would tend to make oil company executives reexamine their own practices. Congress should waste no time before inspiring that kind of self-criticism in the oil industry.

TAX WINDFALL SEEN FOR OIL-PRODUCING COUNTIES

(By Lee Dye)

The rising value of crude oil will mean at least a small tax windfall for oil-producing California counties, and it could mean a significant boost in income for school districts and small cities.

The increase will be offset slightly by the decline in the assessed valuation of closed service stations, and possibly by declining real estate values in outlying areas, but the gain will be much greater than the loss, according to Los Angeles County Assessor Philip E. Watson.

Oil reserves beneath the ground are taxed as though they were land, and in the past year the value of oil has increased substantially—in some cases as much as 50%.

J. S. Taylor, chief of the oil division in the assessor's office, estimates that the market value of Los Angeles County's oil reserves has increased by about $300 million over last year.

That means the assessed valuation has increased by about $75 million, and that, in turn, California should bring in around $8 or $9 million in additional tax revenues this year, Taylor estimates.

Since oil fields are not spread evenly over the county, some cities and some school districts will profit more than others.

In Los Angeles County, for instance, major oil fields are concentrated in the Long Beach City school district and the South Bay area. The latter lies mainly in the Los Angeles school district.

School district taxes represent about half of the total county tax rate, so those two districts will share a substantial portion of the anticipated $8–$9 million windfall.

The Los Angeles school district's budget this year is more than $1 billion, so the windfall hardly means the district has struck it rich.

But the district is anticipating a $20 million deficit next year, so the increase may prove significant.

In the months ahead, the county will probably gain in oil-related capital improvements as a result of a rejuvenated oil industry, Taylor believes.

The rising value of crude oil makes marginal operations more appealing, and reservoirs that were not worth developing in the past may be profitable at today's prices.

In addition, the industry can make more money off oil resulting from new wells or increased production than it can off existing wells at past production levels.

New wells and increased production result in what the federal Cost of Living Council classifies as "new oil."

"Old oil," or oil produced from existing wells at no greater than 1972 production levels, is priced according to its quality, but generally sells for around $4 a barrel.

"New oil" can be sold at the free market price, now about $7.80 a barrel.

So companies that produce more oil than they produced last year stand to gain an extra margin of profit from their "new oil."

That fact should stimulate oil production in the county. That means more equipment and facilities will be required to produce and refine the oil and that, in turn, means more tax money for the county.

Watson said industry officials have informed the assessor's office that many service stations in the county are being closed as a result of fuel shortages.

Oil companies have opened some stations in the past because of the "exposure" value rather than the opportunity to sell their product, according to Morton Frishman, director of real property appraisals for the assessor's office.

"Some stations have been opened at bad sites just because they wanted to be there," Frishman said.

Many stations on Wilshire Blvd. fit into that category, according to Watson.

"They build them there for advertising," Watson said. "There's no way you can pump enough gas to pay for the location."

And that, Watson believes, will change.

Bad locations that don't carry their own weight will be phased out by the industry, and that, in turn, will mean fewer gas stations.

AMERICA'S NEED FOR A COMPREHENSIVE ENERGY POLICY

Mr. PERCY. Mr. President, the energy crisis has clearly revealed the pressing need for the formulation and prompt implementation of a comprehensive national energy policy. The exploration, production, refining, distribution, and marketing of fuels are responsible for approximately $125 billion annually in economic activity, or roughly 10 percent of the Nation's gross national product.

Yet, it is all too apparent that the Nation lacks a rationally planned energy policy. The inadequacy of governmental efforts to assess our short-term and long-term energy needs, to analyze the reason for the current shortages, and to prescribe remedial action has resulted in the hardship and inconvenience that Americans are now experiencing.

Mr. President, as we all know, the past is often prolog. This is as true of the energy crisis as it is of the other great events that must be seen in an historical perspective. It is for this reason that the Permanent Subcommittee on Investigations has been holding hearings over the past several months in an attempt to understand the origins, and hopefully the future trends, of our present petroleum product shortage. The valuable information generated by these hearings should also be instrumental in the development of a responsible long-range energy policy for the entire Nation.

The complexity of the energy crisis, with its rapidly ascending consumption functions, its declining supply curves, and the attendant higher fuel prices and the loss of jobs, is very great indeed. There is a need for a better understanding of the available options for fulfilling the rising energy requirements of our expanding economy. Hopefully, enlightened public debate about possible policy choices will lead to the formulation of far-sighted national energy policy.

To date, the United States has spent a relatively small amount of funds for the research and development of new energy resources. A very high percentage of this research and development effort has gone into the development of nuclear breeder reactors. Research in other alternate energy sources has been badly neglected. In addition, until recently our rather feeble national energy policy has been focused almost completely on the provision of sufficient quantites of energy to meet steadily increasing consumption. Consequently, efforts directed at conservation and the efficient utilization of available energy supplies have been largely ignored.

Mr. President, I ask unanimous consent to insert in the RECORD an article, "Energy Policy in the United States," by David J. Rose, which appeared in the January, 1974 edition of Scientific American. This study identifies many of the problems of past Government action and inaction in this area and it emphasizes the need for completely rethinking our energy goals and policies.

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

ENERGY POLICY IN THE UNITED STATES

(By David J. Rose)

The President's appeal for U.S. energy self-sufficiency by 1980 cannot be regarded as realistic. The long-range options that are open to the nation are here considered in a "taxonomic" approach.

NOTE.—Illustrations are not reprinted in RECORD.

Contemplating the energy crisis in their chilly homes this winter and facing an economic turndown stemming from fuel shortages, Americans increasingly wonder where it all went wrong. Had no one foreseen the problems that in retrospect receive so many glib explanations, that now require emergency correction because long-term guidance was lacking and that cannot be truly ameliorated for many years? It should have been obvious to the oil companies, the electric utilities, the automobile industry, Congress, the White House and the universities that without adequate energy an industrial society must throttle down.

The problem is large enough, once it is recognized holistically. The getting, refining, distributing and consuming of fuels account directly for about 10 percent of the nation's economic activity, or about $125 billion per year out of a gross national product approaching $1,300 billion. That is almost equal in dollar value to all of agriculture, food processing and food distribution, activities long recognized as requiring intellectual organization and balance, even to having their own department in the Federal Government. It might therefore seem that the development of a rational, long-range energy policy would be the first order of any nation's business. That the U.S. never had such a policy and is still without one can only be regarded as a major social failure.

In fact, the energy crisis not only was predictable but also was in its general nature predicted. For one thing the petroleum industry is short of domestic refining capacity by about three million barrels per day. Its spokesmen give environmental restrictions on siting as a principal reason. The short-term demand for fuel, however, is well known to be highly inelastic; this means that a small shortage leads to large price increases. Thus not by any collusion but by a little benign neglect the petroleum industry could improve its lot substantially. Compounding the difficulty, and against advice from many sources, the industry has allowed tax credits and other incentives to increase its dependence on overseas refinery capacity. The automobile industry has paid virtually no attention to fuel conservation. The Federal Government has developed little capability to collect data on fuel demand and resources and has been content with petroleum-industry data. Few in decision-making positions in Government or industry paid attention to the scarcity of low-sulfur fuel as they promulgated environmental standards. Federal agencies responsible for developing nonpetroleum fossil fuels (particularly clean fuels from coal, which might have provided not only earlier relief but also competition to petroleum fuels) have been virtually starved while tax funds have been lavished on nuclear reactors. Few universities and public-information groups found it either interesting or rewarding to illuminate the issue. Our present difficulties were largely caused not by ignorance but by irresponsibility.

The President has announced a set of mandatory regulations, effective January 1, designed to reduce consumption of heating oil, gasoline and jet-aircraft fuels by 1.7 million barrels per day, or slightly less than 10 percent of last year's average daily demand. Even with this reduction, the President said, available supplies will still fall 7 percent short of the anticipated demand, so that "additional actions will be necessary." A pre-

dicted ultimate shortfall of 17 percent is largely attributed to the oil embargo imposed by the Arab states. As a long-range response to the Arab action the President proposed "Project Independence 1980,'" which he defined as "a series of plans and goals set to insure that by the end of this decade Americans will not have to rely on any source of energy beyond our own."

Such an ambition seems unachievable without the application of Draconian measures, and probably would be unwise besides. Lack of policy has in effect encouraged substantial foreign dependence. Estimates show that to achieve hemispheric (not domestic) self-sufficiency by 1980 means closing an energy gap of nine million barrels per day. Conceivably this might be achieved by combining the strict conservation of energy with the ruthless exploitation of all the energy resources tappable within the short span of six years. That would mean a sharp curtailment in the booming demand for oil (recently growing at 7 percent per year), the accelerated depletion of known oil fields, intensified drilling offshore in the hope of a major strike, the relaxation (if not the total abandonment) of environmental-quality standards, unrestricted strip-mining and a wholesale shift from oil and natural gas to coal, particularly for electric-power generation. Between now and 1980 it will be virtually impossible to build more nuclear-power plants than those already on the drawing boards. It is also unrealistic to expect any substantial production of synthetic crude oil from coal or oil shale by 1960. It is estimated that to achieve a capacity of five million barrels per day of synthetic oil from these sources would cost $50 billion and take eight to 10 years. Solar and geothermal energy can make no important contribution in the near future. And power from fusion reactors cannot be expected before the end of the century.

This preamble brings us to the point of asking what the energy problem is, instead of only what went wrong. If there is any excuse for the nation's being confronted with an energy crisis, it can be found in the sheer richness of the energy problem. The scale of the problem is too vast and its time horizons are too distant for it to fit the customary behavior of the institutions charged (or left) to deal with energy. For example, industrial rates of economic return lead to time horizons only five to 10 years hence, but the problems themselves have a much longer lifetime, and the rewards for solving many of them accrue only to the public at large and not to specific industries. Thus even if the U.S. could discern and immediately adopt the wisest set of actions to meet the present crisis, energy problems would still persist. Some measures and actions now proposed are part of a continuing series that, if sensible, will bring gradual progress and improvement but never total "solutions." Thirty years from now energy will still be a serious topic; only the details will change.

Analyzing alternative solutions to technical problems and weighing their consequences has an increasingly fashionable name: technology assessment. The term, although useful for naming the task to be performed, is hardly a recipe for how to go about the task. When the problem concerns a subject as multifaceted as energy, in which technology, economics, resource allocation and social goals all interact, it becomes extraordinarily difficult to balance cost and benefits and reach a national consensus. For one thing, many goals naturally oppose one another, such as cheap coal and minimum land disturbance. It is hard for a partisan of one view, no matter how conscientious, to assess opposing views. At the crudest level, to recognize the validity of an opposing view tends to weaken one's own. More intractable kinds of intellectual imbalance arise when advocates of a particular option attract a band of adherents who, in their overenthusiasm, convert the option into a crusade.

What is needed, among other things, is some overall taxonomy of energy: a listing of the options in a logical hierarchy, so that national debate leads to public illumination and eventually to more satisfactory choices. Unfortunately no unique taxomony exists, but any reasonable one is better than none; one hopes through study of the taxomony to achieve some degree of insight. Then better decisions will follow. Here I attempt a taxonomy based primarily on technological issues, but it will soon become apparent where and how nontechnical issues enter also, and indeed often dominate the discussion. It will also become apparent that some currently popular ideas lack merit.

The technological discussion proceeds best from the particular to the general. One begins by comparing the simplest technical options (one component with respect to another, say). After that one compares alternative major devices, then alternate strategies for achieving major technical goals and so on, thereby constructing a succession of ever more complex intellectual assemblies. Each higher stage of assessment tends to bring in more and more nontechnological issues, such as environmental cost, resource use or social purpose.

Let us start, then, at a reasonably simple level and choose a topic: Comparison of various nuclear methods for generating nuclear power, arranging the options to produce a structure resembling a mobile, the kind that hangs from a hook on the ceiling. The mobile has two main segments: one labeled "Fission" and the other "Fusion." Of these two general routes to nuclear power the latter will probably not be available until after the end of the century. The fission branch of the mobile divides into two subbranches: converters (present technology) and breeders (future technology). Under converters there are two subclasses: light-water reactors and the more advanced high-temperature gas reactors. There are also two subclasses under breeders: the liquid-metal fast-breeders reactor that may be available in the 1980's, and beyond that, perhaps, the gas-cooled fast reactor.

The mobile analogy is useful because it presents specific technological "varieties" as options at the bottom of the structure; at the next higher level the options are between species of devices and at still higher levels the options are among genera, families, orders, classes and phyla. Thus the mobile establishes a taxonomic ordering of alternatives. In making assessments one gives least weight to the individual items at the bottom of the structure and increasingly more weight to options available as one moves upward. As in constructing actual mobiles, one must build the structure and balance the items from the bottom up.

What weights, in development dollars, are actually being given to elements in the nuclear-power mobile at the present time? Between fission and fusion the funding ratio is about five to one; $400 million for fission reactors to $80 million for fusion reactors. The ratio is roughly appropriate to the distant time horizon for fusion as well as to its remaining uncertainty. If and when fusion power becomes more certain, it will require more development funds than fission power did; fusion is technologically as far beyond fission as fission was beyond coal-burning.

The principal imbalances appear in the fission program itself. The gas-cooled reactor has been delayed for lack of development funds. The light-water devices were developed either with Federal money (as part of the nuclear-submarine program of the Westinghouse Electric Corporation) or with conscious acceptance of initial losses (such as those incurred by the General Electric Company in promoting the boiling-water reactor). The high-temperature gas reactor may actually be safer than the water-cooled reactors, more economical of uranium resources, more efficient (meaning that less waste heat is rejected to the environment) and perhaps even cheaper to build (although not all these advantages are confirmed). Its development lagged because its sponsor, the General Atomic Division of General Dynamics, could not afford to accept losses on the initial units. Now that General Atomic is part of the Gulf Oil Corporation that limitation has been removed; a first reactor nears operation and six more are on order.

A different and more serious imbalance applies to the breeder-reactor program. Its budget of $320 million in the fiscal year 1974 represents a fifth of the total U.S. research and development expenditure on energy and more than a third of the Federal effort. The breeder's chief advantage over present reactors is fuel economy. Whereas present reactors depend on fission of the rare uranium isotope U-235, the breeder can utilize U-238 (99.3 percent of all uranium) by converting it into fissionable plutonium. To be sure, uranium costs will rise appreciably by the end of the century if a breeder reactor is not developed, but since uranium costs are only a small fraction of the total cost, delivered electric-power costs would not rise more than a few percent. Thus a demonstration breeder reactor for the U.S. is less urgently needed than the Atomic Energy Commission, the White House and Congress have maintained. Europe and Japan, far poorer than the U.S. in reserves of fossil fuels and somewhat poorer in uranium, have more urgent reasons than we do to develop all forms of nuclear power, including power from breeder reactors.

In addition to pushing the breeder concept faster than the facts warrant, the Government has put virtually all its support behind the liquid-sodium-cooled version, allotting only $1 million per year to Gulf General Atomic's gas-cooled fast breeder. The relative promise of the two concepts is in no such disparate ratio. Still worse, concentration on only one technological device is risky and unwise.

A similar assessment can be made with respect to generating electric power from alternate energy sources. Again the options can be arranged in the form of a mobile. Some of the options that have been proposed can be dismissed out of hand. For example, it is easy to calculate that if a low dike were built around the entire U.S. to harness all the tides, the resulting electric power would only satisfy the needs of a city the size of Boston. To supply the U.S. electric needs by wind power would require windmills 100 meters high spaced a few kilometers apart over the entire country. Most of the suitable hydroelectric sites are already developed. [Hydroelectric generators now account for 10 percent of the U.S. electric-power supply.] It is clear that tides, winds and falling water are not solutions to the nation's energy problem.

The heat of the earth's interior is vast but normal flow of it to the surface is small. It has nonetheless been estimated that subterranean sources of steam and hot water have a potential for supplying about twice as much power as the U.S. currently obtains from hydroelectric sources.

Gaining in popularity is the notion of drilling holes to reach kilometer-size bodies of hot rock that lie anomalously near the surface. There are perhaps 1,000 such bodies in the geologically active western U.S., enough to satisfy the region's power needs for a very long time. The injection of water might both fracture the rock and jack up the strata to facilitate percolation. Steam would be withdrawn through separate exit holes. The idea is not unattractive, but there will be problems. Since hot water dissolves many minerals, it will be hard to keep cooler piping

free of mineral deposits. Moreover, percolation channels tend to become enlarged where the flow is greatest, thus leading to large mass flow with poor heat transfer. Such difficulties are well known to the drillers of deep wells.

Solar energy is a different story. It is plentiful and free, but the problem is to collect it efficiently and economically. A million-kilowatt plant, equal in output to the largest conventional generating station, would require a collection area of 100 or more square kilometers, depending on the efficiency of conversion. That might seem to put such options beyond consideration, but a coal-burning plant, obtaining its fuel from strip-mining of coal seams half a meter thick, will cause the same area to be stripped in 25 years. With available technology a solar-energy power plant would cost between five and 10 times as much as a coal- or nuclear-power plant. Advocates believe the cost would fall sharply with suitable engineering development.

The idea of converting solar energy to electric power in space and beaming it down to the earth at microwave frequencies would provide energy around the clock, fair weather and foul. To be economically feasible the cost of available components would have to be reduced by a factor of about 100 and the cost of putting the components in orbit by a factor of about 10, over and above the economies promised by the space shuttle. Beyond that there is worry about the long-term effect of low-level microwave power on life near the receiving antennas, which would have to cover tens of square kilometers. Meanwhile terrestrial solar energy, including welcome applications of it for domestic space conditioning and water heating, enjoys for the first time some reasonable exploration: $12 million in Federal funds in the fiscal year 1974.

In assessing the available options for generating electric power a corrosive and ill-constructed debate has developed between some vocal advocates and critics of fossil fuels and nuclear fuels. The costs of generating electric power have been rising more sharply than the general price index for two reasons: the dramatically increasing cost of nuclear reactors and the need to use low-sulfur fuels in conventional power plants (or to add sulfur-recovery equipment). Except where low-sulfur coal is plentiful and cheap, nuclear electricity now tends to be cheaper than fossil-fuel electricity. Moreover, the disparity in price will probably increase if air-quality standards force more restrictions on fossil-fuel plants and as clean fossil fuel becomes steadily more expensive.

Several issues enter the discussion, some of them spurious. The clandestine and irresponsible use of nuclear-weapons material is quite unlikely to be prevented by this country's refraining from installing nuclear-power reactors. The core issue is environmental: Which type of power plant is actually, or potentially, more hazardous? It is my opinion that the environmental and epidemiological evidence strongly favors nuclear-power plants. The Atomic Energy Commission has spent more than $1 billion exploring the health and other environmental problems of nuclear energy. Although its record is not perfect and more remains to be done, a huge amount of information has been made public. The nuclear hazards are fairly well recognized and widely advertised. Principally they are associated with uranium mining and processing, with the normal operation of nuclear plants and fuel-reprocessing facilities, with long-term waste disposal and with accidents.

Conversely, the Department of the Interior, which has cognizance over coal and its technology, has spent hardly anything on the general environmental and epidemiological hazards of burning coal, leaving the problem largely to the Department of Health, Education, and Welfare and the Environmental Protection Agency. Thus the hazards of fossil fuels have been little studied or publicized. The data that do exist show that the total social cost of generating energy with fossil fuels has vastly exceeded the cost associated with nuclear fuels per unit of energy, at least with the environmental and work standards that applied through the 1960's.

For example, Lester Lave and Eugene Seskin of Carnegie-Mellon University and Thomas A. Hodgson of the Cornell Medical College present data implying that the pre-1968 health cost to New Yorkers from unrestricted coal burning in power plants was several thousand deaths per year, plus uncounted nonfatal disabilities of varying severity. Some 50,000 American coal miners are currently disabled with black-lung disease. To these social costs must be added the despoliation of land by strip-mining.

These social costs, which appear to be more than 100 times higher than the equivalent nuclear costs per unit of energy, will no doubt be reduced as environmental standards rise, but the cost of putting fossil fuels on an even environmental footing with nuclear fuels seems prohibitive. Meanwhile debate has concentrated on the more publicized nuclear hazards and has led indirectly to lowered air quality as a result of the construction or retention of fossil-fueled plants. We see here a clear case of unbalanced debate and consequent faulty decisions arising from an initial imbalance in available information. When the public is presented with a balanced picture of the consequences of burning fossil fuel, I feel sure there will be an accelerated movement toward nuclear power and much more caution about relaxing environmental standards during energy shortages.

We now pass to the next level in our hierarchical assessment, the allocation of primary energy resources among users. The electric-utility industry and transportation each take about 25 percent of the nation's fuel supply; another 20 percent is required for space heating and 30 percent is consumed by industry (which also takes about 40 percent of the electric power generated). Here at the level of dividing up the national energy budget it is again fair to ask whether the relative effort to develop better options matches the relative needs.

Again the answer is no, and coal once more serves as a good example. Fossil fuels, in spite of their drawbacks, will be needed for many years, not only for the generation of electric power but also for transportation, for home heating, for industrial purposes and so on. Coal, together with the oil shale of western Colorado and the tar sands of western Canada, is a unique North American reserve of fossil fuels. In a period of ever increasing prices and ever decreasing security the first two are the only resources capable of replacing imported fuels until better and more nearly inexhaustible resources can be rationally developed. The U.S. Geological Survey estimates that the U.S. possesses 1.6 trillion tons of recoverable coal in beds at least 14 inches thick, lying no deeper than 4,000 feet. The total is equivalent to 500 times the total U.S. energy consumption last year and more than 20 times the energy the U.S. will consume between now and 1990. Of course, only a fraction of the coal reserve, perhaps no more than a third, is reasonably recoverable with existing technology at acceptable cost.

At present, however, coal provides only 18 percent of the nation's energy needs, a fraction that has dropped with time. (In 1900 coal supplied 70 percent of the nation's energy, and as recently as 1950 it supplied 36 percent.) Most present modes of coal extraction and use have been socially, environmentally and epidemiologically damaging. In this respect the technology of coal languishes. Oil shale may be an even worse environmental problem, but these and other difficulties are correctable, in my opinion, if the public has the will to demand correction.

Coal and oil shale (perhaps tar sands too, with the appropriate consideration of Canadian interests) now appear in their proper light: as raw materials for a synthetic-fuel industry that can limit economic and political threats from abroad. The domestic cost of producing low-sulfur crude oil and delivering it to the East Coast of the U.S. has been about $3.75 per barrel (42 gallons) until recently, but now has risen to just above $5. Until last fall approximately the $3.75 price was charged by overseas suppliers, mainly through the operation of the Organization of Petroleum Exporting Countries (OPEC), even though the actual cost of producing and shipping crude oil from the Middle East is only a fraction of that figure.

With the recent outbreak of war in the Middle East the Arab states raised prices substantially, and then several of them cut off supplies to the U.S. Saudi Arabia cut its total exports 20 percent and raised prices to recoup; Libya raised the posted price of her product from $4.604 to $8.925 a barrel. Such prices, of course, can scarcely be maintained under normal conditions. Nevertheless, within the next 10 years the U.S. can expect to be paying $8 or more per barrel (in 1973 dollars) for imported crude oil. Even if the price were to rise no higher, the annual U.S. bill for foreign oil in 1985 could reach $40 billion, if imports rise to the 15 million barrels per day given in some estimates.

Even worse is the threat of external political blackmail, which can only be met with determined action by the U.S. One such possibility is establishment of a substantial synthetic-fuel industry. Between now and the early 1980's there would be enough time to develop environmentally acceptable methods for producing oil from coal, and perhaps from oil shale as well, at less than $7 a barrel. At the same time programs now under study will probably lead to the production of clean synthetic natural gas from coal at, say, $1.20 per 1,000 cubic feet, equivalent in energy cost to petroleum at $7 a barrel.

The implementation of such a strategy would be neither cheap nor simple, even if it is a good option. One can ask, "How much syncrude is enough?" and thereby raise a host of other questions. To build the capacity needed to produce five million barrels per day (perhaps a third of the projected 1985 imports) would cost about $40 billion. Although that is no more than the U.S. spent in the 1960's on space ventures, its impact on the economy (particularly the construction industry) will be vastly different. Many difficult questions will have to be answered. What will be the impact on the engineering and skilled-labor market? How will other patterns of investment (investment in housing, for example) be affected? What will be the impact on the coal-mining industry? On water resources? What are the alternate strategies? At $7 per barrel how much more petroleum can be produced in the U.S. and its sea-bottom surround? More than 80 percent of the original U.S. petroleum reserve is still in the ground, and more is available with increased effort, but finding and extracting a substantially increased fraction would be very difficult.

International impacts are no less complex. Whether an increased U.S. production capacity would force OPEC prices to remain below $7 per barrel is hard to say, because the U.S. represents only a fraction of the world market. On the other hand, OPEC is not a monolithic structure, and the temptation for one OPEC country to abandon the consortium would be great. If that were sure to happen, the U.S. syncrude industry would have to have been built to stand largely idle. Underpriced by Arabian oil, it would be an

economic and political weapon designed by Federal policy not to be used, in the same sense that the Department of Defense builds weapons systems not to be used. Other international questions relate to such matters as whether Western Europe and Japan will remain dependent on the Arab states, will turn to the U.S.S.R. (which is believed to have immense reserves waiting to be proven in), or will turn even more to nuclear power. Questions such as these, which are difficult to frame, let alone answer, make the energy problem what it is.

Even if the U.S. does not elect to spend tens of billions on synthetic-oil facilities, coal-extraction technologies call for major improvement. It seems feasible to develop a fully automatic technology for mining coal underground. Where strip-mining remains the method of choice, the land can be properly restored; not doing so is a social problem, not a technological one. In many of the empty regions where coal is strip-mined land sells for not more than $200 per acre, except where coal is present. To reclaim the land properly may cost $5,000 per acre in Appalachia and perhaps $10,000 or more per acre in some Western states, because of the arid climate and the need for long-term care. In contrast, the value of the coal in a two-foot seam in Appalachia may be $40,000 per acre and that in a 50-foot seam in the West may be $1 million per acre. Clearly the reclamation costs are small compared with the sale price of the coal but very large compared with the normal sale price of the land. A social decision, one not based entirely on microeconomics, must be made on the value of the land to the society as a whole.

The pending assessment applies only to the next 50 or 100 years, certainly not longer. It would be compounding tragedy to convert any large fraction of the domestic coal reserves to liquid or gaseous fuels when coal hydrocarbons are so much more valuable as chemical raw materials. Eventually, as the U.S. and the world switch to energy technologies based on virtually inexhaustible resources—fission, fusion and solar power—coal will no longer be needed as a major fuel source.

I have dwelt on the coal question because it is an excellent example of issues that have deep roots both in technology and in society and that cannot be resolved without serious and simultaneous attention to the consequence of various options. I shall discuss only briefly other issues associated with the allocation of primary energy resources. The U.S. is currently spending about $1.5 billion a year for research and development on new energy options. The total is only about 1.5 percent of the sum that the energy "industry" contributes directly to the gross national product and is thus well below the average research and development expenditure in other technological sectors of the economy. The small scale of the budget for energy research and development is a strong clue to what has gone wrong. Of the $1.5 billion more than half goes toward the provision of electric power, where the options are in the best order. An imbalance arises not because electric-power development receives too much attention but because other areas have received too little.

We now move to the highest level in this hierarchical assessment of energy: energy provision v. energy utilization and conservation. All the energy provided (the prodigious sum of 1.9×10^{14} B.t.u. per day for the U.S., or 11 kilowatts continuously for every person) goes somewhere, and its rational use is only now receiving appreciable attention. The efficiency with which energy is consumed ranges from less than 5 percent for the ordinary incandescent lamp to perhaps 75 percent for a well-maintained home furnace. The automobile engine (particularly since the installation of emission controls) has an efficiency of less than 20 percent. Modern fossil-fuel power plants are more than twice as efficient. On the average probably less than 35 percent of all the B.t.u.'s consumed end up as comfort heat, useful work or visible light. Low as the figure is, it has probably quadrupled since 1900. Up to the present time the allotment of funds for developing more efficient energy converters has been paltry: perhaps a few percent of the total $1.5 billion budget for energy research and development.

The imbalance is beginning to be corrected. For several years a few Federal organizations have quietly and penuriously been studying how energy might be better utilized: the National Bureau of Standards, the Office of Emergency Preparedness and the Oak Ridge National Laboratory. Stimulated by real fuel shortages, their concern has become popular, reinforced by the enthusiasm of the environmentalists and conservationists. An Office of Energy Conservation was established in the Department of the Interior last year, with an annual budget of $6 million.

Some energy-conserving and dollar-saving options are straightforward, easy to apply and have now received attention: lower automobile speed limits, year-round Daylight Saving Time, a reduction in "cosmetic" lighting, lowered thermostats and so on. A less well-known energy-saving option is the use of radial tires, which can reduce gasoline consumption 5 to 10 percent (because of reduced friction between the tire and the road). Other options are easy to envision but more difficult to adopt: lighter automobiles, for example, and commercial buildings designed to achieve comfort with minimum energy consumption.

The study of energy conservation and rational energy utilization has languished for simple reasons. Until now energy has been so plentiful and so cheap that there has been little incentive for people to be frugal. It has not been easy for the individual to perceive that his bargain in energy entailed large costs to the society as a whole. And even when the fact is pointed out to him, the individual rightly sees that any personal sacrifice he might make has only a minuscule effect in ameliorating an environmental problem. The second big reason for the neglect of energy conservation is that industry is richly rewarded for selling energy and energy-consuming devices.

The various assessment mobiles I have discussed so far can be assembled into one large mobile that includes all the options laid out hierarchically. In this arrangement one can see that utilization and conservation, on the right half of the mobile, merits as much attention and effort as all the options dangling in five tiers on the left half of the mobile. Yet one small line at the bottom left, the liquid-metal breeder reactor, represents an option that will receive $320 million in Federal and private development funds this year: 20 percent of the entire national budget devoted to energy options. What the mobile dramatizes is an embarrassment of blank space, where options are either absent or so poorly formulated that they have received little attention.

Several suggestions for ameliorating future energy difficulties have appeared in this discussion, coming mainly from reflection on new technical options, on conservation methods and on international economic relations. We can see several other strategies being implemented in some measure today. One approach involves a modified laissez faire, leaving parts of the problem to be solved in the marketplace; with increasing scarcity rising prices will bring supply and demand into some kind of balance and less energy will be wasted. To be sure, energy prices have been too low, but overreliance on this approach would work a hardship on many people.

Another strategy is to expand domestic exploration and production of petroleum fuels. The rocks of the continental shelves seem quite similar to the typical sedimentary rocks of the U.S. and Canada, so that they are believed to contain rich petroleum deposits. It is extremely risky to assume, however, that the offshore reserve is adequate to meet an unchecked demand. It should be noted that the much-debated Trans-Alaska pipeline will at its peak carry only two million barrels per day. That amount will not provide much relief from a predicted import requirement of 11 million barels per day in 1980. Even where an oil field is known to exist it takes from five to seven years to bring it into production. And on the continental shelf off the U.S. eastern seaboard the first hole remains to be drilled; the existence of oil is simply conjectured.

Another strategy that is currently prominent is application of regulatory and other measures to limit energy use: taxes, allocations, rationing and outright bans. The strategy has the advantage that it can be designed for prompt effect. It is the only approach with this feature, and it is therefore invoked in this winter of fuel emergency. We should be aware, however, that such measures generally represent the failure of past policy (or the lack of any policy at all) and that the consequences of stringent regulatory actions are hard to predict. For example, the 1971–1973 controls to combat inflation were a substantial failure. The National Energy Emergency Act sent to Congress on November 21 of last year relies heavily on emergency controls, and it will have little to do with rational long-term energy policy. On the other hand, regulations designed for long-term constructive effect have their place in a coherent energy policy.

One may hope that from some combination of all these possibilities a better energy program will emerge, involving the Federal Government, state governments, industry and other sectors. Clearly the days are gone when parts of the problem could be denied or ignored, as for example when energy conservation and rational energy utilization were ignored by the President's office until the middle of last year.

To choose any particular combination of energy strategies without much thought and analysis would be to compound the difficulties. An adequate national energy policy must of course rise from basic decisions made by or on behalf of the country as a whole, decisions concerning national security, costs, the present and future quality of life and so on. When those decisions have been made, a planner can set down tentative desiderata—not yet firm decisions—about operational strategies. They would include the degree of dependence on foreign oil supplies, environmental standards and the balance between exploitation and conservation of natural resources. Only then can planners arrive at detailed strategies to achieve selected goals: the technology of nuclear power, new types of automobiles and so on. The process is obviously not straightforward; decisions at each level affect conditions both above and below.

These new intellectual and technological thrusts have their organizational counterparts, and the old arrangements for dealing with energy, at least at the Federal level, are being swept away. In general the old ones were not impressive. Federal energy policy consisted mainly of a strong nuclear program (coming from a strong nuclear Congressional Joint Committee on Atomic Energy, and a legacy from earlier military programs), a favorable attitude toward petroleum companies (direct U.S. tax credits for foreign royalty payments, depletion allowances and so on), the benign neglect of coal and several fairly successful regional programs (the Tennessee Valley Authority, for example). Technical activities were mainly in the Atomic Energy Commission; some

were in the Department of the Interior and some were scattered in other agencies. Regulatory commissions were only party effective. (For example, the Federal Power Commission set natural-gas prices so low as to simultaneously destroy exploration initiatives and create an insatiable demand).

All of this is now changing rapidly. It is clear that more central coordination is required than the fragmented energy groups have managed heretofore. The optimum degree of coordination, however, is an important question. Too little can accomplish little; too much can throw the operations of agencies and groups with legitimate energy interests into disarray. At least there is need for the coordination of policy, and Governor John A. Love's Energy Policy Office seemed to be doing that.

In jettisoning the Love office, the President sought a two-level approach. At the level of preparing technological options he proposed an Energy Research and Development Administration. This was to combine the energy-related activities of the various Federal agencies. The chairman of the Atomic Energy Commission, at the President's request, came up with a $10 billion, five-year program for the development of alternative energy technologies. These proposed expenditures include many projects already planned. At the policy and executive decision level the President proposed a Federal Energy Administration, to be headed by William E. Simon. Arrangements like this could free up to some extent the development of technological options, while giving the executive group freedom to pick and choose and to transcend narrow technical arguments. Congressional bills to implement these measures were introduced in the Congress by Senator Henry M. Jackson and Representative Chet Holifield.

Also at both the technological and policy levels Senator Jackson's own bill (S. 1283) aims at each of these technological and policy functions, through the allocation of $800 million per year of new funds for non-nuclear research, coordinating activities of the AEC, the Department of the Interior, the National Aeronautics and Space Administration and the National Science Foundation.

In the House, meanwhile, Representative Mike McCormack and his Subcommittee on Energy have considered not only a Department of Energy (not far from the President's ERDA-FEA proposal) but also the establishment of an integrated Department of Science and Technology. That is a still broader concept, requiring more public debate.

Whatever the administrative outcome, I personally favor an authority that will decide about rationing (I favor that too) and other short-term measures. Simultaneously such an authority should make a careful assessment of the long-term possibilities before committing the nation to some very expensive acts of commission or omission. The technology of energy conservation, the development (but not yet massive deployment) of new fuels from coal and oil shale, the full environmental costs of various fuel options all deserve careful study—not forgetting the important international repercussions of a change in the fuel-consuming habits of the U.S.

The role of energy is too pervasive and the interests of the participants are too manifold for any expectation that there will be a simple consensus. It can nonetheless be hoped that the national debate will give rise to a better common understanding of the problem. Then some steps can be taken in the direction of probable improvement, and from that new vantage the view ahead will be a little clearer than before.

THE WINDFALL PROFITS PROVISION

Mr. LONG. Mr. President, the time has come for the Members of this body to reassess the significance or importance of accepting the conference report on S. 2589, and bowing to the will of the House on the matter of a windfall profits curb. As you may remember, the conference report on S. 2589 was brought up on Friday, December 21, and we learned for the first time that the Senate conferees had accepted a House amendment to S. 2589 which would impose a curb on windfall profits by sellers of petroleum products.

This amendment was adopted by the House Committee on Interstate and Foreign Commerce, a committee which did not have jurisdiction over the matter. It acted without any public hearings and apparently without any consultation with technical experts, which would be customary in legislating in such an important area.

The House passed this measure, including the windfall profits provision, despite the urging of acting chairman of the Ways and Means Committee AL ULLMAN that the windfall profits provision was ill-advised, deficient in technical respects, and deserving of public hearings by his committee and despite Mr. ULLMAN'S commitment that the Ways and Means Committee would take up the matter of windfall profits legislation early in this session.

When I learned of the precise nature of this windfall profits provision in the conference report on December 21, which was even before the official conference report was printed, I knew that I had a responsibility to the Senate to point out the evils of the proposed windfall profits curb, based on my experience as a member and presently chairman of the Finance Committee. Because of the urgency of action on the Energy Emergency bill, I joined with other Senators in seeking a compromise which would permit enactment of S. 2589 without the windfall profits provision. In the tumult of the last day of the first session, the House was unable to agree to a compromise which would have deleted the windfall profits provision.

As I stated at that time, I favor a tax on windfall or excess profits which has been subject to the regular legislative process of public hearings and consideration by the proper committees, with the customary assistance from the technical experts. I would expect that such a windfall profits or excess profits tax would deny the oil companies unreasonable profits during the energy crisis, which the public rightfully demands.

At the same time, I would expect that such legislation would take into account in some fashion the fact that the Nation expects our private energy industry to make vast expenditures of capital in the next decade if the Nation is to meet its goal of self-sufficiency in the energy area.

My efforts to bring some logic and reason to bear on the hastily-devised and ill-conceived windfall profits curb in S. 2589, which is little more than a giant swat at the oil companies in a panic response to the public outcry at price gouging in some areas of petroleum marketing, has been labeled in some quarters as a filibuster to protect the profits of the major oil companies.

I have at times defended against unreasoned and hysterical attacks on the oil industry, since the basic stability of the oil industry is important to my State and to the Nation. In this case, the record is prefectly clear that my opposition to the windfall profits curb in S. 2589 is not in any sense a blind opposition to the concept of windfall profits tax or an unjustified defense of the oil companies.

Quite the contrary, I have stated repeatedly on the floor of the Senate that I am actively in favor of the enactment of laws to prevent price gouging and profiteering in situations affected by the energy crisis. In this connection, I ask that a paragraph be included at this point in the RECORD from a newsletter I sent almost a month ago to my constituents explaining my position on this subject.

We should not allow energy companies to take unfair advantage of the current crisis to make excessive or "windfall" profits. Whether this should be prohibited by excess-profits taxes or by a stiff requirement that any such profits be reinvested in energy production, or a combination of both, is a subject being carefully studied by the Senate Finance Committee, of which I am chairman. A tax on windfall profits can be drafted in such a way so we will get more energy. It should not be done in a manner that denies us more fuel.

I know that many Senators were interested in and are still studying the results of hearings which the Finance Committee held last week on a windfall profits tax proposal based on the definition of windfall profits in S. 2589. The committee invited former high officials of the Treasury Department, serving in both Democratic and Republican administrations. We invited them to comment on the administrative problems presented by such a vague standard for defining windfall profits and to indicate the type of advice they would give clients if this were law.

First, let me indicate the names of some of the former officials giving their comments. Included were former Commissioners of Internal Revenue Service Mortimer Caplin, Sheldon S. Cohen, Randolph W. Thrower, and Johnnie M. Walters; former chief counsels of Internal Revenue Service Charles W. Davis, Crane C. Hauser and K. Martin Worthy; former Under Secretary of the Treasury Edwin Cohen; former Assistant Secretary of the Treasury John E. Nolan; and former tax legislative counsels of the Treasury Department Donald C. Lubick and Jerome Kurtz.

These former officials generally agreed that the standard of reasonable profit used in the windfall profits provision of S. 2589 is virtually unadministerable. In fact, it is no standard at all. Many were vigorous in their criticisms.

Mr. President, in an effort to bring to the attention of each of my colleagues the highlights of the testimony given by these distinguished tax administrators, I addressed a personal letter to each of my colleagues and had it hand delivered to each of their offices this morning. I ask unanimous consent that a copy of this letter be printed in the RECORD at this point as further indication of my sincere

effort to divert the Senate from the enactment of what would be bad, bad law.

U.S. SENATE,
Washington, D.C., January 29, 1974.

DEAR COLLEAGUE: Like you, I *favor* enactment of legislation to prevent windfall profits or price gouging to protect the public during the energy shortage. It is possible to draft legislation of that sort which will not impede our efforts to expand domestic production.

Unfortunately, the "windfall profits" amendment which the House of Representatives added to S. 2589, the Emergency Energy Act, fails completely to do what we should be trying to achieve. It will result in drastic cutbacks in oil and gas production. People who have worked honestly and diligently to expand oil production would be discouraged from continuing that effort by the imposition of what in many cases might be a confiscatory tax on the return from any expanded production.

The proposal found its way into the Emergency Energy Act without the benefit of any hearing or expert advice whatever.

At a hearing last week before the Senate Finance Committee, those who have administered the revenue laws under Presidents Truman, Kennedy, Johnson and Nixon testified unanimously that the proposal was unworkable, could not be administered and is probably unconstitutional.

They testified that this proposal would create such uncertainty in the industry that new capital investments would be greatly discouraged. It was their conclusion, and mine, that if the Congress is capable of acting in hysteria to put such a law on the books, there is little reason to assume that we will act reasonably later on. The industry and the lending institutions would simply decide not to risk major new investments until the issue is resolved. Excerpts from their statements are attached to this letter.

It is for these reasons, as well as several substantial objections made by the Administration and others, that I hope you will join me in voting to recommit the Conference Report on S. 2589. This nation has much to gain and nothing to lose by further study of this far-reaching legislative proposal.

With best regards, I am

Sincerely yours,

RUSSELL.

What should be of grave concern to this body, is that seven of our witnesses thought the vagueness of the windfall profits provision raised a serious question of constitutionality. While generalities and vague standards of excessive profits on the Renegotiation Act have been upheld by the Supreme Court, based on the wartime emergency powers and the fact that defense contractors agree in the contract to submit to renegotiation, there is no similar justification for the present windfall profits provision.

For example, if the Congress can limit petroleum sellers to the profits they realized during 1967–71, then Congress can limit the farmers and the doctors to the profits they realized on their products and services during the period 1967–71. This matter surely deserves more careful consideration than it has received thus far.

How is the proposed windfall profits provision going to affect our efforts to get the petroleum industry to discover new reserves and expand production and refining of petroleum? On this point, former Commissioner Caplin states:

I think the consensus that you have heard today is that this bill is not the way to do it, that it is such a terrible disincentive that you are going to throttle any desire to move forward and open up new fields.

Former Commissioner Walters states:

I think if this law should be enacted that many, and certainly I, would advise any client I had definitely against making any investment which would subject him to this windfall profits tax except in the case of greatest urgency where it was a necessity to retain a lease or some rights.

Former Commissioner Thrower says:

If I had [any clients affected by the tax] the first suggestion I would make is to increase very substantially your retainer, as we will be busy for years to come litigating over this monstrosity.

Charles W. Davis, chief counsel of Internal Revenue Service under President Truman compared the vagueness of the Windfall proposal with the consideration given the Excess Profits Act of 1950, stating:

Although that law was enacted during a period of approximately 6 weeks, from the beginning of hearings in the House Committee on Ways and Means to its signature by the President, there was a consistent theme expressed by witnesses before the tax writing committees and by committee membership that the standards for computation of excess profits subject to the excess profits tax should be explicitly stated in the statute, with much less reliance upon vague generalities than had been the case under the World War II Excess Profits Tax.

I have great respect for these former Treasury officials, who served under Presidents Truman, Kennedy, Johnson, and Nixon. When they express their views, as experts in tax administration, that this windfall proposal is unworkable, unadministerable, probably unconstitutional, and would be the basis for advising clients to hold back no investments in the petroleum area until these vague standards could be clarified, if ever, I ask the question: Why should the Senate proceed to enact such a law?

Is it more important for the Senate to pacify on a temporary basis those consumers who are understandably outraged by spiralling fuel prices by passing a law which is patently ridiculous, or is it the Senate's business to help find enduring solutions to the Nation's energy problems?

I, for one, feel that it is time to remove some of the emotion and hysteria from the legislative process which has prompted the Congress to even give serious consideration to such a proposal that is now before us.

It has been very revealing to me, Mr. President, that few—if any—Senators have come before this body to state their specific approval for the House provision. No one to my knowledge has stepped forward to say: "I like the Staggers amendment. I think it would make good law. I have studied it and find that it is workable and can be fairly administered. I think it will help solve the energy shortage."

Mr. President, such specific support for the provision by any one of my colleagues would astonish me. It would run contrary to the opinion of every one of the Nation's top experts in administration of tax laws—Democrat and Republican, liberal, and conservative—to whom I have referred above.

At this point, it appears that even some of its original sponsors and supporters in the House are wishing that this preposterous thing would sprout wings and fly away.

They fear that if it gets into the law it will be a black mark on their responsible lawmakers.

They are beginning to see that this amendment is aptly named—that it would, indeed, stagger the Nation by disrupting and discouraging the kind of capital investment in domestic oil production that might some day free us from high-priced and unreliable imports.

I ask my colleagues that for all these reasons they vote to recommit the conference reports to S. 2589 and to allow the tax-writing committees of the Congress the opportunity to design a proposal which would both protect the consumer from price gouging and profiteering and which will, at the same time, allow the industry to attract those huge amounts of capital which will be necessary to expand production and to bring to the Nation a high degree of energy self-sufficiency.

As the Senate knows the House Committee on Ways and Means has already announced public hearings on this subject. The Finance Committee has had 2 days of full committee hearings already, and only yesterday I announced additional hearings to coincide with those of the House Committee.

In concluding my remarks, I ask unanimous consent to have printed in the RECORD at this point in my remarks a copy of the press release announcing these hearings.

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

COMMITTEE ON FINANCE

Chairman Russell B. Long, D-La., announced today that the Senate Finance Committee will conduct two days of hearings on February 13 and 14 to deal with the problem of excess or windfall profits in the oil industry. The hearings will begin both days at 10 a.m. in Room 2221 of the Dirksen Senate Office Building.

The Chairman said the hearings will develop information on the profits and rates of return realized by oil companies from their operations in the United States during the 10-year period from 1964 to 1973.

"Testimony the Committee received on January 22–23 from the nation's top experts in tax administration was emphatic on how an excess-profits tax should not be drafted," Long said.

"These authorities agreed unanimously that the provision contained in the conference report to S. 2589 (the emergency energy bill) is not workable and cannot be administered," Long continued. "Several even raised serious doubts about its constitutionality."

The Chairman said the Committee "intends to develop all the information it can in an expeditious manner in seeking a workable alternative to the ill-conceived proposal" in S. 2589.

Long stressed the fact that emergence of the windfall profits issue is a very recent development. "Despite the raging controversy on the subject, it is surprising to many that the very first windfall-profits bill introduced in the Senate in connection with the energy crisis was proposed on December 12, 1973, by Sen. George McGovern, D–S. Dak.," he said.

Pointing to the Finance Committee's quick action on the subject, Long said, "It has been only 13 legislative days since that first proposal was referred to my Committee. Already we have had two days of full committee hearings devoted specifically to this subject, and three days of hearings by the Energy Subcommittee devoted to part of it."

The Committee expects that witnesses representing oil companies will address themselves to the following points:

(1) What was the overall rate of return which your company realized on invested and borrowed capital devoted to exploration, production, manufacturing, transportation and marketing of petroleum products during the period 1964 to 1973, inclusive?

(2) What is the rate of profitability in relation to sales during the period 1964 to 1973, inclusive?

(3) What was the rate of exploration expense and capital expense in the U.S. during the same period, 1964 to 1973?

(4) How is the price determined with respect to imports of petroleum products into the United States from a foreign subsidiary?

(5) What is your estimate of future capital requirements in the United States and what is the relationship of such needs to the rate of return on investment?

(6) What per cent of your total United States sales is based on imported petroleum products during the period 1964 to 1973?

(7) Provide information as to the amounts of oil investments outside the United States during the period 1964 to 1973 which were derived from profits generated in the United States?

The Chairman said: "We are going to be considering legislation shortly to deal with the windfall profits situation in the oil industry. The public is concerned with the sharp price increases in petroleum products since November, and I believe it is important that the Committee and the public learn the facts about oil company profits on their United States operations."

Chairman Long stated: "Before drafting an excess-profits tax law, we first need to know to what extent the profits earned on domestic oil production are being reflected in the price of gasoline at the pump and the price of other petroleum products to consumers."

Requests to testify—Senator Long advised that witnesses desiring to testify during this hearing must make their request to testify to J. Michael Stern, Staff Director, Committee on Finance, 2227 Dirksen Senate Office Bldg., Wash., D.C., not later than Monday, February 4, 1974. Witnesses will be notified as soon as possible after this cutoff date as to when they are scheduled to appear. All witnesses must include with their written statement a summary of the principal points included in the statement. The written statements must be typed on letter-size paper (not legal size) and at least 50 copies must be submitted to the Committee.

Written Statements—Witnesses who are not scheduled for oral presentation, and others who desire to present a statement to the Committee, are urged to prepare a written position of their views for submission and inclusion in the printed record of the hearings. These written statements should be submitted to J. Michael Stern, Staff Director, Committee on Finance, Room 2227, Dirksen Senate Office Building not later than Friday, February 22, 1974.

ENERGY CRISIS CAN COST HUNDREDS OF THOUSANDS OF JOBS

Mr. HUMPHREY. Mr. President, the Labor Department's statistics confirm that perhaps as many as 100,000 jobs have already been lost as a direct result of the "energy crisis." And this, the experts agree, is merely the first ripple in the waves of energy-related joblessness that we can expect in 1974.

Administration economists have themselves predicted that the "energy crisis" will cost over a half million American workers their jobs. Others have projected losses of as much as twice this figure.

Mr. President, the unfortunate American workers who have lost or will lose their jobs as a result of fuel shortages cannot be asked to shoulder the lion's share of this "energy crisis" on their own. This just is not fair.

Justice demands that, if we cannot prevent job losses from fuel shortages through national energy policy, then we must immediately initiate job and economic assistance programs to minimize the suffering of these workers and their families.

Mr. President, a recent article in the Journal of Commerce discusses energy-related unemployment as indicated in data released by the Department of Labor. I ask unanimous consent that this article be printed at this point in the RECORD.

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

JOB FIGURES FEELING "GAS" CRUNCH IMPACT DECEMBER DATA ASSESSED

(By Tom Connors)

WASHINGTON, January 13.—Government experts think the December employment figures show the first signs of job reductions because of actual or threatened gasoline shortages but they are uncertain about exactly how many jobs were involved.

The Labor Department apparently was concerned Friday by a wire service story which placed the number of affected jobs at around 100,000, but later labor explanations of the December figures indicated that the number probably was in this general neighborhood, if perhaps a little lower.

Additionally, there is the likelihood that the survey of places of work in December, taken during the customary week of the month which includes the 12th, came too early to catch the layoffs in the auto manufacturing and other industries. The effects of these actions on the job figures will not show until the January survey.

Administration economists, meanwhile, felt that the December figures in the gasoline affected area were within the bounds of expectations. They have estimated recently that energy programs might raise the unemployment level over the course of this year by as much as 0.6 percentage points above the levels it would reach otherwise.

The 100,000 jobs figure mentioned in regard to gasoline supply problems in December while not exactly comparable to the unemployment figures, is the equivalent of about 0.1 percentage point.

The payroll figures from places of work or "establishments", released by the Labor Department Friday followed a report a week earlier on the basis of its household survey. The first report showed that unemployment had risen from 4.7 per cent in November to 4.9 per cent in December.

The "establishment" survey itself was once clear victim of the energy crisis which, combined with holidays, delayed its publication for a week.

The nonfarm payroll figures from the survey rose slightly between November when they were reported at 76.6 million, and their December level of 76.7 million.

The household survey earlier had shown a similar slight decline in overall employment; taken together, the two figures point to high-level stability in the job picture generally.

Inside the total nonfarm payroll figures, however, Labor cited employment reductions in several industries which it said "appear to be due to actual or anticipated shortages of gasoline."

In this connection, the department said retail trade employment declined after seasonal adjustment by 80,000 last month with the loss concentrated among auto dealerships and service stations, although a strike among grocery workers also had a substantial effect. The strike apparently accounted for about 30,000 jobs; there were some other sectors besides auto dealers and gas stations in the remaining 50,000.

The department also said that the service industry failed to post its usual large seasonally adjusted increase, primarily, but not only, because of employment declines in hotels, motels, and entertainment. The service trade missed that customary increase by a margin of about 35,000 to 45,000 jobs.

MOTION TO RECOMMIT CONFERENCE REPORT ON S. 2589 SHOULD BE DEFEATED

Mr. RANDOLPH. Mr. President, the conference report on the Emergency Energy Act has been before the Senate for more than a month. Its provisions were carefully developed in conference and they were extensively debated in this body prior to the Christmas recess. While this legislation was not enacted before the recess, the period during which Congress was not in session gave us an opportunity to further reflect on this conference report. Temporarily freed from the immediate pressures of time, Members of the Senate could examine this measure carefully and consider its effectiveness in coping with the energy crisis as well as its impact on other programs.

Mr. President, I am satisfied that this measure achieves its purposes in the most practical way possible at this time. This legislation is needed and, therefore, I oppose its recommittal to the Conference Committee.

There is no question that this is complex legislation and that its ramifications are widespread. The development of this bill was expedited but its provisions were by no means arrived at hastily. The individual issues addressed have been considered for many months in the various committees of the Senate which have jurisdiction over these matters.

The Committee on Public Works has been particularly concerned with sections of the bill which relate to air pollution controls. Our committee developed the basic legislation in this area and we have kept continuous watch on its implementation.

The Senator from Wisconsin (Mr. NELSON) has indicated that one of his principal reasons for seeking recommittal of this legislation is its effect on the air pollution program.

The relationship of clean air requirements to the energy supply situation was thoroughly explored by the Committee on Public Works. We sought to determine what temporary adjustments realistically could be made in the air pollution program. We did not want, however, to be panicked into ill-conceived action that would undermine the basic integrity of the program and have little or no effect on the energy crisis.

It was in this context that members

of our committee participated in the conference and devoted our earnest energies to sections of this bill relating to the Clean Air Act. The provisions of the conference report on this subject do not represent a retreat from our commitment to clean air. They are a realistic response to the current situation. The variances to the provisions of the Clean Air Act are temporary in nature and under no circumstances could they be implemented if such implementation would create a severe impact on public health.

I suggest to the Senator from Wisconsin (Mr. NELSON) that recommittal of this legislation would not result in significant change in the sections of the bill relating to the Clean Air Act. As in any conference report, this measure represents compromise, the establishment of a common meeting ground between the differing viewpoints of the Senate and House of Representatives.

I further remind the Senator from Wisconsin (Mr. NELSON) that the air pollution provisions of the original House bill are much more lenient than those adopted by the Senate. The House of Representatives would have relaxed automobile emission standards and transportation control requirements of the Clean Air Act to a much greater degree than the Senate bill contained.

In addition, the requirements for coal-burning utilities over the next few years to assure compliance with ambient air quality standards by the new deadline are much more stringent under the conference report than the original House bill, and concessions in that area were hard-won by those of us from the Senate. I cannot conceive, therefore, that recommittal of this measure will achieve the results sought by the Senator from Wisconsin (Mr. NELSON) concerning the amendments to the Clean Air Act.

Considerable attention also has been focused on provisions of this bill dealing with what has come to be known as windfall profits. Controversy over this issue, in fact, has threatened to divert our attention from other important aspects of the energy emergency. Substantial revisions in tax policies should not be undertaken hurriedly. I regret that attention focused on the windfall profits question, important though it is, has impeded our consideration of the total bill. I would have preferred that the matter of profits in the oil industry not be addressed in this emergency legislation. I do not believe its inclusion, however, is grounds for recommittal and consequent delays in passing this bill. Furthermore, the Senate Finance Committee and the House Ways and Means Committee have assured us that they will expedite consideration of this complex and important issue. We will have oportunity, therefore, in the near future to make any adjustments and provide amendments that may be necessary to the windfall profits section of this bill.

Mr. President, I am aware that there is some confusion and uncertainty about the extent and possible duration of the energy crisis. There is, however, no doubt about the existence of the energy crisis. The fact of shortages of our energy sources requires that we act with dispatch to adjust to these shortages. This legislation is an emergency bill and is so titled. It is intended to provide us with the mechanisms for accommodating our economy and our way of life to the current situation in the most equitable and least disruptive manner. Its provisions have been painstakingly drawn and I believe further delay in implementing them would be to the detriment of the United States.

Mr. JACKSON. Mr. President, this is the first real test in Congress as to where Congress stands as far as protecting the public interest is concerned.

We have argued this afternoon about the so-called renegotiation provision as if that were the only section in this bill. Mr. President, we sought a compromise on this, and the House rejected it. There were only 20 votes for the position of the Senate to take it out. That is all past.

Mr. President, the Senate has to decide whether we are going to do anything about protecting the consumer and the American public. This bill provides protection for the franchised service dealer. It provides stringent antitrust protection. It provides for restrictions on the export of fuel. It provides for unemployment assistance. It provides for grants in aid to the States to carry out the allocation and conservation programs, and it provides for mandatory disclosure by the oil companies of their profits, of their inventories, and so on—something that the administration does not have. That is in this bill. And it provides for special authority to deal with price gouging and windfall profits.

You cannot talk out of both corners of your mouth on this issue, Mr. President. Either you are for doing something to protect the public interest, or you oppose it. If we recommit this bill, we will be taking away an incentive, first, to get an excess profits tax, and, second, we will be taking out all of these safeguards. That is the issue. Let us not kid ourselves. We have voted on this issue, and 20 votes is all we got. I offered this proposal with the renegotiation provision out, and only 20 Members of the House of Representatives voted for it. Do not go out of here saying, "Those poor fellows are having a terrible time with profits." Look at the charts on the wall. The lowest of the top 16 companies showed a 27.7 percent profit increase the first 9 months of last year, up to 96.9 percent, and that is what the discussion has been about this afternoon.

The Members of this body can decide, are we going to do something for the consumer who is being gouged, or are we going to worry about those poor fellows on that graph who are having a hard time—the 16 largest oil companies in the United States?

That is the issue.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Wisconsin (Mr. NELSON) to recommit the conference report on S. 2589.

All in favor indicate by——

Mr. JACKSON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The VICE PRESIDENT. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCLURE (after having voted in the negative). On this vote I have a pair with the distinguished Senator from New York (Mr. BUCKLEY). If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. MANSFIELD. (After having voted in the negative.) On this vote I have a pair with the distinguished Senator from North Dakota (Mr. YOUNG). If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Missouri (Mr. EAGLETON) and the Senator from Indiana (Mr. HARTKE) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. HARTKE) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from North Dakota (Mr. YOUNG), is absent on official business.

I further announce that the Senator from New York (Mr. BUCKLEY) is necessarily absent.

The result was announced—yeas 57, nays 37, as follows:

[No. 14 Leg.]

YEAS—57

Abourezk	Dominick	Moss
Aiken	Eastland	Nelson
Allen	Ervin	Nunn
Bartlett	Fannin	Packwood
Beall	Fong	Pearson
Bellmon	Fulbright	Percy
Bennett	Goldwater	Proxmire
Bentsen	Gravel	Roth
Biden	Gurney	Scott, Hugh
Brock	Hansen	Scott,
Burdick	Hatfield	William L.
Byrd,	Helms	Sparkman
Harry F., Jr.	Hruska	Stennis
Byrd, Robert C.	Johnston	Stevens
Cannon	Long	Taft
Case	Mathias	Talmadge
Cook	McClellan	Thurmond
Cotton	McGee	Tower
Curtis	McGovern	Weicker
Dole	Mondale	

NAYS—37

Baker	Hollings	Muskie
Bayh	Huddleston	Pastore
Bible	Hughes	Pell
Brooke	Humphrey	Randolph
Chiles	Inouye	Ribicoff
Church	Jackson	Schweiker
Clark	Javits	Stafford
Cranston	Kennedy	Stevenson
Domenici	Magnuson	Symington
Griffin	McIntyre	Tunney
Hart	Metcalf	Williams
Haskell	Metzenbaum	
Hathaway	Montoya	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Mansfield, against
McClure, against

NOT VOTING—4

Buckley	Hartke	Young
Eagleton		

So the motion to recommit the conference report on S. 2589 was agreed to.

Mr. NELSON. Mr. President, I move that the Senate reconsider the vote by which the conference report on S. 2589, the National Energy Emergency Act of 1973, was recommitted to conference.

Mr. FANNIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGAL SERVICES CORPORATION ACT

The VICE PRESIDENT. The Chair lays before the Senate the unfinished business, which will be stated by title.

The second assistant legislative clerk read as follows:

Calendar 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, and for other purposes.

The VICE PRESIDENT. The Senate will be in order. The clerk cannot be heard. The Senate cannot proceed with its business until the Senate is in order.

The Chair recognizes the Senator from Washington.

ORDER OF BUSINESS

Mr. MAGNUSON. Mr. President, may I ask the majority leader and the distinguished Senator from Michigan what the order of business will be for the rest of the day? I think many Senators would like to know.

The VICE PRESIDENT. Does the majority leader wish to respond to the Senator from Washington?

Mr. MAGNUSON. I merely asked, What will be the pending order of business for the rest of the day? Will there be any votes?

Mr. MANSFIELD. I do not think there will be any more votes today. I always have to keep my fingers crossed, but my belief is 99.4 percent against it. However, the Legal Services bill will be the pending business. There will be a bit of debate on that bill. It is my understanding that another cloture motion will be laid before the Senate. However, I believe there will be no further votes today.

Mr. MAGNUSON. I thank the Senator.

LEGAL SERVICES CORPORATION ACT

The Senate continued with the consideration of 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.

The PRESIDING OFFICER (Mr. CURTIS). The pending question is on agreeing to the amendment of the Senator from Virginia (Mr. WILLIAM L. SCOTT), No. 887, to S. 2686.

Under the previous order, the vote will come at 2 p.m. tomorrow.

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

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

Mr. JAVITS. Mr. President, as Members have been advised the Senate will consider tomorrow, Wednesday, January 30, a motion filed by Senator TAFT—in which I joined—to invoke cloture on S. 2686, the Legal Services Corporation Act; that vote will take place immediately after a vote on the Scott amendment, Amendment No. 887.

This morning, two national newspapers, the New York Times, and the Washington Post, each contained editorials in support of cloture.

The New York Times editorial concludes that success in the cloture effort is "essential to keep alive and vigorous a program designed to remove the economic barriers to equal treatment and equal standing in the courts."

Similarly, the Washington Post describes the committee bill, S. 2686, as a "realistic and workable compromise" and thus urges that it, as a strong Senate bill, "should be passed and be considered in conference with the House."

Mr. President, I ask unanimous consent that the New York Times editorial, entitled "Lawyers for the Poor," and the Washington Post editorial, entitled "A Test for Legal Services" each of todays date, be printed at this point in the RECORD.

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

[From the New York Times, Jan. 29, 1974]

LAWYERS FOR THE POOR

Among the useful accomplishments of the "war on poverty" initiated by President Johnson a decade ago was establishment of a Government-funded but politically independent legal services program to assure high-quality legal assistance in civil cases to those who would not otherwise be able to afford it.

This program now embraces more than 2,250 lawyers operating in 900 neighborhood law offices. Much of their work is involved in challenging bureaucratic regulations that discriminate against the poor—a mission not calculated to make this branch of law popular with the public officials who find themselves called to account.

By way of safeguarding the program against new efforts to cripple it and to strip its lawyers of their necessary freedom of advocacy, a bipartisan group clearly representing a majority in the Senate has been trying vainly to get a floor vote on a proposal for a permanent Legal Services Corporation. The bill is the fruit of compromise between the White House and the Senate Committee on Labor and Public Welfare—a middle-of-the-road effort, in President Nixon's own words, to "protect and preserve a basic right of all Americans." Despite its balanced nature, however, the bill has been blocked by filibuster.

A third attempt to shut off the filibuster will be made in the Senate tomorrow. Its success is essential to keep alive and vigorous a program designed to remove the economic barriers to equal treatment and equal standing in the courts. The House passed a mangled version of the same bill last June; the first round in the redemption effort comes tomorrow on cloture.

[From the Washington Post, Jan. 29, 1974]

A TEST FOR LEGAL SERVICES

The enemies of the independent legal services bill now before the Senate have so far failed to destroy it. They have, however, stalled it by means of filibuster and thereby have prevented the fulfillment of a compromise that had been worked out by the Nixon administration and the Senate Labor and Public Welfare committee. The bill goes back to 1971 when it was agreed that legal services should be taken from OEO and placed in a public corporation; this was a recommendation of the Ash commission and supported in the Senate. On two occasions, the bill went nowhere: once a veto killed it and another year it died in conference. Now with both factions—the administration and the committee—in agreement, the bill this week faces still another crucial test.

At issue is whether the Senate will allow a small part of its membership to block what is seen by the larger membership as a necessary, reasonable and long-overdue bill. A petition has been filed—by Sens. Hugh Scott (R-Pa.), Robert Taft Jr. (R-Ohio) and 17 others—that seeks to end the current filibuster and proceed with serious consideration of the bill. At stake is whether or not the poor will receive the kind of legal protection and assistance that is rightfully theirs. The legal services program has a record of solid achievement, both in providing the daily services to the poor—in family law, landlord-tenant law, consumer law—and also in enforcing federal and state statutes when abused by governmental officials.

The current bill is far from ideal. One drawback, for instance, concerns the fact that the President and state governors will be allowed to appoint all members of the corporation's board and state advisory committees. This contradicts the original intention of the corporation idea—to insulate the program from political interference. Nevertheless, the compromise that has been worked out is realistic and workable. To date, the White House has been a needed ally for the current bill, and the administration will earn much credit if it continues to offer its support. A strong Senate bill is crucial at this time because it will soon be sent to a conference committee with a House bill that in many ways undermines justice for the poor. Thus, going into a conference, the better the Senate bill the better the chances for an adequate final version.

PERIOD FOR TRANSACTION OF ADDITIONAL ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there again be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 3 minutes.

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

LEGAL SERVICES CORPORATION ACT

The Senate continued with the consideration of 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.

CLOTURE MOTION

Mr. TAFT. Mr. President, I send a cloture motion to the desk and ask that it be read.

The PRESIDING OFFICER (Mr. JAVITS). The cloture motion having been presented under rule XXII, the Chair,

without objection, directs the clerk to read the motion.

The assistant legislative clerk read the cloture motion, 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 pending bill, S. 2686, to transfer the legal services program from the OEO to the newly established Legal Services Corporation:

Robert Taft, Jr., Alan Cranston, Gale W. McGee, James B. Pearson, Walter F. Mondale, Hugh Scott, William Proxmire, William D. Hathaway, Mark O. Hatfield, and J. Glenn Beall, Jr.

Gaylord Nelson, Howard M. Metzenbaum, Mike Gravel, Adlai E. Stevenson, Edmund S. Muskie, Lee Metcalf, Mike Mansfield, Frank Church, James S. Abourezk, Howard E. Hughes, and Jacob K. Javits.

Mr. ROBERT C. BYRD. 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 (Mr. TAFT). Without objection, it is so ordered.

ORDER TO VACATE REQUIREMENT FOR QUORUM UNDER THE RULES

Mr. ROBERT C. BYRD. Mr. President, in view of the fact that the order previously entered provides that the vote on the motion to invoke cloture on tomorrow, follow immediately after the vote on the amendment offered by the Senators from Virginia (Mr. HARRY F. BYRD, JR., and Mr. WILLIAM L. SCOTT), there will be no time for the automatic quorum call preceding the cloture vote, as required by the rule. Presumably a quorum will be present for the vote on the Scott-Byrd amendment. However, in the unlikely event that a quorum were not to vote on that amendment, I assume that an immediate quorum call would then be required.

In any event, I ask unanimous consent that the requirement for a quorum call, under the rule, immediately preceding the vote on the cloture motion be vacated.

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

ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 noon tomorrow.

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

ORDER FOR RECOGNITION OF SENATORS GRIFFIN AND ROBERT C. BYRD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the minority whip, the Senator from Michigan (Mr. GRIFFIN), and the majority whip, the Senator from West Virginia (Mr. ROBERT C. BYRD), be recognized in that order, respectively, for not to exceed 10 minutes each.

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

ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, following the recognition of Senators under the order previously entered, on tomorrow, the period to last for not to exceed 20 minutes with statements made therein limited to 5 minutes each.

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

ORDER FOR THE CONSIDERATION OF LEGAL SERVICES BILL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the routine morning business tomorrow, the Senate proceed to the consideration of the unfinished business, the so-called legal services bill.

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

ORDER FOR LIMITATION OF TIME

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for debate on the legal services bill and debate on the Scott-Byrd amendment and on cloture all prior to the vote on the Scott-Byrd amendment, be equally divided between and controlled by the distinguished majority leader and distinguished minority leader or whomever they may designate.

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

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

Mr. PROXMIRE. Mr. President, the leadership has told me they would be prepared to have a discussion on the genocide treaty now. Of course, I am always anxious to do that and have been for 7 years, having spoken almost every day since 1967.

We are very hopeful that we can come to a vote on the treaty. It has been before the Senate or the committee for 24 years.

I think it significant that on yesterday the distinguished Senator from New York (Mr. JAVITS) and I were the only speakers on the treaty. The Senator from Idaho (Mr. CHURCH), of course, will address himself to the treaty shortly. However, as yet we have not heard from the opponents. I am sure that they will speak on it. I would hope that they do so in the next few days so that we can come to a vote on this matter.

Some have said that we are likely to have a filibuster on this measure. I earnestly hope that we do not. As the Senator from New York (Mr. JAVITS) said on yesterday, this is a matter which requires a two-thirds vote anyway. It takes a two-thirds vote to invoke cloture. So, there seems to be no tactical reason for filibustering.

One reason that I am speaking today is to make it very clear to the Senate and to the country that the time is now available for those who would like to address themselves to the treaty. If those who oppose the treaty wish to speak, they could have spoken on yesterday. They could speak today. I am sure that they can speak on Thursday and on Friday.

I hope that they will indicate the reasons for their opposition. Let us get the debate moving. If these Senators oppose cloture later, let them recall their failure to speak now.

As one of the spectators in the gallery on yesterday told me after listening to the debate, he could not understand how anyone would be against the treaty.

On the other hand, when a Senator looks at his mail, he will note that he has received a lot of mail on this subject. I have received hundreds of letters from people respecting the treaty. There are many letters from those who oppose the treaty. And the reason for that is that those who are opposed to the treaty are organized and are able to inspire the sending of a number of letters from all over the country. I have received a number of letters from Ohio, Indiana, Illinois, as well as Wisconsin and other States.

The substance of the letters was very similar. The basis for the opposition to the treaty in most cases is one of clear misinformation and misunderstanding.

There was an element of opposition to the effect that any participation whatsoever in the United Nations is unnecessary and that we should not be involved in anything that requires international cooperation.

There has been no opposition discussion of the treaty title by title. Yesterday I did exactly that in justifying the treaty. I not only discussed the reason for it, but I discussed the opposition to it.

I am very hopeful that those who oppose this treaty will come in and will do so in the next few days so that we can join in an effective debate and not merely postpone it, so that when we do have a cloture vote—which I am afraid we will have to have on the treaty—the opposition cannot argue that they have had no chance to debate it.

They had a chance on yesterday and they have a chance on today. They will have days in the future on which they can debate this matter before we make a final determination of it.

In the course of my remarks yesterday, I pointed out that the American Bar Association has been split over the treaty. While every single subcommittee of the ABA without exception that has been asked to study the treaty—and I think that there were four or six subcommittees of the American Bar Association—supported the treaty and argued that the treaty should be ratified, it is true that at a meeting of the delegates of the Amer-

ican Bar Association, by a very small margin of 51 to 49 percent, the American Bar Association went on record against the treaty.

Mr. President, this was the only group that appeared before the Foreign Relations Committee to the best of my knowledge who opposed it. We have had a very large number of organizations who have supported it. Among others, we have had the great religious groups in this country who supported it. We have not only had the Jewish organizations, but have also had the National Catholic Conference for Interracial Justice, as well as a number of the Protestant sects who have appeared in support of the treaty.

We should recognize that in particular the religious organizations have a peculiar and special interest and responsibility in this matter, because genocide is defined in part as a calculated attempt to destroy and to eliminate a group, including a religious group.

Mr. President, as I pointed out yesterday, I hope that Senators will not become so involved in the technical aspects of this treaty, although they should be very carefully considered. There are eminent constitutional authorities on both sides. But we should not miss the human and the emotional aspects of this treaty.

The fact is that the treaty was inspired by the most monstrous crime of this century, the deliberate genocide of European Jews in Nazi Germany.

The tragic fact is, whether Jew or gentile, as human beings we must oppose genocide. After all Hitler's genocide pogrom was not the only genocide that has occurred from that time until now. We have had it in Pakistan. We had it in the African countries. The Nation must address itself to this problem.

Mr. President, I ask unanimous consent that a list of organizations that support the Genocide Treaty be printed in full in the RECORD.

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

GROUPS ENDORSING CONVENTION

AD HOC COMMITTEE ON THE HUMAN RIGHTS AND GENOCIDE TREATIES

MEMBER ORGANIZATIONS

American Baptist Convention.
American Civil Liberties Union.
American Ethical Union.
American Federation of State, County and Municipal Employees, AFL–CIO.
American Federation of Teachers, AFL–CIO.
American Friends Service Committee.
American Humanist Association.
American Jewish Committee.
American Jewish Congress.
American Romanian National Committee.
American Veterans Committee.
Americans for Democratic Action.
B'nai B'rith.
Brotherhood of Sleeping Car Porters, AFL–CIO.
Episcopal Church.
Farband, Labor Zionist Order.
Friends Committee on National Legislation.
Hadassah, the Women's Zionist Organization of America.
Industrial Union Department, AFL–CIO.
International Ladies' Garment Workers' Union, AFL–CIO.
International Rescue Committee.
International Union of Electrical Workers, AFL–CIO.
Jewish Labor Committee.
Jewish War Veterans.
League for Industrial Democracy.
Methodist Church, General Board of Christian Social Concerns.
National Association of Negro Business and Professional Women's Clubs.
National Association for the Advancement of Colored People.
National Board, YWCA.
National Catholic Conference for Interracial Justice.
National Jewish Community Relations Advisory Council.
National Conference of Christians and Jews.
National Council of Jewish Women.
National Spiritual Assembly of the Baha'is of the U.S.
Poale Zion, United Labor Zionist Organization of America.
Quaker UN Office.
Retail, Wholesale and Department Store Union, AFL–CIO.
Textile Workers Union of America, AFL–CIO.
Ukrainian Congress Committee of America.
Ukrainian National Association.
Union of American Hebrew Congregations.
Unitarian-Universalist Association.
United Automobile Workers of America.
United Church of Christ.
Women United for the United Nations.
Women's International League for Peace and Freedom.
Workers Defense League.
Workmen's Circle.
World Federalist, USA.
World Jewish Congress, American Section.

Mr. PROXMIRE. I do hope that we can join in debate on this matter, and extensive debate, because I feel that with all the business the Senate is going to have to accomplish this year, we should try to handle all of our business as expeditiously as possible, and it would be a very sad thing indeed if this great treaty, representing the position the United States won before the United Nations a few years ago, should be defeated, because Senators were not allowed to vote on the substance of it.

Mr. President, I yield the floor.

Mr. JAVITS. Mr. President, I would like first to associate myself with the remarks made by my distinguished colleague, who has been such an intrepid fighter for this particular treaty. I could not think of a more worthy objective, notwithstanding his otherwise very illustrious career.

Mr. President, the fact is that a two-thirds vote is required to agree to the resolution of ratification, and a two-thirds vote is required to close the debate, so that in this particular case, I see no point to giving the feeling, let along any substance of any evidence, of reluctance to vote on the treaty. There is no time limitation; Members may propose such reservations or understandings, which is the way in which this matter is approached, as they feel are essential. They can be debated and voted up or down; that takes only a majority vote. Then the whole treaty will take exactly the same vote as would be required for cloture.

So I hope very much that the Senate, with that rather unique capability of self-discipline which we exercise on occasion, will allow this matter to proceed forward to a vote on the treaty, rather than anyone who is either for or against the treaty, considering its sensitive character and the tremendous situation which it approaches, seeking to make the world feel that we would try to inhibit a vote upon the treaty itself in the U.S. Senate, when there is nothing to be gained and no point to it.

I join with Senator PROXMIRE, therefore, in pleading that we may, at the earliest possible time, take up the debate, follow it through with diligence, and vote on this treaty. After 25 years, it is time that the Senate express itself as yea or nay, especially since two-thirds of the nations of the world have already expressed themselves on the subject.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR RECESS FROM THE CLOSE OF BUSINESS TOMORROW UNTIL 8:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in recess until the hour of 8:30 p.m. tomorrow, at which time the Senate will proceed in a body to the Hall of the House of Representatives.

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

ORDER FOR ADJOURNMENT FOLLOWING THE STATE OF THE UNION MESSAGE UNTIL 9 A.M. ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the conclusion of the state of the Union address tomorrow evening, the Senate stand adjourned until the hour of 9 a.m. on Thursday.

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

AMENDMENT OF THE WILD AND SCENIC RIVERS ACT

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 921, the wild rivers bill.

The PRESIDING OFFICER (Mr. TAFT) laid before the Senate a message from the House of Representatives stating that the House disagrees to the Senate amendment to the House amendment to S. 921, an act to amend the Wild and Scenic Rivers Act.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from Washington (Mr. JACKSON), I move that the Senate recede from its amendment to the House amendment, thereby concurring in the House amendment without an amendment.

Mr. GRIFFIN. Mr. President, reserving the right to object, I do not intend to object, but I would like the RECORD to indi-

cate that this matter has been checked with the ranking Republican member of the committee Mr. FANNIN, and also with the Senator from Wyoming (Mr. HANSEN) and the Senator from Washington (Mr. HATFIELD), and there is no objection to the request.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

ORDER FOR RECOGNITION OF SENATOR CLARK ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, February 4, after the two leaders or their designees have been recognized under the standing order, the Senator from Iowa (Mr. CLARK) be recognized for not to exceed 15 minutes.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 12 o'clock noon tomorow.

After the two leaders or their designees have been recognized under the standing order, the Republican whip and the majority whip will be recognized, in that order, each for not to exceed 10 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 20 minutes, with statements therein limited to 5 minutes each.

At the conclusion of routine morning business, the Senate will resume its consideration of the unfinished business, S. 2686, the legal services bill. Debate will be under control, and the vote will occur on the amendment (No. 887) by the Senators from Virginia (Mr. WILLIAM L. SCOTT and Mr. HARRY F. BYRD, JR.), that vote being a yea-and-nay vote, at the hour of 2 p.m.

Immediately following the vote on the Scott-Byrd amendment, the Senate will proceed to vote by rollcall on the motion to invoke cloture on the bill (S. 2686) and, of course, what occurs during the remainder of the afternoon tomorrow will depend on the outcome of that vote to invoke cloture.

I ask unanimous consent, in accordance with our usual practice, that all amendments at the desk at the time that the vote on the motion to invoke cloture begins, be considered as having met the reading requirement under the rules.

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

Mr. ROBERT C. BYRD. Mr. President, when the Senate completes its business tomorrow, it will stand in recess until the hour of 8:30 p.m. tomorrow, at which time Senators will meet in the Senate Chamber and, at the hour of 8:42 p.m. or thereabouts, Senators will proceed in a body to the Hall of the House of Representatives.

Following the President's state of the Union address, the Senate will stand adjourned until the hour of 9 a.m. on Thursday.

I repeat, there will be at least two yea-and-nay votes tomorrow.

Mr. JAVITS. Mr. President, will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. What time do we vote on this? Do we have a time fixed to vote on the Scott-Byrd amendment tomorrow?

Mr. ROBERT C. BYRD. Yes. The Scott-Byrd amendment will be voted on at 2 o'clock tomorrow p.m.

Mr. JAVITS. I wish to serve notice that I reserved under unanimous consent the right to move to table, and I may well do that.

Mr. ROBERT C. BYRD. To table the Scott-Byrd amendment?

Mr. JAVITS. Yes.

Mr. ROBERT C. BYRD. Very well.

Then, Mr. President, I will amend my statement of the program. Instead of saying, as I said earlier, that the vote would occur on the Scott-Byrd amendment at 2 p.m., the vote will occur on the disposition of the Scott-Byrd amendment at 2 p.m.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and, at 5:01 p.m., the Senate adjourned until tomorrow, Wednesday, January 30, 1974, at 12 o'clock noon.

NOMINATIONS

Executive nominations received by the Senate January 29, 1974:

DEPARTMENT OF STATE

Davis Eugene Boster, of Ohio, a Foreign Service Officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of Bangladesh.

Martin F. Herz, of New York, a Foreign Service Officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Bulgaria.

ACTION AGENCY

John L. Ganley, of New Jersey, to be Deputy Director of the ACTION Agency, vice Walter C. Howe, resigned.

MINING ENFORCEMENT AND SAFETY ADMINISTRATION

James M. Day, of Virginia, to be Administrator of the Mining Enforcement and Safety Administration. (New position)

BUREAU OF MINES

Thomas V. Falkie, of Pennsylvania, to be Director of the Bureau of Mines, vice Elburt Franklin Osborn, resigned.

CORPORATION FOR PUBLIC BROADCASTING

Irving Kristol, of New York, to be a member of the Board of Directors of the Corporation for Public Broadcasting for the remainder of the term expiring March 26, 1976.

IN THE ARMY

The following-named persons for appointment in the Regular Army of the United States, in the grades specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be major

Guglielmo, Eugene M., Jr., xxx-xx-xxxx
Hardee, Erasmus B., Jr., xxx-xx-xxxx
Hendrickson, Donald E., xxx-xx-xxxx
King, Jerry M., xxx-xx-xxxx
Lundin, Keith E., xxx-xx-xxxx
McDowell, Milton K., XXXX
Spaulding, Harry S., xxx-xx-xxxx
White, Claude R., xxx-xx-xxxx
Wright, Lewis W., III, xxx-x...

To be captain

Adams, William C., xxx-xx-xxxx
Bacas, Harry J., xxx-xx-xxxx
Bacon, Gordon D., xxx-xx-xxxx
Baumgartner, John C., xxx-xx-xxxx
Boehme, Ronald E., xxx-xx-xxxx
Bryan, James L., xxx-xx-xxxx
Buhler, John E., Jr., xxx-xx-xxxx
Burnette, Larry R., xxx-xx-xxxx
Cates, James L., xxx-xx-xxxx
Cavanaugh, Charles G., Jr., xxx-xx-xxxx
Disney, Robert C., xxx-xx-xxxx
Epperson, Gary E., xxx-xx-xxxx
Fischer, Donald C., xxx-xx-xxxx
Gillen, Philip J., Jr., xxx-xx-xxxx
Gooden, William J., xxx-xx-...
Harris, Edwin C., xxx-xx-xxxx
Haseman, John B., xxx-xx-xxxx
Hutton, Albert B., Jr., xxx-xx-xxxx
Jenkins, Kenneth M., xxx-xx-xxxx
Johnson, Lowell W., xxx-xx-xxxx
Justice, Jackie P., xxx-xx-xxxx
Kastantin, Brony F., xxx-xx-xxxx
Keen, Charles E., xxx-xx-xxxx
Knowlton, William F. X., xxx-xx-xxxx
Lang, John P., xxx-xx-xxxx
Mills, Francis E., xxx-xx-xxxx
Morris, Dennis K., xxx-xx-xxxx
Nickens, Joseph E., xxx-xx-xxxx
Pelletier, Armand M., xxx-xx-xxxx
Price, James W., xxx-xx-xxxx
Ross, Sandra V., xxx-xx-xxxx
Ruybalid, Jerry A., xxx-xx-xxxx
Sarno, Albert R., xxx-xx-xxxx
Schutt, Geralynn L., xxx-xx-xxxx
Slater, Rufus E., xxx-xx-xxxx
Sowell, Russell W., Jr., xxx-xx-xxxx
Vaughn, Robert R., xxx-xx-xxxx
Welch, James C., xxx-xx-xxxx
Wheeler, Jesse T., xxx-xx-xxxx
Wood, Mary L., xxx-xx-xxxx
Wu, Daniel, xxx-xx-xxxx

To be first lieutenant

Abbenante, Thomas L., xxx-xx-xxxx
Adame, Rumaldo, xxx-xx-xxxx
Adams, Abram E., Jr., xxx-xx-xxxx
Alaniz, Moses P., xxx-xx-xxxx
Anderson, John L., xxx-xx-xxxx
Andino, Manuel, xxx-xx-xxxx
Bailey, David V., xxx-xx-xxxx
Bailey, Ernest M., Jr., xxx-xx-xxxx
Bailey, Robert B., xxx-xx-xxxx
Barnum, Thomas I., xxx-xx-xxxx
Beeks, Gary H., xxx-xx-xxxx
Beer, John Michael, xxx-xx-xxxx
Beeson, Charles S., xxx-xx-xxxx
Berkowitz, James W., xxx-xx-xxxx
Beyer, Ronald F., xxx-xx-xxxx
Blische, Charles L., Jr., xxx-xx-xxxx
Boeset, Hugh A., xxx-xx-xxxx
Brandt, Terry W., xxx-xx-xxxx
Brinckmann, Karen A., xxx-xx-xxxx
Broderick, Clifton J., xxx-xx-xxxx
Brown, Geoffrey P., xxx-xx-xxxx
Brown, Thomas L., xxx-xx-xxxx
Bryant, Joseph A., xxx-xx-xxxx
Brzozowski, Gregory A., xxx-xx-xxxx
Buono, John T., xxx-xx-xxxx
Burchett, Michael A., xxx-xx-...
Burnau, Warren A., xxx-xx-xxxx
Burnett, John R., xxx-xx-xxxx
Cahill, Terence L., xxx-xx-xxxx
Caplan, Marcia, xxx-xx-xxxx
Carden, John P., xxx-xx-xxxx
Carmichael, William T., xxx-xx-xxxx
Cascio, Anthony F., xxx-xx-xxxx
Causey, William M., Jr., xxx-xx-...
Chamberlin, John H., II, xxx-xx-xxxx
Chessnoe, John M., xxx-xx-xxxx
Chopin, Theodore G., xxx-xx-xxxx
Coates, Byron C., xxx-xx-xxxx
Corbett, John W., xxx-xx-xxxx
Cothran, Julian L., xxx-xx-xxxx
Crampton, Richard W., xxx-xx-xxxx
Dale, Robert A., xxx-xx-xxxx
Davis, James H., xxx-xx-xxxx
Davis, Joe W., xxx-xx-xxxx

Davis, Richard S., xxx-xx-xxxx
Dempsey, John M., xxx-xx-xxxx
Depew, Richard L., xxx-xx-xxxx
Devera, Emmanuel V., xxx-xx-xxxx
Dorny, Walter B., II xxx-xx-xxxx
Dunn, Martin A., xxx-xx-xxxx
Duvall, Douglas W., xxx-xx-xxxx
Earley, Jack D., xxx-xx-xxxx
Eckles, George T., xxx-xx-xxxx
Edwards, Roy L., xxx-xx-xxxx
Edwards, Roy T., xxx-xx-xxxx
Ehrmantraut, John E., xxx-xx-xxxx
Ellis, Neil W., xxx-xx-xxxx
Emerson, Harry M., III, xxx-xx-xxxx
Engeset, Robert M., xxx-xx-xxxx
Fielden, Terry S., xxx-xx-xxxx
Flatt, Kevin N., xxx-xx-xxxx
Flye, Patricia A., xxx-xx-xxxx
Garnett, Thomas E., xxx-xx-xxxx
Gilreath, Johnnie B., xxx-xx-xxxx
Gray, James M., xxx-xx-xxxx
Gregery, Byron J., xxx-xx-xxxx
Grossholz, Fred P., xxx-xx...
Hahn, Jamie C., xxx-xx-xxxx
Hammer, Harvey B., xxx-xx-xxxx
Harris, Jordan H., xxx-xx-xxxx
Hatchett, William H., xxx-xx-xxxx
Hess, Jeffrey L., xxx-xx-xxxx
Hethcox, Richard E., xxx-xx-xxxx
Hill, Charles H., III, xxx-xx-xxxx
Hill, Jerry O., xxx-xx-xxxx
Hill, Reginald A. xxx-xx...
Hook, John W., xxx-xx-xxxx
Hussey, William V., xxx-xx-xxxx
Janecek, Frank P., xxx-xx-xxxx
Jeans, David S., xxx-xx-xxxx
Jones, John B., xxx-xx-xxxx
Kearns, Walter J., xxx-xx-xxxx
Kennedy, Wayne E., Jr., xxx-xx-xxxx
Key, Carl E., Jr., xxx-xx-xxxx
Kitchell, Joseph W., Jr., xxx-xx-xxxx
Knight, William E., xxx-xx-xxxx
Konopka, Gary W., xxx-xx-xxxx
Koudelka, Brent M., xxx-xx-xxxx
Kozumplik, Peter W., xxx-xx-xxxx
Krehbiel, Carl C., xxx-xx-xxxx
Lamb, Arthur W., xxx-xx-xxxx
Landrus, Andrew G., xxx-xx-xxxx
Larson, James A., xxx-xx-xxxx
Lawson, Bruce G., xxx-xx-xxxx
Lenderman, John F., xxx-xx-xxxx
Lewis, Timothy D., xxx-xx-xxxx
Linker, Lynda A., xxx-xx-xxxx
Longenecker, Steven C., xxx-xx-xxxx
Losching, Holly J., xxx-xx-xxxx
Luciano, Peter R., xxx-xx-xxxx
Lundquist, David L., xxx-xx-xxxx
Lundy, Jack E., xxx-xx-xxxx
Lynch, William L., Jr., xxx-xx-xxxx
Mackland, Larry B., xxx-xx-xxxx
Macpherson, Charles W., xxx-xx-xxxx
Marsh, Schappi, xxx-xx-xxxx
Martin, Ronald T., xxx-xx-xxxx
Matthews, Larry W., xxx-xx-xxxx
Mattox, Philip M., xxx-xx-xxxx
Mayo, Charles E., xxx-xx-xxxx
McClellan, Chandler Y., IV, xxx-xx-xxxx
McFetridge, Charles D., xxx-xx-xxxx
McGee, Thomas W., xxx-xx-xxxx
McGinnes, Larry D., xxx-xx-xxxx
McKenna, Mary K., xxx-xx-xxxx
McMillan, Gary A., xxx-xx-xxxx
McNeil, Jack L., xxx-xx-xxxx
Meiers, William D., xxx-xx-xxxx
Meredith, James E., xxx-xx-xxxx
Messenger, Leroy T., xxx-xx-xxxx
Meyers, Thomas L., xxx-xx-xxxx
Mill, Charles S., Jr., xxx-xx-xxxx
Miller, Linda B., xxx-xx-xxxx
Molloy, Clyde P., xxx-xx-xxxx
Moon, George B., xxx-xx-xxxx
Morin, Dennis W., xxx-xx-xxxx
Morris, Daniel T., xxx-xx-xxxx
Mudgett, Donald M., Jr., xxx-xx-xxxx
Mueller, Wolfgang R., xxx-xx-xxxx
Mutz, Warren F., xxx-xx-xxxx
Nesmith, Robert P., xxx-xx-xxxx
Nichols, James R., xxx-xx-xxxx
Nickels, Dennis E., xxx-xx-xxxx
Nicks, Edward L., xxx-xx-xxxx
Nieman, Charles L., xxx-xx-xxxx
Nolde, Barry L., xxx-xx-xxxx
Norman, Jack E., Jr., xxx-xx-xxxx
Oldham, Robert W., xxx-xx-xxxx
Oler, Roy P., xxx-xx-xxxx
Olson, Donald C., xxx-xx-xxxx
Ortiz, Eliezer, xxx-xx-xxxx
Page, Stephenson W., xxx-xx-xxxx
Patterson, Ollie E., Jr., xxx-xx-xxxx
Pepperd, Loren J., xxx-xx-xxxx
Peregoy, Nelson G., xxx-xx-xxxx
Persyn, Charles E., xxx-xx-xxxx
Peterson, Rodney C., xxx-xx-xxxx
Pretz, Stephen F., xxx-xx-xxxx
Pruski, Betty J., xxx-xx-xxxx
Radeke, Donald E., xxx-xx-xxxx
Reed, Thomas A., xxx-xx-xxxx
Rixon, Gregory A., xxx-xx-xxxx
Robinson, Hayward, xxx-xx-xxxx
Rogers, Gordon L., xxx-xx-xxxx
Ross, David A., xxx-xx-xxxx
Ruggles, James E., xxx-xx-xxxx
Runge, Jerry D., xxx-xx-xxxx
Rye, Mark J., xxx-xx-xxxx
Sanchez, Desi J., xxx-xx-xxxx
Savitske, George J., xxx-xx-xxxx
Schrader, John R., III, xxx-xx-xxxx
Searle, Paul M., xxxx
Serene, Fred L., xxx-xx-xxxx
Shafer, Joe G., xxx-xx-xxxx
Shatzer, Wilson A., Jr., xxx-xx-xxxx
Shine, Patrick T., xxx-xx-xxxx
Simmons, Stephen E., xxx-xx-xxxx
Sisson, James R., xxx-xx-xxxx
Smith, Laurence J., xxx-xx-xxxx
Sommers, Lawrence E., xxx-xx-xxxx
Stanley, Ralph E., xxx-xx-xxxx
Stewart, Ronald L., xxx-xx-xxxx
Stokes, Oliver C., Jr., xxx-xx-xxxx
Strittmatter, Richard A., xxx-xx-xxxx
Sturges, Jeffrey R., xxx-xx-xxxx
Sullivan, Daniel J., xxx-xx-xxxx
Swahn, John P., xxx-xx-xxxx
Thomas, Florence K., xxx-xx-xxxx
Thomas, Joseph T., xxx-xx-xxxx
Thomas, William G., xxx-xx-xxxx
Thompson, John H., xxx-xx-xxxx
Thompson, Richard B., xxx-xx-xxxx
Tomasik, Donald M., xxx-xx-xxxx
Turner, Grey A., xxx-xx-xxxx
Vasquez, Charles E., xxx-xx-xxxx
Warley, Ronald R., xxx-xx-xxxx
Whatley, Charles J., xxx-xx-xxxx
Whitcomb, Roy S., xxx-xx-xxxx
Williams, Randall C., Jr., xxx-xx-xxxx
Willson, Michael P., xxx-xx-xxxx
Wilmsmann, Veronika G., xxx-xx-xxxx
Wilson, Johnnie E., xxx-xx-xxxx
Wilson, Warren D., xxx-xx-xxxx
Wimmer, Charles R., xxx-xx-xxxx
Wright, Barry E., xxx-xx-xxxx

To be second lieutenant

Fones, Ronald E., xxx-xx-xxxx
Franco, Jess J., Jr., xxx-xx-xxxx
Gore, Gerald E., xxx-xx-xxxx
Macaulay, Richard A., xxx-xx-xxxx
McGraw, Kenneth S., xxx-xx-xxxx
Morghiem, Steven W., xxx-xx-xxxx
Pender, Robert C., xxx-xx-xxxx
Pierce, John B., xxx-xx-xxxx
Reinsprecht, Rudolph, xxx-xx-xxxx
Ristow, Donald R., xxx-xx-xxxx
Russo, Christopher, S., xxx-xx-xxxx
Salzman, Jeffrey, xxx-xx-xxxx
Stoll, Larry E., xxx-xx-xxxx
Trotter, James W., xxx-xx-xxxx
Wood, William J., xxx-xx-xxxx

The following-named cadet, graduating class of 1972, U.S. Military Academy, for appointment in the Regular Army of the United States in the grade of second lieutenant, under the provisions of title 10, United States Code, sections 3283 through 4353:

Frocht, Felipe, xxx-xx-xxxx

HOUSE OF REPRESENTATIVES—*Tuesday, January 29, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Except a man be born again, he cannot see the kingdom of God.—John 3: 3.

Eternal God, our Father, who dost guide and govern the minds and hearts of the people, help us to be truly conscious of Thy presence as we begin and continue and end the work this day. Make us instruments of Thy grace that we may be men and women of strong minds, great hearts, true faith, and ready hands, whom the spoils of office cannot buy and who live honorably above the fog in public duty and in private thinking. May this be a great day because we are working with Thee for the good of our country.

We pray for our Nation—that she may be born again of Thy spirit, be obedient to Thy laws, and learn to live with love at the heart of life.

To Thy loving care and merciful goodness we commend ourselves, our Congress, and our country.

In the spirit of Him who lived humbly with Thee we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

After consultation with the majority and minority leaders, and with their consent and approval, the Chair announces that on tomorrow, the date set for the joint session to hear an address by the President of the United States, only the doors immediately opposite the Speaker and those on his left and right will be open. No one will be allowed on the floor of the House who does not have the privilege of the floor of the House.

APPOINTMENT AS MEMBERS OF THE HOUSE COMMISSION ON CONGRESSIONAL MAILING STANDARDS

The SPEAKER. Pursuant to the provisions of section 4(b), Public Law 93–191, the Chair appoints as members of the House Commission on Congressional Mailing Standards the following Members of the House: Mr. UDALL, of Arizona, chairman; Mr. CHARLES H. WILSON of California; Mr. HOWARD, of New Jersey; Mr. GROSS, of Iowa; Mr. DER-