By Mr. ECKHARDT:

H.R. 14529. A bill to authorize a project for flood protection in and in the vicinity of Baytown, Tex., to the Committee on Public Works.

By Mr. GINN:

H.R. 14530. A bill to amend title 10, United States Code, to permit the recomputation of retired pay of certain members and former members of the armed forces; to the Committee on Armed Services.

By Mrs. HECKLER of Massachusetts:

H.R. 14531. A bill to provide for the orderly transition from mandatory economic controls, continued monitoring of the economy, and for other purposes; to the Committee on Banking and Currency.

By Mr. HELSTOSKI:

H.R. 14532. A bill to amend the Fair Labor Standards Act of 1938, to require prenotification to affected employees and communities of dislocation of business concerns, to provide assistance (including retraining) to employees who suffer employment loss through the dislocation of business concerns, to business concerns threatened with dislocation, and to affected communities; to prevent Federal support for unjustified dislocations and for other purposes; to the Committee on Education and Labor.

By Mr. RANDALL:

H.R. 14533. A bill to provide for a temporary embargo on the export of ferrous scrap and for other purposes; to the Committee on Banking and Currency.

By Mr. RODINO:

H.R. 14534. A bill to amend section 2254, title 28, United States Code; to the Committee on the Judiciary.

H.R. 14535. A bill to enlarge the trial jurisdiction of U.S. magistrates in misdemeanor cases, to make technical and administrative amendments in the Federal Magistrates Act, and for other purposes; to the Committee on the Judiciary.

By Mr. SEIBERLING:

H.R. 14536. A bill to amend chapter 34 of title 38 of the United States Code to make veterans with more than 89 days' active duty eligible for veterans educational benefits; to the Committee on Veterans' Affairs.

By Mr. SHOUP:

H.R. 14537. A bill to amend section 223 of the Flood Control Act of 1970 to provide compensation for certain employees of the Burlington Northern, Inc., due to the construction of the Libby Dam, Montana; to the Committee on Public Works.

By Mr. YATRON (for himself, Mr. ROBERT W. DANIEL, JR., Mr. STRATTON, Mr. LONG of Maryland, Mr. DERWINSKI, Mr. THOMSON of Wisconsin, Mr. KEMP, Mr. MELCHER, Mr. RODINO, Mr. WRIGHT, Mr. PIKE, Mr. ESHLEMAN, Mr. RIEGLE, Mr. BUTLER, and Mr. STEELMAN):

H.R. 14538. A bill to improve the coordination of Federal reporting services; to the Committee on Government Operations.

By Mr. YATRON (for himself, Mr. MITCHELL of Maryland, Mr. BENITEZ, Mr. MAZZOLI, Mr. BADILLO, Mr. MELCHER, Mr. HAWKINS, Mr. GREEN of Pennsylvania, Mr. DIGGS, Ms. SCHROEDER, Mr. CONYERS, Mr. STUCKEY, Mr. ROE, Mr. GUDE, Mr. SEIBERLING, and Mr. O'BRIEN):

H.R. 14539. A bill to establish an office within the Congress with a toll-free telephone number to be known as the Congressional Advisory Legislative Line (CALL), to provide the American people with free and open access to information, on an immediate basis, relating to the status of legislative proposals pending before the Congress; to the Committee on House Administration.

By Mr. YATRON (for himself, Mr. SEBELIUS, Mr. ROBERT W. DANIEL, JR., Mr. STRATTON, Mr. LONG of Maryland, Mr. DERWINSKI, Mr. THOMSON of Wisconsin, Mr. KEMP, Mr. MELCHER, Mr. RODINO, Mr. WRIGHT, Mr. PIKE, Mr. ESHLEMAN, Mr. RIEGLE, Mr. BUTLER, Mr. VANDER JAGT and Mr. STEELMAN):

H.R. 14540. A bill to require that new forms and reports, and revisions of existing forms, resulting from legislation be contained in reports of committees reporting the legislation; to the Committee on Rules.

By Mr. CLEVELAND (for himself, Mr. ABDNOR, Mr. BAFALIS, Mr. BAKER, Mr. DERWINSKI, Mr. FORSYTHE, Mr. GUNTER, Mr. HASTINGS, Mr. HOSMER, Mr. MCKAY, Mr. REGULA, Mr. ROY, Mr. ST GERMAIN, Mr. SHRIVER, Mr. SNYDER, Mr. WALSH, Mr. WRIGHT, and Mr. ZION):

H.R. 14541. A bill to amend section 203 of the Federal Water Pollution Control Act to provide for State certification; to the Committee on Public Works.

By Mr. BELL:

H.J. Res. 995. Joint resolution authorizing the President to proclaim annually the day of May 19 as National Women in Education Day; to the Committee on the Judiciary.

By Mr. CHAMBERLAIN (for himself, Mr. ARCHER, Mr. BURKE of Massachusetts, Mr. BURLESON of Texas, Mr. BROYHILL of Virginia, Mr. COLLIER, Mr. CONABLE, Mr. CORMAN, Mr. DUNCAN, Mr. FULTON, Mr. GIBBONS, Mrs. GRIFFITHS, Mr. KARTH, Mr. LANDRUM, Mr. MILLS, Mr. PETTIS, Mr. ROSTENKOWSKI, Mr. SCHNEEBELI, and Mr. WAGGONNER):

H.J. Res. 996. Joint resolution designating the premises occupied by the Chief of Naval Operations as the official residence of the Vice President, effective upon the termination of service of the incumbent Chief of Naval Operations; to the Committee on Armed Services.

By Mr. HOWARD (for himself, Mrs. BURKE of California, Mr. CONTE, Mr. ESCH, Mr. FORD, Mr. HANNA, Mr. HANSEN of Idaho, Mr. REES, Mr. ROSENTHAL, Mr. STARK, and Mr. WHALEN):

H.J. Res. 997. Joint resolution to authorize the President to issue a proclamation designating the month of May 1974, as National Arthritis Month, to the Committee on the Judiciary.

By Mr. YOUNG of Georgia (for himself, Mr. LUKEN, Mr. GROVER, and Mr. STEIGER of Wisconsin):

H. Res. 1087. Resolution to commend and congratulate Henry Aaron; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. PATTEN:

H.R. 14542. A bill for the relief of William D. Erwin; to the Committee on the Judiciary.

By Mr. SHOUP:

H.R. 14543. A bill for the relief of Mary Red Head; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XX.

447. The SPEAKER presented a memorial of the Legislature of the Commonwealth of Massachusetts, requesting Congress to call a convention for the purpose of proposing an amendment to the Constitution of the United States to prohibit forced busing; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

434. By Mr. SHRIVER: Petition of Marguerite H. McMahon, Wichita, Kan., relative to Federal financing of health programs; to the Committee on Interstate and Foreign Commerce.

435. By the SPEAKER: Petition of the city council, Akron, Ohio, relative to Federal support of community action programs; to the Committee on Education and Labor.

SENATE—*Wednesday, May 1, 1974*

The Senate met at 10:30 a.m. and was called to order by the Vice President.

PRAYER

The Reverend Robert J. Lignell, Faith Lutheran Church, Grand Rapids, Mich., offered the following prayer:

Eternal God, we thank You for life and strength, for some semblance of wisdom, and for the privilege of prayer. A thousand things press us. All of them remind us of how much we need You. We open our hearts and pray earnestly for our Nation and for our world. You know the troubles we have here at home as well as abroad. Train us and use us in the love of peace and brotherhood. Give success to all sincere efforts to end war abroad and hatred and mistrust at home. Grant peace to all of us assembled here this day, especially to the Members of the Senate. Frustrate all counsels of selfishness and greed. Teach us to find our joy in sharing and forgiving. Help us to live this day to Your glory and to the peace and unity of our Nation and world.

We ask it in the name of Him who is the Prince of Peace, even Jesus Christ, our Lord. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, April 30, 1974, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

may be authorized to meet during the session of the Senate today.

The VICE PRESIDENT. Without objection, it is so ordered.

EXECUTIVE SESSION

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

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

DEPARTMENT OF STATE

The VICE PRESIDENT. The clerk will state the first nomination.

The second assistant legislative clerk read the nominations in the Department of State, as follows:

John P. Constandy, of the District of Columbia, to be Deputy Inspector General, Foreign Assistance.

Rodger P. Davies, of California, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cyprus.

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

The VICE PRESIDENT. Without objection, the nominations will be considered and confirmed en bloc.

INTERNATIONAL MONETARY FUND

The second assistant legislative clerk read the nomination of Sam Y. Cross, of Virginia, to be U.S. Executive Director of the International Monetary Fund.

The VICE PRESIDENT. Without objection, the nomination will be considered and confirmed.

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

The VICE PRESIDENT. Without objection, the President will be so notified.

LEGISLATIVE SESSION

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

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

ORDER OF BUSINESS

The VICE PRESIDENT. Does the Senator from Pennsylvania desire to be heard?

Mr. HUGH SCOTT. Thank you, Mr. President.

MATERIAL RELEASED BY THE WHITE HOUSE

Mr. HUGH SCOTT. Mr. President, the largest amount of revelatory material to be released by any President is before the public, and I am sure that many people will never read all of it. Many people will never read some of it. Therefore, they will be dependent, in large measure, upon the interpretations given to this material by the press and television and radio. This raises a high sense of responsibility to fairly and justly report and analyze and freely comment, and I hope that that is the spirit in which the material will be received and read, and that judgments not be made upon fragmentary or disassociated aspects of the material, but upon the whole record.

I think that would be wise for all of us here, certainly, and certainly it would be wise for me as a Member of the Senate.

I hope that this will be the attitude of the American people, who are notably fairminded, who make their own judgments, whether they serve in petit juries or grand juries, whether they reply to opinion polls, and when and where and under what conditions they express their judgments through the franchise.

I think we need more than ever to be fairminded in the reportage of this material, because without it the public can be misled and the information misrepresented, or parts of it quoted out of context, or sections used simply to bolster prior prejudices or deeply held personal feelings.

So I think what we need to make sure is that these matters are as fully read as they possibly can be by as many people as can do so, and that they then be fairly and justly and honestly interpreted. When that is done, the public will have had an opportunity to make a just judgment, and I am satisfied that they will.

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

Mr. HUGH SCOTT. I yield.

Mr. GRIFFIN. Mr. President, I wish to commend and associate myself with what the distinguished Republican leader has said. As I came into work this morning, I listened to a network news program which focused upon and quoted from only one or two lines out of the whole 1,300 pages of transcript released yesterday. In my humble opinion, the newscaster's introduction to that quotation and the gratuitous commentary that followed his use of it were not appropriate, because there was no responsible effort to put the particular quotation in context.

So, I believe the Republican leader is very correct. In view of the fact that such a mass of material has been made available, a high degree of responsibility should be assumed by those who undertake to report it. Certainly, to print it in full is the best way to make it available. But those in the media who take it upon themselves to pick out and report only a certain portion of the material should be fair about the context from which that portion is taken and they should be cautious and objective in drawing conclusions from it.

Accordingly, I believe the leader's statement is justified, is needed, and that he has performed a valuable service by making it.

Mr. HUGH SCOTT. I thank the distinguished Senator from Michigan. That is precisely the point I am trying to make. I can illustrate it in closing. Last night I talked to a very distinguished and very honored attorney, who said he had been visiting with a client and said to the client in the course of his conversation:

The heck with the antitrust laws.

He said:

If people saw that in black and white, people would assume I was advocating noncompliance with the law or a willingness to evade it. All I meant when I said that was that the antitrust laws did not apply under those conditions, and if I cannot say that in a private conversation with my client, then I cannot have a conversation with my client.

So, in black and white, one meaning appeared; actually, in context, another meaning appeared. That is one way in which we can exercise our judgment of what actually is involved here.

ORDER OF BUSINESS

The VICE PRESIDENT. Under the previous order the Senator from Arkansas (Mr. McCLELLAN) is recognized for a period not to extend beyond 10:45.

NATIONAL NO-FAULT MOTOR VEHICLE INSURANCE ACT

Mr. McCLELLAN. Mr. President, in the past year in hearings before both the Committee on Commerce and the Committee on the Judiciary, and now most recently on the floor of the Senate, many arguments have been made in favor of S. 354. It has been said that the bill will correct problems which now exist in our automobile insurance system and that it will result in reduced premiums and greater benefits for the vast majority of people.

After carefully considering all of the arguments presented in favor of the bill, I have concluded that whatever benefits it might bring about—and whether these benefits will actually come about—are highly speculative. Furthermore, such benefits, if any, are far outweighed by the harm that the bill would cause—both to our constitutionally established system of government and to the very people it would supposedly benefit.

Mr. President, in my opinion, S. 354 is unconstitutional.

It must be admitted that the Federal Government, if it desired, could, through its power under the commerce clause, assume complete jurisdiction over the automobile insurance industry, preempt the jurisdiction of the several States, and then enact and administer a nationwide no-fault insurance system. Although such action would be unwise, in my opinion it would be constitutional.

Or, the Federal Government, if it desired, could establish national standards for such insurance and encourage the States to comply with those standards through a program of grants-in-aid.

There is ample precedent for that kind of procedure.

What the Federal Government cannot do, however—but what this bill undertakes to do—is to force upon the several States a program that is opposed by many States and then compel the States to administer the law—that is, to conform and to enforce, at their own expense, a Federal statute that is imposed on them.

Fundamental to our Federal system is the concept that the States and the Federal Government are partners in Government. Each has its own area of sovereignty that the other may not encroach upon. The Federal Government is not the master, and the States are not its servants. The Federal Government is one of enumerated powers and of other additional powers necessary and proper to carry out those enumerated powers. But these additional powers must always be limited by reason of the fact that the States themselves are sovereign governments that are responsible for the welfare of their people. To argue otherwise would be to reduce the States to the status of agencies of the Federal Government—to a status of servitude—which would inevitably lead to their disintegration and destruction.

Mr. President, we live in a time of an ever-expanding Federal Government, whose power is constantly increasing at the expense of the States. To pass this bill would be to take one more step in that direction—in an area that the Congress itself, in the McCarren-Ferguson Act (59 Stat. 33), has already rightly declared should be the primary responsibility of the State governments, because it is they who best know the needs of their people. It would be to open up a Pandora's box that would eventually result in greatly diminishing or in eliminating States' sovereignty.

This bill is not only unconstitutional; it also borders on cruelty. For it will take away from the citizens of this country the right of their States to authorize damages for the pain and suffering that might be caused by injuries inflicted on them by the carelessness and negligence of another. It is certainly unjust, if not cruel, to deny the right of recovery for pain and suffering to those who are victims of the careless and wrongful acts of another.

Some will argue that a State plan implemented under title II of the bill can authorize a suit for pain and suffering. But I would point out that the standards required to be met before such a suit may be authorized—death, serious and permanent disfigurement or injury, or 90 continuous days of total disability—are so limiting and restrictive as to eliminate suits for pain and suffering from all but the most severe cases.

Mr. President, pain that is not permanent, pain that might result in only 89 days or less of total disability, rather than 90 days, may be just as severe—even more severe—than pain that is "permanent." Does excruciating pain that lasts for 1 day short of 3 months not deserve compensation? Is it any less painful? The answer is no. And it should be compensated.

Or, what of pain that might be "permanent" and lasting for the rest of a person's life—a bad back, for instance? But pain that, under this bill, does not meet the definition of being "serious." Should that character of pain not be compensated when it is caused by the carelessness of another? This bill tells the victim that he will have to just "grin and bear it." This is not justice. It is rank and indefensible injustice.

The sponsors of the bill say that a limitation on the right to sue in tort is essential to a program of no-fault insurance if the benefits of such a program are to be realized. I cannot and do not accept that. Such a limitation is an unjustified incursion into and a denial of the human right to be compensated for an injury caused by the carelessness or even callous indifference of another.

Mr. President, just what are the benefits of this bill? Are the majority of the people and the States really going to profit by it—or only just a few? Are the urban areas of the country going to benefit at the expense of the rural areas?

A great many hypotheticals with a great many figures and estimates have been tossed around recently. But even as we approach a vote on the bill, no one can yet say for certain just what premium reductions and cost savings will result—and to whom they will accrue. Serious questions have been raised about these figures.

Even if I believed this bill were constitutional—and I do not—I still could not vote for it. I cannot support a bill that will deprive a person of his legal and moral right to recover for the pain and suffering that he has sustained and endured by the wrongful act of another.

Mr. President, among the greatest beneficiaries of this bill will be those who are responsible for the automobile accidents, those who cause accidents and injuries to occur—the negligent, the careless, the drunken, and irresponsible drivers of automobiles. They will surely benefit. They are the ones who cause most automobile accidents—they are the ones who inflict most automobile-accident injuries on others—and they are the very ones who would benefit most from this bill.

This bill will relieve such drivers, in most instances, from paying damages to the injured for the pain and suffering their neglect, carelessness, and reckless driving may have caused.

This is wrong—very wrong. Such an injustice should not be imposed by law upon the innocent victims of automobile accidents.

Mr. President, I shall vote against this bill, and I hope that it will be defeated.

NATIONAL NO-FAULT MOTOR VEHICLE INSURANCE ACT

The Senate continued with the consideration of the bill (S. 354) to establish a nationwide system of adequate and uniform motor vehicle accident reparation acts and to require no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public roadways in order to promote and regulate interstate commerce.

The PRESIDING OFFICER. Pursuant to the previous order, the Senate will now proceed to the consideration of the unfinished business, which will be stated.

The assistant legislative clerk read as follows:

A bill (S. 354) to establish a nationwide system of adequate and uniform motor vehicle accident reparation acts and to require no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public roadways in order to promote and regulate interstate commerce.

Mr. MOSS. Mr. President, the pending business, as I understand it, is the Stevens amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct. The clerk will state the amendment.

The assistant legislative clerk read as follows:

On page 1, between lines 1 and 2, insert the following: "A State plan for no-fault motor vehicle insurance in accordance with this title may provide that".

The PRESIDING OFFICER. Under the previous order, the Senator from Alaska is recognized for 5 minutes, and the manager of the bill, the Senator from Utah (Mr. Moss), is recognized for 5 minutes. Who seeks recognition?

Mr. MOSS. Mr. President, will the Senator from Alaska yield to me?

Mr. STEVENS. If I have the time.

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. STEVENS. I yield to the Senator from Utah.

Mr. MOSS. I have had an opportunity following adjournment yesterday to study the record of the provocative and high-level debate between the Senator from Minnesota (Mr. MONDALE) and the Senator from Alaska (Mr. STEVENS). With deference to the views of both distinguished Senators, I concluded that the things which unite them are far more significant than the things which divide them, and that there is in fact a middle ground which appears to me to respond adequately to the concerns of both of these dedicated champions of the consumer interest.

If I may summarize the views of the two Senators: The Senator from Minnesota believes that the consumer should have an additional option under S. 354, pursuant to which a group health insurance policy may be substituted for the allowable expense portion of the auto policy if it provides greater economic benefit than is available through coordination under section 204(f) of this bill and if it provides the same benefits, meets the same obligations, and is approved by the State insurance commissioner. The Senator from Alaska agrees that this option should be available, but only if the individual State decides to include it as part of its plan. He argues that this option may be prejudicial to

the interests of consumers in some States, especially in States that have few residents who are covered under group health contracts of this type. The Senator from Minnesota responds that a legislature may fail to include this option in its State plan because of prejudice and hostility and that in view of its impact on interstate commerce it should be established as a national standard.

I have submitted an unprinted substitute amendment to the amendment of the Senator from Alaska which is, I believe, responsive to both problems. I ask unanimous consent that the substitute amendment be called up at this time.

The PRESIDING OFFICER. Is there objection?

It is the understanding of the Chair that the substitute is to be considered in lieu of the Stevens amendment. The clerk will state the amendment.

The assistant legislative clerk read as follows:

On page 1, between lines 1 and 2, insert the following:

"A State no-fault plan for motor vehicle insurance established in accordance with title II of this Act shall include the substantive provisions of this subsection, unless such State finds and reasonably determines, in the course of establishing such plan under section 201(b) of this title, that the inclusion of such provisions in the plan would affect adversely or discriminate against the interests of persons required to provide security covering motor vehicles in such State:"

Mr. STEVENS. Mr. President, I ask unanimous consent that my amendment be modified so to as adopt the language of the amendment of the Senator from Utah.

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

Mr. MOSS. Mr. President, may I, then, describe the language, and ask unanimous consent that the entire language not be read at this time?

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

The amendment, as modified, is as follows:

On page 1, between lines 1 and 2, insert the following:

"A State no-fault plan for motor vehicle insurance established in accordance with title II of this Act shall include the substantive provisions of this subsection, unless such State finds and reasonably determines, in the course of establishing such plan under section 201(b) of this title, that the inclusion of such provisions in the plan would affect adversely or discriminate against the interests of persons required to provide security covering motor vehicles in such State:"

Mr. MOSS. The substitute is very simple. It provides that the group health provision may only be available at the option of a State, as the Senator from Alaska has so eloquently urged. But the State may reject this option only if it—

finds and reasonably determines, in the course of establishing such plan under section 201(b) of this title, that the inclusion of such provisions in the plan would affect adversely or discriminate against the interests of persons required to provide security covering motor vehicles in such State.

Under the bill, upon establishment under section 201(b), a State plan must be submitted to the Secretary of Transportation for certification that it meets or exceeds the national standards. This means that the Secretary would review to make sure that the State's exclusion of this provision was in fact "reasonable." That, I believe, meets the concern of the Senator from Minnesota that the legislatures of some States might unreasonably reject this option.

I believe that this amendment ought to be sufficient to enable the Senate to move on to consider the more basic question which is the wisdom of the substantive provisions of the option itself.

Mr. STEVENS. Mr. President, on my time I would like to ask the Senator from Utah a couple of questions.

It is my understanding that under the amendment as now modified, when the Senator is speaking of the State's making such findings, he is talking about the State legislatures of States promulgating no-fault plans?

Mr. MOSS. That is correct.

Mr. STEVENS. And, with the view to determining whether such a plan is reasonable, to enable the State, in effect, to opt out of a health insurance primary, would be reviewed by the Secretary as he reviews the entire State plan?

Mr. MOSS. The entire State plan, to see whether it meets or exceeds Federal standards.

Mr. STEVENS. Not just on this item only, but on total review of the whole plan, to see whether it meets the State's needs?

Mr. MOSS. That is correct.

Mr. STEVENS. I am indebted to the Senator from Utah. Thirteen of 14 states which have enacted no-fault have made auto insurance primary. Michigan is an exception—it has made the option available to the individual to choose which is primary.

No State has gone as far as the Mondale amendment, so its passage would reverse the choice made by the States which have enacted no-fault already.

The passage of the Mondale amendment without any amendment would cause health insurers costs to rise because they would be responsible for first party benefits and they would have to contribute to an assigned claims plan for automobile insurance. Therefore, health insurance costs would rise for the consumer of health insurance who did not have an automobile, and automobile insurance costs would rise for those people who are not involved in group health insurance.

I have obtained from the Library of Congress figures taken from the Social Security Bulletin of February 1974. The figures indicate enrollments as of December 31, 1972, which, were the latest figures available. I ask unanimous consent that these figures, indicating the number of individuals enrolled in group health insurance as opposed to individual plans, be printed in the RECORD at this point.

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

GROUP HEALTH INSURANCE AS OPPOSED TO INDIVIDUAL PLANS

These figures are taken from the Social Security Bulletin of February 1974. The figures indicate enrollments as of December 31, 1972, which are the latest figures available.

PREPAID GROUP INSURANCE

Blue Cross-Blue Shield: 756,000.
Private insurance companies: 64,000.

Independent plans

1. Community: 3,700,000.
2. Employer-employee-union: 2,025,000.
3. Private group clinic: 140,000.

Total independent plans: 5,865,000.
Total group enrollment: 6,685,000.

INDIVIDUAL PRIVATE HEALTH INSURANCE

Hospital coverage: 49,909,000.
Surgical services: 32,489,000.
(Supplied by Library of Congress.)

Mr. STEVENS. Let me point out that the individual private health insurance coverage is 49,900,000, and that coverage under group enrollment plans is 6,685,000. There are more than eight times as many people covered by individual health insurance plans as are covered by group health insurance plans, and the net result of what the Senator from Minnesota would do, if it is not possible for a State to opt out where there are massive coverages under individual plans, would be to destroy the no-fault system, in my opinion.

We already have the yeas and nays ordered, but I am hopeful that the Senator from Minnesota might recognize the work of our distinguished floor leader. He has accomplished, I think, a synthesis of our views, and I can tell the Senator from Minnesota that if my amendment, as modified by the Senator from Utah, is adopted, I will be happy to support his amendment, but I cannot support it without it, and I am in hopes that the Senator from Minnesota, in view of our exchange last night, will recognize what the Senator from Utah has done, accept my amendment as modified, and proceed to the vote on his amendment.

I yield to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota has 1 minute.

Mr. MONDALE. Mr. President, to see whether I understand it correctly, does the amendment offered by the Senator from Utah provide that this third alternative of coordinating against auto insurance in favor of group health coverage can be done unless the State finds that the inclusion of such a provision would adversely discriminate against the interests of persons required to provide security?

As I read this amendment, the finding they must make in order to deny this option is reviewable by the Department of Transportation. Is that correct?

Mr. MOSS. The Department of Transportation, in reviewing the whole State plan, might find that that was unreasonable.

Mr. MONDALE. It would have the option to reject that provision?

Mr. MOSS. That is correct.

The PRESIDING OFICER. The time of the Senator from Minnesota has expired. The Senator from Alaska has 1 minute remaining.

Mr. STEVENS. I yield my time to the Senator from Utah.

Mr. MOSS. Did I understand the Senator from Minnesota to say that with that understanding he would accept the substitute language, and thus accept the Stevens amendment?

Mr. MONDALE. Yes; as a matter of fact, I ask unanimous consent at this point to modify our amendment to incorporate this proposal.

Mr. MOSS. Mr. President, what I would do is ask unanimous consent that the yeas and nays which have heretofore been ordered on the Stevens amendment now be withdrawn.

The PRESIDING OFFICER (Mr. NUNN). Is there objection?

Mr. ROBERT C. BYRD. Mr. President, I reserve the right to object.

Mr. MOSS. Mr. President, after consulting with the leadership, and because there was notification of this vote, I withdraw my request. I believe we ought to go ahead with the vote, since all Senators have been alerted to it.

Therefore, I suggest that we go ahead with the yeas and nays.

The PRESIDING OFFICER (Mr. NUNN). All time having expired, the question is on agreeing to the amendment (No. 1227, as modified) of the Senator from Alaska (Mr. STEVENS). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from Ohio (Mr. METZENBAUM), and the Senator from Wisconsin (Mr. NELSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. METZENBAUM) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from New Jersey (Mr. CASE) are necessarily absent.

I further announce that the Senator from Florida (Mr. GURNEY) is absent due to illness in the family.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "yea."

The Senator from Hawaii (Mr. FONG) voted "present."

The result was announced—yeas 88, nays 1, as follows:

[No. 159 Leg.]

YEAS—88

Abourezk	Byrd, Harry F., Jr.	Eagleton
Aiken	Byrd, Robert C.	Eastland
Allen	Cannon	Ervin
Baker	Chiles	Fannin
Bartlett	Church	Goldwater
Beall	Clark	Gravel
Bennett	Cook	Griffin
Bentsen	Cotton	Hansen
Bible	Cranston	Hart
Biden	Curtis	Haskell
Brock	Dole	Hatfield
Brooke	Domenici	Hathaway
Buckley	Dominick	Helms
Burdick	Eagleton	Hollings
Hruska	Metcalf	Scott, Hugh
Huddleston	Mondale	Scott, William L.
Hughes	Montoya	Sparkman
Humphrey	Moss	Stafford
Jackson	Muskie	Stennis
Javits	Nunn	Stevens
Johnston	Packwood	Stevenson
Kennedy	Pastore	Symington
Magnuson	Pearson	Talmadge
Mansfield	Pell	Thurmond
Mathias	Percy	Tower
McClellan	Proxmire	Tunney
McClure	Randolph	Weicker
McGee	Ribicoff	Williams
McGovern	Roth	Young
McIntyre	Schweiker	

NAYS—1

Taft

ANSWERED "PRESENT"—1

Fong

NOT VOTING—10

Bayh	Gurney	Metzenbaum
Bellmon	Hartke	Nelson
Case	Inouye	
Fulbright	Long	

So Mr. STEVENS' amendment, as modified, was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the amendment by the Senator from Minnesota (Mr. MONDALE), as amended and as modified, on which there is a 20-minute limitation.

Who yields time?

Mr. MONDALE. Mr. President, the pending amendment is a simple one. It simply provides this: Where the consumer of health insurance coverage can get the auto insurance coverage mandated, under this bill under group health insurance he should be permitted to get the benefit of a reduced auto insurance premium. There are procedural safeguards in the amendment which requires that that determination be made, after a public hearing, by the State commissioner of insurance.

Under the Moss amendment, which has just been adopted, the option can be denied where the State commissioner of insurance determines that such an option would be against the interests of the consumer, and that determination by the State commissioner is reviewable by the appropriate officials of the Department of Transportation.

What this amendment would do, in effect, would be to introduce competition, which is not now to be found in the pending bill, between the auto insurance companies and the group health insurance companies, to see which could provide the coverage mandated under this bill at the lowest cost. Without this amendment, there is no such competition. Even though group health policies could provide the same coverage at lower cost, under the present terms of the bill that option would not be available to the consumer.

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

Mr. MONDALE. I yield.

Mr. PASTORE. Is this competitiveness to be predicated alone upon the premium, or does it include the benefits as well?

Mr. MONDALE. The benefits are dictated by the terms of this bill.

Mr. PASTORE. So we do not disturb that at all?

Mr. MONDALE. Each has to comply with the complete terms of the measure. It is just the competition over the premium.

Mr. PASTORE. I congratulate the Senator for his amendment.

Mr. MONDALE. I thank the Senator.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

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

Mr. MOSS. I yield.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Mr. Quincy Rogers, a member of my staff, may be admitted to the floor.

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

Mr. MOSS. Mr. President, I ask unanimous consent that Mr. Norman Dix, a member of Senator MAGNUSON'S staff, be permitted the privilege of the floor.

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

Mr. MOSS. Mr. President, the amendment of the Senator from Minnesota, particularly as modified by the amendment of the Senator from Alaska, does add to the bill. This was a close question, one about which we had a great deal of concern. But I congratulate the two Senators for working out this problem and coming up with what appears to me to be a reasonable compromise on the issue raised.

Therefore, I do not intend to discuss this matter at any length. I will be glad to yield to any Senators who do wish to speak in opposition or to discuss the matter.

Does any Senator wish to take the floor in connection with this matter?

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

Mr. MOSS. I yield.

Mr. BEALL. It seems to me that one of the desirable attributes of no-fault insurance is that it creates uniformity across the country for the insurance-buying public. In other words, it creates an atmosphere in which a customer in one State knows that when he leaves that State, he is going to have uniform coverage as he travels across the country.

Does not the addition of the Mondale amendment, as amended by the Stevens amendment, tend to detract from the uniformity, and are we not likely to have 52 different plans cropping up as a result of the adoption of this amendment to the amendment because the States now have the ability to opt in or out of the relationship, and is it not likely there will be wide variations in the rate structures because of this change in the amendment?

Mr. MONDALE. It is the understanding of the manager of the bill that this bill would not be affected as the Senator from Maryland has suggested it might, for two reasons: First, the State must find reasonable grounds for doing this, some reason for doing it; second, the State has to submit its plan to review by the Secretary of Transportation, who makes the judgment on whether it measures up to the minimum standards set out by this bill and, therefore, may be accepted.

If there is variation, and if it should

fall below Federal standards, the Secretary of Transportation would not certify it.

Mr. BEALL. Let me ask another question. As I understand the mechanics of the amendment, the State would make a finding as to whether or not it was cheaper for the person who was a member of the group to get his coverage under his group health policy, or under the automobile no-fault plan existing in the State at the time. What about the person who does not belong to a group? Is it not true that the costs would go up?

Mr. MONDALE. The Senator from Alaska addressed himself to that and I am glad to yield to him.

Mr. STEVENS. The Senator raises an interesting point. As I understand the approach of the Senator from Minnesota it permits the State to allow health insurance to be primary for those people covered by a group. Where the State legislature decides that that is in the interest of the people of that State, it really is avoiding duplicate health insurance for those people where there is a massive group, almost as large as the automobile driving public, such as the State of Michigan.

The State of Michigan is the only State that has used this approach so far and they decided health insurance would be the best approach. But if they decide to make automobile insurance primary, as 13 of the 14 States have, then there is no difficulty, and the question of the Senator from Maryland applies only to the members of the group.

Mr. BEALL. Actuarially what has been the result in the State of Michigan, or has there been enough time?

Mr. STEVENS. Actuarially there would not be the same result because in the State of Michigan they decided health insurance was primary for all people if they had health insurance. One State decided that individuals could make the determination.

Mr. BEALL. Does this amendment as presently written allow the States to make all health insurance primary or just private groups?

Mr. STEVENS. As I understand the Mondale amendment, as now amended, the State Legislature can make the determination and make automobile insurance primary if it finds that to do otherwise would discriminate against the people.

Mr. BEALL. The Senator did not answer my question. The Senator stated that in Michigan not only did they make group plans primary, but they made all plans primary. My question is: Does the Mondale amendment, as amended, give the States permission to make all health insurance primary or just the option to make group health plans primary?

Mr. STEVENS. I think it gives the option to make groups primary and defines what is a group.

Mr. BEALL. Then it is not comparable to the Michigan plan.

Mr. STEVENS. It gives the option to make groups primary. It is not comparable to the Michigan plan but there is nothing in the Mondale amendment, as amended——

Mr. BEALL. Is there not a distinction between letting anyone with health insurance make the option, and a group?

Mr. STEVENS. Nothing would prevent a State from saying it is primary for those who have health insurance. I hope that I will be corrected if I am wrong. What it does permit, as I understand it, is for a group to approach the State commissioner and have that group plan to be primary, and nothing in it says that the State no-fault plan cannot authorize individual health insurance.

I wish to ask the Senator from Minnesota if I am wrong.

Mr. MONDALE. The provision in my amendment applies to members of group health policies. We had to do that purely for administrative purposes. There was no other way to do it.

It is a very simple amendment. Under the bill in its present form, there is a mandate that, even in those instances where the consumer could get a better break in group health coverage, he must, nevertheless, pay the higher auto insurance premium and buy additional auto insurance.

We say: Permit the consumer to get the premium break where group health policies will provide the same coverage and provide protection against unwise decisions by putting certification in the hands of the State commissioner of insurance. This will create competition which is needed.

Auto insurance companies and group health companies will be competing to get a lower premium in order to become the primary insurer. So, if someone is worried about what is going to happen to premiums, if Senators believe in the free enterprise system, and I do, premiums will go down under my amendment.

The second question is: if the group health becomes primary coverage will the auto insurance rates will go up? That will not happen. The practice that we used to see in the insurance business of eliminating high risks will not be permitted. Everybody has to be covered. In order for a group health plan to be eligible for primary coverage, the membership has to be open generally, so there will be no risk-selection practice like we used to see. In fact, the whole idea behind this amendment is to promote competition to get premiums down.

Mr. BEALL. Mr. President, if the Senator will yield for a question, I appreciate the Senator's exhortation in favor of the free enterprise system, but I wonder if we cannot get back to my original question.

Mr. MONDALE. I wonder if the Senator was listening. I tried to answer his question.

What I said was this. Under the present bill, even if the group health premium for allowable expense coverage is less than comparable auto insurance coverage, group health coverage cannot be primary.

My amendment simply permits that option.

Mr. BEALL. If I may pose the same question again, to be sure we are talking about the same thing, the Senator from Alaska amended the Senator's amendment so States have the right to opt in or out of granting the privilege of allowing health insurance to be primary coverage.

The bill as originally written said that automobile insurance shall be the primary coverage in every instance. The Senator's amendment now says, as I understand it, that group health plans can be the primary coverage if a person is lucky enough to belong to a group, but where an individual has an individual health plan, his health insurance cannot be the primary coverage; he still falls in the category of having his automobile insurance the primary coverage. Is that correct?

Mr. MONDALE. Yes. There is good reason for that. The purpose of my amendment is to bring about reductions in premiums. There is no administrative way to bring about a reduction in premiums on an individual health insurance basis. The only way it can be done is through group plans. The other route would be administratively unworkable. We seek to make it possible for consumers to get a break on insurance rates for coverage mandated under this bill under circumstances where it is possible. That is all I am doing.

Mr. BEALL. I thank the Senator very much. Let me ask him another question. Suppose in a particular State a group of people who are fortunate enough to have group coverage go to the commissioner and show those people who belong to the group will benefit by having their health insurance made the primary coverage. What happens to the bulk of the general public that do not have group insurance? What happens to their no-fault rate? Is it not going to go up?

Mr. MONDALE. No; it will go down. The Senator is under the illusion that there are preferential selective requirements for group health plans.

Mr. BEALL. I was not under that illusion.

Mr. MONDALE. This is a very important point. The Senator's question assumes something which is not correct.

Under this amendment, in order to be a qualified group insurance plan, the plan must be available to everyone in the group. It is a cross-section; it is not preferred-risk. When people leave the automobile insurance coverage risk pool, the automobile insurance company does not pay their insurance. There will not be an increase in premiums. In fact, because we are introducing competition. Because health insurers will be competing with auto insurers to get the lowest premiums, we will have competition. I think that is why many auto insurers are against the amendment, because under the present bill they will keep their premiums high.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Utah has 3 minutes remaining.

Mr. MOSS. Mr. President, I do not want to terminate the discussion. I yield 2 minutes to the Senator from Maryland.

Mr. BEALL. Mr. President, I happen to be for no-fault insurance because we will get uniformity into insurance, but I do not think there is an actuarial justification made for the statement by the Senator from Minnesota because

there is no proof that the rates will go down for the general public when members of a group will opt not to have their auto insurance coverage the primary coverage. It has not been proved to me on an actuarial basis that no-fault is going to cause people's premiums to go down. I am of the opinion that they are going to go up at the rates they have been going up in the past, but I do not think the Senator can make the statement on an actuarial basis that the rates are going to go down for those who have no-fault insurance when others in groups can opt out and have primary coverage in health insurance.

Mr. MONDALE. If the Senator from Maryland is for no-fault insurance and against my amendment, then he is for the highest cost no-fault insurance. My amendment introduces an option under which consumers can get mandate coverage at the lowest rates possible. The Senator argues that removing members of group insurance plans from the auto insurance risk pool will increase auto insurance premiums. That is not the case. Because a qualified group health policy is defined by my amendment to exclude underwriting, and a cross-section of individuals will be removed from the auto insurance pool, premiums will not rise. Because a representative sample of risks will be removed, any cost effect on insurance will be negligible. The group of auto insurance risks will remain as representative after my amendment as it would have without my amendment. Plus we are introducing competition, which will reduce insurance costs.

Mr. President, I ask unanimous consent that my amendment, which spells this out, be included in the RECORD at this point.

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

AMENDMENT NO. 1197

On Page 109, between lines 17 and 18, insert the following new subsection:

"(c) ALLOWABLE EXPENSE DEDUCTION OPTION—

"Benefits or advantages that an individual receives or is entitled to receive for allowable expense from a source other than no-fault insurance shall be subtracted from loss in calculating net loss for allowable expense where—

"(1) such source other than no-fault insurance provides or is obligated to provide such benefits or advantages for allowable expense, as defined in section 103(2) of this Act, without any limitation as to the total amount of such benefits or advantages obligated to be provided.

"(2) such benefits or advantages are provided by such source other than no-fault insurance on terms and conditions which comply wholly with the provisions of sections 103 (6), (7), and (16), 109 (c) and (d), and 111(d) of this Act and subject to all authority set forth therein;

"(3) such source other than no-fault insurance is required by the applicable State no-fault plan for motor vehicle insurance in accordance with this Act to share, on an equitable basis, in the financial burdens and costs of operation of plans established pursuant to sections 105 and 108 of this Act;

"(4) such benefits or advantages are provided by such source other than no-fault insurance through group insurance where the individuals who are likely to be the beneficiaries under such group insurance have received notice that there will be such subtraction; and

"(5) the commissioner finds that such subtraction will result in economic benefits greater than those which would result from coordination pursuant to section 204(f) of this Act, on the basis of a hearing in which interested parties present competent evidence.

The Commissioner shall promulgate rules to assure that the economic benefits found under paragraph (5) of this subsection are realized. As used in this subsection (A), 'group insurance' means any plan of insurance offered or provided to members of a group not organized solely for the purpose of obtaining insurance, under the terms of a master policy or operating agreement between an insurer and the group sponsor, and incorporating group average rating, guaranteed issue with or without minimum eligibility requirements, group experience rating, employer contributions, and any other benefit to the members as insureds that they may be unable to obtain in the ordinary channels of insurance marketing on an individual basis; and (B) 'group sponsor' means the employer or other representative entity of an employment-based group. Sections 103(10), (11), and (12) of this Act are inapplicable with respect to such definitions.

Mr. TAFT. Mr. President, the Mondale amendment stripped to its core is in fact the antithesis of a meaningful and consumer oriented no-fault bill. This amendment rejects the recommendations of the 3-year Department of Transportation study; it rejects the recommendations of the prestigious New York Insurance Department; and it rejects the considered judgment and thought of virtually every State which has considered no-fault insurance and concluded that the cost of automobile injuries should be borne not by the public at large but by those who make up the motoring public.

The arguments against having health insurers provide the first-party medical coverages that are provided in S. 354 go beyond the loss of revenues that both the State and Federal Government will suffer because organizations like Blue Cross do not pay premiums taxes and/or Federal taxes.

The arguments against the Mondale amendment go beyond the fact that in permitting health carriers to pay the first-party benefits a duplication of claims handling and a corresponding duplication in the moneys expended for the administration of claims will occur.

The arguments against the Mondale amendment go beyond the fact that members of the motoring public have no option or choice in deciding whether to have their automobile insurance company cover them for all their losses.

The amendment goes beyond the argument that coverages under health insurance may lapse or terminate or be insufficient and that as a result the injured victim in an automobile accident may find himself without compensation.

The argument against the Mondale amendment goes beyond the inability of the health carrier to swiftly and expeditiously provide the necessary investigations and controls that are necessary in the efficient administration of insurance benefits that are related to automobile accidents.

The Mondale amendment goes beyond the argument that one carrier, the casualty insurance carrier, is better prepared to handle the entire spectrum of auto insurance coverages than to split this mechanism into two parts.

And, yes, the arguments go beyond the fact that many individuals, those on fixed incomes, those who are not members of the motoring public but who nevertheless are participants in group health plans, are forced to subsidize, by their premium, those individuals within the group who are motorists.

Although any one of these arguments against the Mondale amendment looked at individually would be grounds for rejecting this amendment, the cumulative effect of the Mondale amendment, when read in light of the stated purpose and reasons for no fault, lead one to conclude that the Mondale amendment is totally inconsistent with the very concept of no fault and in fact reduces the wealth of experience, recommendations, and expertise that have been generated over this issue into a heap of legislative rubble.

One need only look at the first sentence of Senate bill 354, which states that this bill is to—

Establish a nationwide system of adequate and uniform motor vehicle accident reparations Act and to require no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public highways in order to promote and regulate interstate commerce.

This is the purpose of the bill. The purpose is to provide no-fault motor vehicle insurance, not a combination of no-fault motor vehicle insurance and health insurance, and to tie this insurance coverage into the use of motor vehicles, thereby clearly stating that this type of coverage is one that should be internalized; that is, to be borne by the motoring public for the benefit of the motoring public and those who are injured as a result of motor vehicle accidents. I would ask my colleagues to reject this amendment and to recognize in that rejection the complete inconsistency between the Mondale amendment and the real purpose and reason for no-fault insurance.

Mr. MOSS. Mr. President, I am willing to yield back the remainder of my time and proceed to a vote.

The PRESIDING OFFICER. Is all time yielded back? All time having been yielded back, the question is on agreeing to the amendment of the Senator from Minnesota, as amended and as modified (putting the question).

The amendment is agreed to.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

Mr. BEALL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. GOLDWATER. Were not the yeas and nays ordered?

The PRESIDING OFFICER. The yeas

and nays were not ordered, and the result has been announced.

Mr. GOLDWATER. Mr. President, I ask for the yeas and nays.

Mr. HUMPHREY. Mr. President, a point of order. The Chair announced the result.

The PRESIDING OFFICER. The vote had been announced.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MONDALE. Mr. President, I move to lay that motion on the table.

Several Senators requested the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the amendment, as amended and modified, was agreed to. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT) and the Senator from New Jersey (Mr. CASE) are necessarily absent.

I further announce that the Senator from Florida (Mr. GURNEY) is absent due to illness in the family.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "yea."

The Senator from Hawaii (Mr. FONG) voted "present".

The result was announced—yeas 32, nays 61, as follows:

[No. 160 Leg.]

YEAS—32

Bentsen	Hughes	Pastore
Bible	Javits	Pearson
Brooke	Kennedy	Ribicoff
Chiles	Long	Schweiker
Cranston	McGovern	Stennis
Eagleton	Metcalf	Stevenson
Gravel	Metzenbaum	Symington
Haskell	Mondale	Talmadge
Hatfield	Montoya	Williams
Hollings	Muskie	Young
Huddleston	Nelson	

NAYS—61

Abourezk	Domenici	McGee
Aiken	Dominick	McIntyre
Allen	Eastland	Moss
Baker	Ervin	Nunn
Bartlett	Fannin	Packwood
Bayh	Goldwater	Pell
Beall	Griffin	Percy
Biden	Hansen	Proxmire
Brock	Hart	Randolph
Buckley	Hartke	Roth
Burdick	Hathaway	Scott, Hugh
Byrd, Harry F., Jr.	Helms	Scott, William L.
Byrd, Robert C.	Hruska	Sparkman
Cannon	Humphrey	Stafford
Church	Jackson	Stevens
Clark	Johnston	Taft
Cook	Magnuson	Thurmond
Cotton	Mansfield	Tower
Curtis	Mathias	Tunney
Dole	McClellan	Weicker
	McClure	

ANSWERED "PRESENT"—1

Fong

NOT VOTING—6

Bellmon	Case	Gurney
Bennett	Fulbright	Inouye

So Mr. MONDALE's motion to lay on the table the motion to reconsider the vote by which the amendment was agreed to was rejected.

The PRESIDING OFFICER. The question recurs on agreeing to the motion to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, by voice vote the Senate, just a little while ago, adopted the Mondale amendment. It was my impression and understanding on yesterday that there would be a rollcall vote on the Mondale amendment. I so stated very clearly in the whip notice, and I also said in my statement of the program in the RECORD on yesterday that a yea-and-nay vote "will occur on the Mondale amendment."

I ask unanimous consent that the vote on the motion to reconsider may be waived, and that a vote occur ab initio on the Mondale amendment at this time.

Mr. GRIFFIN. Mr. President, reserving the right to object, and I shall not object, I wish to commend the distinguished majority whip for this action on his part, and to indicate that it was the understanding on both sides of the aisle, I think, that there would be a yea-and-nay vote, and also to say that I believe that the leadership, both the majority leader and the assistant majority leader, recognized that in their votes on the rollcall that just took place.

I shall support the Mondale amendment on its merits, but I voted against the motion to lay on the table because there was an expectation among the Members that there would be a yea-and-nay vote.

Mr. PASTORE. Mr. President, reserving the right to object, in fairness to those who voted to lay on the table, no request was made for the yeas and nays, and I do not think those who voted ought to be castigated one way or the other. I understand we have arrived at this to assist the leadership to carry out a promise that was made without the knowledge of the Senate.

Mr. GRIFFIN. It was a misunderstanding, I think, on both sides. Those who did not ask for the yeas and nays thought they had already been ordered.

Mr. ROBERT C. BYRD. Yes; and, without criticism of the Chair, the Chair had already announced the vote.

Mr. MOSS. Mr. President, reserving the right to object, I wish to concur in the request of the majority whip. I think we ought to do this just to preserve the integrity of what the RECORD says. Our offices, on the basis of the RECORD, said there was going to be a yea-and-nay vote at 11:30 on the Mondale amendment; if we get to the point where we cannot trust what the RECORD says, there will be chaos on the Senate floor. I think we ought to back up what we announced we would do, even though there was some technical gap here.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote be limited to 10 minutes, with the warning bell sounded at 2½ minutes.

Mr. METCALF. Mr. President, I object to the unanimous consent request. I object to this rather unusual procedure. The problem can easily be solved by the Presiding Officer propounding the question to reconsider, the reconsideration could be on the voice vote, and then we proceed without this business of ab initio setting aside by unanimous consent the question pending before the Senate.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on reconsideration occur now, without further debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The question is on agreeing to the motion to reconsider.

The motion was agreed to.

Mr. MOSS. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limit of 10 minutes on the vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on agreeing to the amendment (No. 1197, as amended) of the Senator from Minnesota (Mr. MONDALE). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD of West Virginia. I announce that the Senator from Arkansas (Mr. FULBRIGHT) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), and the Senator from New Jersey (Mr. CASE) are absent on official business.

I further announce that the Senator from Florida (Mr. GURNEY) is absent due to illness in the family.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "yea."

The Senator from Hawaii (Mr. FONG) voted "present."

The result was announced—yeas 66, nays 27, as follows:

[No. 161 Leg.]

YEAS—66

Abourezk	Haskell	Muskie
Aiken	Hatfield	Nelson
Baker	Hathaway	Nunn
Bayh	Hollings	Pastore
Bentsen	Huddleston	Pearson
Bible	Hughes	Pell
Biden	Humphrey	Proxmire
Brooke	Jackson	Randolph
Burdick	Javits	Ribicoff
Byrd, Robert C.	Johnston	Roth
Cannon	Kennedy	Schweiker
Chiles	Long	Scott, Hugh
Church	Magnuson	Stafford
Clark	Mansfield	Stennis
Cook	Mathias	Stevens
Cranston	McGee	Stevenson
Domenici	McGovern	Symington
Eagleton	Metcalf	Talmadge
Gravel	Metzenbaum	Tunney
Griffin	Mondale	Weicker
Hart	Montoya	Williams
Hartke	Moss	Young

NAYS—27

Allen	Dominick	McIntyre
Bartlett	Eastland	Packwood
Beall	Ervin	Percy
Brock	Fannin	Scott,
Buckley	Goldwater	William L.
Byrd,	Hansen	Sparkman
Harry F., Jr.	Helms	Taft
Cotton	Hruska	Thurmond
Curtis	McClellan	Tower
Dole	McClure	

ANSWERED "PRESENT"—1

Fong

NOT VOTING—6

Bellmon	Case	Gurney
Bennett	Fulbright	Inouye

So Mr. MONDALE'S amendment, as modified, was agreed to.

The PRESIDING OFFICER (Mr. ABOUREZK). Under the previous order, the Senate will now proceed to the consideration of amendment No. 1228 of the Senator from North Carolina (Mr. HELMS) on which there will be 20 minutes of debate to be equally divided.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished Senator from North Carolina will yield, I have discussed this amendment with the distinguished Senator and the manager of the bill and it appears that it would be agreeable that a further limitation of time be made and, therefore, I ask unanimous consent that there be a time limitation on the amendment of 10 minutes, to be equally divided in accordance with the usual form.

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

Mr. METZENBAUM. Mr. President, will the Senator from North Carolina yield?

Mr. HELMS. I yield.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that Gerald R. Gereau have the privilege of the floor during the remainder of the day.

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

Mr. HELMS. Mr. President, I would correct the Chair to state that the amendment now pending is amendment No. 1207 and not 1228.

The PRESIDING OFFICER. The clerk will state amendment No. 1207.

The assistant legislative clerk read as follows:

On page 59, line 10, strike out "or section 304".

On page 68, line 12, strike out"of title III".

On page 83, lines 3 and 4, strike out "or title III".

On page 90, line 14, strike out "or title III".

On page 95, line 7, strike out "or title III".

Beginning on page 96, line 18, strike out all through page 97, line 20.

On page 97, line 21, strike out "(f)" and insert in lieu thereof "(e)".

On page 99, line 20, strike out "or title III".

On page 113, line 8, strike out "or title III".

On page 113, beginning on line 18, strike out all through page 117, line 10.

Mr. HELMS. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, in the interest of time, I shall be brief.

Mr. President, the amendment that I have submitted would help alleviate this unwise invasion of the prerogatives of the States. It would deleate the alternative Federal plan for no-fault motor vehicle insurance which becomes effective if a State legislature fails to adopt a no-fault plan consistent with the so-called Federal standards. In other words, it would remove the element of compulsion. It reserves the right of the States to experiment with motor vehicle insurance plans. If a State chooses a no-fault plan, it would have to conform to the standards of the bill. But, the States would not be required to establish a no-fault plan if such a plan is considered to be unsuitable to the needs of its citizens. Where no-fault motor vehicle insurance is established, it would be substantially uniform on a national basis. This amendment is compatible with the basic spirit of the legislation, but it removes the element of compulsion.

Mr. President, I urge approval of my amendment.

Unless there are other Senators who wish to speak on behalf of it, I am prepared to yield back the remainder of my time.

Mr. HRUSKA. Mr. President, will the Senator yield me 3 minutes?

Mr. HELMS. I yield to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, at the outset of the debate on the pending measure, this Senator took the position, which I think is probably widely held here—and the upcoming vote probably will indicate that—that the real issue, the biggest objection to the bill, is not the no-fault part of it. No-fault as a concept has many merits; and, properly adapted to the needs of the individual States, it would be a very fine system, according to early indications in those States that have had it.

The big objection to this bill is that it seeks to thrust the field of automobile insurance into the Federal jurisdiction and for the first time put the insurance business world into the hands of the Federal legislative field. There are two reasons why it would be unwise to do that, and those two reasons lead to the conclusion that the amendment proposed by the Senator from North Carolina is a good one.

One reason is that it is of doubtful constitutionality that we, as a Federal Government, can order the States to enforce and administer Federal law. There is respectable constitutional authority each way. Erwin Griswold testified one way. However, on the other side of the constitutionality issue were Norman Dawson, professor of law at New York University; Dr. Mitchell Wendell, former counsel to the Council of State Governments, and Mr. Thomas C. Matthews, of the Washington firm that is noted for its expertise in this field.

It would take millions of dollars to shift from this new plan on a nationwide basis. The estimates vary. I will not even get into numbers on it, but it would be very expensive, and the issue of constitutionality undoubtedly would be litigated in the courts. Because of the doubtful constitutionality, we should not go forward with title III of the bill.

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired.

The Senator from Utah has 5 minutes.

Mr. MOSS. Mr. President, I yield first to the Senator from Michigan for 1 or 2 minutes.

Mr. HART. Mr. President, the distinguished Senator from North Carolina (Mr. HELMS) has introduced an amendment to S. 354, No. 1207, which would delete title III of the bill. The effect of this amendment would be to eliminate the incentive to States to enact a no-fault plan meeting the standards prescribed under title II of the bill, since under the terms of the bill, a State adopting a plan meeting the requirements set forth in title II will not come under the more stringent requirements and higher benefits provided under title III.

Mr. President, I would like to point out that it is the expectation of the sponsors of this legislation that every State will seek to establish a plan meeting the standards of title II and, thus the emphasis in the discussions of the opponents to this legislation concerning title III vastly overemphasize the degree to which it will be utilized, if it is ever utilized at all.

The effect of deleting title III would be that States would be authorized to enact a no-fault plan, but nothing would occur if they chose not to do so. Their action would be purely voluntary. There would be no penalty and no sanction if they did not act. And, on its part, Congress would be enacting legislation which would accomplish nothing and would require no one to do anything. I cannot think that the Members of this body, after undertaking such a great effort on this bill, would consider taking such a futile approach.

This is an amendment which would completely and effectively destroy the bill.

Some opponents of this legislation who would favor deleting this incentive base their reasons on what they consider to be the questionable constitutionality of title III.

Mr. President, the Commerce Committee considered the scheme of the bill—relying on State officials and State institutions to enforce and operate no-fault systems—to be a proper allocation of responsibilities within our Federal system. Subsequently, the bill was referred to the Judiciary Committee where this entire matter was given extensive scrutiny during the course of the hearings. Following those hearings, a majority of the Judiciary Committee determined that S. 354 was constitutional "both overall and with respect to each of its provisions."

Most persuasive is the testimony of the former Solicitor General of the United States, Erwin N. Griswold. Mr. Griswold, the former dean of Harvard Law School, submitted an exhaustive opinion, 154 pages, concerning the constitutionality of S. 354. An extensive portion of that opinion—pages 92–138, reprinted in the Judiciary Committee hearings on S. 354

at pages 835–880—was devoted to the constitutionality of title III of the bill. Citing elaborate case precedent, Dean Griswold demonstrated that Congress may impose mandatory responsibilities upon State officials to enforce Federal law. In particular, he cited as an example the amendments to the Clean Air Act which, although it assigns certain supervisory authority to the Environmental Protection Agency, relies extensively for enforcement upon State officials.

Subsequent to Dean Griswold's testimony before the Judiciary Committee, one witness suggested that the Clean Air Act did not go as far as S. 354 with respect to the imposition of mandatory responsibilities on State instrumentalities. The former Solicitor General responded to that later testimony in a letter to the distinguished Senator from Nebraska (Mr. HRUSKA). In part, he stated in his letter:

As noted in my opinion on the constitutionality of S. 354, pages 123–125, this aspect of the Clean Air Act does not alter the fact that it is a far more thoroughgoing imposition of mandatory requirements on the states than is S. 354.

As a matter of principle, the remedial provisions of the Clean Air Act (principally Section 113, 42 U.S.C. § 1867c-8) do not qualify the absolute character of the state's affirmative obligations under that statute. They are intended to supplement state administration of implementation plans or to compel states to act, but, quite clearly, they are not substitutes for state administration.

Dean Griswold went on to say that from a practical standpoint, the specific responsibilities imposed upon the States under the Clean Air Act are so extensive that they could not be carried out by the Environmental Protection Agency and that the Congress itself in enacting this legislation assumed the States would play a predominant role in the Clean Air Act's enforcement.

The chairman of the House committee that reported out the amendments to the Clean Air Act described their purpose as follows:

If we left it all to the Federal Government, we would have about everybody on the payroll of the United States. We know this is not practical. Therefore, the Federal Government sets the standards, we tell the States what they must do and what standards they must meet. These standards must be put into effect by the communities and the States, and we expect them to have the means to do the actual enforcing.

Mr. President, S. 354 contains far less detailed requirements for State officials than the Clean Air Act. It provides a mechanism under which Federal standards can be set while relying on a moderate approach to meshing a vital national objective with a tradition of predominant State administrative authority.

Mr. President, a majority of the Judiciary Committee found this approach to be an eminently sound technique for assuring the benefits of no-fault reparations to all American citizens.

Further, I ask unanimous consent that the full text of the letter from Dean Griswold, and from which I have just quoted, be printed in the RECORD.

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

FEBRUARY 15, 1974.

Hon. ROMAN L. HRUSKA,
Senate Judiciary Committee, Senate Office Building, Washington, D.C.

DEAR SENATOR HRUSKA: During my January 30, 1974 testimony before the Judiciary Committee, you asked me whether the Clean Air Act gives states an option, such as the option of foregoing federal funding for some purpose related to the statute, as a basis for declining to exercise the responsibilities imposed by § 110 of the Act (42 U.S.C. § 1857c-5). At the time I stated that I was certain as to the answer to your question. I have now examined the Act and have confirmed that there are in fact no provisions for a cut-off of federal funds, nor any other similar sanction that would permit a state legally to refuse to administer a § 110 implementation plan for air quality standards pursuant to the Act.

Since my appearance before the Senate Judiciary Committee on this matter, other witnesses have appeared before the Committee, and have made references to the Opinion which I filed on January 30th. There seems to be widespread agreement that Congress has the basic power to deal with the question of no-fault liability on a national basis, and with the scope of insurance coverage for automobile accidents. These are the matters covered in the first four points of the Opinion which I filed with the Committee.

I would also like to clarify one other point concerning the Clean Air Act. Subsequent to my appearance before the Committee, it has been suggested that the Clean Air Act is not analogous to S. 354, or at least that it does not go as far as S. 354, in respect to the imposition of mandatory responsibilities on state instrumentalities. In this regard, it has been asserted that the Clean Air Act provides for federal enforcement of air quality standards in the event of state default, whereas no similar backup federal remedies are set forth in S. 354. As noted in my opinion on the constitutionality of S. 354, pages 123–125, this aspect of the Clean Air Act does not alter the fact that it is a far more thoroughgoing imposition of mandatory requirements on the states that is S. 354.

As a matter of principle, the remedial provisions of the Clean Air Act (principally Section 113, 42 U.S.C. § 1857c-8) do not qualify the absolute character of the state's affirmative obligations under that statute. They are intended to supplement state administration of implementation plans or to compel states to act, but, quite clearly, they are not substitutes for state administration.

From a practical standpoint, the specific responsibilities imposed on states under the Clean Air Act are so extensive that they could not be carried out by the Federal Environmental Protection Agency through either of the two enforcement mechanisms provided by the Act—court actions for injunctions or administrative orders issued by EPA. As noted in my opinion, page 124, the Act requires states to undertake such programs as the establishment of vehicle inspection and maintenance programs, the retrofitting of certain pre-1968 vehicles with emission control equipment, and similar measures that only state government agencies could, as a practical matter, accomplish. The only manner in which such large-scale programs could be established through the Clean Air Act's enforcement mechanisms would be for EPA to seek federal court or administrative orders against the delinquent state agencies themselves, specifically mandating them to act.

This construction of the statute is confirmed by EPA's own practice. See, e.g., its analysis incident to the promulgation of certain state implementation plans at 38 Fed. Reg. 30632–33:

"Direct Federal enforcement and massive, duplicative Federal programs . . . were not the means contemplated by the Act to solve these problems. It is clearly necessary that implementation of transportation control plans be carried out at the State and local level. The Chairman of the House Committee that reported out the amendments to the Act described their purpose as follows:

"If we left it all to the Federal Government, we would have about everybody on the payroll of the United States. We know this is not practical. Therefore, the Federal Government sets the standards, we tell the States what they must do and what standards they must meet. These standards must be put into effect by the communities and the States, and we expect them to have the means to do the actual enforcing."

Although the proposed national no-fault bill itself makes no provision for a federal remedy in case of default by a state of its Title III obligations, as noted in my opinion (pages 138–150), court actions in the nature of *mandamus* or declaratory judgment would lie to enforce state obligations. Hence, in effect, the remedies for state default under both statutes are similar if not identical.

In short, I believe that a fair-minded reading of the Clean Air Act and S. 354 amply demonstrates that the former represents a far more extensive exercise of the Federal Commerce power to compel state action than is provided in the new bill. Furthermore, as stated in my opinion (pages 121–122), S. 354, unlike the Clean Air Act, would relieve a state of all its administrative obligations if such state opted to withdraw entirely from the regulation of automobile insurance.

In closing, let me say that I have noted the testimony of witnesses who appeared before your Committee subsequent to my appearance. Since none of these witnesses have disputed the judicial precedents assembled in support of the conclusions reached in my opinion, I believe that the opinion deals adequately with the points they have raised.

Sincerely,

ERWIN N. GRISWOLD.

RESPONSE TO MINORITY CONCERNS ON THE EXTENT OF CONGRESSIONAL POWER UNDER THE COMMERCE CLAUSE

Mr. HART. Mr. President, the minority views of the Judiciary Committee report on S. 354 quoted from a well-known opinion by Mr. Justice Frankfurter in the case of *Polish Alliance* v. *NLRB*, 322 U.S. 643:

The process of adjusting the interacting areas of national and state authority over commerce has been reflected in hundreds of cases from the very beginning of our history.

* * * * *

The interpenetrations of modern society have not wiped out state lines. It is not for us to make inroads upon our federal system either by indifference to its maintenance or excessive regard for the unifying forces of modern technology. Scholastic reasoning may prove that no activity is isolated within the boundaries of a single State, but that cannot justify absorption of legislative power by the United States over every activity. (id at 649–650).

The majority of the Judiciary Committee which found this legislation constitutional and the Commerce Committee which originally devised this allocation of State and Federal responsibility do not dispute the views of the scholarly Mr. Justice Frankfurter. However, it is important to note the rest of the state-

ment which the Justice made regarding this point. In the immediate sentences following the quotation above Justice Frankfurter went on to say:

On the other hand, the old admonition never becomes stale that this Court is concerned with the bounds of legal power and not with the bounds of wisdom in its exercise by Congress. When the conduct of an enterprise affects commerce among the States is a matter of practical judgment, not to be determined by abstract notions. The exercise of this practical judgment the Constitution entrusts primarily and very largely to the Congress, subject to the latter's control by the electorate. Great power was thus given to the Congress: the power of legislation and thereby the power of passing judgment upon the needs of a complex society. Strictly confined though far-reaching power was given to this Court: that of determining whether the Congress has exceeded limits allowable in reason for the judgment which it has exercised. To hold that Congress could not deem the activities here in question to affect what men of practical affairs would call commerce, and to deem them related to such commerce merely by gossamer threads and not by solid ties, would be to disrespect the judgment that is open to men who have the constitutional power and responsibility to legislate for the Nation. (id. at 650–651).

This statement from the opinion of Polish Alliance points up the importance of the initial responsibility and judgment that is entrusted to Congress in determining whether a particular program is within the congressional power to regulate "interstate commerce" and whether the means selected are necessary and proper to carry out an appropriate legislative objective. It should also be noted that the holding by the Supreme Court in the Polish Alliance case was that the activities of the alliance engaging in the business of insurance where within the meaning of the National Relations Act's unfair labor practices "affecting commerce" which the board was empowered by the act to prevent. The Court also held that the application of the act to the business of insurance was a valid exercise of the power of the Congress under the commerce clause of the Federal Constitution. (Id. at 649.)

CONGRESS TO REGULATE INSURANCE UNDER THE COMMERCE CLAUSE

Mr. President, some have raised a question as to whether or not Congress has the authority under the commerce clause to regulate the auto reparations system unless it is demonstrated that the present system constitutes an undue burden on commerce.

The Commerce Committee did feel, and I agree, that the present tort system with its inadequate and uncertain benefits is an undue burden on commerce. The Judiciary Committee made its own independent analysis of the constitutional basis for this legislation. The committee was cognizant of the wording of article I, section 8, clause 3, of the Constitution which provides the Congress shall have the power "to regulate commerce—among the several States." This is a broad grant of power and has been so interpreted by the Supreme Court throughout the course of our history. The Judiciary Committee determined that the automobile insurance system is clearly within the Congress' purview on the basis of the case of *United States* v. *Southeastern Underwriters Association*, 322 U.S. 533 (1944). Since the business of insurance, including auto insurance constitutes interstate commerce, the congressional power to legislate in this area is clear. Even the minority views of the Judiciary Committee recognize that the business of insurance does constitute interstate commerce—minority views of the Judiciary Committee Report No. 93–757, on S. 354 at page 40.

There can be only one additional supplementary point that may be raised in connection with the activities covered by this legislation. That is the fact that some accidents will involve cars from the same State and that some insurance companies may sell insurance only in one State. The question arises as to whether Congress may appropriately regulate these activities. The answer appears to be very clearly in the affirmative. The most far-reaching measure to be sustained by the Supreme Court with respect to this point, has been the "loan sharking" prohibition of the Consumer Credit Protection Act upheld in *Perez* v. *United States*, 402 U.S. 146 (1971). In this case, as well as several other cases, the Supreme Court has found that although activities may be intrastate in nature, still it is within the power of Congress to determine that it was within a class the activities of which did affect interstate commerce, thus affording Congress power to regulate the entire class. The cases of United States against Darby and Maryland against Wirtz also support this congressional power.

For these reasons, it appears that S. 354 is constitutional and that the arguments raised against it and title III in part should be rejected. I urge my colleagues to oppose amendment No. 1207.

Mr. President, we have heard it said with respect to certain other amendments that they would effectively kill the likelihood of the adoption of reasonably uniform standards of no-fault legislation. I think it can be truthfully said with respect to this amendment that it would indeed have that effect.

As to the second concern, that of constitutionality, I am satisfied that the thoughtful presentation of Dean Griswold is the basis on which we can make the statement that, to the extent anything can be certain, we can be certain that this will be sustained upon test.

Admittedly, the citations provided by Dean Griswold are not on all fours with the bill before us, but they come as close as one could expect in the absence of an explicit court finding on a particular bill comparable to this on all fours. I am satisfied, as was a narrow majority of the Committee on the Judiciary, that it is constitutional.

Mr. MOSS. Mr. President, I must oppose, as vigorously as I can, the amendment of the Senator from North Carolina, which would delete title III of the bill. This amendment would take out the backup provision and leave in the bill absolutely nothing in its place.

It is expected that the States will develop plans—and we have expanded the time by giving them up to 4 years to do that—of no-fault insurance, and that they will ultimately comply. In that case, title III would be unnecessary. However, in the event they do not act within 4 years, title III would become effective. Without this backup authority, many States may be dilatory or may not move ahead on it.

If it is our desire to have a uniform system of no-fault insurance in existence in the 50 States within a 4-year timespan, title III is absolutely essential in the bill. We just cannot submit to having the bill effectively gutted by eliminating title III.

The amendments that have been adopted on the floor have greatly increased the State functions, such as the Mondale-Stevens amendment, which was voted on this morning. The threshold for noneconomic loss has been effectively lowered to a point where it provides relief for those who seek reparations for noneconomic damage, and it preserves the tort rights and gives the States total administrative power.

Once the State has developed its plan and submitted it to the Secretary and it is determined to be in compliance with the guidelines of this statute, there is nothing more the State has to do, other than to make a report, when the Secretary wants to examine it again. So the States operate the plan, and they operate the insurance, the traffic, and everything. Without title III, the bill would be so crippled that it would be ineffective.

The PRESIDING OFFICER. All time has expired.

Mr. COTTON. Mr. President, is a parliamentary inquiry in order?

The PRESIDING OFFICER. The Senator will state it.

Mr. COTTON. When was the unanimous-consent agreement entered into limiting the debate to 5 minutes on a side?

The PRESIDING OFFICER. Just prior to the debate. The request was made by the majority whip, Senator ROBERT C. BYRD.

Mr. COTTON. Previous to that, it was 10 minutes to a side?

The PRESIDING OFFICER. That is correct.

Mr. COTTON. I ask unanimous consent that the Senator from Nebraska be given 2 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Nebraska has 2 additional minutes.

Mr. HRUSKA. The Senator from Nebraska does not care to have 2 minutes additional time.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment of the Senator from North Carolina (Mr. HELMS). On this question the yeas and nays has been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Hawaii (Mr. INOUYE), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. STEVENSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) is necessarily absent.

I further announce that the Senator from Florida (Mr. GURNEY) is absent due to illness in the family.

The Senator from Hawaii, (Mr. FONG) voted "present."

The result was announced—yeas 32, nays 61, as follows:

[No. 162 Leg.]

YEAS—32

Aiken	Curtis	Long
Allen	Dole	McClellan
Baker	Dominick	McClure
Bartlett	Eagleton	Nunn
Bennett	Eastland	Scott,
Bentsen	Ervin	William L.
Brock	Fannin	Sparkman
Buckley	Goldwater	Stennis
Byrd,	Hansen	Thurmond
Harry F., Jr.	Helms	Tower
Chiles	Hruska	
Cotton	Johnston	

NAYS—61

Abourezk	Hathaway	Packwood
Bayh	Hollings	Pastore
Beall	Huddleston	Pearson
Bible	Hughes	Pell
Biden	Humphrey	Percy
Brooke	Jackson	Proxmire
Burdick	Javits	Randolph
Byrd, Robert C.	Kennedy	Ribicoff
Cannon	Magnuson	Roth
Case	Mansfield	Schweiker
Church	Mathias	Scott, Hugh
Clark	McGee	Stafford
Cook	McGovern	Stevens
Cranston	McIntyre	Symington
Domenici	Metcalf	Taft
Gravel	Metzenbaum	Tunney
Griffin	Mondale	Weicker
Hart	Montoya	Williams
Hartke	Moss	Young
Haskell	Muskie	
Hatfield	Nelson	

ANSWERED "PRESENT"—1

Fong

NOT VOTING—6

Bellmon	Gurney	Stevenson
Fulbright	Inouye	Talmadge

So Mr. HELMS' amendment (No. 1207) was rejected.

Mr. MOSS. Mr. President, I move to reconsider the vote by which the amendment was defeated.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (H.R. 14434) making appropriations for energy research and development activities of certain departments, independent executive agencies, bureaus, offices, and commissions for the fiscal year ending June 30, 1975, and for other purposes, in which it requests the concurrence of the Senate.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H.R. 9293) to amend certain laws affecting the Coast Guard.

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled bill (H.R. 8101) to authorize certain Federal agencies to detail personnel and to loan equipment to the Bureau of Sport Fisheries and Wildlife, Department of the Interior.

The enrolled bill was subsequently signed by the Vice President.

HOUSE BILL REFERRED

The bill (H.R. 14434) making appropriations for energy research and development activities of certain departments, independent executive agencies, bureaus, offices, and commissions for the fiscal year ending June 30, 1975, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

NATIONAL NO-FAULT MOTOR VEHICLE INSURANCE ACT

The Senate continued with the consideration of the bill (S. 354) to establish a nationwide system of adequate and uniform motor vehicle accident reparation acts and to require no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public roadways in order to promote and regulate interstate commerce.

The PRESIDING OFFICER. Under the previous order, the Senator from Nebraska (Mr. HRUSKA) is recognized to offer a motion to recommit, on which there is a time limitation of 90 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the motion to recommit occur at the hour of 1:45 p.m. today. That is just 5 minutes earlier than was stated in the RECORD.

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

The Senator from Nebraska.

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

Mr. President, the concept of no-fault insurance is very fetching indeed. The case for the particular version of a no-fault plan suggested by S. 354, however, has simply not been made.

In considering a motion to recommit the bill, it would be well to bear in mind that there have been some changes in the bill as originally introduced. They consist of the removal, for example, of the $2,500 deductible item contained in the original draft of the bill in the event of suit in tort where other conditions are met. Also, the 6 months continuous disability requirement has been reduced to a 3-month period. It is conceded, Mr. President, that those two amendments in themselves will wipe out any reduction in the premiums on automobile insurance as envisaged by the bill S. 354, and even by the Milliman and Robertson report.

That report itself, of course, is highly uncertain; it is conjectural. The Milliman-Robertson report, which is depended upon and relied upon, has stated that portions of the insurance rates will be decreased rather than increased. I read from the report itself, at page 51:

> Although the conclusions presented in this report are probably the best estimates available, it should nonetheless be recognized that they are subject to a high degree of uncertainty as well as being very susceptible to misinterpretation.

The study then goes on to specify the following caveats:

1. premium charges will vary by size of vehicle;
2. the study does not deal with changes in territory or classification which may be substantial;
3. cost implications of the input assumptions and supporting data base to model should not be underestimated or overlooked;
4. no attention was given to possible inadequacy or redundacy of existing premium rate levels;
5. the study is confined to the auto system and not the effects of changes in the system on other lines; and
6. there is no attempt to predict the effects of other influences on auto premiums such as auto safety or the energy crisis—it is confined to the cost of a single bill.

Certainly there has been that responsibility. It has been demonstrated during the course of the debate by some very unfounded claims made as to the impact of the bill upon the rate structure of automobile insurance.

One of the bases for the motion to recommit with instructions—one consideration—would be to project the cost of S. 354 on a State-by-State basis, utilizing the experience and the data based on an operational study of no-fault programs rather than unrelated economic material.

We should bear in mind that 22 States have a no-fault plan. Each one is different from the other. In making the Milliman-Roberts report, which seeks to compare what is an imagined and conjectured program base for S. 354, the autopolicy bill, as compared with the present

tort system, has resorted, prior to enactment, to the no-fault plans which are now in effect in 22 States. So, first of all, a study based on an economic model, and not on actual experience, will thereby be unrealistic. The rates will not compare with premium rates being charged in the 22 States where no-fault plans have been adopted.

It seems to me that if we are going to buy a package and impose it on 50 States, we want to be able to assure anyone what the premiums are going to be under a policy that is rendering an injustice to the people of the Nation. We ought to furnish reliable statistics and reliable figures.

I know there will be those who will say that this is just a dilatory measure; that it is for the purpose of delay; and so on. That has been considered in this matter already. But because the States are going to have 4 years in which to enact legislation in this field, by reason of the amendments already adopted, a referral back to the committee for purposes of complying with the instructions contained in my motion will not delay that process at all. Certainly a 4-year period for that one purpose will not be taken—or any substantial part of it will not be taken—for the purpose of complying with the motion to recommit and the instructions contained therein.

I shall read the instructions I intend to submit in the motion to recommit the pending bill, before I move to recommit the pending bill to the Committee on Commerce.

Mr. President, this motion is grounded upon three primary unanswered questions with reference to the pending bill. They are: What will be the cost? That question has not been answered, and cannot be on the record that now exists.

Second, is it violative of the fundamental principles of federalism? Here we get into the concept of the McCarran-Ferguson Act and the deliberately adopted policy of Congress of 30 years standing, which is to leave the field of insurance to the States rather than to assert jurisdiction by the Federal Government.

The third question is, Will it complement rather than conflict with other related proposals?

The first two of these questions have been considered at length during the course of our debate.

On the constitutionality issue, former Solicitor General Griswold and others urge that the measure is sound. But Professors Kurland and Dorsen, the Department of Justice and others argue that it is defective. Surely, S. 354 can be modified to eliminate any ambiguity on this point.

On the question of cost, proponents argue that S. 354 will reduce automobile insurance premiums. Opponents contend that premiums will rise if the bill is enacted.

On the question of S. 354's role with respect to other Federal insurance programs, the record is bare.

Early this month, the Senator from Massachusetts (Mr. KENNEDY) introduced health insurance legislation which parallels exactly a bill introduced by Chairman WILBUR MILLS of the Ways and Means Committee of the House of Representatives. This legislation, S. 3286, is similar in many respects to legislation sponsored by the administration. Hearings are already underway by the House Ways and Means Committee and it is quite likely, I am told, that the Senate will have the opportunity to consider legislation establishing a national health insurance program at this session of Congres.

This legislation may have a profound impact on any no-fault insurance plan. Indeed, it could supplant the major provisions of S. 354 which deal with reparation for personal injuries. For example, under the Kennedy-Mills bill, the national health insurance system would cover all hospital and physicians' services above an annual deductible of $150 and 25 percent coinsurance. In addition, the full costs of services would be covered after a family has incurred annual expenses in excess of $1,000. Because these payments would be considered primary, the enactment of a national health insurance plan could obviate the need for the medical services portion of S. 354. Such provisions could be rendered nullities by a general health insurance bill.

It is imperative that two major pieces of legislation, such as national health insurance and no-fault automobile insurance, complement rather than conflict with each other. Recommittal of S. 354 to the Commerce Committee, with instructions to study the effect of a national health insurance plan on S. 354, will insure that the Senate is not working at cross-purposes.

Mr. President, before the Senate can act in an enlightened and responsible manner, these unanswered questions must be set to rest. I urge Senators who support the no-fault concept and those who oppose it to recognize the necessity of further review and to support my motion.

It is for this reason, Mr. President, that I made the motion in the form which I have read, and which I now send in writing to the desk.

The PRESIDING OFFICER. The motion will be stated.

The assistant legislative clerk read as follows:

I move to recommit the pending bill to the Committee on Commerce with the following instructions:

(1) to project the cost of S. 354, on a state-by-state basis, utilizing the experience and data base of operational state no-fault programs rather than unrelated economic models;

(2) to examine the cost consequences of a discretionary, as opposed to a compulsory, federal auto insurance bill;

(3) to catalog by feature all no-fault systems enacted to date in order to develop an optimal model:

(4) to develop a methodology of implementing no-fault on a sound Constitutional basis; and

(5) to study the proper scope of no-fault insurance as a supplement to national health insurance legislation.

Mr. MOSS. Mr. President, I rise to oppose the motion to recommit the bill. I think it would be a tragedy if, at this point, we recommitted this measure. I think it would be much better if we go on and vote the bill up or down, even if that should have the very unhappy result of our voting it down. I think it makes no sense at all to recommit the bill.

So I appeal to the commonsense and wisdom of the Members of the Senate to reject the motion to recommit the bill (S. 354) to the Committee on Commerce for further study of its cost implications in view of the amendments adopted by the Senate.

I, of course, oppose this motion because I am in favor of passage of the bill. But much more fundamentally, I oppose this motion because the people of the United States expect us to make decisions—yes or no—and they do not seem to have much patience with endless studying and parliamentary tricks to avoid making decisions. This bill is ready, more ready than most bills we vote up or down, to be decided on the merits. It has been the subject of voluminous hearings. It and its predecessor in the 92d Congress have been the subject of months of hearings and committee executive sessions and almost 2 weeks of floor debate. It has been talked at, picked at, lobbied about, and ducked for years.

The time has finally come to take a stand on the merits. I appeal to opponents as well as supporters to reject the motion to recommit.

Let us review the record of Senate activity on national no-fault. In the 92d Congress, the Committee on Commerce held 16 days of public hearings—March 10, 18; May 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 28; June 16; and October 13, 14 in 1971—on the predecessor bill, S. 945 in the 92d Congress, and many days of executive session before reporting a bill to the Senate floor by a committee vote of 13 to 4. After it had been reported, the full membership of the Senate debated that bill for a number of days in the summer of 1972 and then voted—on August 8, 1972—to re-refer the bill to the Committee on the Judiciary. That was a close vote, 49 to 46, as I remember.

In the 93d Congress, the Committee held an additional 10 days of public hearings on the new bill, S. 354—February 1, 6, 7; April 4, 10, 11, 12; May 23, 24; and June 7 in 1973—and then we had days of executive sessions before reporting the bill to the Senate floor by a committee vote of 15 to 3.

I might interject at this point that the Commerce Committee is composed of members of the bar. I think there is only one non-lawyer on that committee. So it had scrutiny both from its constitutional point of view and as to the le-

gality of the bill, as well as the provisions that have to do with insurance, premiums, and consumer matters.

After the bill had been reported out of the Committee on Commerce, the chairman of the Committee on Commerce and the chairman of the Committee on the Judiciary and the distinguished Senator from Nebraska (Mr. HRUSKA) agreed that the bill should be re-referred, by unanimous consent, to the Judiciary Committee for its consideration. The Committee on the Judiciary held still another 10 days of public hearings on the bill as reported—December 4, 5, 6 and 12, 1973; January 24, 29, 30 and 31; February 5 and 7, 1974—plus 2 days of executive session before reporting the bill favorably to the Senate floor by a vote of 8 to 7.

Mr. President, in light of that record, what honest purpose would be served by further study and committee consideration?

It is said that the bill should be recommitted for study of its cost implications in light of the floor amendments deleting the $2,500 deductible from pain and suffering damage verdicts and reducing the tort threshold from 180 days to 90 days of disability. Mr. President, the cost study prepared by the firm of Milliman & Robertson—and incidentally these were the actuaries selected by the State insurance commissioners, the ones who were best able to do a study on this type of insurance problem and, therefore, they were retained by the Department of Transportation—was designed under contract by the Secretary of Transportation to be a comprehensive study not only of the bill as reported by the Commerce Committee but of all reasonable variations. The Senate has chosen two such variations and the exact cost implications have been readily derived from the data in the Milliman & Robertson study. I ask unanimous consent that a memorandum summarizing those cost implications be printed in the RECORD at this point.

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

MEMORANDUM: VALUE AND COST OF NO-FAULT INSURANCE

To: Members of the Senate.

From: Floor managers of S. 354, the National No-Fault Motor Vehicle Insurance Act.

Re: Cost and value of insurance under S. 354 as amended on the floor compared to the cost and value of insurance under the present lawsuit system.

(1) Impact of floor amendments on costs of S. 354 insurance compared to cost of insurance under the present system.

In anticipation of arguments that S. 354 as amended on the floor will cause automobile owners to pay more for their insurance than they are now paying, the floor managers of S. 354 have instructed the staff to calculate the cost impact of permitting non-economic (e.g., pain and suffering) lawsuits after 90 days rather than after 180 days. The cost comparisons presented in the enclosed tables were derived from information provided by the independent actuarial firm of Milliman and Robertson, Inc.

The enclosed material demonstrates conclusively that each State enacting a no-fault plan in compliance with the minimum standards in S. 354, including the minimum 90 day disability threshold, could effectuate a cost savings (or at least avoid a cost increase) in that State. For example, Alabama would experience a 16% savings in the average personal injury insurance premium; Nevada would experience a 17% savings; North Carolina a 2% savings; New Mexico a 12% savings; and Utah an 11% savings.

(2) S. 354 as amended affords a State the option of increasing the projected savings.

A principal way of increasing savings in a given State would be to exceed the minimum permissible restrictions on lawsuits—i.e., increase the disability time period from 90 to 120 or 180 days. But there are a number of other options open to a State which would produce additional cost savings without changing the benefit level standards or raising the minimum lawsuit restrictions.

Simply by eliminating motorcycles from the no-fault plan as permitted under S. 354 a State could produce additional savings. A State could also maximize the effectiveness of its compulsory insurance law and get more people to buy the required insurance, thereby decreasing the average cost to each person. In addition, a State could lower the survivor's benefits (e.g., from $5,000 as assumed in the Milliman and Robertson study to $3,000 or some lesser but reasonable amount as permitted under S. 354) or the State could lower the replacement services benefits (e.g., from one year as assumed in the Milliman and Robertson study to six months).

It should also be noted that the premium savings projected for S. 354 have assumed that no one will elect the permissible $100 deductible or one week waiting period. Experience would suggest that such deductibles and waiting periods will be selected, and, as a result, even greater savings will occur.

(3) By any measure the value of S. 354 insurance is far greater than the value of insurance under the present system.

The enclosed chart shows the value of S. 354 is far greater than the value of insurance presently being purchased. Under S. 354, far more injuries (including economic and non-economic injuries) are compensated than under the present system, and far more dollars are paid to compensate those injuries. The value of S. 354 insurance compared to insurance under the present system is like the performance value of a 1974 automobile compared to the value of a horse and buggy. The irony is that the more valuable product costs less than the less valuable liability-based insurance product now being sold.

MEMORANDUM

VALUE AND COST COMPARISONS BETWEEN THE PRESENT LAWSUIT INSURANCE SYSTEM AND S. 354, THE NATIONAL NO-FAULT MOTOR VEHICLE INSURANCE ACT,[1] AS AMENDED BY THE SENATE—RESULTS UPON ENACTMENT OF MINIMUM STANDARDS[2] IN S. 354

State	Percent increase in injuries[3] compensated—threshold (days)		Percent increase in dollars available to compensate injury—threshold (days)		Percent of average savings in personal injury premium—threshold (days)		Annual savings for present[5] insurance buyers—threshold (days) 180
	180	90	180	90	180	[4] 90	
Alabama	55	58.0	48	58	−22	−16	$19,000,000
Alaska	25	26.0	35	42	−9	−3.4	1,017,800
Arizona	32	34.0	33	40	−19	−14	17,794,440
Arkansas	56	59.0	49	60	−19	−14	11,108,000
California	21	22.0	12	14	−28	−22	267,562,490
Colorado	38	40.0	40	48	−10	−6	7,929,840
Connecticut	6	6.5	18	22	−21	−15	30,662,700
Delaware	39	41.0	42	52	−10	−6	1,920,800
District of Columbia	17	18.0	24	29	−20	−15	4,230,800
Florida	26	27.0	30	36	−19	−13	25,184,300
Georgia	48	50.0	50	60	−16	−11	21,559,020
Hawaii	21	22.0	15	18	−25	−19	9,436,000
Idaho	49	51.0	40	48	−12	−7.4	3,020,000
Illinois	25	26.0	32	39	−16	−11	68,426,750
Indiana	40	42.0	36	43	−12	−6	21,489,700
Iowa	38	40.0	36	43	−12	−5.3	10,879,000
Kansas	49	51.0	42	50	−15	−11	10,758,120
Kentucky	42	44.0	50	61	−12	−7	10,550,300
Louisiana	42	44.0	43	51	−22	−17	27,320,020
Maine	35	37.0	44	52	−7	−1.2	2,241,700
Maryland	21	22.0	32	39	−10	−4.2	17,264,100
Massachusetts	1	1.0	6	7	−25	−20	45,934,800
Michigan	37	39.0	41	49	−6	−0.5	16,827,320
Minnesota	28	30.0	37	44	−14	−9	22,939,840
Mississippi	50	52.0	47	56	−20	−15	11,800,320
Missouri	27	28.0	32	39	−20	−14	36,327,330
Montana	52	54.0	45	54	−10	−5	$2,078,720
Nebraska	41	43.0	41	49	−8	−2	3,627,300
Nevada	48	50.0	38	46	−21	−17	4,177,680
New Hampshire	26	27.0	30	36	−14	−8	4,081,680
New Jersey	7	7.0	7	8	28	−23	107,420,600
New Mexico	45	47.0	40	48	17	−12	19,215,350
New York	5	5.0	9	11	22	−16	184,456,910
North Carolina	27	28.0	30	36	8	−2	16,199,440
North Dakota	60	63.0	58	70	−4	−.01	850,040
Ohio	36	38.0	31	37	−18	−13	61,831,560
Oklahoma	34	36.0	40	48	−18	−11	13,553,960
Oregon	39	41.0	37	45	−11	−5	10,021,500
Pennsylvania	24	25.0	27	33	−18	−14	69,980,480
Rhode Island	27	28.0	29	35	−18	−14	7,280,550
South Carolina	44	46.0	48	57	−3	[6] −2	2,038,970
South Dakota	54	56.0	42	50	−10	−7	1,839,160
Tennessee	31	32.0	35	42	−18	−13	24,550,640
Texas	40	42.0	31	37	−23	−17	71,969,120
Utah	34	35.0	35	41	−17	−11	5,518,940
Vermont	38	39.0	44	52	−6	±0	772,360
Virginia	43	45.0	45	54	−5	±0	7,822,840
Washington	35	36.0	35	42	−15	−10	7,932,120
West Virginia	39	41.0	38	45	−20	−14	9,007,520
Wisconsin	28	29.0	39	47	−8	−1.7	13,509,120
Wyoming	51	53.0	44	52	−8	−5	558,940

Footnotes on following page.

[1] This comparison is based upon information derived from appendix II of the Milliman & Robertson, Inc. actuarial study presented to the Senate Judiciary Committee on Dec. 3, 1973. Information concerning the percent increase in injuries compensated was calculated by comparing the number of injuries under the tort system with the number of injuries to be compensated under the minimum standards in S. 354 (tight—disability thresholds of 90 and 180 days) and dividing the injuries compensated under S. 354 by the injuries compensated under the tort system. Percent increase in dollars paid to compensate injuries was calculated by adding the total costs of the designated benefits (total costs of above) to the costs of the medical payments option. Then 75 percent of that figure was calculated to take into consideration the percent of insurance company pay out used to pay attorneys rather than compensate injuries. The figure derived was then divided into the "total costs of above" of S. 354.

[2] The main features of the minimum standards are as follows: (1) Benefits paid without regard to fault for all medical and rehabilitation loss, up to $15,000 for wage loss, 1 yr of replacement services loss, and up to $5,000 for survivors loss; (2) Lawsuits are limited to those for economic loss which exceeds no-fault benefit levels and those for noneconomic detriment: (1) in excess of $2,500 if the injury results in death, serious and permanent disfigurement, serious and permanent injury, or more than 6 mo of continuous disability, or (2) if the injury results in death, serious and permanent injury, or more than 90 days of continuous disability.

[3] Injuries include both economic and noneconomic (e.g., pain and suffering) injuries. If a comparison were made only between economic injuries compensated then the percentage increase would be much higher.

[4] In appendix II of the Milliman & Robertson study, figures are provided for the total number of general damage injuries compensated under the "tight" 180-day threshold and the "loose" 60-day threshold. To determine the number of injuries to be compensated under the 90-day threshold the number of injuries under the 180-day threshold were subtracted from the number of injuries under the 60-day threshold and then multiplied by 0.66. This figure was then multiplied by the average claims cost under the 60-day threshold provision in order to reflect the elimination of the deductible feature. (Amendment No. 1204.) The figure produced from this multiplication was then added to the total system cost of the tight threshold to produce the total system cost under a 90-day/no-deductible threshold. To derive the percentage change in average personal injury premium, total system costs were divided by the projected percentage of insured vehicles under a no-fault program in the same way in which Milliman & Robertson created the percentage figures in their charts A-1, A-2, and A-3.)

[5] These savings are based upon 1972 premium data (Insurance Facts 1973). Because premium volume has increased the savings in 1974 would be even greater.

[6] Assumes that South Carolina under a compulsory insurance system is able to achieve the same degree of compliance as its neighboring State, North Carolina, has been able to achieve—i.e., 97 percent. See Milliman & Robertson, Inc. at p. 25.

Mr. MOSS. Mr. President, it seems to me that if at this point we in the Senate simply recommit the bill, we have gone back around the track that we have been running on now for about 5 years, for it was 5 years ago that the Committee on Commerce initiated the action that was taken by the Secretary of Transportation to make a study of this whole problem of motor vehicle insurance.

We all know that it has become a scandal in many places in our country. Not only do we pay in premiums more than twice the amount that claimants ever get back from their insurance policies, but in fact the study found that a claimant who recovers on his insurance or the insurance of someone who has injured him can expect to get back only 44 cents out of every dollar that was paid in to the insurance companies to cover injury by automobile accidents. So he only has a chance of getting half of it back, and his chances, of course, are cut in half by the fact that in most areas—perhaps not most now, but in a large part of our country—the doctrine of negligence and contributory negligence is such that only one person out of two would be able to recover, because of the showing of negligence of some sort on the claimant's part.

Having been a trial lawyer myself, and tried a number of these cases, I know the great refinements that are utilized to determine what is negligence and what is not negligence. In the meantime, many people are injured, have hospital bills, miss days of work, and have other damages that flow out of automobile accidents, and they have no way of paying those expenses until the decision has been made by the insurance adjusters and by negotiation between the insurers on subrogation back and forth, or by piling up litigation—no way of getting that money until a decision is made, which may come 6 months or a year later or in some extreme cases, even a matter of several years. In the meantime, these people have no way to pay their medical expenses, which is one reason the study found that those who have a high incidence of injury coming out of an accident could only expect to get one-half of the real damages back, let alone anything for pain and suffering. This is one reason the fees are high. They are problematical. Many lawyers take cases on a contingent fee basis so that maybe one-third of the amount recovered, or as much as one-half, is retained by the lawyer rather than going to the injured party.

So in cases where we have direct physical damage to a person and medical expenses, he should be able to expect to get that at once, so that he can have medical attention and rehabilitative services and not have to wait for the problem to be straightened out by adjusters and litigation.

That is what this bill does. It says that anyone who is hurt in an accident will get his medical expenses forthwith from his own insurance company, and only those who have suffered great damage or have been incapacitated for longer than 90 days will be able to bring a tort suit.

The idea of whether a person has been deprived of his rights by not being able to bring a tort suit for any kind of injury is in some way unconstitutional or unlawful is a mistaken point of view. We have already crossed that bridge by enacting workmen's compensation laws where the right to sue was suspended and there was an absolute liability to pay workmen's compensation for anyone injured on the job involved in interstate commerce. This has been to the Supreme Court. It has been upheld. We are not doing any violence to law. As a matter of fact, we are following that as a general pattern.

Then we come to other cases where there is absolute liability without relying on a tort showing of negligence in order to recover. In this case, it is to be said that anyone injured in an automobile accident shall get his medical and rehabilitative expenses on his own insurance at once, up to the threshold limit beyond which he may bring an action if he has injuries that go beyond that point.

Another point often made against the bill, which we discussed a little earlier in one of the amendments, is that somehow or other this is a big Federal takeover in this field. As a matter of fact, it is not a Federal takeover. The bill provides that each State shall develop and perfect and put into effect by its State legislature, in its own area, its own no-fault compensation law for automobile accidents. The Federal Government has only the one function of determining whether that plan reaches the floor, the minimum standards, or higher, and if it does, then it becomes approved as the no-fault law.

The other thing we had, title III, which we discussed when the amendment of the Senator from North Carolina (Mr. HELMS) was pending, was that if after 4 years go by—and remember, we have already been on this for nearly 5 years—after 4 more years go by and the States have not acted, then there will be some Federal action taken in the State to put into effect a no-fault compensation law.

It seems to me that the greatest effort has been made to have the control of insurance and the control of traffic, and the rehabilitation in case of persons, remain at the State level, I think this is a total answer to those who say, as did the President, that no-fault is an idea whose time has come but then simply add "Do not let the Federal Government do anything about it. Just leave it to the States." We have been leaving it to the States for years and years. In fact, for a matter of 5 years, it has been said by the Department of Transportation to the States that, "We will defer now and let the next session of the State legislature have their chance." Then we defer again and defer again.

A number of States have come forward and adopted no-fault compensation systems. In this case, only two or three are up to the Federal floor level, but about 19 have some form of no-fault now in effect. So the States have begun to act. But there inevitably are many of them—more than half—who have not acted and may not act unless we have a federal law that sets a minimum floor or a standard that we know will be clearly in effect all across the United States for those who travel in interstate commerce.

We have a floor that applies all the way across, unless there is this matter of ultimately having Federal intervention if the State refuses to act. We adopted on this floor an amendment to provide even some funding for the States, on the basis that some States might be required to expand additional funds to convert over to a no-fault system. The bill authorizes an appropriation of $10 million that would become available to assist the States in making the conversion. So the States do not even have an economic excuse now.

If they have additional expenses on the conversion, they may seek reimbursement from the Department of Transportation, if this bill becomes law, and the authorized money is made available.

I venture the opinion that the States probably would not need that money, or at least any large part of it, because every State in the Union already has a department of motor vehicles and a commissioner of insurance. They already have their courts in place, laws on the statute books governing traffic, and all of these other things. So they are already geared up to handle the problem.

It is simply a change from the old idea

of tort damage being the basis of recovery on the question of fault that must be settled always which has become such a deterrent to those who drive automobiles.

Now one other thing, let me say, is the question of requiring a person who drives a motor vehicle to have insurance—no-fault insurance. Most States have that in some form now.

In my State—whose law I think is not adequate because it was not required to have the insurance in the first instance when a person gets a driver's license—but any person involved in any kind of damage to a motor vehicle that is reportable in any way will have his driver's license suspended unless he has insurance thereafter. So we do have compulsory insurance in a sense now.

Many other States have gone that route. Other States may make it absolutely compulsory that a person have liability insurance when he drives an automobile. So that we try to relieve this damage to innocent people injured by the driving of a motor vehicle.

I think that the very poorest way for us to terminate our work on this bill would be to recommit it, because nothing would be gained by it. We cannot go over and over and over the same track again and again. I think we have got to come to grips with it now and vote up or down on whether we are going to have a no-fault motor vehicle insurance law in the United States with a degree of uniformity and with the States all participating in their own sovereign right but conforming to a basic standard which we in this body, with the other body of Congress, have a right to set for the general welfare of the public; and because of motor vehicle transportation being so completely interstate now, it almost has to come to this body to make the decision. We cannot wait for the individual States any longer. Having given the 4-year time for them to come into compliance, I think we must proceed forthwith.

I oppose the motion to recommit.

Mr. HRUSKA. Mr. President, I yield 7 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in opposition to the Federal no-fault insurance bill, S. 354, and in favor of the motion to recommit by the distinguished and able Senator from Nebraska (Mr. HRUSKA).

I joined in the minority report on S. 354 urging defeat of the Federal no-fault insurance bill for the very sound reasons enumerated in that report. Additionally, I have submitted brief individual views which strongly declare a basic constitutional objection to S. 354. This objection is embodied in the 10th amendment to the Constitution.

The 10th amendment very simply states that:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Mr. Chief Justice Stone, speaking of the 10th Amendment in *New York* v. *United States*, 326 U.S., at page 587, stated:

> The National Government may not interfere unduly with the State's performance of its sovereign functions of government.

Justices Black and Douglas in the same case, at page 594, stated:

> The notion that the sovereign position of the States must find its protection in the will of a transient majority of Congress is foreign to and a negation of our constitutional system. There will often be vital regional interests represented by no majority in Congress. The Constitution was designed to keep the balance between the states and the Nation outside the field of legislative controversy.

Mr. President, if we ignore the 10th amendment and these very sound opinions, then our 50 States will be in grave danger.

S. 354, in my opinion, is a bill which is unconstitutional. It is a bill which will reverse the congressional policy established in 1945 in the McCarran-Ferguson Act. It is a bill that will hurt the small business insurance companies that operate in less than six States, but will aid the giant national insurance companies operating in most of the 50 States. It is a bill, that if passed into law, will not only destroy sovereignty and regulation, but will open the door to passage of even more disastrous laws relegating the States to a position of impotency.

Mr. Justices Black and Douglas in New York against United States, at page 592, make the above point by quoting President Woodrow Wilson as follows:

> The States of course possess every power that government has ever anywhere exercised, except only those powers which their own constitutions or the Constitution of the United States explicitly or by plain inference withhold. They are the ordinary governments of the country; the Federal Government is its instrument only for particular purposes. As stated in *U.S. v. Railroad Co.*, 17 Wall 322, 327–328, the right of the States to administer their own affairs through their legislative, executive, and judicial departments, in their own manner through their own agencies, is conceded by the uniform decisions of this Court and by the practice of the Federal Government from its organization.

I urge my colleagues in Congress to think seriously of the dangers to the sovereignty of the States if S. 354 is enacted.

Mr. President, on the grounds of constitutionality, as well as on the grounds that it is simply unwise, I hope Congress votes no to S. 354. The wise course, and the constitutional course is to permit the States to continue their fine efforts of passing first-party no-fault insurance laws. To date, 20 States have passed no-fault legislation. Additionally, there is a voluntary plan in effect in the State of Washington. Other State legislatures are presently considering the matter, and, in my opinion, they should be permitted to continue this consideration, keeping in mind the special needs and problems of each State.

Mr. President, in addition to the grave constitutional issues presented by S. 354, I would like to emphasize the cost factor of this proposed legislation. Significant in my mind is the data in appendix E and appendix G of the minority report which shows that the citizens of South Carolina could be paying increased premiums from 14 percent to 34 percent, depending upon the coverage obtained. If the owner of a vehicle lives in a rural area or if the vehicle is a private vehicle rather than a commercial one, then increased premiums would be even higher.

The higher premium costs will affect at least 44 States. These statistics are alarming to me and to many others. The proponents of Federal no-fault auto insurance have been telling the press and the people that one of the key factors of Federal no-fault is the significant reduction of auto insurance premiums that could be anticipated. This is simply not the case. Instead of significant reductions of premiums, my constituents and the people of at least 43 other States will be forced to pay significant increases in auto insurance premiums.

Mr. President, it is clear that the proposed legislation could have disastrous and far-reaching consequences. I hope my colleagues will give this matter the most careful consideration, and I hope they will see fit to recommit the bill.

Mr. President, in the 20 years I have been in the Senate, I have witnessed the Senate going into one new field of activity after another, and without constitutional authority. This is another example of Congress attempting to go into a new field of activity, without constitutional authority. If one will search the Constitution, he will find no authority in the Constitution for Congress to go into the field of no-fault insurance.

Many other fields have been gone into. Bad precedents have been set. But that is no reason now to inject the Federal Government into another new field of activity where it has no constitutional authority.

If we are going to be a law-abiding people, Congress ought to set the example and ought to abide by the Constitution, so that the people of the country will know that we are law-abiding, that we favor the Constitution, and that the laws we enact will be in accordance with the Constitution.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. I yield myself 1 minute.

Mr. President, reference has been made to the tremendously long periods of time taken for hearings and debate on this bill, the vast amount of testimony taken, and so forth. Those statistics are very interesting, but they have not produced what the people are entitled to know and what we as legislators should know. What are the definitive cost factors in this no-fault insurance that is prescribed in this bill? The question simply has not been answered and cannot be answered because of the fashion in which the report is set up.

Second, reference has been made to workmen's compensation as being a model for the proposed legislation. I fervently wish that were true. It is not true, because in workmen's compensation we have 50 State plans and the benefits are different and the periods of time are different. It is completely dif-

ferent from the situation here, in which the Commerce Committee has taken one of a possible 200 plans and has said, "We are going to arrogantly and imperiously say to the States, 'We don't care about your judgment in this thing. This one particular plan is going to be the law of every one of your 50 States, whether you like it or not.' "

It seems to me that is a presumptuous position to take.

Mr. President, the returns are in and it will be a gloomy day for America's auto insurance buyers if S. 354 should be approved at this time. This bill, as amended to take out the $2,500 deductible and to change the threshold from 6 months to 90 days, would increase auto insurance rates in 48 of the 50 States, while leaving them unchanged in the other two. No State will get a decrease under this measure.

Let there be no mistake. The American public, if it is sold on the concept of no-fault insurance, is sold on it basically for one reason—the siren song of lower auto insurance costs. S. 354 is a sour, discordant note. I repeat, this measure will increase costs for the consumer.

Proponents of S. 354 have based their claims of reduced premiums on the false assumption that half of the uninsured motorists in every State will buy auto insurance under S. 354's compulsory insurance. If they do not, the cost figures by Milliman & Robertson are not valid. Let us see what has actually happened, not what theoretically should happen. The first three compulsory auto insurance States were North Carolina, Massachusetts, and New York. Half of the uninsured motorists did not become insured, so the theory did not work.

New Jersey passed a State no-fault law with compulsory insurance. The M & R study says New Jersey will go from 88 percent insured to 94 percent insured. In a letter from one of the State's leading insurance executives to the Governor of New Jersey, it was reported that New Jersey insureds have actually declined from 85 percent to 75 percent. Even allowing for error, this is hardly 50 percent of the uninsured motorists buying insurance.

Florida passed a compulsory no-fault law also—a State law. Florida had 90 percent insured, but this dropped to 85 percent. Again, no 50 percent of the uninsureds buying insurance.

Mr. President, I am not and never have been sold on the Milliman & Robertson study completely. However, since proponents have made so much of it, let us examine it further. It makes a comparison between insurance costs under tort law and insurance costs under Federal no-fault for each State.

However, it includes medical pay coverage as a part of the tort system costs. Medical pay coverage is clearly and obviously a first party, no-fault coverage.

Thus, when we use the M & R figures, removing these two false assumptions—that half of the uninsureds will automatically buy auto insurance and that medical pay is a tort cost—we come up with the best possible estimate of costs of S. 354—based on M & R figures.

These figures are in the M & R report, but they needed revising to take into consideration the amendments which eliminated the $2,500 deductible and changed the threshold from 6 months to 90 days. The revisions have now been completed, and I want them not only to appear in the RECORD, but also to be heard by as many Senators as possible, who may be under the misimpression that S. 354 will lower costs.

Before reading the State-by-State list, I would like to note that my State of Nebraska would suffer a 34-percent increase.

Mr. President, I ask unanimous consent to have printed in the RECORD a revised table of figures as to 1972 indicating the amount the premium will be increased percentagewise after taking into consideration the presumptions set forth therein by eliminating the $2,500 deductible and changing the threshold from 6 months to 90 days.

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

Alabama	43
Alaska	18
Arizona	27
Arkansas	40
California	7
Colorado	30
Connecticut	7
Delaware	29
District of Columbia	10
Florida	20
Georgia	41
Hawaii	6
Idaho	39
Illinois	21
Indiana	31
Iowa	32
Kansas	39
Kentucky	35
Louisiana	37
Maine	28
Maryland	17
Massachusetts	1
Michigan	27
Minnesota	23
Mississippi	39
Missouri	22
Montana	38
Nebraska	34
Nevada	36
New Hampshire	16
New Jersey	0
New Mexico	35
New York	0
North Carolina	24
North Dakota	44
Ohio	26
Oklahoma	33
Oregon	32
Pennsylvania	18
Rhode Island	15
South Carolina	34
South Dakota	40
Tennessee	22
Texas	31
Utah	26
Vermont	30
Virginia	31
Washington	26
West Virginia	30
Wisconsin	23
Wyoming	38

Mr. MOSS. Mr. President, I have listened to the discussion by the Senator from Nebraska (Mr. HRUSKA) and the Senator from South Carolina (Mr. THURMOND), and I must take exception to the expressions of both.

The Senator from South Carolina spoke at length about the fact that this was an unconstitutional action with no justification in the Constitution for the action of Congress. I submit it is entirely within the general welfare clause and certainly it is within the interstate commerce clause. Traffic flows in interstate commerce by the millions every day. Our citizens are involved and they do travel across State lines. There is no form of government that is more responsible for taking action in the field than Congress, so rather than to say we have no power to act and should leave it to the several States, indeed, we are committed to take some action.

I earlier called attention to the fact that this bill in this long consideration was submitted to the Committee on the Judiciary in the last Congress and in this Congress, and especially in connection with the bill before us, S. 354, the Committee on the Judiciary has acted on it.

I have before me a letter from which I would like to read several excerpts. The letter is written by our distinguished colleague from Michigan (Mr. HART), who is a member of the Committee on the Judiciary. He stated in the letter addressed to me:

> If your experience matches mine, some law school classmates or lawyer friends are calling to tell you that the Federal no-fault bill (S. 354) is unconstitutional, will increase insurance costs in your State, will drive small insurers out of business, and so forth. Therefore, I thought that you would like to have on hand the Report on S. 354 filed by the Senate Judiciary Committee.
>
> A thin majority of the members of the Senate Judiciary Committee, after thorough consideration, have ordered S. 354 favorably reported. By a 15 to 3 vote, it was reported favorably by the Committee on Commerce. In both committees, the bill received bipartisan support. The majority report of the Judiciary Committee concludes:
>
> (1) S. 354 is constitutional. (Report, pp. 6–14).
>
> (2) S. 354 will produce savings in the annual personal injury premiums paid by individual consumers in every State. (Report, pp. 22–27).
>
> (3) S. 354 will not affect adversely the competitive position of small insurance companies. (Report, pp. 20–22).
>
> (4) S. 354 does no violence to the principle of State regulation of insurance. Report, pp. 14–20).
>
> (5) There are no differences in needs and conditions among the States that cannot be and are not reflected in S. 354.)Report, pp. 27–28).
>
> (6) The need for national standards is clear. (Report, pp. 27–28).
>
> That law school classmate or lawyer friend may not have read the Report—or he may be looking at the issue with an eye on his "personal experience."

I find that the words of that letter are particularly compelling because, indeed, I have found that to be true among my lawyer friends. I, like every other Member of this body, have received telephone calls, letters and telegrams from lawyers, mostly trial lawyers, who say that for some reason this bill should not be passed

by the Senate. Reviewing the arguments set forth by the Senator from Michigan (Mr. HART), I think we have given an answer to that plea. I think the warped viewpoint taken by those referred to in the legal profession is clear. They have a fear that this bill will decrease their opportunity to practice law and earn fees. I do not believe that is so. I think that there will be ample opportunity for help and assistance from the legal profession, and I have great pride in the legal profession.

I do not downgrade the legal profession or say anything in disparagement of it. Without lawyers we would have a very difficult time living in a complex society, as we do. We depend on lawyers and they give us good service. But I think in this instance, and I do not include all of them because I know there are many capable and competent lawyers who are Members of this body who strongly support this bill, some of them are myopic about this bill and are launching a campaign that has been very distorted and shortsighted, and not based on fact.

THE SEARCH FOR RELIABLE COST INFORMATION

During the debate on no-fault automobile insurance at the Federal and State levels, a wide variety of cost estimates have been provided by both proponents and opponents. The estimates of opponents usually show a cost increase, and those of proponents generally show a cost decrease for a given no-fault plan. In order to eliminate the bias and guesswork in the costing of no-fault automobile insurance plans, the National Association of State Insurance Commissioners, in cooperation with the Department of Transportation, conducted a search for a reliable actuarial firm that could cost various no-fault plans at the State and Federal level upon which policymakers could rely. After an intensive search, the National Association of Insurance Commissioners selected the actuarial firm of Milliman and Robertson to develop a standardized computer costing model which could be applied to various no-fault plans to produce reliable and comparable costing results.

MILLIMAN AND ROBERTSON'S COSTING OF S. 354 AS FAVORABLY REPORTED BY THE SENATE COMMITTEES ON COMMERCE AND THE JUDICIARY

Following the favorable report of S. 354 from the Senate Commerce Committee, Senator MAGNUSON requested the Department of Transportation to engage the actuarial firm of Milliman and Robertson, to cost S. 354, as reported, using its computer costing model. By the terms of this contract, variations not in compliance with the minimum Federal standards in S. 354 were also calculated in order to give members of the Senate necessary cost information so as to evaluate any proposed amendments to S. 354.

In costing S. 354, Milliman and Robertson concluded that, if S. 354 were enacted, there would be a reduction in average insurance premium costs, both total premium cost and personal injury premium cost, in each and every State. These projected savings appear in the Senate Judiciary Committee's Report on page 23 and page 68.

While Milliman and Robertson, as all competent actuaries would, included caveats with regard to the cost information they provided, the actuaries who prepared the report stated that: "the conclusions presented in this report are probably the best estimates available."

In the rear of the Chamber we have two large charts showing the computations made by that actuarial firm chosen by the State commissioners themselves as to the great value of S. 354 type of no-fault insurance and cost savings in each State that would be realized by policyholders. In every case there was a cost saving.

I return again to say that we are talking not only about savings in premiums by those who have to buy or who do buy insurance, but we are talking about insurance that returns almost twice as much money, because everybody who has a medical injury of any kind can get his hospital and medical costs paid promptly by his own insurance company, and everybody who is hurt will get paid, and not half of them just left out because of some exclusion based upon fault.

I therefore think we must not recommit the bill. I think we have more information now that has been developed before the Senate than any State legislature has had. My colleague said 20 State legislatures—I thought it was only 19, but 20—have already moved into the field of no-fault. I say more information has been gathered here, discussed more fully, and discussed from more angles, than has happened in any of the 20 State legislatures. If 20 of them are ready to move, certainly we have all of the information at hand for us to move. Therefore, to recommit the bill would certainly be the wrong way to dispose of the legislation before us.

Mr. HRUSKA. Mr. President, I yield 6 minutes to the Senator from North Carolina (Mr. HELMS).

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 6 minutes.

Mr. HELMS. I thank the distinguished Senator from Nebraska. I shall be brief.

Mr. President, with all deference to and respect for the distinguished Senators who support this legislation, I feel obliged to say that this appears to me to be just another instance in which the Senate is saying to the people of this country, "Washington knows best, and it does not really matter what you want or what your State legislatures think is best for your States."

Mr. President, speaking in a broad view, I must say again what I have often said before on this floor and elsewhere—that superior wisdom does not reside in Washington, D.C. If it did, we would not be in the economic fiasco that is gripping this country.

My own State operates on a balanced budget. It appears that the thought in Washington is that a balanced budget is a thing of the past, that it is outmoded; and it is precisely because of Federal programs like this, some of them even worse than this, that we are in the national fiscal mess that we are in.

On this particular matter of legislation, Mr. President, I think we ought to be candid with the people and say to them that "What we are doing here is voting to increase your insurance premiums unless you happen to live in 6 out of the 50 States—six urban States. If you live in any of the other 44, tough luck. Too bad about that."

In my own State, it is estimated that the increase in insurance rates may be as high as 25 percent, as a result of this legislation.

Yesterday, Mr. President, as I said on the floor here, I have reservations about the so-called National No-Fault Motor Vehicle Insurance Act. In my view, the policy underlying the McCarran-Ferguson Act which states that the "continued regulation and taxation by the several States of the business of insurance is in the public interest" is as sound and viable today as it was in 1945, the date of its enactment.

I think Congress should abide by its dictates. I deeply fear that to deviate from the current policy in favor of the course suggested by national no-fault motor vehicle insurance is to recognize the inevitability of eventual Federal control over all types of insurance. Such a result is to be feared because it is manifestly not in the best interest of the American motorist.

While it is not my primary purpose today to address myself to the constitutional questions presented by the bill, I do feel it is my duty to register my belief that this proposed legislation may very well be unconstitutional. It would compel the States to create and utilize their own instrumentalities, officials, and facilities to implement and administer the pervasive and far-reaching Federal program contemplated by this bill. Title III provides that in the event a State does not enact conforming legislation, the provisions of title III will be imposed upon the State to be administered and regulated by it. State agencies would be compelled to administer federally established requirements, and they would be required to legislate in response to Federal directions. One may very properly question whether Congress has the power to compel the States to administer a Federal law even if the States are not willing to adopt such provisions.

And that is precisely the point, Mr. President. I for one think we have had enough of Federal controls on the people. We have had enough—indeed, too much—preemption of the rights of the States. I for one think the State legislatures are still competent to decide what is best for the people of their States. I for one regret what has been correctly described as the twilight of the States. And I think the freedoms of the people lie inevitably in protecting and preserving the rights of the States to make judgments which, in my view of the Constitution, are solely within the purview of the State governments.

Therefore, I commend and support the motion to be made by the distinguished Senator from Nebraska to recommit this bill. I support the motion because I am opposed to this legislation, and I think

there ought to be further consideration, notwithstanding the contention that sufficient consideration has already been given. I think the bill is defective and I think that much greater consideration as to its implications ought to be given than has been given to this point.

I thank the Senator for yielding to me.

Mr. MOSS. Mr. President, how much time remains on the motion of the Senator from Nebraska?

The PRESIDING OFFICER. The Senator from Nebraska has 4 minutes. The Senator from Utah has 3 minutes.

Mr. HRUSKA. Mr. President, I have no further requests for time.

Mr. MOSS. Mr. President, I had expected the Senator from Montana (Mr. METCALF) to come here, but he has not arrived yet. The time has about expired.

Mr. President, I am willing to agree with the Senator from Nebraska to yield back our time and then to suggest the absence of a quorum, because some Senators are counting absolutely on that 1:45 p.m. time for the vote to start.

With that understanding, I yield back my time.

Mr. HRUSKA. Mr. President, I yield back the remainder of my time on that understanding.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOSS. 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. MOSS. Mr. President, I ask unanimous consent that I may yield to the Senator from Montana (Mr. METCALF) for a statement not to exceed 3 minutes, despite the unanimous-consent agreement that was entered into earlier.

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

Mr. METCALF. Mr. President, in 1937 I was a member of the Montana Legislature that passed a statute requiring that any insurance contract written on Montana property had to be countersigned by a resident Montana agent. Subsequently as an assistant attorney general I argued in behalf of the statute before a three-judge court in support of the constitutionality of such a regulation as being within the sovereign right of the individual State to control and regulate insurance. I briefed the case for an appeal to the U.S. Supreme Court and had hoped to argue it, but prior to the hearing the court decided a Virginia case (*Osborn* v. *Ozler*, 310 U.S. 53) and on the basis of that case in a memorandum opinion decided the Montana case (*Holmes* v. *Springfield Fire and Marine Ins. Co.*, 31 U.S. 606). The lower court case is reported in 32 F. Supp. 964.

I cite this early litigation in which I was involved solely to indicate that I have been long involved with the question of State or Federal control of insurance.

With the possibility of arguing a case before the U.S. Supreme Court, I read every case even remotely in point at that time. It was only natural, therefore, as I briefed the case of Holmes against Springfield Fire and Marine Ins. Co., I became so imbued with the rightness of the concept of State control of insurance that even today it is basic in my approach to the insurance business. Whenever I think of regulation of the insurance business, I still remember Paul against Virginia and can even today reel off several other leading cases supporting State regulation and State control.

Of course, that legislation related to property which had a fixed situs within the State and the legislation before us relates only to motor vehicles which in this day and age have a mobility upon a national scale.

Mr. President, in the course of consideration of this legislation, I have talked to representatives of trial lawyers from Montana. Many of them are very close friends and are plaintiff lawyers, without whose efforts scores of litigants would have been denied fair settlements by the insurance companies. I have talked with representatives of the Trial Lawyers Association and have a community of interest with this group. Over the years the insurance companies have been so defiant of simple justice and so derelict in their responsibilities to their insured that had it not been for the efforts of the trial lawyers, casualty insurance would have been nothing but a racket, all coming in and no benefits going out.

I refer to these cases and this background in order to help describe the ambivalence in my approach to this legislation.

In the years that have elapsed since my activities in the Montana Attorney General's office, I have been concerned with the regulatory activities of various agencies. In the days when I was enthused about support for Insurance Commissioner Holmes in his regulation of insurance companies, I did not realize he was almost unique among regulators. Most of the State regulatory commissions, in my experience, have been captives of the very companies they are required to regulate. This is especially true at the State level.

This is true for commissions regulating electric utilities, intrastate railroads, so called blue sky stock regulations, natural gas companies, food and drugs, and so forth. There is a profound disillusionment among the people of America as to the effectiveness of their regulatory agencies at the State level. Many and many times these regulators work hand in glove with the very companies they are required to regulate. This has been true in Montana.

A no-fault insurance bill was considered in the Montana legislature in this year's session just recently adjourned. It failed to pass by a substantial majority. During the recent Easter recess, I talked to some of the legislators about their reasons for voting against the bill. Some were flatly against the whole concept, others disagreed with certain provisions, but several, perhaps enough to have made a difference as to the passage of the legislation expressed dissatisfaction with the kind of supervision the incumbent insurance commissioner would give such legislation. These legislators believed that passage of a State no-fault law with the sort of regulation demonstrated by the present commissioner of insurance would not only deprive the citizens of the State of Montana of the kind of automatic regulation served by an active and alert bar, but would give the insurance companies further unshackled control. I can understand that attitude. The incumbent insurance commissioner consistently identifies himself with the companies he is supposed to regulate rather than the people whose interests he is supposed to protect.

I have had personal experience of this bias on his part. In the last Senatorial election he directed a letter to the insurance companies identifying himself with the insurance industry he was supposed to regulate and deploring "Federal encroachment on our business." Nevertheless, despite the fears expressed about Federal encroachment, this bill grants substantial authority to the State regulators and provides a great area in which the State legislatures have authority to act above the minimum standards set in the proposed Federal legislation. This is not pre-emptive legislation in the same sense that some Federal acts completely take over the regulation of an industry.

Almost all of the opponents of this legislation to whom I have talked have stressed that they too believe in the urgent need for some improvement in the manner in which casualty motor vehicle insurance is administered. For example, Mr. Chesterfield Smith, president of the American Bar Association, certainly one of the most eminent and distinguished lawyers in America today, while opposing "Federal no-fault without reservation," suggested that the States can best respond to this "urgent need for reform" and said that he wanted "the States to alleviate existing deficiencies in their automobile reparations systems."

In any event, the State legislatures, for one reason or another, have been reluctant to act. Meanwhile, the problems continue to increase.

Courts are clogged with automobile accident cases. Some who have lawyers and can survive the long wait for jury trials get adequate verdicts. Others who have relatively small claims and are unable to fight their cases through the courts get very little. The inequities become greater and greater. A system that has been productive has finally broken down in the sense of equality before the law.

I recognize that this breakdown is not so apparent in sparsely populated areas such as Montana. But even in our rural area, where insurance will be required and benefits will be more uniform, I think the merits of this bill are greater than the defects. Therefore, I am going to vote for S. 354.

Mr. CHURCH. Mr. President, the Senate is about to vote on the Federal

no-fault insurance bill. I shall vote to recommit the bill to committee and, if the recommital vote fails, I shall vote against final passage of the measure.

I have no objection, on principle, to the concept of no-fault insurance, nor am I categorically opposed to enactment—at the proper time—of Federal legislation in this field.

However, I believe that national legislation establishing uniform standards for no-fault insurance is definitely premature.

A majority of the States have not yet passed any form of no-fault insurance. In Idaho, the State legislature has twice rejected no-fault proposals. Idaho's Governor, Cecil B. Andrus, who has expressed opposition to a Federal no-fault plan at this time, has assured me that prospects for passage of a suitable plan, at the State level, should be much brighter during the forthcoming legislative session. I sincerely hope this proves to be the case.

Of those States which have enacted no-fault laws, sufficient time has not elapsed to provide enough experience from which to draw reliable data. As the matter now stands, I have no way of knowing whether the Federal bill now before us would increase or decrease insurance premiums in Idaho.

Due to amendments already adopted on the floor, opponents of this bill argue that automobile insurance premiums in Idaho might be increased as much as 38 percent upon enactment, while those favoring the bill contend that overall automobile insurance premiums would decrease by 7 percent. Such a disparity in the figures bear out my misgivings that, at best, the impact of this bill is purely speculative. I do not believe the Senate should act in the dark when it comes to so significant a change in the law.

Second, Congress will soon begin consideration of a national health insurance plan. Every indication points to the adoption of a plan which, at the very minimum, will cover heavy medical care expenses above a certain threshold to be specified in the law. Such a plan will become the primary source of financial coverage for medical and rehabilitation care resulting from serious automobile accident injuries. Enactment of a national health plan would thus provide the basis for reducing automobile insurance premiums covering personal injuries, since the insurance policy would need pay only that part of the medical bill not covered by the national health insurance plan.

Enactment of the no-fault bill, at this time, simply puts the cart before the horse. Before Congress adopts a Federal bill, the States should be given sufficient time to enact and experiment with differing no-fault programs. In that way, reliable data based upon experience and comparison will become available to the Congress. Also, the passage of a national health plan in the interim will profoundly affect the type and scope of Federal no-fault automobile insurance that should be ultimately considered.

The time may come, after most States have adopted no-fault plans of their own, to establish Federal standards, in order to achieve a uniform national system. But now is not the time.

Mr. HRUSKA. Mr. President, I ask for the yeas and nays on the motion to recommit.

The yeas and nays were ordered.

Under the previous order, and the hour of 1:45 having arrived, the question is on agreeing to the motion to recommit the bill with instructions. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. WEICKER (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Florida (Mr. GURNEY). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. MANSFIELD (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Arkansas (Mr. FULBRIGHT). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT) is necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) is necessarily absent.

I further announce that the Senator from Florida (Mr. GURNEY) is absent due to illness in the family.

The Senator from Hawaii (Mr. FONG) voted "present."

The result was announced—yeas 40, nays 54, as follows:

[No. 163 Leg.]

YEAS—40

Aiken	Dole	Mathias
Allen	Domenici	McClellan
Baker	Dominick	McClure
Bartlett	Eagleton	Montoya
Bennett	Eastland	Nunn
Bentsen	Ervin	Packwood
Bible	Fannin	Scott, William L.
Brock	Goldwater	Sparkman
Buckley	Hansen	Stennis
Byrd, Harry F., Jr.	Helms	Talmadge
Church	Hollings	Thurmond
Cotton	Hruska	Tower
Curtis	Johnston	Young
	Long	

NAYS—54

Abourezk	Hatfield	Nelson
Bayh	Hathaway	Pastore
Beall	Huddleston	Pearson
Biden	Hughes	Pell
Brooke	Humphrey	Percy
Burdick	Inouye	Proxmire
Byrd, Robert C.	Jackson	Randolph
Cannon	Javits	Ribicoff
Case	Kennedy	Roth
Chiles	Magnuson	Schweiker
Clark	McGee	Scott, Hugh
Cook	McGovern	Stafford
Cranston	McIntyre	Stevens
Gravel	Metcalf	Stevenson
Griffin	Metzenbaum	Symington
Hart	Mondale	Taft
Hartke	Moss	Tunney
Haskell	Muskie	Williams

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Mansfield, against
Weicker, against

ANSWERED "PRESENT"—1

Fong

NOT VOTING—3

Bellmon Fulbright Gurney

So the motion to recommit was rejected.

Mr. MOSS. Mr. President, I move that the vote by which the motion to recommit was rejected be reconsidered.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOSS. Mr. President, while a number of Senators are still in the Chamber, I should like for just a few moments to talk about the bill.

First, let me say that I am very much gratified the Senate has faced up to the problem of dealing with this piece of legislation. It would have been a tragedy had we recommitted the bill and started around the course again because we have been doing this for about 5 years now.

As the debate on the National No-Fault Motor Vehicle Insurance Act (S. 354) draws to a close, I would like to discuss with my colleagues what I think their vote on S. 354 means.

A "no" vote on S. 354, to my mind, means that we are willing to turn your back on the thousands of automobile accident victims who receive no benefits whatsoever from the present automobile compensation system even though collectively all drivers spend more than $16 billion a year for automobile insurance. It means we are willing to see the families of seriously injured automobile accident victims spend all of their resources, lose their homes, and even go on welfare, because they have been, by delay in payments and the risk of litigation, compelled to spend every penny to keep a loved one alive. The debate on this bill has focused on most everything, but the automobile accident victim and the shoddy treatment he receives under the fault based automobile insurance system. The lifesaving potential of no-fault resulting from the fact that insurance dollars will be timely available to pay for emergency medical services of each and every automobile accident victim, has been largely ignored. The life-restoring potential of an insurance system which provides all automobile accident victims necessary medical and vocational rehabilitation has been mentioned only in passing.

A "no" vote, then means rejection of a fair and more humane methods of compensating automobile accident victims.

Those who vote against S. 354 may piously state that they are all for no-fault insurance and agree with the President that it is an idea whose time has come. But, they will argue, S. 354 intrudes upon the Federal system.

Ones so inclined to argue should read the bill, section 109(a) says regulation and taxation of insurance shall be left to the States. Rather than exercising Congress' preemptive power, the bill in all particulars exemplifies the Federal-State partnership or sharing approach which is in so much vogue today.

Some of my colleagues will justify their vote against this bill, because someone has said that it may increase the cost of automobile insurance. Actuarial information compiled by an independent source chosen by the National Association of Insurance Commissioners demonstrates beyond a reasonable doubt the cost-savings potential of S. 354.

The cost debate, however, ignores one essential ingredient. The no-fault automobile insurance package is far more valuable to the American consumer than the present automobile insurance package to which it is compared. While State no-fault plans under S. 354, as modified by the Senate, will save consumers in some States as much as 20 percent, the no-fault program wil compensate as much as 50 percent more injuries and pay automobile accident victims as much as 50 percent more dollars than does the present system to which it is compared.

It seems incomprehensible to me that in this time of spiraling inflation and dilution of quality, that elected representatives of the people could vote against a program which would assure American consumers a much more valuable product than the one they are presently buying and at a lower cost than they are presently paying.

Mr. MAGNUSON. Mr. President, will the Senator from Utah yield at that point?

Mr. MOSS. I yield.

Mr. MAGNUSON. Is it not true that after all these deliberations which we have had, one bit of evidence shows that in the States which did have some no-fault insurance laws, the premiums went down?

Mr. MOSS. That is correct. Also, automobile accidents went down.

Mr. MAGNUSON. The Senator mentioned something I was going to bring up and I wish to join him in it, and that is that all the conversation has been about details of the bill and nothing has been said about the victims.

Mr. MOSS. That is right.

Mr. MAGNUSON. I suppose that you and I would like to be able to say that we would like a bill that would be perfect, but we cannot. But I have never heard anyone in all this debate stand up in this Chamber, or anywhere else, and suggest that the present system is right and that we do not need to do something about it.

Is it not also true that over 2 million people are seriously hurt every year in automobile accidents, and even if they had adequate insurance to cover the claims, some of them have to wait 2½, 3, 4 years, before they even get a nickel. This is the victim I am talking about.

But here we are, sitting around with a system that we know is a national scandal. Yet Senators will vote against the bill, because of some little thing they just do not like. I wish I could write a perfect bill but this one is so complicated we cannot do so. But we have got to make a beginning. We would not be here if all the States would pass a no-fault insurance bill.

Mr. MOSS. Of course, not.

Mr. MAGNUSON. We would not need to be here at all discussing this bill. But we must have some sense of uniformity here. I cannot understand, for the life of me, why anyone would suggest that we should not be doing something about it.

Not one prominent newspaper in the United States has come out and said we should not pass a no-fault insurance bill. Most have said that we should have one, and they have looked into it. Even parts of the American Bar Association have done so. But as to the debate here that the Federal Government has no responsibility for the 2 million Americans who do not get anything, about half of them never even get paid up to 2 years.

Mr. MOSS. About half.

Mr. MAGNUSON. Even if they have insurance.

I received a notice about 6 months ago that my premium for personal injury liability was increased about 35 percent.

I cannot believe that the Senate is so insensitive to 2 million people as to let the matter drag alone. If I should be reelected to the Senate, it will be another entire term before anything shows up in the way of a national no-fault insurance plan. It will not happen. I know State legislatures. I served in mine. I know who handles these insurance bills. Most of them never even get out of committee, for one reason—just one reason.

I cannot see how the Senate can be so insensitive to the victims, as the Senator from Utah has pointed out.

Where does the $8 billion go? "You're in good hands." Put a buck in there and you have a chance at 50 cents.

Mr. MOSS. Forty-four cents, to be exact.

Mr. MAGNUSON. Forty-four cents, to be exact. Even Las Vegas has better odds than that.

I cannot understand the insensitivity of Members of the Senate to 2 million victims.

If every State were to pass a no-fault bill in the next 4 years, that would be fine, but it will be 10 years. In the meantime, these people are not getting paid. They are waiting. They are paying in double the amount they should.

The Senator has made a good point: We talk about everything on the Senate floor except the victims, the 2 million a year who are seriously injured.

Mr. MOSS. I thank the chairman, the Senator from Washington, for his remarks. I agree with him. We have been worrying a great deal about States' rights and about Federal intrusion, but we have not been worrying about the people who suffer now under the present system—about 2 million a year—who have no recourse for medical services after they have been injured in an automobile accident.

Mr. President, I yield to the Senator from California.

THE "PUBLIC PROFESSION" AND ITS POCKETBOOK

Mr. TUNNEY. Mr. President, it will come as no secret to our colleagues to learn that the negligence lawyers of this country will lose hundreds of millions of dollars in legal fees if the legislation before us passes.

I happen to believe that the tort-based open market in personal injury cases is a cruel drain on the insurance consumer's pocketbook and a notorious waste of skilled human resources of the legal profession.

I also believe that lawyers both individually and collectively have an absolute right under our Constitution to lobby us, to bombard us with pleas and arguments, and even to make clear their intention to punish by political action those who would deprive them of a substantial portion of their livelihood.

But when, in so doing, the lawyers wrap themselves in the robes of defender of the Constitution, officer of the court, public citizen, defender of the rights of man, they run the risk of weakening both the profession and those institutions of the organized bar through which they have labored long and hard to build a tradition of public service and advocacy which transcends the lawyer's pocketbook.

The Judiciary Subcommittee on Representation of Citizen Interests, which I chair, is particularly concerned with the impact of bar association activities on the quantity and quality of legal services available to the public. We have been exploring the extent to which the ABA and other bar groups are "self-serving or serving the public," and held a hearing precisely on this topic at the ABA midwinter meeting in February. While testimony by ABA witnesses and others at that hearing persuaded me that the bar has done much good and important work in the service of the public, its action in telegramming Members of the Senate to urge defeat of Federal standards for no-fault would clearly seem to be self-serving.

The recent director of the association's Washington office identified the unique strength of the ABA as lying in its "disinterested expertise." He continued:

> Congress and the Administration know they can look to the Association for expert technical advice and rely on it for *objective* comments on matters of policy. In Washington, where so much political influence is based on campaign money and potential votes, the ABA can only fall back on its prestige and on the credibility it has built up over the years.

There have been leaders of the bar who have recognized the dangers to the integrity of the bar's institutions inherent in the self-serving campaign to preserve negligence fees. In a speech to the District of Columbia in January 1973, dealing with the appropriate legislative role of the ABA, Robert W. Meserve, then president of the ABA, emphasized the unique public responsibilities of lawyers and their profession.

He said:

> We are members of a trade association but we have chosen to earn our living in a unique profession. In making this choice we have committed ourselves to unique obligations. Law is a public profession. Those who practice it have unavoidable public responsibilities. The individual lawyer is first obligated to the honest, competent and full representation of his client's cause. Beyond that, however, lawyers, collectively, have a responsibility for participating in the public

life of our society. Lawyers, collectively, are possessed of talent and knowledge which others may not have. Lawyers, traditionally, participate as leaders, as well as technicians, in all major social enterprises. The combination of capacity and position describe the collective responsibility which lawyers have, with respect not only to their client's problems but with respect to their country's problems.

In that speech, Meserve set forth as a guiding principle for ABA advocacy the choice of issues "selected from among those touching on the good of the public in general, rather than on the particular interest of lawyers as lawyers. He referred to pressures by State bar groups on the ABA to assume an aggressive posture in lobbying against no-fault legislation. And he urged the bar to resist such pressures, cautioning that such advocacy could "bring us into disrepute for selling too hard, or over-selling."

Three months later, carrying out the instructions of the ABA's house of delegates, then-President Meserve delivered a strong statement in opposition to the National No-Fault Motor Vehicle Insurance Act. I had, and I continue to have, great respect for Robert Meserve and I believe that in many ways he ranks among the most enlightened and progressive presidents of the ABA. In delivering his testimony, he was plainly carrying out the wishes of the majority of the ABA house of delegates. The substance of his statement has since been reaffirmed by current President Chesterfield Smith in testimony before the Judiciary Committee earlier this year.

In Meserve's statement, he attempted to respond to the criticism that lawyers, having a vested interest in the present system—

Cannot be trusted to speak with either objectivity or authority.

He answered that the lawyer's financial interest—

Is minor in both relative and absolute terms compared to that of the automobile insurance companies in particular and other major segments of the insurance industry as well. That is, a relatively minor part of the legal profession's income comes from the automobile insurance premium while most of the income and the very existence of the automobile insurance industry is dependent upon it.

Furthermore, he admonishes us that—

If the lawyer is disqualified because of his involvement in the system, this leaves the issue in the hands of those who would seem, on the basis of actual experience, to know the least about it.

It is not very comforting to be told that the financial interest of the lawyer is "minor in both relative and absolute terms," for in fact it is not. Not only do fees from auto accident cases account for fully a quarter of the income of the legal profession in this country, but these fees obviously account for a much larger proportion of the income of the trial lawyers. Within the ABA and its committees and sections, it is the trial lawyers among its membership that have spearheaded the drive toward aggressive anti-no-fault positions.

A letter to the Commerce Committee from the National Association of Criminal Defense Lawyers purports to express the opposition of "all lawyers across America" to the passage of S. 354, the National No-Fault Motor Vehicle Insurance Act.

But the fact is that not all lawyers oppose no-fault. Even with the intense lobbying within the ABA of the trial lawyers, the house of delegates was divided on the no-fault issue.

Nor is it unrealistic to believe that lawyers can transcend their pocketbook concerns in viewing no-fault reform. New York City and the New York Bar surely have no dearth of articulate trial lawyers with a heartfelt stake in the status quo yet the Association of the Bar of the City of New York has called for complete abolition of auto negligence lawsuits.

It has been my experience in speaking informally with lawyers throughout my State that the harshest critics of the present tort system are to be found among nonnegligence members of the bar—those who have seen the injustice and inefficiency of the system at close hand, but who are not blinded by their own economic stake in the tort system.

It would probably have been wisest for the ABA to emulate many State and local bar associations who adopted positions of neutrality on the no-fault issue. Or, the ABA could have established a study committee or commission made up of lawyers who had no economic stake in the preservation of the present tort system. It would have been possible for those members of the House of Delegates who had an economic conflict-of-interest in the preservation of the tort system to abstain from voting on the question of the ABA's position. In that way, it would have been possible for Congress to have benefited from the "disinterested expertise" of the ABA.

This was not done, and as a result neither Congress nor the organized bar have benefited by an objective appraisal from the ABA.

I ask unanimous consent that the remarks of then-ABA President Robert Meserve before the Bar Association of the District of Columbia on January 9, 1973, and an article in the December 1971, Juris Doctor, entitled "Where Insurance Fails: No Fault But the Lawyers," by Fred M. Lowenfels, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. TUNNEY. I believe that Mr. Meserve was a very progressive president of the ABA and that he was innovative, but in this particular case he made a mistake. It is too bad that others connected with the bar have made a similar mistake.

I cannot help feeling that when the bar lobbies Congress heavily against no-fault, and we recognize that approximately $1.4 billion in legal fees are paid out every year as a result of tort liability related to automobile accidents, the bar is speaking from self-interest. Over 50 percent of the Members of the Senate are lawyers—two-thirds to be exact—and we have to separate our desire to see our profession do well from our desire to serve the public interest. We are not here as lawyers; we are here as Senators. We have a responsibility to the people of this country and that is our major responsibility. I am most disappointed that our trade association, the American Bar Association, has taken this very strong stand against the bill, a bill which would benefit the people of the United States.

EXHIBIT 1

REMARKS OF ROBERT W. MESERVE BEFORE BAR ASSOCIATION OF THE DISTRICT OF COLUMBIA, JANUARY 9, 1973

Ladies and gentlemen, it is indeed a privilege for me to have the opportunity of sharing this meeting with you. I bring you the greetings and best wishes of the one hundred sixty thousand members of the American Bar Association, some of whom, of course, are you.

One of the duties of the position I hold is to meet with as many state and local bar associations as possible. It is hard work and I love every minute of it. The list of places where I have not been is now substantially shorter than the list of places I have been and I can assure you that by next August, when I pass the gavel on to my successor, very few will have escaped. I would like to report on three incidents which have occurred in my travels—you may have heard me tell one or more of them before:

It would be very difficult for me to try to give appropriate individual accolade to the dozens, if not hundreds, of district lawyers who have given, and still give, faithful service to the American Bar Association and its affiliates. They include members of the judiciary like Judge William Jones, now the head of our Division of Judicial Administration; distinguished members of the administration such as the Solicitor-General, who will, I am afraid, always be Dean Erwin Griswold to me, who leads the American Bar Foundation; educators like Dean Clinton Bamburger of Catholic University, head of NLDA; and active members of the practicing bar like past American Bar Association President Charles Rhyne, now active at my request in the affairs of the proposed Institute for Justice; Ed Campbell, a member of our Board of Governors, and your State Delegate Sidney S. Sachs. I hope that no one of the rest of you will feel hurt at my failure to refer to him or to her. We are grateful for all their help and I see many of them here this noon.

[Stories—re brevity; re Identity of person; and re stories.]

Washington, D.C., is naturally enough a very special place for all Americans, and all the more so for lawyers. It is, to use the current expression, the place "where the action is". The very word "Washington" is synonymous with power and with events that materially affect our lives and the lives of every one in the world. There is a tendency to forget that there is a Washington which is a home of ordinary people—people not intimately connected with events which might influence the price of gold or the quality of the air or our chance for survival, or even of the survival of our world.

Because Washington is a city of more than ordinary beauty, we *auslanders* may forget it has at least its full share of the problems facing all our cities.

We also may forget that many highly skilled lawyers practice here the same kind of ordinary law as is practiced elsewhere. People are born and die here, are married and divorced here and become rich or poor

here just as in Boston or Cleveland or Tulsa. Naturally if they are well advised, they will not attempt any of this without sound legal advice. We are too ready to view all Washington lawyers as "super lawyers" whose esoteric arts will save our clients from unspeakable conflict with the vast and unknowable government after we have given up in despair.

In any event, I am delighted to be here. As you know the American Bar Association will hold its Annual Meeting here next August. Around the Bar Center in Chicago and in accordance with long standing custom, the 1973 Annual Meeting is now referred to as "Bob Meserve's meeting". I suppose that means I am responsible, at least for anything that goes wrong. If that be so, I will tell you that there is no place I would rather be exposed to that risk than here. The hospitality from which I have benefited today and on countless occasions in the past, only reaffirms the satisfaction with which I contemplate that "my meeting" will be in Washington. My only hope is that the host committee can air condition the whole District.

I suppose it is understandable that I want to speak briefly this noon about an aspect of the American Bar Association's program which is most readily suggested by the unique character of Washington events. I refer to the Association's program of legislative involvement.

As you all know, not only is lobbying an honorable profession in this city, it is very much part of the life blood of the city. For good as well as for bad, for the benefit of the many as well as for the few, groups and individuals come to Washington to influence law makers. "Come to Washington" is incorrect in many instances. Hundreds of organizations are permanently here, the American Bar Association among them. Some would characterize lobbying, in general, as a corruption of the democratic process. But more and more we are seeing the need to provide representation for all interests. Congress needs to consider interests which are not easily identified or traditionally recognized; Congress needs information, fairly furnished to be sure, but information which only a party whose interests are involved in the subject under consideration can produce in many cases. So long as representation is clear as to interest and honest in presentation Congress will be aided if the points of view of all parties interested are fully developed. In this sense, the answer is not less lobbying, but more. That parties having an interest, whether traditional and well financed, or heretofore unorganized and largely without material resources, should seek to influence the legislative process indicates, after all, a certain commitment to that process and to democratic institutions in general.

The American Bar Association is unusual in that, while it maintains a legislative office in Washington, it operates on far more restricted basis than many organizations do. Again, to use the modern idiom, we maintain a very "low profile." There are hundreds of groups who employ more lobbyists; there are hundreds of groups who employ more lawyers in their legislative programs than does the ABA. The budget allocated to the legislative activities of our Washington Office represents a relatively small part of our total operating budget.

The scale of our operation here is not the result of oversight, or lack of sophistication, or some provincial view that the activities of the Federal government really aren't important to our members. Rather, it is the result of a deliberate determination as to what the Association's responsibilities are and how those responsibilities best can be met.

The first principle of the Association's legislative philosophy is that we can produce the best result by concentrating our efforts, and the prestige of our name, on relatively few issues. The second principle is that these issues are best selected from among those touching on the good of the public in general, rather than on the peculiar interet of lawyers as lawyers.

Behind these principles is a view of what a bar association is and ought to be. A bar association is, of course, in part a trade association. We are all, in one way or another, engaged in earning a living. It is natural that we should share common concerns in that respect. Part of the Association's total program is, and always has been, directed toward those concerns. The Association conducts a substantial educational program, a program which involves not only the substance of the law but the study and teaching of techniques and methods of practice designed to make the individual lawyer and the law firm more efficient, more productive economic units. While the client may benefit indirectly from these programs, they are primarily designed to aid the lawyer economically.

To some extent because the economic welfare of all of us depends on the degree of confidence the public is willing to extend to the legal profession in general, the Association is greatly involved with problems of professional standards. Just as the Association undertook a major revision of its own Canons of Ethics and produced the Code of Professional Responsibility a few years ago, the House of Delegates most recently adopted the Code of Judicial Conduct which is the first major revision of the Canons of Judicial Ethics. Although there are several grounds for involvement in this effort, it must be admitted that among them is the realization that the economic viability of our profession ultimately rests on the regard the public has for the total legal process. But self respect, public interest and professional responsibility, if that be any different, are also moving factors.

We are members of a trade association but we have chosen to earn our living in a unique profession. In making this choice we have committed ourselves to unique obligations. Law is a public profession. Those who practice it have unavoidable public responsibilities. The individual lawyer is first obligated to the honest, competent and full representation of his client's cause. Beyond that, however, lawyers, collectively, have a responsibility for participation in the public life of our society. Lawyers, collectively, are possessed of talents and knowledge which others may not have. Lawyers, traditionally, participate as leaders, as well as technicians, in all major social enterprises. The combination of capacity and position describe the collective responsibility which lawyers have, with respect not only to their client's problems but with respect to their country's problems.

This does not mean, of course, that every lawyer should seek public office, any more than it means that every bar association should take a position on every public issue. Many lawyers have found that support of and participation in the public service activities of a local, a state or the American Bar Association have provided the means of discharging at least part of their public responsibility.

Having determined that the American Bar Association's legislative program should be limited in scale, with its emphasis on depth rather than width, it followed that greatest emphasis should be placed on public matters. It is in this area that we can be of unique service to our members, it is here that we can be most responsive to the public character of our professional obligations. The "image", to use the Madison Avenue phrase, we seek to create is, therefore, one of public service orientation, centered on the establishment and preservation of a high degree of credibility. The technique is directed more toward information for Congress than pressure on it. The ABA, as such, controls no votes. It attempts to control none. Just as in advocating a client's cause, we ultimately must succeed or fail on the soundness of our arguments and the underlying evidence we produce.

The Association is fortunate in that, amongst its members, are not only very influential men and women, but experts in every conceivable area of the law and legally related problems. We call upon these individuals, and with great regularity they freely assist us in our legislative program.

This is our general procedural wish—objectivity, responsibility, selectivity. How do we determine what legislative programs we shall select for our effort?

Neither the American Bar Association nor any other bar association is the final arbiter of what is good for the public in general. That responsibility must rest with our elected officials. Yet when we presume to base argument before such officials on our concept of the public good, we do not do so lightly. Under its constitution and by-laws, neither the Association nor components of it, can take a public legislative position except after and as a result of action by the House of Delegates or the Board of Governors. The processes of these groups may sometimes be best described as ponderous. The fact that the logic of my presentation now demands that I defend the deliberate pace of these highly deliberative bodies cannot completely erase the frustration I have experienced in the past, and will experience again, in trying to produce an Association position. I must admit, however, that when a position is taken, it is taken responsibly and carefully, after full consideration, even in those instances when I as an individual may not agree with that position.

The time and effort which must be expended before the Association is able to adopt a legislative position partly reflects the diversity of opinions of lawyers. One of our staff men recently described one of our special committees as a group of nine men with fourteen distinct and incompatible points of view. Multiply this by one hundred sixty thousand and the dimension of the problem is apparent, for we deal with individuals whose training, experience and professional outlook seldom, if ever, direct them to unanimity.

One of the themes which is recurrent in debate before our House of Delegates is the position of the opposition that while that which is urged by the proponents cannot be said to be totally without merit, it deals with matters which are beyond the legitimate involvement of a bar association as such. It seems reasonable to me that the ABA ought not to take positions on issues at large which bear no relation whatsoever to the special skills or position of the profession. Most typically the link, the device which makes legitimate Association involvement, is that the policy is, or should be, reflected in substantive or procedural law. A given law should be passed or rejected, amended or repealed. I know of no convenient way to describe the line which must be drawn, other than the simplistic observation that a majority of the members of the House must be convinced that a proposed position is not only valid on the merits, but that it is appropriate for Association action—which means to me that lawyers, as such, have some special interest, involvement or responsibility to the rest of our society.

We are criticized, most typically (and, to some extent, justly) by the sponsors or opponents of specific legislation, on the grounds that our procedures are so slow, and result in our taking so few positions, that the ABA is often irrelevant with respect to its legis-

lative program. We are also criticized, most typically by our members of a strong conservative disposition, that we take too many positions and thus dilute our credibility and effectiveness. Because I am in so optimistic a mood, as a result of this splendid lunch and this excellent company, I am going to assume that these complaints cancel each other out and that the existence of both is some evidence that we achieve a "golden mean".

The maintenance of a low profile, the concentration on the furnishing of information rather than on quotable argument, and the limitation to (largely) pro bono issues results, too often, in no one knowing what is being done by us, beyond those immediately involved in doing it. It is regrettable that, while we are so criticized for inaction even on some of the issues we select, the very nature of our approach, which we believe produces good results, makes it difficult to claim the credit which is our due. Every time I hear about the ineffectiveness of our ABA legislative efforts, I want to talk about our legislative role in the establishment, support and protection of the OEO Legal Services Program and to point out that the twenty-fifth amendment to the Constitution of the United States on Presidential succession is, in large part, the achievement of an ABA effort. These efforts indisputably involve the public welfare as well as the welfare of lawyers.

The ABA has supported and continues to support tax legislation to provide retirement benefits for self-employed individuals which are more nearly equal to those enjoyed by corporate employees. While many lawyers would directly benefit from such legislation, it is not a "lawyer's" bill. Professional people in general would benefit, and equality of treatment as a principle itself has merit. Thus, our support of Keough type legislation is not inconsistent with a general public interest approach, although it also may benefit self-employed lawyers.

Perhaps the most difficult area for the Association to operate in, is with respect to such matters as concern both the public, generally, and the economic interest of lawyers specifically. The obvious current example is "no fault" automobile insurance legislation. The American Bar Association has been strenuously criticized by some state bars for not actively leading a campaign against this kind of legislation on state as well as on the Federal level. That the current position of the House of Delegates could not be used to support such a campaign merely shifts the blame, as our critics see it, to that group. To them the fact that the long standing legislative approach of the Association is not compatible with such a campaign merely calls into question the appropriateness of the overall approach I have favored. That the experience of others who have tried to conduct such a strenuous—perhaps overstressed—campaign has not been good makes no difference to these critics, either.

It will come as no surprise to you to learn that other members of our Association are equally disturbed by the Association's failure to support a broad and strong "no fault" bill.

The only response we can effectively make to those who would have us take a clearer role on this question is to point out that, like the residents of the District of Columbia, the American Bar Associataion has no Senators (speaking legislatively or athletically). State bar associations are made up of influential people who may be able to influence their own congressional delegations. In any event they will have a better chance than the ABA has. We can, and should, tell the state and local bars where and when they might move on some legislative matters, and they can use their own judgment as to how they should move—but we should not change our own policy. I suggest, because by and large, it works, and does not bring us into disrepute for selling too hard, or overselling. And I surely hope that the American Bar will show, by its choice of legislation to support or to oppose, that we are not acting either in blind support of the *status quo* or going overboard for all new innovations just because some others may. We should act for good reason, in the public interest as we see it, and after the exercise of independent judgment. The need for independent judgment, fully informed, is illustrated for me by the [horse story.]

I am prepared, of course, to discuss fully the merits of the "no fault" insurance issue but I see my time has expired, for which, I suggest, we may all be sincerely thankful.

[Winston Churchill story.]

I would merely thank you again for your hospitality and urge that you all permit me to return it by inviting you to participate as fully as you can in the August Annual Meeting.

WHERE INSURANCE FAILS: NO FAULT BUT THE LAWYERS'

(By Fred M. Lowenfels)

("Lawyers' opposition to no-fault is clearly worse than that of just another interest group seeking to protect its pocketbook.")

The legal profession seems now to be the only professional group opposing adoption of no-fault proposals to replace the present tort liability system—a system in which costs of coverage far exceed benefits, in which accident victims suffer inordinate delays awaiting payment of claims; which congests the courts with automobile accident litigation, and which results in the arbitrary termination of too many insurance policies.

This opposition raises serious questions of professional responsibility and integrity. It is time for lawyers to lead the search for a solution to the problems caused by the outmoded and inequitable tort liability system, and no-fault proposals hold out the most promise of achieving improvement. Until the bar as a whole starts to deal realistically with these proposals, the reputation of the profession will remain tarnished.

While plaintiff's negligence lawyers and the vocal American Trial Lawyers Association have led the battle against no-fault, the prestigious 150,000-member American Bar Association also flatly rejects the no-fault principle. (The ABA originally adopted its position opposing the no-fault concept in 1969, after an 18-month study of the issue, and reiterated the stand at its annual convention last July.) Although the ABA represents less than half of the 370,000-member profession, the public understandably has the impression that lawyers in general oppose no-fault, and that lawyers holding public offices and lobbyists for bar groups have blocked no-fault laws on the state level.

The bar's opposition to no-fault should be placed in the context of the present system's economic and social impact. Facts compiled by the staff of the Senate Commerce Committee show that of the $14.4 billion that motorists paid in premiums last year, net benefits (after legal fees and litigation costs) paid to victims of automobile accidents came to $7 billion, less than 50 percent of premiums. Insurance companies took approximately $6 billion of the $14.4 billion for overhead and profit. Attorneys involved in personal injury and property damage cases walked home with over $1 billion in legal fees last year, according to the major Department of Transportation study of automobile insurance.

These fees arise from the approximately 200,000 auto accident lawsuits which the present tort liability system generates each year. Such cases consume more than 17 per cent of the time of the nation's judicial system. This litigation probably costs society more than the poorly spent premium dollars, as its volume frustrates efforts to reduce backlogs and streamline the judiciary.

The no-fault concept can, apparently, resolve many of these problems. This is indicated by the experience in Massachusetts, the first state to adopt a no-fault plan. No-fault laws are also in effect in Florida, Delaware, Illinois and Puerto Rico, and are being considered by some 25 other states and both houses of Congress.

The Massachusetts law provides a new accident insurance coverage of $2,000 per person. It pays almost all victims for all reasonable medical, surgical, dental, hospital, nursing and funeral expenses incurred within two years of an accident, regardless of who was negligent. An injured person can recover from his insurer for salary lost becaue of inability to work, and an unemployed person who can show that he would have worked can also recover. Both are also entitled to reimbursement for the costs of "ordinary and necessary" household services that they would have performed themselves had they not been injured.

The Massachusetts plan has succeeded in meeting its prime objective of reducing automobile insurance costs. Milton G. McDonald, the chief actuary for the Massachusetts Commissioner of Insurance, told *Juris Doctor* that under the state's previous compulsory automobile insurance law, rates would have increased 20–30 per cent this year. Instead, they were reduced 15 per cent, and further decreases are likely, McDonald said, in light of a more-than-55 per cent reduction in the average claim cost to about $150–$160 and a 57 per cent reduction in the number of claims filed.

The state's Commissioner of Insurance, E. Eugene Farnum, estimates that these reductions will lessen insurance company expenses for this line of coverage by about 25 per cent in the plan's first full year, and pending legislation would require insurers to pass along this saving to policyholders through dividends or refunds. In addition, automobile accident cases have begun to move out of the Massachusetts courts, and no automobile reparation cases were initiated in the state in the first six months of this year, McDonald said. And the negligence bar has found no examples of accident victims unable to receive fair compensation for their injuries, despite the decline in negligence suits.

Perhaps it is unreasonable and naive to expect lawyers to react toward no-fault insurance any differently than any other special interest group might react toward change in an institution that so affects its lifeblood. After all, automobile accident cases are estimated to account for one-quarter of the profession's total earnings. But lawyers, as officers of the courts, sworn to protect the interests of the public as well as of their clients, and holding many influential government positions, owe the public a far higher degree of objectivity and rationality. Their opposition to no-fault is clearly worse than that of just another interest group seeking to protect its pocketbook.

First of all, Canon 8 of the Code of Professional Responsibility obligates lawyers to actively support legal reform in the public interest. This means that lawyers should deal in facts, not fears, and should suggest ways of improving proposed reforms instead of obstructing needed change in an outmoded system. The canon demands the exercise of social conscience above considerations of personal and financial interest.

Secondly, the public has traditionally looked to members of the bar, particularly those who are legislators, to analyze, explain and seek to improve legislation.

Thirdly, lawyers have a responsibility to all their clients to work for a reform that will

decrease court congestion and thus improve the administration of justice.

It may be philosophically sound to argue in favor of a client's unimpaired right to sue those who have caused him wrong in an accident, but lawsuits do not generally redress that wrong. Thus lawyers can best serve clients injured in accidents by trying to change the current inadequate system. The Department of Transportation, or DOT, study shows that benefits are now paid to only 45 per cent of those seriously injured in auto accidents (or survivors of those killed), and that one out of ten receives nothing. An average permanently and totally disabled accident victim received liability payments of $12,556 for an average total economic loss of $78,000, according to figures compiled by DOT in 1967. Continuing this kind of "protection" to clients is a dubious service.

Finally, the major arguments that many lawyers have used against no-fault do not accurately reflect the facts. These arguments include:

No-fault will encourage careless driving by removing a deterrent to such behavior.

The ABA, particularly, has espoused this position, but insurance companies, not negligent drivers, pay for the results of negligence. And there is no evidence that the threat of a premium increase or policy cancellation significantly influences driving behavior.

No-fault will pay benefits to drivers who caues accidents while under the influence of alcohol or narcotics.

No plan has been adopted with this provision, and it is hard to imagine any such plan being passed. In Massachusetts, for example, drivers under the influence of alcohol or narcotics, committing a felony, seeking to avoid arrest, or intending to cause injury are not covered.

No-fault coverage disallows recovery for permanent disfigurement, amputation, loss of body function or pain and suffering.

This is untrue of most no-fault plans within certain limitations. Again, taking the Massachusetts plan as an example, a plaintiff cannot recover "for pain and suffering, including mental suffering, associated with . . . injury" only when the cost of treatment does not exceed $500. If the injury causes deaths, loss of all or part of a body member, permanent or serious disfigurement, a fracture, or loss of sight or hearing, then a plaintiff can sue for pain and suffering in a traditional tort liability suit, without regard to the $500 limit.

This $500 limit will, admittedly, prevent the person whose medical bills are small but who suffers greatly from recovering in a tort suit. However, most of those who undergo pain and suffering have substantial medical bills. The interests of the small number whose losses do not exceed the limit must also be weighed against the benefits of better and quicker compensation for the majority of accident victims. This exemption from tort liability also removes the incentive to insurance companies to pay inflated settlements for minor injuries to avoid the costs of threatened litigation.

Ths basic point that lawyers have not stressed in the debate on no-fault is that the present system results in massive injustice. Evolution of more sophisticated and speedy tort litigation, as proposed by the ABA, for instance, would not sufficiently improve the situation.

Heavy economic losses for many lawyers are a definite price of no-fault reforms, and a fight by lawyers against the change can be understood, if not condoned. But offsetting the personal costs to negligence practitioners are substantial social benefits. Until the bar faces up to the need for this change—and its inevitability—the public image of a conservative profession fighting an overdue reform will prevail. The bar should instead seek ways to utilize legal resources freed by no-fault reforms.

As New York City's Mayor Lindsay told a session of the ABA convention last July: "If the legal profession remains indifferent to the social needs around it, it will not prevent change, but it will be bypassed by change."

Mr. MOSS. I thank my colleague from California for his statement. I concur with him. I think it is a disservice for the bar, as a collective body, to lobby against the bill, perhaps without full knowledge about it.

Some of my colleagues say they intend to vote no on this legislation and they argue that the bill unduly restricts the right to sue for pain and suffering.

This is patently false. Only the medical and rehabilitation care which are automatically paid for all are excluded from suit, and lawsuit restrictions in S. 354 have been cut in half on the Senate floor. No one can argue effectively that the lawsuit restrictions are unfair or unduly restrictive. The lawsuit restrictions are drawn in such a way as to insure that the abuses of the present system are not carried forward into the new no-fault system. The bill insures that the most seriously injured automobile accident victims will receive payments for their pain and suffering. Under the present system most payments for pain and suffering are made to the least seriously injured.

Some of my colleagues will not try to explain publicly why they voted against S. 354. They will privately tell me that they made a foolish and early commitment to State trial lawyers to vote against the bill. While understanding their desire to fulfill their commitments, I only ask them: "Did they not make an earlier commitment to the people whom they represent to vote in their interest."

Some who vote "no" will also say that their governor or their insurance commissioner, or their State legislatures asked them to vote against this measure. I ask my colleagues: Did your State officials ask you to vote against this measure on the basis of informed judgment or on the basis of misguided philosophical objections? I ask them if in all matters that come before the Senate they pay complete "defference" to the wishes of their State officials?

In discussing what a "no" vote on this legislation means, I have already explained what an "aye" vote means. It means a vote for a new system of automobile insurance which treats humanely and fairly the automobile accident victim in all automobile accident situations. An aye vote means much more than this, though.

An "aye" vote means a recognition that the people in this country deserve a break—they deserve to have their elected national representatives act on their behalf to bring them a more valuable product at a lesser cost.

An "aye" vote also means that, despite the steady and persistent pressure from certain lawyers in their State, the frantic communications of uninformed—or sometimes very informed—State officials, and the barrage of misinformation concerning this bill, the Senator has sifted through the flack and decided that S. 354 represents a reasonable no-fault reform effort that would bring into existence in all 50 States a humane and fair method of compensating automobile accident victims.

Those who vote "aye" on this bill not only believe that no-fault is an idea whose time has come but are willing to stand up and take positive action on behalf of the people of the United States to see that it comes about in our lifetime.

That, Mr. President, is what I think is at issue as we vote on S. 354.

Mr. TUNNEY. Mr. President, will the Senator yield to me for 1 minute?

Mr. MOSS. I yield.

Mr. TUNNEY. I note that the Senator said there had been certain commitments made by Senators to vote against no-fault insurance. In my travels across the country, most particularly in California, I found that some of the harshest critics of the present tort liability system are lawyers who recognize that far too much of the court's time, far too much of the lawyer's time is taken up with claims that come from automobile accidents. In addition, they recognize that there are many people who are injured who do not have their medical needs attended to and paid for, nor do they receive any compensation for loss of wages as a result of the present private insurance program we have in this country. I should perhaps say that some people are adequately covered. I feel I am adequately covered and probably most Members of this body are adequately covered, but many people in this country are not adequately covered, and it is those people to whom we are trying to extend a helping hand.

I did not want my remarks taken as a castigation of all lawyers in the country because clearly many, many lawyers are opposed to the lobbying activities of the American Bar Association in this matter and I would like to say as a person who has respect for the officials of the American Bar Association, and particularly the president of the American Bar Association, Mr. Smith, that I wish they had set up a committee to study this problem and had appointed to that committee lawyers who are not trial lawyers, who were receiving fees from the present tort liability system, because they may have been a bit more objective and if they had an opportunity to report to the House of Delegates we could take with far greater credence the position that committee came out with, and the present propaganda campaign being launched by the association.

Mr. MOSS. I appreciate what the Senator had to say. Certainly I do not wish to appear as being critical of all lawyers. Many of the great champions of this bill before us, this idea whose time has come, are lawyers and lawyers have been in the forefront of drafting the bill itself. I am talking about only that segment of the legal profession that seemed blinded by a self-interest, who perceive they would be injured in some way. I think they are wrong in making that judgment. But I do not want to blanket all lawyers with that because many of them are the stoutest defenders of this humane way of dealing with our people who suffer injury, the 2 million people a year who are involved in automobile accidents. Many people are driven to pov-

erty because they have no recourse and no way to pay for medical expenses.

The family is burdened with it. It is a tragic situation. The Department of Transportation recognized long ago that it was, and said the system was so bad that something had to be done. As the Senator from Washington said rather eloquently, how can we ignore those two million people? Something has to be done. It is a national problem. Therefore, this is the place where the action has to come from at this time.

I yield the floor.

Mr. HRUSKA. Mr. President, it is extremely important to determine what is and what is not at issue here. We are not discussing the virtues of no-fault automobile insurance over the tort system. That is not the overriding consideration. It is true that S. 354 proposes a no-fault insurance plan. But opposing this bill is not, and I repeat, is not—the same as opposing no-fault insurance. Indeed, there are many variations of no-fault insurance. Of the 21 States that already have adopted no-fault plans, only few States have the same type of plan. The record contains testimony to the effect that there are as many as 200 plans and variations of no-fault automobile insurance. Testimony to that effect came to us from the head of the insurance department of one of the great Northwestern States.

There is testimony in the record, brought to us by representatives of the National Association of Insurance Commissioners, that that association authorized and executed a study and report on no-fault automobile insurance and that that study and survey and the report were founded upon the consideration of more than 100 different plans and variations of plans for no-fault automobile insurance.

What I am opposing—and what like-minded Senators are opposing, and what we ask our colleagues to consider opposing is the type of no-fault insurance that S. 354 adopts and the means by which the bill seems to bludgeon the States into following suit and adopting the Commerce Committee contrived, federally prescribed no-fault plan.

In other words, many of us do not like the idea that a single committee or committees of the Senate or the Senate itself will designate a particular plan of no-fault insurance out of the scores that are available and say somewhat regally and perhaps almost arrogantly to all the 50 States and to 211 million people, "this is the plan you must have and, if you do not adopt it and put into force this plan under force of the law of the State, we will impose it upon you." That is the overshadowing issue in the matter we debate today. So in the debate on this bill, Mr. President, I ask Senators not to equate S. 354 with the only concept of no-fault insurance. No-fault insurance is not monolithic; there are many different forms. A vote against S. 354 is not a vote against no-fault insurance as a concept. Instead, a vote against S. 354 is a vote for federalism, a vote to grant the States the opportunity to adopt a no-fault plan, if they wish, which is tailored to their own needs.

Mr. President, there are six basic reasons why the Senate should not adopt S. 354:

First and foremost, S. 354 is unconstitutional. Under the bill, if a State decides that it does not want the no-fault plan contemplated by title II, the State nevertheless will have a no-fault plan imposed on it by title III. Thus, the bill compels the States to create agencies and to staff and fund them to administer a Federal law, even if the States do not desire such a plan. In essence, S. 354 forces the States to become agents of the Federal Government.

Mr. President, few more powerful instruments for the centralization of the Government could be devised. Under such an approach, the Federal Government could sit here in Washington and dictate to the States to build superhighways with their own funds, to set up restaurants on interstate highways, and to perform a whole host of other functions all in the name of regulating interstate commerce. This is not cooperative federalism as envisioned by the Founding Fathers of our Nation. It is an approach that interferes with, indeed violates, the sovereignty of the States as manifested in the 10th amendment.

Second. S. 354 may jeopardize the citizen's right of recovery. Suppose a State refuses to adopt legislation under title II and to administer the Federal no-fault under title III. Or suppose title III of S. 354 were held unconstitutional. What would be the consequences? Quite simply, the citizen's right to recover or even protected by coverage would be jeopardized. Because S. 354 by and large abolishes the tort remedy, and because the no-fault plan would not be implemented, a citizen could not recover under either tort or no-fault.

In this connection we should remember that litigation involving issues of this kind are usually quite protracted, taking them all the way from the inferior courts of either the State or Federal system and necessarily going to the highest authority in the land for ultimate resolution, and a long period of time would ensue before that final decision were made. If the decision were adverse to the contention that the bill is constitutional, it would be a decision that ad initio, from the very beginning, all that proceeds therefrom and under its auspices would not be final and the interim would be a period of uncertainty and great jeopardy to all citizens under its terms and conditions. In my mind, such a risk on such a massive scale in 50 States and involving over 200 million people is not worth taking.

Third. S. 354 violates the basic tenets of federalism as manifested in the McCarran-Ferguson Act. This Nation has been nurtured on the idea that the country will fare best if the States, which are closest to the people, are capable of responding to the needs of its citizens. However, S. 354 constitutes another attempt to rectify perceived problems by encroaching on the power of the State. It is an attempt to arrogate to the Federal Government another incident of power that has been traditionally retained by the States. Our citizens have fared well under the McCarran-Ferguson Act.

That act, continued in force and effect the rule that the world of insurance should be regulated and supervised by the individual several States. That has been the rule that has been followed in this country since the conception of the insurance system well over a century ago. Congress should not disturb its underlying, well-considered, well-advised policy, as it is embodied in the McCarran-Ferguson Act.

Fourth. S. 354 presents serious inequities. It will grant a tremendous windfall to truckers, rental vehicle owners and other commercial vehicle owners. And this windfall will be at the expense of the common consumer. Moreover, the bill discriminates against the rural States. Consumers in the rural States will have to pay higher premiums but premiums for urban consumers will not be increased as much.

Should we penalize those who want to live in those parts of the country which are more sparsely settled? I would say no, and those who oppose the bill say no.

A fifth reason why the bill is vulnerable and should not be approved is as follows: Testimony before the Senate Judiciary Committee revealed that S. 354 is antismall business and anticompetitive. One president of a small insurance company located in North Dakota said that the year of enactment of S. 354 could be the last year of his company's existence.

If it fails, it will fail for the reasons stated during the course of this debate. Mr. President, in the past, we have steadfastly rejected any bills that jeopardize small businesses—the mainstay of our economy—and that give some companies a competitive advantage over others. We should reject S. 354 for the same reason.

Sixth. The last and probably the crucial issue, at least to consumers, is that S. 354 will increase, not decrease costs of auto insurance to the consumer. The early promise of the pending bill, S. 354, was that it would cut costs. But, it does not. An analysis derived from the Milliman and Robertson report reveals that consumers in 44 States will experience an increase in costs. During the course of this debate, we will cite other figures and tables that will prove that S. 354 will not lower costs.

It should be noted and it will be belabored later that the Milliman and Robertson report was a report on rates and the proposed fund for this insurance based on economical models that are built up in the computations that are engaged in by the drafters of the report, Milliman and Robertson, and those economical models are applied to New Jersey, Montana, Florida, Hawaii, and Alaska equally. Based as they are upon conjecture and upon supposition and upon the necessarily theoretical approach, it can hardly be accepted by the logical mind that economical models so contrived and so used can be of much value in determining what the future really holds for the consumer of automobile insurance, and that is the per-

son who is most vitally interested in the debate and in the measure which is before the Senate at this time.

Mr. President, these are six basic reasons why we should reject the plan proposed in S. 354. Any one of the six reasons could stand by itself to justify rejection of S. 354. Taken together, they should illustrate how ill-advised and irreparable S. 354 really is.

Again, I want to say that there are a number of no-fault plans available to this Congress. The pending bill picked the wrong one; that is to say, a federally contrived no-fault plan which S. 354 seeks to forcibly impose on all the States. I believe it bears repeating that a vote against S. 454 is not a vote against the concept of no-fault insurance. It is a vote against a bill that will significantly increase costs to the consumer, that will interpose an interim of confusion and jeopardy to all drivers of automobiles, and a bill that is contrary to our system of government.

I urge my colleagues to consider carefully and reject S. 354 and to await the presentation of a legislative proposal that is more in keeping with traditional Federal initiatives and more responsive to the enlightened needs of the Nation.

Mr. President, I yield 5 minutes to the Senator from Ohio (Mr. TAFT).

Mr. TAFT. I thank the Senator for yielding. I send an amendment to the desk and ask to have it read.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 97 between lines 20 and 21 insert the following new paragraph:

"(4) If, after the alternative State no-fault plan for motor vehicle insurance becomes applicable in any State pursuant to paragraph (1) of this subsection, it is determined by law in any such State (a certified copy of which is submitted to the Secretary) that the government of such State for any reason may not perform any designated duty imposed under the alternative State no-fault plan for motor vehicle insurance, the Secretary shall assume such designated duty in accordance with this Act until such State withdraws or repeals its determination.

Mr. TAFT. Mr. President, at the outset, I want to take this occasion to commend the Senator from Utah and the distinguished members of the Commerce and Judiciary Committees who have considered S. 354. I think this is a very important area. I have studied this problem very closely over the last 4 years. I addressed the 100th anniversary of the Cincinnati Bar Association 3 years ago and endorsed the concept of no-fault insurance. I urged the bar at that time to proceed to support effective legislation in this area.

Since that time, the Ohio Legislature has considered various no-fault insurance measures. Indeed, they are still considering it. In view of the major differences between the bills in Ohio Senate and Ohio House, the likelihood of enactment of a strong no-fault insurance law in Ohio is not very great, unless the Senate adopts this legislation.

I am afraid that is going to be the pattern in far too many States.

The amendment I have offered today pertains to a constitutional question that continues to disturb me with regard to this legislation. By the alternative plan established under title III in the event a State does not proceed to the enactment of a no-fault insurance plan in accordance with Federal standards, the Federal Government can require States to carry out the Federal plan as enacted by the legislation we have before us.

The amendment I have offered creates, on page 97, after subsection (3), a new section (4):

If, after the alternative State no-fault plan for motor vehicle insurance becomes applicable in any State pursuant to paragraph (1) of this subsection, it is determined by law in any such State . . . that the government of such State for any reason may not perform any designated duty imposed under the alternative State no-fault plan for motor vehicle insurance, the Secretary shall assume such designated duty in accordance with this Act until such State withdraws or repeals its determination.

I question whether we ought to have an operational provision in the event, for any reason, the alternative Federal plan is not enforced in a State.

I recognize there is a severability clause in S. 344, and I recognize the balance struck in this bill is consistent with the McCarran Act. There may, however, be a void which arises if a State does not act in certain areas pursuant to S. 354.

Certain Members in the Senate and the House are concerned about this question. If this legislation is sent to the White House this is a potential issue in connection with a veto.

I know the committee has considered this question. I understand that there is some reluctance on the part of those who support the bill to have this amendment accepted as it might set a precedent for the Federal Government to come into total regulation of insurance—something which I am toally against. The provisions of S. 354 are consistent with State control in the McCarran Act. I approve of this approach. The Federal Government should stay out of the administrative regulatory field insofar as insurance is concerned. If a State does not, however, act consistent with the guidelines in S. 354 practical problems might occur in certain isolated areas.

Would the distinguished manager of the bill comment on his feelings with regard to this issue and the amendment I have proposed?

Mr. MOSS. Mr. President, I thank the Senator from Ohio. I will try to respond very briefly.

First, let me say I appreciate the problem to which the Senator addresses himself, and I appreciate the statement he has made. This question has been considered in the committee, and we have felt it is not necessary to have an amendment of this sort.

To the extent that this argument has weight, it would only be applicable to those States which did not voluntarily adopt a plan of no-fault motor vehicle insurance in compliance with title II of S. 354. Given the very substantial incentives which all States, and concerned private interests, will have to adopt the relatively moderate standards of title II, title III is likely to take effect in only a very few States, if any. But even in those few title III States, there seems to us no basis for the charge that implementation of the bill would force dramatic confrontations between State and Federal authority, and that the result would be chaos in the administration of the automobile accident reparation system.

Furthermore, none of the State constitutional provisions alleged to be in conflict with S. 354 would in fact act as an impediment to implementing the insurance regulatory aspects of a title III no-fault program. The State constitutional provisions that are cited as creating a supposed constitutional dilemma relate solely to a change in the State tort law, as it is applied in State courts in the conduct of accident litigation.

I would think the amendment offered now by the Senator from Ohio, because it comes so late, after we have had a great deal of debate on the amendments, probably could not be accepted by the managers of the bill, and I would hope that we might address this problem when we have to go to conference with the House. The House has not yet acted.

I do not want to reject it out of hand, but I just feel I could not accept it at this point.

I wonder if the Senator from Ohio would withdraw the amendment, with the understanding that his statement is in the RECORD and that we will take it up with the House when we get to conference.

Mr. TAFT. I appreciate the Senator's position. I know this point has been dealt with by a former mentor of mine, Dean Griswold, for whom I have great respect, and I know there are briefs on the other side, have been filed including a letter from the Department of Justice. The question of tort liability does not concern me, I think the Senator is correct. I do not see a constitutional threat insofar as tort liability is concerned. I think the Federal preemption under the supremacy clause would be applicable. What I am more concerned about is the question of the separation of powers and the Federal system insofar as it exists under our Constitution.

I am aware of the precedent of the Clean Air Act. This act has not been completely tested in court. I question whether we are on sound legal ground in setting out a procedure under title III in which a State official would in effect be ordered by Federal law to carry out provisions of the Federal law rather than rely on a Federal law enforcement order to carry out that responsibility.

This is the issue I think the House ought to examine, and I hope it will examine it before further action in this area. I am going to take the chairman's suggestion insofar as the amendment is concerned, having pointed this out as a caution to future activity with regard to this legislation.

I ask to withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. MOSS. I do appreciate the Senator's thoughtfulness in not pressing the matter. I think it is better left to consider after going to conference.

Mr. HRUSKA. Mr. President, I yield 10 minutes to the Senator from New York.

Mr. BUCKLEY. Mr. President, I respectfully suggest that the merits or demerits of the no-fault approach to automobile insurance is and ought to be irrelevant to our consideration of S. 354. I say this because this is not a matter which should be before the Senate, because it is a question which clearly should be left to the States. There is no reason why the Congress must mandate that the States conform to a single system of auto insurance or to identical standards that might have a different impact on different States. My own State of New York, which has adopted a no-fault insurance system, lives with conditions which are substantially different than those of many of the rural, western States. It makes no sense that the Congress, through S. 354, should require Federal administrators to treat these States identically, as they would have to, when they are not the same.

The Senate has been told that we must have uniformity among the States, but the reasons are not persuasive. On the other hand, the differences which exist among the States argues the desirability of a diversity of approaches in this as in other areas. The supporters of this legislation have already had to make several concessions to differing conditions by accepting various amendments granting latitude to the States in exercising some independent judgment. In so doing, the supporters of Federal no-fault legislation are forced to surrender their point which is that there must be national uniformity among automobile insurance systems. The concessions already made create a limited diversity and to that extent are good. But here is an excellent example of something we should not have to do because we should not be mandating a national system in the first place.

I realize that many are concerned that citizens of States with no-fault systems who travel into States with different systems go into those States unprotected. This is not the case.

Travelers with insurance protection issued in one State will remain protected when they go into other States, irrespective of the laws in effect in those States. Their insurance remains in force. Individual protection is therefore in no way compromised by diversity among the States.

However, such a claim cannot be so clearly stated if the national no-fault system is adopted and subsequently found unconstitutional; a possibility that must be considered given the grave concerns already expressed by many constitutional scholars. The legislation now before us would have the effect of voiding provisions in the constitutions of several States that guarantee their citizens access to the courts. If the tampering with certain rights under State constitutions is held unconstitutional, there are substantial questions regarding the validity of insurance contracts issued during the period when insurance companies offered policies pursuant to a statute subsequently held unconstitutional. The point is that the situation would be far from clear, the answers not readily apparent. Individual policy holders would find themselves in a confusing and potentially dangerous situation. I believe we should move cautiously when the ultimate effect of our actions could well be to deprive policy holders of the protection they need and deserve. Adoption of S. 354 is not, under such potential circumstances, an act of prudence.

The Republic will not be better off with a uniform, national no-fault system; it will in fact be worse off for two very compelling reasons. First, this piece of legislation would in certain instances require States to violate their own State constitutions. Second, the Congress, through this legislation, once again, tells the State legislatures that it is we, Congress, not they, who have the greater ability to make laws primarily affecting conditions in their States. This drive for uniformity for its own sake, to bigness for its own sake, for more national regulation for its own sake is something the Congress should resist. Enforced uniformity stultifies organizations, in this instance State governments. It deprives us of the capacity to experiment with different approaches to common problems, which has been one of the great strengths of our Federal system. If this bill is enacted, Congress will emasculate even further the institution on which this Nation should increasingly rely: State government.

Mr. President, I am very much distressed at the implications of a national statute, of dubious constitutionality, which would, in order for certain States to comply, require that they violate their own State constitutions. There is no need for this move toward a standardized national no-fault system. There is no reason why the Congress should force upon the States the precedent that the national government's law-making powers includes the authority to force the States to do that which their own basic legal documents prohibit. This is no way to treat our Federal system. For the Federal Government to invoke the supremacy clause of the Constitution of the United States, especially in the matter of regulating public safety systems, there must be a compelling reason.

Twenty States, including my own, have adopted no-fault plans. They differ substantially. They will be tested, their diversity compared. Thirty States, some by act, others by omission, have chosen not to adopt no-fault, although a number of States are at present considering how, if at all, their automobile reparations system should be changed. Some States wish to follow a wait-and-see attitude toward no-fault; others are skeptical of no-fault's value. There is nothing wrong with this diversity. If the present experience with no-fault is not overwhelmingly positive I am sure the States currently without no-fault will quickly move to adopt it. There is, in short, no reason for us to make this decision.

S. 354 violates the Federal principle in that it represents a not-so-suitable attack on the constitutional framework of several of the State governments. It is an attack on democratic localism. This trend toward centralization of decision-making and responsibility should be arrested. The Senate of the United States could begin by specifically rejecting this centralizing proposal, thus leaving the States free to regulate their tort and insurance systems as they deem appropriate.

In recent years we have operated on the assumption that the national legislature has responsibility in almost all areas of human endeavor. As a result we have set up expensive, unworkable programs that have tended to stultify those governmental units closest to the people. In the process we have done great damage to the Federal system. This measure, if adopted, would further damage that system and do violence to the spirit of the Constitution of the United States.

S. 354 represents another example of the willingness to seize upon the commerce clause to assert the national power to regulate matters which have as a matter of law, tradition and sound policy been left to the States. On April 4, 1974, Prof. Philip B. Kurland, the distinguished professor of Constitutional Law at the University of Chicago, wrote to the senior Senator from Nebraska (Mr. HRUSKA), addressing himself to the constitutional issues raised by S. 354. It is enormously sad that Professor Kurland would have to respond:

> I have no question that Congress could constitutionally enact a uniform statute governing no-fault insurance applicable to the entire nation. The Commerce Clause is now a carte blanche to Congress to enact legislation, subject only to the limitations of the bill of rights.

Since the subject matter of this proposed legislation does not directly violate the bill of rights, Professor Kurland is telling the Senate that this no-fault bill will not be held unconstitutional. This is something entirely different than offering a view on whether he thinks the proposed legislation is constitutional. What Professor Kurland is pointing out is how the Constitution has come to be manipulated to serve purposes directly contrary to the original purpose and intent of the Founders.

Professor Kurland also notes that there is more to this legislation than the usual usurpation of State authority that so many of us have come to regard as routine.

This bill goes further; it includes direction from Congress to the several States to pass certain bills, to set up certain administrative functions so that this law may be carried out. Some of the laws mandated by the bill might be violative of State constitution. Should this bill become manifest as law, the States will properly be considered little more than administrative agencies, waiting for the Federal Government to give its marching orders. On reading legislation of this kind one can only con-

clude that federalism is dying a slow and painful death. To illustrate this point Professor Kurland notes that if the Federal Government has the constitutional authority to so direct the States than it has the authority to direct the State or its subdivisions to require a charge for garbage collection or to permit a turn at a red light. In other words, if this view of the Constitution is successfully pressed, we are confronted with the legal reality that, except for the guarantees in the Bill of Rights, there are no real limitations in present Constitutional law on the activities of the national government. It is worth lamenting that a document written to restrain the national government has become the instrument of national supremacy. When the process which includes S. 354 has run to completion, the inversion will be total.

Mr. President, I strongly urge that the Senate vote against S. 354.

Mr. HRUSKA. Mr. President, I yield 30 seconds to the assistant majority leader.

UNANIMOUS-CONSENT AGREEMENTS

Mr ROBERT C. BYRD. Mr. President, I ask unanimous consent—this request having been cleared with the Senator from North Dakota (Mr. YOUNG), the Senator from Nebraska (Mr. HRUSKA), the Senator from Arkansas (Mr. MCCLELLAN), and others—that at such time as the supplemental appropriation bill is called up and made the pending business before the Senate, which will not be this week, there be a time limitation of 2 hours on the bill, 2 hours on the Schweiker amendment, and 1 hour each on all other amendments, one-half hour on any amendment to an amendment, and 20 minutes on any debatable motion or appeal, with the time division and control to be in accordance with the usual form.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, this request having been cleared with the Senator from Missouri (Mr. SYMINGTON), the manager of the bill, and with Senators THURMOND, TOWER, PROXMIRE, CRANSTON, HARTKE, and MCGOVERN, that at such time as S. 2999, a bill to authorize appropriations for military procurement, is brought up and made the pending business of the Senate, there be a time limitation of 3 hours on the bill, 1 hour on an amendment by the Senator from Massachusetts (Mr. KENNEDY), and one-half hour on any other amendment, with 20 minutes on any debatable motion or appeal, with the division and control of time, and the agreement, to be in the usual form.

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

NATIONAL NO-FAULT MOTOR VEHICLE INSURANCE ACT

The Senate continued with the consideration of the bill (S. 354) to establish a nationwide system of adequate and uniform motor vehicle accident reparation acts and to require no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public roadways in order to promote and regulate interstate commerce.

Mr. HRUSKA. Mr. President, I yield the Senator from Virginia such time as he may require.

Mr. HARRY F. BYRD, JR. Mr. President, as I understand the arguments for no-fault insurance, one of the main features continually hearlded by those who favor national legislation is reduction in cost. Upon careful review of the reports of the Committee on Commerce and the Committee on the Judiciary, I am compelled to conclude that this Federal no-fault proposal will increase insurance premiums in many States, including Virginia.

In its study for the Department of Transportation, the firm of Milliman & Robertson, Inc., included numerous exhibits to explain its cost estimate study. According to the firm's estimates, five of their six variations of no-fault would result in increases in costs for Virginia motorists.

However, the plan which could be imposed upon Virginia under title III of the bill is not even covered in the cost study. The costs under such a system would be greater than the most liberal of benefits set out in the study. In other words, under title III, the costs to the Virginia motorist would jump—by the most conservative estimate—by over 15 percent.

The authors of the cost estimate study made several specific warnings concerning their results. While supporters of this national approach to no-fault insurance have referred to these warnings in passing, I believe they bear further inspection.

The authors of the study point out specifically that their conclusions "do not deal with expected changes in rating classification—which well may be profound."

Mr. President, "expected changes in rating classification," as I understand the term and its application in Virginia, means evaluating the potential risk a certain class of motorists poses for the insurance company and adjusting the rates to reflect that risk. Anyone with an 18-year-old son and an extra car understands the effects of such ratings.

Under the "no-fault" concept, though, the risks for insurance companies would be shifted dramatically. The driver whose potential injury would result in the greatest loss would become a high risk: and that means the driver who has a steady income, who has dependents to support and who provides valuable services for the benefit of himself and his family—in other words, precisely that class of motorists whose rates in Virginia today are among the lowest.

The Milliman and Robertson study also terms S. 354 "a powerful piece of consumer legislation." But the study also states:

> The important thing to recognize is that increased or accelerated payments by the carriers sooner or later must result in corresponding premium increases.

The caveat could not be clearer: Costs to the motorist will go up under S. 354.

At a time when inflation cuts deeply into every family budget—inflation, I might add, caused primarily by uncontrolled Federal spending and huge Federal deficits—I cannot support a measure which would add to this burden.

There is another point I would like to make. I do not feel that Federal legislation is the proper way to approach the subject of no-fault insurance. I think it is most inappropriate for the Federal Government to dictate to any State the form and substance of its automobile insurance system.

I call to the attention of my colleagues the fact that at the beginning of this 93d Congress, the Virginia General Assembly memorialized the Congress not to preempt the power of the States over this area of insurance. They specifically asked that the Congress "desist" from enacting no-fault insurance legislation and I ask unanimous consent that the Virginia resolution be inserted at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HARRY F. BYRD, JR. Virginia has an "open rating, competitive pricing" insurance system, in which the marketplace is allowed to determine the rates, subject to the review of the State Corporation Commission's Bureau of Insurance. Under this system, Virginia residents enjoy insurance rates which are among the lowest in the Nation.

Mr. President, the pending measure—a Federal no-fault law—is a complex and far-reaching piece of legislation. I have listened to the arguments—pro and con—on the constitutionality of this bill. While I cannot subscribe without reservation to all of the arguments of this measure's unconstitutionality, on balance I see serious problems with the propriety of this legislation at the national level. The very fact that the Committee on the Judiciary divided 8 to 7 is most telling.

I cannot support such legislation and shall vote against passage of S. 354 as I believe it will increase the cost to Virginia's motorists; and I doubt the wisdom of a Federal law. It is a matter to be handled by the individual States.

SENATE JOINT RESOLUTION NO. 77

Memorializing the Congress of the United States to desist from enacting legislation relating to "no-fault" insurance

Whereas, the United States is comprised of a union of sovereign states to which powers not delegated by the Constitution of the United States are reserved; and

Whereas, historically, matters governing the insurance industry have been dealt with by the States; and,

Whereas, State control of insurance matters has proven beneficial as appropriate measures have been enacted to provide for conditions peculiar to local circumstances; and

Whereas, in recent times much attention has been given to various "no-fault" schemes to replace automobile liability coverage now available in many states and in this Commonwealth; and

Whereas, in determining if Virginia should require such "no-fault" insurance, it would seem best that such determination and the particulars related thereto would most properly be left to this General Assembly and all other State Legislatures; now, therefore, be it

Resolved by the Senate, the House of Dele-

gates concurring, That this General Assembly does hereby memorialize the Congress of the United States to desist from enacting "no-fault" insurance legislation thereby preserving the power of the States to supervise insurance activities.

Resolved, further, That the Clerk of the Senate is hereby directed to furnish a suitably prepared copy of this resolution to the President of the United States, the Secretary of Transportation of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate and each member of the Congress who represents the people of this Commonwealth.

Mr. HRUSKA. I yield 1 minute to the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I will cast my vote today in opposition to the no-fault insurance bill. I will vote "nay" not because no-fault is a bad concept—as a matter of fact, no-fault is a system whose time has come. The delays and expense inherent in our present system of tort recovery for automobile accidents is inexcusable.

I will vote in opposition to this bill for several reasons.

First, I believe no-fault insurance is the proper responsibility of State government. Already at least 21 States have passed some type of no-fault legislation. In this way each State can decide what system best satisfies its needs. We can, in effect, have 50 legislatures—50 experimental laboratories—working out viable no-fault insurance systems. What is good for Massachusetts may not be good for Oklahoma. I continue to believe that the government closest to the people is, in most instances, best able to determine the needs of its citizens.

Second, the minimum standards of the no-fault bill before the Senate exceed the standards of every bill passed thus far by the States. This would indicate to me that this legislation is out of step with the wishes of the people as expressed by 21 State legislatures.

I do urge those States, including Oklahoma, which have not adopted some form of no-fault legislation to begin working seriously in that direction.

Our present system is full of abuses, and the people expect and deserve a change.

Mr. HRUSKA. Mr. President, I yield to the Senator from New Hampshire such time as he may require.

Mr. COTTON. Mr. President, I will take only 1 minute.

I only want to say that on listening to the final appeal of the manager of the bill, the Senator from Utah (Mr. Moss) and the distinguished chairman of my committee (Mr. MAGNUSON), we could well be misled as to the issue before the Senate.

I do not object to their arguments. Their arguments were forceful, powerful, and logical, and I find myself in some agreement with them. But, to hear their suggestion, it is that the contest here is between those who want this particular Federal legislation and the opponents, who all want to revert to or to retain the old fault system.

I have not heard anyone in the Senate, that I can recall, in all these days of debate, suggest that the old system was right and should not be improved. It has been improved, for example, so that immediately after accidents, now, personal injuries are recompensed. Additionally, several other remedial steps have been taken to improve the present automobile reparation system. It has not been a static situation.

We must also remember S. 354 goes so far as to compel a State to set up emergency health services that must extend to "each victim" injured in such State. This could be extremely costly in rural States.

Remember also that this bill, if it passes, is in danger of putting out of business some of the soundest and best small insurance companies that have grown up in some of our States, such as the Farm Bureau, the National Grange Insurance Co. and other similarly situated organizations. They stand to be crowded out of business by the large insurance companies.

Mr. President, I am compelled to vote against this bill, because one thing I know is that, although it may reduce the premiums and put money in the pockets in the metropolitan areas of this country, it is going to make insurance cost more in my State and in many other rural States. It is going to take money out of their pockets. It is going to place a burden on them that may prove to be almost intolerable. It is the entering wedge for the Federal control of insurance.

These are some of the questions; but, most important, I did not want to let pass the suggestion that there are just two sides—those who want to approve the pending measure and those who are standing up for the old system. That is not the case, as demonstrated by the following letter, which I wrote almost 2 years ago, urging reform in my State, and which I ask unanimous consent to be printed at this point in the RECORD:

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

DECEMBER 20, 1972.

Mr. BRADFORD W. MITCHELL,
Vice President and Secretary, National Grange Mutual Insurance Co., Keene, N.H.

DEAR BRAD: Thank you for your recent letter concerning the proposed National No-Fault Motor Vehicle Insurance Act (S. 945), which by the narrow margin of three votes on a record vote of 49 to 46 was referred to the Committee on the Judiciary on August 8th.

In your letetr you solicit my thoughts on the prospect for consideration by the 93rd Congress of legislation similiar to S. 945 and in connection with your membership on the Special Committee to Study Automobile Accident Reparation Plans of the New Hampshire Bar Association you pose the following two questions:

(1) "Should we join forces with the 'trial bar' of a number of other States and attempt to hold the line against meaningful change or should we support and advocate more progressive modifications?" and

(2) "Do you feel that a Federal solution to the problem will surely follow if the State legislatures do not respond soon?"

Before responding to your specific questions, I should like to point out that my position on S. 945 of the 92nd Congress is a matter of public record. For example, I filed Minority Views with the report of the Senate Committee on Commerce on S. 945 (see pages 85–87 of the enclosed copy of Senate Report No. 92–891), and those views are in keeping with my position stated during the hearing on October 13, 1971 (please see page 2133 of the enclosed copy of Part 5 of the Commerce Committee hearing Serial No. 922–18).

You will note from an examination of my Minority Views on S. 945 that I proposed the bill for two principal reasons—"first, there is probable adverse impact upon the citizens of my State of New Hampshire, and second, the timing of its consideration. I did not vote against this bill because I am against the concept of no-fault motor vehicle insurance." As for the timing of consideration of such legislation, I went on to express the view that "We should have at least until early next year during the 93rd Congress to see how this matter is being handled and is being worked out at the State level. . . ."

Next month on January 3, 1973, the 93rd Congress will convene so that within several short months thereafter we will be within the minimum time frame which I earlier stated should be when the Congress should undertake consideration of legislation dealing with no-fault automobile insurance. Therefore, if there is no appreciable State action taken to improve the present automobile insurace and compensation system within that time frame, then, in keeping with my earlier stated position, I believe it not only would be proper, but necessary for the 83rd Congress to undertake consideration of Federal legislation in this area. My concern in this circumstance would focus upon the form of such Federal legislation in the automobile insurance and compensation area, such as the reach of its incursion into those areas now left to State regulation, and its ultimate cost impact upon the citizens of our State. Thus, from my vantage point, if there is no timely, meaningful State action, then Federal action seems inevitable.

This leads me to the present outlook for the consideration of legislation similar to S. 945 in the 93rd Congress. It is my understanding that Senator Magnuson, Chairman of our Committee on Commerce, will introduce such a bill early in the First Session. This legislation may be slightly different than that reported by the Committee in the 92nd Congress, since it no doubt will incorporate provisions of the Uniform Motor Accident Reparation Act drafted by the National Conference of Commissioners on Uniform State Laws. And, while I cannot speak with any degree of authority concerning consideration of such legislation in the House of Representatives I believe that it would be safe to say that the Senate probably will give early and favorable consideration to such legislation.

Consequently, based upon the foregoing I respond at this time to your two questions in the following fashion:

(1) An attempt to hold the line against any meaningful change at the State level can only serve to strengthen the hand of those proposing far more sweeping changes at the Federal level. Therefore, I believe you would be well advised to heed the admonition of the President in his telegram of June 7th to the Chairman of the National Governors Conference in which he noted that "No-fault insurance is an idea whose time has come." Accordingly, I would urge that there be support and advocacy for more progressive modification at the State level.

(2) I believe that my response to your first question also answers your second question in that insofar as the Senate is concerned a Federal solution to the problem will surely follow if the State legislatures do not respond soon. Certainly this is borne out by the testimony of Secretary of Transportation Volpe when appearing before our Committee on Commerce on March 18, 1971 to discuss his Department's final report of the

automobile insurance and compensation study called for by Public Law 90-313 and specifically by his response to my question in which he noted in part the following:

"Secretary Volpe. * * * In other words, what we are saying is that we should come back to you in 2 years, and if we give you some answer that, in effect, says that no further Federal legislation is required, fine, but if by the same token we believe further Federal legislation is required because the States have not done the job, we are certainly willing to come back and say that. *And, that pretty well tells the States what they can expect if they don't do the job themselves.*" (Underscoring supplied; Hearings before the Committee on Commerce, U.S. Senate, 92nd Congress, First Session, on S. 945 et al., Part I, Serial No. 92-18 at page 117)

Brad, I hope that the foregoing will prove to be responsive to your inquiry and to your needs. Since my position on this matter is a matter of public record you have my permission to publish this response.

With best wishes.

Sincerely,

NORRIS COTTON,
U.S. Senator.

Mr. HRUSKA. Mr. President, I am ready to relinquish whatever time remains.

Mr. MOSS. Mr. President, could the Senator from Nebraska yield 1 minute to the Senator from Michigan? I am out of time.

Mr. HRUSKA. I am happy to yield 1 minute to the Senator from Michigan.

Mr. HART. Mr. President, I introduced the first no-fault bill on September 14, 1970, explaining that it was the result of about 5 years of on-again, off-again hearings by the Antitrust Subcommittee, which made clear that the fault was not with insurance and monopoly alone, it was with the law of fault, that is, in terms that victims were uncompensated for a long time.

I hope that the movement that has developed since September 1970 will be sufficient to see the adoption of this bill in 1974.

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

Mr. HART. I yield.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD a letter addressed to the distinguished Senator from Michigan (Mr. HART) from Ursula Moyer of Columbia Falls, Mont., which I think will be of interest.

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

COLUMBIA FALLS, MONT.,
February 28, 1974.

Hon. PHILIP A. HART,
Committee on the Judiciary, Dirksen Senate Office Building, Washington, D.C.

DEAR SIR: National No-Fault Motor Vehicle Insurance Act S. 354.

No one knows how urgently the above No-Fault Motor Insurance is needed until they, or their relatives or friends have suffered under the present system. Even now, some of the insurance companies have come to recognize this.

No-Fault will save much court time, and for those who must go to court, the Court Docket will not be months or even years behind.

Let me relate one experience. My daughter, her husband and their two little girls in their small car were hit in a head-on collision by a drunken driver. It was in front of a popular "eatery" and there were many lay witnesses—also one city policeman.

These witnesses all testified that the drunken driver was clearly at fault.

My daughter suffered a fractured skull, and was not expected to live. When she did become conscious, she had loss of memory for quite some time. Her leg and ankle were badly broken and she was pinned in the wreckage until a cutting torch could release her.

Her husband also suffered a severe head injury and mass bruises, which affected his ability to work for several months. One child also suffered a serious head injury and both children suffered cuts and bruises.

Needless to say, they needed and received the services of several specialists because their injuries were so very serious. Although the family had only small medical insurance—these wonderful doctors and the hospital did not stint on their care, even when they learned that the insurance company of the offending driver would not pay but a small amount of the costs without a court battle. The lawyer who took the injured family's case demanded and got one-fourth of the settlement. (No wonder lawyers do not like No-Fault Motor Insurance.)

This case was not settled until two and one-half years after the accident. No need to relate the inconvenience and suffering of this family. Such Physical injuries and no money. Without the help of relatives, friends and charities, I can't imagine the outcome.

I am sure this is only one experience in thousands. Therefore, I beg you to approve the National No-Fault Motor Vehicle Insurance Act S. 354 without weakening amendments and to do all in your power to expedite its quick passage.

Very sincerely,

URSULA MOYER.

The PRESIDING OFFICER (Mr. MCCLURE). The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute was agreed to.

Mr. MOSS. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. McGOVERN. Mr. President, while I recognize the circumstances which make comprehensive no-fault insurance an urgent need in some parts of the country, I must oppose S. 354 in its present form.

The exhaustive studies conducted in connection with this legislation have unquestionably demonstrated the need to go beyond the fault concept in compensating accident victims. A pure tort approach is certainly not satisfactory.

It is significant, however, that those same studies and the attention they have generated have inspired an increasing number of States to act on their own, and to approach the issue on the basis of any special circumstances which might make a given remedy quite suitable on one State but highly unsuitable in another.

My own State of South Dakota is an example. We have a new auto insurance reform law which became effective on January 1, 1972. Recovery in tort is not restricted. But insurers doing business in South Dakota are obliged to offer supplemental first party insurance coverage for medical expense benefits, wage loss benefits, and death benefits.

A system of this kind would likely be insufficient for a congested urban environment, or perhaps even for an average State. But, as our State Secretary of Commerce and Consumer Affairs, Mr. James Guffey, has pointed out in a memorandum discussing this issue:

South Dakota does not rate as a problem insurance state, nor is it an average state in terms of premium cost, loss ratios, court congestion, and the things that would be salient points of a national no-fault bill.

I have a great deal of confidence in the judgment of the officials of State goverment in South Dakota who have examined this issue very carefully over several years. They advise me that the South Dakota plan is working out satisfactorily. In addition, they are concerned that the standards which would be established by S. 354 have been designed to reflect conditions in urban States and that they tend to discriminate against the rural parts of the country—that they would tend to cost the consumer substantially more than the benefits would warrant.

I find those arguments persuasive, and I will therefore oppose S. 354.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point a letter I have received on this subject from Governor Richard Kneip of South Dakota, a memorandum from Secretary of Commerce and Consumer Affairs James Guffey. and an analysis of the South Dakota insurance law prepared by the State Director of Insurance, Ralph Nauman.

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

STATE OF SOUTH DAKOTA,
April 4, 1974.

Hon. GEORGE MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR GEORGE: I am writing to ask your opposition to SB 354 which I understand will soon reach the floor of the Senate.

The South Dakota Department of Commerce and Consumer Affairs, Division of Insurance, has reviewed the legislation and is recommending your opposition. Enclosed is a copy of a memorandum from Secretary Guffey outlining the reasons for the position of his Department.

State regulation of insurance in South Dakota has worked well and rates here are among the lowest in the United States. As you will note from the Secretary's memorandum, the pending legislation could raise the rates for our policy holders as much as 35%.

I fully recognize that larger states may have problems not found in South Dakota which require major changes in the auto insurance field. However, I do not believe it is appropriate to impose national solutions on problems which are not common to every state and which can be handled appropriately by the individual states.

In addition, I believe the legislation raises constitutional questions which threaten to further imbalance the federal relationship.

If you wish additional information on the effect of SB 354 in South Dakota, please contact Secretary Guffey.

Sincerely,

RICHARD F. KNEIP, *Governor.*

SOUTH DAKOTA DEPARTMENT OF
COMMERCE AND CONSUMER AFFAIRS,
Pierre, S. Dak., March 29, 1974.

To: Richard F. Kneip, Governor.
From: James V. Guffey, Secretary of Commerce and Consumer Affairs.
Re: Federal No-Fault Insurance Bill.

Insurance is the last frame of commerce that is still wholly state-regulated for the most part. It has been left in the jurisdiction of the states and for a state with a rural base like South Dakota this has been a distinct and decided advantage. We have low premium rates; we have a first party coverage law in South Dakota that is, in fact, a type of "no-fault". The Division of Insurance informs me that the states of Washington, Oregon, Arkansas, and some others have since passed a law similar to our approach in this area.

We have no-fault benefits without the completely compulsory insurance and would favor to keep it that way. The Division of Insurance informs me that a cost analysis has been made between Senate bill 354 and our own law by the actuarial firm of Mellman and Roberts which indicates that Senate bill 354 would raise the cost of insurance to the consumers in South Dakota by as much as 35% over the present law. In addition to this, it would be, in our judgment, definitely detrimental to the small domestic insurance companies because of the high and/or restricted benefit limits.

South Dakota does not rate as a problem insurance state, nor is it an average state in terms of premium cost, loss ratios, court congestion, and the things that would be salient points of a national no-fault bill.

Finally, I think there is a great deal to be said for this particular area of commerce to continue to be regulated almost totally on the state level and I hope that you would ask Senators McGovern and Abourezk to vote no on the Senate bill 354.

SOUTH DAKOTA DEPARTMENT OF
COMMERCE AND CONSUMER AFFAIRS,
Pierre, S. Dak., March 14, 1974.

Senator GEORGE MCGOVERN,
Dirksen Senate Building,
Washington, D.C.

This is a reply to your letter of February 26, 1974, regarding the National No-Fault Motor Vehicle Insurance Act (S-354) vs South Dakota Supplemental Automobile Insurance Coverage.

First of all our Supplemental Coverages consist of death benefits, disability benefits and medical expense benefits. These coverages must be offered with every application of automobile liability insurance covering any automobile registered or principally garaged in South Dekoa. The "Named Insured" shall have the right to reject in writing all or any one or more of such coverages.

Persons covered include Named Insured only for medical, accidental death and disability benefits. Other insureds (passengers, operators with consent of named insured, members of named insureds household and pedestrians struck by insureds vehicle) are covered for medical expenses only.

Our supplemental coverage has no provision for tort action nor tort exemption.

Our Medical Expense coverage is for at least $2,000, for expenses incurred within two years from date of accident. Again this is applicable to Named Insured and Other Insureds (see above Persons Covered). The Accidental Death Benefit of at least $10,000 applies to Named Insured while occupying an automobile or through being struck by a motor vehicle while a pedestrian.

Loss of wages includes indemnity of at least $60 per week beyond 14 days from date of accident, for 52 consecutive weeks. This applies only to the "Named Insured" for injuries and disability accidentally caused while occupying an automobile or being struck by a motor vehicle while a pedestrian. These injuries must prevent Named Insured from performing usual duties of his occupation.

Weekly indemnity for disability benefits may be reduced 50% provided the injured Named Insured is not gainfully employed at time of the accident.

Our Supplemental Coverage does not have a provision for Property Damage nor Auto Physical Damage.

One provision we do have is that disability benefits are paid in full with no reduction due to benefits available under any Workmen's Compensation Law or similar law or from any other source.

I do believe that it is important that this type of insurance be tailored to the needs of South Dakota and that we do have coverage which does a reasonably good job for South Dakota.

We do have approximately 15% of our drivers who do not carry this first party liability coverage. However, compulsory insurance has proven very costly in other states and it creates many enforcement problems. Our mandatory uninsured motorist law does a good job of protecting the insured from the acts of the uninsured motorist in our state.

The tort exemption of the Federal bill is completely absent in our law. We believe this is good. South Dakota does not have a large number of claims in our courts. The cost of our program is approximately $10 per person covered with an additional $3.00 for the uninsured motorist coverage.

I hope this will give you some idea of our so-called "No-fault" insurance in South Dakota vs the National No-Fault Motor Vehicle Insurance Act.

Enclosed is some information that may clarify any questions you may have.

Yours very truly,
RALPH A. NAUMAN,
Director of Insurance.

Mr. EAGLETON. Mr. President, my vote against the national no-fault insurance bill (S. 354) stems from three basic concerns:

First. The question of constitutionality. Congress, if it desired, could set up a federally administered, federally funded no-fault system. Congress can, as it has in many other areas of legislation, pass legislation inducing—usually by the offer of substantial money—States to conform to Federal standards, but the State itself ultimately either accepts or rejects the inducement. Congress can delegate responsibilities and enforcement authority for a program to the States—that is, Clean Air Act—but reserving Federal enforcement if the States refuse to act under the doctrine that Prof. Paul Freund refers to as "cooperative federalism."

But S. 354 is an entirely different approach. It compels the States to use State money and State officials for a comprehensive regulatory program whether or not the citizens of that State desire such a program. If a State does not act, or indeed if the State cannot act under its State constitution, the Federal law automatically becomes the State law. This is not inducement; this is not "cooperative federalism"; this is Federal coercion pure and simple and I have grave doubts that it would be constitutional. On this constitutional issue I recommend the reading of the testimony of constitutional law by Prof. Norman Dorsen of New York University School of Law before the Senate Judiciary Committee on February 7, 1974.

Second. Part of the basic premise of no-fault insurance is that routine property damages and nonsevere personal injuries be resolved promptly in this manner with serious or permanent injuries resolved in the traditional tort recovery manner. Without defining "serious and permanent injury," S. 354, as amended, did require "three continuous months of total disability" before one could sue in tort. This to me was too high a threshold and thus I supported Senator BAKER'S more realistic definition of a "serious or permanent injury" as being "death, or dismemberment, or serious and permanent disfigurement, or the permanent loss of a bodily function, or medical expenses of $500 or more, or weeks or more of disability which prevents a victim from working at his normal occupation, or 6 weeks or more of disability which prevents a victim from engaging in normal daily activities." Unfortunately, the Baker amendment was defeated.

Third. Costs. The advocates of no-fault contend that insurance premiums would be reduced under no-fault. The statistical evidence before the Senate committee was by no means clear and convincing in this regard. Since that time the bill has been amended in such a way as to increase the costs of the no-fault program. Even before these amendments, one of the staff studies indicated that whereas premiums might go down in few highly urbanized States, they would go up in most States with the estimated premium increase in Missouri being 11.1 percent. While I am not satisfied with any of the cost studies, it would be a very disturbing result to Missourians if instead of saving money under no-fault, they actually paid higher premiums.

Mr. STEVENSON. Mr. President, no major system of benefits to injured persons in this country is less efficient than the fault system of automobile insurance. Of each dollar motorists pay into the system, only 44 cents is paid out in benefits to victims. All the rest goes to the lawyers and the insurance companies.

What is more, the fault system is as inequitable as it is inefficient. Roughly half the victims of automobile accidents receive nothing at all through the fault system. Of those who are lucky enough to collect something, the victim who is slightly injured collects too much—because of nuisance value of his claim—and the seriously injured victim collects too little.

In short, if we had deliberately tried to create the worst possible system of compensating auto accident victims, we would come up with something which closely resembles the existing system.

That is why, 3 years ago, I publicly called for a national standards approach to automobile accident insurance. I then proposed—and I was the first Member of the Senate publicly to do so—that Federal legislation set standards under which each State would institute its own no-fault plan. That is exactly what this bill does. I am therefore especially pleased to have been one of the five initial sponsors of this landmark legislation, and to have supported it in the Committee on Commerce.

This bill is simple and fair. It will guarantee each victim full compensation for medical and most other losses. It will, at a time when the prices of most necessities are skyrocketing, produce reductions in auto accident premiums. And it will cost the Federal Government virtually nothing.

No bill we have considered in this Congress will be more beneficial to American consumers. I hope we will pass this bill and that the other House will now act promptly so that the bill can be sent to the President's desk at the earliest possible time.

Mr. NUNN. Mr. President, the concept of no-fault auto insurance is rapidly coming of age. But, this is not to say that the Federal Government should dictate the States' insurance laws. Contrary to what some may think, I do not believe that the Federal Government is all wise or all knowing in this new area.

S. 354 would require the States to enact laws which meet certain Federal standards, the merit of which is at the present unproven. It seems to me far more prudent to test the various no-fault plans that are being enacted by the States, and allow flexibility in this area.

The legislature of my own State of Georgia recently enacted a no-fault plan which it felt best met the needs and desires of the people of Georgia. The provisions of the new State no-fault law were subject to extensive consideration and deliberation in the State legislature.

Many feel that this State law is not sufficiently strong, but this question can be addressed in future years at the State level. I want to emphasize that such a testing of the State plans is quite important. It must not be overlooked that it was only in 1970 that Massachusetts pioneered the Nation's first no-fault law. Since then 19 other States have enacted their own plans. Within the last year alone, 7 or 8 States have passed such laws. Anyone who is familiar with the law will realize that this is rapid progress, especially when one considers that the tort basis of recovery has to date permeated our legal system.

In addition to my reluctance to overrule the recent judgment of those closest to the problem, I am deeply concerned about the unknown affects of this nationally-imposed plan. I am not satisfied that a State enacting a plan conforming to the minimum Federal standards will necessarily realize a reduction in the premium rates paid by the consumer. Efforts to project the cost implications of the no-fault system embodied in S. 354 resulted in several caveats concerning the results of an actuarial study performed under a grant from the Department of Transportation. Some testimony has suggested that S. 354 could possibly cost more than the present tort system. It is my understanding that under State law, insurance rates vary considerably from State to State. In some States having high rates, a national no-fault system may well lower rates. However, this may not be true in all States.

Mr. President, against this backdrop, we would be doing the States and the consumer a disservice if we required all States to comply with a plan that is not the result of a sequence of shared experiences, efforts and endeavors. It is too soon to conclude that the States cannot or will not enact adequate no-fault laws. Nor can we say with confidence that S. 354's plan is superior and sufficiently effective and workable to merit its imposition in all 50 States. Reason dictates that we judge by the success of experience, and federalism demands that the States be given a fair opportunity to enact appropriate no-fault laws for the benefit of their citizens.

Mr. DOMINICK. Mr. President, I want to take this opportunity to express my opposition to S. 354. I followed the debate through the hearings and on the Senate floor with great interest. I have heard from trial lawyers, insurance companies, insurance commissioners, consumer groups, local, State, and national bar associations, all indicating their opposition to S. 354.

The most common argument that I hear is that this is not an area for Federal legislation. Insurance has to be controlled at the State level, not the national level. The divergence between the 50 States is so great that this bill would have the effect of easing the burden for the populous northeastern States and cities while imposing a heavy burden upon the people of the States such as Colorado.

At the present time, 20 States, including my own State of Colorado, have no-fault insurance plans in effect. These States have had the opportunity to look at their own individual situations and have come up with their own solutions. The State legislatures of several other States have considered no-fault insurance and have rejected it as being an unworkable solution to their own individual needs. S. 354 is going to affect each and every State plan that is now in effect because these State plans will not meet many of the standards established in this bill. Those States that have considered no-fault and have rejected it, will have no choice if this bill passes because it will be imposed on them. Those States that have not considered no-fault will not even have the opportunity to do so if this bill passes. We should allow the States to determine the legitimacy and purposefulness of no-fault for their own citizens.

The major concern of most consumers regarding S. 354 is the cost. Under S. 354 it will be higher for millions of people. Several studies of both academic and industry experts, have predicted an increase in total personal injury premiums under S. 354. This bill would increase rates more heavily for residents of rural areas and low-income people, and it would also boost rates for most consumers in many of the 20 States which already have no-fault plans.

In hearings before the Judiciary Committee, expert witnesses, with one exception, expressed the view that the bill is unconstitutional or stated that substantial question exists as to its consitutionality. The result of its enactment would be violation of our system of federalism and the sovereignty of the States as embodied in the 10th amendment to the U.S. Constitution.

These witnesses also agreed the bill is incomplete and misleading. State action, both administrative and legislative, would be required. In view of the questions concerning the ability of the States to enact conforming legislation and the strong unanimous opposition to the bill by numerous State officials, including Governors, attorneys general, insurance commissioners and legislators, such State action cannot be anticipated. This would result in litigation for years to come, creating chaotic conditions in both the auto reparation and insurance regulatory fields.

The McCarran-Ferguson Act enacted by Congress in order to establish a national policy governing the regulation of the insurance industry clearly demonstrates that Congress intended to reaffirm the States power to regulate insurance and to insure that State legislation would not be impaired or overriden except by specific and explicit congressional enactments.

Section 102(a)(10)(A) of S. 354 sets out the need to "recognize, respect, and avoid interfering with the historical roles of the States in regulating and exercising legislative authority over the business of insurance." It goes on to contradict this long established public policy by incorporating provisions which are in direct conflict with this national policy and which interfere with existing State automobile insurance laws and regulations.

S. 354 directs that the ultimate judgment as to whether automobile insurance business is being regulated be made not by the States, not by Congress, but by a Federal administrative agency, the Department of Transportation.

S. 354's mandate for unlimited medical and rehabilitation coverages, along with its implications of ever-growing, costly, and cumbersome Federal regulation, would deal many, if not all, of the small auto insurance companies a heavy blow.

One expert witness noted that the large number of smaller firms will suffer and the consumer will pay a higher price due to the lack of competitive conditions.

The disruption of small company operations and the inevitable constriction of the insurance market in sparsely populated areas that would result under S. 354 would permit giant companies to capture, with Federal assistance, the share of the market now held by smaller insurers.

Supporters of S. 354 have continuously stated that Federal legislation is necessary to avoid "chaos" in interstate travel which 50 different State no-fault plans could cause. We have never been told how this chaos would come about nor its causes. They imply that people would be thoroughly confused as to their rights and obligations in interstate travel. In spite of the fact that 20 States have no-fault plans, this chaos has not occurred.

Insurance contracts have been revised to automatically guarantee full legal protection anywhere in the United States and Canada.

Moreover, no person insured in one State and involved in an accident in an-

other will have his right to sue limited, unless he has a compensating right to no-fault first party benefits. Also, if the insurance policy requires payment of higher no-fault benefits than is required in the State of accident, the higher benefit shall be paid. This is a simple and fair procedure.

Mr. President, evidence presented for reform in the field of insurance is substantial. Such reform is directed toward a system that has developed over a very long period. I prefer to observe the results of reform efforts at the State levels. After ample opportunity for analysis of the cost implications of no-fault, the desirable features of the State programs might be adopted and molded into a reasonable uniform plan. At that time, we would have the benefit of experience, something that is lacking as we consider S. 354. Until that time, Mr. President, I intend to oppose this type of Federal legislation.

THE NEED FOR NATIONAL NO-FAULT AUTOMOBILE INSURANCE

Mr. SCHWEIKER. Mr. President, the Senate has been considering S. 354, a bill to establish a nationwide system of adequate and uniform motor vehicle insurance, and I urge my colleagues to join me in voting to pass this important legislation. In earlier consideration of the bill on the floor, I voted against amendments which would weaken its standards and thereby raise the cost to the consumer. In its final form, S. 354 remains a strong bill. It should be passed.

The plan would assure the accident victim prompt and adequate compensation for medical expenses and economic loss, and at the same time result in a reduction in the cost of premiums to the consumer. As the bill now stands, it is estimated that the Federal no-fault plan will result in a savings to the consumer of 14 percent in reduced premium costs, compared to the premium costs of present insurance in Pennsylvania alone. Thirty-three percent more dollars will be available to compensate injury; 25 percent more injuries will be fully compensated in Pennsylvania and savings of nearly $70 million in premiums will occur. It is also estimated that the present system of automobile insurance returns less than 50 percent of premium payments to the consumer in the form of benefits. The no-fault plan would make a much higher percentage of premium payments available to the consumer in the form of benefits, and provide full coverage of medical expenses as incurred.

The no-fault concept has been under study here for over 4 years and in the 92d Congress was briefly considered by the full Senate before the bill was referred to the Senate Judiciary Committee. Since that time, however, only 14 States have enacted plans which approximate the no-fault concept contained in S. 354. The Senate bill will still permit States to establish and run their own program since it merely sets Federal minimum standards which must be met in the State law. The State will retain its traditional role in the administration and monitoring of the insurance program.

I feel we must move ahead in establishing true no-fault automobile insurance in all States to improve our automobile insurance system and to bring much needed savings to the consumer. I urge my colleagues to join me in voting to pass this important legislation.

SENATOR RANDOLPH BELIEVES NO-FAULT INSURANCE PROGRAM, IN PENDING BILL, WILL NOT ACHIEVE OBJECTIVES OF PROVIDING JUST COMPENSATION TO ACCIDENT VICTIMS

Mr. RANDOLPH. Mr. President, after careful study and intensive consideration I have determined that the pending measure, S. 354, should not be enacted into law. My decision has been made with considerable reluctance, since this bill has been designed and pursued to help people through a uniform system of accident reparations—a worthwhile objective. I know also that the able chairman of the Committee on Commerce (Mr. MAGNUSON) has worked diligently to bring this legislation into being, as he has worked for many, many programs to aid all citizens. The Senator from Utah (Mr. Moss) has shown his expert leadership in this area and has been an effective advocate. I share their conviction that a system must be developed to insure compensation of accident victims.

However, Mr. President, it is my belief that for the time being the area of no-fault insurance is one which should remain with the jurisdiction of the States. One can, with some basis refute this belief, with the statement that the States have not acted quickly enough and now the Federal Government must establish a national, uniform no-fault program. While we are not totally satisfied with progress of no-fault within the States, it must be recognized that the States are moving, each in its own way, to cope with the problems presented by the automobile accident reparations system. Twenty States have enacted some version of no-fault, and the overall "no-fault automobile coverage population" is more than 42 percent. This has happened within a short period of time. Additionally, the commissioners of the National Conference on Uniform State Laws have given final approval to a uniform set for no-fault motor vehicle insurance. Thus, there appears, in my judgment, to be solid progress by the States. There are valid prospects for continued progress.

Setting aside the issue of whether the States are fulfilling responsibility in this area, I seriously question whether this is a time to add to the Federal system the task of implementing a system of no-fault insurance. There are many areas of Federal concern mandated by the Congress which are not being adequately met. As Senators know, the pending measure embraces more than national standards under Federal law. It includes the provision for imposition by our National Government of a no-fault program to be administered by the State in the absence of enactment of an adequate State law. I realize that this argument can be made at any point when the Congress is considering a new program or extensions of existing authority. However, I think it is very clear that we must become more selective in legislation to increase the Federal role, and one of the key elements in that consideration must be the history of jurisdiction on a particular issue. One fact we do know—the role of the Federal Government will not be decreased by this Congress or any future Congress. So, at every stage, we will debate measures to expand Federal involvement. Need and the ability of Government to respond will be critical. It is my feeling that in the pending measure neither the criteria of need nor ability of Government to respond has been met.

Mr. President, I am aware of the promise that S. 354 will provide substantial payment for losses of all victims and produce savings in automobile insurance programs, at a cost to the consumer which was significantly less than the cost of the existing system. There is, however, conflicting cost information on the pending bill. Members of the Committees on Commerce and on the Judiciary involved in this measure are in strong disagreement on the question of projected—I repeat projected—premium costs. Further, serious questions have been raised on the actuarial study on which S. 354 is being presented to the Senate. It is a serious point of contention as to whether the cost implications of S. 354 are accurately represented by the majority reports. For example, the minority report of the Judiciary Committee presents a totally different evaluation. It indicates that S. 354 would result in an increase in the cost of the entire automobile insurance system in 44 of the 50 States. The answer is far from certain. But I am of the opinion that the no-fault system embodied in S. 354 might cost substantially more than the present system.

Also, there is strong reason to believe that this bill will operate to the detriment of rural and semirural populations. Cost increases will possibly come in the overwhelming majority of States and cost decreases will likely be experienced only in the relatively few States containing large urban population centers.

As a Senator from a rural State, I am genuinely concerned with this issue. Why should people who live in the small and rural and sparsely populated States and communities be required to relieve the burden of those in the densely populated metropolitan areas?

Mr. President, an interesting ingredient in the consideration of this legislation has been the varied positions of the insurance industry. The Judiciary Committee report underlines substantial testimony received concerning the impact of the enactment of S. 354 on the competitive aspects of automobile insurance. Testimony on this question supported the proposition that the smaller insurers would be placed at a serious competitive disadvantage under the provisions of the Federal no-fault proposal. This question has not been adequately resolved. The major trade associations representing the majority of the smaller insurance companies are opposing the enactment of the legislation. The association which represents the largest companies is supporting the measure. It is, in my judgment, unique that these larger organizations are strongly supporting legislation to correct a problem involving the very business activity they control. They

should be the companies creating a better climate for fair settlements of claims.

Mr. President, there is need for reform of the automobile reparations system. But, we should move in that direction carefully with full knowledge of the effect of such action. It has not been demonstrated that there is a compelling need for the Federal Government to intercede and provide a total revamping of the automobile insurance system at this time. It has not been demonstrated that S. 354 will achieve in a fair and equitable manner the objectives set forth by the proponents.

Mr. MATHIAS. Mr. President, the National No-Fault Insurance Act, S. 354, has been one of the most complicated and hotly contested pieces of legislation considered during this session of the Senate. As we come to the end of a long debate, I wish to add a few remarks of my own to the already voluminous record on this bill.

I believe that the general consensus is that the manner in which we as a society handle the problem of automobile accidents and automobile insurance is badly in need of reform. Many people who are injured in automobile accidents go uncompensated. Indeed, even innocent persons, those not found to be at fault in an automobile accident, are going uncompensated. Estimates are that nearly half of the moneys contributed each year by the public in the form of automobile insurance premiums are consumed by the present system and do not find their way to injured victims.

I should add that lawyers are often singled out for criticism in this connection. It is important to note that legal fees do not make up the great part of these premiums which do not find their way back to the public. The great part of this money goes to other segments of the current insurance system for claim investigation and other overhead.

S. 354 would provide Federal standards to substitute a new system for that generally in use in the United States. This new system is designed primarily to provide compensation for medical costs and loss of income. The bill removes the right to sue unless injuries reach a certain threshold of gravity, and the Senate has lowered that threshold during the course of its consideration of the bill.

My own State of Maryland has attempted to do something about the current system and has adopted its own automobile insurance reform plan. The Maryland system is not a true no-fault system, but it does have no-fault features. Early indications on the operation of the Maryland scheme are that it is enjoying success. The Maryland scheme also includes the use of a State insurance fund to cover bad risks, people previously unable to obtain coverage. This brings needed competition in a badly needed area. Happily, this feature of the Maryland law could be continued under S. 354. But because other features of the Maryland law would not be permitted under S. 354, I voted to recommit the bill in the hope that some of these better features could be retained.

I, with many of my colleagues have had difficulties with S. 354. In a number of respects I am dissatisfied with the bill. I doubt that it will result in lower insurance premiums in Maryland. In particular, I regret that it does not allow for the kind of progressive experiment that my State of Maryland has attempted. It will present Maryland and other States with many administrative difficulties.

But the Senate has reached numerous decisions on amendments to the bill which make retention of any of the Maryland features impossible. And it is clear that Maryland will not be able to stand alone in the Nation. In light of the failure of the current system of automobile insurance to provide prompt compensation to victims of automobile accidents, I have decided to vote for the bill in its current form on final passage, despite these objections. Some tort liability has been preserved. When and if the other body acts on this issue, there will be a conference to reconcile the several versions of the bill. In the course of this process greater wisdom may prevail and hopefully a better bill will result.

Mr. DOLE. Mr. President, the day of decision has now arrived. Today's vote on S. 354, the National No-Fault Motor Vehicle Insurance Act, culminates many months of discussion and debate. As has been pointed out many times and in many contexts, few issues have generated so great a public response. And this is only natural, since automobiles and, therefore, automobile insurance have become an integral part of life in America.

At the outset, I wish to commend the Senate Commerce Committee for its dedicated efforts toward creating a wide-based public awareness of the need for comprehensive reform of our automobile liability insurance system.

During the 90th Congress, at a time prior to any State activity with regard to no-fault insurance programs, the Commerce Committee was instrumental in promoting legislation which resulted in the Department of Transportation's intensive investigation and subsequent indictment of the then universal negligence-based insurance system.

DEFECTS OF OLD SYSTEM

As stated in the Department's final report:

> In summary, the existing system ill serves the accident victim, the insuring public and society. It is inefficient, overly costly, incomplete and slow. It allocates benefits poorly, discourages rehabilitation and overburdens the courts and the legal system. Both on the record of its performance and on the logic of its operation, it does little if anything to minimize crash losses.

In response to these 1971 conclusions, States began to initiate reforms of their respective insurance programs. And properly so, I believe, for the regulation of motor vehicle insurance is, and has traditionally been, a matter of State and not Federal jurisdiction.

During the 92d Congress, a Federal no-fault insurance bill, S. 945, was considered by the Senate, but was not brought to a final vote. The session ended with the bill still awaiting investigation by the Judiciary Committee as to the constitutional question raised by the proposed unprecedented involvement of the Federal Government in the jurisdictional spheres of the individual States. Strenuous objections were raised in that regard—objections which, I might add, remain unresolved in the minds of many to this day, and apply to the bill now before us.

STATE REFORMS

The individual States were urged to enact no-fault programs on their own initiative. In that way, it was hoped that the constitutional questions regarding possible Federal intervention could be avoided.

Now, 2 years later, 14 States have responded with plans that even the strongest advocates of Federal no-fault legislation have conceded are "genuine no-fault programs."

I am proud to say that Kansas is among those States to have taken the initiative in this important area. Fletcher Ball, Kansas State commissioner of insurance and president of the National Association of Insurance Commissioners, has written me discussing the State's no-fault program and its relationship to S. 354.

Because he also describes the activities of the various States with regard to the issue of no-fault insurance, I find his letter to be of particular merit, and ask unanimous consent that it be included in the RECORD at this point, along with a summary explanation of the new Kansas no-fault statute.

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

MARCH 27, 1974.

Hon. BOB DOLE,
U.S. Senator,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR DOLE: As Commissioner of Insurance of the State of Kansas and as President of the National Association of Insurance Commissioners, I feel it is incumbent upon me to reiterate my long-standing opposition to a federally mandated no-fault automobile insurance system. As evidenced by my strong support of the no-fault automobile insurance legislation enacted by the 1973 and 1974 Sessions of the Kansas Legislature and by the resolution adopted by the NAIC which I furnished you under date of June 26, 1972, neither I nor the NAIC as an organization are opposed to no-fault automobile insurance as a concept but we are opposed to the involvement of the federal government in areas which can best be served by action at the local level. Incidentally, the 1972 NAIC resolution was re-affirmed at its meeting last December and I am enclosing a copy of this reaffirmation for your information.

As you know, no-fault legislation involves fundamental changes in a complex and ongoing system. Since a multitude of factors, concepts, attitudes and values vary from area to area, public policy changes can best be made, in my opinion, on a state-by-state basis. This process not only enables each state to adopt those changes which are compatible with its own individual needs and which reflect the desires of its own citizens, but it also provides for experimentation with different alternatives. Of equal or perhaps even greater significance, the state legislatures can respond to changes dictated by experience under the alternative selected as opposed to being forced to abide by decisions made at the federal level which may prove to be detrimental to the interests of the motoring public in a particular state. I realize

proponents of S. 354 maintain that it provides sufficient flexibility for the states to tailor a program to their respective needs but any reasonable reading of this proposal reveals that such flexibility is extremely limited.

In some situations I suppose the traditional "state versus federal" arguments could be perceived as a delaying tactic or an expression of support for the status quo. This is obviously not the case with respect to the no-fault automobile insurance issue. To date, at least nineteen states including Kansas have enacted some type of no-fault law and *every* state has considered or is now considering whether a move to a no-fault system is appropriate and the form it should take. The enactment of S. 354, or probably any federal measure, would disregard and supersede the judgment of not only state legislatures which have or are considering this subject but, even more important, it would discard and destroy the substantial progress that has been made in states such as Kansas which have already acted to reform the automobile reparation system and have implemented the changes resulting from such reformation. Quite frankly, it is difficult for me to conceive a situation which would be more confusing to Kansas citizens than the withdrawal of a no-fault automobile insurance system to which they are now being introduced and substitute a different system in its place.

I will not burden you with a detailed analysis of my objections to specific provisions of S. 354. I will, however, refer you to the comparison I furnished your office last August which briefly outlines the differences between S. 354 and the Kansas Automobile Injury Reparations Act. The Kansas law has been modified to some extent since this comparison was developed but the changes are not substantive as far as this discussion is concerned. In general, since the Kansas law was developed by Kansas citizens for Kansas citizens and to fit the needs of Kansas citizens, I suppose I could say that my objections to S. 354 embrace any variation between it and the Kansas law. Of particular concern, however, are the extremes to which S. 354 goes in terms of dictating the benefit levels and restricting tort liability in addition, of course, to the paternalistic philosophy inherent in any federal legislation of this kind.

Thank you for your interest in this matter and if I can ever be of service to you, please do not hesitate to contact me.

With my best personal regards, I am,

Very truly yours,

FLETCHER BELL,
Commissioner of Insurance.

MOTOR VEHICLES—NO-FAULT PLAN—REPEALS EXISTING NO-FAULT LAW AND REENACTS IT WITH AMENDMENTS

Compulsory—Yes. Motor vehicle owners must provide security for liability insurance in limits of $15,000/$30,000/$5,000 and first party benefits insurance. (Secs. 4(a) and 7(e)–(g)).

Providing and maintaining security is a prerequisite to vehicle registration. (Secs. 18(a) and (c)–(h)). Failure to provide and maintain security and operating or permitting operation of an uninsured vehicle is punishable as a class C misdemeanor (maximum of $500 fine and 1 month confinement). (Secs. 4(b)–(c), (e) and K.S.A. 1973 Supp. 21–4502, 4503).

Motor Vehicle Included:

Private Passenger—Yes. (Sec. 3(m)). Motorcycle owners have a right to reject first party benefits insurance. (Sec. 7(f)).

Public Passenger—Yes. (Sec. 3(m)).

Commercial—Yes. (Sec. 3(m)).

First Party Benefits:

Medical—Up to $2,000 (Sec. 3(k)).

Rehabilitation—Up to $2,000. (Sec. 3(r)).

Funeral—Up to $1,000 (Sec. 3(d)).

Work Loss—85% (100% if benefits includable in gross income for federal income tax purposes) of loss of income up to $650 per month for 1 year. (Sec. 3(b)). Benefits are payable to unemployed persons on the basis of the anticipated earnings from the time such person would reasonably have been expected to be regularly employed. (Sec. 3(1)).

Substitute Services—Up to $12 per day for 1 year. (Sec. 3(w)).

Survivors—Work loss benefits up to $650 per month for 1 year after death and substitute services benefits up to $12 per day for 1 year after death; survivors' expenses avoided because of the death are subtracted from substitute services benefits, and the number of months an injured person received work loss benefits before his death is subtracted from the number of months for which work loss benefits are payable to survivors. (Sec. 3(y)).

Benefits–Primary—First party benefits are provided without regard to other benefit sources, except that workmen's compensation benefits must be subtracted. (Sec. 10(a)). First party benefits must be subtracted from uninsured motorist benefits. (Sec. 13(e)).

Limitation on Special Damages—No limitation on right to recover special damages.

Limitation on General Damages—Cannot recover general damages unless injury results in: permanent disfigurement; fracture to a weightbearing bone; a compound, comminuted, displaced or compressed fracture; loss of a body member; permanent injury within reasonable medical probability; permanent loss of a bodily function; death; or medical expense in excess of $500. The reasonable value of services performed by a relative or a member of the household which would normally be performed by a nurse are to be included in computing the $500 medical expense threshold. (Sec. 17).

Insurance Follows-the-Family—For injuries sustained in the state of Kansas:

(1) owner's insurer pays first party benefits to owner injured while occupying, or struck by, any motor vehicle (Sec. 9(a)(1));

(2) owner's insurer pays first party benefits to household relative injured while occupying, or struck by, any motor vehicle; however, if a household relative is the owner of a motor vehicle subject to the insurance requirements of this act, his own insurer pays the benefits (Sec. 9(a)(3));

(3) owner's insurer pays first party benefits to any other person occupying the owner's motor vehicle and to any other Kansas resident struck by the owner's motor vehicle; however, if such person is the owner of a motor vehicle subject to the insurance requirements of this act, his own insurer pays the benefits (Sec. 9(a)(4)).

If 2 or more insurers are required to pay first party benefits for the same injury, the total amount of benefits payable by all insurers to one person is subject to the per person limits. Any insurer paying the claim is entitled to a pro-rata contribution from the other insurers. (Sec. 9(b)).

Subrogation and Reimbursement—There are 3 ways by which insurers may recover first party benefits:

Subrogation—If insured has a right to recover general damages against a tortfeasor and fails to commence such action within 18 months after the accident, the insurer has a right to commence the action "in its own name or in the name of the injured person" to recover the amount of first party benefits paid. The "prosecution or settlement of any such action without the consent of the injured person or his legal representative shall be without prejudice to the injured person or his legal representative to maintain an action against the third party." (Note: The quoted provision might serve to make a tortfeasor twice liable for damages to the extent of first party benefits.) (Sec. 13(c)).

Intercompany Reimbursement—If the tortfeasor is insured, an insurer may agree with the tortfeasor's insurer to have the issue of liability and the amount of reimbursement settled by arbitration. An insurer's use of this alternative would be in lieu of its right of subrogation. (Sec. 13(d)).

Reimbursement from Insured's Tort Recovery—An insurer can not reduce first party benefits because of the value of a tort claim. If, however, an insured has recovered on a tort claim, his insurer shall subtract the amount of tort recovery from first party benefits payable or, if benefits have already been paid, shall have a lien on the recovery. However, no "recovery of damages by an injured person or his estate shall be subtracted by an insurer in calculating benefits due after such person's death resulting from an injury for which the benefits were payable, and no recovery under [the Wrongful Death Act] shall be subtracted in calculating funeral benefits." (Sec. 13(a)).

Out-of-State Motorists—Nonresident motorists are subject to the same security requirement as resident motorists. Insurers must certify that the motor vehicle liability insurance policies of their nonresident insureds comply with the Kansas requirements. (Sec. 6).

Out-of-State Application—First party benefits are payable by the owner's insurer to the owner and household relatives for injuries sustained as an occupant of the owner's motor vehicle in an accident in the United States or Canada. However, if a household relative is the owner of a motor vehicle subject to the insurance requirements of this act, Secs. 9(a)(2) and 9(a)(3) would not permit him to recover under the owner's policy and it is not clear whether he may recover under his own policy.

Assigned Claims Plans—Insurers must organize and maintain an assigned claims plan for the payment of first party benefits. Such benefits are to be paid without regard to other benefit sources. (Sec. 16).

Notice of Cancellation or Nonrenewal—Notices of termination must include a warning that security must be maintained throughout the registration period, that operation of an uninsured vehicle is a class C misdemeanor, and the registration of an uninsured vehicle is subject to revocation for a 60-day period. Insurers must inform the Director of Vehicles of a cancellation at least 30 days prior to the effective date of the cancellation. (Sec. 18(b)).

Historical Note (March 1, 1974):

Kansas enacted a no-fault law on April 11, 1973. (K.S.A. 40–31; L. 1973, Chap. 198; 1973 Reg. Sess. H.B. 1129). The law went into effect on January 1, 1974.

In Manzanares v. Bell, a suit for declaratory relief decided in January 1974, the District Court of Shawnee County, Kansas, held the no-fault law unconstitutional on three technical grounds unrelated to the validity of basic no-fault insurance concepts. (Case Docket No. 122,937; Oral Decision, January 4; Journal Entry of Judgment rendered January 4, filed and entered January 23; Memorandum (Written) Opinion, January 24). The decision was appealed to the Supreme Court of Kansas, and the no-fault law remained in effect because the District Court decision was subject to consecutive stays issued by the District Court and the Supreme Court. However, on February 18, Kansas enacted S.B. 918, which repealed the existing no-fault law and substituted for it a virtual reenactment of the law with amendments designed to resolve its purported constitutional defects and to improve other provisions. The principal differences between these laws are summarized below and incorporated in the foregoing text of this Law Memo. S.B. 918's simultaneous repeal of and substitution for the existing no-fault law became effective, by its terms, "from and after its publication in the official state paper" (Sec. 23), which occurred on the morning of February 22.

The Supreme Court of Kansas is expected

to determine the constitutionality of both the former no-fault law (effective January 1 to February 22), which was at issue in the case on appeal, and the present no-fault law (effective since February 22).

The following are the principal differences between the former no-fault law (H.B. 1129) and the present no-fault law (S.B. 918). The citations refer to both laws.

(1) Motor Vehicles Included—H.B. 1129 exempted public passenger vehicles and most types of commercial vehicles from the scope of the law. S.B. 918, however, requires all motor vehicle owners to provide security, and limits their liability for general damages. (Secs. 3(m), 5, and 17).

(2) Limitation on Special Damages—H.B. 1129 permitted injured persons to recover special damages to the extent of first party benefits only if such persons were entitled to recover general damages (i.e. if they were seriously injured); injured persons were not limited in their right to recover special damages for loss in excess of first party benefits. S.B. 918 does not limit the right of injured persons to recover special damages to the extent of, or in excess of, first party benefits. However, a person entitled to recover only special damages presumably would not seek such recovery because of the expense of litigation and the duty to reimburse his insurer for first party benefits. (Sec. 17).

(3) Limitation on General Damages—H.B. 1129 granted a tort exemption for general damages to owners and operators of insured motor vehicles. S.B. 918 extends this exemption to owners and operators of all motor vehicles. (Sec. 17).

(4) Subrogation and Reimbursement—H.B. 1129 permitted an insurer to subrogate if its insured did not commence suit against an alleged tortfeasor within 18 months of the accident. S.B. 918 limits this right to subrogate to suits in which the insured is entitled to recover general damages. (Sec. 13(c)).

Note: Section 13(a) of both H.B. 1129 and S.B. 918 provides that insurers providing first party benefits have a right of set-off or of reimbursement, to the extent of those benefits, from an insured's recovery of special damages. Although there is no substantive difference between the laws on this issue, the language of Section 13(a) has been amended to clarify an ambiguity about the extent of damages subject to set-off or reimbursement which was noted by the District Court.

(5) Out-of-State Motorists—H.B. 1129 exempted motorists from noncompulsory insurance states from the scope of the law. S.B. 918 requires all motor vehicle owners—resident or nonresident—to provide security, and limits their liability for general damages. (Secs. 3(m), 5, and 17).

(6) Assigned Claims Plan—H.B. 1129's plan reduced benefits to the extent of all collateral sources available to claimants. S.B. 918's plan pays benefits without regard to collateral sources. (Sec. 16).*

Effective: February 22, 1974

Mr. DOLE. Mr. President, as can be seen from the statement of Commissioner Bell, and the outline of the Kansas law, State action with regard to no-fault insurance is clearly preferable to the Federal intervention mandated by S. 354.

INCONCLUSIVE EVIDENCE ON COSTS

Because there has also been a great deal of conflicting information offered on both sides of this issue concerning the potential effects of the bill on insurance costs to the average policyholder, I would like to comment briefly on these.

Proponents of S. 354 have utilized figures from the actuarial study conducted by the firm of Milliman & Robertson to estimate a premium rate reduction of 15 percent for Kansas. Such a figure, of course, has great appeal, but I do not believe it has been shown to be valid. In considering this estimate, the following points must be considered:

The Milliman & Robertson study was based on 1972 data—that is, before Kansas enacted its own State no-fault plan. The new Kansas no-fault plan, as modified in response to constitutional objections of the Supreme Court took effect on February 22, 1974. Although figures concerning premium reductions under Kansas no-fault are, of course, not yet available, certainly the same rate reduction arguments as are offered in support of the federally mandated minimum standards no-fault plan of S. 354 can, to a significant degree, also be made for the Kansas plan. The point to be made here is that the claimed rate reduction figure of 15 percent is based on 1972 pre-no-fault data, and, as such, really is not much more than a guess in the present situation.

But even if Kansas had not, on its own initiative, enacted a State no-fault plan, this 15-percent reduction estimate still applies to last August's version of S. 354 as reported by the Commerce Committee—not the bill before us today.

Amendments have been adopted on the floor which change the bill to the point where these old figures are not accurate. I would also point out that, whereas supporters of S. 354 had previously made claims of decreased premium rates in every State should the bill become law, these claims have now been reduced and supporters of this Federal no-fault plan acknowledge that, because of the recent amendments, some States may realize no cost savings.

As Milliman & Robertson themselves took care to point out in their study:

Although the conclusions presented in this report are probably the best estimates available, it should nonetheless be recognized that they are subject to a high degree of uncertainty as well as being very susceptible to misinterpretations.

In conclusion, then, I doubt that the predictions of either extreme are accurate. I do not believe, therefore, there is conclusive evidence—on either side—as to the bill's effects on the premium rates. Thus, the rate question cannot be seen as determinative on the possible merits or deficiencies of S. 354.

Mr. President, I believe a number of constructive amendments have been adopted in the course of debate on S. 354.

I was pleased to join in introducing an amendment to provide greater equity and fairness to motorcycle riders who faced the possibility of totally unreasonable premium increases under the original bill. The many millions of motorcyclists in America had, I believe, a valid and important objection to this feature of the bill as it was reported. And I was pleased that my amendment to permit total State exclusions or reasonable deductibles to be determined at the State level was adopted.

The amendment offered by the Senator from Delaware (Mr. BIDEN) was another positive measure which I supported. It provides a 4-year waiting period before the Federal no-fault requirements go into effect, and it should be an important help to the States. The 4-year period allows each State needed time to develop their own plan tailored to their own particular needs within the mandates of the Federal standards.

I also supported the Moss amendment which lowers the time threshold for bringing court actions for total disability. As reported, the bill set a requirement for 180 days of such disability, while the Moss amendment reduced this requirement to 90 days. This change should be especially important to the victims of the most serious injuries who will need to seek extraordinary relief beyond the statute's standard benefits.

Notwithstanding these improvements which were made in S. 354, I still believe the best course would be for Congress to refrain from acting at this time. Kansas has a good law, and other States should be able to respond in a reasonable time to the need for reforming their automobile insurance systems. I have confidence that the Kansas Legislature will monitor the operation of their new statute and will make the improvements which experience shows to be necessary and desirable. I believe the present and future Governors of the State will be responsible in suggesting ways for building on the progress which has been made. And I would hope that increased benefits will come along as the system is refined.

I believe this matter should remain with the States—which are making progress in dealing with it at this time. Perhaps at a later date, if conclusively proven that the States are failing to respond to this need, the Federal Government might more appropriately step in. But at this time, I believe the States—particularly the State of Kansas—recognize their obligation and are moving to fulfill their responsibilities. And the Federal Government should refrain from extending its influence into this new area which has traditionally been outpay more for their auto insurance.

Mr. HOLLINGS. Mr. President, it is my belief that Federal no-fault automobile insurance legislation cannot be justified at this time, and especially in the form of S. 354.

As a member of the Commerce Committee, I have had the opportunity to study the question of Federal no-fault legislation in great detail over the last few years. When the matter was first raised, I voiced my opposition to the Federal no-fault insurance. Since that time, the legislation has been revised numerous times and the committee hearings have been reopend to take additional testimony on many of these revisions. However, nothing in the hearing records or in the revised bill has removed my objections. Consequently, I am opposed to enactment of S. 354.

My objections to S. 354 are based on three grounds. First, Federal legislation in this area breaks with the long standing tradition that insurance regulation is a State function. There is no justification for enacting such a change, and instead the States should be afforded an adequate opportunity to act. Second, lack of real experience with no-fault

plans, coupled with the extreme plan proposed in S. 354, makes it impossible to predict whether the benefits and premium rate reductions promised by the proponents will in fact occur. Third, is the question of the constitutionality of S. 354. Many of the views expressed by the expert witnesses before the Senate Judiciary Committee were that the bill is unconstitutional or that at least a substantial question exists as to its constitutionality.

Insurance regulation has traditionally been a State function, and it may be helpful to briefly trace the evolution of this tradition. As early as 1968, the Supreme Court held that the business of insurance was not commerce in the meaning of the commerce clause, and hence it was not subject to Federal regulation. Under the protection of this ruling, the States developed their own systems of insurance taxation and regulation. However, in 1944 the Supreme Court reversed its 75-year precedent by holding in *United States* v. *Southeastern Underwriters Association*, 322 U.S. 533 (1944) that the business of insurance was interstate commerce subject to Federal antitrust laws.

While not believing that the Court had erred in its new interpretation of the commerce clause, there was widespread concern over the threat which the ruling posing to the State regulatory systems that had developed under the previous ruling. The McCarran-Ferguson Act was enacted in 1945 in response to this concern and in order to preserve the State systems. The legislative history of this act clearly reveals a congressional finding that the States were in a better position to regulate the insurance industry, because of their proximity to local industry problems and because of their experience and expertise in regulating this business. As Senator Ferguson remarked:

> We believe that all the wisdom is not here in Congress.

Hence, the act reflects Congress' conclusion that the States rather than the Federal Government should have authority for this regulation. As recently as 1969, the Supreme Court has commented on the concept of this act saying:

> It is clear . . . that the focus of the Act was on the relationship between the insurance company and the policy holder. Statutes aimed at protecting or regulating this relationship directly or indirectly, are laws relating to the business of insurance, and hence within the state's authority. (*S.E.C.* v. *National Securities, Inc.*, 393 U.S. 453, (1968).

Previous experience has demonstrated the States' ability to respond to problems that occur. During the 91st Congress, the question of insurance company insolvency arose, and a national insurance insolvency guarantee bill was proposed. The argument for Federal legislation was that States would not act. Even though the Federal bill was not enacted, 48 States have responded to this need by enacting insolvency legislation.

While the concept of no-fault insurance is not new, it has been only recently that the concept began to be embodied in tangible proposals. Many people criticize the States for moving slowly, but it must be realized that there is a need for experimentation in molding the no-fault concept to the individual problems of a State, and each State must determine whether the no-fault concept would work well in that State.

Further, the fact is that State action has and is occurring in the area of automobile insurance reform. Approximately 90 million people are either now covered or soon will be able to obtain no-fault automobile insurance coverage in 21 States—Massachusetts, Florida, Oregon, Delaware, Minnesota, Virginia, New Jersey, South Dakota, Maryland, Connecticut, New York, Arkansas, Kansas, Hawaii, Michigan, Utah, Nevada, Georgia, Texas, Colorado, and Washington. Additional action can be expected in 1974 as 18 State legislatures carry over action on no-fault bills from their 1973 sessions. Returns are just coming in from those States that have adopted no-fault plans, and I feel that we should see what the results are before we commit ourselves to imposition of one nationwide plan.

Our prime concern should be the development of legislation that is responsive to the needs of the States. Since court docket size, auto repair and medical costs, legal fees, accident rates, and other actuarial factors vary from area to area, insurance policy decisions can better be made on a State level as opposed to the Federal level.

Just as the problems vary from State to State, so too the solutions will not be identical, and we should not be overly concerned with uniformity. Some measure of uniformity is desirable, and there is every reason to believe that the States will be able to achieve this in the same ways they have in the past, such as guidelines, model legislation and, of course, the force of example.

The danger with one national standard, such as S. 354, is that it cannot be drafted in such a way as to respond with equal force in Massachusetts, which has had a system of highly inflated claims along with high court and legal expenses, and in South Carolina where this is not the case, or the New York metropolitan area where there is at least a 2-year delay before a case comes to trial as opposed to South Carolina where there is no court backlog. Hence, the broad-brush national approach compounds the potential for error.

Next, arises the question of whether the benefits and premium rate reductions as promised by the proponents will in fact occur. The actuarial firm of Millman & Robertson, Inc., has carried on a study in an effort to project the cost implications of no-fault in the context of S. 354. In their study they point out that their estimates should be recognized as being subject to a high degree of uncertainty as well as being very susceptible to misinterpretation.

The theory behind no-fault is that there will be a reduction of general damage payments which will save enough claim payment dollars to pay all victims for economic loss payments. However, costs to pay economic loss could be more than the cost to pay the combined economic loss and general damage total under the tort system. In fact some actuarial computations indicate that South Carolina insurance rates would actually increase under the Federal no-fault proposal.

Not only is there a possibility of increased rates, but this system would also create inequities. One example of discrimination is against retired persons. In support of this claim, the American Mutual Insurance Alliance has cited the following features of the Federal bill as being discriminatory:

First. The near total elimination of the right to recover for noneconomic losses means that an innocent retired auto accident victim sufficiently injured to have his life style substantially disrupted by the accident, but not meeting the stringent qualifications for recovery for such losses, would likely receive no benefit whatsoever under the present projected system in S. 354—since no-fault benefits are not paid when medicare benefits are available and when there is no wage loss.

Second. If the innocent retired person should qualify for payment of his noneconomic losses, this payment would arbitrarily be reduced by $2,500 under the terms of S. 354.

Third. As for the allocation of costs, S. 354 continues to insist that private passenger automobile owners, including retired persons, subsidize the losses caused by commercial vehicles.

Fourth. Since S. 354 will totally preempt the actions taken in those 20 States that have already enacted no-fault laws, some 90 million consumers, including millions of retired persons, will have to pay more for their auto insurance.

Now I ask you, Mr. President, does this represent equity and justice? I think not, and for these reasons and others, we have the Insurance Alliance opposing no-fault on the Federal level.

Finally, the question arises as to the constitutionality of the Federal no-fault legislation. The issue is whether Congress has the power to employ a regulatory scheme that compels the States to devote their agencies, personnel, and facilities to administer a Federal law.

It is quite common for Congress to establish national minimum standards and to encourage States to adopt conforming legislation through the conditioning of grants-in-aid on satisfactory State action, or else by imposing direct Federal regulation wherever the State fails to adopt legislation that meets the Federal standards. It is also tru › that this type of encouragement has been upheld by the Supreme Court as being constitutional. However, the distinction must be drawn between cases where Federal law displaces State law and the Federal Government takes over the administration of the Federal program, and the cases such as the no-fault plan where the States are forced to take legislative or administrative action in carrying out the Federal plan. The proponents of this bill say that Congress has the power to control the States in this matter and they base this conclusion on the "Necessary and Proper" clause of the Constitution. However, in this instance the commerce power is exercised in such a way as to

tamper with State sovereignty. This interference with the State sovereignty should be subject to limitation by virtue of the concept of federalism as manifested in the 10th amendment.

If the Federal Government were to enact elaborate plans and then require States to utilize their personnel and facilities in the implementation and administration of these plans subject to Federal supervision and direction, we could seriously deteriorate the Federal-State relations as set out in our constitutional system. Instead of having a partner relationship between the States and the Federal Government, as is contemplated by federalism, the relationship would be more analogous to that of master and servant.

In taking S. 354 as a whole, the State insurance commissioner would need considerable authority to administer the law, and the State would be forced to use existing personnel and facilities to regulate and operate the title III plan in accordance with sections 103 through 111 and section 114 of title I, sections 201(b), 203, 204(e), 204(f), 205, 207, 208, 210, and 211 of title II, and sections 302, 303, and 304 of title III. It is my belief that Congress does not have the power to impose grants of authority upon officials of another sovereignty nor does the Congress have the power to force the State to administer these programs.

In conclusion, Mr. President, it is my feeling that no one is certain what the impact of S. 354 would be. None of the testimony elicited in the many days of hearings was able to remove this cloud of uncertainty. While some reforms in the automobile insurance system may be called for, the reform should be tailored to the individual needs of each State. One national plan cannot do this but rather increases both the chances for errors and their impact. To experiment at the Federal level with a bill that would change a fundamental principle of jurisprudence poses risks that are as extreme as they are unnecessary.

Going back to the words of Senator Ferguson, it is true that all wisdom is not here in Congress, but I do hope that we have the good judgment to recognize the need for prudence, patience, and States rights by defeating this bill.

The PRESIDING OFFICER. Under the previous order, the hour of 3 p.m. having arrived, the Senate will now proceed to vote on S. 354.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. (after having voted in the affirmative) On this vote I have a pair with the distinguished Senator from Arkansas (Mr. FULBRIGHT). If he were present and voting, he would vote "nay"; if I were at liberty to vote, I would vote "yea." I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT) is necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) is necessarily absent.

I further announce that the Senator from Florida (Mr. GURNEY) is absent due to illness in the family.

The Senator from Hawaii, (Mr. FONG) voted "present."

The result was announced—yeas 53, nays 42, as follows:

[No. 164 Leg.]

YEAS—53

Abourezk	Hathaway	Pastore
Aiken	Hughes	Pearson
Bayh	Humphrey	Pell
Beall	Inouye	Percy
Bennett	Jackson	Proxmire
Biden	Javits	Ribicoff
Brooke	Kennedy	Roth
Burdick	Magnuson	Schweiker
Byrd, Robert C.	Mathias	Scott, Hugh
Cannon	McGee	Stafford
Case	McIntyre	Stevens
Clark	Metcalf	Stevenson
Cranston	Metzenbaum	Symington
Gravel	Mondale	Taft
Griffin	Moss	Tunney
Hart	Muskie	Weicker
Haskell	Nelson	Williams
Hatfield	Packwood	

NAYS—42

Allen	Domenici	McClellan
Baker	Dominick	McClure
Bartlett	Eagleton	McGovern
Bentsen	Eastland	Montoya
Bible	Ervin	Nunn
Brock	Fannin	Randolph
Buckley	Goldwater	Scott, William L.
Byrd, Harry F., Jr.	Hansen	Sparkman
Chiles	Hartke	Stennis
Church	Helms	Talmadge
Cook	Hollings	Thurmond
Cotton	Hruska	Tower
Curtis	Huddleston	Young
Dole	Johnston	
	Long	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, for

ANSWERED "PRESENT"—1

Fong

NOT VOTING—3

Bellmon	Fulbright	Gurney

So the bill, S. 354, was passed, as follows:

S. 354

An act to regulate commerce by establishing a nationwide system to restore motor vehicle accident victims and by requiring no-fault motor vehicle insurance as a condition precedent to using a motor vehicle in public roadways

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

TITLE I—GENERAL PROVISIONS

FORMAL PROVISIONS

SEC. 101. (a) SHORT TITLE.—This Act may be cited as the "National No-Fault Motor Vehicle Insurance Act".

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL PROVISIONS

Sec. 101. Formal provisions.
(a) Short title.
(b) Table of contents.
Sec. 102. Declaration of policy.
(a) Findings.
(b) Purposes.
Sec. 103. Definitions.
Sec. 104. Required motor vehicle insurance.
(a) Security covering a motor vehicle.
(b) Self-insurance.
(c) Obligated government.
(d) Obligations upon termination of security.
Sec. 105. Availability of insurance.
(a) Plan.
(b) Cancellation, refusal to renew, or other termination of insurance.
Sec. 106. Payment of claims for no-fault benefits.
(a) In general.
(b) Release or settlement of claim.
(c) Time limitations on actions to recover benefits.
(d) Assignment of benefits.
(e) Deduction and setoff.
(f) Exemption of benefits.
Sec. 107. Attorney's fees and costs.
(a) Fees of claimant's attorney.
(b) Fees of restoration obligor's attorney.
Sec. 108. Assigned claims.
(a) General.
(b) Assigned claims plan.
(c) Time for presenting claims under assigned claims plan.
Sec. 109. State regulation.
(a) Rates and rating.
(b) Public information.
(c) Accountability program.
(d) Availability of services.
Sec. 110. Motor vehicles in interstate travel.
(a) General.
(b) Conforming coverage.
(c) Applicable law.
Sec. 111. Rights and duties of restoration obligors.
(a) Reimbursement and subrogation.
(b) Duty to pay basic restoration benefits.
(c) Indemnity.
(d) Referral for rehabilitation services.
Sec. 112. Jurisdiction of Federal courts.
Sec. 113. Federal motor vehicle.
(a) General.
(b) Procedures.
(c) Definitions.
Sec. 114. Separability.
TITLE II—NATIONAL STANDARDS FOR STATE NO-FAULT MOTOR VEHICLE INSURANCE PLAN
Sec. 201. State no-fault plan in accordance with this title.
(a) Preemption.
(b) State plan.
(c) Determination by Secretary.
(d) Periodic review.
(e) Alternative State plan.
(f) Procedure.
(g) Exceptions.
(h) Reporting requirements.
(i) Financial assistance to States.
(j) Authorization for appropriations.
Sec. 202. National standards.
(a) General.
(b) Criteria.
Sec. 203. Right to basic restoration benefits.
(a) Accident within a State.
(b) Accident outside any State.
Sec. 204. Limitations on benefits.
Sec. 205. Source of basic restoration benefits.
(a) Applicable security.
(b) Multiple sources of equal priority.
Sec. 206. Restrictions on tort liability.
(a) Partial abolition.
(b) Nonreimbursable tort fine.
Sec. 207. Work loss.
(a) Regularly employed.
(b) Seasonally employed.
(c) Not employed.
(d) Changes in benefits.
(e) Definitions.
Sec. 208. Net loss.
(a) General.
(b) Tax deduction.
(c) Allowable expense deduction option.
Sec. 209. Added restoration benefits.
(a) Optional offering.
(b) Mandatory offering.
(c) Territorial applicability.
Sec. 210. Ineligible claimants.
(a) Converter.
(b) Intentional injuries.
Sec. 211. Other provisions.
(a) Included coverage.
(b) Approval of terms and forms.

TITLE III—ALTERNATIVE STATE NO-FAULT MOTOR VEHICLE INSURANCE PLAN

Sec. 301. Provisions.
Sec. 302. Limitations on basic restoration benefits.
Sec. 303. Restrictions on tort liability.
(a) Partial abolition.
(b) Nonreimbursable tort fine.
Sec. 304. Added restoration benefits.
(a) Optional offering.
(b) Mandatory offering.
(c) Territorial applicability.

DECLARATION OF POLICY

SEC. 102. (a) FINDINGS.—The Congress hereby finds and declares that—

(1) motor vehicles are the primary instrumentality for the interstate transportation of individuals;

(2) the intrastate transportation of individuals by motor vehicle over Federal-aid highways and other highways significantly affects interstate commerce, particularly in metropolitan areas encompassing more than one State;

(3) the maximum feasible restoration of all individuals injured and compensation of the economic losses of the survivors of all individuals killed in motor vehicle accidents on Federal-aid highways, in interstate commerce, and in activity affecting interstate commerce is essential to the humane and purposeful functioning of commerce;

(4) to avoid any undue burden on commerce during the interstate or intrastate transportation of individuals, it is necessary and proper to have a nationwide low-cost, comprehensive, and fair system of compensating and restoring motor vehicle accident victims and the survivors of deceased victims;

(5) exhaustive studies by the United States Department of Transportation, the Congress, and some States have determined that the present basic system of motor vehicle accident and insurance law, which makes compensation and restoration contingent upon—

(A) every victim first showing that someone else was at fault;

(B) every victim first showing that he was without fault; and

(C) the person at fault having sufficient liability insurance and other available financial resources to pay for all the losses,

is not such a low-cost, comprehensive, and fair system;

(6) careful studies, intensive hearings, and some State experiments have demonstrated that a basic system of motor vehicle accident and insurance law which—

(A) assures every victim payment of all his medical and rehabilitation costs, and recovery of almost all his work loss plus a reasonable amount of replacement services and survivor's loss; and

(B) eliminates the need to determine fault except when a victim is very seriously injured,

is such a low-cost, comprehensive, and fair system;

(7) nationwide adoption of the system described in paragraph (6) in place of the system described in paragraph (5) would remove an undue burden on commerce;

(8) pursuant to the power vested in it "to regulate Commerce . . . among the several States", the Government of the United States is authorized to require a nationwide low-cost, comprehensive, and fair system of compensating and restoring motor vehicle accident victims and the survivors of deceased victims;

(9) in all the States there should be uniformity as to the essential elements of the system of motor vehicle accident and insurance law to avoid confusion, complexity, uncertainty, and chaos which would be engendered by a multiplicity of noncomplementary State systems, but the need for a nationwide basic system does not require that the Federal Government itself directly administer, operate, or direct the administration or operation of such system; and

(10) a nationwide low-cost, comprehensive, and fair system of compensating and restoring motor vehicle accident victims can—

(A) recognize, respect, and avoid interfering with the historical role of the States in regulating and exercising legislative authority over the business of insurance; and

(B) save and restore the lives of countless victims by providing and paying the cost of services so that every victim has the opportunity to—

(i) receive prompt and comprehensive professional treatment, and

(ii) be rehabilitated to the point where he can return as a useful member of society and a self-respecting and self-supporting citizen.

(b) PURPOSES.—Therefore, it is hereby declared to be the policy of the Congress to establish—

(1) at reasonable cost to the purchaser of insurance, a nationwide system of prompt and adequate restoration benefits for motor vehicle accident victims and the survivors of deceased victims; and

(2) minimum standards which each State must meet or exceed so as to assure a nationwide low-cost, comprehensive, and fair system of motor vehicle accident and insurance law and which enables each State to participate legislatively, to administer without interference, and to continue regulating the business of insurance.

DEFINITIONS

SEC. 103. As used in this Act—

(1) "Added restoration benefits" means benefits provided by added restoration insurance in accordance with section 209 or section 304 of this Act.

(2) "Allowable expense" means reasonable charges incurred for, or the reasonable value of (where no charges are incurred), reasonably needed and used products, services, and accommodations for—

(A) professional medical treatment and care;

(B) emergency medical services;

(C) medical and vocational rehabilitation services; and

(D) expenses directly related to the funeral, burial, cremation, or other form of disposition of the remains of a deceased victim, not to exceed $1,000.

The term does not include—

(i) that portion of a charge for a room in a hospital, clinic, convalescent, or nursing home, or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semiprivate accommodations, unless more intensive care is medically required; or

(ii) any amount includable in work loss, replacement services loss, or survivor's loss.

(3) "Basic restoration benefits" means benefits provided in accordance with this Act for the net loss sustained by a victim, subject to any applicable limitations, exclusions, deductibles, waiting periods, disqualifications, or other terms and conditions provided or authorized in accordance with this Act. Basic restoration benefits do not include benefits for damage to property.

(4) "Commissioner" means the commissioner of insurance or the head of the department, commission, board, or other agency of a State which is charged by the law of that State with the supervision and regulation of the business of insurance.

(5) "Department" means the department of motor vehicles or the department, commission, board, or other agency of a State which is charged by the law of that State with the administration of laws and regulations regarding registration of motor vehicles.

(6) "Emergency medical services" means services necessary to mitigate injury to any victim during the period immediately and proximately following an accident (including, but not limited to, communications, transportation, and treatment by medical and paramedical personnel through an emergency medical services system), which are supplied or provided in accordance with applicable State law.

(7) "Emergency medical services system" means a system which provides for the arrangement of personnel, facilities, and equipment for the effective and coordinated delivery in an appropriate geographical area of health care services under emergency conditions, which is administered by a public or nonprofit private entity which has the authority and the resources to provide effective administration, and which meets the requirements of section 1206(b)(4) of the Public Health Service Act."

(8) "Government" means the government of the United States, any State, any political subdivision of a State, any instrumentality of two or more States, or any agency, subdivision, or department of any such government, including any corporation or other association organized by a government for the execution of a government program and subject to control by a government, or any corporation or agency established under an interstate compact or international treaty.

(9) "Injury" means accidentally sustained bodily harm to an individual and that individual's illness, disease, or death resulting therefrom.

(10) "Insurance" means a contract, self-insurance, or any other legally binding obligation to pay or provide no-fault benefits or any required tort liability.

(11) "Insured" means—

(A) an individual identified by name as an insured in a contract of basic restoration insurance complying with this Act; and

(B) a spouse or other relative of a named insured, a minor in the custody of a named insured, and a minor in the custody of a relative of a named insured if—

(i) not identified by name as an insured in any other contract of basic restoration insurance complying with this Act, and

(ii) in residence in the same household with a named insured.

An individual is in residence in the same household if he usually makes his home in the same family unit, even though he temporarily lives elsewhere.

(12) "Insurer" means a legally constituted entity, other than a self-insurer or an obligated government, which is authorized under State law to provide security covering a motor vehicle in such State.

(13) "Loss" means accrued economic detriment resulting from injury arising out of the maintenance or use of a motor vehicle consisting of, and limited to, allowable expense, work loss, replacement services loss, and survivor's loss.

(14) "Loss of income" means gross income actually lost by a victim or that would have been lost but for any income continuation plan, reduced by—

(A) ninety per centum of any income which such individual earns from substitute work;

(B) income which such individual would have earned in available substitute work he was capable of performing but unreasonably failed to undertake; or

(C) any income which such individual would have earned by hiring an available substitute to perform self-employment services but unreasonably failed to do.

(15) "Maintenance or use of a motor vehicle" means maintenance or use of a motor

vehicle as a vehicle, including, incident to its maintenance or use as a vehicle, occupying, entering into, or alighting from it. Maintenance or use of a motor vehicle does not include—

(A) conduct within the course of a business of repairing, servicing, or otherwise maintaining motor vehicles unless the conduct occurs off the business premises; or

(B) conduct in the course of loading or unloading a motor vehicle unless the conduct occurs while occupying, entering into, or alighting from it.

(16) "Medical and vocational rehabilitation services" means services necessary to reduce disability and to restore the physical, psychological, social, and vocational functioning of a victim. Such services may include, but are not limited to, medical care, diagnostic and evaluation procedures, physical and occupational therapy, other medically necessary therapies, speech pathology and audiology, nursing care under the supervision of a registered nurse, medical social services, vocational rehabilitation and training services, occupational licenses and tools, and transportation where necessary to secure medical and vocational rehabilitation services. A restoration obligor is not obligated to provide basic restoration benefits for allowable expense for medical and vocational rehabilitation services unless the facility in which or through which such services are provided has been accredited by the department of health, the equivalent government agency responsible for health programs, or the accrediting designee of such department or agency of the State in which such services are provided, as being in accordance with applicable requirements and regulations.

(17) "Motor vehicle" means a vehicle of a kind required to be registered under the laws relating to motor vehicles of the State in which such vehicle is located, except that a vehicle having less than four wheels may be specially treated, at the option of a State establishing a no-fault plan for motor vehicle insurance in accordance with title II of this Act, with respect to the requirements and benefits of such plan.

(18) "Net loss" means loss less benefits or advantages required to be subtracted from loss in calculating net loss pursuant to section 208 of this Act.

(19) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage recoverable under the tort law applicable to injury arising out of the maintenance or use of a motor vehicle. The term does not include punitive or exemplary damages.

(20) "No-fault benefits" means basic restoration benefits, added restoration benefits, or both.

(21) "No-fault insurance" means basic restoration insurance, added restoration insurance, or both.

(22) "Owner" means an individual, government, corporation, company, association, firm, partnership, joint stock company, foundation, institution, society, union, club, church, or any other group of persons organized for any purpose, other than a lienholder or secured party, that owns or has title to a motor vehicle or is entitled to the use and possession of a motor vehicle subject to a security interest held by another. The term includes a lessee of a motor vehicle having the right to possession under a lease with option to purchase.

(23) "Restoration obligor" means an insurer, self-insurer, or obligated government providing no-fault benefits in accordance with this Act.

(24) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the victim would have performed, not for income, but for the benefit of himself or his family, if he had not been injured.

(25) "Secretary" means the Secretary of Transportation.

(26) "Secured vehicle" means a motor vehicle for which security is provided in accordance with section 104 of this Act.

(27) "Security covering a motor vehicle", "security covering the vehicle", and "security" mean the security which is provided in accordance with section 104 of this Act.

(28) "Self-insurer" means an owner or any person providing security pursuant to subsections (b) or (c) of section 104 of this Act.

(29) "State" means a State of the United States, the District of Columbia, Guam, and the Virgin Islands.

(30) "State vocational rehabilitation agency" means the agency in a State which administers the State plan for vocational rehabilitation services under the Vocational Rehabilitation Act (29 U.S.C. 35).

(31) "Survivor" means an individual identified in the wrongful death statute of the State of domicile of a deceased victim as one entitled to receive benefits by reason of the death of another individual.

(32) "Survivor's loss" means the—

(A) loss of income of a deceased victim which would probably have been contributed to a survivor or survivors, if such victim had not sustained the fatal injury; and

(B) expenses reasonably incurred by a survivor or survivors, after a victim's death resulting from injury, in obtaining ordinary and necessary services in lieu of those which the victim would have performed, not for income, but for their benefit, if he had not sustained the fatal injury,

reduced by expenses which the survivor or survivors would probably have incurred but avoided by reason of the victim's death resulting from injury.

(33) "Victim" means an individual who suffers injury arising out of the maintenance or use of a motor vehicle; "deceased victim" means a victim suffering death resulting from injury.

(34) "Without regard to fault" means irrespective of fault as a cause of injury.

(35) "Work loss" means—

(A) loss of gross income of a victim, as calculated pursuant to the provisions of section 207 of this Act; and

(B) reasonable expenses of a victim for hiring a substitute to perform self-employment services, thereby mitigating loss of income, or for hiring special help, thereby enabling a victim to work and mitigate loss of income.

REQUIRED MOTOR VEHICLE INSURANCE

SEC. 104. (a) SECURITY COVERING A MOTOR VEHICLE.—Every owner of a motor vehicle which is registered in a State in which a State no-fault plan for motor vehicle insurance in accordance with title II or title III of this Act is in effect, or which is operated in such State by the owner or with his permission, shall continuously provide security covering such motor vehicle while such vehicle is either present or registered in such State. Security shall be provided for the payment of basic restoration benefits, and at the option of a State establishing a plan in accordance with title II of this Act, for the payment of other benefits or tort liability. The owner or any other person may provide security covering a motor vehicle by a contract of insurance with an insurer or by qualifying as a self-insurer or as an obligated government.

(b) SELF-INSURANCE.—Self-insurance, subject to approval of the commissioner or department, is effected by filing with the department in satisfactory form—

(1) a continuing undertaking by the owner or other appropriate person to pay basic restoration benefits and any tort liability required by State law in amounts not less than those required by such State law, to perform all obligations imposed in accordance with this Act, and to elect to pay such added restoration benefits as are specified in the undertaking;

(2) evidence that appropriate provision exists for prompt and efficient administration of all claims, benefits, and obligations provided in accordance with this Act; and

(3) evidence that reliable financial arrangements, deposits, resources, or commitments exist providing assurance substantially equivalent to that afforded by a contract of insurance complying with this Act for payment of no-fault benefits, any required tort liability, and performance of all other obligations imposed in accordance with this Act.

(c) OBLIGATED GOVERNMENT.—A government may provide security with respect to any motor vehicle owned or operated by it by lawfully obligating itself to pay basic restoration benefits in accordance with this Act, and such added restoration benefits as are specified in the undertaking.

(d) OBLIGATIONS UPON TERMINATION OF SECURITY.—An owner of a motor vehicle who ceases to maintain the security required in accordance with this Act shall immediately surrender the registration certificate and license plates for the vehicle to the department and may not operate or permit operation of the vehicle in any State until security has again been furnished as required in accordance with this Act. A person other than the owner who ceases to maintain such security shall immediately notify the owner and the department, who may not operate or permit operation of the vehicle until security has again been furnished. An insurer who has issued a contract of insurance and knows or has reason to believe the contract is for the purpose of providing security shall immediately give notice to the department of the termination of the insurance. If the commissioner or department withdraws approval of security provided by a self-insurer or knows that the conditions for self-insurance have ceased to exist, he shall immediately give notice thereof to the department. These requirements may be modified or waived by the department.

AVAILABILITY OF INSURANCE

SEC. 105. (a) PLAN.—(1) The commissioner shall establish and implement or approve and supervise a plan assuring that any required no-fault benefits and tort liability coverages for motor vehicles will be conveniently and expeditiously available, subject only to payment or provisions for payment of the premium, to each individual who cannot conveniently obtain insurance through ordinary methods at rates not in excess of those applicable to similarly situated individuals under the plan. The plan may provide reasonable means for the transfer of individuals insured thereunder into the ordinary market, at the same or lower rates, pursuant to regulations established by the commissioner. The plan may be implemented by assignment of applicants among insurers, pooling, any joint insuring or reinsuring arrangement, or any other method, including a State fund, that results in all applicants being conveniently afforded the insurance coverages on reasonable and not unfairly discriminatory terms.

(2) The plan shall make available added restoration benefits and tort liability coverage together with other contract provisions which the commissioner determines are reasonably needed by applicants and are commonly afforded in voluntary markets. The plan must also assure that there is available through the private sector or otherwise to all applicants adequate premium financing or provision for the installment payment of premiums subject to customary terms and conditions.

(3) All insurers writing no-fault benefits and tort liability coverages in a State shall

participate in the plan in such State. The plan shall provide for equitable apportionment, among all participating insurers writing any insurance coverage required under the plan, of the financial burdens of insurance provided to applicants under the plan and the costs of operation of the plan.

(4) Subject to the supervision and approval of the commissioner, insurers may consult and agree with each other and with other appropriate persons as to the organization, administration, and operation of the plan and as to rates and rate modifications for insurance coverages provided under the plan. Rates and rate modifications adopted or charged for insurance coverages provided under the plan shall—

(A) be first adopted or approved by the commissioner; and

(B) be reasonable and not unfairly discriminatory among similarly situated applicants for insurance pursuant to regulations established by the commissioner.

(5) Subject to the supervision and approval of the commissioner, the plan shall afford required coverages for motor vehicles to any economically disadvantaged individual, at rates as determined by the State, which shall not be so great as to deny such individual access to insurance which it is necessary for him to have in order to earn income and to be or remain gainfully employed.

(6) To carry out the objectives of this subsection, the commissioner may adopt rules, make orders, enter into agreements with other governmental and private entities and individuals, and form and operate or authorize the formation and operation of bureaus and other legal entities.

(b) CANCELLATION, REFUSAL TO RENEW, OR OTHER TERMINATION OF INSURANCE.—(1) Every contract of insurance providing security covering a motor vehicle which is not one of five or more motor vehicles under common ownership insured under a single insuring agreement, except as provided by paragraphs (2) and (5) of this subsection, may not be canceled, modified, or otherwise terminated by the insurer nor may the insurer fail to renew except as specified dates or intervals which may not be less than six months after the inception of coverage or thereafter less than six months apart.

(2) An insurer may terminate insurance if written notice of termination, including the reasons therefor, is mailed or delivered to the insured at least thirty days before the effective date of termination—

(A) by cancellation at any time within seventy-five days after the inception of initial coverage;

(B) by cancellation for nonpayment of—

(i) premium when due, or

(ii) any premium installment when due for which reasonable and separate notice has been given; or

(C) by exclusion of an insured whose license to operate a motor vehicle has been revoked, following a hearing and pursuant to State law.

(3) Except as permitted in paragraph (2) of this subsection, any termination of insurance by an insurer which is permitted by the insurance contract and not prohibited by paragraph (1) of this subsection, including any refusal by the insurer to renew the insurance at the expiration of its term and any modification by the insurer of the terms and conditions of the insurance unfavorable to the insured, is nevertheless ineffective, unless written notice of intention to modify, not to renew, or otherwise to terminate the insurance has been mailed or delivered to the insured at least thirty days before the effective date of the modification, expiration, or other termination of the insurance.

(4) For purposes of this subsection a cancellation or refusal to renew by or at the direction of any person acting pursuant to any power or authority under any premium finance plan, agreement, or arrangement, whether or not with power of attorney or assignment from the insured, constitutes a cancellation or refusal to renew by the insurer.

(5) This subsection does not limit or apply to any termination, modification, or cancellation of the insurance, or to any suspension of insurance coverage, by or at the written request of the insured or upon the sale or other transfer of the secured vehicle to an individual who is not an insured under the same contract of insurance.

(6) This subsection does not affect any right an insurer has under other law to rescind or otherwise terminate insurance because of fraud or other willful misconduct of the insured at the inception of the insuring transaction or the right of either party to reform the contract on the basis of mutual mistake of fact.

(7) An insurer, his authorized agents and employees, and any person furnishing information upon which he has relied, are not liable in any action or proceeding brought because of any statement made in good faith pursuant to paragraph (2) of this subsection.

PAYMENT OF CLAIMS FOR NO-FAULT BENEFITS

SEC. 106. (a) IN GENERAL.—(1) No-fault benefits are payable monthly as loss accrues. Loss accrues not when injury occurs, but as allowable expense, work loss, replacement services loss, or survivor's loss is sustained.

(2) No-fault benefits are overdue if not paid within thirty days after the receipt by the restoration obligor of each submission of reasonable proof of the fact and amount of loss sustained, unless the restoration obligor designates, upon receipt of an initial claim for no-fault benefits, periods not to exceed thirty-one days each for accumulating all such claims received within each such period, in which case such benefits are overdue if not paid within fifteen days after the close of each such period. If reasonable proof is supplied as to only part of a claim, but the part amounts to $100 or more, benefits for such part are overdue if not paid within the time mandated by this paragraph. An obligation for basic restoration benefits for an item of allowable expenses may be discharged by the restoration obligor by reimbursing the victim or by making direct payment to the supplier or provider of products, services, or accommodations within the time mandated by this paragraph. Overdue payments bear interest at the rate of eighteen per centum per annum.

(3) A claim for no-fault benefits shall be paid without deduction for the benefits or advantages which are to be subtracted from loss in calculating net loss in accordance with section 208(a) of this Act, if such benefits or advantages have not been paid or provided to such claimant prior to the date the no-fault benefits are overdue or the no-fault benefits claim is paid. The restoration obligor is thereupon entitled to recover reimbursement from the person obligated to pay or provide such benefits or advantages of from the claimant who actually receives them.

(4) A restoration obligor may bring an action to recover reimbursement for no-fault benefits which are paid upon the basis of an intentional misrepresentation of a material fact by a claimant or a supplier or provider of an item of allowable expense, if such restoration obligor reasonably relied upon such misrepresentation. The action may be brought only against such supplier or provider, unless the claimant has intentionally misrepresented the facts or knew of the misrepresentation. A restoration obligor may offset amounts he is entitled to recover from the claimant under this paragraph against any no-fault benefits otherwise due.

(5) A restoration obligor who rejects a claim for basic restoration benefits shall give to the claimant written notice of the rejection promptly, but in no event more than thirty days after the receipt of reasonable proof of the loss. Such notice shall specify the reason for such rejection and inform the claimant of the terms and conditions of his right to obtain an attorney. If a claim is rejected for a reason other than that the person is not entitled to basic restoration benefits claimed, the written notice shall inform the claimant that he may file his claim with the assigned claims bureau and shall give the name and address of the bureau.

(b) RELEASE OR SETTLEMENT OF CLAIM.—(1) Except as otherwise provided in this subsection, no-fault benefits shall not be denied or terminated because the victim executed a release or other settlement agreement. A claim for no-fault benefits may be discharged by a settlement agreement for an agreed amount payable in installments or in a lump sum, if the reasonably anticipated net loss does not exceed $2,500. In all other cases, a claim may be discharged by a settlement to the extent authorized by State law and upon a finding, by a court of competent jurisdiction, that the settlement is in the best interest of the claimant and any beneficiaries of the settlement, and that the claimant understands and consents to such settlement, and upon payment by the restoration obligor of the cost of such proceeding including a reasonable attorney's fee (based upon actual time expended) to the attorney selected by or appointed for the claimant. Such costs may not be charged to or deducted from the proceeds of the settlement. Upon approval of the settlement, the court may make appropriate orders concerning the safeguarding and disposing of the proceeds of the settlement and may direct as a condition of the settlement agreement, that the restoration obligor pay the reasonable cost of appropriate future medical and vocational rehabilitation services.

(2) A settlement agreement for an amount payable in installments shall be modified as to amounts to be paid in the future, if it is shown that a material and substantial change of circumstances has occurred or that there is newly-discovered evidence concerning the claimant's physical condition, loss, or rehabilitation which could not have been known previously or discovered in the exercise of reasonable diligence.

(3) A settlement agreement may be set aside if it is procured by fraud or if its terms are unconscionable.

(c) TIME LIMITATIONS ON ACTIONS TO RECOVER BENEFITS.—(1) If no-fault benefits have not been paid for loss arising otherwise than from death, an action therefor may be commenced not later than two years after the victim suffers the loss and either knows, or in the exercise of reasonable diligence should have known, that the loss was caused by the accident, or not later than four years after the accident, whichever is earlier. If no-fault benefits have been paid for loss arising otherwise than from death, an action for further benefits, other than survivor's benefits, by either the same or another claimant, may be commenced not later than two years after the last payment of benefits.

(2) If no-fault benefits have not been paid to the deceased victim or his survivor or survivors, an action for survivor's benefits may be commenced not later than one year after the death or four years after the accident from which death results, whichever is earlier. If survivor's benefits have been paid to any survivor, an action for further survivor's benefits by either the same or another claimant may be commenced not later than two years after the last payment of benefits. If no-fault benefits have been paid for loss suffered by a victim before his death resulting from the injury, an action for survivor's benefits may be commenced not later than one year after the death or six years after

the last payment of benefits, whichever is earlier.

(3) If timely action for basic restoration benefits is commenced against a restoration obligor and benefits are denied because of a determination that the restoration obligor's coverage is not applicable to the claimant under the provisions of section 205 of this Act, an action against the applicable restoration obligor or the restoration obligor to whom a claim is assigned under an assigned claims plan may be commenced not later than sixty days after the determination becomes final or the last date on which the action could otherwise have been commenced, whichever is later.

(4) Except as paragraph (1), (2), or (3) prescribes a longer period, an action by a claimant on an assigned claim which has been timely presented in accordance with the provisions of section 108(c) of this Act may not be commenced more than sixty days after the claimant receives written notice of rejection of the claim by the restoration obligor to which it was assigned.

(5) If a person entitled to no-fault benefits is under a legal disability when the right to bring an action for the benefits first accrues, the period of his disability is not a part of the time limited for commencement of the action.

(d) ASSIGNMENT OF BENEFITS.—An assignment of or an agreement to assign any right in accordance with this Act for loss accruing in the future is unenforceable except as to benefits for—

(1) work loss to secure payment of alimony, maintenance, or child support; or

(2) allowable expense to the extent the benefits are for the cost of products, services, or accommodations provided or to be provided by the assignee.

(e) DEDUCTION AND SETOFF.—Except as otherwise provided in this Act, basic restoration benefits shall be paid without deduction or setoff.

(f) EXEMPTION OF BENEFITS.—(1) No-fault benefits for allowable expense are exempt from garnishment, attachment, execution, and any other process or claim, except upon the claim of a creditor who has provided products, services, or accommodations to the extent benefits are for allowable expense for those products, services, or accommodations.

(2) Basic restoration benefits other than those for allowable expense are exempt from garnishment, attachment, execution, and any other process or claim for benefits attributable to loss sustained within the first sixty days following the accident resulting in injury. Other basic restoration benefits (except for items of allowable expense) are exempt to the extent that wages or earnings are exempt under any applicable law exempting wages or earnings from such process or claims.

ATTORNEY'S FEES AND COSTS

SEC. 107. (a) FEES OF CLAIMANT'S ATTORNEY.—(1) If any overdue no-fault benefits are paid by the restoration obligor after receipt of notice of representation of a claimant in connection with a claim or action for no-fault and the court determines that the claim or any significant part thereof is fraudulent or so excessive as to have no reasonable foundation, a reasonable attorney's fee (based upon actual time expended) shall be paid by the restoration obligor to such attorney. No part of the attorney's fee for representing the claimant in connection with a claim or action for no-fault benefits may be charged or deducted from benefits otherwise due to such claimant and no part of such benefits may be applied to such fee.

(2) In any such action brought against the claimant by the restoration obligor, the court may award the claimant's attorney a reasonable attorney's fee for defending such action, which shall be paid by the restoration obligor.

(b) FEES OF RESTORATION OBLIGOR'S ATTORNEY.—A restoration obligor shall be allowed a reasonable attorney's fee for defending a claim if the court determines that the claim or any significant part thereof is fraudulent or so excessive as to have no reasonable foundation. The fee may be treated as an offset against any benefits due or to become due to the claimant.

ASSIGNED CLAIMS

SEC. 108 (a) GENERAL.—(1) If a State no-fault plan for motor vehicle insurance in accordance with title II or title III of this Act is in effect on the date when the accident resulting in injury occurs, a victim or the survivor or survivors of a deceased victim may obtain basic restoration benefits through the assigned claims plan established, pursuant to subsection (b) of this section, in the State of domicile, if any, of the victim or deceased victim, or if none, in the State in which the accident resulting in injury occurs, if basic restoration insurance—

(A) is not applicable to the injury for a reason other than those specified in the provisions on ineligible claimants;

(B) is not applicable to the injury because the victim converted a motor vehicle while he was under fifteen years of age;

(C) applicable to the injury cannot be identified;

(D) applicable to the injury is inadequate to provide the contracted-for benefits because of financial inability of a restoration obligor to fulfill its obligations; or

(E) benefits are refused by a restoration obligor for a reason other than that the individual is not entitled in accordance with this Act to the basic restoration benefits claimed.

(2) If a claim qualifies for assignment under paragraph (1) (C), (D), or (E) of this subsection, the assigned claims bureau or any insurer to whom the claim is assigned is subrogated to all rights of the claimant against the restoration obligor legally obligated to provide basic restoration benefits to the claimant, or against any successor in interest to or substitute for such obligor for such benefits as are provided by the assignee.

(3) If an individual receives basic restoration benefits through the assigned claims plan for any reason other than because of the financial inability of a restoration obligor to fulfill its obligation, all benefits or advantages that such individual receives or is entitled to receive as a result of such injury, other than life insurance benefits by way of succession at death or in discharge of familial obligations of support, shall be subtracted from loss in calculating net loss.

(4) An assigned claim of an individual who does not comply with the requirement of providing security for the payment of basic restoration benefits, or of an individual as to whom the security is invalidated because of his fraud or willful misconduct, is subject to—

(A) all the maximum optional deductibles and exclusions required to be offered; and

(B) a deduction in the amount of $500 for each year or part thereof of the period of his continuous failure to provide security, applicable to any benefits otherwise payable except basic restoration benefits for allowable expense.

(b) ASSIGNED CLAIMS PLAN.—(1) Restoration obligors providing basic restoration insurance in a State may organize and maintain, subject to approval and regulation by the commissioner, an assigned claims bureau and an assigned claims plan and adopt rules for their operation and for assessment of costs on a fair and equitable basis consistent with this Act. If such bureau and plan are not organized and maintained in a manner considered by the commissioner to be consistent with this Act and with State law, he shall organize and maintain an assigned claims bureau and an assigned claims plan. Each restoration obligor insurer providing basic restoration insurance in a State shall participate in the assigned claims bureau and the assigned claims plan in that State. Costs incurred shall be allocated fairly and equitably among the restoration obligors.

(2) The assigned claims bureau shall promptly—

(A) assign each claim for no-fault benefits to an assignee who shall be a participating insurer; and (B) notify the claimant of the identity and address of such assignee.

Claims shall be assigned so as to minimize inconvenience to claimants. The assignee thereafter has rights and obligations as if he had issued a policy of basic restoration insurance complying with this Act applicable to the injury or, in a case involving the financial inability of a restoration obligor to perform its obligations, as if the assignee had written the applicable basic restoration insurance, undertaken the self-insurance, or lawfully obligated itself to pay basic restoration benefits.

(c) TIME FOR PRESENTING CLAIMS UNDER ASSIGNED CLAIMS PLAN.—(1) Except as provided in paragraph (2) of this subsection, an individual authorized to obtain basic restoration benefits through the assigned claims plan shall notify the assigned claims bureau of his claim within the time that would have been allowed pursuant to section 106(c) of this Act for commencing an action for basic restoration benefits against any restoration obligor, other than an assigned claims bureau, in any case in which identifiable no-fault insurance coverage was in effect and applicable to the claim.

(2) If timely action for basic restoration benefits is commenced against a restoration obligor who is unable to fulfill his obligations because of financial inability, an individual authorized to obtain basic restoration benefits through the assigned claims plan shall notify the bureau of his claim within six months after his discovery of such financial inability.

STATE REGULATION

SEC. 109. (a) RATES AND RATING. The commissioner, in accordance with applicable State law, shall regulate restoration obligors providing security covering a motor vehicle in his State. The rates charged for security shall be established, determined, and modified in each State only in accordance with the provisions of the applicable rating law of such State.

(b) PUBLIC INFORMATION.—The commissioner shall provide the means to inform purchasers of insurance, in a manner adequate to permit them to compare prices, about rates being charged by insurers for no-fault benefits and tort liability coverage.

(c) ACCOUNTABILITY PROGRAM.—(1) The commissioner, through the State vocational rehabilitation agency, shall establish and maintain a program for the regular and periodic evaluation of medical and vocational rehabilitation services for which reimbursement or payment is sought from a restoration obligor as an item of allowable expenses to assure that—

(A) the services are medical and vocational rehabilitation services, as defined in section 103(16) of this Act;

(B) the recipient of the services is making progress toward a greater level of independent functioning and the services are necessary to such progress and continued progress; and

(C) the charges for the services for which reimbursement or payment is sought are fair and reasonable.

Progress reports shall be made periodically in writing on each case for which reimbursement or payment is sought under security for the payment of basic restoration bene-

fits. Such reports shall be prepared by the supervising physician or rehabilitation counselor and submitted to the State vocational rehabilitation agency. The State vocational rehabilitation agency shall file reports with the applicable restoration obligor or obligors. Pursuant to this program, there shall be provision for determinations to be made in writing of the rehabilitation goals and needs of the victim and for the periodic assessment of progress at reasonable time intervals by the supervising physician or rehabilitation counselor.

(2) The commissioner is authorized to establish and maintain a program for the regular and periodic evaluation of his State's no-fault plan for motor vehicle insurance.

(d) AVAILABILITY OF SERVICES.—The commissioner is authorized to coordinate with appropriate government agencies in the creation and maintenance of an emergency medical services system or systems, and to take all steps necessary to assure that emergency medical services are available for each victim suffering injury in the State. The commissioner is authorized to take all steps necessary to assure that medical and vocational rehabilittaion services are available for each victim resident in the State. Such steps may include, but are not limited to, guarantees of loans or other obligations of suppliers or providers of such services, and support for training programs for personnel in programs and facilities offering such services.

MOTOR VEHICLE IN INTERSTATE TRAVEL

SEC. 110. (a) GENERAL.—An owner of a motor vehicle who has complied with the requirements of security covering a motor vehicle in the State of registration of such vehicle shall be deemed to have complied with the requirements for such security in any State in which such vehicle is operating.

(b) CONFORMING COVERAGE.—(1) A restoration obligor providing security for the payment of basic restoration benefits shall be obligated to provide, and each contract of insurance for the payment of basic restoration benefits shall be construed to contain, coverage sufficient to satisfy the requirements for security covering a motor vehicle in any State in which any victim who is a claimant or whose survivors are claimants is domiciled or is injured.

(2) A restoration obligor providing security for the payment of basic restoration benefits shall be obligated to provide, and each contract of insurance for the payment of basic restoration benefits shall be construed to contain, coverage of $50,000 to protect the owner or operator of a motor vehicle from tort liability to which he is exposed through application of the law of the State of domicile of a victim (or in the State in which the accident resulting in injury or harm to property occurs if a victim is not domiciled in any State), but to which he would not have been exposed through application of the law of the State of registration of the motor vehicle.

(c) APPLICABLE LAW.—(1) The basic restoration benefits available to any victim or to any survivor of a deceased victim shall be determined pursuant to the provisions of the State no-fault plan for motor vehicle insurance in accordance with title II or title III of this Act which is in effect in the State of domicile of the victim on the date when the motor vehicle accident resulting in injury occurs. If there is no such State no-fault plan in effect or if the victim is not domiciled in any State, then basic restoration benefits available to any victim shall be determined pursuant to the provisions of the State no-fault plan for motor vehicle insurance, if any, in effect in the State in which the accident resulting in injury occurs.

(2) The right of a victim or of a survivor of a deceased victim to use in tort shall be determined by the law of the State of domicile of such victim. If a victim is not domiciled in a State, such right to sue shall be determined by the law of the State in which the accident resulting in injury or damage to property occurs.

RIGHTS AND DUTIES OF RESTORATION OBLIGORS

SEC. 111. (a) REIMBURSEMENT AND SUBROGATION.—(1) Except as provided in paragraphs (2), (3), and (4) of this subsection, a restoration obligor—

(A) does not have and may not contract, directly or indirectly, in whole or in part, for a right of reimbursement from or subrogation to the proceeds of a victim's claim for relief or to a victim's cause of action for noneconomic detriment; and

(B) may not directly or indirectly contract for, or be granted by a State, any right of reimbursement from any other restoration obligor not acting as a reinsurer for no-fault benefits which it has paid or is obligated to pay as a result of injury to a victim.

(2) Whenever an individual who receives or is entitled to receive no-fault benefits for an injury has a claim or cause of action against any other person for breach of an obligation or duty causing the injury or for breach of express or implied warranty, the restoration obligor is subrogated to the rights of the claimant and has a claim for relief or a cause of action, separate from that of the claimant, to the extent that:

(A) elements of damage compensated for by security for the payment of no-fault benefits are recoverable; and

(B) the restoration obligor has paid or become obligated to pay accrued or future no-fault benefits.

(3) Notwithstanding the provisions of paragraph (1)(B) of this subsection, a State may grant a right of reimbursement among and between restoration obligors based upon a determination of fault, where such restoration obligors have paid or are obligated to pay benefits for loss arising out of an accident resulting in injury in which one or more of the motor vehicles is of a type other than a private passenger motor vehicle and by designation the State has determined that the owner of such type would receive an unreasonable economic advantage or suffer an unreasonable economic disadvantage in the absence of the grant of such right of reimbursement; *Provided,* That in such event such right of reimbursement may be granted only with respect to benefits paid for loss in excess of $5,000.

(4) Nothing in this subsection shall preclude any person supplying or providing products, services, or accommodations from contracting or otherwise providing for a right of reimbursement to any basic restoration benefits for allowable expense.

(b) DUTY TO PAY BASIC RESTORATION BENEFITS.—A restoration obligor providing security for the payment of basic restoration benefits shall pay or otherwise provide such benefits without regard to fault to each individual entitled thereto, pursuant to the terms and conditions of the State no-fault plan for motor vehicle insurance applicable thereto.

(c) INDEMNITY.—A restoration obligor has a right of indemnity against an individual who has converted a motor vehicle involved in an accident, or against an individual who has intentionally injured himself or another individual, for no-fault benefits paid for—

(1) the loss caused by the conduct of that individual;

(2) the cost of processing the claims for such benefits; and

(3) the cost of enforcing this right of indemnity, including reasonable attorney's fees.

(d) REFERRAL FOR REHABILITATION SERVICES.—The restoration obligor shall promptly refer each victim to whom basic restoration benefits are expected to be payable for more than two months to the State vocational rehabilitation agency.

JURISDICTION OF FEDERAL COURTS

SEC. 112. No district court of the United States may entertain an action for no-fault benefits unless the United States is a party to the action.

FEDERAL MOTOR VEHICLE

SEC. 113. (a)(1) GENERAL.—Notwithstanding any other provision of law, a claim against the United States as a restoration obligor for injury arising out of the maintenance or use of a Federal motor vehicle which is a secured vehicle shall be governed by this Act. A Federal motor vehicle is a secured vehicle, for purposes of this Act, whenever it is located or operated in the territorial area of any State, Puerto Rico, Canada, or Mexico.

(2) The level of basic restoration benefits which the United States shall pay or provide shall be controlled by the no-fault plan for motor vehicle insurance in effect in the State of domicile of the victim, if any, or if none, in the State in which the accident resulting in injury occurs.

(b) PROCEDURES.—The Secretary, in cooperation with the Administrator of General Services, shall promulgate, and may from time to time revise, regulations with respect to security covering a Federal motor vehicle and administrative procedures to be followed in claims against the United States for no-fault benefits.

(c) DEFINITIONS.—As used in this section—

(1) "Federal agency" means any branch, department, commission, administration, authority, board, or bureau of, or any corporation owned or controlled by, the Government of the United States.

(2) "Federal motor vehicle" means a motor vehicle owned or leased by a Federal agency and operated with its express or implied permission.

SEPARABILITY

SEC. 114. If any provision of this Act or any application thereof to any individual or circumstance is held invalid, the invalidity shall not affect any provision or application of the Act which can be given effect without the involved provision or application, and to this end the provisions of this Act are separable: *Provided,* That if any provision in paragraph (5) of subsection (a) of section 206 of this Act, or any application thereof to any individual or circumstance, is held invalid, this Act shall be interpreted as if such paragraph (5) had never been enacted.

TITLE II—NATIONAL STANDARDS FOR STATE NO-FAULT MOTOR VEHICLE INSURANCE PLAN

STATE NO-FAULT PLAN IN ACCORDANCE WITH THIS TITLE

SEC. 201. (a) PREEMPTION.—Any provision of any State law which would prevent the establishment or administration in such a State of a non-fault plan for motor vehicle insurance in accordance with this title or title III of this Act is preempted.

(b) STATE PLAN.—By the completion of the first general session of the State legislature which commences after the date of enactment of this Act, a State may establish a no-fault plan for motor vehicle insurance in accordance with this title. Upon the establishment of such a plan, the commissioner shall promptly submit to the Secretary a certified copy of such plan, together with all relevant information which is requested by the Secretary.

(c) DETERMINATION BY SECRETARY.—Within ninety days after the Secretary receives a copy of a State no-fault plan established under subsection (b) or (e) of this section, the Secretary shall make a determination whether such State has established a no-fault plan for motor vehicle insurance in accordance with this title. Unless the Secretary determines, pursuant to this section, that a State no-fault plan is not in accord-

ance with this title, the plan shall go into effect in such State on the date designated in the plan. In no event shall such State plan go into effect less than nine months or more than twelve months after the date of its establishment.

(d) PERIODIC REVIEW.—The Secretary shall periodically, but not less than once every three years, review each State no-fault plan for motor vehicle insurance, which has been approved under subsection (c) of this section and for which there is experience, to determine whether such plan is still in accordance with this title and to evaluate the success of such plan in terms of the policy set forth and declared in section 102 of this Act. To facilitate such review, the commissioner in each such State shall submit to the Secretary periodically all relevant information which is requested by the Secretary. The Secretary shall report to the President and Congress simultaneously on July 1 each year on the results of such reviews, including any recommendations for legislation.

(e) ALTERNATIVE STATE PLAN.—(1) The alternative State no-fault plan for motor vehicle insurance (the State no-fault plan in accordance with title III of this Act) shall become applicable following the completion of the first general session of the State legislature which commences after the date of enactment of this Act unless, prior to such date, the Secretary has made a determination that such State has established a no-fault plan for motor vehicle insurance in accordance with this title. The alternative State no-fault plan shall go into effect in a State on the first day of the ninth month after such plan becomes applicable or on a date designated by the Secretary, whichever is earlier.

(2) If, after the alternative State no-fault plan is applicable or in effect in a State, the Secretary, upon petition, makes a determination, pursuant to subsection (c) of this section, that such State has established a no-fault plan in accordance with this title, such State no-fault plan shall go into effect and the alternative State no-fault plan shall cease to be applicable or in effect on a date to be designated by the Secretary.

(3) If, after a State no-fault plan in accordance with this title is in effect in a State, the Secretary makes a determination, pursuant to subsection (d) of this section, that such State no-fault plan is no longer in accordance with this title, then the plan which is no longer in accordance with this title shall cease to be in effect on a date to be designated by the Secretary, and on that date the alternative State no-fault plan shall go into effect in such State.

(f) PROCEDURE.—(1) Before making any determination under this section, the Secretary shall publish a notice in the Federal Register and afford the State and all interested parties a reasonable opportunity to present their views by oral and written submission.

(2) The Secretary shall notify in writing the Governor of the affected State of any determinations made under this section and shall publish these determinations with reasons therefor in the Federal Register.

(3) Any determinations made by the Secretary under this section shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code, in the United States court of appeals for the circuit in which is located the State whose plan is the subject of such determination or in the United States Court of Appeals for the District of Columbia Circuit. Any such review shall be instituted within sixty days from the date on which the determination made by the Secretary is published in the Federal Register.

(g) EXCEPTIONS.—(1) The provisions of this section are inapplicable to the extent inconsistent with this subsection.

(2) Any State which is a no-fault State, as defined in paragraph (4) of this subsection, may establish a no-fault plan for motor vehicle insurance in accordance with this title by the fourth anniversary of the date of enactment of this Act.

(3) The alternative State no-fault plan for motor vehicle insurance (the State no-fault plan in accordance with title III of this Act) shall become applicable in any State which is a no-fault State, as defined in paragraph (4) of this subsection, on the fourth anniversary of the date of enactment of this Act unless, prior to such date, the Secretary has made a determination that such State has established a no-fault plan for motor vehicle insurance in accordance with this title.

(4) As used in this subsection, a "no-fault State" means a State which has enacted into law and put into effect a motor vehicle insurance law not later than September 1, 1975, which provides, at a minimum, for compulsory motor vehicle insurance; payment of benefits without regard to fault on a first-party basis where the value of such available benefits is not less than $2,000; and restrictions on the bringing of lawsuits in tort by victims for noneconomic detriment, in the form of a prohibition of such suits unless the victim suffers a certain quantum of loss or in the form of a relevant change in the evidentiary rules of practice and proof with respect to such lawsuits.

(h) REPORTING REQUIREMENTS.—The Secretary, in cooperation with the commissioners, shall annually review the operation of State no-fault plans for motor vehicle insurance established in accordance with this Act and report on—

(1) the cost-savings resulting from the institution of any such plan which meets or exceeds the national standards set forth in this Act and any subsequent savings resulting from the continuing operation of such plans;

(2) appropriate methods for refunding to members of the motoring public any cost-savings realized from the institution and operation of such no-fault insurance plans;

(3) the impact of no-fault insurance on senior citizens; those who live in farming and rural areas; those who are economically disadvantaged, and those who live in inner cities;

(4) the impact of no-fault insurance on the problem of duplication of benefits when an individual has other insurance coverage which provides for compensation or reimbursement for lost wages or for health and accident (including hospitalization) benefits;

(5) the effect of no-fault insurance on court congestion and delay resulting from backlogs in State and Federal courts;

(6) the impact of no-fault insurance, reduced speed limits, and other factors on automobile insurance rates; and

(7) the impact of no-fault insurance on competition within the insurance industry, particularly with respect to the competitive position of small insurance companies.

The Secretary shall report to the President and Congress simultaneously on July 1 each year on the results of such review and determination together with his recommendations thereon.

(i) FINANCIAL ASSISTANCE TO STATES.—The Secretary is authorized to provide grants to any State for the purpose of reimbursing such State for any governmental cost increases resulting from the implementation or administration of a no-fault plan for motor vehicle insurance in accordance with this Act. The Secretary shall, by regulation, establish procedures for awarding such grants on a fair and equitable basis among the States.

(j) AUTHORIZATION FOR APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out his responsibilities under this Act such sums as are necessary, not to exceed $10,000,000, such sums to remain available until expended.

NATIONAL STANDARDS

SEC. 202. (a) GENERAL.—A State establishing a no-fault plan for motor vehicle insurance in accordance with this title shall enact a law which incorporates, at a minimum, title I of this Act, except sections 101, 102, 112, and 113, and this title except this section and section 201. The provisions of these sections, taken together, shall be known as the "national standards" for State no-fault motor vehicle insurance.

(b) CRITERIA.—A State no-fault plan for motor vehicle insurance is in accordance with this title if it meets or exceeds all of the national standards. A provision in a State plan "meets" a provision in the national standards if the substance of the State plan provision is the same as or the equivalent of the corresponding provision in the national standards. A provision in a State plan "exceeds" a provision in the national standards if the substance of the State plan provision is more favorable or beneficial to an insured or a claimant or more restrictive of tort liability than the corresponding provision in the national standards. Any provision in a State plan as to which there is no corresponding provision in the national standards shall not be evaluated in determining whether such plan meets or exceeds national standards provided such provision is not inconsistent with the national standards or the policy set forth and declared in section 102 of this Act.

RIGHT TO BASIC RESTORATION BENEFITS

SEC. 203. (a) ACCIDENT WITHIN A STATE.—If the accident resulting in injury occurs in a State in which a no-fault plan for motor vehicle insurance in accordance with this title or title III of this Act is in effect, any victim or any survivor of a deceased victim is entitled to receive basic restoration benefits.

(b) ACCIDENT OUTSIDE ANY STATE.—If the accident resulting in injury occurs outside a State in which a no-fault plan is in effect, but in any other State, Puerto Rico, Canada, or Mexico, a victim or a survivor of a deceased victim is entitled to receive basic restoration benefits if such victim is or was—

(1) an insured; or

(2) the driver or other occupant of a secured vehicle.

LIMITATIONS ON BENEFITS

SEC. 204. A State establishing a no-fault plan for motor vehicle insurance in accordance with this title—

(a) may not limit basic restoration benefits for allowable expense, as defined in section 103(2) of this Act;

(b) may limit basic restoration benefits for work loss to—

(1) a monthly amount equal to the lesser of the following—

(A) $1,000 multiplied by a fraction whose numerator is the average per capita income in the State and whose denominator is the average per capita income in the United States, according to the latest available United States Department of Commerce figures; or

(B) the disclosed amount, in the case of a named insured who, prior to the accident resulting in injury, voluntarily discloses his actual monthly earned income to his restoration obligor and agrees in writing that such sum shall measure work loss; and

(2) a total amount equal to—

(A) $25,000 multiplied by a fraction whose numerator is the average per capita income

in the State and whose denominator is the average per capita income in the United States, according to the latest available United States Department of Commerce figures; or

(B) such total amount as may be determined by the State but in no event less than $15,000;

(c) may provide reasonable exclusions from or monthly or total limitations on basic restoration benefits for replacement services loss;

(d) may provide reasonable exclusions from or monthly or total limitations on basic restoration benefits for survivor's loss;

(e) may provide that any contract of insurance for no-fault benefits allow an insurer to offer—

(1) a deductible not to exceed $100 for each individual;

(2) a deductible not to exceed an amount deemed reasonable by the insurance commissioner of such State for each individual if he sustains injury while he is operating a motor vehicle having less than four wheels, is a passenger on such a vehicle, or both; or

(3) a waiting period not to exceed one week. Deductibles and waiting periods shall be applicable only to claims of insureds and, in the case of the death of an insured, to the claims of his survivors; and

(f) shall permit any legally constituted entity, which is providing benefits other than no-fault benefits on account of an injury, to coordinate such benefits with benefits payable by any restoration obligor on account of the same injury. In order for such coordination to occur, there must be an equitable reduction or savings in the direct or indirect cost to the purchasers of benefits other than no-fault benefits. If benefits other than no-fault benefits are provided to an individual through a program, group, contract, or other arrangement for which some other person pays in whole or in part, then reduction or savings in the direct or indirect cost to such person of such benefits resulting from coordination shall be returned to such individual or utilized for his benefit.

SOURCE OF BASIC RESTORATION BENEFITS

SEC. 205. (a) APPLICABLE SECURITY.—The security for the payment of basic restoration benefits applicable to an injury to—

(1) an employee, or to the spouse or other relative of an employee residing in the same household as the employee, if the accident resulting in injury occurs while the victim or deceased victim is driving or occupying a motor vehicle furnished by such employee's employer, is the security for the payment of basic restoration benefits covering such motor vehicle or, if none, any other security applicable to such victim;

(2) an insured is the security under which the victim or deceased victim is an insured;

(3) the driver or other occupant of a motor vehicle involved in an accident resulting in injury who is not an insured is the security covering such vehicle;

(4) an individual who is not an insured or the driver or other occupant of a motor vehicle involved in an accident resulting in injury is the security covering any motor vehicle involved in such accident. For purposes of this paragraph, a parked and unoccupied motor vehicle is not a motor vehicle involved in an accident, unless it was parked so as to cause unreasonable risk of injury; and

(5) any other individual is the applicable assigned claims plan.

(b) MULTIPLE SOURCES OF EQUAL PRIORITY.—If two or more obligations to pay basic restoration benefits apply equally to an injury under the priorities set forth in subsection (a) of this section, the restoration obligor against whom a claim is asserted first shall process and pay the claim as if wholly responsible. Such obligor is thereafter entitled to recover contribution pro rata from any other such obligor for the basic restoration benefits paid and for the costs of processing the claim. If contribution is sought among restoration obligors responsible under paragraph (4) of subsection (a) of this section proration shall be based on the number of involved motor vehicles.

RESTRICTIONS ON TORT LIABILITY

SEC. 206. (a) PARTIAL ABOLITION.—Tort liability is abolished with respect to any injury that takes place in a State in which a no-fault plan for motor vehicle insurance in accordance with this title is in effect prior to such injury, if such injury arises out of the maintenance or use of a motor vehicle, except that—

(1) An owner of a motor vehicle involved in an accident remains liable if, at the time of the accident, the vehicle was not a secured vehicle.

(2) A person in the business of designing, manufacturing, repairing, servicing, or otherwise maintaining motor vehicles remains liable for injury arising out of a defect in such motor vehicle which is caused or not corrected by an act or omission in the course of such business, other than a defect in a motor vehicle which is operated by such business.

(3) An individual remains liable for injuring another individual, either intentionally or as a consequence of intending to injure himself.

(4) A person remains liable for loss which is not compensated because of any limitation in accordance with section 204 (b)(2), (c), or (d) of this Act. A person is not liable for loss which is not compensated because of limitations in accordance with subsection (b)(1) or (e) of section 204 of this Act.

(5) A person remains liable for damages for noneconomic detriment if the accident results in—

(A) death, serious and permanent disfigurement, or other serious and permanent injury; or

(B) more than ninety continuous days of total disability. As used in this subparagraph, "total disability" means medically determinable physical or mental impairment which prevents the victim from performing all or substantially all of the material acts and duties which constitute his usual and customary daily activities.

(6) A person or government remains liable if such injury was caused or not corrected by an act or omission not connected with the maintenance or use of a motor vehicle.

(b) NONREIMBURSABLE TORT FINE.—Nothing in this section shall be construed to immunize an individual from liability to pay a fine on the basis of fault in any proceeding based upon any act or omission arising out of the maintenance or use of a motor vehicle: *Provided*, That such fine may not be paid or reimbursed by an insurer or other restoration obligor.

WORK LOSS

SEC. 207. (a) REGULARLY EMPLOYED.—The work loss of a victim whose income prior to the injury was realized in regular increments shall be calculated by—

(1) determining his probable weekly income by dividing his probable annual income by fifty-two; and

(2) multiplying that quantity by the number of work weeks, or fraction thereof, the victim sustains loss of income during the accrual period.

(b) SEASONALLY EMPLOYED.—The work loss of a victim whose income is realized in irregular increments shall be calculated by—

(1) determining his probable weekly income by dividing his probable annual income by the number of weeks he normally works; and

(2) multiplying that quantity by the number of work weeks, or fraction thereof, the victim was unable to perform and would have performed work during the accrual period but for the injury.

(c) NOT EMPLOYED.—The work loss of a victim who is not employed when the accident resulting in injury occurs shall be calculated by—

(1) determining his probable weekly income by dividing his probable annual income by 52; and

(2) multiplying that quantity by the number of work weeks, or fraction thereof, if any, the victim would reasonably have been expected to realize income during the accrual period.

(d) CHANGES IN BENEFITS.—(1) Sums for work loss shall be periodically increased in a manner corresponding to annual compensation increases that would predictably have resulted but for the injury.

(2) Beginning in 1978, and at five-year intervals thereafter, whenever a dollar figure limits benefits for work loss, that figure shall be multiplied by a number whose numerator is the average weekly earnings of production or nonsupervisory workers in the private nonfarm economy for that year and whose denominator is the average weekly earnings of this group of workers in the base year 1973, according to the latest available figures published by the Bureau of Labor Statistics of the United States Department of Labor.

(e) DEFINITIONS.—As used in this section—

(1) "Probable annual income" means, absent a showing that it is or would be some other amount, the following—

(A) twelve times the monthly gross income earned by the victim from work in the month preceding the month in which the accident resulting in injury occurs, or the average annual income earned by the victim from work during the years, not to exceed three, preceding the year in which the accident resulting in injury occurs, whichever is greater, for a victim regularly employed at the time of the accident;

(B) the average annual gross income earned by the victim from work during the years in which he was employed, not to exceed three, preceding the year in which the accident resulting in injury occurs, for a victim seasonally employed or not employed at the time of the accident; or

(C) the average annual gross income of a production or nonsupervisory worker in the private nonfarm economy in the State in which the victim is domiciled for the year in which the accident resulting in injury occurs, for a victim who has not previously earned income from work.

(2) "Work week" means the number of days an individual normally works in a seven-day period; "weekly income" means income earned during a work week.

NET LOSS

SEC. 208. (a) GENERAL.—Except as provided in paragraph (3) of subsection (a) of section 108 of this Act, all benefits or advantages (less reasonably incurred collection costs) that an individual receives or is entitled to receive from social security (except those benefits provided under title XIX of the Social Security Act), workmen's compensation, any State-required temporary, nonoccupational disability insurance, and all other benefits (except the proceeds of life insurance) received by or available to an individual because of the injury from any government, unless the law authorizing or providing for such benefits or advantages makes them excess or secondary to the benefits in accordance with this Act, shall be subtracted from loss in calculating net loss.

(b) TAX DEDUCTION.—If a benefit or advantage received to compensate for loss of income because of injury, whether from no-

fault benefits or from any source of benefits or advantages subtracted under subsection (a) of this section, is not taxable income, the income tax saving that is attributable to such loss of income because of injury is subtracted in calculating net loss for work loss. Subtraction may not exceed fifteen per centum of the loss of income and shall be in such lesser amount as the insurer reasonably determines is appropriate based on a lower value of the income tax advantage.

(c) ALLOWABLE EXPENSE DEDUCTION OPTION.—A State no-fault plan for motor vehicle insurance established in accordance with title II of this Act shall include the substantive provisions of this subsection, unless such State finds and reasonably determines, in the course of establishing such plan under section 201(b) of this title, that the inclusion of such provisions in the plan would affect adversely or discriminate against the interests of persons required to provide security covering motor vehicles in such State: Benefits or advantages that an individual receives or is entitled to receive for allowable expense from a source other than no-fault insurance shall be subtracted from loss in calculating net loss for allowable expense where—

(1) such source other than no-fault insurance provides or is obligated to provide such benefits or advantages for allowable expense, as defined in section 103(2) of this Act, without any limitation as to the total amount of such benefits or advantages obligated to be provided.

(2) such benefits or advantages are provided by such source other than no-fault insurance on terms and conditions which comply wholly with the provisions of sections 103(6), (7), and (16), 109 (c) and (d), and 111(d) of this Act and subject to all authority set forth therein;

(3) such source other than no-fault insurance is required by the applicable State no-fault plan for motor vehicle insurance in accordance with this Act to share, on an equitable basis, in the financial burdens and costs of operation of plans established pursuant to sections 105 and 108 of this Act;

(4) such benefits or advantages are provided by such source other than no-fault insurance through group insurance where the individuals who are likely to be the beneficiaries under such group insurance have received notice that there will be such subtraction; and

(5) the commissioner finds that such subtraction will result in economic benefits greater than those which would result from coordination pursuant to section 204 (f) of this Act, on the basis of a hearing in which interested parties present competent evidence, and such finding is reviewed as a similar procedure by the commissioner not less than once every three years.

The commissioner shall promulgate rules to assure that the economic benefits found under paragraph (5) of this subsection are realized. As used in this subsection (A), "group insurance" means any plan of insurance offered or provided to members of a group not organized solely for the purpose of obtaining insurance, under the terms of a master policy or operating agreement between an insurer and the group sponsor, and incorporating group average rating, guaranteed issue with or without minimum eligibility requirements, group experience rating, employer contributions, and any other benefit to the members as insureds that they may be unable to obtain in the ordinary channels of insurance marketing on an individual basis; and (B) "group sponsor" means the employer or other representative entity or an employment-based group. Sections 103 (10), (11), and (12) of this Act are inapplicable with respect to such definitions.

ADDED RESTORATION BENEFITS

SEC. 209. (a) OPTIONAL OFFERING.—Restoration obligors providing security for the payment of basic restoration benefits may offer or obligate themselves to provide added restoration benefits for injury or damage arising out of the ownership, maintenance, or use of a motor vehicle, including—

(1) loss excluded from basic restoration benefits by limits on allowable expense, work loss, replacement services loss, and survivor's loss;

(2) benefits for damage to property;

(3) benefits for loss of use of a motor vehicle; and

(4) benefits for expense for remedial religious treatment and care.

Subject to the approval of terms and forms by the commissioner, restoration obligors may offer or obligate themselves to provide other added restoration coverages.

(b) MANDATORY OFFERING.—(1) Insurers providing basic restoration insurance shall offer the following added restoration coverage:

(A) for physical damage to a motor vehicle, a coverage for all collision and upset damage, subject to an optional deductible of not to exceed $100;

(B) for the payment of tort liability, if a State determines that security for the payment of tort liability is not required motor vehicle insurance;

(C) for economic detriment, a coverage for work loss sustained by a victim in excess of limitations on basic restoration benefits for work loss; and

(D) for basic restoration benefits, if a State determines that a vehicle having less than four wheels is not a motor vehicle.

(2) The commissioner may adopt rules requiring that insurers providing basic restoration insurance offer, in accordance with State law, any other specified added restoration coverages.

(c) TERRITORIAL APPLICABILITY.—All added restoration coverages are applicable in any State, Puerto Rico, or Canada.

INELIGIBLE CLAIMANTS

SEC. 210. (a) CONVERTER.—(1) Except as provided for assigned claims, a converter of a motor vehicle is ineligible to receive no-fault benefits, including benefits otherwise due him as a survivor, from any source other than a contract of insurance under which he is an insured, for any injury arising out of the maintenance or use of the converted vehicle. If a converter dies from such injuries, his survivor or survivors are not entitled to no-fault benefits for survivor's loss from any source other than a contract of insurance under which the converter is an insured.

(2) For purposes of this subsection and subsection (c) of section 111 of this Act, an individual is not a converter of a motor vehicle if he used it in the good faith belief that he was legally entitled to do so.

(b) INTENTIONAL INJURIES.—(1) An individual who intentionally injures himself or another individual is ineligible to receive no-fault benefits for injury arising out of his acts, including benefits otherwise due him as a survivor. If an individual dies as a result of intentionally injuring himself, his survivor or survivors are not entitled to no-fault benefits for survivor's loss. An individual intentionally injures himself or another individual if he acts or fails to act for the purpose of causing such injury or with knowledge that such injury is substantially certain to follow. An individual does not intentionally injure himself or another individual—

(A) merely because his act or failure to act is intentional or done with his realization that it creates a grave risk of causing injury; or

(B) if the act or omission causing the injury is for the purpose of averting bodily harm to himself or another individual.

(2) For purposes of subsection (c) of section 111 and paragraph (3) of subsection (a) of section 206 of this Act, an individual does not intentionally injure himself or another individual merely because his act or failure to act is intentional or done with his realization that it creates a gave risk of harm.

OTHER PROVISIONS

SEC. 211. (a) INCLUDED COVERAGE.—A contract of insurance covering liability arising out of the ownership, maintenance, or use of a motor vehicle registered in a State includes basic restoration benefits and any other benefit coverages required by the no-fault plan for motor vehicle insurance in effect in such States unless such contract—

(1) provides tort liability coverages only in excess of any of those required by such State no-fault plan; or

(2) is a contract which the commissioner determines by regulation provides motor vehicle liability coverages only as incidental to some other basic coverage.

(b) APPROVAL OF TERMS AND FORMS.—Terms and conditions (including forms used by insurers) of any contract, certificate, or other evidence of insurance sold or issued pursuant to a State no-fault plan for motor vehicle insurance in accordance with this title or title III of this Act and providing no-fault benefits or any required tort liability are subject to approval and regulation by the commissioner in such State. The commissioner shall approve only terms and conditions which are consistent with the purposes of this Act and fair and equitable to all persons whose interests may be affected. The commissioner may limit by rule the variety of coverage available in order to give purchasers of insurance a reasonable opportunity to compare the cost of insuring with various insurers.

TITLE III—ALTERNATIVE STATE NO-FAULT MOTOR VEHICLE INSURANCE PLAN

PROVISIONS

SEC. 301. The alternative State no-fault plan for motor vehicle insurance (the State no-fault plan in accordance with this title), which becomes applicable and goes into effect in a State pursuant to subsection (e) of section 201 of this Act, is composed of title I of this Act, except sections 101, 102, 112, and 113; sections 201(d), 203, 204(e) and (f), 205, 207, 208, 210, and 211 of title II of this Act; and this title, except this section. A State may establish additional requirements provided that they are not inconsistent with the provisions of the alternative State no-fault plan for motor vehicle insurance or the policy set forth and declared in section 102 of this Act.

LIMITATIONS ON BASIC RESTORATION BENEFITS

SEC. 302. Basic restoration benefits payable to a victim or the survivor or survivors of a deceased victim for—

(a) allowable expense, as defined in section 103(2) of this Act, may not be limited;

(b) work loss may not exceed a monthly amount equal to $1,000 multiplied by a fraction whose numerator is the average per capita income in the State and whose denominator is the average per capita income in the United States, according to the latest available United States Department of Commerce figures; and

(c) replacement services loss and survivor's loss may not exceed $200 for the calendar week during which the accident resulting in injury occurs and for each calendar week thereafter.

RESTRICTIONS ON TORT LIABILITY

SEC. 303. (a) PARTIAL ABOLITION.—Tort liability is abolished with respect to any injury that takes place in a State in which

the alternative State no-fault plan for motor vehicle insurance is in effect, if such injury arises out of the maintenance or use of a motor vehicle, except that—

(1) An owner of a motor vehicle involved in an accident remains liable if, at the time of the accident, the vehicle was not a secured vehicle;

(2) A person in the business of designing, manufacturing, repairing, servicing, or otherwise maintaining motor vehicles remains liable for injury arising out of a defect in such motor vehicle which is caused or not corrected by an act or omission in the course of such business, other than a defect in a motor vehicle which is operated by such business; and

(3) An individual remains liable for intentionally injuring himself or another individual.

(b) NONREIMBURSABLE TORT FINE.—Nothing in this section shall be construed to immunize an individual from liability to pay a fine on the basis of fault in any proceeding based upon any act of omission arising out of the maintenance or use of a motor vehicle: *Provided*, That such fine may not be paid or reimbursed by an insurer or other restoration obligor.

ADDED RESTORATION BENEFITS

SEC. 304. (a) OPTIONAL OFFERING.—Restoration obligors providing security for the payment of basic restoration benefits may offer or obligate themselves to provide added restoration benefits for injury or damage arising out of the ownership, maintenance, or use of a motor vehicle, including:

(1) loss excluded from basic restoration benefits by limits on allowable expense, work loss, replacement services loss, and survivor's loss;

(2) benefits for damage to property;

(3) benefits for loss of use of a motor vehicle; and

(4) benefits for expense for remedial religious treatment and care.

Subject to the approval of terms and forms by the commissioner, restoration obligors may offer or to obligate themselves to provide other added restoration coverages.

(b) MANDATORY OFFERING.—(1) Insurers providing basic restoration insurance shall offer the following added restoration coverages:

(A) for physical damage to a motor vehicle, a coverage for all collision and upset damage, subject to an optional deductible of not to exceed $100;

(B) for physical damage to a motor vehicle, a coverage for all collision and upset damage to the extent that the insured has a valid claim in tort against another identified person; and

(C) for noneconomic detriment to a victim, a coverage in such amounts and upon such conditions as the commissioner directs and the insured selects.

(2) The commissioner may adopt rules requiring that insurers providing basic restoration insurance offer, in accordance with State law, any other specified added restoration coverages.

(c) TERRITORIAL APPLICABILITY.—All added restoration coverages are applicable in any State, Puerto Rico, or Canada.

The title was amended, so as to read: "A bill to regulate commerce by establishing a nationwide system to restore motor vehicle accident victims and by requiring no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public roadways."

Mr. MOSS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MAGNUSON and Mr. STEVENS moved to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. MOSS. Mr. President, I ask unanimous consent that the bill as passed be printed for the use of the Senate.

The VICE PRESIDENT. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a 5-minute time limitation on a message from the House of Representatives on S. 1115, the time to be divided between the distinguished Senator from Nebraska (Mr. HRUSKA) and the distinguished Senator from Indiana (Mr. BAYH).

The VICE PRESIDENT. Without objection, it is so ordered.

NARCOTIC ADDICT TREATMENT ACT OF 1974

Mr. BAYH. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1115.

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 1115) entitled "An act to amend the Controlled Substances Act to provide for the registration of practitioners conducting narcotic treatment programs," which was to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Narcotic Addict Treatment Act of 1974".

SEC. 2. Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding the following after paragraph (26):

"(27) The term 'maintenance treatment' means the dispensing, for a period in excess of twenty-one days, of a narcotic drug in the treatment of an individual for dependence upon heroin or other morphine-like drugs.

"(28) The term 'detoxification treatment' means the dispensing, for a period not in excess of twenty-one days, of a narcotic drug in decreasing doses to an individual in order to alleviate adverse physiological or psychological effects incident to withdrawal from the continuous or sustained use of a narcotic drug and as a method of bringing the individual to a narcotic drug-free state within such period."

SEC. 3. Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding the following after subsection (f):

"(g) Practitioners who dispense narcotic drugs to individuals for maintenance treatment or detoxification treatment shall obtain annually a separate registration for that purpose. The Attorney General shall register an applicant to dispense narcotic drugs to individuals for maintenance treatment or detoxification treatment (or both)—

"(1) if the applicant is a practitioner who is determined by the Secretary to be qualified (under standards established by the Secretary) to engage in the treatment with respect to which registration is sought;

"(2) if the Attorney General determines that the applicant will comply with standards established by the Attorney General respecting (A) security of stocks of narcotic drugs for such treatment, and (B) the maintenance of records (in accordance with section 307) on such drugs; and

"(3) if the Secretary determines that the applicant will comply with standards established by the Secretary (after consultation with the Attorney General) respecting the quantities of narcotic drugs which may be provided for unsupervised use by individuals in such treatment.".

SEC. 4. (a) Section 304(a) of the Controlled Substances Act (21 U.S.C. 824(a)) is amended by adding after the below paragraph (3) the following: "A registration pursuant to section 303(g) to dispense a narcotic drug for maintenance treatment or detoxification treatment may be suspended or revoked by the Attorney General upon a finding that the registrant has failed to comply with any standard referred to in section 303(g)."

(b) Section 304(d) of such Act is amended (1) by inserting after the first sentence the following: "A failure to comply with a standard referred to in section 303(g) may be treated under this subsection as grounds for immediate suspension of a registration granted under such section."; and (2) by striking out "Such suspension" and inserting in lieu thereof "A suspension under this subsection".

SEC. 5. Section 307(c)(1)(A) of the Controlled Substances Act (21 U.S.C. 827(c)(1)(A)) is amended to read as follows:

"(1)(A) with respect to any narcotic controlled substance in schedule II, III, IV, or V, to the prescribing or administering of such substance by a practitioner in the lawful course of his professional practice unless such substance was prescribed or administered in the course of maintenance treatment or detoxification treatment of an individual; or".

Mr. BAYH. Mr. President, the bill under consideration today, S. 1115, is designed to facilitate Federal agencies in their efforts to investigate and to curb the diversion and abuse of narcotic drugs used in the treatment of narcotic addicts.

In a similar form this bill was introduced by my distinguished colleague from Kentucky (Mr. COOK). I would like to take this occasion to commend Senator COOK and Senator HRUSKA for their special contributions to this important subcommittee matter.

In the summer of 1972 the Subcommittee To Investigate Juvenile Delinquency, which I chair, began its investigation into the diversion and abuse of methadone. We held field hearings in Los Angeles, San Francisco, Omaha, Indianapolis, Louisville, and Washington, D.C. During the course of the subcommittee's investigation we heard testimony from more than 60 witnesses, including representatives from the medical and treatment community, methadone program personnel, State and local health and law enforcement officials, and individuals participating in methadone maintenance and detoxification programs.

It is important to emphasize that methadone alone is not a cure for heroin addiction. Methadone is a narcotic similar to heroin and morphine. Although it is dangerously addictive, methadone has been used successfully to detoxify and maintain some heroin addicts. In maintenance programs chronic addicts are stabilized and permitted to concentrate on rehabilitative efforts. Some addicts are now leading more productive and fulfilling lives.

The subcommittee found that far too many programs had substituted the dispensing of methadone and the collection of urine for treatment and rehabilitation. The emphasis should be on the quality of services and not merely the

number of persons processed. Reliance on the drug as a simple, inexpensive answer to heroin addiction is ill-conceived and will lead to assembly line programs with all their attendant problems, not the least of which is the diversion of methadone for illegal purposes.

In 1968 there were fewer than 400 persons enrolled in methadone treatment programs nationally; today there are an estimated 73,000 persons in more than 750 programs. This rapid expansion of methadone programs and the quantity of methadone dispersed as a result of this proliferation has provided increased opportunity for diversion of methadone into the illicit market. In fact, some of our cities are already suffering from an overdose of methadone, both figuratively and literally.

In many cities the subcommittee found that methadone is already widely available in the illicit market. A recent survey of heroin addicts in New York City found that 92 percent had been offered illicit methadone; that 56 percent had purchased illicit methadone; and that 13 percent had sold methadone.

Illegal methadone has several primary origins: Careless or unscrupulous physicians; thefts and diversion from methadone programs; and patients enrolled in methadone programs.

In some communities, one or more physicians have contributed substantially to the illicit traffic. A physician in the District of Columbia was, after a long and difficult prosecution, convicted on 22 counts of illegal methadone distribution. It was alleged that he sold 11,000 prescriptions—815,000 10 milligram doses—and accumulated more than a quarter of a million dollars for his efforts.

In my own State of Indiana, one such unscrupulous physician was selling methadone prescription for $3. He authored as many as 300 methadone prescriptions in a 3-day period. At our Indianapolis hearing, Lt. John Ferguson of the Indiana State Police told subcommittee members that a small Indiana community "was literally papered with these prescriptions." Currently several other legal pushers are under investigation for similar activities.

Employees and volunteers associated with methadone programs have been implicated as sources of illegal methadone. It appears, however, that such diversion is usually unwittingly permitted and can be attributed to poor organization and loose controls.

Illicit sales lead to the addiction of others. Polydrug abusers and experimenters are among the regular purchasers of illegal methadone.

Many of these new addicts are younger and less experienced with drug abuse than the seasoned heroin addict. Some doctors express concern that unless we rigidly control the distribution of methadone we may be creating a new generation of addicts: methadone addicts.

Already reports indicate a steady rise in the last 3 years in the number of persons addicted primarily to methadone. A survey of recent applicants for Miami methadone programs found that 40 percent were using illegal methadone along with other drugs, and 7 percent were using solely illegal methadone. In relative terms, the extent of methadone abuse does not presently rival heroin abuse, but the trend is alarming.

Methadone programs may create a demand as well as supply it. A recent study of 55 heroin addicts terminated from methadone maintenance programs found that 35 percent were abusing illicit methadone along with other drugs, and 8 percent were abusing solely methadone.

The impact of illicit methadone traffic is widely documented by the staggering numbers of methadone overdoses and deaths. In some communities methadone fatalities have increased annually in numbers and in proportion to total narcotic deaths. In New York City 10 percent of all narcotic deaths were directly attributed to methadone in 1971; in 1972, 15 percent.

During 1972, medical examiners/coroners around the country were contacted, by researchers in the Special Action Office for Drug Abuse Prevention, in order to obtain present, as well as past, data on narcotics-related deaths, by drug involvement. These contacts were carried through in 1973 thus making it possible to obtain data on narcotics-related deaths, by drug involvement, for the entire calendar year 1972.

Data gathered from these contacts showed that for 31 areas of the country, representing some 55 million persons, deaths involving methadone accounted for at least 20 percent of the narcotics-related deaths which occurred in 1972. On an historical basis, for 25 areas of the country with usable data for 1971, as well as 1972, it is shown that there were 156 deaths involving methadone in 1971. This is compared to 32 deaths involving methadone in these areas in 1972—an increase of 113 percent.

I ask unanimous consent that a table in connection with this matter be printed in the RECORD.

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

The table below shows narcotics-related deaths for 30 areas of the country (excluding New York City) according to the proportion of deaths involving methadone.

TABLE B.—*Ranking of 30 areas of the country, according to the proportion of total narcotics-related deaths involving methadone, 1972*

Area and proportion of deaths with methadone involvement:	
District of Columbia	71.8
Erie County (Buffalo), New York	60.0
State of Virginia	50.0
Hamilton County (Cincinnati), Ohio	40.0
New Orleans, Louisiana	37.5
Philadelphia County, Pennsylvania	34.5
Allegheny County (Pittsburgh), Pennsylvania	33.3
Maricopa County (Phoenix), Arizona	27.3
Cuyahoga County (Cleveland), Ohio	27.3
Marion County (Indianapolis), Indiana	27.3
State of Maryland	23.1
Dade County (Miami), Florida	23.1
Fulton County (Atlanta), Georgia	21.4
Essex County (Newark), New Jersey	20.0
Denver County, Colorado	14.3
Harris County (Houston), Texas	12.9
Santa Clara County (San Jose), California	12.5
Wayne County (Detroit), Michigan	12.0
Monroe County (Rochester), New York	9.1
San Diego County, California	6.5
San Francisco County, California	4.6
Bexar County (San Antonio), Texas	3.6
Dallas County, Texas	3.3
Sacramento County, California	0.0
Cook County (Chicago), Illinois	0.0
State of North Carolina	0.0
Lucas County (Toledo), Ohio	0.0
Milwaukee County, Wisconsin	0.0
State of Delaware	0.0
King County (Seattle), Washington	0.0
Average proportion	20.4

Mr. BAYH. Drug Enforcement Administration figures for the period January–September 1973, reveal that more than 25 percent—317 of 1,157—of all narcotic deaths nationwide were attributed to methadone. For the same period deaths clearly caused by the use of methadone surpassed those definitely caused by the use of heroin in both New York and New Jersey.

The investigation and hearings conducted by my subcommittee made it abundantly clear that more adequate safeguards must be developed to insure the effective operation of methadone programs and to protect our communities from the introduction of yet another potent drug of abuse and addiction.

The fundamental purpose of S. 1115 is to provide these adequate safeguards. This legislation amends title II—Controlled Substances Act—of the Comprehensive Drug Abuse Prevention and Control Act of 1970, Public Law 91–513. Authority exists under the CSA to require a separate registration for research programs using narcotic drugs. Since programs involving maintenance of addicts were considered to be research programs registration has been required. Similar requirements could not be extended to detoxification programs since this use of methadone was well recognized and not considered as research.

S. 1115 requires separate registration with DEA for narcotic treatment programs. Registration will be predicated on the demonstrated ability to comply with medical standards established by FDA and security standards established by DEA. The bill also provides authority to withdraw registration for failure to comply with these standards and facilitates, in appropriate cases, the institution of criminal prosecution. All narcotic treatment programs will be covered, not just methadone programs. The legislation supplements the existing FDA methadone regulations by enabling the DEA to assist in the enforcement of controls over treatment programs using narcotics other than methadone. However, the bill is not intended to expand DEA jurisdiction to include the practice of medicine or the setting of medical standards. Thus, DEA is provided with more and better law enforcement control, while maintaining with the Secretary of HEW—and by delegation, the FDA—the scientific, medical, and health determination necessary for proper control of drugs.

After completing hearings on S. 1115 on May 21, 1973, the subcommittee reported the bill to the full Judiciary Committee which unanimously reported the bill to the Senate. On June 8, 1973, this body unanimously passed the Methadone Diversion Control Act of 1973. The full text of the report—No. 93–192—can be found in the CONGRESSIONAL RECORD,

Friday, June 8, 1973, beginning on page 18769.

On March 19, 1974, by a 375 to 0 vote, the House of Representatives passed S. 1115, inserting their own language for the text of the Senate version of the bill. The title was also changed to the Narcotic Addict Treatment Act.

The subcommittee investigation and hearings revealed one of the major sources of diverted methadone to be a small number of criminally inclined medical practitioners who were prescribing the drug to numbers of addicts for profit.

The primary purpose of the Senate bill was to assist efforts to curb narcotic diversion and particularly to facilitate the prosecution of the few practitioners who illicitly profit from black-market methadone. The bill covers the use of all narcotic drugs in general rather than methadone in particular for two reasons. First, it has been found that abuses similar to those which have occurred in the indiscriminate prescribing and dispensing of methadone have occurred with regard to other narcotic drugs such as morphine, numorphan, and demerol. Moreover, with the closing of existing loopholes in the use of methadone, it could be anticipated that unscrupulous practitioners would resort to the distribution of morphine or other narcotics as an alternative. Second, inclusion of narcotic drugs generally will also provide the flexibility necessary to anticipate new developments in maintenance programs. For example, the drug known as alpha-acetyl-methadol, also a narcotic, holds some promise of use in this regard and may be expected to become a popular drug of choice for maintenance treatment in the near future.

The House version is identical in purpose and its provisions are but slightly altered. I believe that the bill is a sound one. While the bill requires those who engage in the treatment of addicts to register and obtain necessary approval of their program from the Secretary of Health, Education, and Welfare and the Attorney General, it was not intended that other physicians, not specifically registered to treat addicts, would be deprived of the right to administer emergency treatment should the need arise. The intention of the bill is only to provide the means for regulating legitimate addict treatment programs and to close off loopholes which would permit physicians to administer, prescribe, or dispense narcotics to addicts over a period of days without having registered and complied with the standards required. Also, the bill relates solely to the regulation of programs for the treatment of addiction. It would not prevent the employment of any necessary detoxification procedures within hospitals for those patients who may have developed a temporary narcotic tolerance as an adjunct to medical or surgical treatment of other conditions. These are matters which can be further clarified through appropriate regulation.

S. 1115 is an important law enforcement measure. The Drug Enforcement Administration within the Department of Justice has indicated that the bill will significantly strengthen their hand to deal more effectively to minimize diversion from unscrupulous practitioners or negligent administration of programs. Likewise, representatives of the Indiana State Police testified that the bill would be a valuable law enforcement aid.

The tragedy of lives wasted or destroyed by our failure to cope with the problems of drug dependence is too often ignored amid the rhetoric of crime control.

Reduction of the incidence of criminal activity associated with heroin addiction is a high priority but by no means should it be our sole priority. When there is no hope but dope, an addict on methadone will turn to other so-called chemical solutions, usually barbiturates and alcohol.

However successful methadone maintenance has been in assisting certain addicts, we must not permit its use to "smoke-screen" the complex social conditions which spawn heroin addiction.

Much is said about the drug problem. In reality we have a collection of local problems. Nor do we have the solution. An approach that is successful in Washington, D.C., or New York is not necessarily appropriate elsewhere.

If you throw a dart at the map of America, however, it is far more likely to identify a community with a multiple or polydrug problem than one with an exclusively heroin problem. Few programs are even equipped to attempt to deal with multiple drug abuse, to which methadone is not even a partial solution.

The problems of drug traffic and abuse are not partisan concerns, but issues that transcend geographical, philosophical, and political differences. I am determined to see to it that adequate safeguards are developed to protect our communities. The Narcotic Addict Treatment Act, is not a panacea, but a step in this direction. The recognition of the need for such safeguards, however, should not be interpreted as an indictment of all methadone programs or practitioners dispensing methadone, but rather as a realization that methadone—a powerful addictive narcotic—can be as harmful as heroin when diverted and improperly used.

Passage of S. 1115 will reaffirm the commitment Congress made to the Nation when it passed the 1970 act, by once again facilitating the prosecution of those who engage in the criminal distribution of legitimate narcotic drugs for profit.

Mr. President, since the Senate and House were able to resolve their differences without the necessity for a conference, there is no conference report on S. 1115. I ask unanimous consent to have printed in the RECORD at this point a section-by-section analysis of the bill.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

Section 1: Provides that the Act may be cited as the "Narcotic Addict Treatment Act of 1974".

Section 2: Adds two subsections which contains definitions used in the Act (definitions) to section 102 of the Controlled Substances Act. "Maintaining treatment" is defined as the dispensing, for a period exceeding 21 days, of a narcotic drug in the treatment of an individual for dependence upon heroin or other morphine-like drugs.

"Detoxification treatment" is defined as the dispensing of a narcotic drug to an individual in decreasing doses, for a period not to exceed twenty-one days, for the purpose of alleviating adverse psychological or physiological effects incident to withdrawal from the continuous or sustained use of a narcotic drug in order to bring the individual to a narcotic drug free state. The definition of detoxification inherently requires the use of decreasing doses in order to reach a drug free state.

Section 3: Amends section 303 of the Controlled Substances Act containing registration requirements by adding a new subsection (g). This subsection provides that all practitioners who dispense narcotic drugs to individuals for maintenance or detoxification treatment shall annually obtain a separate registration for that purpose. The Attorney General is directed to register an applicant to dispense narcotic drugs for maintenance or detoxification treatment if:

(1) The applicant is a practitioner who is determined by the Secretary of Health, Education, and Welfare, under standards established by the Secretary, to be qualified to engage in the type of treatment for which registration is sought;

(2) The Attorney General determines that the applicant will meet the standards established by the Attorney General with respect to security of stocks of narcotic drugs used in such treatment, and maintenance of records on such drugs; and

(3) The Secretary determines that the applicant will comply with standards established by the Secretary (after consultation with the Attorney General) respecting the quality of narcotic drugs which may be provided for unsupervised use by those in maintenance or detoxification programs.

This section preserves the distinctions found in the Controlled Substances Act between the functions of the Attorney General and the Secretary of Health, Education, and Welfare. All decisions of a medical nature are to be made by the Secretary of Health, Education, and Welfare. Law enforcement decisions respecting the security of stocks of narcotic drugs and the maintenance of records on such drugs are to be made by the Attorney General. The Committee recognizes that the release of quantities of narcotic drugs to individuals for their unsupervised use, primarily a medical judgment, may have some law enforcement ramifications. Therefore, before the Secretary establishes standards respecting the quantities of narcotic drugs which may be provided for such use, he is to consult with the Attorney General.

The registration required under this section is separate and distinct from regular registration under the Controlled Substances Act. However, the amount of paperwork required of practitioners by this section will be minimal. This Act is not intended to impose a heavy new burden on practitioners, and the Committee expects every effort to be made to use registration forms which are brief, simple, and similar to other forms already in use. Rather, it is intended to bring in the expertise of the DEA in law enforcement matters and to complement the regulations the FDA has already promulgated in this area.

Section 4: (a) Amends section 304(a) of the Controlled Substances Act which contains the denial, revocation, or suspension of registrations by adding a new subsection (4) which provides that a registration issued pursuant to section 303(g) may be revoked or suspended by the Attorney General upon finding that the registrant has failed to comply with any of the standards required in section 303(g).

(b) Amends section 304(d) of the Controlled Substances Act to provide that failure to comply with a standard referred to in section 303(g) may be treated as grounds for immediate suspension of a registration granted under that section.

Under current law, the registration of a practitioner can only be revoked if he does not have a State license, has been convicted of a felony, or has fraudulently applied for registration. This has made it difficult for the Attorney General to take action in those instances in which he believed that a treatment program or detoxification program was not being properly conducted. This new subsection provides that in such instances, the Attorney General may immediately revoke or suspend the registration of any practitioner who does not meet the standards set forth in section 303(g). This section in no way restricts the authority that the Food and Drug Administration is already exercising in this area with regard to methadone treatment programs.

The suspension or revocation of a registration issued under section 303(g) does not in any manner affect a practitioner's basic registration under the Controlled Substances Act. Thus, while it is true that, if a practitioner loses his medical license or narcotics registration, he cannot continue to dispense narcotic drugs, the converse is not true. A practitioner who has lost his registration under section 303(g) would not lose his basic registration.

Section 5: Amends section 307(c)(1)(A) of the Controlled Substances Act so as to extend the recordkeeping requirements of section 307 to the prescribing or administering of a controlled substance by a practitioner in the course of maintenance or detoxification treatment of an individual.

These new recordkeeping requirements are not intended by the Committee to change or add to the existing requirements for practitioners who do not engage in either detoxification or maintenance treatment.

Mr. HRUSKA. Mr. President, I want to associate myself with the remarks of my distinguished colleague from Indiana (Mr. BAYH) and offer my support for the bill which is now before this body.

S. 1115, the subject bill, was proposed by the administration and introduced on March 6, 1973, by the distinguished Senator from Kentucky (Mr. COOK). The Senate passed this bill on June 8, 1973.

On March 19 of this year, the House passed an amended version of S. 1115, substituting the body of H.R. 12503, a similar bill. The provisions of the two bills are slightly different. Like my colleague (Mr. BAYH), I do not believe these differences are of major significance. The bill now before this body retains its original thrust and intent. I am advised, furthermore, that the Department of Justice has no objection to Senate passage of S. 1115, as amended by the House.

The purpose of this bill is to provide a means of regulating the use of narcotic drugs in the treatment of narcotic addiction. Its principal aim is to require a special registration of physicians who administer narcotics drug treatment and to establish a sound legal basis for imposing safeguards to protect the community against the diversion of narcotic drugs into illicit traffic.

I commend the leadership of the distinguished Senator from Indiana (Mr. BAYH) as chairman of the Juvenile Delinquency Subcommittee for his dedicated efforts in this area of endeavor. This subcommittee, of which I am a member, held a thorough and exhaustive set of hearings on this subject in 1972 and 1973. Hearings on this proposal were heard not only in this city, but also in Omaha, Indianapolis, Los Angeles, and San Francisco. A vast majority of the witnesses testified to the need for this type of legislation.

I am confident that properly regulated and controlled programs can provide a valid means of reducing or preventing heroin addiction and its attendant problems. It is important to emphasize, however, that methadone and similarly used drugs are not alone a cure for addiction. Drug treatment programs should assist addicts in working toward freedom from drug dependence and permit these persons to again become constructive members of society.

S. 1115, in its present form, will provide an additional means for the Federal Government to help insure the proper use of methadone and other narcotic substances in the treatment of narcotic addiction, while facilitating the prosecution of those who engage in the criminal distribution of legitimate narcotic drugs for profit.

Therefore, I strongly urge my colleagues to give their support to the pending bill, as amended by the House.

Mr. BAYH. Mr. President, I move that the Senate concur in the House amendment.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Indiana.

The motion was agreed to.

H.R. 11385—TIME-LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I have cleared this request with the leadership on the other side.

Mr. President, I ask unanimous consent that at such time as H.R. 11385, a bill to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, is called up and made the pending business, that there be a 2-hour limitation on the bill, 1 hour on a substitute to be offered by the Senator from Maryland (Mr. BEALL), one-half hour on any amendment, 20 minutes on any debatable motion or appeal, and that the agreement be in the usual form.

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

AUTHORIZATION OF APPROPRIATIONS UNDER THE INTERNATIONAL ECONOMIC POLICY ACT OF 1972

The VICE PRESIDENT. Under the previous order, the Senate will now resume consideration of S. 2986, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 2986) to authorize appropriations for carrying out the provisions of the International Economic Policy Act of 1972, as amended.

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

The VICE PRESIDENT. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate before the Senator proceeds. Would the Chair ask that attachés and aides take seats in the rear of the Chamber or leave the Chamber and that we take our seats?

The VICE PRESIDENT. The Senate will be in order.

Mr. STEVENSON. Mr. President, I have cleared this unanimous-consent request with the distinguished Senator from Texas.

I ask unanimous consent that the committee amendment to S. 2986 be treated as original text for the purpose of further consideration of the bill.

Mr. TOWER. No objection.

The VICE PRESIDENT. Is there objection to agreeing to the committee amendment in the nature of a substitute and that the bill as thus amended be treated as original text? The Chair hears no objection, and it is so ordered.

Mr. TOWER. Mr. President, during further consideration of S. 2986 and the amendments thereto, I ask unanimous consent that the following professional staff members of the Banking, Housing and Urban Affairs Committee be allowed permission on the floor: Patton Abshire, Gerald Allen, Anthony Cluff, Edward Kemp, Kenneth McClean, Stanley Marcuss, Steven Paradise, Dudley O'Neal, and Howard Beasley.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the following members of the staffs of the Senator from Maine (Mr. MUSKIE), the Senator from Louisiana (Mr. JOHNSTON), and me be given access to the floor during the consideration of S. 2986, all amendments thereto, and during the votes thereon: Jack Weiss, Reid Feldman, and Bruce Thompson.

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

Mr. STEVENSON. Mr. President, I yield to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that Jerry Jasinowski of the staff of the Joint Economic Committee be granted the privilege of the floor during the consideration of this matter.

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

Mr. STEVENSON. Mr. President, inflation is one of the Nation's most pressing social problems. It cuts deeply into the fabric of our society and has profoundly disturbing implications.

It erodes lifelong savings, destroying the dreams which they embody. The hoped-for home, college education, or vacation vanish into thin air, victims of a cruel numbers game.

It terrifies the aged, who watch helplessly as their efforts to achieve security and dignity are frustrated by each new price increase. With escalating costs for medicine, food, transportation, and clothing—and no corresponding increases in income—the aged face the specter of seeing the accumulations of a lifetime depleted to meet basic necessities; and when those are exhausted, they

face the humiliating prospect of becoming a public charge.

Inflation bewilders farmers and small businessmen who see profits erased by explosions in the cost of production.

Inflation encourages big business to engage in round after round of price increases in order to stay one step ahead of costs.

Inflation leads labor to seek catch-up wages and escalator clauses to guard against future price increases.

Inflation escalates State, local, and Federal Government budgets and adds to an already crushing tax burden, especially for those with low incomes.

Inflation makes borrowing more attractive than saving, exacerbating the pressure on interest rates, threatening the stability of thrift institutions, and drying up funds for housing.

Ultimately, inflation imperils the foundations of the democratic system. A democratic society depends on a reservoir of trust and confidence in the ability of government to govern and to do so fairly. American democracy, in particular, rests on a conviction that private expectations can be realized and that if an individual works hard and obeys the law, his goal of a better life for himself and his children will be fulfilled.

When inflation reaches levels of over 10 percent a year, that conviction is shattered. Confidence in the capacity and fairness of government is severely shaken, and belief in the ability to realize expectations within the existing framework of government is seriously undermined.

At 13 percent a year—the current rate of consumer price increases—incomes must double in less than 6 years just to keep up. Over the same time span, those whose incomes stay static or whose purchasing power depends on accumulated savings face a 50-percent reduction in what their money can buy.

What this means is that old numbers become meaningless. Familiar benchmarks evaporate; plans are knocked askew. An individual earning $10,000 today who hopes through diligence, imagination, and maybe luck to boost his income to $15,000 in the next 5 years would be living a pipedream. Even if he made it, he would have lost ground. Inflation would have robbed him of all the increase and more. And if he had put some of his earnings aside in a savings account, his savings would have been depleted.

A government which cannot act effectively to stem the resulting chaos, hardship, and deprivation may face serious challenges from within as well as seriously eroded power and influence abroad.

These are not mere possibilities. What seemed impossible a short time ago cannot now be dismissed. For 3 consecutive months, we have experienced an inflation in consumer prices at annual rates in excess of 10 percent. For March alone, consumer prices rose at an annual rate of over 13 percent. Except for February, when consumer prices rose 15.6 percent, this is the highest rate of increase since 1948. Moreover, it is 10.2 percent above the level of just 1 year ago. Meanwhile, wholesale prices continue their double-digit increases. They rose in March at an annual rate of 16.3 percent.

First-quarter performance was even more startling. Consumer prices rose at an annual rate of 14.5 percent. Wholesale prices rose at an annual rate of 28.8 percent. The overall rate of inflation reached 10.8 percent, the worst in 23 years. Meanwhile, the Gross National Product, the Nation's total output of goods and services, declined at an annual rate of 5.8 percent, the steepest decline in 16 years. And real earnings, following a February decline to 4.5 percent below those a year ago, fell another 0.9 percent in March. They are now 4.7 percent below their level of just 1 year ago.

For the first time in our history, we are experiencing sustained double-digit inflation along with declining personal incomes and production. People are fearful. They are desperately seeking ways to protect themselves and to provide a cushion against further deterioration in their economic prospects. And yet the Nixon-Ford administration is unprepared to do anything constructive about it. Worse still, many are willing to abandon all authority for effective government action. As a result, monetary policy is left to wage the battle alone, with record high interest rates the consequence. With prime rates of 10½ percent and more, the drain on funds available for housing will continue. Industry's ability to finance expanded productive capacity will be impaired.

The Economic Stabilization Act expired yesterday. Nothing has replaced it. Already there are reports that industry is planning catch-up salary increases for management. Price increases are sure to come. A new spiral of wage demands will follow. On and on the endless spiral will continue.

Are we in the Congress to stand helplessly by? Are we to say that because the executive branch will not act, we will not act either? Are our imaginations so limited that we cannot devise a way to forestall the trouble we know is coming? Are we to say that because on again, off again wage and price controls have not worked, we must abandon all efforts to fight inflation?

The question now is not whether to continue controls. They have been tried and found wanting. The issue before us is how to insure that we do not have a new surge of inflation and new pressures for more controls.

Experience with the first peacetime controls in our history is instructive. In August of 1971, consumer prices were rising at an annual rate of 4.4 percent. In retrospect, that figure looks modest. Yet, the hardship inflicted on wage earners, housewives, people on fixed incomes and others whose incomes were rapidly eroding brought irresistible pressures to erect a comprehensive economic stabilization program. Even though wage and price controls constitute a serious interference with the marketplace, they were believed justified by the spiraling rise in prices.

Initially, controls were effective; it was the transition that failed.

Just prior to phase I, consumer prices were rising at an annual rate of 4.4 percent. During the freeze that followed, that rise was reduced to an annual rate of 1.6 percent. During phase II, when certain price increases were permitted but controls remained in effect, inflation was held to an annual rate of 3.6 percent.

It was only with the abrupt dismantling of controls at the end of phase II and the administration's clearly signaled intent during phase IV to end the economic stabilization program regardless of the consequences, that consumer price took off. They immediately rose to an annual rate of 9.8 percent. The lesson is that regardless of their effectiveness, once controls have been instituted, they cannot be abandoned without provision for an orderly transition.

There is no disagreement today that wage and price controls should be ended, except in the petroleum sector. The danger is that if they are not dismantled carefully, and if authority to take corrective action if inflation gets out of hand is abandoned, the forces which led to their imposition in the first place will lead to their imposition again.

If price increases of under 5 percent were sufficient to generate an outcry for controls 3 years ago, the outcry will be heard again when prices are rising at over 10 percent a year. If a price bulge of over 6 percent occurred between phase II and phase III, when the controls program was still in effect, a bulge of even greater proportions is in store if all authority to take effective action is abandoned. That is why it is imperative that decontrol be structured in a way which prevents a new surge of inflation and insures that controls will not be imposed again.

The amendment which Senator MUSKIE has offered on his own behalf, mine and others will do that. It provides for an end to wage and price controls but offers safeguards against runaway inflation. It provides for decontrol but in an orderly fashion. It gives the President the power to enforce commitments which industry has given in exchange for decontrol. It requires the President to monitor all sectors of the economy to determine the underlying causes of inflation. It will help bring about increased production of commodities which are in short supply. It will help achieve price and wage restraint. It will protect the wage earner by moderating inflation and by permitting wage increases in line with the cost of living. Most important, this amendment will help assure that we have seen the last of wage and price controls.

The amendment has three basic provisions:

First, it provides an effective means of enforcing commitments which industry has given in exchange for decontrol under the Economic Stabilization Act. With the expiration of that act, the solemn promises which industry has given become difficult if not impossible to enforce. Under the proposed amendment, controls could be used as a tool for enforcement.

Second, it authorizes the executive branch to undertake a comprehensive effort to monitor the economy to determine the root causes of inflation and to devise measures to deal with them effectively. In the long run, this offers the best hope for a permanent solution.

Third, it provides standby authority to impose selective controls but only under very stringent conditions: There must be: first, serious inflation in the economy as a whole; second, serious inflation in a particular sector causing severe hardship or deprivation, and third, the need for controls must outweigh any potential adverse supply consequences. These requirements are not to be taken lightly. They mean that for most sectors of the economy, controls are off for good. But if inflation continues out of hand or is accompanied by irresponsible behavior, the Government will not be powerless to act. Careful analysis will be required. It will be subject to public scrutiny. Only if the need becomes overwhelming—something we all hope to avoid and will help to avoid by this bill—can controls be reimposed.

The need for this legislation is recognized by many distinguished economists. They include Walter Heller, Arthur Okun, Joseph Pechman, and George Perry. In a letter to me written when this proposal was announced last Friday, they said:

In the face of inflation, it would be extremely unwise to drop all government authority to deal with major inflationary price and wage decisions. The amendment would preserve the right of the government to assert the public interest in these decisions and would permit it to protect the consumer against inflationary excesses. We therefore regard this action as a vital part of any program to cope with the virulent inflation that now infects our economy.

Dr. Dunlop, the Director of the Cost of Living Council, has recognized the peril. He has predicted a major inflationary surge if economic stabilization authority is dropped. Chrysler Corp.'s just-announced price increase of almost $100 per car, an action which Dr. Dunlop branded as "inflationary" and "a display of consummate gall," is one example of what may occur.

This amendment offers an alternative to surrender to the forces of inflation. It is a means of preventing the need for a new controls program. If all authority to fight inflation were simply abandoned, we would be in for a new period of uncertainty. Prices would continue their climb; real earnings would continue their decline. Decontrol commitments would be impossible to enforce. All those who cannot readjust their incomes rapidly enough would continue to suffer—and even more than in the past.

This is a wealthy nation suffering declining personal income, rising unemployment, declining industrial production, and an epidemic of shortages. For an already discredited government simply to walk away from controls with no provision for the transition, risks the free enterprise system and invites political instability as well as more economic distress. Instead of returning to a free market, the future would be in doubt.

The purpose of this proposal is to protect those who cannot protect themselves and make possible, this time, orderly and permanent decontrol. By providing for flexibility, for the appropriate exercise of discretion, and for serious efforts to root out the long-term causes of inflation, it will help to restrain the current inflationary psychology, help to restore stability and confidence, and ultimately prevent pressure for comprehensive new controls. The alternative for the short run is to abandon the fight against inflation. And that would be "grossly irresponsible."

It is said that price controls do not work. No one would pretend that they are the answer to inflation. They deal with symptoms, not the disease itself. But controls can deal effectively with symptoms. They did so during phase II. The on again, off again conduct of the controls program, not so much the controls themselves, is largely responsible for the dislocations in the economy. To precipitously abandon all controls now, and the authority to impose controls, would simply repeat history, invite another round of inflation and the reimposition of controls.

None of the sponsors of this measure seek a controlled economy. We seek a decontrolled economy, and that, indeed, is why we offer this amendment. The issue is not whether to impose controls. It is how to end them. To abruptly abandon all control authority would invite the reimposition of controls. This amendment is a proposal for orderly decontrol. Without it the administration would not even have the means with which to enforce decontrol commitments.

It is said that the authority to impose controls has been abused by the President. And that is true. But the Congress cannot execute the laws it makes. The execution of the laws must be left to the President, and the only President the Nation has is Richard Nixon. The Congress can write protections against abuse into the law. It did not do so in the Economic Stabilization Act in any effective way, but now it is the wiser.

Wages have been more stringently controlled than prices, and the wage earner has suffered. His real earnings have declined. It is not fair to make the wage earner bear the burden of the fight. This amendment, therefore, requires the President to give consideration to the right of wage earners to wage increases sufficient at least to keep them abreast of cost of living increases. Hence, the few wage earners whose wages are controlled would receive assurance of cost-of-living increases, as do many now under collective bargaining agreements, as well as some protection from price increases. Without some such protection, wages will lag even farther behind prices.

I am encouraged to believe that the Cost of Living Council is the wiser, too, for recent experience. The health industry has been subjected to a squeeze between rising costs and controlled prices. Health workers have had wages restrained to unfair levels. They have been the object of a discriminatory application of controls. But I have today received a letter from the Director of the COLC declaring his intention under any future control programs to take the controls off wages in this sector and to permit increases in recognition of reasonable cost increases, including wage increases. While this announcement presages increased health service costs, it also signals an end to the controls policy which penalized the institutions and individuals in this sector—and also threatened the quality of health services. I welcome Dr. Dunlop's announcement and ask unanimous consent that a copy of the exchange of correspondence between Dr. Dunlop and me be entered in the RECORD at the conclusion of these remarks.

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

(See exhibit 1.)

Mr. STEVENSON. Mr. President, it has also been said that with the control authority expired, business will be tempted to hike prices quickly if the reimposition of controls is threatened. I believe, and earnestly hope, that the business community will behave responsibly. It ought to perceive one of those fortuitous convergences of enlightened self-interest and the national interest. Surely, the members of the business community can see that any precipitate action to increase prices, now that control authority has expired, would only assure and hasten the enactment of legislation to either authorize or impose controls. Any such action could mean a freeze, as happened when prices surged upwards after the termination of phase II. It could mean a rollback. This amendment would authorize a rollback of prices to April 24, 1974, levels.

I commenced this effort for orderly decontrol in February with Senators MUSKIE and JOHNSTON. It has been a lonely fight against a broad array of powerful interests. But I am much heartened by the support it has gained from both sides of the aisle. This is not a partisan fight. It is a deadly earnest attempt, by Republicans and Democrats alike, to protect our economy and our way of life from the ravages of inflation.

I urge the Senate to approve the amendment offered by the Senator from Maine (Mr. MUSKIE).

EXHIBIT 1

U.S. SENATE,
Washington, D.C., April 30, 1974.

Dr. JOHN T. DUNLOP,
Cost of Living Council,
Washington, D.C.

DEAR DR. DUNLOP: In preparation for the imminent floor debate on legislation providing the Administration with standby authority to impose economic stabilization controls, it would be most helpful to members of the Senate to have the benefit of your thinking about the manner in which any new statutory authority would be implemented in the health sector. Toward that end, I would be most grateful if at your early convenience you could provide me with your answers to the following questions:

(1) Your public statements convince me that you share my conviction that continuation of the 5.5% wage increase ceiling is unfair to hospital employees and that the 5.5% ceiling is not a necessary component of an effective health industry stabilization program. Is it therefore fair to conclude that in any "Phase V" implemented pursuant to any legislation enacted by the Congress, the 5.5% ceiling will either be raised substantially or eliminated entirely and that employees in the health sector will not be singled out for treatment different from that accorded employees in any other sector?

(2) It is my judgment that the existing

ceilings on price increases which providers of hospital and long-term care may make will be too low for Phase V, particularly if the proper modification of the wage ceiling is made. Do you share that point of view? If so, how exactly do you propose to make the appropriate adjustments in the price ceilings? What is your target date for putting such modified ceilings into effect? Will the new ceilings be set at a level which will generate revenues sufficient to enable institutional providers to agree to equitable wage increases for their employees, to provide quality health care, and to retain their financial soundness?

(3) As you know, one of the paramount goals of our legislation is the orderly decontrol of all sectors of the economy. Will your Phase V health program be consistent with that goal? Do you anticipate that all economic stabilization controls on the health industry could be terminated within the coming year?

I look forward to your early response and would of course be most interested in any additional comments you may care to make.

Sincerely,

ADLAI E. STEVENSON, U.S.S.

MAY 1, 1974.

Hon. ADLAI E. STEVENSON III
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENSON: Thank you for your inquiry of April 30 concerning the position of the Cost of Living Council on regulations of health care costs to be effective May 1, 1974 should Congress extend some form of stabilization authority.

As I have repeatedly stated, without some continuing control authority over health care costs, a very large and unnecessary inflation will occur in this sector. Such an uncontrolled escalation of health costs would impact heavily on consumers and taxpayers, and would seriously jeopardize our future ability to finance broader national health insurance coverage.

Although adopted in the context of Economic Stabilization, Phase IV health controls were specifically designed to serve as a bridge to the long-run measures which will be a necessary corollary to a program of national health insurance. Phase IV controls embodying the principle of prospective budgeting should be flexibly adapted to developments in the general economy on and after May 1, 1974.

Should health care control authority be extended, the Council's Phase IV health policies would be modified in several specific aspects.

1. To insure equity of treatment between wage earners in the health industry, and those comparably situated in other sectors of the economy, the general wage and salary standards and regulations applied since 1971 would be eliminated. Health wages would then be allowed to move in concert with the pattern and structure of community labor markets.

2. I agree that a modification in prospective budgets is necessary to accommodate increased wage costs, including higher minimum wages effective May 1, 1974. It would be my intention to review the percentage limitations on a quarterly basis in light of actual cost experience in the major components of institutional budgets. I would expect that wage increases would probably exceed the assumptions used in calculating the current 7.5% (hospital) and 6.5% (long-term care) limitations. Accordingly, I would propose a review of those assumptions in consultation with all interested parties from labor, management, and the public.

Such a review could feasibly be conducted by June 1, and necessary adjustments promulgated to be effective no later than July 1, 1974. Such adjustments would insure that health care institutions can generate sufficient revenues to pay health care wages and benefits in line with levels of those comparably situated in non-health employment.

By its very nature, no nationally derived assumption for future wage increase will cover every conceivable community circumstance. I am also mindful that recently enacted minimum wage legislation will impact institutions differently. A flexible exceptions policy must take these facts into account.

An interim extension of the Phase IV prospective budgeting system, flexibly modified, would allow ample room for continued growth in the quality and quantity of medical care which our health system can provide.

As you know, it has been my position that the health industry should be removed from the purview of Economic Stabilization as soon as national health insurance legislation is enacted specifying a cost constraint program.

Prior to that time, I would continue the process, outlined in Phase IV regulations, of exempting from federal controls those health providers subject to alternative, effective regulatory programs at the State level.

Should control authority be extended, we would, of course, continue our efforts to increase the understanding and participation of the American people—both as consumers and taxpayers—in the opportunities for restraining health care inflation.

Thank you for giving me the opportunity to address these issues.

Sincerely,

JOHN T. DUNLOP.

Mr. BUCKLEY. Mr. President, given the disastrous consequences of our recent experimentation with wage and price controls, it astonishes me that anyone in this body should seriously propose that we continue to try to order the economic tides to recede. The controls which expired yesterday did not work, could not work. More than that, they not only failed to achieve their objective of controlling inflation, they actually succeeded in contributing simultaneously to unemployment and to inflation by creating a host of shortages that have had their impact on every sector of the economy.

Yet it is now seriously proposed that we authorize the President to extend for 30 days the price controls still in effect on April 30, 1974, and to provide him with a 1-year extension of power to impose or reimpose price controls under stated conditions. The sponsors of this proposal have simply turned their backs on not only our own recent experience, but on the lessons of history which document failure after failure of every effort to legislate a suspension of economic laws.

The Heritage Foundation has sponsored a study by Robert L. Schuettinger, under the title "Brief Survey of Wage and Price Control," that is particularly illuminating. Since the year 2800 B.C., when the first recorded attempt was made to control wages and prices, it has been demonstrated time and again that they do not work and cannot be made to work by any group of human beings no matter how altruistic their motives and no matter how imposing their power. The ultimate result of a persistent effort to impose price controls and make them work is to extend them to every aspect of an individual's life until producers are forced by the army and police to bring their produce to market, as was the experience of farmers during the French Revolution.

Mr. President, the sponsors of the proposed extension of economic controls are correct in their forecast that we will see a significant rise in prices now that controls have expired. Most economists, businessmen and labor leaders readily admit that an end to controls will produce a bubble of inflation. This is the price we must inevitably pay as a result of having imposed them in the first place. It will take time for a freed economy to produce the goods required to eliminate the shortages we have created, and to restore conditions where price stability is reachieved. But should even stand-by controls be enacted, we will cause the reaction to be even worse for the simple reason that the mere prospect of a restoration of wage and price controls will cause producers and workers alike to try to stake out early claims to higher prices and wages.

This point was graphically made by Dr. C. Jackson Grayson, Jr., who was in charge of the earlier phases of our recent attempt to regiment a free economy. In reply to a question while testifying before the Banking Committee, he stated:

> One unfortunate lesson learned by business and labor during the various phases is that you had better get wage and price increases when you can rather than exercise restraint. Time and again, "the good guys" got hurt by not getting increases as fast as possible. Many businessmen have told me that they will not reduce prices for fear that a new freeze, a new re-control will catch them with their prices down.

Mr. President, for the past 46 centuries, scores of governments have tried to limit wages and prices by authoritarian controls. When, inevitably, such efforts failed, many have tried to fix the blame on the recalcitrance of their citizens. Democracies, dictatorships, monarchies, and republics have all failed to make economic controls work, and governments have fallen when they have obstinately persisted in trying to make them work. It cannot be denied that the transition from controls to a free market will be difficult but in the long run, producers and consumers are more competent to cope with market conditions than Federal regulators.

Mr. President, I believe it important that the present measure be not only defeated, but that it be defeated so decisively. We must assure the Nation that we will not soon again be tempted to return to wage and price controls as a substitute for a politically more difficult, but nevertheless essential assertion of true fiscal self-control by the Congress.

Mr. CANNON. Mr. President, I am pleased to join with my Senate colleagues today in this important colloquy involving solutions to our serious economic condition. As a cosponsor of the Muskie-Stevenson-Johnson "Cost of Living Act" I must stress that price and wage controls are not in themselves the answer to our runaway inflation. Controls are merely a short-term cure to the "inflationary psychology" presently experienced by many American wage earners and businessmen.

The 14.5 percent rate of inflation dur-

ing this last quarter has contributed heavily to this "inflationary psychology" phenomena. A wage earner will naturally incorporate this expectation of higher inflation into his wage demands, while the businessman may raise his prices more rapidly, anticipating worse inflation in the coming months.

Access to controls when needed will allow our wage earners and businessmen peace of mind while Congress goes to work on two of the real solutions to inflation—a balanced budget and tax reform. If, as a last resort, controls are found by the President to be necessary, certain segments of the economy should not be singled out unfairly. An even-handed application is needed so that our working men, medical professionals, and local government employees—who have suffered excessively—are treated equitably. For the most part, labor has not made excessive wage demands in the last few years. We must not fail to live up to their faith in us, especially now that their paychecks are shrinking, not growing. The working man's importance in society and his needs must be recognized in any economic controls policy.

While I hope that controls will not be needed, I am very enthusiastic about the proposed monitoring authority which will provide economic data to give the Government more leadtime in preparing for any dramatic economic shifts. The monitoring agency created in this legislation will also allow us to better assess the impact of government and private business policies upon the economy.

Mr. President, I urge prompt and favorable action upon amendment No. 1229 to the International Economic Policy Act.

Mr. TOWER. Mr. President, I ask unanimous consent that Mr. T. J. Oden, of the staff of the Committee on Banking, Housing and Urban Affairs, be permitted the privileges of the floor during consideration of S. 2986 and all amendments pertaining thereto.

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

Mr. JOHNSTON. Mr. President, I move for a division of the question between section 205, relating to orderly decontrol and standby authority, and the rest of the bill.

Mr. TOWER. The rest of the bill? Mr. President, would the Senator clarify that?

Mr. JOHNSTON. Yes. Excuse me. The rest of Calendar No. 746, which is the Muskie-Stevenson-Johnston amendment. I move for a division of that amendment between section 205, relating to orderly decontrol and standby authority, and the rest of the amendment which is Calendar 746.

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOWER. Is the amendment divisible without unanimous consent of the Senate?

The PRESIDING OFFICER. The amendment is divisible on demand if it technically can be divided.

Mr. TOWER. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOWER. Can the amendment be technicaly divided?

The PRESIDING OFFICER. The Chair would inquire of the Senator of Maine if there is anything in section 205 which when separated from the rest of the amendment cannot stand alone.

Mr. MUSKIE. Mr. President, may I say there is none. I discussed this matter earlier with the Parliamentarian, and it was his judgment, on the basis of our analysis of the bill, that it was divisible. I concur in the request.

Mr. TOWER. I thank the Senator.

The PRESIDING OFFICER. The amended will be so divided.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays on each of the two parts.

The yeas and nays were not ordered.

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOWER. Does the ordering of the yeas and nays bar a motion to table?

The PRESIDING OFFICER. No, it does not.

Mr. JOHNSTON. It does bar a motion to table on both of the separate parts at one time.

The PRESIDING OFFICER. The ordering of the yeas and nays does not bar it, but it would be out of order to table both under the same motion.

Mr. TOWER. Would separate tabling motions be in order?

The PRESIDING OFFICER. Separate tabling motions on each as so divided would be in order.

Mr. TOWER. So only tabling motions would be in order?

The PRESIDING OFFICER. At the moment, the Chair cannot judge what might be in order. There might be a further division, or there might be other motions.

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

Mr. JOHNSTON. Mr. President, I believe I have the floor.

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

Mr. JOHNSTON. Mr. President, a short explanation, I believe, is in order, for the action just moved for. There are essentially three parts to the Muskie-Stevenson-Johnston amendment. There is, first, authority for monitoring the economy. Second, there is authority to enforce commitments already in effect. Third, there is authority for standby wage-price controls. The demand I have just made is to separate standby control authority from the rest of the bill.

Frankly, I anticipate that some Senators on the other side of the aisle and some on this side of the aisle will join in a motion to table both parts or either of them. But we believe that all three parts of the bill are of extreme importance, subject to a motion to table the standby control authority, but not have it affect the monitoring authority, or vice versa.

Just a brief word about what standby authority provides, because there is a great deal of misinformation in the Senate, I think, relative to standby authority.

The standby authority contained in this amendment does not provide the President with unrestrained authority to control wages or prices. All it does is to allow the President the authority to control wages or prices in a given sector, provided three factors are present: First, if there is inflation in the economy as a whole; second, if there is serious inflation in that particular sector which can be moderated by controls; and third, if the imposition of such controls would not restrict supply.

So the President would have to make those findings as to all three factors. But he would have to publish his findings in the Congressional Register before he could impose the controls that are authorized by the bill. It is not a general scheme of wage and price controls; rather, it is a rifling authority to give the President only that authority which is clearly needed and which would prove clearly to be effective under the circumstances of the act.

In the several weeks of hearings which were held in the Subcommittee on Production Stabilization, of which I was chairman, we heard no opposition to the enforcement of the commitments already given. We heard essentially no opposition to the monitoring authority. The whole opposition has been to the standby controls authority.

I want it clearly understood that the standby authority is not the kind of broad, pervasive authority or a continuation of wage and price controls that some have said the bill involves.

Mr. BROCK. Mr. President, it is sometimes difficult to know where to begin on a bill like this, but I shall start with the letter that was introduced into the RECORD as a part of the comments of the Senator from Illinois (Mr. STEVENSON) from Mr. Dunlop to the Senator from Illinois, in which Mr. Dunlop said he assured the Senator, and obviously Congress, that if we gave him standby authority, he would modify their program—I read his words—

> To insure equity of treatment between wage earners in the health industry and those comparatively situated in other sectors of the economy.

This is the day after the expiration of controls. Why did he not do that before? He goes on to say:

> As you know, it has been my position that the health industry should be removed from the purview of economic stabilization.

This is the qualifier—

> As soon as national health insurance legislation is enacted, specifying a cost-construction program.

In so many words, if we pass any form of standby controls, we have the implicit assurance of the Director of the Cost of Living Council that everybody in the health field will still be covered by wage and price controls regardless of their economic impact.

He points out, in addition, that if wages have to go up because of the minimum wage standards, their budget would obviously have to be raised. So he would undertake a review of the budget in the health field—nursing homes, hospitals, rest homes, and so on. He said that such

a review could be conducted by June 1 in order to promulgate them not later than July 1.

Now, come on. What is he really saying to us? First, they are going to keep the health people under control. Second, he grants that inequities that wage earners employed in hospitals and nursing homes have been suffering have severely disadvantaged them under the current program. But that is not going to change the current program. He grants that the budgets of hospitals are going to be severely impacted by the minimum wage legislation passed by Congress. He thinks that the earliest they might do something about it is July 1.

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

Mr. BROCK. I yield.

Mr. JOHNSTON. I invite the Senator's attention to remarks at the outset of the consideration of the bill, in which I stated that based on the testimony before the Subcommittee on Production Stabilization, I did not believe the health care industry would be eligible for controls at this time under the terms of the bill. First, because there is no present serious inflation in the health care field which is causing a serious deprivation or serious hardship. That is an absolute requirement. In other words, it is not sufficient unto the bill that serious hardships and serious deprivation have occurred to cause controls to be removed. Nor is it sufficient to say that if we took off controls, we would have that kind of inflation. But rather there must be, under the bill, present serious hardship and serious deprivation. They are not present.

There were other reasons why the health care industry would not be eligible under the bill.

But in my judgment, based on the testimony, they would not be eligible for control.

Mr. BROCK. As the Senator knows, I have great respect for him as a person and as a legislator. He is remarkably effective and assured. But I can only say that his amendment as drawn would be implemented and interpreted by the administration, and not by the Senator from Louisiana. And this letter tells me that they do not read it the way he does.

This letter tells me that they are going to continue controls of hospital employees, nursing home employees, doctors and nurses, and the entire health-care system of this country, until, in his words, "national health insurance legislation is enacted." And even then, national health insurance has to, in his words, have a cost constrained program, and that is to me the real question: How do we deal with the fact that they interpret the bill differently from the Senator, and they implement it?

Mr. JOHNSTON. If the Senator will yield, I would suggest that he would have a good bit more influence with this administration than I.

Mr. BROCK. Not on this matter, because we do not agree at all on the economic policies of the administration.

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

Mr. BROCK. I yield.

Mr. SPARKMAN. As a matter of fact, is it not true that the principal objective of Dr. Dunlop was the power to control health services?

Mr. BROCK. That is correct.

Mr. SPARKMAN. As a matter of fact, he asked for only two, as I recall: Health services and construction.

Mr. BROCK. I have, and will ask unanimous consent to have printed in the RECORD the plea of the National Protestant-Catholic Hospital Action Committee that standby authority be abandoned, because they know of the intention of the administration and Dr. Dunlop in this area.

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

STATEMENT OF THE NATIONAL PROTESTANT-CATHOLIC HOSPITAL ACTION COMMITTEE TO MEMBERS OF THE UNITED STATES SENATE

We have come to Washington today to urge the Senate to reject the Muskie-Stevenson-Johnston amendment to S. 2986 and any other bill which would extend the Economic Stabilization Act and grant the Administration discretionary authority to impose price controls on selected sectors of the economy. All of the economy should be equitably regulated, or none of it.

There should be no question about what is involved in the vote on the Muskie-Stevenson-Johnston amendment. A vote for that amendment is a vote to impose price controls on the health care industry, and in particular hospitals, but not on other sectors of the economy. Hospitals are not the cause of inflation; they are the victims of it. Any action by Congress that has the effect of singling out the health care industry for price controls will seriously impair the quality of health care provided in this country. It will unfairly limit the wages of the dedicated men and women who care for hospital patients.

The Action Committee represents hospitals operated by Catholic and Protestant religious organizations throughout this nation which provide approximately 200,000 hospital beds, or nearly one-half of all hospital beds provided by non-profit hospitals in the United States.

The health care industry, including in particular hospitals, is one of the few major sectors of the economy currently under Price Control Regulations. The Price Control Regulations applicable to hospitals which the Cost of Living Council has promulgated are unfair and continue to be a major threat to the quality of health care in this country.

Despite the vigorous efforts of the Action Committee, COLC has prohibited hospitals from raising their charges as i. necessary to recover their increased costs. Yet hospitals have suffered from inflation. Their costs are in large part determined by factors they cannot control. The cost of food and drugs, for instance, has increased sharply, yet hospitals must continue to supply food and drugs to their patients. Unlike private industry, nonprofit hospitals have a public responsibility to continue to provide unprofitable services—such as emergency rooms. Moreover, hospitals have a legal duty to comply with doctors' orders for patients' treatment regardless of the cost.

Despite these unique characteristics, which make it far more difficult for a hospital to control its costs and its net revenues than other sectors of the economy, the COLC has refused to permit hospitals to increase charges as necessary to recover increased costs. Instead hospitals have been limited to increases of specific percentages which are substantially less than the current rate of inflation.

Consequently, numerous hospitals have been forced to operate at a loss as the direct result of Price Control Regulations, and to reduce the quality of patient care, to compensate for their loss of revenues. In effect, therefore, COLC has mandated that hospital patients, who are at the end of the chain of consumption, absorb the nation's inflation. Hospital suppliers can increase their prices to hospitals and increase their profits to the detriment of the quality of care provided the nation's sick.

COLC's Regulations, therefore, are unfair under the present circumstances. Yet the problems hospitals have already incurred under price controls would be aggravated if the Administration should be granted standby authority to impose price controls on any sector or sectors which it may determine requires such controls. For the Administration has testified in plain terms that it plans to control only the health care industry, and that it will permit the rest of the economy to be uncontrolled. It would be grossly unfair and unworkable to regulate the health care industry in such circumstances:

This is particularly true since the price regulations would, as we mention above, not permit hospitals to raise their prices as necessary to recover the increased costs they will incur because the remainder of the economy, including particularly hospital suppliers, will be decontrolled and be free to raise their prices without limit.

For this reason we urge you to vote against any grant of authority to the administration to provide selective standby controls. Moreover, to mitigate the unfair effect of any selective controls, should such legislation be enacted, we urge you at least to support an amendment which would permit firms, including hospitals, to recover at least their increased costs. Otherwise more and more hospitals will be forced into loss positions, and will be forced to reduce the quality of care they can give their patients. We cannot believe that the public interest is served by granting the Administration authority which will have that effect.

Respectfully submitted,

National Protestant-Catholic Hospital Action Committee

By Sister Myra James, S.C., Penrose Hospital, Colorado Springs, Colo.

Sister Mary Kieran Harney, R.S.M., Mercy Hospital, Des Moines, Iowa.

Thomas E. Callahan, Catholic Hospital Association, St. Louis, Mo.

Gaston Herd, Administrator, Fort Hamilton-Hughes Memorial Hospital Center, Hamilton, Ohio.

James P. Streitz, Administrator, St. Elizabeth Hospital, Danville, Ill.

James P. Richardson, President, Presbyterian Hospital, Charlotte, N.C.

Sister Mary Brooks, C.S.C., Administrator, St. Johns Hickey Memorial Hospital, Anderson, Ind.

William R. Furrey, Asso. Administrator, Memorial Hospital, Chattanooga, Tenn.

Charles D. Phillips, Ed. D., Executive Director, American Protestant Hospital Assn., Chicago, Ill.

Sister Mary Maurita Sengelaub, R.S.M., Executive Vice President, The Catholic Hospital Association, St. Louis, Mo.

L. R. Jordan, President, Baptist Medical Centers, 3201 4th Avenue South, Birmingham, Ala.

Mr. BROCK. The Senator from Louisiana says he is a friend of the small businessman, and I believe him. He says he is a friend of the working man, and I believe him. I believe that those who share his feeling on this amendment have that same motivation.

But there have been times in my life when I have said, "Deliver me from my friends," and in this particular case I think there may be some small business people and working people in this country who would feel the same way.

When this proposal was before the Banking Committee, it was defeated by a vote of 11 to 4. We not only defeated

this measure, but went on to defeat the administration's bill by a vote of 15 to 0. The House committee rejected the same proposal 21 to 10.

Every witness—every one—testified against an extension of controls. The fact that controls do not work leads one to the conclusion that the worst possible can of worms that could be perpetuated on the people of this Nation would be to lead them to believe that the rapid inflation we are presently experiencing could be contained through an elaborate system of economic controls, even on a standby basis.

Not only will that fail to contain inflation, but the American people will never put up with the serious dislocations which will be brought about if controls are continued indefinitely.

We have controls now. The proponents of this amendment have made my argument, because we have had an escalating rate of inflation under controls. They talk about a 14.5 percent increase in the Consumer Price Index. That was not after controls, it was before they were taken off.

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

Mr. BROCK. Yes.

Mr. MUSKIE. I do not agree with the Senator's analysis of what produced the escalation in prices in the past year. It is not the existence of controls or the existence of control authority. It was the abandonment of meaningful controls in phase II.

Controls had worked up until that point. They worked to the point of reducing the annual rate of inflation from something between 4.5 percent and 5 to 3.6 percent.

No one quarrels with the record on that point. We had disagreements with the President about some applications of control authority, but it was not the existence of controls that produced inflation; it was the abandonment of controls.

The Senator says we make his argument. We do not at all. We disagree with the theory that the existence of controls led to inflation. And we do not contend that the enactment of this legislation would necessarily control it. What we are saying is that we are not willing to let all control authority lapse on the assumption that there are no conceivable circumstances under which we would find it useful to have this kind of authority at hand to use.

Second, we believe, and we are joined in the belief by a number of eminent economists, that a rational phaseout decontrol, which the Cost of Living Act would allow, can have some inhibiting effect upon inflationary price increases.

From where I sit, and from the point of view of the American citizens with whom I talk, any small relief from inflation would be welcome.

The reason I offer this proposal is because I cannot see us moving into a period of unrestrained inflation without any authority in existence at any level of government to deal with it efficiently under any conceivable circumstances.

I understand, of course, that a majority of the Banking Committee has expressed disagreement on this point. I do not normally advocate bypassing such a capable committee. But, we disagree with the vote they took.

I have merely described my own motives and rationale. I simply wanted to respond to the Senator's suggestion that he was articulating our rationale. He was not at all.

Mr. BROCK. Well, Mr. President, despite my affection for the Senator, I could not more thoroughly disagree. Controls have resulted in incredible dislocation in this economy. They have created shortages, unemployment, and loss of jobs and property without due process of law, without protection to the individual, the family, the company, or anyone else; and I find it difficult to understand how we can go before the people of any State of this country—certainly I cannot in Tennessee—and justify to them a continuation of a policy which has literally clobbered the working people of this country. In the last year, they have lost almost 5 percent of their real income, not as a result of their own lack of effort, not as a result of lack of productivity, but because the Government of this country imposed restrictions on the production of this country, impeded the processes of the market, and made it impossible for them to compete.

Mr. MUSKIE. Mr. President, is the Senator saying to the American people that his policy of abandonment of all controls will bring inflation under control, and that there will not be, for the remainder of this year, shrinkage of earning power such as they have already experienced? Is that what the Senator is promising?

Mr. BROCK. I am saying this: that you cannot interfere with the workings of the marketplace without jeopardy. You cannot limit the right of the American worker to compete, to produce, without jeopardizing his job. That is happening today.

If you want to talk about throwing in the towel, the administration and the last administration did that years ago. We saw the signs. We saw the gold flow in 1970, and did nothing but window-dressing to hide it. We did not inhibit the gold flow to Germany. We did nothing.

Mr. MUSKIE. The Senator is not answering my question. I asked what his policy would produce in terms of increased prices, continued inflation, continued shrinkage of income, continued instability of inflation, of employment, of production, and continued shrinkage in the value of the dollar.

Mr. BROCK. My policy, in the last 4 or 5 years, would have produced a whole lot less inflation than controls, I will tell you that. If we turn the American people loose they will produce.

Mr. MUSKIE. Is the Senator saying that by the end of this year prices will be stable and there will be no more shrinkage of incomes? What is the Senator saying?

Mr. BROCK. The Senator is not saying that. Every witness who came before our committee testified that inflation would continue at an unbelivable rate. Some said as low as 7 percent, some said as high as 12 or 15 percent. Everyone said we would have continued inflation. I asked each witness in turn, "What would happen if we leave controls on?" We are going to continue to have inflation. What happens if we do take them off? It will continue. But if we take them off, we can produce and get a supply in the marketplace to give the American housewife some chance to buy a product on the shelf. Ultimately the marketplace will reduce supply. If we leave controls on, there will be no chance for the marketplace to respond. We will not deal adequately with inflation.

Mr. MUSKIE. Then the Senator would leave the problem to the marketplace?

Mr. BROCK. No. I would avoid the horrible price freeze by the Senator's amendment on standby controls, which are the most inflationary of all devices, that forces people to respond in anticipation, out of a desperate fear that the Government will reimpose on them, so that they will raise prices. Just wait until you get rid of them.

Mr. MUSKIE. If the Senator is not going to leave it to the marketplace, what is he going to do?

Mr. BROCK. I have been fighting for a long time in for Congress to reestablish its own controls. The Senator from Maine has shared in that fight with me for budget reform.

Mr. MUSKIE. But budget reform will not take effect until 1976.

Mr. BROCK. Then let us speed up the process and deal with the fundamental imperfections in Government instead of worrying about something else. Let us put our own house in order.

Mr. MUSKIE. With regard to budget reform, the Senator is a member of the conference committee. Does the Senator expect to be able to change that and make the change in that legislation to implement budget reform before 1976?

Mr. BROCK. I would be delighted to do so.

Mr. MUSKIE. I am asking the Senator again, does he propose to leave this problem to the marketplace between now and 1976?

Mr. BROCK. I believe in supply and demand in the marketplace. I would remove all impediments to production by the American people. They should be free from controls. We should make Congress do the job as well as the American people.

Mr. MUSKIE. What the Senator proposes to do is to permit the Economic Stabilization Act to rest in peace, let the controls die, and leave the rest of the problem to the marketplace. I am simply trying to get the Senator's policy——

Mr. BROCK. I do not want it to rest in peace, I want it to die a violent death.

Mr. MUSKIE. I should like to make that point clear—and it is not clear from what the Senator is saying—that what he is proposing as a policy is to leave it to the marketplace. Is that correct?

Mr. BROCK. I would propose a policy for this Congress and the administration to be more responsive than it has been in the 11 years that I have served here, to do their job responsibly as we should do it and not try to do the American people's job for them. Let them produce. They produce. We do not produce things

of value here. Let us get off the backs of the American people so that they can produce.

Mr. MUSKIE. The Senator means leaving it to the marketplace then?

Mr. BROCK. Leave it to the American people.

Mr. MUSKIE. That is the marketplace.

Mr. BROCK. Yes.

Mr. MUSKIE. And not to Government policy?

Mr. BROCK. I would get off the backs of the American people.

Mr. MUSKIE. If there is to be no Govenment policy, then what is the Senator's policy?

Mr. BROCK. To have a constructive fiscal impact on the part of the Government but not to have us interfere in their policy. That is what the Senator is proposing, that we interfere with the right of the American people to produce.

Mr. MUSKIE. Every time I ask the Senator what his policy is, he gives his description of mine. Mine is clear. I am inquiring as to what the Senator's policy is and every time I ask him whether he is leaving it to the marketplace, he says, "Oh, no, no, no. We will have a policy." But, what is it, Senator?

Mr. BROCK. I would leave production in this Nation to business. I would leave it to the free enterprise system, to the people who constitute it. I would not interfere with the free working out of that process. I would establish a much more rational policy, had I the votes in Congress and in the administration. That is where our responsibility is.

Mr. MUSKIE. At the moment, the Senator has no policy, no Government policy at all. Is that what I understand correctly?

Mr. BROCK. Oh no, my policy is to remove Government impediments to production by the American people—all Government interference, all Government control, all Government restraints on freedom to produce. That is my policy.

Mr. MUSKIE. The Senator is going to leave it to the marketplace with no policy to deal with unpredictable circumstances——

Mr. TOWER. Mr. President, will the Senator from Tennessee yield to me now?

Mr. BROCK. I yield.

Mr. MUSKIE. All I want is some clarification. If I misstate the Senator's policy, I would want it clarified. But, once I understand it, I am going to analyze it with as little mercy as the Senator treats my policy. I want to understand it, because I would not want to misstate what the Senator's policy is.

Mr. BROCK. Make no mistake about it, I do not believe the Government is competent to run American business. It never has been and it never will be. I do not think we are competent to make market decisions. I do not want the Federal Government running a gas station, much less the energy field, or to practice medicine on my children, any more than I want someone out of this particular body to do so. That is my policy. If the Senator does not understand it, I should like to restate it, that I believe in freedom of the marketplace and in the capacity of the American people to produce, without restraints or impediments placed on them by the Government.

I now yield to the Senator from Texas.

Mr. TOWER. Mr. President, may I say that the proposal by the distinguished Senator from Maine is simply a cosmetic application. It is not a program. As a matter of fact, probably its worst effect would be to cause an expectational effect on business and labor and this would result in a rise in prices and wages. That would be worse than no policy at all. A policy, even the one by the Senator from Maine, would do nothing to control the worldwide efforts to control the inflation that we have.

Mr. President, we have debated this in the committee, and in the subcommittee, and we have debated it here on the floor of the Senate. There has been a great deal of talk about it. There has been debate in the conference of the two respective bodies. Debate still goes on. More and more amendments are lurking in the background. We probably will not get anywhere in the House anyway, so that this is an exercise in futility even if we could get some kind of decent economic stabilization bill.

I point out, therefore, that I think if this debate is continued, during the course of time, when controls have already expired, it will really precipitate some of the very things we are trying to avoid, and that is, an inordinate bulge in prices and wages.

Therefore, we must take a surgical approach to this matter. I do not like to gag anyone, but here has been considerable debate on this matter, and therefore, I move to table S. 2986.

Mr. MUSKIE. Mr. President, will the Senator withhold that for a moment?

The PRESIDING OFFICER (Mr. McCLURE). The question is on agreeing to the motion——

Mr. JOHNSTON. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from Louisiana will state it.

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

The PRESIDING OFFICER. The Senator from Louisiana will state his point of order.

Mr. JOHNSTON. Mr. President——

Mr. MUSKIE. Mr. President, will the Senator withhold that request for a moment? I may point out to the Senator that this is——

Mr. TOWER. I cannot hold it for long——

Mr. MUSKIE. I have not had a chance to speak on this amendment yet today, so that I believe he would indeed be gagging someone. I am for limiting debate, if I could reach agreement with the Senator——

The PRESIDING OFFICER. The motion is not debatable.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. TOWER. Mr. President, I ask for the yeas and nays.

Mr. JOHNSTON. Mr. President, a point of order.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from Louisiana will state his point of order.

Mr. JOHNSTON. There has been a division of the question between section 205 of the bill and the rest of the bill. I believe that a motion to table directed to the entire bill would be out of order.

The PRESIDING OFFICER. The division was on the amendment. The motion to table is on the entire bill. The motion to table is in order.

Mr. MUSKIE. Will the Chair kindly repeat his parliamentary ruling?

The PRESIDING OFFICER. The division was on the amendment. The motion to table is on the entire bill. The motion to table is in order.

Mr. MUSKIE. Earlier the Parliamentarian ruled that——

The PRESIDING OFFICER. The motion is to table the entire bill. The yeas and nays have been——

Mr. MUSKIE. Mr. President, may I say to the Parliamentarian that there was discussion on the floor earlier, so that we were given clearly to understand that we could have separate votes on a motion to table the two parts of the Muskie amendment.

Mr. TOWER. Mr. President——

The PRESIDING OFFICER. The Chair would state to the Senator from Maine that the earlier colloquy and the earlier ruling was with respect to a division of the amendment. A motion has been made to table the entire bill. The earlier ruling on the motion to table was in response to a question concerning a division of the amendment, and tabling the amendment. The motion to table is to the entire bill.

The yeas and nays have been ordered.

Mr. ROBERT C. BYRD. Mr. President, I do not question the Chair or what the Chair has just said. The understanding was earlier that a division of the amendment would be in order. The Senator from Texas is within his rights to move now to table the entire bill.

I merely take the floor at this time to ask the Senator from Texas whether he would consent to withhold his motion to table the bill at this time and give the Senator from Maine a vote either up or down on his amendment or move, instead, to table the amendment and let the Senator from Maine have a vote on both parts, or on tabling both parts of his amendment?

Mr. TOWER. In response to the inquiry of the Senator from West Virginia, I do not feel constrained to do that because of the rash of amendments that I feel are going to be offered; and I am afraid that we are going to be in a position of putting together an awful piece of economic stabilization legislation. It would be "destabilization" legislation. I,

therefore, reiterate my motion to table the bill.

Of course, if others want to debate this subject for days, perhaps even weeks, then they can vote against this motion. But I think that every segment of this economy wants controls to end now.

Therefore, Mr. President, I reiterate my motion to table S. 2986.

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

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

Mr. GRIFFIN. Mr. President, I call for the regular order.

The PRESIDING OFFICER. The motion is not debatable.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold his motion for another minute?

Mr. TOWER. I will withhold it for 1 minute, with the understanding that I do not lose my right to the floor.

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

Mr. ROBERT C. BYRD. I have a suggestion which would allow the Senate to vote on tabling both titles of the amendment and also the bill, without intervening amendments. It would simply be this: that we get unanimous consent to vote on a motion to table the amendment of the Senator from Maine, the vote to occur on tabling the price and wage control part of it first, immediately followed by a vote to table the monitoring part of it, to be immediately followed by a vote on tabling the bill, with no intervening amendments allowed to come in. There would be three votes to table, back to back. The Senator from Texas would then accomplish his purpose, and the Senator from Maine would also achieve his goal.

Mr. TOWER. I respectfully say to the distinguished Senator from West Virginia—and I think he knows that I have generally been disposed to be cooperative with the leadership on these matters—that, as a matter of legislative judgment, I would prefer to pursue my original motion to table S. 2986, and I reiterate it.

Mr. MUSKIE. Mr. President, will the Senator grant me 30 seconds?

The PRESIDING OFFICER. The motion is not debatable.

Mr. GRIFFIN. Mr. President, I call for regular order.

Mr. MANSFIELD. Mr. President, will the Senator from Texas allow the Senator from Maine to speak for 2 minutes?

I ask unanimous consent that, without the Senator from Texas losing his right to the floor, the Senator from Maine be allowed 2 minutes to make his remarks.

The PRESIDING OFFICER. Is there objection?

Mr. TOWER. Provided that my motion will still be in order in 2 minutes.

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

The Senator from Maine is recognized for 2 minutes.

Mr. MUSKIE. I simply make the point that I was willing to agree to a total of 2 hours to debate the whole bill. The notion that we are going to debate this measure for days is simply not based on facts, as the Senator from Texas knows.

This is the first time in my experience in the Senate that the offeror of an amendment has been denied, by this kind of gag-tabling motion, an opportunity to speak on his own amendment.

I urge the Senate to oppose the motion to table.

Mr. HELMS. Mr. President, on Monday afternoon I presided over the Senate for the better part of 3 hours, and during that time I was privileged to hear the eloquent presentations by Senators JOHNSTON, CHILES, and MUSKIE as they advocated retention of so-called standby controls. I also heard the equally eloquent statements by Senators SPARKMAN and PROXMIRE, and others, in opposition to such controls.

As the distinguished present occupant of the Chair well knows, the presiding officer cannot participate in debate on the floor. So, in a sense, it is a limitation to be in the Chair. But it also provides time to think, and to analyze, and to view vital issues in perspective.

I thought to myself on Monday, Mr. President, how ironic the problem of inflation really is. Not for one moment would I reflect disparagingly upon any of my colleagues. They are wise and well-intentioned men. But when it comes to inflation, and how to prevent it, or how to cure it, a huge blind spot seems always to hover before the eyes of the Congress of the United States. It is amazing that the Congress for so long, and so constantly, has refused to face up to some elementary facts of economic life.

The first one, Mr. President, is the inescapable fact that the Congress, over a period of a generation, has been the principal architect of inflation. Oh, Mr. President, I well realize that nobody wants to take the blame for the economic shambles of our country. But deep down, I really doubt that there is one Member of the Senate, or of the House of Representatives, who does not realize that the cause of inflation lies right on the doorsteps of the Congress.

It began as long ago as 40 years ago, or more—at that point in history when it was considered smart politics to engage in deficit financing on an enormous scale. We told ourselves, and we persuaded the American people, that the Federal debt did not matter, that we just owed it to ourselves. So the sky became the limit, and we rolled out the pork barrels, we fought three wars, and we established every conceivable kind of Federal giveaway programs—and we did it all on credit. Now, the American people are paying for it.

Year after year we did it; decade after decade. At first, the erosion of the buying power of the dollar was of little concern. The clamor for a free ride on the gravy train drowned out all words of warning. Indeed, those who spoke of fiscal responsibility were often shunted aside as reactionaries and ultraconservatives.

So where, Mr. President, do we stand today? Well, a week or so ago—it was April 18, to be exact—I asked the Treasury Department to give me the exact total of the Federal debt as of that day. It turned out to be $473,014,648,856.11. And, upon further inquiry, the Department informed me that on the same day last year—April 18, 1973—the total Federal debt was $455,570,163,323.85. This represents an increase of about $18 billion in 12 months time.

Now, Mr. President, this is where the body is buried. This is the cause of inflation. We can talk about controls, we can debate bills and amendments all we like. We can go home and make political speeches to our hearts' content. But unless and until we balance the Federal budget, we're just kidding ourselves—and deceiving the American people. No kind of system of Federal controls is going to work. Indeed, adding Federal controls will simply continue to compound the miseries we thrust upon the American people by saddling them with a constantly increasing Federal debt.

The interest alone of the existing Federal debt, for the present fiscal year, will cost the American taxpayers an estimated $30 billion. That amounts to about $923 a second.

Think of it, Mr. President. Nearly a thousand dollars a second—for interest alone, on the existing Federal debt—every time the clock ticks.

These are facts, Mr. President. This is simple arithmetic. It is not pleasant to contemplate one's own folly—but I, for one, believe it is time for Congress to look the American people in the eye and confess: We caused it—we and our predecessors, who permitted the Government of the United States to wander around so long in the swamps of deficit financing—and, worse still, let the people believe that it was sound economics to do so.

So, Mr. President, here we stand today, again debating whether to enact legislation allowing the implementation of stand-by controls. I submit, Mr. President, that an amendment I have drafted, and which I will call up if the Senator from Texas (Mr. TOWER) is not successful in lobbying the Muskie amendment, offers the only hope of bringing inflation under control. There is only one mechanism that has the slightest chance of dealing with the inflation plaguing the American people, and that is a prudent, fiscally sound government which allows the free enterprise system to function.

It has been said many times on the floor, Mr. President, that the American people are looking to the Congress for action. I believe that is a correct assessment. Where I sincerely believe some of my colleagues to be in error lies in the kind of action they are recommending.

The time has come to bite the bullet, admit our economic mistakes of the past, and turn to logic and simple arithmetic for an honest solution to our problem. For the sake of the well-being of the people we represent, we simply must balance the budget and begin the hard and painful task of bringing this inflation to an end.

Mr. President, I ask unanimous consent that my amendment to S. 2986 be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HELMS. Mr. President, even the most superficial glance at the budget proposal for fiscal year 1975 reaffirms my belief that the Federal budget must be

balanced and fiscal sanity restored. This can happen only if we muster the courage and integrity to turn to principles of sound fiscal responsibility—a balanced budget, reduced Federal spending, and more budgetary control on future spending.

The administration has submitted a budget with projected outlays of $304.4 billion, based upon projected receipts of only $295.0 billion. On its face, then, this budget proposal calls for a $9.4 billion deficit. But this is not quite the full amount of deficit spending envisioned by the fiscal year 1975 budget. Because the administration persists, with the Congress aiding and abetting, in using the "unified budget" concept which allows special trust fund receipts to be included in the total of Government receipts, the true dimensions of deficit spending are not readily apparent. The Congress and the various administrations through the years share a common guilt in misleading the people in this matter. It is time that we atone for our sins.

Breaking the budget down by accounts gives a clearer picture of the true size of the deficit for fiscal year 1975. Projected receipts in the trust fund accounts are projected to be $115.8 billion, with projected outlays of $107.4 billion, leaving an obvious surplus in the trust fund accounts of $8.4 billion. Since trust fund monies cannot be transferred directly into the Federal fund, they must be borrowed by the Treasury, thereby increasing the national debt.

In the Federal fund account, projected receipts are estimated to be $202.8 billion, with projected outlays figured at $220.6 billion. Using the so-called "unified budget" concept to arrive at its projected deficit, the administration merely subtracted the $8.4 billion surplus in the trust fund accounts from the $17.8 billion deficit in the Federal fund account, and came up with a figure of $9.4 billion as its projected deficit. In other words, since the trust fund accounts have traditionally had a small surplus, this surplus is added to the Federal fund deficit and effectively camouflages the deficit spending in the Federal fund, which is used for general Government operations.

Therefore, I submit that a more accurate estimation of the projected deficit for fiscal year 1975 would be $17.8 billion. It is interesting to note here, Mr. President, that the administration, on page 28 of the budget proposal, projects a net rise in the national debt subject to a limit of $19.8 billion. The similarity of these two figures is more than interesting; this similarity seems to point out that the national debt, on which this Nation's taxpayers will pay an interest of $29 billion—twice the size of the entire budget outlays for fiscal year 1941, at the beginning of World War II—is raised this year by an amount close to the actual deficit that is projected for fiscal year 1975.

Mr. President, I ask that a table which I have prepared showing how the figures I have just broken down, be included in the RECORD.

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

Analysis of the fiscal year 1975 budget proposal

	Billion
I. Budget totals: [1]	
Projected receipts (including trust fund receipts)	$295.0
Projected outlays by the administration	305.4
Projected deficit	9.4
II. Budget breakdown by accounts:	
Projected receipts in the trust fund accounts	115.8
Projected outlays in the trust fund accounts	107.4
Trust fund surplus estimate for fiscal year 1975	8.4
Projected receipts in the Federal fund	202.8
Projected outlays in the Federal fund	220.6
Projected deficit in the Federal fund	[2] 17.8
III. Means by which the Nixon administration arrived at its deficit figures:	
Projected deficit in the Federal fund	17.8
Projected surplus in the trust accounts	8.4
Projected deficit	[2] 9.4

[1] Federal Budget for fiscal year 1975: Summary at p. 46.

[2] Actual Budget Summary figures are 17.9 billion dollars, due to "rounding off" by budget officials; however, adding the figures or subtracting them as the case may call for often gives slightly different results—in this case, the sum would be $17.8 billion.

Mr. HELMS. Mr. President, factors exist which possibly could tend to increase the size of the deficit for fiscal year 1975. The budget proposal is posited on the assumption that unemployment will remain at 5.5 percent, but private economists writing in the Wall Street Journal put the figure at 5.7 percent, a projection also put forth by Data Research Associates, Inc., a firm employed by the Congressional Research Service of the Library of Congress. This 0.2 percent projected rise in unemployment will mean that there will be fewer dollars taken in by the Government in the form of taxes and more outlays from the Treasury in the form of welfare and unemployment payments.

Based on a generally recognized rule of thumb that a one billion dollar increase in the deficit can be anticipated for each 0.1 percent rise in the rate of unemployment, this means that there well could be an additional $2 billion deficit this year.

Another factor which could increase the amount of the deficit for this fiscal year is an underestimation on the part of the administration with regard to the amount of projected revenues. This coming fiscal year, the administration projects $295 billion in revenues; estimates by staff members of the Joint Economic Committee put this figure as low as $282 billion. Here, Mr. President, we have a possible deficit of $30.8 billion.

These are gloomy figures indeed, Mr. President. If we in the Congress are to get a handle on this budget, if we are to prevent continued runaway inflation which deficit spending inescapably fuels, then we must take steps to balance the budget and reduce expenditures.

Five times already, the distinguished Senator from Virginia, Mr. BYRD, and I have attempted to have legislation passed which would balance the budget. Five times, the Senate has rejected such a move, although there is strong sentiment in the Senate to see that we have a balanced budget. On 1 vote, 43 of our colleagues indicated their support of such a move.

EXHIBIT 1

At the end of the bill add a new title as follows:

SEC. 1. Beginning with the fiscal year 1975, the nontrust fund expenditures of the Government of the United States during each fiscal year shall not exceed its revenues from all nontrust sources for such year.

SEC. 2. (a) Beginning with the fiscal year 1975, the President shall submit a budget pursuant to the Budget and Accounting Act of 1921, as amended, in which nontrust fund expenditures do not exceed nontrust fund revenues for each fiscal year.

(b) The provisions of this section may be adjusted to reflect any additional revenues of the Government received during a fiscal year resulting from tax legislation enacted after the submission of the budget for such fiscal year.

SENATOR RANDOLPH SUPPORTS EFFORT TO PROVIDE CREDIT TO AMERICAN CONSUMERS

Mr. RANDOLPH. Mr. President, I support the Muskie-Stevenson-Johnston amendment—the Cost of Living Act of 1974—which I cosponsor. The urgency of the responsibility of this body to stem the present inflationary cycle was stressed last week when the Senate Democratic Conference passed a resolution opposing the administration's abandonment of the fight against inflation and we pledged our efforts to restrain it.

Our Nation's present economic situation is confusing to laymen and economists alike. We have inflation, deflation, and acute shortages all at the same time. This month the American people are scanning the wage-price control scoreboard: for the first quarter of 1974, at an annual rate of increase, inflation is up 10.8 percent; Consumer Price Index has risen 14.5 percent; the wholesale price index has increased a whopping 24.8 percent; and yet average real wages continue to drop.

This bill, to provide standby wage-and-price control authority, is in many cases not a popular one as several colleagues have pointed out. I have weighed carefully the views of knowledgeable and articulate economic spokesmen who advocate discontinuation of the economic stabilization program. However, we must not forget the lesson of the hasty lifting of phase II controls in January of last year and the detrimental effects that such a recurrence could have in efforts to cool down inflation. Santayana gave wise words:

> Those who cannot remember the past are condemned to repeat it.

This is now a time for economic progress but with precautionary measures. It is my hope that meaningful standards can be established under this bill which will not cause unfair allocations or material shortages as we have recently experienced, and will aid in creating a better free market system for our country through a further gradual elimination of all controls.

I have been involved in cases with the Cost of Living Council which eased controls to companies in exchange for

the company increasing production or placing ceilings on wages and prices. That process is not an easy one. Many questions are asked and paperwork is voluminous. It is a lengthy and expensive approach, particularly for small businesses. If sectors of business can exhibit responsible action to avoid the use of stand-by authority after this shaky period in our economy, the Senate will scrap this Cost of Living Act. Good faith bargaining can certainly continue on a larger scale without companies fearing an across-the-board freeze, which is prevented in this bill.

Guidelines still exist for some sectors of the economy now not directly under controls. There are as yet brush fires which need attention in the near future. Within a period of time, after a bulge in prices and wages are made commensurate with the cost of living, a restoration of critical shortages of materials will help us move toward a free market mechanism which will help bring a downward inflationary trend. Controls, I doubt, are not effective against natural economic forces.

This standby authority does not prevent firms from economically increasing their capacity. This act will allow companies to enter the front door of our domestic economy as opposed to going out the side door by exporting goods abroad for higher prices and greater profits.

It is my strong hope that the administration would use this standby authority wisely to encourage business whenever possible to lower its prices and use restraint so that with responsible measures, they would have no reason for fear of recontrol.

Mr. President, the administration has expressed no desire to continue the Committee on Interest and Dividends, which monitors bank rates and dividend payments. The Committee on Interest and Dividends was created in October 1971 by Executive order. It is anticipated that if the committee is not extended past April 30, a surge in interest rates on small business and consumer loans could occur. There is no question that if this committee and its voluntary dual prime interest rate system are discontinued, rates on loans to small business, farmers, and consumers will rise. This amendment authorizes the President to stabilize interest rates consistent with orderly economic growth. Business loans can be controlled without furthering the sluggishness of the economy by over-tightening the capital to small borrowers. Additional burdens must not be added to American consumers and homebuyers by the lack of availability of credit.

Mr. GRIFFIN. Mr. President, all of us share concern for the provision of quality health care at reasonable prices. The expiration of all price controls last midnight has now lifted a very difficult burden which was being borne by hospitals and nursing homes.

Many of these vital institutions have just survived a harrowing brush with economic disaster. Under phase IV, as we know, they were required to absorb price increases in the commodities they had to buy—while being prevented from raising the rates they charged for their own services.

The resulting economic squeeze on hospitals and nursing homes offers a valuable lesson in the serious perils which are inherent in resorting to selective wage and price controls.

In this regard, experiences of two hospitals in western Michigan have been brought to my attention by Mr. Donald F. Andrews, administrator of the North Ottawa Community Hospital in Grand Haven, and Mr. Donald E. Strange, associate director of the Holland City Hospital in Holland, Mich.

Holland City Hospital, in confronting the possibility of the continuation of wage and price controls into its 1974–75 fiscal year, provided me with a stark—but illuminating—analysis of its situation.

Mr. President, I ask unanimous consent to have this statement printed in the RECORD.

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

The Phase IV regulations set hospital charge and expense increase limits at 7.5 per cent per inpatient stay. Hospital out-patient service charges are limited to a 6 per cent increase. Under Phase IV regulations Holland Hospital will have to cut its staff by 15–25 people. These staff cuts will include all areas of the hospital. Our new respiratory therapy service, greatly needed by our physicians and patients, will have to be reduced considerably. The Director of Volunteer Services position which the Hospital Auxiliary agreed to pay for will not be able to be added. Nor will we be able to add the staff members required in the new outpatient surgery program scheduled to begin July 1. Our budget requirements for 1974–75 will have to be reduced by over $360,000. Critical staff reductions will also be required in maintenance, housekeeping, laundry, laboratory, radiology, accounting, administration, nursing, medical records, pharmacy, and nuclear medicine. Before the year is over it is anticipated that we will have to begin to use our funded depreciation for day to day operating expenses. The only way which we can restrict our costs and revenues to comply with Phase IV while the price of all goods and services we purchase go uncontrolled is to reduce the quantity and quality of the services we provide. The 7.5% limitation is simply not enough to handle such price increases as:

Meat, 19–27%.
Lettuce, 60%.
Potatoes, 235%.
Sugar, 21%.
Pineapple, 30%.
Tomato Juice, 15%.
Beets, 13%.
Jello, 29%.
Flour, 35%.
Rice, 36%.
Eggs, 18%.
Milk, 15%.
Bread, 35%.
Institutional Dish Soap, 100%.
Soup Base, 32%.
Paper Forms, 9–93%.
Sleeper gowns, 50%.
Needles, 33%.
Catheters, 51%.
Surgery Gowns, 169%.
Pillows, 25%.
Syringes, 40–60%.
Adhesive Tape, 37%.
Suture, 9–64%.
Draw Sheets, 14%.
Blankets, 29%.
Surgical Gloves, 10%.
Cleaning Cleanser, 23%.
Mattress Pads, 15%.
Utilities, 6–20%.

These are representative of similar price increases for several thousand items which the hospital must regularly purchase. We have experienced such increases despite our participation in several substantive shared hospital purchasing organizations.

The inequities of being unable to pass through price increases in supplies and services is compounded by the continuation of Phase III wage controls for hospitals. The 5.5% wage controls continue for each employee unit. Hospital employees should not be expected to subsidize our health care system at a time when built-in cost-of-living clauses in many union contracts and the deregulation of all other industries will permit wage settlements of 9–13% per year. Hospital employees should have the same right as employees in other industries to earn a fair wage rate for their labors. To continue such controls is counter productive to the motivation required of many of our nation's hospital employees if we are to continue to refine and develop an ever more effective and efficient health care system.

Mr. GRIFFIN. Mr. President, on the wage front, North Ottawa Community Hospital compared the wages its employees received with those of workers in comparable jobs for city, county, State, and Federal Government. Under wage controls, the study found, "the hospital is paying less for similar work than the other governmental agencies." It concluded:

At the current rate of inflation it would be impossible for hospital employees to keep pace with the cost of living. If the hospital is kept under mandatory wage-price controls, we will drop even further behind, which can cause related employee problems, dissatisfaction, and perhaps lose some good employees to other employers.

Mr. President, experience and facts like those submitted by these two fine Michigan hospitals should serve to warn us against further flirtation with such an inherently inequitable device as selective wage and price controls.

Mr. TOWER. Mr. President, I move to table S. 2986.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas. 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. METCALF (when his name was called). Mr. President, on this vote I have a pair with the Senator from Ohio (Mr. METZENBAUM). If he were present and voting he would vote "aye." If I were permitted to vote I would vote "nay." I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Hawaii (Mr. INOUYE), the Senator from North Carolina (Mr. ERVIN), the Senator from Ohio (Mr. METZENBAUM) and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mr. TUNNEY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) is necessarily absent.

I further announce that the Senator from Florida (Mr. GURNEY) is absent due to illness in the family.

I further announce that, if present and voting, the Senator from Florida (Mr. GURNEY) would vote "yea."

The result was announced—yeas 49, nays 43, as follows:

[No. 165 Leg.]

YEAS—49

Aiken	Domenici	Mondale
Allen	Dominick	Packwood
Baker	Eagleton	Pearson
Bartlett	Fannin	Percy
Beall	Fong	Proxmire
Bennett	Goldwater	Schweiker
Bible	Gravel	Scott, Hugh
Brock	Griffin	Scott, William L.
Brooke	Hansen	Sparkman
Buckley	Hartke	Stafford
Burdick	Hatfield	Stevens
Church	Helms	Thurmond
Clark	Hollings	Tower
Cook	Hruska	Weicker
Cotton	Mathias	Young
Curtis	McClure	
Dole	McGovern	

NAYS—43

Abourezk	Huddleston	Muskie
Bayh	Hughes	Nelson
Bentsen	Humphrey	Nunn
Biden	Jackson	Pastore
Byrd, Harry F., Jr.	Javits	Pell
Byrd, Robert C.	Johnston	Randolph
Cannon	Kennedy	Ribicoff
Case	Long	Roth
Chiles	Magnuson	Stennis
Cranston	Mansfield	Stevenson
Eastland	McClellan	Symington
Hart	McGee	Taft
Haskell	McIntyre	Talmadge
Hathaway	Montoya	Williams
	Moss	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Metcalf, against

NOT VOTING—7

Bellmon	Gurney	Tunney
Ervin	Inouye	
Fulbright	Metzenbaum	

So Mr. TOWER's motion to lay on the table S. 2986 was agreed to.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote, and ask for the yeas and nays.

Mr. TOWER. Mr. President, I move to lay that motion on the table.

Mr. GRIFFIN. Mr. President, I ask for the yeas and nays.

Mr. MANSFIELD. Mr. President, I move to reconsider and I ask for the yeas and nays.

The VICE PRESIDENT. The motion to table has been made, and the question is——

Mr. TOWER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to lay on the table the motion to reconsider. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BIDEN. Mr. President, on this vote I have a live pair with the junior Senator from Ohio (Mr. METZENBAUM). Were he present and voting, he would vote "yea." Were I permitted to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from North Carolina (Mr. ERVIN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Hawaii (Mr. INOUYE), the Senator from Ohio (Mr. METZENBAUM), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mr. TUNNEY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) is necessarily absent.

I further announce that the Senator from Florida (Mr. GURNEY) is absent due to illness in the family.

The result was announced—yeas 42, nays 50, as follows:

[No. 166 Leg.]

YEAS—42

Aiken	Domenici	Percy
Allen	Eagleton	Proxmire
Baker	Fannin	Schweiker
Bartlett	Fong	Scott, Hugh
Beall	Goldwater	Scott, William L.
Bennett	Griffin	Stafford
Brock	Hansen	Stevens
Brooke	Hatfield	Taft
Buckley	Helms	Thurmond
Church	Hruska	Tower
Cook	Long	Weicker
Cotton	Mathias	Young
Curtis	McClure	
Dole	Packwood	
Domenici	Pearson	

NAYS—50

Abourezk	Haskell	Mondale
Bayh	Hathaway	Montoya
Bentsen	Hollings	Moss
Bible	Huddleston	Muskie
Burdick	Hughes	Nelson
Byrd, Harry F., Jr.	Humphrey	Nunn
Byrd, Robert C.	Jackson	Pastore
Cannon	Javits	Pell
Case	Johnston	Randolph
Chiles	Kennedy	Ribicoff
Clark	Magnuson	Roth
Cranston	Mansfield	Sparkman
Eastland	McClellan	Stennis
Gravel	McGee	Stevenson
Hart	McGovern	Symington
Hartke	McIntyre	Talmadge
	Metcalf	Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Biden, against.

NOT VOTING—7

Bellmon	Gurney	Tunney
Ervin	Inouye	
Fulbright	Metzenbaum	

So the motion to lay on the table the motion to reconsider was rejected.

The PRESIDING OFFICER. The question now recurs on the motion to reconsider.

Mr. GRIFFIN. Mr. President, I ask for the yeas and nays.

Mr. TOWER. Mr. President, do I correctly understand that that motion is debatable?

The PRESIDING OFFICER. The motion is not debatable.

Mr. TOWER. Mr. President, I think we have witnessed today a textbook demonstration of party discipline that is seen very often in the British Parliament, but rarely in Congress.

Mr. MANSFIELD. Mr. President, I do not believe that the proposal before the Senate is debatable. I ask the Chair for a ruling.

The PRESIDING OFFICER. The motion to reconsider the motion to table is not debatable. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I was seeking recognition before the response. I ask unanimous consent——

The PRESIDING OFFICER. The Senator from West Virginia will withhold his statement.

Mr. ROBERT C. BYRD. Mr. President, I sought recognition before the response.

Mr. TOWER. Mr. President, a point of order. Is the question debatable or not?

The PRESIDING OFFICER. It is not.

Mr. ROBERT C. BYRD. Mr. President, I want to ask unanimous consent——

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may proceed for 2 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. I should like to amend the request so as to provide 2 minutes to the distinguished Senator from Texas (Mr. TOWER) and 2 minutes to the assistant majority leader.

The PRESIDING OFFICER. Objection was heard on the first request.

Mr. MANSFIELD. Mr. President, I resubmit my request.

The PRESIDING OFFICER. Is there objection to the request that there be 4 minutes, equally divided?

Mr. GOLDWATER. I object.

SEVERAL SENATORS. Vote! Vote!

Mr. ROBERT C. BYRD. Mr. President——

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute, with the understanding that the Senator from Texas may proceed for 1 minute. I hope that the Senator from Arizona will not object. I am really seeking to save the time of the Senate.

Mr. TOWER. I, too, hope that the Senator from Arizona will not object.

Mr. GOLDWATER. The Senator from Texas cannot state his case in 1 minute or 1 hour. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I seek to propound the following unanimous-consent request, in order to save the time of the Senate. Obviously, we are going to vote on a motion to reconsider. If that motion carries, we are going to have to vote on a tabling motion again. If that fails, we are back where we started.

I ask unanimous consent that the vote on the motion to reconsider be waived and that the vote on the motion

to table the bill be proceeded with instead.

Mr. TOWER. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will call the roll.

Mr. BIDEN (when his name was called). Mr. President, on this vote I have a pair with the Senator from Ohio (Mr. METZENBAUM). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from North Carolina (Mr. ERVIN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Hawaii (Mr. INOUYE), the Senator from Ohio (Mr. METZENBAUM), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mr. TUNNEY) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) is necessarily absent.

I also announce that the Senator from North Dakota (Mr. YOUNG) is absent on official business.

I further announce that the Senator from Florida (Mr. GURNEY) is absent due to illness in the family.

The result was announced—yeas 50, nays 41, as follows:

[No. 167 Leg.]

YEAS—50

Abourezk	Haskell	Mondale
Bayh	Hathaway	Montoya
Bentsen	Hollings	Moss
Bible	Huddleston	Muskie
Burdick	Hughes	Nelson
Byrd, Harry F., Jr.	Humphrey	Nunn
Byrd, Robert C.	Jackson	Pastore
Cannon	Javits	Pell
Case	Johnston	Randolph
Chiles	Kennedy	Ribicoff
Clark	Long	Roth
Cranston	Magnuson	Sparkman
Eastland	Mansfield	Stennis
Gravel	McClellan	Stevenson
Hart	McGee	Symington
Hartke	McGovern	Talmadge
	McIntyre	Williams

NAYS—41

Aiken	Domenici	Packwood
Allen	Dominick	Pearson
Baker	Eagleton	Percy
Bartlett	Fannin	Proxmire
Beall	Fong	Schweiker
Bennett	Goldwater	Scott, Hugh
Brock	Griffin	Scott, William L.
Brooke	Hansen	Stafford
Buckley	Hatfield	Stevens
Church	Helms	Taft
Cook	Hruska	Thurmond
Cotton	Mathias	Tower
Curtis	McClure	Weicker
Dole	Metcalf	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Biden, for

NOT VOTING—8

Bellmon	Gurney	Tunney
Ervin	Inouye	Young
Fulbright	Metzenbaum	

So the motion to reconsider was agreed to.

Mr. ROBERT C. BYRD. Mr. President, after having consulted with the distinguished Senator from Texas (Mr. TOWER), the distinguished manager of the bill (Mr. JOHNSTON), the distinguished majority leader, and other Senators, I propound the following unanimous-consent request:

That the yeas and nays previously ordered on the motion to table be withdrawn.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote by which the bill was tabled be vitiated.

Mr. DOMINICK. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The question recurs on the adoption of the motion to table.

On this question the yeas and nays have been ordered——

SEVERAL SENATORS. No, no——

The PRESIDING OFFICER. Oh, that is right. This occurs on the motion to table.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation on the amendment by Mr. MUSKIE of 20 minutes, to be equally divided between Mr. MUSKIE and Mr. TOWER; that upon conclusion of the time, a vote occur either on tabling the first part of Mr. MUSKIE's amendment, that which has to do with wage and price controls, or that an up or down vote on that part occur, whichever the Senate would wish; and that, back to back, following that vote, there occur a vote on a motion to table the second part, or an up-and-down vote on the second part, whatever the Senate would wish—but two votes back to back.

Mr. HUMPHREY. Mr. President, reserving the right to object, I have an amendment to the first part of the Muskie proposal which relates to the standby controls. I do not need a great deal of time on it. I would be more than happy to limit it to 10 minutes, 5 minutes to a side.

Mr. TOWER. Mr. President, reserving the right to object, I must say to my distinguished friend from West Virginia that apparently this thing is becoming unglued. So, I do not know—there might be other amendments to be offered to the amendment of the Senator from Maine, so I assume that this could keep us here indefinitely.

Mr. ROBERT C. BYRD. Would the Senator allow us to have a brief quorum call so we could work something out?

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

The PRESIDING OFFICER (Mr. CLARK). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, I think I may be ready to renew my request. The Senator from Maine is wanting to modify his amendment. Would he state his modification?

Mr. HUMPHREY. Mr. President, would the Senator from Maine yield?

Mr. MUSKIE. I yield.

Mr. ROBERT C. BYRD. Mr. President, I renew my request.

Mr. GRIFFIN. Mr. President, reserving the right to object, what is the request?

The PRESIDING OFFICER (Mr. BIDEN). That there be a time limitation of 20 minutes to be equally divided on the amendment of the Senator from Maine, which has been divided, to be equally divided and controlled by the Senator from Texas and the Senator from Maine.

Mr. ROBERT C. BYRD. And that at the close of 20 minutes a vote occur on the first part of the Muskie amendment that deals with wage and price controls, the vote to be either on a motion to table or up and down on that part of the amendment.

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. That vote would be immediately followed by a similar vote—up or down, or on a tabling motion—with regard to the second part of the Muskie amendment.

The PRESIDING OFFICER. That is correct.

Is there objection?

Mr. MATHIAS. Mr. President, reserving the right to object——

Mr. HATHAWAY. Mr. President, reserving the right to object——

Mr. MATHIAS. Mr. President, what about amendments to the amendment?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, if it is agreeable to the Senate, that no amendments to amendments be in order, because if this amendment is voted down, and I feel the votes are probably here to do it, the whole thing will be moot, anyway, and that will be the end of the ball game.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. HATHAWAY. Mr. President, reserving the right to object——

Mr. TAFT. Mr. President, reserving the right to object——

Mr. HATHAWAY. Mr. President, I object to the unanimous-consent request, that part that no amendments to amendments be in order. I will be glad to take 5 minutes to both sides.

Mr. ROBERT C. BYRD. Very well. Mr. President, I ask unanimous consent that there be a time limitation on any amendment to an amendment of 5 minutes——

Mr. TOWER. Two minutes.

Mr. ROBERT C. BYRD (continuing). To be equally divided in accordance with the usual form.

Mr. MATHIAS. Five minutes, 5 minutes.

Mr. TAFT. Mr. President, reserving the right to object—does that apply to the second part of the main amendment?

Mr. ROBERT C. BYRD. Does the Senator have an amendment to the second portion?

Mr. TAFT. I very well may have.

Mr. ROBERT C. BYRD. Mr. President,

I make the same request with regard to the second portion.

Mr. TOWER. Mr. President, I wonder, would the Senator modify that request to say that at any time a tabling motion may be in order?

Mr. ROBERT C. BYRD. That is in order anyway.

Mr. TOWER. Without the time of the Senator from Texas or the Senator from Maine having expired or having been yielded back.

Mr. ROBERT C. BYRD. There is so little time.

Mr. TOWER. But if we start adding amendments here all evening—it appears that everybody has amendments—I think it is an exercise in futility.

Mr. ROBERT C. BYRD. There would only be 5 minutes on any amendment. The Senator from Texas could yield back his 2½ minutes.

Mr. TOWER. Let us see how it goes.

The PRESIDING OFFICER. Is there objection?

Mr. PASTORE. Mr. President, reserving the right to object, without being critical, here we go again. It is 10 minutes past 5, and this is an important measure. It strikes me that we ought to proceed with a little more calmness and a little more judiciousness. This is important business. Everybody understands the problem. Let us strike an agreement and get going and do what needs to be done, without all this fussing around.

Mr. TOWER. That is all we are trying to do.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Who yields time?

Mr. MUSKIE. Mr. President, I am not sure what amendments are going to be offered, but I will take 2 minutes of the time allotted to me on the amendment simply to say what I have been trying to find 2 minutes to say all afternoon, without success.

First, I should like to thank those Senators who voted to give me the right to speak on this amendment.

Second, I should like to take the remainder of the 2 minutes to read something that gives my reasons for offering this amendment. This is from an article that appeared in the Washington Post on April 20 written by Hobart Rowan. This is what he wrote in reporting on the highest inflation rate in 25 years:

> Another worrisome aspect of yesterday's news is that while the sharp recent rise in food prices abated considerably in March, the price tag for nonfood prices and services continued to escalate even faster.
>
> In fact, the 1.5% increase in industrial prices for the month (an 18% annual rate) is the biggest in that category since the government began to keep such statistics in 1954.
>
> . . . All told, higher prices for gasoline and food—which until recently have been accounting for about two-thirds of the inflation, accounted for only 25% of it in March, which means that price rises have spread in a pervasive way to a wide range of other consumer goods and services.
>
> There were notable increases in physicians' fees (up at a 20.4% annual rate), apparel, gas, electricity, postal rates, newspapers, textiles, new cars, city bus fares, and household durable goods.

The Washington Post on March 24 reported Dr. Dunlop's prediction that doctor bills could go up 9 percent during the next fiscal year, and hospital fees as much as 17 percent, without control authority. Under controls, doctor bills would go up only 4 percent and hospital fees between 10 and 11 percent.

The New York Times on April 22 reported that—

> For millions of Americans, the ending of more than 32 months of wage and price controls next week is expected to bring another spasm of price increases that will further erode their already shrunken paychecks.

An official of a large food processing and distributing company was quoted as having the "feeling" that "everybody is busting to get out of the gate."

The Times article continued:

> Interviews with executives in a variety of industries late last week disclosed that a number of price increases were expected in the weeks ahead.
>
> . . . Among other industries where consumers can expect to face price increases this year, according to industry officials, are automobiles, cigarettes, whiskey, a variety of processed foods, machinery, home furnishings, furniture, and the cans that contain everything from soy beans to shaving cream.

The Baltimore Sun on April 21 reported:

> On April 30 most segments of American industry can be expected to heave a collective sigh of relief. . . . What cannot be expected on April 30 is that the sense of relief will extend to the consumer, for he faces an acceleration of price increases and continued rapid inflation. Whether he wants to buy a new house, car, or suit of clothes, it is going to cost him more. . . . How much more will prices go up? The industry is not talking. But Wall Street analysts, using their own data, come up with projections ranging from 15%–20% over the next twelve months.

These reports document that there is ample evidence that the fires of inflation are spreading from food and energy—and we are all aware of what their devastation has been there—into industrial commodities and into nonfood items.

I protest the absence of a policy of this Congress to deal with it. What the Senate seems to be about to say is that with these inflationary forces boiling under the surface of the economy, and with all the unpredictable circumstances that one could envision in the next 6 months, we are going to leave our Government without a policy, without a tool, without an authority to deal with it. Anybody who can predict with assurance that in the next 6 months a need for control authority will not arise has a blind faith in our economic future.

It is for this reason that I have made these two simple, clear-cut proposals: First, a monitoring authority to continue the function of the Cost of Living Council to keep tabs on the economy, to look out for shortages, to signal the danger spots, to generate the data, as a base for whatever policy we may need to adopt in the next few months; second, standby control authority—a fire extinguisher on the wall. We have had to use that authority before in the last 30 years in this country. It has worked. It has also failed. But in times of dire economic emergency, Presidents who have objected to it, including this President, have used it in circumstances when necessary, and with success.

I know the pressure which has been brought to bear against my proposal. Business and labor are lobbying to kill this measure.

But I disagree with their judgments. The Cost of Living Act which we have proposed to the Senate presents one of the most difficult public policy problems of current times—the control of inflation, the control of one of the most pervasive and destructive forces operating on the American people.

We have heard the statistics of inflation, their shock value depleted by repetition. And we know the reality behind those statistics—the elderly on fixed incomes who must choose between adequate food, adequate heat, or adequate medicine. And the businessmen staggered by cost increases or shortages of essential materials. And the wage earner who sees his paycheck shrinking weekly.

We know the reality of inflation and we have a responsibility to counter it with the best public policy tools we have.

The Cost of Living Act we consider today is the only constructive step available to Congress to meet the threat of inflation.

Double digit inflation in America is well-documented. The consumer price increase in the first quarter of this year, approaching 14 percent, represents, through a shorthand average, the millions of cases of hardship and instability experienced by Americans in the months just passed.

But the evidence also shows that we have cause for serious concern about continued and possibly more dramatic inflation in the months ahead. Part of the danger comes from total decontrol of the economy, except for petroleum, as of today. Yesterday, wage and price controls restrained 12 percent of the Consumer Price Index, 32 percent of the Wholesale Price Index, and 24 percent of the labor force. But 9 percent of the Consumer Price Index and 28 percent of the Wholesale Price Index were released from controls as of midnight last night—including health, autos and auto parts and insurance, metals and metal products, machinery and equipment, construction, and nonfood consumer items.

The aftermath of decontrol in those sectors could present significant dangers down the road. The decontrol process may have been gradual, but those sectors left under controls to the bitter end would now be free from all restraint. The wage-price bulge we know occurs when controls are lifted could be far worse than a "normal market correction," posing the danger of a new wage-price spiral. When phase II was prematurely ended, wholesale price increases went from a 6.9-percent annual rate to a 24.4-

percent annual rate during the first 5 months of phase III, mandating another dollar devaluation and a new 60-day freeze. A similar escalation of inflation from its current high rates would certainly require a damaging return to across-the-board controls. But that event could be avoided if selected controls were available now.

Far more troublesome than the direct consequence of decontrol is the danger of stripping from the Federal Government a necessary tool to deal with drastic inflation. The evidence of dramatic inflation in the coming months shows up in reports of a new automobile price increase, and the 35 percent annual rate increase in industrial commodities prices last month which will soon be translated into consumer price increases. And evidence comes from the reports from business and labor that a no-holds barred, possibly irresponsible inflationary psychology is taking hold.

At best, the economic prognosis for the months ahead is uncertain. And unless we can count on the bland assurances of administration policymakers who have so often been wrong before, we must prepare for a year when double digit inflation, combined with a recession, will present the most grave economic conditions, upsetting even further the stability of employment, investment, production, and income.

Those who see the possibility of these economic dangers ahead would agree that Congress must provide the most effective public policy response available. That best response is the Cost of Living Act we will vote on today. The authority it provides—an economic monitoring agency, with authority to enforce decontrol commitments, and the residual authority to impose limited wage and price controls—provides the necessary tools for Federal Government action to meet inflation if a crisis develops.

The economic monitoring authority under the Cost of Living Act is essential to any reasoned Federal policy on inflation. Our current economic problems certainly need close observation. And proper attention can only be provided through a separate institutional focus mandated by Congress.

Up-to-date and comprehensive monitoring of inflation requires attention to a variety of problems and government functions now distributed among many agencies: imports and exports; production of food, natural resources, and housing; labor relations; regulatory decisions; and budgetary decisions.

Understanding and forecasting inflation and shortages requires the collection and analysis of data beyond the normal function and capability of the Bureau of Labor Statistics or the Commerce Department.

And the special tasks of an effective anti-inflation agency—publicity, planning, and jawboning—are the responsibilities of no single office in the executive branch.

Only the Council of Economic Advisers has the potential economic overview required, and its small staff of only 46 professionals and clericals is far too small to perform the job adequately. So the economic monitoring function, to be performed effectively, must have the congressional mandate contained in the Cost of Living Act.

One tool of this monitoring agency should be the authority to enforce decontrol commitments entered into under the new-expired Economic Stabilization Act. In the process of decontrol, Dr. Dunlop and the Cost of Living Council negotiated voluntary commitments with the leading firms in 17 industries calling for restraints on prices, profits, labor settlements, and exports, and agreements to improve production and capacity, price reporting, and customer allocation.

The enforcement of these commitments, provided in section 204 of the Cost of Living Act, will give the necessary authority to the economic monitoring agency, to hold industry to the responsibilities they have already accepted.

And one additional tool necessary to the effective control of inflation is a limited authority to control wages and prices. This standby control authority provided by the Cost of Living Act is available only to meet the most severe inflationary dangers the coming months might hold.

Economic controls could only be imposed under the Cost of Living Act if the President made three findings: that there is serious inflation in the economy as a whole; that there is serious inflation in an economic sector which, without controls, "would lead to severe hardship or depravation"; and that the need for controls outweighs the possible adverse supply consequences they might bring about. These standards apply equally to all sectors of the economy. They protect against unjustified use of controls. But they make some controls available should they be needed in a real crisis.

There are three important points I wish to make about this limited control authority.

First, the limitations are an appropriate and judicious congressional determination of when controls may be used. The precise application and administration of economic controls is a task only the executive branch can perform. In the Cost of Living Act, we place across-the-board restraints on that authority. We insure that the standards for using it are identical for all economic sectors. But beyond that we cannot go. We have but one President, and it is our responsibility to give him the tools as well as the direction for meeting the economic dangers we face.

Second, the control authority in the Cost of Living Act is far more limited, and far more precise, than the authority the President has exercised for the past 3 years under the Economic Stabilization Act. The findings require before controls could be imposed would make them far more predictable than the actions taken by the Cost of Living Council in the past. Indiscriminate, or arbitrary wage and price controls, would not be allowed. What is allowed is appropriate and firm Government response to an inflationary crisis down the road.

Third, this limited authority under the Cost of Living Act can be effective. Phase II told us that controls can work when properly administered. Even in 1973, according to Dr. Gardner Ackley, former Chairman of the Council of Economic Advisers, controls may have reduced the rate of inflation by between 1½ and 3 percent. And control authority is effective not only when direct restraints are applied. In addition, the fact that they are available to meet irresponsible inflationary action dampens inflationary psychology. Such a tool, which history teaches us can be effective, is essential to have available to the Federal Government.

Mr. President, the inflationary dangers we face demand a responsible congressional response. The Cost of Living Act provides an appropriate course: an economic monitoring agency to enforce decontrol commitments, with reserve authority to impose economic controls in limited, serious inflationary situations. It presents us with the best response to the economic dangers facing America.

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

Mr. MUSKIE. I yield 2 minutes to the Senator.

Mr. HUMPHREY. Mr. President, I have been happy to associate myself in this entire effort with the Senator from Maine and other Senators who have cosponsored the proposed legislation.

I spoke here Monday night and gave the message that I believe represents the needs of this country. Today, again the Senator from Maine has stated it succinctly and positively.

Whether the administration administers the program as we like it or not, the fact is that Congress has the responsibility to lay down policy. If anybody thinks that inflation is not rampant in this country, he is either unaware of the facts of life or has closed his eyes and mind to it. Anyone who thinks that the free market forces are going to moderate that inflation, such belief flies in the face of all the advice that comes to us.

All that has been asked here—all that anybody is asking for—is that, somehow or other, as the Senator from Maine has put it, we have a fire extinguisher on the wall—or some medicine in the medicine cabinet in case you get sick. Whatever you wish. The issue is not who favors controls and who opposes them. The issue here is whether we are going to have an orderly program of decontrol or will it be decontrol with confusion and economic chaos. We are trying by our amendment to give some protection to the consumer.

So, again I say the Senator is right, and I compliment him for his courage and his vision. It is our duty to face up to the facts, and the facts of dangerous inflation are in every daily paper. Mark my words, there will be more harsh facts day after day. Many a company has held back on price increases, waiting for the day of decontrol. Steel prices are going up. Automobile prices are going up. Textile

prices are going up. Food prices are not moderating. Rent is going up. Interest is a disgrace—usury. And, yet there are those who say we should wash our hands of it—ignore all of it. This I cannot do.

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

Mr. HUMPHREY. I yield.

Mr. PASTORE. And while the Exxon Co. last year scored a profit of $2.2 billion, the price of oil and gasoline went up.

Mr. HUMPHREY. And they want it up more.

Mr. PASTORE. And nobody has done anything about it. That is what the name of the game is—to do something about it this afternoon in the Senate of the United States.

Mr. MUSKIE. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BROCK. I yield 3 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, I think this is one of the gravest questions the Senate of the United States has dealt with in many years.

What we are really talking about, in the words of Jack Grayson, who administered the price control program for several years, is this. As he put it:

I believe the survival of just about our total economy is at stake.

What we are really trying to do is to amend the laws of human nature. What we have seen is a disaster under controls. As Jack Grayson has said,

One overriding lesson is obvious: wage and price controls have never worked satisfactorily over an extended period of time. Consequently I strongly believe the trends toward wage/price controls and a centralized, or government-controlled, economy should be halted.

It could not have been worse than it has been under controls. What we do is distort the whole sensitive pricing mechanism of the free market. We have been utter failures at doing that. Under controls we try to take every pricing decision that is made by millions of consumers, and repeal all those decisions.

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

Mr. PERCY. I cannot yield on our time.

Mr. PASTORE. Will somebody give me time to ask the question?

Mr. PERCY. I will be happy to yield on the Senator's time.

Mr. PASTORE. Who has the time? I have the question—who has the time? [Laughter.]

Mr. PERCY. I suggest that the Senator address it to the manager of the bill. If I had time remaining, I would be happy to yield to the distinguished Senator.

I should simply like to point out that there is ample evidence that the mere existence of the authority to impose controls, and of an agency to manage those controls, encourages higher prices, and prevents price decreases.

Let me give a practical example based on my own experience. When a company introduces a new product line, it has to determine a price for that line. Ordinarily, it would offer the product at an attractive price to consumers, even though it is not certain of the appropriate market price for the product when it is in full operation, and the costs of production are proven out.

In an ordinary market situation, a company is free to introduce the product at what it considers a competitive price, then raise, or lower, that price as the product comes into full production.

Under standby controls, however, the company would likely seek to introduce its product at "full price"—the highest price the product could reasonably bear. The reasons are clear. If the company fears the possibility that controls will be slapped on, it wants to have the highest base price possible. Furthermore, even if the company finds that its actual costs of producing the new product are much lower than anticipated, it will be reluctant to reduce the product's price just in order to keep a high base price.

In this way the standby controls will actually stimulate inflation—by encouraging higher prices, and discouraging price reductions.

Mr. President, I am absolutely convinced of the danger of standby controls. I say, let us get back to economic fundamentals. Every American has the clear evidence before him in his weekly grocery bill that controls have not worked. Controls are not the answer to this country's current price inflation.

Mr. TOWER. Mr. President, the monitoring provision of the amendment should be avoided as both unwise and unnecessary.

In the first place, the establishment of a monitoring mechanism, through which wage-price developments would be scrutinized by a single government agency, would create the same expectational pricing effect which standby controls would have. The net effect of this, as in the establishment of standby authority, would be to discourage price decreases and encourage increases out of fear that controls could indeed be imposed.

The establishment of monitoring authority could be accomplished through administrative, rather than legislative, action.

It would be a redundant move, since a great deal of monitoring wage and price developments is already conducted by various government agencies.

It may reduce the need for Congress and the administration to seek stability through appropriate monetary and fiscal policies and other stabilization tools.

Therefore, that provision should be defeated.

Mr. President, I reserve the remainder of my time.

Mr. HUMPHREY. Mr. President, I have an amendment to offer. Is this the proper time to offer it?

The PRESIDING OFFICER. The amendment is not in order until the time has been used or yielded back.

Mr. MUSKIE. Mr. President, I yield 2 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. STEVENSON. Mr. President, this debate always assumes it is a question of controls or no controls. There is not a single supporter of this amendment who wants controls. The real question is: How do we get controls off the economy? When phase II was terminated prematurely prices exploded and the freeze followed. If the authority to impose wage and price controls is abandoned now prices will surge, which has been admitted, and wages will follow. People will suffer and controls will be reimposed.

Controls were first imposed when prices were increasing at an annual rate of 4.4 percent. Prices are increasing today at an annual rate of over 14 percent. There is not a single Member of this body who can say that a government which imposes controls at 4.4 percent will not reimpose them at 15 percent, 16 percent, 17 percent, or 18 percent, and that is exactly what we are up against.

This is not a control amendment; this is a decontrol amendment. What it seeks to do is to provide for orderly control of the economy so that we can get rid of wage and price controls and in the meantime protect the people from the ravages of inflation. It would be a tragedy, in the name of the free market, if Congress abandoned that fight to protect the people from inflation and in so doing it led to a reimposition not just of controls or the freeze, but even a more severe dislocation in the economy than we have experienced already.

Mr. President, I urge the support of the amendment.

Mr. JOHNSTON. Mr. President, I am glad that we have finally heard some word in this Senate about monitoring and what is wrong with monitoring. I have been holding hearings in the subcommittee over a period of months and today we heard the first statement against monitoring. We have yet to hear one statement about the enforcement of commitments, and that is the second vote we are going to take today. They are commitments freely given by industry, many in such a way they will work. We are dealing with the question of whether we shall enforce those commitments.

It is incredible that in the face of 14.5 percent inflation this Senate should say, "Let us walk away from those commitments." What is unreasonable about enforcing commitments given? What is unreasonable about enforcing commitments relating to prices and productive capacity given by industry?

If we vote "No" on both phases of this bill we are going to tell industry, "What you promised you need not deliver to the American people." What is our response going to be when they walk out on those promises and raise prices through the roof? It is important that we consider that. To my friends in labor and business who urge so strongly that we vote this bill down, they are being led down the primrose path and we will be here this summer if the Senate votes this down, and not for standby controls, but faced with an emergency situation and total control of the economy.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Texas has 4 minutes remaining.

Mr. BROCK. Mr. President, I yield 2 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, the question I was asked by the manager of the bill was, "What is wrong with standby controls?" I would like to answer in the words of a man who is a distinguished academician, an administrator, and a man who did an outstanding job as the Chairman of the Cost of Living Council, Dr. Jack Grayson. He said:

People have learned lessons from the various phases. One of the lessons they have learned is that good guys often get hurt worst. If you do not take your price increases as fast as your costs go up (and you certainly do not want to take decreases) you may be caught with your base price down.

Mr. President, I made a survey of our hospitals after they were limited to a 7.5 percent to 9 percent increase by the Cost of Living Council. I found that every last hospital in Illinois took the full increase. When I said to them, "How can you justify the full increase which, in effect, is the same for Chicago as for a small community in downstate Illinois?" They said, "Look, this is self-preservation. If we do not put ours at 7.5 percent to 9 percent now, then the next price increase will be on top of a reduced base and we will be at a disadvantage."

The same thing happens when an allowable increase goes in for an industry. Everyone takes the full increase. The inequities grow and grow until you finally must decontrol and find a way out. We have at last worked our way out.

Mr. President, I have been deeply impressed by the comments of some of our most distinguished economists and businessmen about the need to end the controls.

As a practical matter, it seem clear, wage/price controls would not work any longer in the current economic environment. According to Dr. Arthur Burns, a distinguished economist and the esteemed Chairman of the Federal Reserve Board:

The character of the inflation in 1973 was very different from the inflation that troubled us in earlier years.

. . . When an economy is beset by inflationary forces of such exceptional character, governmental intervention in pricing decisions or wage bargaining can hardly be expected to be very effective.

Worse, there is a widely held view that controls themselves have created scarcity. Dr. Burns has expressed his view that:

(Government control efforts) aggravated the growing scarcity of a host of goods in our markets. In some instances, price controls have led to curtailment of less profitable lines of production. . . . In other instances, critically needed materials have been exported because domestic prices were kept by governmental fiat below the price level ruling in international markets.

I believe that a good case can be made that full-scale decontrol now would have the virtue of getting us through the price "bubble" quickly. Mr. David Rockefeller, the chairman of the Chase Manhattan Bank and a very astute businessman, put it very well:

. . . both business and the public generally apparently understand that rapid price inflation is unavoidable in the first half of 1974. If the bulk of our decontrol-related price increases occur now, that could improve the chance that the inflation rate will moderate later in the year. That, in turn, would have a most beneficial effect on consumer spending and might also permit the Federal Reserve to pursue a more expansionary monetary policy.

Even though it is claimed that controls should be retained in construction. in fact now may be the best time for removal of controls in construction. According to Mr. Rockefeller:

In the case of construction, one of the more sensitive areas, this may be as good a time as any for decontrol in view of the current weakness in housing and office building. In the future, as growth resumes, in these sectors, the wage and price increases following decontrol might be greater than they would be now.

Finally, I believe we must stop fooling the public that efforts to manage the economy can work. Dr. Grayson:

Wage-price controls misguide the public. They draw attention away from the fundamental factors that affect inflation—fiscal and monetary policies, tax rates, . . . The danger is that attention will become permanently focused on the symptom-treating control mechanism rather than on the underlying problems.

Mr. BROCK. Mr. President, I wish to respond to the remark by the Senator from Louisiana that Senators may have to vote only for one of these or both because inflation is going up to 14.5 percent and we need the monitoring and we need the ability to enforce these agreements.

I do not argue with that except the fact that these agreements were made at different times. The average working person in this country lost 4.7 percent of his purchasing power in real dollars, and there are not fat cats; they are people who work for a living and who sweat for a dollar.

That is all Senators are going to penalize if they pass these controls, or if they pass a continuation. Monitoring or otherwise, the fact is that these people have been literally deprived of their earnings without due process because our policy was not cognizant of how the marketplace must operate. That is what is wrong with a continuation of the controls and that is why we have to have complete removal of them.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Texas has 1 minute remaining.

Mr. TOWER. I reserve my time.

The PRESIDING OFFICER. The other side has no time remaining.

Mr. TOWER. Mr. President, I am prepared to yield back my time.

The PRESIDING OFFICER. All time having expired or been yielded back, the question is on the first part of the amendment.

Mr. HUMPHREY. Mr. President, I have an amendment to section 205, which is the first part of the amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

Mr. HUMPHREY. The purpose of the amendment, which is offered on behalf of the Senator from Delaware (Mr. ROTH) ——

The PRESIDING OFFICER. Will the Senator send his amendment to the desk?

Mr. HUMPHREY. I do.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk proceeded to read the amendment.

The amendment is as follows:

At the end of the matter proposed to be added, add the following:

"CONGRESSIONAL REVIEW

"SEC. —. (a) An order or regulation issued under section 205 shall take effect on the date on which the President transmits to the Congress a message setting forth the proposed order or regulation, together with the reasons therefor (or at such later date as may be provided for in the order or regulation), and shall remain in effect until the date on which such order or regulation by its own terms shall cease to be effective, or the date, not later than 30 days of continuous session of the Congress after the message is transmitted, on which either House of Congress passes a resolution stating in substance that such House disapproves such order or regulation, whichever is earlier.

"(b) For the purpose of subsection (a)—

"(1) continuity of session is broken only by an adjournment of Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 30-day period.

"(c) In the consideration of any concurrent resolution under this section, the Senate or House of Representatives, as the case may be, should take into account, among other factors, whether the proposed order or regulation would—

"(1) seriously impair production in a manner which would create shortages or economic distortions;

"(2) stimulate foreign demand and encourage excessive exports of scarce commodities; or

"(3) not effectively moderate the rate of inflation."

Mr. HUMPHREY. Mr. President, the purpose of the amendment, which has been introduced by the Senator from Delaware (Mr. ROTH) and myself, is that if standby controls were legislated and if the President saw fit to apply controls, then within the first 30 days of imposition of the controls, either House of Congress, by majority vote, could disapprove the controls.

In other words, if labor or business felt that either one was getting a bad deal, Congress could decide that the controls would come off. This makes it possible for Congress to participate, as was stated by Senator ROTH, in the ultimate decision as to the application of any proposal of wage and price controls. If either House thinks they are unfair, they would go out. The problem with controls is that they have been unfairly applied. We may not be able to change human nature, but we can do a better job of applying the

law. Our amendment is designed to assure fairness as judged by the Congress. It is a restraint on the Executive.

Mr. JOHNSTON. Mr. President, we have no objection to the amendment. We endorse it. We think it improves the bill.

Mr. ROTH. Mr. President, I want to thank the distinguished Senator from Minnesota (Mr. HUMPHREY) for his strong support of my efforts to provide for congressional oversight of the stabilization process.

Briefly, this amendment would allow the Congress to disapprove any Presidential order or regulation to reimpose controls on any one sector of the economy. Under this amendment, either House of Congress will have 30 days to veto, by simple resolution, any Presidential attempt to impose controls.

The Roth-Humphrey amendment will insure that each Member of Congress has the opportunity to play a major role in the formulation of any such policy decision.

By providing that both the President and the Congress will be held responsible for any stabilization regulation, this amendment will take partisan politics out of the formulation of our economic policy.

Giving the President broad unlimited authority will not in itself cure inflation, although it may cause the American public to think so. It is, in my judgment such over-optimistic claims made for this and other legislation that leads to a lack of credibility on the part of the public and the faith and respect for Congress will continue to go down as long as these claims are being made.

I just do not see how we can seriously claim that we are taking positive action to fight inflation if we give all of the responsibility of control to the President when he does not even want that authority.

I am seriously concerned by the way we have repeatedly ducked our responsibilities by turning over broad grants of power to the President. And I know that the distinguished Senator from Minnesota shares my concern.

I tend to agree with the statement made last week by the distinguished Senator from Michigan (Mr. GRIFFIN) that if the Congress really believes in controls, we should write our own program.

If we are not willing to take that responsibility, the very least we can do is share the responsibility equally with the President.

Let me quote an interesting article that appeared in the Wall Street Journal yesterday. The author, Mr. Albert R. Hunt, is also concerned about the Congress granting the President broad unchecked authority.

In the article, he writes:

> Even if controls are needed to stop raging inflation and even if it's desirable to have a more orderly decontrol process, the notion that a President should again be given sweeping powers to affect people's lives with little regard as to how that power will be utilized isn't a very encouraging sign in the age of Watergate.

I know that many of my colleagues are also concerned about allowing the President to single out only one sector of the economy for mandatory controls.

I also believe that it would be discriminatory to place controls on one segment of the economy while all other segments are decontrolled.

The Roth-Humphrey amendment would insure that the Congress will have the opportunity to guard against such discriminatory controls.

Our experience with mandatory controls has shown that their indiscriminant use very often seriously impairs production in a manner which creates shortages and economic shortages.

Mandatory controls have also tended to stimulate foreign demand and encourage excessive exports of scarce commodities.

And, we have seen that mandatory controls very often do not effectively moderate the rate of inflation.

The Roth-Humphrey amendment will insure that each Member of Congress has the opportunity to take these factors into account.

I urge my colleagues to accept this amendment to insure the Congress of its constitutional responsibility.

Mr. BROCK. Mr. President, as I understand the parliamentary situation, it is that there are 2½ minutes allocated to each side. Is that correct?

The PRESIDING OFFICER. Yes.

Mr. BROCK. I rise in opposition to the amendment. I do not object to the concept that we have congressional oversight over controls, but the fault I find is that if we adopt the two proposals, or the single separated proposal, of the Senator from Maine and the Senator from Louisiana, there is a requirement that business and labor adhere to agreements entered into without approval of Congress. There is no due process at all, and there are people who will continue to be damaged by the fact that the rate of inflation has so far exceeded their expectations when they made those agreements. The fact is that those working people are going to be obligated, if the amendment of the Senator from Louisiana and the Senator from Maine is adopted, and those agreements cannot be broken with or without the review or consent of Congress. Those people lost 4.7 percent of their real earnings last year. They have no protection, and this amendment really does not change that situation.

Mr. HUMPHREY. That is right. My amendment applies to section 205. The Senator is correct in his analysis.

Mr. BROCK. I thank the Senator.

Mr. HUMPHREY. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

Is the Senator's amendment to the first part of the amendment?

Mr. JAVITS. The Senator's amendment is to the first part of the amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

Will the Senator send his amendment to the desk?

Mr. JAVITS. I will.

The PRESIDING OFFICER. The clerk will state the amendment.

The LEGISLATIVE CLERK. The Senator from New York (Mr. JAVITS) proposes an amendment——

Mr. JAVITS. On page 1, strike lines 1 to 3, inclusive.

The LEGISLATIVE CLERK. On page 1, strike lines 1 to 3, inclusive.

Mr. JAVITS. Mr. President, my only reason for offering this amendment—and I shall withdraw it—is that, under the procedure, there seemed to be no opportunity to adress oneself to this critically important subject without offering an amendment which would allow 5 minutes, but I shall not take that.

Mr. President, the debate has proceeded on two false assumptions in my view.

False assumption No. 1 is that inflation at the rate of 14 percent was attributable to controls; and the fact is, Mr. President, the economy is essentially decontrolled, and that there were only 12 percent of the items in the Consumer Price Index and 32 percent of the items in the Wholesale Price Index subject to controls.

What has happened is that phase II was a success and phase IV was a disaster because of decontrol, not because of controls.

The second point, which is critically important, and which we must always consider is, where would this situation have gone if we had had no controls or no machinery for controls?

After all, our friends in the Middle East did not think anything of raising oil prices 300 percent—not 14 percent; 300 percent.

When we think of the fact that controls have been iniquitous because prices were brought up, the workingmen had better decide that they could have been destroyed if they had not been put on.

The other factor which is sadly missing is that what we are contending for with standby authority is an Army, Navy, and Air Force in the economy. Would we think of stripping ourselves of this security? This is exactly what we are being asked to do. This Government is being asked to leave itself with no means to govern, not even in the obligation to enforce commitments in contracts, by those who would oppose this amendment. A government which would consent to a situation leaving itself unable to govern is not worthy of the name. We may lose, but we are contending for the right thing.

Finally, I have been in business also, like some of my friends here, including my friend from Illinois (Mr. PERCY), and I have been paid huge fees for running a business——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, I yield myself 2 more minutes.

The PRESIDING OFFICER. The Senator has only 2½ minutes on his side.

Mr. JAVITS. Very well. I bow.

May I have half a minute?

Mr. BROCK. I yield half a minute.

Mr. JAVITS. Just to complete my thought.

It is argued that business will keep up prices because it will be afraid controls will be reimposed. If business has that kind of monopoly power, where competition will not bring prices down, then we had better have standby controls, which is the reason why the amendment should be adopted.

Mr. BROCK. Mr. President, I yield myself 2 minutes or the remainder of my time.

I think the Senator may have stated the concern I have when he said what we are going to do, by having standby authority, is to give ourselves an Army, Navy, and Air Force. I think that is exactly the point. I wonder if we need an Army, Navy, and Air Force to run the American people in their lives and production.

I wonder if controls should be enforced almost literally at the point of a gun and people told that if they do not operate at the will of the Government, rather than at the will of employees, employers, or the market place, they are going to be subject to Government. That is why I am against controls. There is nothing about them consistent with freedom. If we are going to face up to that, I think we had better get rid of controls, get rid of control of American business, and give it back to the people. That is the issue. I thank the Presiding Officer.

Mr. JAVITS. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on the two back-to-back amendments there be a 10-minute time limitation which, I understand, is perfectly acceptable to all parties.

Mr. TOWER. Mr. President, that means the vote will take 10 minutes?

Mr. MANSFIELD. The Senator is correct.

Mr. PERCY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PERCY. Mr. President, is there time remaining to the managers of the amendment?

The PRESIDING OFFICER. No. There is no time remaining.

Mr. HATHAWAY. Mr. President, I have an amendment at the desk which I ask to have stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk proceeded to state the amendment.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment reads as follows:

At the appropriate place, following section 206(c), insert the following:

(d)(1) Except as provided in paragraph (2), all information reported to or otherwise obtained by any person exercising authority under this title which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be considered confidential for the purposes of that section, except that such information may be disclosed to other persons empowered to carry out this title solely for the purpose of carrying out this title or when relevant in any proceeding under this title.

(2)(A) Any business enterprise with annual sales in excess of $25,000,000 shall make public any information which relates to a substantial product and which is required under this title to be reported to the President or any person or agency exercising authority under this title. As used in this subparagraph, the term "substantial product" means any single product or service which accounted for 5 per centum or more of the gross sales or revenues of a business enterprise in its most recent full fiscal year.

(B) A business enterprise may exclude from any report made public pursuant to subparagraph (A) any information or data reported to the President or any person or agency exercising authority under this title, proprietary in nature, which concerns or relates to the amount or sources of its income, profits, losses, costs, or expenditures but may not exclude from such report, data, or information, so reported, which concerns or relates to its prices for goods and services.

(C) Immediately upon enactment of this title, the President or his delegate shall issue regulations defining for the purpose of this title what information or data are proprietary in nature and therefore excludable under subparagraph (B), except that such regulations may not define as excludable any information or data which cannot currently be excluded from public annual reports to the Securities and Exchange Commission pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 by a business enterprise exclusively engaged in the manufacture or sale of a substantial product as defined in subparagraph (A). Such regulations shall define as excludable any information or data which concerns or relates to the trade secrets, processes, operations, style of work, or apparatus of the business enterprise.

The PRESIDING OFFICER. The Senator's amendment is not in order because it amends section 206 as opposed to section 205.

The question now is on agreeing to section 205, as amended.

Mr. HUDDLESTON. Mr. President, I call up my amendment No. 1235.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk proceeded to state the amendment.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment reads as follows:

After the semicolon at the end of section 205(c)(2)(C)(ii) strike out "and".

Redesignate clause (D) of section 205(c)(2) as clause (E), and insert immediately before such clause (E), as redesignated, the following:

"(D) in the case of controls applicable to a service-oriented sector of the economy, the extent to which such controls will limit, or otherwise affect, the quality of services rendered; and".

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOWER. Mr. President, the argument provides for 10 minutes limitation of time on the entire amendment with a vote to come on the amendment as divided. Is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HUDDLESTON. Mr. President, we are all aware of the three findings which the President must make before he can use the authority granted in this legislation to impose controls on any sector of the economy. We have had time to read and study the factors which the President must take into consideration in making these findings. And, we are aware of the importance of weighing all of these factors carefully lest the controls to be imposed prove more detrimental than advantageous.

My amendment, Mr. President, would add one more item to the list of factors which the President must consider.

In addition to requiring the President to consider the extent to which inflation can be moderated by economic controls on one sector without imposing them on other sectors; the extent to which competition moderates inflation; the effect of controls on supply and the time frame required for market correction of inflation, my amendment requires the President to consider the extent to which controls on a service-oriented sector of the economy would limit, or otherwise affect, the quality of services rendered by such sector.

As I stated when introducing my amendment, the output of service-oriented activities constitutes 41.5 percent of our approximately $1.3 trillion economy. In current dollars, this percentage represents a figure of $534.3 billion—well over 1½ times the proposed Federal budget for fiscal year 1975.

In view of this, it is, I believe, imperative to include an explicit requirement for Presidential consideration of the service sector. Before imposing any controls, it seems only logical for the President to examine any possible adverse affect such economic controls might have on services.

Mr. President, I believe this amendment is acceptable to the manager of the bill. And I yield whatever time I have remaining to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, the amendment is agreeable to me. And I ask unanimous consent to modify my amendment which would, I think, avoid

a vote on it, to include the amendment of the Senator from Kentucky and include it in the context of the bill.

I am delighted to accept it.

I yield back the remainder of my time.

The PRESIDING OFFICER. Without objection, the unanimous-consent request is agreed to. All time has been yielded back. The question is on agreeing to the amendment as modified (putting the question).

The amendment was agreed to.

Mr. MATHIAS. Mr. President, I have an amendment at the desk which I ask to have stated.

The PRESIDING OFFICER. The clerk will state the amendment.

On page 17, line 3, after the words "SEC. 214" strike the following: "207 (relating to Administrative procedure),".

On page 17, line 16, after the words "SEC. 216.", add the following: "ADMINISTRATIVE PROCEDURE.

"(a) The functions exercised under this title are excluded from the operation of subchapter 11 of chapter 5, and chapter 7 of title 5, United States Code, except as to the requirements of sections 552, 555 (c) and (e), and 702 of such title, and except as to the requirements of section 553 of such title as modified by subsection (c) of this section.

"(b) Any agency authorized by the President to issue rules, regulations, or orders under this shall, in regulations prescribed by it, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or seeking an exception or exemption from, such rules, regulations, and orders. Such regulations shall include provision for a statement of exhaustion of administrative remedies which must be issued within sixty days of a request thereof unless a grant or denial is made. If such person is aggrieved by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the agency. The agency shall, in regulations prescribed by it, establish appropriate procedures, including hearings where deemed advisable, for considering such requests for action under this section, except that such agency shall issue no order which has the effect of reducing wages, or salaries in effect, or proposed to be in effect, in an appropriate employee unit unless such order is made on the record after opportunity for a hearing. Not less than thirty days after issuance of such an order a statement of explanation shall be directed to the affected parties and made available to the public. Such statement shall include a full explanation of the reasons why the existing wage or salary, or proposed wage or salary adjustment, does not meet the requirements of, or the standards established by, the regulations prescribed by the agency.

"(c) All rules, regulations, or orders promulgated pursuant to this title shall be subject to the provisions of section 553 of title 5, United States Code, except that all rules, regulations, or orders promulgated must provide for the following:

"(1) Notice and opportunity to comment which shall be achieved by publication of all proposed general rules, regulations, or orders issued pursuant to this title 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 for comment may be waived where strict compliance is found to cause serious harm or injury to the public interest due to rapid inflation or shortages of vital commodities.

"(2) Any agency authorized by the President or by this title to issue rules, regulations, or orders under this title shall hold public hearings on those rules, regulations, or orders which are likely to have a substantial impact upon the Nation's economy or large numbers of individuals or businesses or when such hearings serve to inform the public or aid in obtaining information on actions taken or proposed to be taken. To the maximum extent practicable, such hearing shall be held prior to the implementation of such rule, regulation, or order, but in all cases, such public hearings shall be held no later than 45 days after the issuance of any such rule, regulation, or order, which would have a substantial effect upon the Nation's economy or on large numbers of individuals or businesses.

"(d) In addition to the requirements of section 552 of title 5, United States Code, any agency authorized by the President or by this title to issue rules, regulations, or orders shall publish in the Federal Register all internal rules and guidelines which may form the basis, in whole or in part, for any rule, regulation, or order. Such agency shall also support any grant or denial of a request for exception or exemption from rules, regulations, or others provided for in subsection (b) above with a written opinion setting forth its findings of fact and a specific statement explaining the rationale for such grant or denial. Such opinions shall be published with such modifications as are necessary to insure confidentiality of information protected under section 55(b) of title 5, United States Code.

"(e) All rules, regulations, or orders issued pursuant to this title shall include the following:

"(1) Findings of fact and a specific statement explaining the rationale for each provision contained in such rules, regulations, or orders; and

"(2) Administrative definitions of the terms used in this title when pertinent to the rule, regulation, or order.".

On page 17, line 16, change the number "216." to "217.".

On page 17, line 18, change the number "217." to "218.".

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOWER. Mr. President, is this amendment in order?

The PRESIDING OFFICER. The Chair states that this amendment is to the second part of the amendment. Consequently, the amendment is not in order at this time. It will be in order when the second part of the Muskie amendment is pending.

Mr. MATHIAS. Mr. President, I withhold the amendment for the time being.

The PRESIDING OFFICER. The amendment is withheld.

Mr. TOWER. Mr. President, regular order.

The PRESIDING OFFICER. The question is on agreeing to the first part of the amendment of the senior Senator from Maine, as amended by the amendment of the junior Senator from Maine.

Mr. HATHAWAY. Mr. President, I have an amendment at the desk which I ask to have stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk proceeded to state the amendment.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment reads as follows:

At the end of section 205, insert the following:

(d)(1) Except as provided in paragraph (2), all information reported to or otherwise obtained by any person exercising authority under this title which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be considered confidential for the purposes of that section, except that such information may be disclosed to other persons empowered to carry out this title solely for the purpose of carrying out this title or when relevant in any proceeding under this title.

(2)(A) Any business enterprise with annual sales in excess of $25,000,000 shall make public any information which relates to a substantial product and which is required under this title to be reported to the President or any person or agency exercising authority under this title. As used in this subparagraph, the term "substantial product" means any single product or service which accounted for 5 per centum or more of the gross sales or revenues of a business enterprise in its most recent full fiscal year.

(B) A business enterprise may exclude from any report made public pursuant to subparagraph (A) any information or data reported to the President or any person or agency exercising authority under this title, proprietary in nature, which concerns or relates to the amount or sources of its income, profits, losses, costs, or expenditures but may not exclude from such report, data, or information, so reported, which concerns or relates to its prices for goods and services.

(C) Immediately upon enactment of this title, the President or his delegate shall issue regulations defining for the purpose of this title what information or data are proprietary in nature and therefore excludable under subparagraph (B), except that such regulations may not define as excludable any information or data which cannot currently be excluded from public annual reports to the Securities and Exchange Commission pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 by a business enterprise exclusively engaged in the manufacture or sale of a substantial product as defined in subparagraph (A). Such regulations shall define as excludable any information or data which concerns or relates to the trade secrets, processes, operations, style of work, or apparatus of the business enterprise.

Mr. HATHAWAY. Mr. President, my amendment is simple, and would merely continue the policy of the act in the form in which it expired yesterday. It provides for administrative regulations to determine which information in the possession of the agency or officials administering the act shall be held confidential and which shall be subject to disclosure.

Trade secrets, work styles, suppliers and customer lists, and other types of operating information—including that information covered by the confidentiality requirements of title 18, U.S.C., section 1905—would be confidential as a matter of law.

Such information as single line-of-business firms may not omit from an annual report to the SEC under sections 13 and 15 of the 1934 Securities Act would be subject to public disclosure. In no event would any other information be disclosable under this provision than

numerous business enterprises already make public annually. As a matter of practice, much less would be made public, because the economic stabilization program has required fewer types of information to be reported than does the SEC. Therefore, the disclosure would not be burdensome.

The provision basing disclosure on quarterly price increases exceeding 1.5 percent has been eliminated since that figure is no longer a goal of the Government's efforts to stem inflation. Limitation of the disclosure requirements to the Nation's larger firms has been retained.

Mr. President, the public will not tolerate the Government's operating in the dark. Hearings last year chaired by my colleague, the Senator from Maryland (Mr. MATHIAS) produced evidence of much dissatisfaction concerning the inability of both smaller business firms and private citizens and associations to know the factual premises upon which stabilization programs decisions were based.

To lessen the available information could only exacerbate that situation and further lessen citizens' trust of Government. Retention of the basic provisions of section 205 of the act is essential to maintaining the credibility of even a limited program.

Mr. MUSKIE. Mr. President, the Senator is correct when he says that the amendment is substantially similar to what was in the Economic Stabilization Act.

So I ask unanimous consent to so modify my amendment.

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

Mr. TOWER. Mr. President, a point of order. Is this amendment now in order?

The PRESIDING OFFICER. Yes, it is in order. It is in order. It is the correct section of the amendment, although it may not be sustained.

Mr. TOWER. Mr. President, since the Senator from Maine controls the time in opposition to any amendment, will the Senator yield me 1 minute?

Mr. MUSKIE. Mr. President, I yield 1 minute to the Senator from Texas.

Mr. TOWER. Mr. President, this is an amendment which requires disclosure of information that should be privileged. That information is supposed to be privileged. If it is disclosed, it places them at a competitive disadvantage. It is privileged information. Therefore, I think that the amendment of the Senator from Maine should be rejected. And when all time expires, I intend to move to table the amendment and ask for the yeas and nays.

Mr. HATHAWAY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATHAWAY. Mr. President, how much time remains?

The PRESIDING OFFICER. Thirty seconds remain to the Senator from Maine.

Mr. HATHAWAY. Mr. President, I would like to point out that this provision has been voted on and passed before by the Senate. It also has been voted on and passed by the full Senate.

It is no different than an amendment that was adopted a year ago. It has been part of the law for the past year.

I see no reason why we should not again continue with the same law.

The PRESIDING OFFICER. All time has expired.

Mr. TOWER. Mr. President, I move to table the amendment of the junior Senator from Maine.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the junior Senator from Maine to the first part of the amendment of the senior Senator from Maine (putting the question).

The motion was rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the junior Senator from Maine, to the first part of the amendment of the senior Senator from Maine (putting the question).

Mr. GOLDWATER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second (putting the question)?

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. Mr. President, what are we going to vote on?

The PRESIDING OFFICER. The Senate will be voting on the amendment of the junior Senator from Maine to the first part of the amendment of the senior Senator from Maine upon which all time has expired except for amendments.

Is there a sufficient second (putting the question)? There is not a sufficient second for the yeas and nays.

The PRESIDING OFFICER. There is not a sufficient second.

The yeas and nays were not ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the junior Senator from Maine.

Mr. GOLDWATER. Mr. President, I request a division.

On a division, the amendment was agreed to.

Mr. MUSKIE. Mr. President, I ask for the yeas and nays on the standby control provision, the first part of my amendment.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I move to lay on the table the amendment of the Senator from Maine, and ask for the yeas and nays.

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

Mr. TOWER. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. For just one moment.

Mr. President, I merely want to call attention to the fact that if we proceed now to vote on this part of the amendment—the order being that there be back-to-back votes, with the vote on the second part of the amendment to occur immediately following the vote on the first part, the Senator from Maryland (Mr. MATHIAS) would be shut out from offering his amendment to the second part of the amendment of the Senator from Maine. The order was for back-to-back votes, and I think we have to keep faith with our agreements.

Therefore, I ask unanimous consent that the able Senator from Maryland be permitted at this time to offer his amendment to the second part of the amendment of the distinguished Senator from Maine.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MATHIAS. Very well. Mr. President, I call up the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MATHIAS' amendment is as follows:

On page 17, line 3, after the words "SEC. 214" strike the following: "207 (relating to Administrative procedure),".

On page 17, line 16, after the words "SEC. 216.", add the following: "ADMINISTRATIVE PROCEDURE.

"(a) The functions exercised under this title are excluded from the operation of subchapter 11 of chapter 5, and chapter 7 of title 5, United States Code, except as to the requirements of sections 552, 555 (c) and (e), and 702 of such title, and except as to the requirements of section 553 of such title as modified by subsection (c) of this section.

"(b) Any agency authorized by the President to issue rules, regulations, or orders under this shall, in regulations prescribed by it, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or seeking an exception or exemption from, such rules, regulations, and orders. Such regulations shall include provision for a statement of exhaustion of administrative remedies which must be issued within sixty days of a request thereof unless a grant or denial is made. If such person is aggrieved by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the agency. The agency shall, in regulations prescribed by it, establish appropriate procedures, including hearings where deemed advisable, for considering such requests for action under this section, except that such agency shall issue no order which has the effect of reducing wages, or salaries in effect, or proposed to be in effect, in an appropriate employee unit unless such order is made on the record after opportunity for a hearing. Not less than thirty days after issuance of such an order a statement of explanation shall be directed to the affected parties and made available to the public. Such statement shall include a full explanation of the reasons why the existing wage or salary, or proposed wage or salary adjustment, does not meet the requirements of, or the standards established by, the regulations prescribed by the agency.

"(c) All rules, regulations, or orders promulgated pursuant to this title shall be subject to the provisions of section 553 of title 5, United States Code, except that all rules, regulations, or orders promulgated must provide for the following:

"(1) Notice and opportunity to comment which shall be achieved by publication of all proposed general rules, regulations, or orders issued pursuant to this title 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 for com-

ment may be waived where strict compliance is found to cause serious harm or injury to the public interest due to rapid inflation or shortages of vital commodities.

"(2) Any agency authorized by the President or by this title to issue rules, regulations, or orders under this title shall hold public hearings on those rules, regulations, or orders which are likely to have a substantial impact upon the Nation's economy or large numbers of individuals or businesses or when such hearings serve to inform the public or aid in obtaining information on actions taken or proposed to be taken. To the maximum extent practicable, such hearing shall be held prior to the implementation of such rule, regulation, or order, but in all cases, such public hearings shall be held no later than 45 days after the issuance of any such rule, regulation, or order, which would have a substantial effect upon the Nation's economy or on large numbers of individuals or businesses.

"(d) In addition to the requirements of section 552 of title 5, United States Code, any agency authorized by the President or by this title to issue rules, regulations, or orders shall publish in the Federal Register all internal rules and guidelines which may form the basis, in whole or in part, for any rule, regulation, or order. Such agency shall also support any grant or denial of a request for exception or exemption from rules, regulations, or orders provided for in subsection (b) above with a written opinion setting forth its findings of fact and a specific statement explaining the rationale for such grant or denial. Such opinions shall be published with such modifications as are necessary to insure confidentiality of information protected under section 55(b) of title 5, United States Code.

"(c) All rules, regulations, or orders issued pursuant to this title shall include the following:

"(1) Findings of fact and a specific statement explaining the rationale for each provision contained in such rules, regulations, or orders; and

"(2) Administrative definitions of the terms used in this title when pertinent to the rule, regulation, or order.".

On page 17, line 16, change the number "216." to "217.".

On page 17, line 18, change the number "217." to "218.".

Mr. MATHIAS. Mr. President, this amendment is very simple; I do not have to take much time to explain it. The Senate has already acted on the subject matter in connection with the energy bill which we passed last Christmas.

It provides procedural safeguards, so that the general public can find out what is happening to them, to their business, and to their means of livelihood in the course of dealing with wage and price controls.

The Subcommittee on Separation of Powers, of which the senior Senator from North Carolina (Mr. ERVIN) is the chairman, held extensive hearings on the operation of the Cost of Living Council, and we found out that procedurally the wage and price program is deficient in its dealings with the public. The public cannot find out what is happening; they cannot find out what are the baseline figures and statistics upon which decisions are made.

This is a means of getting to the average business man, the average consumer, the average wage earner, the means of finding out what is happening to his life and his livelihood, when and if the price control system comes into being. It simply provides some sort of administrative guarantees to the average citizen. It does nothing more.

The Senate overwhelmingly adopted the same safeguards on the energy bill, and I commend them to the Senate tonight.

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

Mr. JOHNSTON. Mr. President, we not only accept but endorse this amendment. It is an excellent one, and provides for those safeguards that have been recommended by the subcommittee. The Senator from Maryland is to be commended for offering the amendment.

The PRESIDING OFFICER (Mr. BIDEN). All time having expired, the question is on agreeing to the amendment of the Senator from Maryland.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the first part of the amendment of the senior Senator from Maine, as amended. On this question, the yeas and nays have been ordered.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. Was there not a motion to lay on the table?

Mr. TOWER. The amendment of the Senator from Maryland came in under a unanimous-consent agreement. I ask for the yeas and nays on the motion to lay on the table.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, there will now be two votes back to back, and these are 10-minute votes.

Mr. EAGLETON. Mr. President, I am opposed to any extension of the wage and price control authority which this administration says it does not want and which the record shows it has badly used.

I agree with proponents of the extension that we need vigorous action against inflation. But inflation cannot be stopped by passage of an act the administration either will not administer or which it uses to hold down wages and pensions while letting prices soar out of sight.

We have been through this before. The Congress had to force the authority on an unwilling administration when it first passed the act in 1970. And I think the record will show the Congress was right at the time. When controls were applied meaningfully as they were through part of 1971 and 1972, the increase in the cost of living dropped to 3.4 percent compared with 6.1 and 5.5 percent in the first 2 years of this administration

Since then, however, the administration has shown less and less inclination to make effective use of the authority, beginning with its precipitous scrapping of the phase II program after the 1972 election.

The result was inflation soared to 8.8 percent in 1973 and today is running out of control at an annual rate of 14.5 percent through the first quarter of this year. Worse, the average American is losing ground with a decline in real earnings of 4.7 percent in the past year.

Inflation is the priority concern of Americans, but extension of a discredited program of wage and price controls is no answer. This administration has made it clear it does not want controls and will not use any authority Congress forces on it. I see no point in pursuing barren courses. I believe we should let the authority expire and turn our attention to new measures which have some chance of dealing with the problem. In this, the administration has a responsibility to the American people and Congress to come forward with its proposals.

Mr. TUNNEY. Mr. President, the Senate is now considering proposals to extend the legislative authority for wage and price controls. Inflation today is worse than at any time in our peacetime history. If a continuation of the present controls authority offered any real hope of reducing the rate of price increase, I would be among the leading proponents.

The sad fact, however, is that controls as we have known them simply do not work. When the Economic Stabilization Act was enacted in 1970, the rate of inflation was less than 5 percent. Under phase IV controls, inflation reached the astounding rate of 9.6 percent. Today, after almost 3 years of on-again, off-again controls, prices are advancing at a rate of more than 14 percent.

Congress can no longer deal with inflation by blindly delegating large blocks of authority to the President. If the administration presents a comprehensive set of proposals providing legislatively specific suggestions for dealing with the sources as well as the symptoms of inflationary pressures, I, for one, will be pleased to consider such suggestions with an open mind.

At present, however, I believe the interests of the American people would be ill served by a continuation of price control policies which have demonstrably failed the test of time.

Mr. CRANSTON. Mr. President, I want to state my principal concerns over proposals to enact standby wage and price controls, and to suggest some positive steps Congress and the administration might take to work towards damping down the current inflation and avoid future inflation.

I say damp down because that appears the most we can expect to achieve at the moment. Inflation is rampant worldwide. We operate in a world economy. We are dependent on foreign raw resources and foreign markets for selling many of our goods. The balance of payments is an important element of inflation and is linked to trade and our overseas military activities and foreign aid.

I advocate the elimination of wage and price controls because:

First, I am totally convinced that the Nixon administration cannot and will not properly administer a wage-price control program voted by this Congress. Irrespective of arguments about whether

controls are or are not a good idea, the President has said he does not want controls. So have business and labor.

Second, there is some evidence that the controls program itself fueled inflation. Certainly the decision by Secretary of Agriculture Earl Butz to keep acreage controls in the face of mounting world demand for food is a dramatic example of the misuse and failure of a control program. Price restraints created many shortages, which could be relieved only by letting prices go up. More money could be made shipping logs to Japan than by processing them here. The beef freeze did nothing but freeze beef production. It only temporarily halted the climb in prices and once the lid was taken off beef went sky high. There simply was no rhyme or reason to any agricultural or food production and price controls. I have received many complaints from businessmen about unexplainable shortages of materials. The assumption always was: the material was being sold elsewhere or, perhaps, was not being produced due to virtually nonexistent profits on the item in question.

Fourth, one clear attack on inflation is through reduction of military spending and unnecessary foreign military and wasteful and carelessly planned economic aid. Our current inflation can be traced directly to the huge Vietnam expenditures by the Johnson administration which culminated in a $25 billion budget deficit in 1968. The Nixon administration moved in with monetary restraints and program impoundments but these policies produced unemployment and their own budget deficits: $23 billion in fiscal 1971; about $23 billion in 1972 and $14 billion in 1973. Another deficit booms for fiscal 1974.

Throughout all of these years we have had continued heavy military and foreign aid spending—the biggest military budget increases on record for a so-called peacetime era.

The end of the war in Vietnam has not brought a reduction in military outlays. They were $76 million in 1973, an estimated $80.6 in 1974 and now they are pegged at $87.7 billion for 1975.

In addition, the President last week announced that he will seek $5.1 billion in foreign aid for fiscal 1975. That package includes nearly a billion dollars for Southeast Asia to help shift those war-ravaged countries from war-time to peace-time economics, according to the President.

But I ask President Nixon: Where is the peace in Southeast Asia we are being asked to support with American dollars?

If there is peace why is this administration again seeking huge increases in military assistance spending in Southeast Asia?

And if there is peace why, once again, must the American taxpayers be asked to support military spending projected at $87.7 billion?

Mr. President, in the 5 years I have been in the Senate I have voted for every national defense budget, although I've never approved all aspects of any one of those budgets. In a world still ruled by force, we must remain militarily strong. But we cannot remain strong in the face of a raging inflation that threatens not only our economic system but our social system and private institutions as well.

Every inflationary wave in history was created by war spending. Today, even though we are supposed to be at peace with the world, we have a war-time-sized military budget. It fuels inflation, and it also is inflation's victim, with costs ballooning up month after month.

It also appears—incredibly, to my way of thinking—that this administration is using these huge, wasteful military expenditures in a misguided effort to help the faltering economy and provide jobs.

The March 1974, annual report of the Joint Economic Committee of the Congress, pointing to administration testimony and statements that admitted the use of military spending for pump-priming the economy, made the following observation:

> Defense spending tends to be inflationary. Defense goods and services cannot be consumed by the public, and to the extent that resources are employed by the military, they are unavailable for civilian purposes. The removal of goods and services from the civilian economy may create or contribute to shortages. Defense programs inject expenditures into the economy but they do not produce goods or services to satisfy consumer needs. Arms are not sold to the public.
>
> Furthermore, to the extent that increased defense spending does serve to increase income and employment, it may also serve to increase the danger of future dislocation and recession. The defense buildup of 1965–68 added to employment as well as inflation, and it also planted the seed of the 1969–71 recession.

What a tragic waste of our limited resources.

We should be creating jobs in the critical areas of energy development, mass rapid transit, housing, pollution controls, health and education, not by maintaining a huge military apparatus, some $30 billion of it overseas at some 2,000 foreign military bases where, incidentally, we also employ 160,000 foreign nationals.

We must come to grips with these enormous military budgets.

My fourth point, Mr. President, concerns productivity and efficiency in our economy.

The Labor Department reported last week that productivity—the amount of goods or services a worker produces in one hour—fell by the largest quarterly decrease since 1958.

The decrease was at an annual rate of 5.5 percent for the first quarter of 1974. By comparison, the decline was only 0.8 percent—eight-tenths of 1 percent—in the last quarter of 1973.

As you would expect, unit labor costs—the cost of labor for each unit of output in the overall economy—also rose. The increase was at an annual rate of 11.3 percent, the sharpest rise since the first quarter of 1956.

Now most of this decline in productivity is traceable to inflation but this pessimistic report illustrates another problem in our economy which also contributes to inflation—the poor productivity performance of the U.S. economy, especially in relationship to other major industrial economies in the world.

For it is a sad fact that our rate of productivity gain is below other industrial nations and if we continue to fall behind our long-term inflation problem, our balance of trade and the value of the American dollar will remain in jeopardy. Unfortunately, there are no quick solutions to productivity problems but there are some steps which Government can take:

First. Expand scientific and technological research and development. The Senate has before it the National Science Policy and Priorities Act, S. 32—Kennedy—to expand Government support of research. That legislation should be passed. There should no longer be question about the Government's role in research. Our long and heavy support of agricultural research has increased productivity on the farms every year for many years. Today, our agriculture is the most productive in the world and we have by no means reached our limits.

Second. Expand Government investments in education and training. The relationship between high technology, high productivity, and educational achievement of workers have been established beyond doubt. Yet, today hundreds of thousand of capable young men and women are denied the opportunity of higher education and advanced training because they and their families are too poor to afford it.

Third. Reduce structural unemployment by grants to workers enabling them to move from depressed economic areas to areas of higher employment and provide a greater Government assistance to geographical areas of high unemployment.

Fourth. Increase competition by tougher enforcement of anttrust laws and regulations and broaden foreign trade with proper safeguards against unfair foreign competition.

I remain convinced that our best weapon for improved productivity is the free enterprise system itself, with its internal reward systems of profits and high wages for highly productive workers.

And we know from long experience that the free enterprise system works best when it is free of restrictions on competition. Freeing up our free enterprise system should be our first and most immediate objective in combating inflation and avoiding a deepening recession, the first stages of which already are here.

The Government's role should be to encourage production of goods and services by private industry, not to discourage production; to encourage abundance, not scarcity.

Mr. ABOUREZK. I agree that inflation is uncontrollable, that the American people can no longer absorb what is happening to our economy.

But this legislation does nothing to stop that inflation. It merely gives once again unlimited authority to the President to be unfair and uneven in how he places the controls. Under the previous control legislation, prices of oil and

other major items were allowed to rise without any check by the administration. They were unfairly administered and did nothing to alleviate the increase in prices.

If we want controls, then we, the Congress, ought to impose controls—fairly, but we should not give the President the opportunity to unbalance the economy with authority given by this body.

WAGE AND PRICE CONTROLS MUST END

Mr. HATFIELD. Mr. President, it is a simple truth that wage and price controls have not worked. The economy has not been bolstered by these controls, but has instead been thrown off course by their effects.

In approving the Economic Stabilization Act of 1970, the Congress was taunting the President to take steps against inflation, rather than assuming that responsibility itself. At the same time, Congress has begun to grasp the magnitude of its abdication to the executive branch. We struggle to reassert ourselves in the budgetary process, in confirmation powers, and as initiators, not reactors, to legislation. Yet, here in one sweeping gesture, by giving the President the authority to impose wage and price controls, Congress would give away much of its responsibility and power over much of American life.

The heart of the problem lies in whether the objectives of the wage-price controls have been met. They have not. After 2½ years of economic controls under the various phases of the administration's program, inflation is still with us. In fact, even the administration has admitted that the controls, particularly the price freeze imposed on June 13 and lifted for most products on August 12, 1973, may have contributed to inflation by creating shortages.

This is usually what happens when price controls such as those under phase IV are imposed—consumer prices are stabilized temporarily, but inflationary pressures continue, and price increases are only delayed. Only the appearance of price stabilization is achieved.

Chester Bowles, Chairman of the Economic Stabilization Board during World War II and in charge of rationing, recently observed that controls will work only if two factors are present: there can be no international trade, and Government must control the means of production. We can hardly abolish international trade, and Government control of the means of production during peacetime would be intolerable.

There are other ways to deal with inflation than by imposing wage-price controls. Reducing Federal spending is one. Substantial savings can be made by reducing defense spending. Useless domestic programs, Government subsidies, and other areas of waste can and should be curtailed in order to reduce the inflationary impact of deficit spending.

Perhaps the most compelling reasons to allow wage-price controls to expire are found in a simple recital of what has happened under them. We could look at the irrational picture of beef producers withholding cattle from the market, thereby turning hungry consumers to horsemeat markets which in turn set off cries of outrage from certain animal protectionist groups. U.S. fertilizer has been snatched up at low prices in the world market leaving a shortage in this country. Angry consumers who refused to pay supermarket prices turned to canning their food, creating a shortage in canning jars and lids. The endless cycle of pay raises and price increases was dramatized here in Washington when the Federal pay raise prompted increases throughout the District, starting in the Senate cafeteria where the day the pay raise went into effect, the price of toast doubled and all other prices went up as well. The ramifications of each new control become absurd, and still the problem is not understood or under control.

Mr. President, let us not abdicate our responsibility in this area once again by passing the buck to the administration. Let us not try to fool ourselves or the American consumer by attempting to keep up good appearances and treating the symptoms rather than the causes of inflation. Let us allow wage-price controls to expire.

THE DANGERS OF STANDBY WAGE/PRICE CONTROLS

Mr. PERCY. Mr. President, there is ample evidence that the mere existence of the authority to impose controls, and of an agency to manage those controls, itself encourages higher prices, and prevents price decreases.

Dr. C. Jackson Grayson, former Chairman of the Price Commission, has been most persuasive on this point—and he should know. He argues that—

> People have learned lessons from the various phases. One of the lessons they have learned is that good guys often get hurt worst. If you do not take your price increases as fast as your costs go up (and you certainly do not want to take decreases) you may be caught with your base price down.

Let me give a practical example based on my own experience. When a company introduces a new product line it has to determine a price for that line. Ordinarily it would offer the product at an attractive price to consumers, even though it is not certain of the appropriate market price for the product when it is in full operation, and the costs of production are proven out.

In an ordinary market situation a company is free to introduce the product at what it considers a competitive price, then raise, or lower, that price as the product comes into full production.

Under standby controls, however, the company would likely seek to introduce its product at "full price"—the highest price the product could reasonably bear. The reasons are clear. If the company fears the possibility that controls will be slapped on, it wants to have the highest base price possible. Furthermore, even if the company finds that its actual costs of producing the new product are much lower than anticipated, it will be disinclined to reduce the product's price in order to keep a high base price.

In this way the standby controls will actually stimulate inflation—by encouraging higher prices, and discouraging price reductions.

Mr. President, I am absolutely convinced of the danger of standby controls. I say, let us get back to economic fundamentals. Every American has the clear evidence before him in his weekly grocery bill that controls have not worked. Controls are not the answer to this country's current price inflation.

CONTROLS AUTHORITY SHOULD BE TERMINATED

Mr. PEARSON. Mr. President, last night the authority of the Economic Stabilization Act expired. This is as it should be. We have let expire a program that did not cure inflation but did create many inequities and distortions in the economy. Now that the machinery for controls has been abandoned, we would be ill advised to resurect that machinery even in the form of the amendment proposed by my eminent colleagues Senators MUSKIE, STEVENSON, and JOHNSTON.

Mr. President, when controls were first established in 1971 the inflationary rate was running at about 4½ percent. During the first quarter of 1974 the Consumer Price Index measured an annual rate of increase of 14½ percent. It is true that the early stages of the economic stabilization program did have a dampening effect on prices. But this was temporary and apparently did not do much more than simply delay later price increases.

The lesson we have learned is that price and wage controls, if they have any success at all, can only be effective over a fairly short period of time. Extended controls inevitably generate enormous inequities and distortions in the economy.

For example, many of the shortages we have experienced over the past year are in large part the result of artificially imposed price relationships which prevented the free market to properly reflect demand. For example, the shortages in fertilizers, essential to expanded food production, and shortages in tubular steel, essential to expanded oil production have been considerably magnified because of faulty price controls and there are many other such examples.

It is also to be noted that controls tend to be more effective in holding down wages than prices. Thus, while hourly earnings of wage earners increased 6.7 percent between January 1973 and January 1974, living costs increased by 9.4 percent. Also during that period, the corporate after tax profits increased by 27 percent.

Proponents of the Cost of Living Act amendment say, yes, existing controls should be terminated, but we must retain standby authority to reimpose selective controls at a later date if conditions warrant such action. But I am persuaded that the existence of standby authority would have an adverse impact. I think one of the reasons why we have been rather ineffective in controlling inflation is that

we have tended to put too much reliance on the economic stabilization program. We have tended to look to price and wage controls as the principal instrument for controlling inflation and, of course, this has proved to be disastrous.

But retaining standby authority would continue to encourage this reliance on the control mechanism rather than looking to other more fundamental fiscal and monetary policies to curtail inflation.

Also, if standby authority is retained there would be enormous pressure to reimpose controls totally or selectively. The monitors find it almost impossible not to act even when price increases represented pure demand shifts.

Also, I think it is likely that the existence of standby authority would actually add to inflationary pressure. If the machinery were there to reimpose controls overnight this would likely encourage business and labor to adopt a psychology of "we had better get increases while we can. If we do not now we may get caught in a freeze later." And by the same token the existence of standby authority would discourage price decreases. Businessmen are simply not likely to reduce prices for fear that a new freeze would catch them with their prices down.

Mr. President, I do not suggest that wage and price controls should never again be reimposed. It is possible that conditions could develop where this type of drastic and last-ditch action would again be necessary. But should such conditions develop, Congress can act to create new control authority. It is far better that should such action ever be taken it be preceded by full public debate. The decision to reimpose controls should not be left to administrators in the executive branch.

Mr. President, I urge the defeat of this amendment.

WAGE-PRICE CONTROL EXTENSION AND TAX REDUCTION WITHOUT REFORM ARE MISTAKEN POLICIES

Mr. McGOVERN. Mr. President, I urge the Senate to reject the Stevenson-Muskie amendment to S. 2986 and any other bill which would extend the administration's unlimited authority to control the economy. I also will oppose any proposal to reduce taxes unless it also includes tax reform to close unjustified tax loopholes.

The proponents of these measures rightly point to the tremendous increase in inflation in recent months as evidence that we are in the midst of greater economic peril than at any time since 1929. But based on evidence to date, the extension of controls under the present administration and the reduction of taxes without tax reform would make the problem worse.

Economic controls are an uncertain and inadequate solution to inflation. Their effectiveness depends on how the Government uses the control period to treat the underlying causes of inflation. In the case of the present administration we have had phase after phase of wage-and-price controls and month after month of record inflation. In my view this is because the administration has repeatedly applied poor economic policy and the Congress has been unwilling to impose better policy.

For the first time since the 1930's, American jobs and American purchasing power are seriously threatened. In addition to increasing inflation and unemployment, we are now faced with critical shortages—all symptoms of serious economic illness. And the fault lies not with the free enterprise system, but in how that system has been perverted for the special interest of the most favored and the most powerful at the expense of the rest of us.

The problems we have today are not simply the result of incompetent administration. They are rooted in fundamental choices the Government has made over the past few years in wasteful military spending and in the budget and tax policies developed to counter inflationary pressures spawned by the Indochina war and its $100 billion deficits.

Despite frequent talk of returning to a free economy and getting Government out of the people's pockets, the Nixon administration has intervened extensively in economic matters—trying and abandoning several different policies.

During the first 2 years of his Presidency, Mr. Nixon sought to restrain prices by raising unemployment. The result was a major recession and an actual increase in inflation.

To combat this new crisis the President sharply altered his economic policy. Announcing that he had become a Keynesian, he sought to pull the country out of recession by unprecedented Government spending and budget deficits. And to combat war-induced inflation, he imposed wage-controls. At the same time he radically altered the tax structure.

But the emphasis of his program was to benefit the corporate sector. He predicted that higher profits would lead to greater investment and expansion and thus to more employment.

But wages were kept under control, while profits soared to record highs, fattened by multibillion dollar tax writeoffs.

The President is following the same strategy in dealing with the energy crisis today—permitting oil prices and profits to soar on the theory that there is no other way to secure additional fuel.

In the 1960's the Kennedy-Johnson administrations successfully revived the economy through increased Government spending and tax reduction, freer trade with foreign nations, and wage-price guidelines.

But while the Nixon administration has relied on wealth to trickle down from corporate interests to the rest of us, the Kennedy-Johnson administrations sought to benefit workers and consumers directly. Tax relief was basically a lowering of individual income tax rates to increase consumption and therefore production. And attempts to restrain inflation concentrated on prices rather than wages.

The policies I advocated 2 years ago—tax reform, decreased military spending, selective price controls, tougher antitrust enforcement in the case of highly concentrated industries, more public service jobs, and income redistribution—are all urgently needed steps. Their purpose was to improve consumption of needed goods and services and thereby increase investment and jobs, while moving to balance the budget by closing tax loopholes and reducing unnecessary and unproductive military waste.

I think that approach would have been more effective as well as more equitable. Although the abuses of the past would still have taken their toll, an earlier return to sound policy would have lessened the cost.

But now we have a new dimension which pushes even this debate into a secondary role. It virtually guarantees that the 1970's will mark a major turning point in American economic thinking—a period no less profound, and perhaps no less traumatic, than the 1930's.

Today the question is no longer one of choosing between alternative strategies, either of which will produce some measure of prosperity. It is one of coping with shortages of essential commodities which cannot be replaced. In other words, for the first time in our history the problems of inflation and recession are in supply, rather than in demand.

Inefficient uses of industrial commodities in short supply will insure that industry will not soon catch up with the demand for many essential products. And a shortage economy will insure that inflation will continue at the high rates we have seen this year.

No economic forecast I have seen paints a hopeful picture. Even the usually optimistic administration projections herald hard years ahead. The Chairman of the President's Council of Economic Advisers has projected a 33-percent increase in the unemployment rate, coupled with 6-percent inflation. The Department of Agriculture has forecast a 17-percent decline in farm income. Housing starts are already down by 33 percent, choked by the highest interest rates since the Civil War.

The past errors in Government policy should humble us in our future efforts. The President's veto of the oil price rollback deprived the Nation of one method of combating fuel inflation. The administration's disastrous experiment with price controls on agricultural products last summer should teach those who speak for food consumers and food producers that this will not lead to greater production on the farm or lower prices at the supemarket. And the administration's repeated refusal to control the profits of big business, interest rates and executive compensation should teach those who speak for working men and women that this bill will not restore the buying power inflation has robbed from their paychecks this past year.

As the sponsors of this amendment correctly point out, we are now in the midst of the second recession of this administration. Retail prices increased at an annual rate of nearly 15 percent in the first 3 months of this year. Joblessness, now at 5.2 percent, is on the rise again. And interest rates are at the highest level since the Civil War. But

this legacy of the latest phase of the Nixon controls leads me to the contrary conclusion: If unbridled Executive power over the economy has produced these stark results, how will an extension of that power lead to better results.

Because bad policy has been a major source of the present disorder, only better policy will enable us to restore order. The band-aid solution of wage and price controls will prove to be no solution unless we treat the basic underlying causes of inflation. And before we embark along that road again, we must reserve to the Congress the authority in economic affairs the Constitution ordains so that in cooperation with the Administration we can adopt for the first time a truly effective economic policy. In my view this is as good politics as it is good economics: for it will profit us little to blame the President and his party for an economic policy if we have no better alternatives.

If the administration is able to formulate a specific economic plan, we in Congress can move swiftly to pass the necessary authorizing legislation. In retaining the power to do this we can protect ordinary people from the kind of discriminatory policies we have seen when the administration had a blank check to control the wages of workers while it permitted the profits of its big business friends to soar to record highs.

And if the administration fails to develop the proper policies, as seems likely, let us in Congress act prudently to reduce the budget deficit by pruning the fat from military and foreign spending, by reforming the tax structure, and by rolling back oil prices.

For these reasons, Mr. President, I will continue to oppose economic controls until the administration and the Congress demonstrate the will to combat the twin dangers of inflation and recession. For I believe that if the past is any guide to the future, economic controls will merely be used to make our current problems even more severe.

Since this administration took office the cost of living has gone up nearly 33 percent. Because of a 14.5-percent inflation during his first 31 months of office, the President imposed price-and-wage controls. Yet in the subsequent 33 months of Nixon controls, we have had 20-percent inflation. Each dollar we spend is worth 36.7 cents less than it was just over 5 years ago.

In these circumstances I can see no hope for the people if we pass the inflation buck to the administration. I think the Congress can do better; certainly we can do no worse. At times Congress may have been long on rhetoric and short on action. But this last year we have made substantial strides in the areas of budget reform and energy legislation, in passing historic farm legislation and pension reform. Let us add to those accomplishments a sound economic policy.

This great task is before us now. Let us not avoid the challenge and the opportunity by taking the easy course. We have made much of restoring the power of Congress. Let us now exercise that power for the good of the Nation.

In conclusion, Mr. President, let me again stress that the problems which we face are new.

If we treat shortages, inflation, and unemployment as temporary aberrations, and continue special interest policies in combination with military spending at an all-time high, our wealth and prosperity will ebb.

But, if instead, we fashion policies in the public interest, our wealth and strength will be renewed.

Mr. President, the Wall Street Journal of April 30, 1974, contains an excellent article by Mr. Albert R. Hunt, a member of the Journal's Washington bureau, entitled "Liberal Gamesmanship in Congress." Before voting on either wage-price controls or tax reductions, I urge my colleagues in the Congress to read Mr. Hunt's article. I ask unanimous consent that it be printed at this point in the RECORD.

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

LIBERAL GAMESMANSHIP IN CONGRESS

(By Albert R. Hunt)

WASHINGTON.—No one, Henry Kissinger has said, possesses more of a penchant to work against their own self-interest than the French. But then, maybe the Secretary of State doesn't know congressional liberals very well.

Recently numerous Capitol Hill liberals have almost been tripping over one another to push plans that may have political appeal but which, on closer examination, seem clearly counterproductive to their own expressed interests.

Two excellent examples surfaced last week. In one, liberals are seeking to extend some wage and price controls beyond tonight's scheduled expiration, and in the other they're proposing an across-the-board personal tax cut. The Senate will vote tomorrow on continuing controls and the tax cut measure probably will be taken up next week.

Prospects for quick congressional clearance of either measure are doubtful. But the posturing of liberals on these two issues offers little hope to anyone expecting clear-cut and rational alternatives to the Nixon administration economic policies that have clearly failed to control inflation while producing a sharp drop in the first quarter gross national product.

"The liberals are hypocritical on these issues," laments a labor lobbyist who's fighting any controls measure and would like any tax cut to include some tax reform as well. "They're admittedly playing politics and I'm not sure it's even good politics."

DOING SOMETHING

The last-minute effort to extend controls, following lopsided votes in both the House and Senate Banking Committees to end controls tonight, came after the Easter recess, when some Congressmen apparently received an earful of complaints about rising prices. Their solution was to come back to Washington and at least appear to be doing something about the problem.

Yet many of these same lawmakers have been the harshest critics of the current controls, agreeing with organized labor's somewhat justifiable charge that the burden has fallen disproportionately on workers. Liberal Republican Sen. Jacob Javits of New York, for example, criticizes the "abuses and mishandling" in the administration of wage-price controls over the past year. The recent decline in workers' real purchasing power offers solid support for such complaints.

In view of their distaste with the way the program has been run, what new controls formulas have these legislators discovered?

Under their proposal, pushed primarily by Senators Edmund Muskie (D., Me.), and Adlai Stevenson (D., Ill.) controls in any economic sector could be reimposed if the President makes three findings: one, that there is serious inflation generally; two, that inflation in that particular sector would lead to "serious hardship and deprivation," and three, that the need for controls outweighs potentially adverse effects on supply.

If this seems vague and general, it is. Even some supporters acknowledge that it pretty much boils down to giving another blank check to the same people who supposedly have been doing such a bad job for the past year.

When asked what confidence he has this new program would be administered any better, Sen. Muskie simply replies that this is "irrelevant . . . our job is to give him [the President] a tool we think he ought to have and he ought to use."

Sen. Muskie has fathered a new definition of relevancy. Even if controls are needed to stop raging inflation and even if it's desirable to have a more orderly decontrol process, the notion that a President should again be given sweeping powers to affect people's lives with little regard as to how that power will be utilized isn't a very encouraging sign in the age of Watergate.

In the same vein, moreover, many sponsors of this move have rather eloquently decried Executive usurpation of Legislative prerogatives. But when Congress' response is to duck responsibility repeatedly by turning over broad grants of power to the Executive, these complaints ring rather hollow. There's no doubt that it would be far tougher and more politically perilous for lawmakers to try to legislate a specific controls program. But it at least would show a semblance of Legislative responsibility sorely lacking at the moment.

Actually, the primary short-run effect of this latest effort may well be to cause anticipatory wage and price hikes and thus worsen an already bad inflation. "Businessmen and unions will be encouraged to grab everything they can while the getting is good, so they will be in a good position if controls are reimposed," worries a top Treasury officials.

All of which lends credence to Senate GOP Whip Robert Griffin's charge that the Democrats (with some Republican help) are playing "pure, unadulterated politics." If these legislators really believe in controls, "they should put their program into effect," the Michigan Republican says, but instead they want to "give broad unlimited authority to the President so that they [can] criticize him later."

(Lest anyone think the Democrats have a monopoly on such games, if the resurrection of controls fails, be prepared in a few months for some Republican officeholder to criticize Congress for failing to give the President the necessary tools to combat inflation. That individual will be a leading contender for any "Hypocrite of the Year" award.)

Similar gamesmanship is evident on the tax cut issue. Ten days ago, the Washington offices of Democratic Senators Edward Kennedy of Massachusetts and Walter Mondale of Minnesota proudly heralded a joint tax cut proposal. At the time, Sen. Kennedy was in Moscow and Sen. Mondale in Paris, but such geographic inconveniences didn't halt the press release bandwagon.

The Kennedy-Mondale proposal, intended to spur the economy out of any recession, would raise the personal income tax exemption to $825 a year from $750, or give taxpayers the option of taking a $190 tax credit

instead. (A credit is taken off of tax liability and thus is more valuable than a deduction, which is subtracted from taxable income.) This will be offered in the Senate as an amendment to a minor tariff measure next week, and if passed, would provide a $5.9 billion tax cut, retroactive to January.

Apart from arguments made by the administration and others that this would be inflationary, it's questionable whether this is the sort of tax cut two staunch liberals ought to be pushing. A $75 increase in the personal exemption, after all, is worth $52.50 to someone in the 70% tax bracket, but only $10.50 to a taxpayer in the 14% bracket. While it's true, as the Senators note, that more than 81% of the benefits would go to persons making less than $15,000 a year, the converse is that almost one-fifth would go to individuals making more than $15,000.

To be sure, the alternative, a tax credit, would favor less well-off taxpayers. But some Senate insiders believe there's a good chance this new concept will be stripped away in favor of an increase in the personal exemption.

WHAT'S POLITICALLY PALATABLE

Further, from the liberals' vantage point, it should seem more desirable to cut tax rates for lower- and some middle-income taxpayers instead of taking this blanket, across-the-board route. Maybe so, answer supporters of the Kennedy-Mondale proposal, but that's not as politically palatable as the more easily understood increase in the personal exemption.

But an even greater concern to these liberals, it would seem, ought to be that a tax cut, by itself, sharply diminishes prospects this year for any significant tax revision, supposedly one of their prime political goals.

In the real world of politics, the stick of loophole-closing almost invariably has to be accompanied by the carrot of personal tax cuts.

That is why some strong advocates of tax revision fear the liberals could be scoring political points now at the expense of more far-reaching achievements later. "What bothers us is that it's easy to vote tax relief, but the hard thing is to vote for substantial tax reform," says Robert Brandon, head of Ralph Nader's tax reform research group. "Certainly, reform should be quid-pro-quo for relief." (Several liberal lawmakers, such as Wisconsin's Gaylord Nelson in the Senate and California's James Corman in the House, take precisely this position.)

As with controls, of course, it's a lot more difficult and less politically appealing to hammer out revenue-raising tax changes to accompany the more popular personal reductions. But, to paraphrase President Nixon, politicians shouldn't always take the easy way out.

With one shocking revelation piling upon another, it's understandable why the Nixon administration is in such disrepute today. But when Congress chooses cheap and careless politics over filling the leadership void, it's no wonder that it's held in equally low esteem.

ANTICONTROLS

Mr. MONDALE. Mr. President, I cannot support issuing another blank check to this President. I say this with deep regret, because I believe that a carefully constructed and fairly administered controls program is a vital part of any strategy to control inflation.

However, this administration has shown by its record that it is either unwilling or unable—or both—to run such a program. The incredible decision to move to the voluntary phase 3 program, and the remarkably inept second price freeze, illustrate the dangers of having a controls program run by those who do not believe in controls. And former COLC Director Arnold Weber's admission that: "The idea of the freeze and phase 2 was to zap labor, and we did," makes it clear why labor and so many others have lost faith in this administration's willingness to run a fair controls program.

The administration has made it clear that it wants to abandon controls. Only John Dunlop laments their demise, but he stands alone. To continue authority for standby controls in the face of this administration attitude would be a futile gesture.

It has been argued that the administration has changed its mind on controls before, and exercised authority which it had said it would never use. That is true, and if that authority had been exercised responsibly before, that would be a good argument for continuing it on a standby basis. But it has not.

I do not believe this administration can be trusted with the standby control authority this bill would grant. There is an attempt in the bill to limit that authority, but it is too vague. Given the record of this President in ignoring even detailed and specific limits on his authority, I have little confidence that he will be bound by more general limits.

It is quite possible, in the weeks to come, that we can reach a position where Congress, the administration, business, labor, and others can sit down and work out a controls program that everyone can have confidence in. I am certainly prepared to lend my full support to such an effort. But in the present situation, with the mutual trust and confidence that is so essential for a successful controls program seriously eroded, I cannot justify voting another blank check for this administration.

Mr. MONTOYA. Mr. President, the amendment we are about to vote on gives the President continuing authority to impose controls on the economy, and what a storm of opposition has arisen against it.

This storm gathers its force from many sources: From the business community which has suffered under artificially induced shortages; from the unions which have suffered a decline of real income while wages have been suppressed; from hospital administrators who have suffered a continuing squeeze between rising costs and frozen prices; and from the average citizen who looks at the inflation rate for March and asks, "When will this end?"

This is the question we must address.

Here is the news on inflation over the first quarter of 1974:

Real gross national product declined at an annual rate of 5.8 percent.

The dropping GNP contributed to a 5.5-percent decline in productivity.

The Consumer Price Index increased at a yearly rate of 14.5 percent.

The Wholesale Price Index, which signals later developments in consumer prices, skyrocketed at an annual rate of 24.8 percent.

These are the facts we must address.

Like a fire burning deep underground, inflation is consuming our resources and yielding nothing in return. And just as an underground fire burns on and on, sometimes for years, this inflation will continue its destructiveness until we do something to extinguish it. It will not end by itself.

I do not covet the title of Nero, and neither does any other Member of this body. Yet the longer inflation continues and the higher its flames leap, the more our constituents are going to compare us to that former senator.

What is it that we can do about inflation? Economic science offers us several tools which we can use in our fight. Control of the Federal budget is one tool, and a change in the tax structure is another. Monetary policy is a third tool which is not in our hands but which is being used right now by the Federal Reserve Board in a most determined fashion. Export and import policy also comes into play when part of the inflation is induced by foreign factors, such as the recently ended oil embargo and the worldwide grain shortage which are major contributors to our inflation. And wage and price policy is a fifth tool.

Some will argue that with so many policy options available, why adopt one which has not worked? My answer is twofold.

First, so serious is our problem today that we need to make every possible anti-inflationary tool available; to have it on hand if it is needed quickly. This is especially important in the case of wage-and-price controls because part of their effectiveness depends on elements of speed and surprise in their implementation.

Second, wage-and-price controls have been effective. They were effective during phases I and II. Indeed, at the time phase II ended, it was widely said that the controls had helped considerably to dampen inflation. Even George Shultz, who was never an advocate for controls, admitted that this was true and says, in retrospect, that he can see that phase III came too early. Phase IV has not worked at all, as we know, but the policy of phase IV was one of dismantling controls, and this policy is leading nowhere but to ruin.

Sometimes we have to take bad-tasting medicine, and this is one of those times.

The bill that is before us is not a simple extension of the old Economic Stabilization Act, however. Just as we would be foolish to refuse to recognize the good that came out of phase II, so we would be blind to ignore the problems which the entire program caused and which I mentioned in my second paragraph. We have identified some of these problems and we have tried to write a piece of legislation which overcomes them

We have tried to overcome the problem of artificially induced shortages. The bill says in section 205(c)(1)(iii) that the President may not impose controls unless he finds that the benefit of controls outweighs "the possible adverse supply consequences," and directs him, at 205(c)(2)(C) (i) and (ii), to respect and consider supply problems caused by a "curtailment of production or produc-

tivity" or by an "increase in foreign demand" which controls might stimulate.

We have tried to overcome the just concern of the unions that they will once again be singled out to bear the brunt of this program by authorizing the President to control prices, rents, interest rates and corporate dividends as well as wages, and we have said in 205(d)(5)(e) that the President:

> In determining the wage increases to be permitted under economic stabilization controls . . . shall give consideration to the need for real earnings to keep pace with the cost of living.

I think we have also made clear in this debate that, as we have said in the bill, sacrifices between business and labor must be generally comparable.

Moreover, we have just passed the Humphrey amendment which will require the approval of the Congress whenever the President imposes controls on any sector or group for 30 days or longer. Thus, if the President cannot or will not understand the clear intent of this legislation to spread out the burden, then the Congress will carry out this intent. Labor, and every other sector, will be protected.

The hospital administrators have reason to be the most anxious of all groups about this bill because the Cost of Living Council has indicated that it intends to continue controls on the health industry. This concerns me, because what the Cost of Living Council has done during phase IV to the hospitals in New Mexico has been injurious to their financial health. I have reams of paper full of statistics showing hospital costs rising. The cost of everything from syringes to orderlies is up, and a somewhat arbitrary lid has been placed upon the prices which hospitals can charge.

We do, however, have a copy of a letter from Dr. Dunlop which he sent today in which he says that the principle of prospective budgeting should be flexibly adapted to the general economic situation. This is obfuscatory language and it does not really satisfy my concerns, nor will it satisfy the concerns of my hospital administrator constituents. But Dr. Dunlop and his associates, in meetings with my staff and others, have promised that relief will be forthcoming to the hospitals.

That promise, together with the Humphrey amendment, suggests to me that, in passing this bill, we are not abandoning the needs of our hospitals.

Another consideration we should bear in mind is that a determined effort is being made to hold the line on health costs while national health insurance legislation is before the Congress. As a sponsor of one such piece of legislation and as a representative of the State which ranks 40th in per capita income, I want to see some kind of health insurance program enacted. We should recall that such a measure will be anti-inflationary in its own right.

One final point deserves our attention, and that is the rather unfortunate finger pointing that is going on; the charges that this bill is being passed only so the Democrats can put the blame for inflation on the President.

I think that making charges and placing blame is something that matters only to politicians. What have we Democrats to gain by blaming the President? His popularity is so low now as to be almost nonexistent. A charge of economic mismanagement, however true or false, will not burden him more than he already is.

But far more important is this truth: The people want an end to inflation and they are holding their Government responsible for each day that it goes on. They do not say it is the Republicans who are responsible or the Democrats. They are saying it is the Democrats and Republicans both. Let no one doubt that inflation is a brush which blackens both parties, so let us do all we can to end it.

For these reasons, I support this amendment and urge that my colleagues do likewise. We have an amendment which has been crafted to steer a new economic stabilization program around the holes into which the old program fell. We also have a tool which can be, and which has been, an effective inflation fighter. I think it is prudent; I think it is responsible; I think it is mandatory that we adopt it.

Mr. BAYH. Mr. President, the continuation of the upward spiral of inflationary pressures was not deterred nor diverted by the broad control authority the administration had under the Economic Stabilization Act. With the lessons learned since the premature shifting from phase II to phase III in January 1973, I am convinced that renewing the administration's authority to control wages and prices—even on a more limited basis—will not solve our economic problems. Indeed, for reasons I will explain in a moment, renewal of now-expired wage and price control authority could actually exacerbate our economic ills. Accordingly, I have determined reluctantly to oppose the pending wage and price control amendment.

One need only look at the current statistics on the economy to see vividly the failure of the administration to use the Economic Stabilization Act effectively. The cost of living rose at an annual rate of 14 percent during the first quarter of 1974. At the same time real gross national product declined by an annual rate of 5.8 percent, a far greater drop than even the most pessimistic projections of last year. Unemployment remains above 5 percent, interest rates continue to rise and the economy is still beset by shortages of basic commodities.

In addition, the record-breaking inflation of the first quarter comes in the wake of an 8.8-percent rise in the cost of living last year. Throughout this period, beginning with the shift to phase III 16 months ago, wages have generally been kept within the 5.5 percent guidelines, resulting in a sharp drop in the real purchasing power of most Americans.

It strikes me as folly, Mr. President, to pretend that giving the administration authority to control the economy—authority which the principal sponsors of this amendment acknowledge is more limited than that which existed under the Economic Stabilization Act—will resolve the very real economic problems that face us. Time and again we have found that the administration views wage and price controls as a way to limit wage increases for American workers while letting the profits of big business go unchecked. Perpetuating such an inequitable system of economic controls will not mean an end to inflation, nor will it provide the impetus needed to shake the economy from the lethargy which makes the unlikely combination of serious recession and rampant inflation a real possibility.

I indicated a moment ago that I was concerned that renewal of wage and price control authority could actually exacerbate our economic problems. There are two reasons for my concern.

First, I fear that making it possible that controls will be reimposed on the economy at some future date will stimulate inflation. There will be a logical inclination for industry and business to set higher than necessary price increases, and for workers to press for even more than the catch-up wage increases to which they are entitled, in anticipation that future price and wage increases to which they are entitled may be limited. This so-called anticipatory inflation would further dislocate our economy in coming months, at the very time we should be striving to recover from the dislocation of past months.

Second, we found out that one consequence of economic controls is the creation of supply shortages which, themselves, aggravate the disruption of the economy. To cite just one example, with which I have been directly involved, small plastics processors have been hard hit in recent months by a shortage of plastic resins. This shortage was created by a combination of factors, including the economic incentive to export plastic resins in order to take advantage of the international price which was higher than the controlled domestic price. Had the Commerce Department been willing to use its authority, under the Export Administration Act, to limit plastic resin exports this problem would have been solved. But with the Commerce Department unwilling to act, the domestic shortage of plastic resins posed severe hardship for hundreds of small businessmen across the country.

Thus, Mr. President, given the administration's maladministration of its previous economic control authority, and the real prospect that renewal of that now-expired authority will further disrupt our economy, I think the Senate would do well to defeat the pending amendment.

We would be engaging in self-deception and deception of the American people if we left the impression that passage of this amendment would mean a turn-around in the inflation that so plagues American consumers. As I said earlier, with even greater authority over the past year and a half, the administration has permitted inflation to run wild, robbing millions of Americans of real purchasing power.

Rather than passing this amendment, Mr. President, we could go a long way to slowing the rate of inflation by putting a lid on oil prices. I should emphasize, in

this regard, that while I am opposed to the pending amendment, I feel it is essential that price controls be maintained on energy—the sector of the economy which has contributed more than any other to the rise in the cost-of-living. Authority to control fuel prices exists under a separate law, the Emergency Petroleum Allocation Act, which does not expire until March 1, 1975.

The rise in the cost of living has been led by the rise in fuel costs, and it is essential that controls not only be maintained, but actually tightened in this area. This is why I was so disappointed by the President's veto of the Energy Emergency Act, which would have brought about a reduction in oil prices. Oil company profits are soaring, as the prices of gasoline and home heating oil continue to climb. For example, for the first three months of 1974 profits rose by 76 percent at Gulf and 81 percent at Standard Oil of Indiana.

The oil companies are quick to claim that their increased profits come from their international operations, but the fact is that large sectors of the domestic oil industry are now exempt from controls. This has created a disparity between the controlled price of oil of $5.25 a barrel and the average price of $10 a barrel for stripper and "new" oil, that is oil from wells producing less than 10 barrels a day and oil production in excess of the May 15, 1973 levels, respectively.

I continue to believe that oil prices should be brought under closer rein and reduced to reasonable levels. This would be the most direct way to reduce the rate of inflation, an action with guaranteed results rather than the indefinite consequences of renewing wage and price control authority.

Mr. President, I should note that long before the President instituted the first wage-price freeze in August of 1971 that I had advocated economic controls to cope with a deteriorating economy. Normally I am opposed to controls on our economy. However, when we have economic problems confronting our people, government must respond. Thus, I supported the passage of the Economic Stabilization Act, at a time when it was opposed by the President, because of my belief that equitable economic controls were needed at that time.

The fact is that the initial freeze and the controls in place through Phase II worked rather well and inflation was down to about 3 percent. Then, responding to pressure from big business, in the wake of the 1972 election, the administration quickly shifted gears into phase III and set loose the inflationary pressures which even today are growing worse.

With this background, it is obvious that to perpetuate an inequitable system of controls would neither stem the tide of inflation, nor provide workers with the opportunity to regain lost purchasing power.

Besides reducing oil prices, there are other things we can do immediately to help correct the course of the economy. For example, public service employment job opportunities should be expanded. I was distressed that the President only requested $250 million for this program in the Second Supplemental Appropriations bill. I offered an amendment which was adopted in Committee, to add $575 million to the amount requested by the President so that we can deal with high unemployment and an economic slowdown effectively.

For my own State of Indiana this will increase the available funds for public service employment from $1.2 to $10 million. Approximately 117,000 jobs would be created nationwide by the additional appropriations.

Finally, Mr. President, we should also be pushing for a reduction in interest rates. The record high prime rate of 11 percent, fostered by the Federal reserve discount rate of 8 percent, not only threatens to worsen our economic slowdown, it also has a significant inflationary effect by increasing the cost of borrowing for businesses and consumers.

If industry must set prices to allow for the high cost of borrowing, which for most companies is several points higher than the prime rate, it is obvious industry's products will cost more. With so much consumer buying done on credit—and with that credit costing more all the time—the final product cost to a consumer rises in line with the rise in interest rates.

Moreover, there is the unhappy fact that high interest rates tend to slow the economy, something we can little afford with unemployment above 5 percent and the real GNP down sharply in the first quarter.

The Federal Reserve's solution to our economic problems might make sense in a traditional economic model, but our unprecedented combination of record inflation in the middle of an economic downturn defies all traditional economic models. The high interest rate solution will not only fail, it will exacerbate the very problems it is supposd to be helping.

Mr. President, our economy is obviously in serious trouble, and as always happens when the economy runs aground, it is the average American worker and his family who are hardest hit by our economic problems. It is those workers who have lost real purchasing power, up to 5 percent in the last year, as their wages were held in check while the cost of living jumped. It is those workers who find themselves on the unemployment lines when times get tough, or if they don't lose their jobs they face shorter working hours and reduced income.

We should be addressing ourselves to those steps required to solve these problems for the average Americans who have been asked to carry the burden of the errors of recent years. Renewing wage and price control authority for the Administration is not one of those solutions; if it were I would be ready to vote differently. I certainly hope that if the pending amendment is adopted that the American people will not be led to expect a quick change in the present course of the economy, for that expectation would be the cruelest hoax of all.

Rather than the cosmetic touch of renewing wage and price control authority, we can begin to solve our problems by reducing oil prices and interest rates, by ensuring an adequate domestic supply of foodstuffs this year, by expanding the public service employment jobs program and by a major improvement in our unemployment compensation system. This will take some time, but it is the best hope for American consumers.

The PRESIDING OFFICER (Mr. BIDEN). The question is on agreeing to the motion to lay on the table the first part of the amendment of the Senator from Maine (Mr. MUSKIE), as amended. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METCALF (when his name was called). On this vote I have a pair with the distinguished Senator from Ohio (Mr. METZENBAUM). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Idaho (Mr. CHURCH). 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 Idaho (Mr. CHURCH), the Senator from North Carolina (Mr. ERVIN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Hawaii (Mr. INOUYE), the Senator from Ohio (Mr. METZENBAUM), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas (Mr. FULBRIGHT) and the Senator from California (Mr. TUNNEY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

I also announce that the Senator from North Dakota (Mr. YOUNG) is absent on official business

I further announce that the Senator from Florida (Mr. GURNEY) is absent due to illness in the family.

I also announce that if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "yea."

The result was announced—yeas 56, nays 32, as follows:

[No. 168 Leg.]

YEAS—56

Abourezk	Curtis	Mondale
Aiken	Dole	Nunn
Allen	Domenici	Packwood
Baker	Dominick	Pearson
Bartlett	Eagleton	Percy
Bayh	Fannin	Proxmire
Beall	Fong	Schweiker
Bennett	Goldwater	Scott, Hugh
Bentsen	Gravel	Scott, William L.
Bible	Griffin	Sparkman
Brock	Hansen	Stafford
Brooke	Hartke	Stevens
Buckley	Hatfield	Taft
Burdick	Hollings	Talmadge
Byrd, Harry F., Jr.	Hruska	Thurmond
Clark	Huddleston	Tower
Cook	McClellan	Weicker
Cotton	McClure	
Cranston	McGovern	
	McIntyre	

NAYS—32

Biden	Jackson	Nelson
Byrd, Robert C.	Javits	Pastore
Cannon	Johnston	Pell
Case	Kennedy	Randolph
Chiles	Long	Ribicoff
Eastland	Magnuson	Roth
Hart	Mathias	Stennis
Haskell	McGee	Stevenson
Hathaway	Montoya	Symington
Hughes	Moss	Williams
Humphrey	Muskie	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Metcalf, against
Mansfield, against

NOT VOTING—10

Bellmon	Gurney	Tunney
Church	Helms	Young
Ervin	Inouye	
Fulbright	Metzenbaum	

So Mr. TOWER's motion to table the first part of Mr. MUSKIE's amendment was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the second part of the amendment of the Senator from Maine (Mr. MUSKIE).

Mr. MUSKIE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I move to table the second part of the amendment of the Senator from Maine and ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is agreeing to the motion to table the second part of the amendment of the Senator from Maine (Mr. MUSKIE).

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. METCALF (when his name was called). On this vote I have a pair with the Senator from Ohio (Mr. METZENBAUM). If he were present, he would vote "yea." If I were permitted to vote, I would vote "nay." I, therefore, withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from North Carolina (Mr. ERVIN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Hawaii (Mr. INOUYE), the Senator from Ohio (Mr. METZENBAUM), and the Senator from California (Mr. TUNNEY), are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho (Mr. CHURCH), and the Senator from California (Mr. TUNNEY), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from North Carolina (Mr. HELMS), are necessarily absent.

I also announce that the Senator from North Dakota (Mr. YOUNG), is absent on official business.

I further announce that the Senator from Florida (Mr. GURNEY), is absent due to illness in the family.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS), would vote "yea."

The result was announced—yeas 44, nays 45, as follows:

[No. 169 Leg.]

YEAS—44

Abourezk	Dole	Packwood
Aiken	Domenici	Pearson
Allen	Dominick	Percy
Baker	Eagleton	Proxmire
Bartlett	Fannin	Schweiker
Bennett	Fong	Scott, Hugh
Brock	Goldwater	Scott, William L.
Brooke	Gravel	Sparkman
Buckley	Griffin	Stevens
Burdick	Hansen	Talmadge
Byrd, Harry F., Jr.	Hartke	Thurmond
Clark	Hatfield	Tower
Cook	Hollings	Weicker
Cotton	Hruska	
Curtis	McClure	
	Nunn	

NAYS—45

Bayh	Hughes	Montoya
Beall	Humphrey	Moss
Bentsen	Jackson	Muskie
Bible	Javits	Nelson
Biden	Johnston	Pastore
Byrd, Robert C.	Kennedy	Pell
Cannon	Long	Randolph
Case	Magnuson	Ribicoff
Chiles	Mansfield	Roth
Cranston	Mathias	Stafford
Eastland	McClellan	Stennis
Hart	McGee	Stevenson
Haskell	McGovern	Symington
Hathaway	McIntyre	Taft
Huddleston	Mondale	Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Metcalf, against

NOT VOTING—10

Bellmon	Gurney	Tunney
Church	Helms	Young
Ervin	Inouye	
Fulbright	Metzenbaum	

So the motion to table the second part of Mr. MUSKIE's amendment was rejected.

The PRESIDING OFFICER. The question recurs on the adoption of the second part of the amendment by the senior Senator from Maine. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. METCALF (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Rhode Island (Mr. PASTORE). If he were present and voting, he would vote "aye." I have already voted "nay." I therefore, withdraw my vote.

Mr. BIDEN (when his name was called). Mr. President, on this vote I have a pair with the Senator from Ohio (Mr. METZENBAUM). If he were present and voting he would vote "nay." If I were at liberty to vote, I would vote "aye." I withhold my vote.

Mr. GOLDWATER. Mr. President, has not that pair been made before?

The PRESIDING OFFICER (Mr. HUDDLESTON). The Chair is advised that the pair has not been made on this vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from North Carolina (Mr. ERVIN), The Senator from Arkansas (Mr. FULBRIGHT), the Senator from Hawaii (Mr. INOUYE), the Senator from Ohio (Mr. METZENBAUM), the Senator from Rhode Island (Mr. PASTORE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho (Mr. CHURCH) and the Senator from California (Mr. TUNNEY) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from North Carolina (Mr. HELMS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from North Dakota (Mr. YOUNG) is absent on official business.

I further anonunce that the Senator from Florida (Mr. GURNEY) is absent due to illness in the family.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "nay."

The result was announced—yeas 44, nays 41, as follows:

[No. 170 Leg.]

YEAS—44

Abourezk	Hughes	Montoya
Bayh	Humphrey	Moss
Beall	Jackson	Muskie
Bentsen	Javits	Nelson
Bible	Johnston	Pell
Byrd, Robert C.	Kennedy	Randolph
Cannon	Long	Ribicoff
Case	Magnuson	Roth
Chiles	Mansfield	Stafford
Cranston	Mathias	Stennis
Eastland	McClellan	Stevenson
Hart	McGee	Symington
Haskell	McGovern	Taft
Hathaway	McIntyre	Williams
Huddleston	Mondale	

NAYS—41

Aiken	Domenici	Packwood
Allen	Dominick	Pearson
Baker	Eagleton	Percy
Bartlett	Fannin	Proxmire
Bennett	Fong	Schweiker
Brock	Goldwater	Scott, Hugh
Buckley	Gravel	Scott, William L.
Burdick	Griffin	Sparkman
Byrd, Harry F., Jr.	Hansen	Stevens
Clark	Hartke	Talmadge
Cook	Hatfield	Thurmond
Cotton	Hollings	Tower
Curtis	Hruska	
Dole	McClure	
	Nunn	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Metcalf, against
Biden, for

NOT VOTING—13

Bellmon	Gurney	Tunney
Brooke	Helms	Weicker
Church	Inouye	Young
Ervin	Metzenbaum	
Fulbright	Pastore	

So the second part of Mr. MUSKIE's amendment was agreed to.

Mr. BEALL. Mr. President, I move to reconsider the vote.

Mr. MUSKIE. Mr. President, I move to lay that motion on the table.

Mr. BAKER and other Senators requested the yeas and nays.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of 10 minutes on this vote, as long as most Senators are in the Chamber and this is practically a back-to-back vote.

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

The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the second part of the Muskie amendment was agreed to. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. METCALF. Mr. President, on this vote I have a live pair with the Senator from Ohio (Mr. METZENBAUM). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from North Carolina (Mr. ERVIN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Hawaii (Mr. INOUYE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Ohio (Mr. METZENBAUM), the Senator from Rhode Island (Mr. PASTORE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

On this vote, the Senator from Rhode Island (Mr. PASTORE) is paired with the Senator from Idaho (Mr. CHURCH).

If present and voting, the Senator from Rhode Island would vote "yea" and the Senator from Idaho would vote "nay."

I further announce that if present and voting the Senator from California (Mr. TUNNEY) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from North Carolina (Mr. HELMS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from North Dakota (Mr. YOUNG) is absent on official business.

I further announce that the Senator from Florida (Mr. GURNEY) is absent due to illness in the family.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "nay."

The result was announced—yeas 43, nays 42, as follows:

[No. 171 Leg.]

YEAS—43

Abourezk	Hughes	Moss
Bayh	Humphrey	Muskie
Beall	Jackson	Nelson
Bentsen	Javits	Pell
Bible	Johnston	Randolph
Biden	Kennedy	Ribicoff
Byrd, Robert C.	Long	Roth
Cannon	Magnuson	Stafford
Case	Mansfield	Stennis
Chiles	Mathias	Stevenson
Cranston	McClellan	Symington
Hart	McGee	Taft
Haskell	McGovern	Williams
Hathaway	Mondale	
Huddleston	Montoya	

NAYS—42

Aiken	Domenici	Nunn
Allen	Dominick	Packwood
Baker	Eagleton	Pearson
Bartlett	Eastland	Percy
Bennett	Fannin	Proxmire
Brock	Fong	Schweiker
Buckley	Goldwater	Scott, Hugh
Burdick	Gravel	Scott, William L.
Byrd, Harry F., Jr.	Griffin	Sparkman
Clark	Hansen	Stevens
Cook	Hartke	Talmadge
Cotton	Hatfield	Thurmond
Curtis	Hollings	Tower
Dole	Hruska	
	McClure	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Metcalf, against

NOT VOTING—14

Bellmon	Gurney	Pastore
Brooke	Helms	Tunney
Church	Inouye	Weicker
Ervin	McIntyre	Young
Fulbright	Metzenbaum	

So Mr. MUSKIE's motion to lay on the table Mr. BEALL's motion to reconsider was agreed to.

Mr. TAFT. Mr. President, I have voted against standby controls but for the rest of the Muskie amendment. This approach would eliminate any authority for wage and price controls. However, it would provide continuing authority for a Government agency to act as an anti-inflation watchdog and to work for voluntary efforts to reduce further inflation. It would also provide authority for the agency to monitor and enforce the commitments to price restraint and to other anti-inflationary actions which the Cost of Living Council has already obtained from various industries.

I indicated last February 11 that I believe that the general phaseout of wage and price controls is overdue. The controls have hurt recently as much as helped in most fields. After long and detailed consideration I have also decided that the Muskie standby controls proposal would lead to inflationary price increases in anticipation of further controls, could result in inequitable treatment of controlled industries and workers and generally would allow too much Presidential discretion.

However, as I have also stated previously, a decision to kill any authority whatsoever for even a monitoring authority must be questioned in this time of the continued threat of crippling inflation. Despite the problems the controls have caused and the high proportion of recent inflation attributed to petroleum which will remain under price controls—and the food sector—for which price controls are of extremely limited usefulness—I do not see how it can be in our best interests to eliminate even the minimal authority necessary to insure at least to some extent that the remainder of the decontrol process can be carried out in an orderly fashion. I believe that Congress is going too far by not at least providing the Government the authority to monitor commitments to restrain it has already received from a wide range of industries varying from fertilizers to automobiles, or to negotiate with labor and industry for voluntary actions. It seems to me that the case for assuring that the Government would have the limited authority contained in the second part of the Muskie amendment is extremely strong.

I do not think that many Members of the Congress fully realize the number of voluntary commitments that were obtained from various industries by the Cost of Living Council during the decontrol process. In 17 sectors of our economy, the Council has obtained voluntary commitments from the leading firms to take serious and constructive measures to alleviate various inflation-related problems existing in their industry. In all but two, fertilizer and zinc, the major firms committed themselves voluntarily to some degree of price and/or profit restraint.

Commitments to increase production and to expand capacity were agreed upon by firms producing fertilizer, cement, zinc, semiconductors, petrochemicals, tires and tubes, canned fruits and vegetables, and coal. Firms in industries such as fertilizer, petrochemicals, paper and aluminum, made various commitments designed to limit exports or to maintain historic patterns of domestic sales. Improved price reporting to the Bureau of Labor Statistics was agreed upon by firms producing cement, semiconductors, and tires. Firms in the petrochemical sector committed themselves to preparing customer allocation plans and submitting these plans to the Government.

I believe that for Congress not to provide the Government machinery to monitor these commitments is to weaken the fight against inflation and perhaps even to undermine further the Government's credibility.

I should also like to emphasize the importance of the provisions which allow one Government agency to focus on inflation-related problems. Basically, those provisions would provide the authority necessary for an agency in the executive branch to monitor the economy as a whole, to recommend changes in the programs and activities of the Government and the private sector, to review and work with industry and Government to encourage price restraint, to improve wage and price data bases and to review and make recommendations on economic concentration and anticompetitive practices. Without this authority, no single agency of Government would be charged with these crucial tasks.

Mr. President, recent wholesale price statistics make it obvious that prices will continue to go through the roof for at least the next few months, regardless of the future of this amendment or any similar bill. In view of that situation and the feeling which appears to be prevalent that the continuation of wage and price controls would be unwise, it is incumbent upon us to provide the Government with the minimal authority to restrain inflation directly without controls which is contained in the second part of the Muskie amendment.

The bill is open to further amendment.

Mr. TOWER. Mr. President, there might be a number of additional amendments to the bill, but I think that the part relating to the Council on International Economic Policy goes to the substance of the bill itself. I expect that we could have some additional debate on the bill, but I think also that everyone would like to examine closely the provisions that have been included in the bill as a result of the amendments before they cast the final ballots on the bill. Therefore, I would expect that amendments will be offered. I think the Senator from Ohio (Mr. TAFT) may have an amendment to the bill. Then, of course, there should be a discussion on the bill itself.

Mr. STEVENSON. Mr. President, this matter has been discussed at length. I know of absolutely no controversy. So

far as I know, there is only one amendment, and there is no controversy with respect to it. We could, if the Senator from Texas is willing, proceed now to a quick disposition of the amendment which is to be offered by the Senator from Ohio. Then we could move to third reading and final passage of the bill.

Mr. MANSFIELD obtained the floor.

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

Mr. MANSFIELD. I yield.

Mr. TOWER. Mr. President, if we expect to get to final passage tonight, it will be very late; it might be very early tomorrow. I am not willing to bring this matter to a final vote this evening unless all Senators are prepared to stay for a long time.

Mr. MANSFIELD. Mr. President, that is cheery news.

I suggest the absence of a quorum, with the proviso that I will not lose my right to the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside until Tuesday next.

The PRESIDING OFFICER. Is there objection?

Mr. CHILES. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the bill be laid aside until Monday next.

Mr. PACKWOOD. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the bill be laid aside until Friday next.

Mr. COOK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. At least there is good orchestration.

Mr. TOWER. Mr. President, I would certainly be willing to lay the pending bill aside for this evening, until Tuesday. I do not know what the objections of my colleagues are. But I do think that if we laid it aside until Tuesday, it would give all Senators an opportunity to study the RECORD.

Mr. PERCY. Mr. President, reserving the right to object—

Mr. MANSFIELD. Mr. President, there have been nothing but objections, so the Senator does not have a right to reserve the right to object. But I will yield to him, so long as objection has been raised.

Mr. PERCY. Mr. President, I shall not object to this proposal if the floor manager on our side would prefer to go ahead. But the reason for my concern is as has been expressed on the floor of the Senate. There is grave uncertainty about the fact that we have ended controls.

We would have a period of time when companies and labor unions all over the United States are wondering what is going to happen. If they feel controls are not going back on, and we will have a period of uncertainty, we are opening up the economy for a tremendous bulge in prices.

Could we not vote tomorrow?

Mr. GOLDWATER. Mr. President, has the Senator considered Wednesday? We might not object to Wednesday.

Mr. TOWER. If the Senator will yield, perhaps we could have a motion to recommit and send it back to committee, with instructions to report on the matters germane to the original bill.

Mr. MANSFIELD. We could, but we will not.

[Laughter.]

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

Mr. MANSFIELD. I yield.

Mr. MUSKIE. May I make this point in regard to the suggestion of the Senator from Illinois? The votes this afternoon have disposed of standby controls. All that remains at issue is the continuation of the Cost of Living Council.

The Cost of Living Council will continue funded until June 30. So it is not critical that the final vote take place instantly.

I think the majority leader makes good sense.

Mr. BROCK. Is it not true that the Cost of Living Council continues only in the sense that their salaries are paid, but they have absolutely no authority in the sense of enforcing any existing standards or otherwise?

Mr. MUSKIE. I believe the Senator is correct. But voting final passage of the monitoring authority we will cloak them with is not so urgent that we need to decide it Thursday or Friday instead of Monday or Tuesday. If it took a long weekend——

Mr. MANSFIELD. No, no, we will not take a long weekend, because we have business to do.

Mr. MUSKIE. I mean for the Cost of Living Council.

Mr. MANSFIELD. Oh. Mr. President, I ask unanimous consent that the pending business be temporarily laid aside, and that it be resumed as the pending business on Wednesday next.

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

Mr. MANSFIELD. There will be no more votes tonight.

The PRESIDING OFFICER. The Senate will be in order.

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. HUDDLESTON). Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The following morning business, transacted during the day, is printed here by unanimous consent.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The VICE PRESIDENT laid before the Senate the following communication and letters, which were referred as indicated:

PROPOSED AMENDMENTS TO THE BUDGET, 1975, FOR THE SENATE (S. DOC. NO. 93-80)

A communication from the President of the United States, transmitting proposed amendments to the fiscal year 1975 budget, totaling $6,137,140, for the Senate (with accompanying papers). Referred to the Committee on Appropriations and ordered to be printed.

REPORTS OF THE IMMIGRATION AND NATURALIZATION SERVICE

A letter from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, reports concerning visa petitions which have been approved according the beneficiaries of such petitions third preference and sixth preference classifications (with accompanying papers). Referred to the Committee on the Judiciary.

INTERIM REPORT ON NURSE TRAINING

A letter from the Secretary of Health, Education, and Welfare transmitting, pursuant to law, the second interim report on the administration of title VIII (nurse training) of the Public Health Service Act (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the VICE PRESIDENT:

A resolution of the Common Council of the City of Buffalo, New York, requesting the continuance of the Model Cities Process and Citizen Participation. Referred to the Committee on Banking, Housing and Urban Affairs.

A resolution of the Common Council of the City of Buffalo, New York, endorsing and supporting the designation of April 30 or the last school day in April as "National Pledge of Allegiance To Our Flag Day." Referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAKER, from the Committee on Public Works, without amendment:

S. 3124. A bill to increase the size of the Executive Protective Service (Rept. No. 93-797).

By Mr. HARTKE, from the Committee on Veterans' Affairs, with amendments:

S. 3072. A bill to amend title 38, United States Code, to liberalize the provisions re-

lating to payment of dependency and indemnity compensation, and for other purposes (Rept. No. 93–798).

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

S.J. Res. 175. Joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning May 6, 1974, as "National Historic Preservation Week" (Rept. No. 93–799); and

S.J. Res. 197. Joint resolution to authorize the designation of the seven-day period beginning June 17, 1974, and ending June 23, 1974, as "National Amateur Radio Week" (Rept. No. 93–800).

By Mr. HRUSKA, from the Committee on the Judiciary, with amendments:

S.J. Res. 195. Joint resolution to authorize and request the President to issue a proclamation designating May 13 of each year as "American Business Day" (Rept. No. 93–801).

AUTHORIZATION FOR COMMITTEE TO FILE REPORT

Mr. HARTKE. Mr. President, I ask unanimous consent that, on S. 3072, the Survivors', Dependency and Indemnity Compensation Act of 1974, reported today, the committee have until midnight tonight to file the report.

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

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. TALMADGE, from the Committee on Agriculture and Forestry:

Richard L. Feltner, of Illinois, to be a member of the Board of Directors of the Commodity Credit Corporation.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. MANSFIELD (for himself and Mr. METCALF):

S. 3411. A bill to provide for a First Americans Museum within the Smithsonian Institution. Referred to the Committee on Public Works.

By Mr. MONTOYA:

S. 3412. A bill to establish a temporary National Commission on Alien Labor to conduct a comprehensive study of certain matters relating to the use of alien agricultural labor. Referred to the Committee on Labor and Public Welfare.

By Mr. METZENBAUM (for himself, Mr. MANSFIELD, Mr. JACKSON, Mr. HUMPHREY, Mr. JAVITS, Mr. PACKWOOD, Mr. METCALF, Mr. KENNEDY, Mr. ABOUREZK, Mr. WILLIAMS, Mr. BAYH, Mr. TUNNEY, Mr. DOMENICI, Mr. MONDALE, and Mr. HASKELL):

S. 3413. A bill to amend the Land and Water Conservation Fund Act of 1965, as amended. Referred to the Committee on Interior and Insular Affairs.

By Mr. INOUYE:

S. 3414. A bill to amend chapter 13 of title 38, United States Code, to make eligible for dependency and indemnity compensation widows of veterans who die of non-service-connected causes but who were at the time of death totally disabled as the result of one or more service-connected disabilities; and

S. 3415. A bill to authorize the widows of certain former members of the Armed Forces of the United States to use the services and facilities of post exchanges and commissaries. Referred to the Committee on Veterans' Affairs.

S. 3416. A bill for the relief of Mr. Liberato Divina. Referred to the Committee on the Judiciary.

By Mr. EAGLETON (for himself, Mr. SYMINGTON, Mr. HART, Mr. JAVITS, and Mr. METZENBAUM):

S. 3417. A bill to amend title 5 of the United States Code (relating to Government organization and employees) to assist Federal employees in meeting their tax obligations under city ordinances. Referred to the Committee on Finance.

By Mr. ERVIN (for himself, Mr. PERCY, and Mr. MUSKIE):

S. 3418. A bill to establish a Federal Privacy Board to oversee the gathering and disclosure of information concerning individuals, to provide management systems in Federal agencies, State and local governments, and other organizations regarding such information, and for other purposes. Referred to the Committee on Government Operations.

By Mr. MONDALE:

S. 3419. A bill for the relief of Dr. Jesus Cabrera Yap. Referred to the Committee on the Judiciary.

By Mr. DOMENICI:

S. 3420. A bill to amend the Emergency Petroleum Allocation Act of 1973 to authorize and require the President of the United States to allocate asphalt and asphalt derivatives, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. HATFIELD (for himself and Mr. PACKWOOD):

S. 3421. A bill pertaining to the inheritance of enrolled members of the Confederated Tribes of the Umatilla Indian Reservation of Oregon; and

S. 3422. A bill pertaining to land consolidation and development on the Umatilla Indian Reservation. Referred to the Committee on Interior and Insular Affairs.

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

S. 3423. A bill to provide relief for retired military personnel. Referred to the Committee on Armed Services.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MONTOYA:

S. 3412. A bill to establish a temporary National Commission on Alien Labor to conduct a comprehensive study of certain matters relating to the use of alien agricultural labor. Referred to the Committee on Labor and Public Welfare.

Mr. MONTOYA. Mr. President, I am today introducing a bill to establish a temporary National Commission on Alien Labor to conduct a comprehensive study of certain matters relating to the use of alien agricultural labor.

The world has changed a great deal since the Statue of Liberty was sent to us as a symbol of the freedom and welcome we offered to the poor and hungry of other nations. Our own needs have changed, our laws have changed, and world conditions have changed.

But there is truth in the old saying that the more things change the more they stay the same. This Nation is still the dream of those who are poor, oppressed, or unfree. Our standard of living, our labor and welfare laws, our opportunities for freedom are still seen as the best hope of many in underdeveloped countries.

The problems created by the entry of illegal immigrants are increasingly complex. Most of these immigrants come here to work on a temporary basis, and many remain to work periodically in agriculture or other related industry. Although many of these workers are in the southwestern States, there are increasing numbers in other parts of the Nation: Chinese coming into San Francisco, Dominicans and West Indians coming through Puerto Rico or the Virgin Islands into New York, French-Canadians coming into New England. This is not simply a problem of migrant laborers from Mexico, or a problem of a few States. It is a problem all of us must recognize and understand.

Many Americans, themselves worried by unemployment or inflation, are concerned about foreign workers disrupting our labor market, competing for jobs which do not exist in sufficient numbers any more. Other Americans have objected to the exclusion of these aliens when they are the only group willing to perform certain tasks on farms and elsewhere, thereby insuring that necessary work is done and is done at economical prices.

The States concerned have each responded in different ways, and with a variety of results. Unfortunately, no good or permanent solutions have been found, and the confusion is increasing.

In most cases the illegal immigrant is part of a tragic story of poverty and neglect, with his decision to enter this country resulting from a lack of compassion and humane living conditions in his own country. Our treatment of him in recent years has often been arbitrary and thoughtless. When labor needs are great, illegal immigrant labor is exploited. When labor needs are low, the alien worker is rejected and feels the rough hand of our justice as a lack of human understanding.

We are badly in need of facts about the various groups of illegal immigrants, their size, their probable future numbers, their various legal positions, their effect on our economy and on our labor market, their impact on our welfare statistics, and their treatment by both Federal and State agencies.

We need information on which a new and sensible national policy can be based. We need a policy which will provide protection for our own citizens without bringing shame on our history as a compassionate Nation or on our basic belief in the rights of man.

Mr. President, I am today proposing a temporary national commission to compile this information immediately. This commission should make a determination as to whether farmers can realistically find an adequate labor supply among our own citizens, and if not, then it should recommend practical legislation to meet the farmers' needs. I urge my

colleagues to support this effort to make sense out of what has become a senseless, tragic, and frustrating situation.

By Mr. METZENBAUM (for himself, Mr. MANSFIELD, Mr. JACKSON, Mr. HUMPHREY, Mr. JAVITS, Mr. PACKWOOD, Mr. METCALF, Mr. KENNEDY, Mr. ABOUREZK, Mr. WILLIAMS, Mr. BAYH, Mr. TUNNEY, Mr. DOMENICI, Mr. MONDALE, and Mr. HASKELL):

S. 3413. A bill to amend the Land and Water Conservation Fund Act of 1965, as amended. Referred to the Committee on Interior and Insular Affairs.

Mr. METZENBAUM. Mr. President, I am today proposing legislation which would raise the funding figure under the land and water conservation fund from $300,000,000 to $500,000,000.

As you are aware, there are provisions pending in several other measures that would alter the amount of funding under the act. This amendment is not geared to a specific proposal, nor to general legislation. It is intended as a single provision to provide both the States and the Federal Government the necessary funds to continue existing programs, and to acquire already existing properties.

The National Park Service has a considerable backlog of inholdings within national parks and recreation areas which have not been acquired because they have not received sufficient funds under the land and water conservation fund. Many existing State programs have not been completed, nor even initiated, due to the lack of available moneys under the matching grant program of the fund.

Given the energy situation, providing sufficient recreational opportunities for our urban residents is a serious problem with which we are all familiar. By fully funding this act to the extent that moneys are available we will meet this problem.

There are 14 Senators joining me in this legislation of both parties which, indeed, expresses the bipartisan support for this measure.

By Mr. INOUYE:

S. 3414. A bill to amend chapter 13 of title 38, United States Code, to make eligible for dependency and indemnity compensation widows of veterans who die of non-service-connected causes but who were at the time of death totally disabled as the result of one or more service-connected disabilities; and

S. 3415. A bill to authorize the widows of certain former members of the Armed Forces of the United States to use the services and facilities of post exchanges and commissaries. Referred to the Committee on Veterans' Affairs.

Mr. INOUYE. Mr. President, in assisting my constituents with their problems, I often come across situations in which particular individuals are excluded from certain benefits which would have been available to them, if their situation had been slightly different.

For example, a widow of a serviceman who died on active duty as a result of a service-connected cause is not entitled to exchange and commissary privileges. However, if the serviceman had lived long enough to have been honorably discharged with a 100-percent disability as a result of his injury, and then died, the widow would be entitled to unlimited exchange and commissary privileges.

Let me describe another situation. The widow of a 100-percent disabled veteran who died of his service-connected injuries is eligible to receive death compensation or dependency and indemnity compensation. Unfortunately, in the case of a 100-percent disabled veteran who is unable to be gainfully employed and his spouse who cannot seek employment because she must care for her husband, who then dies of a cause unrelated to his disability, the widow is not eligible for compensation.

To alleviate the apparent unfairness in these situations, I am introducing two bills. The first will authorize the widows of certain former members of the Armed Forces to use the services and facilities of post exchanges and commissaries. The second bill will make eligible for dependency and indemnity compensation widows of veterans who die of non-service-connected causes but who were at the time of death totally disabled as the result of one or more service-connected disabilities.

I hope my colleagues will act quickly to secure passage of these two measures.

By Mr. EAGLETON (for himself, Mr. SYMINGTON, Mr. HART, Mr. JAVITS, and Mr. METZENBAUM):

S. 3417. A bill to amend title 5 of the United States Code (relating to Government organization and employees) to assist Federal employees in meeting their tax obligations under city ordinances. Referred to the Committee on Finance.

Mr. EAGLETON. Mr. President, today I am introducing a bill with the senior Senator from Missouri (Mr. SYMINGTON), the senior Senator from Michigan (Mr. HART), the senior Senator from New York (Mr. JAVITS), and the junior Senator from Ohio (Mr. METZENBAUM) which would require the Secretary of the Treasury to enter into agreements with certain cities providing for the withholding of city income or employment taxes from the pay of Federal employees who are regularly employed within such cities.

This bill was introduced in the U.S. House of Representatives by my distinguished colleague from Missouri, Congressman WILLIAM L. CLAY.

The provisions of the bill apply only to cities which have ordinances imposing a duty on employers to withhold taxes from the pay of employees and in which 500 or more persons are employed by the Federal Government. It applies to executive agencies, the judicial branch, and the U.S. Postal Service.

Mr. Carl Sadler of the American Federation of Government Employees testified before the House Subcommittee on Manpower and Civil Service of the House Post Office and Civil Service Committee that—

It is necessary to permit salaried and wage employees to pay these taxes on an installment basis. The denial of this opportunity imposes a real burden on those who must make a lump-sum payment most probably at a time when all other income taxes are due. Such an installment program is best achieved by deductions from pay as is done with Federal and State income taxes, U.S. Savings bonds and contributions to the Combined Federal Campaign.

The Department of the Treasury has said that there would be no significant additional costs resulting from enactment of this bill. Although there will be some initial costs involved, the computerized payroll systems of the agencies are constantly being changed to reflect pay and deduction adjustments, and the cost of adding city tax withholding would not be any greater to the agency than the normal payroll adjustment. No additional equipment or personnel will be required to implement this legislation.

This legislation will bring an additional $1,200,000 in revenue to the cities of St. Louis and Kansas City without increasing taxes. These two cities in Missouri would save $270,000 in administrative costs involved in collecting local tax from Federal employees. More than $750,000 would be added to local taxes from moneys uncollected because of Federal employees leaving the area before tax time. And, over $200,000 in interest from investment of the withheld taxes would accrue to the cities.

Other cities with more than 500 Federal employees, with a local tax ordinance, and which have ordinances imposing a duty on employers to withhold such taxes will be likewise benefited.

Mr. President, I ask unanimous consent that the text of the legislation I am introducing today be printed in the RECORD.

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

S. 3417

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter II of chapter 55 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5520. Withholding of city income or employment taxes

"(a) When a city ordinance—

"(1) provides for the collection of a tax by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to the city; and

"(2) imposes the duty to withhold generally on the payment of compensation earned within the jurisdiction of the city in the case of employees whose regular place of employment is within such jurisdiction;

the Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with the city within 120 days of a request for agreement by the proper city official. The agreement shall provide that the head of each agency of the United States shall comply with the requirements of the city ordinance in the case of employees of the agency who are subject to the tax and whose regular place of Federal employment is within the jurisdiction of the city with which the agreement is made. The agreement may not apply to pay for service as a member of the Armed Forces. The agreement may not permit withholding of a city tax from the pay of an employee who is not a resident of the State in which that city is located unless the employee consents to the withholding.

"(b) This section does not give the consent of the United States to the application of an ordinance which imposes more burdensome requirements on the United States than on

other employers or which subjects the United States or its employees to a penalty or liability because of this section. An agency of the United States may not accept pay from a city for services performed in withholding city income or employment taxes from the pay of employees of the agency.

"(c) For the purpose of this section—

"(1) 'city' means a city which is duly incorporated under the laws of a State and within the political boundaries of which 500 or more persons are regularly employed by all agencies of the Federal Government; and

"(2) 'agency' means—

"(A) an Executive agency;

"(B) the judicial branch; and

"(C) the United States Postal Service."

(b) The analysis of subchapter II of chapter 55 of title 5, United States Code, is amended by adding at the end thereof—

"520. Withholding of city income or employment taxes.".

SEC. 2. Section 410(b) of title 39, United States Code, is amended by striking out the words "and section 5532 (dual pay)" and inserting in lieu thereof "section 5520 (withholding city income or employment taxes), and section 5532 (dual pay)".

SEC. 3. This section shall become effective on the date of enactment of this Act. The provisions of the first section and section 2 of this Act shall become effective on the ninetieth day following the date of enactment.

By Mr. ERVIN (for himself, Mr. PERCY, and Mr. MUSKIE):

S. 3418. A bill to establish a Federal Privacy Board to oversee the gathering and disclosure of information concerning individuals, to provide management systems in Federal agencies, State and local governments, and other organizations regarding such information, and for other purposes. Referred to the Committee on Government Operations.

ESTABLISHMENT OF A FEDERAL PRIVACY BOARD

Mr. ERVIN. Mr. President, with the concurrence of Mr. PERCY and Mr. MUSKIE I introduce for reference to the Government Operations Committee a bill to establish a Federal Privacy Board, to oversee the gathering and disclosure of information concerning individuals, and to provide management systems in all Federal agencies, State and local governments, and other organizations.

Recent months have focused a great deal of attention, both in the Congress and with the public at large, on one of our most fundamental civil liberties—the right to privacy.

The Constitution creates a right to privacy which is designed to assure that the minds and hearts of Americans remain free. The bulwark of this constitutional principle is the first amendment. The first amendment was designed to protect the sanctity of the individual's private thoughts and beliefs. It protects the individual's right to free exercise of conscience; his right to assemble to petition the Government for redress of grievances; his right to associate peaceably with others of like mind in pursuit of a common goal; his right to speak freely what he believes; and his right to try to persuade others of the worth of his ideas.

The fourth amendment guarantees "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." In addition to the privacy of one's home and personal effects, the privacy of his person—or bodily integrity—and even his private telephone conversations are protected by the fourth amendment. The fifth amendment guarantees that an individual shall not be forced to divulge private information which might incriminate him. It also protects individual privacy by preventing unwarranted governmental interference with the individual's person, personality, and property without due process of law.

The ninth amendment's reservation that "the enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people" clearly shows that the Founding Fathers contemplated that certain basic individual rights not specifically mentioned in the Constitution—such as privacy—should nevertheless be safe from governmental interference.

The Supreme Court has held many aspects of individual privacy to be constitutionally protected. In recognizing that "specific guarantees in the Bill of Rights have penumbras formed by emanations from those guarantees that help give them life and substance" (*Griswold* v. *Connecticut*, 381 U.S. 479, 484) the Court has found that those penumbras protect the right to give and receive information, the right to family life and child-rearing according to one's conscience, the right to marriage, the right to procreation, the right to contraception, and the right to abortion.

All Americans can testify to the power of those protections of the individual's rights. The Constitution assures these rights to all citizens whether their exercise is pleasing to Government or not. And by the same token, it assures the individual the converse of these rights: the right not to speak what he believes, whether his silence is pleasing to Government or not; and his right not to act, not to associate, not to assemble, whether his inaction is pleasing to Government or not.

The right of every individual in America to privacy has been a matter of considerable concern to me over the years. It seems that now, as never before, the appetite of government and private organizations for information about individuals threatens to usurp the right to privacy which I have long felt to be among the most basic of our civil liberties as a free people.

If we have learned anything in this last year of Watergate, it is that there must be limits upon what the Government can know about each of its citizens. Each time we give up a bit of information about ourselves to the Government, we give up some of our freedom. For the more the Government or any institution knows about us, the more power it has over us. When the Government knows all of our secrets, we stand naked before official power. Stripped of our privacy, we lose our rights and privileges. The Bill of Rights then becomes just so many words.

Alexander Solzhenitsyn, the Russian Nobel Prize winner, suggests how an all-knowing government dominates its citizens in his book "Cancer Ward:"

> As every man goes through life he fills in a number of forms for the record, each containing a number of questions. . . . There are thus hundreds of little threads radiating from every man, millions of threads in all. If these threads were suddenly to become visible, the whole sky would look like a spider's web, and if they materialized as rubber bands, buses, trams and even people would all lose the ability to move, and the wind would be unable to carry torn-up newspapers or autumn leaves along the streets of the city. They are not visible, they are not material, but every man is constantly aware of their existence. . . . Each man, permanently aware of his own invisible threads, naturally develops a respect for the people who manipulate the threads.

Perhaps it should come as no surprise that a Russian can master the words to describe the elusive concept we in America call personal privacy. He understands, in a way which we cannot, the importance of being a free individual with certain inalienable rights, an individual secure in the knowledge that his thoughts and judgments are beyond the reach of the state or any man. He understands those concepts because he has no such security or rights but lives in a country where rights written into law are empty platitudes.

Privacy, like many of the other attributes of freedom, can be easiest appreciated when it no longer exists. A complacent citizenry only becomes outraged about its loss of integrity and individuality when the aggrandizement of power in the Government becomes excessive. By then, it may be too late. We should not have to conjure up 1984 or a Russian-style totalitarianism to justify protecting our liberties against Government encroachment. Nor should we wait until there is such a threat before we address this problem. Protecting against the loss of a little liberty is the best means of safeguarding ourselves against the loss of our freedom.

The protection of personal privacy is no easy task. It will require foresight and the ability to forecast the possible trends in information technology and the information policies of our Government and private organizations before they actually take their toll in widespread invasions of the personal privacy of large numbers of individual citizens. Congress must act before sophisticated new systems of information gathering and retention are developed, and before they produce widespread abuses. The peculiarity of new complex technologies is that once they go into operation, it is too late to correct our mistakes or supply our oversight.

Our Founding Fathers had that foresight when they wrote the Bill of Rights. The first, fourth and fifth amendments are among the most effective bulwarks to personal freedom conceived by the mind of man. Justice Brandeis in his classic dissent in the wiretapping case, *Olmstead* v. *United States*, 277 U.S. 438, 478 (1927), described with unsurpassed eloquence the importance of the right to privacy set out in the Constitution. These words do not go stale from repetition:

> The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the signifi-

cance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men.

Government and private data collection on individuals is not a brand new phenomenon. The Federal Government has been collecting immense amounts of very sensitive information on individuals for decades. Income tax, social security, and census come to mind immediately. Various surveys by experts, private organizations such as the National Academy of Sciences, and a number of congressional committees have established the fact that the Federal Government stores massive amounts of information about all of us.

Nevertheless, the effect on the right to privacy of massive information-gathering and dissemination through the use of sophisticated computer technology is just beginning to be realized. Rich or poor, male or female, whatever one's cultural syle or religious or political views, each of us is the subject of cumulative records being stored by a variety of Government agencies and private organizations.

One of the most obvious threats the computer poses to privacy comes in its ability to collect, store, and disseminate information without any subjective concern for human emotion and fallibility.

Yet the increasing growth of information-gathering by Government and private organizations proceeds without any standards or procedures to regulate these organizations. It is because of this vacuum of authority that I am introducing, along with the very distinguished ranking minority member, Senator PERCY, this bill which is essential in order to preserve individual freedoms. We must act now to create safeguards against the present and potential abuse of information about people. I would like to provide a brief summary of its provisions.

THE FEDERAL PRIVACY BOARD

The bill establishes a Federal Privacy Board which shall have the primary function of overseeing the gathering, maintenance and disclosure of information concerning individuals by Federal agencies, State and local governments, and private organizations.

This Federal Privacy Board consists of five members, appointed by the President with the advice and consent of the Senate, not more than three of which are to be of the same political party. No member may engage in any other employment during his tenure.

In addition to its primary responsibility in enforcing the safeguards to personal privacy prescribed under section II of this bill, the Board is responsible for making an annual report to the President and to Congress, as well as publishing, on an annual basis, a descriptive directory of all information systems currently operating in the United States.

In order to carry out its functions, the Board is designated several specific powers. First, the Board shall have the power to compel, through subpena if necessary, the production of any documents relating to an information system, either private or public.

Second, upon determination of a violation of any provisions of this act, the Board is authorized to issue cease and desist orders and to recommend the institution of either criminal or civil suits.

Third, the Board can conduct open, public hearings on any petition for exemption from the provisions of section II of the act. Upon completion of its hearings, the Board will report its recommendation to the Congress.

SAFEGUARDS FOR PERSONAL PRIVACY IN INFORMATION SYSTEMS

The bill provides safeguards to personal privacy at all three stages of the information systems process: collection, maintenance, and dissemination of information.

COLLECTION OF INFORMATION

Under the provisions of the bill, information may be gathered by Federal agencies, State and local governments, or any private organizations only to accomplish the proper purposes of those agencies and organizations.

In gathering information, the individual must be the source of that information to the greatest extent possible; however, no individual may be forced to disclose any information not required by law, and he is to be informed of his right not to disclose.

The individual is to be notified of the existence of any information being maintained on him and the uses to which that information is being put.

No public or private organization may collect information on an individual's political or religious beliefs or affiliations unless specified by law.

A description of all information systems must be reported to the Federal Privacy Board on an annual basis.

MAINTENANCE

Restrictions on the maintenance of information systems used by Federal agencies, State and local governments, and other organizations include requirements that all information in these systems be accurate, complete, timely, and pertinent.

Any individual has the right to inspect the information maintained in a system relating to him with the exception of medical records. He has the right to know the nature of the source and the recipients of that information.

The individual also has the right to challenge any information on the basis of its accuracy, completeness, timeliness, pertinence, or necessity. Upon receipt of any challenge to its information by an individual, an organization must: First, investigate and record the current status of such information; second, purge any information that is found to be incomplete, not pertinent, not timely, not necessary to be maintained, or that can no longer be verified.

If the investigation does not solve the dispute, the individual may insert a statement, not in excess of 200 words, in his own defense, and he may appeal to the Federal Privacy Board.

DISSEMINATION

The bill places strict restrictions on the dissemination of information in personal information systems, both private and public.

All information systems must request permission from the individual before disseminating any information to any person or organization not having regular, authorized access to the information system.

Organizations maintaining information systems are required to keep an accurate list of all persons having access to the information including but not limited to those having access on a regular basis.

Federal agencies are specifically restricted in disseminating information only to authorized employees of Federal agencies.

SOCIAL SECURITY NUMBERS

The Omnibus Privacy Bill makes it unlawful for any organization to require an individual to disclose or furnish his social security number unless specifically required by law.

MAILING LISTS

The bill also provides for the removal of any name and address from a mailing list upon the written request of the individual.

REMEDIES

The remedies provided under this act include both criminal and civil sanctions.

The act provides for a criminal liability of up to $10,000 or 5 years in prison, or both, for any violation of the act.

In addition, the act provides that the Attorney General, upon the recommendation of the Federal Privacy Board, or an aggrieved individual, may file a civil suit in the appropriate district court.

EXEMPTIONS

Certain types of information are exempted from coverage of this act. Those information systems exempted include: any information maintained by a Federal agency and determined to be vital to national defense; criminal investigatory files of Federal, State or local law enforcement agencies; and any information maintained by the press or news media—except that information related to the employees of such organizations.

CONCLUSION

Mr. President, this bill provides a method whereby the Congress can guarantee that the right of every American to be let alone will be maintained. I encourage every Senator to support this important piece of legislation.

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

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

S. 3418

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

TITLE I—FEDERAL PRIVACY BOARD

ESTABLISHMENT OF BOARD

SEC. 101. (a) There is established in the executive branch of the Government the Federal Privacy Board which shall be composed of five members who shall be appointed by the President by and with the advice and consent of the Senate from among members of the public at large who are not officers or employees of the United States. Not more than three of the members of the Board shall be adherents of the same political party.

(b) The Chairman of the Board shall be elected by the members of the Board every two years.

(c) Each member of the Board shall be compensated at the rate provided for GS–18 under section 5332 of title 5 of the United States Code.

(d) Members of the Board shall be appointed for a term of three years. No member may serve more than two terms.

(e) Vacancies in the membership of the Board shall be filled in the same manner in which the original appointment was made.

(f) Vacancies in the membership of the Board, as long as there are three members in office, shall not impair the power of the Board to execute the functions of the Board. Three members of the Board shall constitute a quorum for the transaction of business.

(g) Members of the Board shall not engage in any other employment during their tenure as members of the Board.

FUNCTIONS OF THE BOARD

SEC. 102. The Board shall—

(1) publish an annual Data Base Directory of the United States containing the name and characteristics of each personal information system;

(2) consult with the heads of appropriate departments, agencies, and instrumentalities of the Government in accordance with section 103(5) of this Act;

(3) make rules to assure compliance with title II of this Act; and

(4) perform or cause to be performed such research activities as may become necessary to implement title II of this Act, and to assist organizations in complying with the requirements of such title.

POWERS OF THE BOARD

SEC. 103. (a) The Board is authorized—

(1) to be granted admission at reasonable hours to premises where any information system is kept or where computers or equipment or recordings for automatic data processing are kept, and may, by subpena, compel the production of documents relating to such information system or such processing as is necessary to carry out its functions, except that the production of personal information shall not be compelled without the prior consent of the data subject to which it pertains;

(2) upon the determination of a violation of any provision of this Act or regulation promulgated under this Act, to, after opportunity for a hearing, order the organization violating such provision to cease and desist such violation;

(3) to delegate its authority under this title, with respect to information systems within a State or the District of Columbia, to such State or District, during such period of time as the Board remains satisfied that the authority established by such State or District to carry out the requirements of this Act in such State is satisfactorily enforcing those provisions;

(4) to conduct open, public hearings on all petitions for exceptions or exemptions from provisions, application, or jurisdiction of this Act, except that the Board shall not have authority to make such exceptions or exemptions but shall submit appropriate reports and recommendations to Congress; and

(5) to the fullest extent practicable, to consult with the heads of appropriate departments, agencies, and instrumentalities of the Government in carrying out the functions of the Board under this Act.

(b) The Board may procure such temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

REPORTS

SEC. 104. The Board shall report, annually, on its activities to the Congress and the President.

TITLE II—STANDARDS AND MANAGEMENT SYSTEMS FOR HANDLING INFORMATION RELATING TO INDIVIDUALS

SAFEGUARD REQUIREMENTS FOR ADMINISTRATIVE, STATISTICAL-REPORTING AND RESEARCH PURPOSES

SEC. 201. (a) Any Federal agency, State or local government, or any other organization maintaining an information system that includes personal information shall—

(1) collect, maintain, use, and disseminate only personal information necessary to accomplish a proper purpose of the organization;

(2) collect information to the greatest extent possible from the data subject directly;

(3) establish categories for maintaining personal information to operate in conjunction with confidentiality requirements and access controls;

(4) maintain information in the system with accuracy, completeness, timeliness, and pertinence as necessary to assure fairness in determinations relating to a data subject;

(5) make no dissemination to another system without (A) specifying requirements for security and the use of information exclusively for the purposes set forth in the notice required under subsection (c) including limitations on access thereto, and (B) determining that the conditions of transfer provide substantial assurance that those requirements and limitations will be observed;

(6) transfer no personal information beyond the jurisdiction of the United States without specific authorization from the data subject or pursuant to a treaty or executive agreement in force guaranteeing that any foreign government or organization receiving personal information will comply with the applicable provisions of this Act with respect to such information;

(7) afford any data subject of a foreign nationality, whether residing in the United States or not, the same rights under this Act as are afforded to citizens of the United States;

(8) maintain a list of all persons having regular access to personal information in the information system;

(9) maintain a complete and accurate record, including identity and purpose, of every access to any personal information in a system, including the identity of any persons or organizations not having regular access authority;

(10) take affirmative action to establish rules of conduct and inform each person involved in the design, development, operation, or maintenance of the system, or the collection or use of any personal information contained therein, of the requirements of this Act, including any rules and procedures adopted pursuant to this Act and the penalties for noncompliance;

(11) establish appropriate safeguards to secure the system from any reasonably foreseeable threat to its security;

(12) comply with the written request of any individual who receives a communication in the mails, over the telephone, or in person from a commercial organization, who believes that the name or address, or both, of such individual is available because of its inclusion on a mailing list, to remove such name or address, or both, from such list; and

(13) collect no personal information concerning the political or religious beliefs, affiliations, and activities of data subjects which is maintained, used or disseminated in or by any information system operated by any governmental agency, unless authorized by law.

(b)(1) Any such organization maintaining an information system that disseminates statistical reports or research findings based on personal information drawn from the system, or from systems of other organizations, shall—

(A) make available to any data subject or group (without revealing trade secrets) methodology and materials necessary to validate statistical analyses, and

(B) make no materials available for independent analysis without guarantees that no personal information will be used in a way that might prejudice judgments about any data subject.

(2) No Federal agency shall—

(A) require any individual to disclose for statistical purposes any personal information unless such disclosure is required by law, and such individual is informed of such requirement;

(B) request any individual to voluntarily disclose personal information unless such request is specifically authorized by law, and the individual is advised that such disclosure is voluntary;

(C) make available to any person, other than an authorized officer or employee of a Federal agency, any statistical study or reports or other compilation of information derived by mechanical or electronic means from any file containing personal information, or any manual or computer material relating thereto, except those prepared, published, and made available for general public use; or

(D) publish statistics of taxpayer income classified, in whole or in part, on the basis of a coding system for the delivery of mail.

(c) Any such organization maintaining or proposing to establish an information system for personal information shall—

(1) give notice of the existence and character of each existing system once a year to the Federal Privacy Board;

(2) give public notice of the existence and character of each existing system each year, in the case of Federal organizations in the Federal Register, or in the case of other organizations in local or regional printed media likely to bring attention to the existence of the records to data subjects;

(3) publish such annual notices for all its existing systems simultaneously;

(4) in the case of a new system, or the substantial modification of an existing system, shall give public notice and notice to the Federal Privacy Board within a reasonable time but in no case less than three months, in advance of the initiation or modification to assure individuals who may be affected by its operation a reasonable opportunity to comment; and

(5) assure that public notice given under this subsection specifies the following:

(A) the name of the system;

(B) the general purposes of the system;

(C) the categories of personal information and approximate number of persons on whom information is maintained;

(D) the categories of information maintained, confidentiality requirements, and access controls;

(E) the organization's policies and practices regarding information storage, duration of retention of information, and purging of such information;

(F) the categories of information sources;

(G) a description of types of use made of information including all classes of users and the organizational relationships among them;

(H) the procedures whereby an individual may (i) be informed if he is the subject of information in the system, (ii) gain access to such information, and (iii) contest the accuracy, completeness, timeliness, pertinence, and the necessity for retention of such information;

(I) the procedures whereby an individual or group can gain access to the information system used for statistical reporting or research in order to subject them to independent analysis; and

(J) the business address and telephone number of the person immediately responsible for the system.

(d) Any such organization maintaining personal information shall—

(1) inform any individual asked to supply personal information whether such individual is required by law, or may refuse, to supply the information requested, and also of any specific consequences which are known to the organization of providing or not providing such information;

(2) request permission of a data subject to disseminate part or all of such information to another organization or system not having regular access authority, and indicate the use for which such information is intended, and the specific consequences for the individual, which are known to the organization, of providing or not providing such permission;

(3) upon request and proper identification of any individual who is a data subject, grant such individual the right to inspect, in a form comprehensible to such individual—

(A) all personal information about that individual except that, in the case of medical information, such information shall, upon written authorization, be given to a physician designated by the individual;

(B) the nature of the sources of the information, and

(C) the recipients of personal information about such individual including the identity of all persons and organizations involved and their relationship to the system when not having regular access authority;

(4) at a minimum, make disclosures which are required by this Act to individuals who are data subjects—

(A) during normal business hours;

(B) in person, if the data subject appears in person and furnishes proper identification, or by mail, if the data subject has made a written request, with proper identification, at reasonable standard charges for document search and duplication; and

(C) permit the data subject to be accompanied by one person of his choosing, who must furnish reasonable identification, except that an organization may require the data subject to furnish a written statement granting permission to the organization to discuss that individual's file in such person's presence;

(5) upon receipt of notice from any individual who is a data subject, that such individual wishes to challenge, correct, or explain information about him in such system—

(A) investigate and record the current status of such personal information;

(B) purge any such information that is found to be incomplete, inaccurate, not pertinent, not timely nor necessary to be retained, or can no longer be verified;

(C) accept and include in the record of such information, if the investigation does not resolve the dispute, any statement (not more than two hundred words in length) provided by such individual setting forth his position on such disputed information;

(D) in any subsequent dissemination or use of disputed information, clearly note that such information is disputed and supply the statement of such individual together with such information;

(E) make clear and conspicuous disclosure to such individual of his right to make a request under this paragraph;

(F) at the request of such individual, following any correction or purging of personal information, furnish to past recipients of such information notification that the item has been purged or corrected; and

(G) in the case of a failure to resolve a dispute, advise such individual of his right to request the assistance of the Federal Privacy Board.

(e) Each such organization maintaining a personal information system on the date of the enactment of this Act shall notify by mail each data subject of the fact not later than two years following the date of enactment of this Act, at the last known address of the subject. Such notice shall—

(1) describe the type of information held in such system or systems, expected uses allowed or contemplated; and

(2) provide the name and full address of the place where the data subject may obtain personal information pertaining to him, and in the system.

(f) Data subjects of archival-type inactive files, records, or reports shall be notified by mail of the reactivation, accessing, or reaccessing of such files, records, or reports not later than six months after the date of the enactment of this Act.

(g) The requirements of subsections (a) (3) and (4) and subsections (c) and (d) (1) and (2) of this section shall not apply to any organization that (1) maintains an information system that disseminates statistical reports or research findings based on personal information drawn from the system, or from systems of other organizations, (2) purges the names, personal numbers, or other identifying particulars of individuals, and (3) certifies to the Federal Privacy Board that no inferences may be drawn about any individual.

EXEMPTIONS

SEC. 202. The provisions of this title shall not apply to personal information systems—

(1) to the extent that information in such systems is maintained by a Federal agency, and the head of that agency determines that the release of the information would seriously damage national defense;

(2) which are part of active criminal investigatory files compiled by Federal, State, or local law enforcement organizations, except where such files have been maintained for a period longer than is necessary to commence criminal prosecution; or

(3) maintained by the press and news media, except information relating to employees of such organizations.

USE OF SOCIAL SECURITY NUMBER

SEC. 203. It shall be unlawful for any organization to require an individual to disclose or furnish his social security account number, for any purpose in connection with any business transaction or commercial or other activity, or to refuse to extend credit or make a loan or to enter into any other business transaction or commercial relationship with an individual (except to the extent specifically necessary for the conduct or administration of the old-age, survivors, and disability insurance program established under title II of the Social Security Act) in whole or in part because such individual does not disclose or furnish such number, unless the disclosure or furnishing of such number is specifically required by law.

TITLE III—MISCELLANEOUS

DEFINITIONS

SEC. 301. As used in this Act—

(1) the term "Board" means the Federal Privacy Board;

(2) the term "information system" means the total components and operations of a recordkeeping process, whether automated or manual, containing personal information and the name, personal number, or other identifying particulars;

(3) the term "personal information" means all information that describes, locates or indexes anything about an individual including his education, financial transactions, medical history, criminal, or employment record, or that affords a basis for inferring personal characteristics, such as finger and voice prints, photographs, or things done by or to such individual; and the record of his presence, registration, or membership in an organization or activity, or admission to an institution;

(4) the term "data subject" means an individual about whom personal information is indexed or may be located under his name, personal number, or other identifiable particulars, in an information system;

(5) the term "disseminate" means to release, transfer, or otherwise communicate information orally, in writing, or by electronic means;

(6) the term "organization" means any Federal agency; the government of the District of Columbia; any authority of any State, local government, or other jurisdiction; any public or private entity engaged in business for profit, as relates to that business;

(7) the term "purge" means to obliterate information completely from the transient, permanent, or archival records of an organization; and

(8) the term "Federal agency" means any department, agency, instrumentality, or establishment in the executive branch of the Government of the United States and includes any officer or employee thereof.

TRADE SECRETS

SEC. 302. In connection with any dispute over the application of any provision of this Act, no organization shall reveal any personal information or any professional, proprietary, or business secrets; except as is required under this Act. All disclosures so required shall be regarded as confidential by those to whom they are made.

CRIMINAL PENALTY

SEC. 303. Any organization or responsible officer of an organization who willfully—

(1) keeps an information system without having notified the Federal Privacy Board; or

(2) issues personal information in violation of this Act;

shall be fined not more than $10,000 in each instance or imprisoned not more than five years, or both.

CIVIL REMEDIES

SEC. 304. (a) The Attorney General of the United States, on the advice of the Federal Privacy Board, or any aggrieved person, may bring an action in the appropriate United States district court against any person who has engaged, is engaged, or is about to engage in any acts or practices in violation of the provisions of this Act or rules of the Federal Privacy Board, to enjoin such acts or practices.

(b) Any person who violates the provisions of this Act, or any rule, regulation, or order issued thereunder, shall be liable to any person aggrieved thereby in an amount equal to the sum of—

(1) any actual damages sustained by an individual;

(2) punitive damages where appropriate;

(3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

The United States consents to be sued under this section without limitation on the amount in controversy.

JURISDICTION OF DISTRICT COURTS

SEC. 305. The district courts of the United States have jurisdiction to enforce any subpena or order issued by the Federal Privacy Board under sections 102 or 103, respectively, of this Act.

RIGHT OF ACTION

SEC. 306. (a) Any individual who is denied access to information required to be disclosed under the provisions of this Act is entitled to judicial review of the grounds for such denial.

(b) The district courts of the United States have jurisdiction to hear and determine civil actions brought under subsection (a) of this section.

EFFECTIVE DATE

SEC. 307. This Act shall take effect one year after the date of its enactment.

AUTHORIZATION OF APPROPRIATIONS

SEC. 308. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. PERCY. Mr. President, I am pleased to join our distinguished chairman, Senator ERVIN, in introducing a bill to establish a Federal Privacy Board to oversee the gathering and safeguard the disclosure of information concerning individuals. The bill will provide standards for personal information maintenance and management systems in all Federal agencies, State and local governments, and other organizations.

The collection of information about individuals by Federal agencies, State and local governments, and private organizations, has vastly increased the potential for abuse of the individual's right to privacy. And the potential for abuse is magnified almost beyond imagination by the automatic data processing techniques that are now readily available to many organizations.

In the wake of this cybernetic revolution, many social scientists are turning to a new definition of privacy—a definition expressed by Professor Alan Westin in his book, "Privacy and Freedom." Privacy, according to Dr. Westin, is "the claim of individuals, groups, or institutions to determine for themselves, when, how, and to what extent information about themselves is communicated to others." Given this new attitude toward personal privacy, it is quite easy to understand the growing alarm with which many Americans regard the unchecked practices of Government and private organizations in collecting, maintaining, and disseminating personal information.

GOVERNMENT RECORDKEEPING AND THE RIGHT TO PRIVACY

Collection of data about people is of course not a new phenomenon. The Federal Government has been collecting immense amounts of very sensitive information on individuals for decades—income tax, social security, and the census come to mind immediately. This appetite for information has grown simultaneously with our increased reliance on the Federal Government for our health, safety and well-being. Americans have in general participated in this information-gathering process with good nature. Until rather recently there has been no widespread perception that the traditional recordkeeping practices of the Government posed any real threat to personal privacy.

However, the continuing application of highly sophisticated and centralized information technology to collecting and using personal data has drastically changed the implications of Government and private record-gathering for personal privacy. The advent of computers has increased by geometric proportions the amount of information the Government can collect about us. Prof. Arthur Miller of the Harvard Law School suggests that it will soon be feasible to store a 20-page dossier on every single American on a single piece of computer tape less than 5,000 feet long.

And we must be aware that, along with this increased capacity to gather and hold information, computerization has correspondingly enlarged the Government's ability quickly and automatically to disseminate personal information to other Federal agencies, State or local governments, and private organizations.

INFORMATION TECHNOLOGY AND THE PRIVATE SECTOR

The information-gathering impulse of the Federal Government is mirrored by similar developments in the private sector. Credit agencies with their consumer files have proliferated in recent years; educational institutions are beginning the process of computerizing student records; hospitals and medical centers are finding computers the answer to much of their recorkeeping difficulties. When such information is stored on tape, it is easily transferred from one user to another. The individual usually has no knowledge of the transfer, and no ability to correct information about himself that could ruin his chances for a new job, prevent his acceptance to college, or be taken as cause for investigation by a law enforcement agency—information that by its stigma could affect the entire course of his life.

Individuals are finding it increasingly difficult to make such simple transactions as obtain a loan, open a charge account, obtain a driver's license, or register to vote without divulging their social security number. The result is that the individual social security number becomes the code under which data about the person can be grouped, stored, and transferred from one agency to another. The effects of computer technology reach all of us in indirect, hidden ways that we may never know or even be able to know, as well as in obvious ways.

We have reached the time when we must assert control over runaway technology, and protect the individual's "freedom of privacy" from haphazard abuse. We must shape our tools, lest they shape us.

PRIVACY AND THE 93D CONGRESS

Despite the multitude of bills and resolutions introduced relating to personal privacy, there has to date been no bill introduced in the Senate which deals with the issue of privacy on a comprehensive basis. Most bills now pending are directed to only one aspect of the privacy question: pending bills range from banning the disclosure of social security numbers to prohibiting financial institutions from disseminating information on their customers to Government agencies. Hearings have been held on restricting existing practices of criminal information systems, banning political surveillance by the Army, and controlling illicit uses of wiretapping. With all this isolated activity taking place, it is difficult to understand and appreciate the major theme which runs through these seemingly disparate pieces of legislation.

The common thread is the individual's right to control how, when, and to what extent information about himself is communicated to others. Until today no legislation has attempted a comprehensive response to this problem. This bill is a companion measure to one introduced in the House under the inspired leadership of Congressman BARRY GOLDWATER JR. and Congressman EDWARD KOCH.

This bill is the first major effort to respond to the threat to personal privacy on a comprehensive basis. It is directed toward controlling the threat to privacy at three important and distinct stages: collection, storage, and dissemination of information on private citizens by Federal agencies, State and local governments, and by private organizations.

The bill establishes a Federal Privacy Board which will serve as an oversight agency, establishing and enforcing standard rules and regulations designed to protect individual privacy throughout all public and private information systems, with the exception of those that relate to national defense, criminal investigations, or information gathered by the media. The Federal Privacy Board will have the authority it needs to exercise centralized control over information systems through subpena power, the right to hold open hearings, and the right to recommend both criminal and civil sanctions against offenders. The bill will establish the procedures under which individuals may get direct access to information about them, and provide a ready means for challenging and correcting that information.

The protection of personal privacy is no easy task. It will require foresight and the ability to forecast the possible trends in information technology and information policies of our Government and of the private sector before they actually take their toll in widespread invasions of personal privacy. The Congress must act before these new systems are developed and before they result in even more widespread abuses.

By Mr. DOMENICI:

S. 3420. A bill to amend the Emergency Petroleum Allocation Act of 1973 to authorize and require the President of the United States to allocate asphalt and asphalt derivatives, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. DOMENICI. Mr. President, I send to the desk for appropriate reference, a bill to amend the Emergency Petroleum Allocation Act of 1973 to authorize and require the President of the United States to allocate asphalt and asphalt derivatives. The need for this legislation has been brought to my attention by construction company owners in New Mexico who are experiencing difficulty in obtaining asphalt used for roofing construction, paving highways, streets, and airport runways.

I received a letter from a contractor who was low bidder on a job, and before the contract was awarded, he was advised by the oil company that the price on asphalt had risen $5 per ton. There was no price escalating clause provided by the bid proposal. The contractor was further advised that the price to be charged would be that in effect on date of delivery of each shipment. This contractor was bound by the required bid bond and had no choice but to proceed.

Other contractors are disturbed by the fact that the supplier stipulates that delivery is contingent upon the availability of the material, with no guarantee or assurance that it will be furnished.

Mr. President, this type of situation is unhealthy for the construction industry as well as for the agencies who request bids, due to the uncertainty of the matter. I believe that if my legislation is enacted, it will help to alleviate this problem.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 411

At the request of Mr. McGEE, the Senator from California (Mr. TUNNEY), the Senator from Tennessee (Mr. BROCK), the Senator from Iowa (Mr. HUGHES), and the Senator from South Dakota (Mr. McGOVERN) were added as cosponsors of S. 411, to amend title 39, United States Code, relating to the Postal Service, and for other purposes.

S. 2363

At the request of Mr. CRANSTON, the Senator from Wyoming (Mr. HANSEN) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 2363, a bill to amend chapter 39, of title 38, United States Code, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces.

S. 2488

At the request of Mr. KENNEDY, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 2488, to extend title VII of the Older Americans Act of 1954, the nutrition for the elderly program.

S. 3168, S. 3169, AND S. 3170

At the request of Mr. GRIFFIN, for Mr. TOWER, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 3168, to amend title II of the Social Security Act to permit the payment of benefits to a married couple on their combined earnings record; S. 3169; to amend title II of the Social Security Act to provide that an insured individual otherwise qualified may retire and receive full old-age insurance benefits, at any time after attaining age 60, if he has been forced to retire at that age by a Federal law, regulation or order; and S. 3170, to amend title II of the Social Security Act to provide that any individual who has 40 quarters of coverage, whenever acquired, will be insured for disability benefits thereunder.

S. 3238

At the request of Mr. BENTSEN, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of S. 3238, the Taxpayer Privacy Act.

S. 3343

At the request of Mr. WEICKER, the Senator from Rhode Island (Mr. PELL), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 3343, to designate a national network of essential rail lines; to require minimum standards of maintenance on rail lines; to provide Federal financial aid for rail rehabilitation; to establish rights of access by rail carriers to rail lines and facilities, and for other purposes.

S. 3344

At the request of Mr. KENNEDY, the Senator from Rhode Island (Mr. PELL), the Senator from Missouri (Mr. EAGLETON), the Senator from California (Mr. CRANSTON) and the Senator from Minnesota (Mr. MONDALE) were added as cosponsors of S. 3344, a bill to authorize appropriations for activities of the National Science Foundation, and for other purposes.

S. 3371

At the request of Mr. EASTLAND, the Senator from South Dakota (Mr. McGOVERN) was added as a cosponsor of S. 3371, a bill to amend the Forest Pest Control Act of June 25, 1947.

S. 3378

At the request of Mr. ROBERT C. BYRD (for Mr. RANDOLPH), the Senator from Delaware (Mr. BIDEN) and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of S. 3378, the Developmentally Disabled Assistance and Bill of Rights Act.

SENATE JOINT RESOLUTION 203

At the request of Mr. ROTH, the Senator from Hawaii (Mr. INOUYE), the Senator from Ohio (Mr. METZENBAUM), and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of Senate Joint Resolution 203, to authorize the President to issue a proclamation designating the month of May 1974 as "National Arthritis Month."

SENATE CONCURRENT RESOLUTION 83—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE SURGEON GENERAL'S REPORT

(Referred to the Committee on Rules and Administration.)

Mr. MAGNUSON (for himself and Mr. COTTON) submitted the following concurrent resolution:

SENATE CONCURRENT RESOLUTION 83

Resolved, by the Senate (the House of Representatives concurring), that there be printed for the use of the Senate Committee on Commerce 1,000 additional copies of its hearings of the 92d Congress, second session, entitled "Surgeon General's Report by the Scientific Advisory Committee on Television and Social Behavior."

DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATION AUTHORIZATION ACT—AMENDMENT

AMENDMENT NO. 1238

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

Mr. KENNEDY. Mr. President, the amendment I am introducing to the Department of Defense supplemental appropriations authorization for 1974 (S. 2999), has three simple objectives.

First, it prohibits on the date of enactment any further transfer of funds for the Military Assistance Service Fund—MASF—for South Vietnam beyond those already obligated.

Second, the amendment reaffirms the decision of the Congress that the Pentagon must not spend one penny over the ceiling established for this fiscal year—$1.126 billion—for military aid to South Vietnam, notwithstanding the Armed Services Committee's finding that the Department of Defense wrongly charged $266 million to this year's ceiling.

Finally, Mr. President, the amendment puts the Pentagon on notice that the Congress is tired of the practice of shipping guns and ammunition now, and paying for them later. The amendment, in effect, supports the important recommendation of the Armed Service Committee that the Department must put its bookkeeping on military aid to South Vietnam in order, and that all military supplies delivered to Saigon during 1 fiscal year must be charged to that year's ceiling.

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

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

AMENDMENT NO. 1238

On page 7, between lines 3 and 4, insert a new title as follows:

TITLE IV—PROHIBITION ON CERTAIN USE OF FUNDS

SEC. 401. None of the funds authorized to be appropriated by this Act, and no funds heretofore appropriated to or for the use of the Department of Defense by any other Act and which remain unobligated on the date of enactment of this Act, may be expended in, for, or on behalf of any country in Southeast Asia.

EDUCATION AMENDMENTS OF 1974—AMENDMENT

AMENDMENT NO. 1239

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

Mr. ERVIN (for himself, Mr. ALLEN, and Mr. TALMADGE) submitted an amendment intended to be proposed by them jointly to the bill (S. 1539) to amend and extend certain acts relating to elementary and secondary education programs, and for other purposes.

AMENDMENT NO. 1241

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

Mr. BEALL (for himself, Mr. HARRY F. BYRD, JR., Mr. COOK, Mr. MATHIAS, and Mr. WILLIAM L. SCOTT) submitted amendments, intended to be proposed by them, jointly, to Senate bill 1539, supra.

EXTENSION OF NATIONAL LABOR RELATIONS ACT TO HOSPITAL EMPLOYEES—AMENDMENT

AMENDMENT NO. 1240

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

Mr. CURTIS submitted an amendment intended to be proposed by him to the bill (S. 3203) to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes.

OLDER AMERICANS NUTRITION ACT OF 1974—AMENDMENT

AMENDMENT NO. 1242

(Ordered to be printed, and referred to the Committee on Labor and Public Welfare.)

NUTRITION FOR THE ELDERLY

Mr. McGOVERN. Mr. President, I submit for appropriate reference an amendment to S. 2488, which is currently pending before the Labor and Public Welfare Committee.

The amendment is in two parts. First, it would increase authority for the nutrition program for the elderly to $250 million, in steps over a 3-year period. This figure has already been approved in the House of Representatives, and it is based on urgent needs which have been clearly demonstrated.

Second, the amendment would add authority for $35 million in new funds for supportive transportation services for the elderly nutrition program.

We know that one of the greatest obstacles to adequate nutrition for older Americans is the simple fact that it is often inconvenient, expensive, and in some cases impossible for them to move back and forth to the places where meals are available. That is especially true in areas where there is no public transportation system.

This portion of the amendment would emphasize aid in areas where transportation has proven to be a critical problem. Centers serving meals to the elderly could use these funds for such things as acquiring and operating small buses, paying for gasoline for volunteer drivers, or other efficient methods of providing transportation for the elderly where it is necessary to fulfill the purposes of the nutrition program for the elderly.

I commend these changes to my colleagues in the Senate, and I urge their early adoption.

SUPPLEMENTAL APPROPRIATIONS BILL, 1974—AMENDMENT

AMENDMENT NO. 1243

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

Mr. SCHWEIKER submitted an amendment, intended to be proposed by him, to the bill (H.R. 14013) making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes.

NATIONAL INSTITUTE OF HEALTH CARE DELIVERY ACT OF 1974—AMENDMENT

AMENDMENT NO. 1244

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

Mr. BEALL submitted an amendment, intended to be proposed by him, to the bill (H.R. 11385) to amend the Public Health Service Act to revise the programs of health services research and to extend the program of assistance for medical libraries.

AUTHORIZATION OF APPROPRIATIONS UNDER THE INTERNATIONAL ECONOMIC POLICY ACT OF 1972—AMENDMENTS

AMENDMENT NO. 1245

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

Mr. ROTH submitted an amendment, intended to be proposed by him, to the bill (S. 2986) to authorize appropriations for carrying out the provisions of the International Economic Policy Act of 1972, as amended.

AMENDMENT NO. 1246

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

Mr. HATHAWAY submitted an amendment, intended to be proposed by him, to Senate bill 2986, supra.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1198

At the request of Mr. BEALL, the Senator from Maryland (Mr. MATHIAS) and the Senator from Colorado (Mr. DOMINICK) were added as cosponsors of amendment No. 1198, intended to be proposed by him to the bill (S. 411) to amend title 39, United States Code, relating to the Postal Service.

AMENDMENT NO. 1215

At the request of Mr. DOMINICK, the Senators from Arizona (Mr. FANNIN, and Mr. GOLDWATER), the Senator from Georgia (Mr. NUNN), the Senator from Idaho (Mr. MCCLURE), the Senator from Kentucky (Mr. COOK), the Senator from Mississippi (Mr. EASTLAND), the Senator from New Hampshire (Mr. COTTON), the Senator from New Mexico (Mr. DOMENICI), the Senator from North Carolina (Mr. HELMS), the Senator from Oklahoma (Mr. BARTLETT), the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER), the Senator from Utah (Mr. BENNETT), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from New York (Mr. BUCKLEY), and the Senator from Wyoming (Mr. HANSEN), were added as cosponsors of amendment No. 1215 to S. 3203.

NOTICE OF HEARING ON S. 1844

Mr. CANNON. Mr. President, I wish to announce that the Subcommittee on the Library of the Committee on Rules and Administration will hold a public hearing on S. 1844 to provide for the establishment of an American Folklife Center in the Library of Congress, and for other purposes.

The hearing will be held on May 8, 1974, beginning at 10 a.m., in room 301, Russell Senate Office Building. Those who wish to testify or submit a statement for inclusion in the hearing record should contact William M. Cochrane, staff director of the committee (202–225–6352).

POSTPONEMENT OF HEARINGS ON SECRECY IN GOVERNMENT

Mr. MUSKIE. Mr. President, the hearings on secrecy in Government of the Subcommittee on Intergovernmental Relations scheduled to begin May 2 and 3 have been postponed until later this month. The hearings are now scheduled to begin May 23 and to continue May 29, 30, and 31.

ADDITIONAL STATEMENTS

WEATHER MODIFICATION

Mr. TOWER. Mr. President, the suffering and economic hardship that the southwestern part of the Nation has faced because of drought is well known. Unfortunately, parts of Texas are even now suffering from decreased rainfall with a resultant loss of crops and shortages of municipal and industrial water. This critical situation exists just at the time this country is in need of the agricultural goods the State of Texas produces.

American research and technology have made some breakthroughs in the field of weather modification and the ability to create rainfall and modify weather is within our grasp. However, the governmental responsibility in this field is hopelessly divided among a number of Government agencies. This area of science has interstate and international overtones which must be considered and coordinated. Weather modification also has a potential for abuse and fraud which requires control.

Consequently, I have become a sponsor of S. 3314, to provide for a study of the need for regulation, the status of today's technology, and to ascertain where the responsibility should lie within

the Government. I have also joined as a cosponsor of S. 3315, which provides this country with a national policy on weather modification. These bills would allow the United States to assess the benefits of weather modification and to establish procedures and laws to control it. They would also allow us to establish a national policy for the use of the critical and needed technology.

The ability to modify weather and thus relieve hardship and suffering is, indeed, of critical importance and I encourage the Senate to study these bills carefully.

NEED FOR IMPROVEMENTS IN VETERANS' EDUCATIONAL BENEFITS

Mr. HART. Mr. President, the need for substantial improvements in veterans' educational benefits has been fully documented, and over the past few months I am sure all of us have received many letters and calls urging support of various proposals to improve these benefits for Vietnam-era veterans.

It is my belief Congress will be responsive. It is encouraging that this week 58 Senators joined in the introduction of a separate bill to provide a 2-year extension of the period in which veterans, their wives, and widows may use their educational benefits. Expeditious approval of this measure is, of course, critical for many whose eligibility is due to expire the end of May.

The potential impact of this and other recommendations now under consideration is thoughtfully and compellingly brought home in some comments I have received from John Tomasik, a Michigan veteran, and Dr. George E. Gullen, Jr., president of Wayne State University, and I ask unanimous consent that their letters be printed in the RECORD.

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

WYANDOTTE, MICH.,
January 13, 1974.

Senator PHILIP HART,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR HART: I graduated from high school in June of 1960. On June 24 of that same year, I entered the United States Air Force. In August of 1962, because of medical reasons, I was discharged. Since that time I have been employed as a driver-salesman for a Detroit area beer distributor. I have recently enrolled in a night time college program.

Up until this time, I have not had the opportunity to use any of my benefits. Now that I have begun, I am very enthusiastic about a chance to better myself.

I would never have believed that after being out of school for so many years, I could do the amount of work that I have accomplished so far. I do now believe that an education is something that no one can take away from you.

I am writing this letter to ask for your support of the bill to extend veterans' benefits. As the law stands right now, I would not be able to complete my education under my benefits because my time would expire.

In order to obtain my degree, the benefits would need to be extended from 8 to 10 years.

The job opportunities awaiting me when I obtain my degree are vast. The chance to better myself and my family are important to me. Your support will be appreciated by all of us.

Sincerely,

JOHN A. TOMASIK.

WAYNE STATE UNIVERSITY,
Detroit, Mich., April 2, 1974.

Ref.: Comprehensive Vietnam Era Veterans Educational Benefits Act of 1973: Senate Bill 2789

Hon. PHILIP A. HART,
U.S. Senate, Old Senate Building,
Washington, D.C.

DEAR SENATOR HART: It has become apparent that Vietnam Era veterans are not utilizing the "G.I. Bill" as did their World War II predecessors. This certainly has been sufficiently documented. Although the basic structure of the G.I. Bill is still pretty solid, it is time to review what we have and improve it.

As you know, the congressionally commissioned report by the Educational Testing Service of Princeton (1973) provided the ground work for just such an overhaul. It is gratifying to see so many of the report's recommendations incorporated in the Comprehensive Vietnam Era Veterans Educational Benefits Act of 1973—Senate Bill 2789. We here at Wayne State University would certainly support its passage.

Of particular advantage to our veterans would be the adoption of the following major provisions:

1. A tuition payment made to the veteran for tuition costs above $400 per year. (The ETS study showed $400 to be the average tuition cost at a four-year public institution.) Passage of this provision would keep veterans from being locked out of institutions where fiscal responsibility requires a tuition rate beyond the $400 level. For example, the current tuition at Wayne is approximately $700 per year.

2. An increase from 8 to 10 years in the elibility period. Presently veterans have eight years from the date of discharge to *complete* their education with the help of G.I. assistance. Here at Wayne State 29% of our veterans are graduate students. Many of these fellows have time left under the bill but are running up against the deadline date for completion. It doesn't seem logical to cut them off.

3. An extension of the present 36-month entitlement period for up to nine additional months subject to case-by-case approval by the V.A. This provision, intended for those who have lost credits because they have transferred from one school to another, or because they lacked sufficient preparatory background and need additional courses to complete their program of instruction, would be particularly advantageous to Wayne State University veterans. Being a large metropolitan University, Wayne State receives a goodly number of veteran students from the area's many community colleges—not to speak of transfers from other four-year institutions.

4. An increase in the basic subsistence allowance paid to veterans in educational programs. This would be consistent with action already taken in the House, and certainly the need for such a raise has been substantiated.

I could continue to relate the passages of Senate Bill 2789 to the needs of our student veterans, but I believe you can see the bill has my personal backing. I would urge your support and, certainly, there seems to be a call for immediate action. A bill on the President's desk soon could re-invigorate veteran enrollments throughout the country—and more importantly to us—could provide Wayne State's veterans with a better set of tools to get the job done.

Very truly yours,

GEORGE E. GULLEN, Jr.,
President.

ERTS—THE GROWING PAINS OF A FLEDGLING STAR

Mr. ABOUREZK. Mr. President, it was not until 1972, after years of budgetary constraints and bureaucratic infighting that NASA launched its first Earth resources technology satellite—ERTS. Its purpose was to demonstrate that the Earth could be surveyed inexpensively and effectively from space. In 22 months of operation ERTS has been one of NASA's most striking successes, and a second ERTS is being readied for launch late this year or early in 1975.

Once every 18 days, the satellite looks down on the same 115-mile swath running north-south as it circles the Earth from 567 miles up making 14 complete orbits every day. The satellite is equipped with a sophisticated device called a multispectral scanner that performs the actual phototaking as it "catches" the varying amounts of solar energy reflected and emitted from Earth in four different spectral bands of the electromagnetic spectrum. Its function is to record and provide data which can be processed into pictures depicting the real-time status of the Earth and its resources. Upon collecting its data by continually scanning the ground directly beneath the observatory, the multispectral scanner then periodically "dumps" its data into waiting Earth receiving stations.

By looking down from its near polar orbit, the scanner continues to transmit nearly 9,000 highly detailed pictures a week for processing, analyzing, recording, and establishing standards tables for use by over 300 investigators in at least 90 countries.

In addition, the satellite carries receiving and relay equipment to collect data from ground based, remotely located sensors, report on the water level of lakes, streams, and reservoirs; soil moisture content; snow depth; surface temperatures; ocean salinity; ice pressure; ocean currents and atmospheric pollution.

ERTS transmits its data back to three U.S. stations and one in Brazil. The key tracking stations for acquiring data are at Fairbanks, Alaska, Goldstone, Calif., and Greenbelt, Md. The operations control center and data processing facility for ERTS is NASA's Goddard Space Flight Center at Greenbelt.

When the space agency put its first ERTS satellite into orbit now over 18 months ago, the scientific community scorned the $200 million project as an adventure that would be best remembered for its waste. Cries of wasteful spending came from everywhere and demands that the program be terminated because of the pending fiscal squeeze emerged early from scores of doubtful critics.

Nothing has been further from the truth.

In NASA authorization hearings for fiscal year 1974, before the Senate Aeronautical and Space Sciences Committee, Charles W. Mathews, Associate Administrator for space applications proudly reported that "preliminary information from the (ERTS) investigators allows us to say that we are obtaining positive

results in nearly every area of proposed applications."

NASA Administrator James C. Fletcher stated that:

We're getting much more out of this program than anybody predicted. We more than realized our fondest hopes.

And indeed they are.

In agriculture, using ERTS data, experts have been able to differentiate between cropland and pasture, corn and wheat, and even between durum wheat and other spring wheat. And because each type of plant reflects its own unique pattern of light wave, scientists can sometimes even tell whether the crop is healthy and growing rapidly, or diseased and short of moisture.

Some of the people in land management have come to look at ERTS as one way to help them sharpen their estimates of the acreages and the condition of public range lands. In South Dakota, for example, people at the Remote Sensing Institute at South Dakota University, prepared an updated soils map of the whole State using only 20 ERTS images. In pre-ERTS days, an estimated 30,000 conventional aerial photographs were needed for the same job at a cost of about $250,000.

One of the earliest criticisms of ERTS was that its cameras were not good enough to get sharp pictures of the Earth's features—a criticism that has turned out to be unwarranted. The color cameras on the spacecraft have returned pictures twice as sharp as the critics expected.

Besides proving its usefulness in agriculture, the satellite has pinpointed all the strip mines in Indiana, charted all the burned out regions of California's forest land, found nickel in western Canada, large copper ranges in remote parts of Pakistan and even oil in the Alaskan wilderness.

Using ERTS data, scientists discovered that the snow runoff into Arizona's Verde River Valley last year would not threaten with the same severity that it did the year before, a prediction that closed 40 percent fewer roads last year than the year before.

Polluters have also felt the teeth of the EROS program. ERTS imagery has identified the sources of polluting smoke in Virginia, Illinois, Minnesota, and Pennsylvania. In New York, ERTS photos were used in a lawsuit against a papermill accused of dumping waste into Lake Champlain.

Demand for ERTS information is multiplying beyond even the most optimistic expectations. Literally thousands of orders are received each week. With the recently completed Skylab mission, new orders could even reach a million per month. Projected photo sales for 1974, merely 18 months since the first ERTS launch, are close to a million dollars. For 1975, figures are expected to increase 150 percent, if the EROS budget is allowed sufficient funds to obtain more equipment and personnel to keep up with the meteoric demand.

But, this remains a big, big "if."

Largely because of its experimental status, but also because there is no politically powerful constituency, the EROS program continues to lose operating funds with each new round of Nixon budget cuts.

In spite of the EROS success story, the Nixon administration last year drastically reduced the program funding. Almost $2 million, or 20 percent of the entire EROS budget was cut. The launch of ERTS–B, the second ERTS satellite, was postponed indefinitely. "Until the cost-benefit studies are completed," said OMB in a response to an inquiry from my office, "we believe any acceleration of the EROS program would be premature."

Yet, while they argued on that basis for a large cut in the relatively small EROS program, they saw no conflict in requesting 45 times as much, or $450 million, for the costly and controversial space shuttle.

Now, again this year, EROS faces a similar cut in its operating budget, with similar lame excuses from the administration. However, this time the situation is even more grave. While the cost of living in the last 12 months has increased over 8 percent, the EROS budget for fiscal year 1975 was slashed another 15 percent, causing a total fiscal operating loss of 23 percent.

In answer to questions posed by the Senate Aeronautics and Space Sciences Committee regarding the Department of Interior's budget for EROS, Dr. John DeNoyer, Director of EROS, admitted that, "we are putting about $760,000 into specific ERTS investigations." While even most feasibility studies run into the millions, EROS was left with a mere three quarters of a million dollars for research and experimentation with the millions of pieces of data returning from space. This year, that amount is bound to shrink again.

Had it not been for NASA's early development of ERTS and the work of hundreds of private scientists and researchers who have done thousands of studies of their own, the value of this program might have been lost in the bureaucratic shuffle which has killed scores of worthy programs in the past.

Dr. George Low, Deputy NASA Administrator described EROS' dependency on outside sources very succinctly before the Senate Space Committee:

I think more than has happened in previous programs, the various user agencies are providing funds for their own to see how these products can be applied to their own use. These are small amounts of money but they are used to determine the best way to apply these results.

But Dr. Low hit the nail on the head when he commented:

Secondly, I think it is quite clear that the Department of Interior would very much like to get started with an operational Earth resources satellite as soon as their own funding limitations will allow them to do that.

Until the EROS program becomes operational, it will continue to be at the mercy of the bureaucratic regime of administration budget planners whose only concern is to cut in areas where the complaints are most easily muted. An experimental program will continue to face the uncertainties and anxieties of fluctuating budgets, lack of administration interest and attention, and great reliance on private and interagency agreements for outside funding. Experimental projects are being planned not on their inherent value, but on the condition that a private organization or other governmental agency will be willing to pay for it.

EROS has been successful in spite of these stumbling blocks and aside from the fact that even a large majority of users who can pay are being given only half of the data relayed from the satellite. This is true because of many serious organizational limitations in processing and relaying the satellite information. It now takes weeks and even months, depending on the size of the order, to process a request for EROS photos.

With ERTS–B scheduled for launch within a year from now, and with the overwhelming supply of EROS data provided by Skylab, it is readily apparent that the present system of receiving and processing the data is grossly insufficient. EROS collects massive amounts of data from the Earth and demand for data is growing at a rapid rate. Unfortunately, there is neither enough manpower or equipment to handle both collection and distribution of the data.

We do not have a complete, modern data handling facility for EROS program and its ERTS photography. An EROS facility with the capacity to receive, process, and disseminate satellite data within, say, a 48-hour period would be invaluable to the effective use of the information. Rather than waiting a month to 6 weeks, as we do now, to use satellite data for a study on a diseased crop, information could be available almost in the same day to enable users to react to symptoms of disease before they spread across an entire area. I am proposing such a central system to accomplish these results.

The EROS Data Center in Sioux Falls, S. Dak., would be the logical choice for the advanced system. The facility already catalogs and disseminates all the EROS data and the new, modern 3-acre building would allow ample room for growth. It has been estimated that for less than $8 million the necessary hardware could be installed at the data center and be operating within 1 year. A system such as this could go a long way to paving the road to a fully operational system.

But administration support—or at least tacit approval—is almost a must. As long as the Interior Department and OMB insist on allowing EROS only half of the funds it requests, an operational program will be extremely difficult, if not impossible to achieve.

Despite repeated urging by the Congress in recent years, the administration has failed to bring about the institutional and bureaucratic arrangements necessary to bring about the benefits of Earth resources research to a stage of

operational usefulness. Yet, the technology has moved ahead and the need for coordinated and careful management of our Earth's resources has intensified. The gap between promise and performance is widening. The time to move toward an operational system is now.

The tremendous potential of the EROS program has convinced me that to curtail this program, as has happened in the last 2 years, just to save a few million dollars today is a classic example of being penny wise and pound foolish.

There is not a single space endeavor that has received more unanimous and enthusiastic support from Congress. Nor is there a single space program worthy of higher prices. Before we spend additional billions of dollars to find out if man can survive in space, it is essential that we spend a few million dollars in space money to help people better survive here on Earth. This is the function and the goal of our EROS program, it is time we give it room to grow.

EMPLOYMENT STATUS OF VIETNAM VETERANS

Mr. INOUYE. Mr. President, two recent articles show clearly the gap between Nixon administration rhetoric on the present employment status of the Vietnam veteran and the realities facing the veteran on the unemployment line.

"Nation's Businessmen Credited With 'Jobs for Veterans' Success" is the title of an article in the April 15, 1974, issue of the Department of Commerce publication, Commerce Today. Three days after this story appeared, the Washington Star-News ran an article with the headline "Jobs for Veterans Get Scarcer."

The recent rise in unemployment rates for Vietnam-era veterans, especially between the ages of 20 and 24, shows that the President's new Domestic Council Committee on Veterans Services needs to find a better way to find training and jobs for veterans. OMB Director Roy Ash, who is a member of that committee, can take a first step by supplying the Manpower Administration's Veterans Employment Service with the congressionally authorized funds to hire the necessary staff to carry out their important task of helping vets to find jobs.

I ask unanimous consent that these two articles be printed in the RECORD. Together they point out why the credibility of this administration continues to fall.

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

[From Commerce Today, Apr. 15, 1974]

NATION'S BUSINESSMEN CREDITED WITH "JOBS FOR VETERANS" SUCCESS

Businessmen throughout the nation have played a major role in a dramatic turnaround in joblessness among returning Vietnam veterans. The turnaround saw the unemployment rate among Vietnam veterans drop from a peak of 9.8 percent in September 1971 to 3.6 percent in November 1973.

This disclosure, based on information compiled by the Department of Labor, is included in the final report to President Nixon made by James F. Oates, Jr., Chairman, National Committee, Jobs for Veterans. The Committee organized and spearheaded a nation-wide, many-sided campaign lasting more than three years to locate returning veterans in jobs, and to help them to be trained for jobs.

The results of this campaign, reflected in tables and charts prepared by the Labor Department, reveal that the wide unfavorable gap in unemployment for the Vietnam veteran prevailing in 1970 and 1971 began to shift in favor of the veteran. Non-veteran unemployment dropped from a high in recent years of 8.1 percent in November 1971 to 4.1 percent in October 1973.

"The causes of this movement are many," the report says. "There did seem to emerge, from all local reports and demonstrated community initiatives, a conscientious effort on the part of the employer to commence giving the veteran the 'edge', a major thrust of the Jobs for Veterans campaign. The Committee believed that the employer, . . . did earnestly begin to 'talk it up' and to seek out the veteran."

UNFINISHED JOB

The report, however, contends that the task of finding jobs for veterans is unfinished. It contains 20 recommendations for continuing the effort, particularly with respect to finding jobs for disabled veterans, helping disadvantaged veterans, continuing educational and vocational activities, increasing on-the-job training, continuing the GI Bill educational entitlements, and increasing job-placement activities.

President Nixon, in a recent radio address, pointed out that there had been a slight upturn in veteran unemployment in recent months. At the end of February, he said, the rate "stood at five percent, which is just below the national average.

"There are no doubt several causes—among them the problems relating to energy—but the causes are not what matters," the President said. "What matters is this: the men who fought on the battlelines in Vietnam must not come back to job lines in America. We must redouble our efforts to help these young men and women find jobs."

The President said the progress made in reducing the Vietnam veteran unemployrent rate "is a credit to the federal agencies that have mobilized job programs and more especially to two private groups, the Jobs for Veterans Committee and the National Alliance of Businessmen.

"With the help of the government and public spirited businessmen," the President added, "more than 2.2 million veterans of the Vietnam era have been placed in jobs in the last 2½ years.

"There has also been progress on other fronts. Nearly three million veterans of the Vietnam era have financed their educations under the GI Bill since 1969. Education allowances have been increased by 70 percent during this same period. The number of veterans assisted through guaranteed mortgage loans has increased by 46 percent. The Veterans Administration, which operates the largest civilian medical care system in the world, is now undertaking the biggest hospital construction program in its history."

In his letter to the President transmitting the Jobs for Veterans Committee report, Oates said: "I realize that not all of our veteran job problems have been solved, but progress on all fronts has been unmistakable. We now have the means to continue veterans employment efforts in our cities and towns and our course is clear."

Oates said the Jobs for Veterans Committee only asked that the task be attacked in good spirit and faith, and that "I feel that America, its citizens and particularly its businessmen, have so responded."

In his radio address, the President announced a series of steps to further improve services to veterans.

TAKING A HARD LOOK

He directed Donald E. Johnson, Administrator of Veterans Affairs, and Roy L. Ash, Director, Office of Management and Budget, "to set up a crack management team which will take a hard look at the services provided by the VA (Veterans Administration) across the board."

He said also that he was creating a new Domestic Council Committee on Veterans Services to be chaired by Johnson and to include four Cabinet officers and others.

In addition, he directed Johnson "to conduct a thorough investigation of the conditions of our veterans hospitals and clinics, including a personal tour of some of those facilities," and to report to him directly in 60 days.

"Veterans need to know," he said, "if we can find a better way of delivering checks on time. They need to know if there is a better way of obtaining medical services. They need to know if there is a better way to find training and jobs.

"Those are the kind of questions I want answered from this new look at veterans affairs, and I am asking for those answers within eight weeks."

One problem facing Vietnam veterans, the President said, is the "staggering increases in the cost of higher education.

"That is why," he said, "I have proposed that we increase their education benefits by an additional eight percent to help them overcome the forces of inflation.

"This would raise the payments to a single veteran with no dependents to $240 a month, tax-free."

In an official briefing on veterans programs following the President's remarks, Johnson said the fact is that the bulk of checks for veterans arrive on time, but that he would not be satisfied until all of them arrive on time. The important thing, he said, is that the check should be in the hands of the veteran at the beginning of the month when he needs the money.

He said the management team announced by the President is attacking the problem, that he believed a solution had been found, and that he expected it to be in operation by the time of the fall enrollment this year.

Johnson said that at the present time 51.5 percent of all eligible veterans have taken advantage of the educational benefits under the GI Bill, a greater percentage than was true of the veterans of either World War II or the Korean War, and that he believed Vietnam veteran participation would exceed the previous record by 10 percentage points.

ENERGY IMPACT

The Jobs for Veterans Committee recommends in its final report that volunteer field organizations fostered by the Committee, together with the counseling, training and job placement activities of government agencies and the National Alliance of Businessmen, should continue their efforts to reduce the impact of the energy crisis on the Vietnam veteran and other service personnel scheduled to be discharged this year and next.

The report points out that, aside from the 3,500,000 veterans released to civilian life in the last three years, 470,000 service personnel are scheduled to be discharged during the current fiscal year, and a somewhat lesser number in fiscal year 1975.

Other recommendations contained in the report follow:

Concepts developed by the Jobs for Veterans Committee for mobilizing national and local efforts should still be applied in appropriate ways when needed in order "to sustain and influence public and employer interests for veterans and those emerging from our Armed Forces."

The Veterans Administration and the Department of Labor should annually inventory disabled veterans, principally those with 30 percent disability or more, to determine their employment needs in order to insure that everything continues to be done within the limits of their disabilities to move them into the ranks of normal employment, or to upgrade them.

The veteran unemployed population should be examined periodically and systematically in depth and on a person-to-person basis as nearly as possible to ascertain whether a hard core of unemployed, isolated, or unemployable young Vietnam era veterans has evolved who require direct attention.

Counseling of veterans by the Veterans' Administration and the Department of Labor should emphasize that education and training can be considered continuing functions during a veteran's lifetime, bringing job improvement or new career choices, and that unused GI educational benefits should be applied in pursuit of wider educational opportunities.

Coincident with career counseling, more veterans should be encouraged to enter into technical training programs during the period of their entitlement.

Special efforts should be made to obtain more employer commitments to on-the-job training with the aim of raising to at least 20 percent the number of veterans pursuing on-the-job technical training.

The job fair concept and procedures developed by the Jobs for Veterans Committee should continue to be utilized at the local level, and should be promoted by the United States Employment Service and state employment offices to combat the jobless problem. Well-timed job fairs could bring out employers who have jobs not uncovered by other means.

The task force programs set up throughout the nation in the campaign to provide jobs for veterans should be given continued support by the federal agencies having the national and local resources to aid in the effort.

The Veterans Administration in cooperation with the Department of Labor should arrange during an appropriate period in 1974 for a survey of representative groups of veterans to gain insight into their attitudes, opinions, aspirations and problems, as was done in the Harris Survey in 1971.

Because skills acquired in the military should not be lost, governmental and private licensing and certification agencies, labor unions in the apprenticeable trades, and the academic community should establish procedures whereby appropriate credits can be established for specific military job skills.

The Armed Forces as a matter of policy should determine that no individual should leave military service without the acquisition of a skill having a civilian counterpart with a reasonable expectation of a job, and as a minimum a high school diploma or its equivalent.

The career education and training programs of the military services, established to meet mission requirements, should be so developed or extended that individuals who have not been prepared for civilian counterpart skills would be provided with training to produce a civilian-related skill.

Both the military and civilian sectors should recognize that the All Volunteer Force must be sustained. One way to insure this is through career education and training of volunteers, who if they achieve job satisfaction upon reentry into civilian life will become the best recruiters for younger men and women for military service.

The Department of Defense should continue to organize Job Information Fairs at such locations and times overseas that their services would be provided to significant numbers of personnel scheduled to be discharged from the Armed Forces.

Full educational entitlements of the current GI Bill should be maintained to provide post-service readjustment for veterans in an all-volunteer environment.

The problem of veteran job mobility should be reexamined to determine if by administrative or legislative means a system can be established to move veterans out of ghettos, impoverished areas and declining job markets, provide them with such skill training as needed and relocate them and their families in new areas with a job guarantee.

The Labor Department should continue to cooperate with the Department of Defense for expansion of the predischarge placement system which would link military bases with Job Banks and other Employment Service job information systems for direct job placement.

A computerized man-job match system for job finding for all departing service personnel should be set up as soon as possible under Department of Labor management as a positive means of meeting the veteran unemployment challenge.

The Department of Labor's U.S. Employment Service and the Veterans Employment Service and the Veterans Administration field services should be provided with such additional or specialized resources as may be required from time to time to deal with a vastly expanded veteran population.

With respect to the drug problem among veterans, the report explained that it was found to be "quite limited when compared with the veteran population as a whole," and that the Department of Commerce in October 1971 had informed businessmen "that the problem was confined to a small percent of all veterans, and that overgeneralization to all veterans would be tragic."

Go through a series of increasingly stringent regulations each requiring industry to increase the technology of its product. This project will examine the effectiveness of these alternative approaches as actually experienced in specific industries, and as experienced in foreign countries.

Can the adoption of regulatory codes dependent upon the use of voluntary standards be accelerated so as to speed up the introduction of important new technologies?

Nuclear power plant licensing, for example, requires the development of appropriate health and safety standards by professionals regularly employed by manufacturers, users, and others who volunteer their time for standards development on an ad hoc basis. A project being conducted with the Atomic Energy Commission will explore ways of shortening the considerable period thus required for standards development and reactor licensing by hiring a core staff to integrate the voluntary standards work.

What methods are available to small firms in "fragmented" industries for achieving the coordinated research and development required for new technology of high national priority?

There may be several reasons why a particular industry might find it difficult to respond to a technological change required by government. It may be fractionated so there is no logical place for the change to take place. Or, the industry may be comprised of small firms that are individually in no position to conduct the needed R&D and to economically comply with government's requirements. The Small Business Administration is cooperating in this project to work out techniques for resolving the difficulties.

How can the Interstate Commerce Commission (ICC) stimulate railroad investment in modern refrigerated boxcars, which are in almost critically short supply?

This project is carried on with the cooperation of the ICC and the Federal Railway Agency. It is testing the thesis that if the costs of the cars were systematically reapportioned, railroads would find the investment in research, development and construction of new, modern cars both advisable and profitable.

What is the most efficient way in which the Environmental Protection Agency (EPA) can marshal its grant and regulatory powers to cause a technology to be perfected and disseminated through an industry?

This project will systematically examine methods of combining EPA grant and regulatory functions to facilitate technological changes benefitting the environment. Several case studies and related economic theory are being assessed for insight into the incentives most likely to bring about the needed changes.

When the government chooses among alternative building designs, would it do well to use Life Cycle Costing (LCC) techniques allowing for trade-offs between higher initial cost and lower life-operating costs?

The thesis being tested in this experiment holds that if building construction contract awards were based on LCC predictive analyses of the design alternatives, then building envelopes, materials and equipment would be chosen to provide lower total costs over the life of the building.

Can health care services be made more productive through better selection of technologies?

Health care equipment is presently purchased primarily through the personal choice of individual professionals, resulting in overuse of technology some of the time and under use at other times—a costly procedure because of the lack of systematic resource allocation. The ETIP/NBS experiment in this area is designed to develop and employ methodologies for selecting equipment on a cost-effective basis for operating clinical laboratories, patient-monitoring systems and other health care services. Cooperating are the Department of Health, Education and Welfare and the Veterans Administration, which is in a position to provide ideal testing ground because it controls 70 percent of all federal hospital beds.

STRENGTHEN BASE ASSETS

These and some 30 other current ETIP experiments have been conceived to explore means of strengthening the nation's basic assets through more creative use of labor, capital, natural resources and technology. Thus an energy-efficient room air conditioning procurement experiment may begin with questions of hardware and mechanics—improved condenser, evaporator, compressor, and so on—but these represent departure points for ETIP analysts. In the larger picture, each project reflects basic elements of the ETIP mission. That mission calls for conducing an interrelated series of experiments aimed at developing and testing federal policies providing private-sector incentives for investing in technological change, especially in socially desirable areas.

If ETIP scores a number of successes in the years ahead, they may prove to be extraordinarily significant. A few "bull's eyes" by the program's managers and cooperating experimenters could:

Help lead to an improved U.S. balance of trade as a result of export-generating new technology;

Increase the productivity growth rate of regulated industries;

Help to avert a variety of threatened materials shortages;

Lend new prominence to small business in the nation's economy;

Provide a prototype for state product development corporations. These illustrations suggest only a few of the many possibilities.

ETIP, with its emphasis on the generation of new-product, process and service technologies, represents the embodiment of a vital trend. Sociologist Peter Drucker described this trend recently in terms of an observed new spirit in industry:

"Ten or 15 years ago, most managements perceived their main challenges as lying within the enterprise. Today most managements perceive the important challenges as lying outside the enterprise."

Applying this spirit nationaly, the ETIP enterprise provides an unusual illustration of the maxim that the whole is bigger than all of its parts.

[From the Washington Star-News, Apr. 18, 1974]

JOBS FOR VETERANS GET SCARCER

(By Ned Scharff)

A Labor Department report to be released in two weeks will show that the unemployment rate among Vietnam veterans—which appeared to be diminishing at the end of last year—is now as high as ever.

Preliminary figures collected by the Bureau of Labor Statistics indicate that unemployment among Vietnam-era veterans has soared from 4.1 percent to 5.1 percent since December.

The figures show that unemployment among veterans most recently discharged—those between the ages 20 and 24—is up to 9.9 percent, compared with a rate of only 7.7 percent for men the same age who did not enter the armed forces.

So far, the ups and downs of veterans' unemployment have followed trends in the overall national unemployment rate—with one important difference. Unemployment has remained a disproportionately serious problem for younger veterans, those struggling hardest to readjust to civilian life.

Many veterans now are finding that training which prepared them for combat in Vietnam does not necessarily make an impression on employers here.

"Besides Vietnam being an unpopular war that people would rather forget about, a lot of employers have the idea that veterans are drug-users—not the type who conform to the establishment work ethic," said Norman Hartnett, director of Disabled American Veterans.

The Labor Department report also will lend ammunition to critics of the Nixon administration—senators, congressmen and activist veterans—who have charged the President with making no significant effort to improve the veterans' unemployment problem.

Sources in the Labor Department's Manpower Administration, charged by Congress with helping veterans find jobs, say some programs have been held up because the Office of Management and Budget has delayed funding them.

The Vietnam Era Veterans Readjustment Act, which went into effect in January 1973, included a provision to double the size of the Manpower Administration's Veterans Employment Service, which then had about 60 staff members.

Only 35 of the additional 68 employes authorized have been hired so far, sources said, because OMB has refused to supply the funds to hire the new staff at the authorized GS-11 and GS-12 levels.

NORTH CAROLINA SUPREME COURT JUSTICE DISCUSSES FAITH IN AMERICA, WATERGATE COVERAGE BY MAJOR MEDIA

Mr. HELMS. Mr. President, on April 29, a distinguished jurist in my State, Associate Justice I. Beverly Lake, delivered an inspiring address before the Raleigh Lions Club. Dr. Lake is an associate justice of North Carolina, and has served ably on my State's highest court for nearly a decade.

Dr. Lake is a Democrat; thus his comments about Watergate, and the conduct of the major news media of this country, are quite significant. But even more significant is his eloquent formula for rebuilding faith in America.

Dr. Lake is a great American, and he is a treasured friend of mine. I invite Senators to spend a few minutes in reading the text of his address, which I ask unanimous consent to have printed in the RECORD.

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

LAW DAY 1974

The purpose of Law Day is not to honor lawyers, policemen or the judges who preside over our courts, but to call the attention of businessmen like you, homemakers like your wives, employees like your employees and neighbors like your neighbors to your government, what it means to you and what you can mean to it.

Forty-five years ago this coming August first, I began practicing law here in Raleigh. In those forty-five years I have had rare opportunities to come to know the lawyers of North Carolina. I say to you now, as I pause a moment here in the late afternoon of my own professional career, I am proud of my profession and I could wish for my little grandson no greater privilege, no more satisfying life than to be an active, busy, hard working lawyer in North Carolina. But I did not come here to tell you of the virtues of my fellow lawyers, individually or collectively. You know them well, for the ones of most importance are those also of the doctor, teacher, merchant, manufacturer, minister and police officer—industry, integrity, kindliness.

I came to talk to you on this Law Day about something much more controversial, more debatable, about which intelligent men have had sharply differing opinions and will have through the long future—the Government of our country, what it means to you and what you can mean to it.

The great tragedy of what is now summed up in the one word "Watergate" is the loss of faith of many of our people in the Government of the United States—not in an individual, not in an administration, not in a political party, but in the Government itself. This is a grievous injury to America. It may well be permanent. Whether it will be or not depends primarily upon you, and men like you throughout our country—men capable of leadership of community thought, respected for intelligence, industry, character and patriotic concern.

For this injury to our beloved land, historians of the future will not lay blame solely upon the perpetrators of stupidly inept criminal actions, largely motivated by excessive partisan loyalty. History will record as even more reprehensible those inquisitors, reporters, commentators and columnists who, for their own advantage, political or otherwise, or because of hatred for an administration they tried, unsuccessfully, to defeat at the polls, have sought to poison the minds of the people of America against the leader of that administration. By cartoon, verbal and printed, by unsubstantiated accusation attributed to some unidentified "informed source close to the White House," by innuendo, by the headlining and solemn recounting as gospel truth, of charges uttered by self-confessed criminals, virtually promised lighter sentences in exchange for alleged "revelations," the television networks, the press and members of the Congress, itself, have denied to a President, against whom no specific charge has been filed, the most elemental protections granted by the Constitution to the rapist, the murderer and the kidnaper.

On this Law Day, it is the proud boast of my profession, justified by the record, that, through its efforts, even one formally charged with one of these most vicious crimes is entitled to a fair trial, before a jury not previously brainwashed for automatic conviction. Surely, a President, even though he belong to a political party his critics do not like to have in power, is entitled to protection from pre-trial tampering with the jury by the television commentator, the press and those who claim the right to speak for Congress.

The real casualty from this sniping which has been going on for the past twelve months is not the present occupant of the White House but the American people, for it is their faith in our system of government which has been wounded. According to the public opinion polls, the people are saying in large numbers, "A plague on both your houses."

It is my belief, and I think the record supports that belief, that the future well-being of the American people and, indeed, the continuation of our country as a leader in the world, if not its actual survival as a free nation, depend upon the faith of our people in our system of government. For that reason, on this Law Day, I ask you business and professional men of Raleigh to engage in a continuing effort to restore and maintain that faith.

There never has been and almost certainly there never will be a time in which all of our people have had or will have faith in our system of government. There will always be those who do not believe in and do not want law and order to prevail in their communites.

Our country can remain strong and grow stronger in spite of such people, but it cannot remain strong and pursue a course of orderly progress toward the better life of our dreams if there is even a large minority who prefer the pleasures of a permissive society to an orderly and law-abiding community, and if the majority of our people have lost faith in the ability of their Government to provide an environment in which freedom from fear and freedom of individual action are kept in proper balance. No city has or can maintain a police force sufficient to give it freedom from fear if as few as ten per cent of its inhabitants elect to destroy it, and if the majority stands by in apathy or paralyzing panic. No country can maintain itself as a free nation, in prosperity and domestic peace, if the majority of its people have no faith in its system of government.

Our system of government merits your faith and mine. The Constitution of our country is its foundation sills. Those sills are as sound today as they were when first

laid for the building of our Government upon them. No government in the world, past or present, ever set for itself an objective superior to that set before our Government by the men who laid its foundation sills. Listen to it:

"We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare and secure the blessings of liberty for ourselves and our posterity do ordain and establish this Constitution."

That is the objective of government in America: Justice, tranquility, prosperity and a secure liberty. Do you know of a nation which has a better objective? Do you wish our country had a different one?

I do not say to you that today a just result is reached in the courts of this land in every trial of a controversy between government and an individual accused of crime, or in every controversy between individuals over contracts or property rights, but I do say to you that there is no other nation on earth in whose courts I would rather have a case of mine brought to trial than in the courts of America, specifically the courts of North Carolina. By no means are all of our people well housed, well clothed or well fed, that is not even true of all of our people who are willing to work, but do you know of a nation whose people are better housed, better clothed or better fed than ours? It is cause for much concern that tonight it will not be safe even for a man to walk alone, wheresoever he wishes, upon the streets of any city in our land and there are in force statutes and administrative regulations which appear to me to be unduly restrictive of individual liberty, but I do not know of any other nation where freedom from fear and freedom of individual action are so nearly in balance as they are in America, specifically in North Carolina.

No, we have not fully attained the objective set before our Government in our Constitution and I do not believe we ever shall do so but we have moved a long way toward it, in a zigzag fashion. I know of no other country which has made like progress toward this objective in the 200 years our country has lived. It is as true of governments as it is of those who claim to be prophets, "By their fruits ye shall know them." Upon its fruits, the American system of government may justly rest its claim to the faith of our people.

Those fruits of government in America have not grown by accident. The Constitution provides a blueprint of the machinery of government. That machinery was designed for one purpose and one purpose only: The attainment of our Government's objective of justice, tranquility, prosperity and a secure liberty. I urge you to study that blueprint. Then you business and professional leaders of Raleigh will be qualified to urge, in turn, your families, your customers, your employees and your neighbors to place their faith in the American system of government and you will also be qualified to call to account legislators, administrators and judges who depart from the blueprint in the discharge of their duties.

Let us look for just a fleeting moment at the blueprint. It provides for the separation of the powers of government between the President, the Congress and the courts, a similar division, of course, being found in our State Constitution for the Government of North Carolina. Why does the blueprint provide this separation of powers between the President, Congress and the courts, the clear implication being that within their respective spheres of authority, the Executive Department, the Legislative Department and the Judicial Department are each independent of control by either or both of the other two? It is because this separation of powers is necessary to attain the objective of American Government. We must today insist that this doctrine of separation of powers be recognized by the Congress in Washington, as well as by the President, for if we do not we shall endanger justice, tranquility, prosperity and liberty throughout this nation.

I do not ask you to accept my opinion as authority for this proposition. In the profound scholarly series of essays on the Constitution, called the Federalist Papers, in Essay No. 48, Mr. Madison, appropriately called the Father of the Constitution, quotes Mr. Jefferson as saying that the concentration of the legislative, executive and judicial powers in the same department of government is "precisely the definition of despotic government," and that this is just as true when the legislative branch takes over the powers of the other branches as when the executive does so. Mr. Jefferson cited as an example of the tyranny of an unchecked legislative body, the medieval republic of Venice. Perhaps an illustration more familiar to us would be the Jewish Sanhedrin in the days of our Lord's Crucifixion.

For precisely the same reason, the establishment of justice, the insuring of domestic tranquility, the promotion of prosperity and the securing of liberty, the Constitution provides also for a separation of the powers of government in America between the Federal Government and the governments of the several states. The Tenth Amendment to the Constitution expressly provides, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states, respectively, or to the people." Despite the astigmatism of the Supreme Court of the United States during the days of the Warren Court, which prevented the Court from seeing it, that provision is still part of the Constitution, still part of the machinery of government whereby justice, domestic tranquility, prosperity and liberty are to be established and promoted in America.

With the separation of powers of government goes a separation of responsibility. The most urgent threat to the continued prosperity and well-being of the people of this country is inflation, whereby the salary check, the dividend check, the retirement pension check and the social security check are being eaten away, interest rates have risen to astronomical heights and the value of equity holdings has declined. The tendency in our country today is to place the blame for this run-away inflation upon the Executive Branch of the Government. It may well be that it is not free from fault in this respect, and I do not forget the recommendation by the President of a budget with a huge built-in deficit, which is to inflation like gasoline poured on a fire. However, the Constitution gives to the President no power to appropriate a dollar, no power to levy a tax. These are powers conferred by the Constitution upon the Congress and where the power is there the responsibility lies.

The Constitution provides, "All [not some, all] legislative powers herein granted shall be vested in a Congress." The President has the authority to recommend legislation to the Congress to control inflation, but nothing whatsoever limits the authority of Congress to initiate legislation without waiting for the President's recommendation, or in disregard of that recommendation. In the Senate today sit the President's last two opponents in the political lists. Before they were unhorsed therein, these gentlemen traveled over the country and neither was noticeably reticent in claiming to know the solution to all of our ills, including inflation. In the House of Representatives sit some of the President's most articulate critics, one of them, especially, a recognized authority on financial matters. It may be that one or all of these gentlemen has or have introduced legislation designed to curb inflation but, if so, I have not noted any reference to it in The News and Observer or by Smith and Reasoner on the television network.

We now have three fine young gentlemen asking that they be elected to represent this district in the House of Representatives and I do not recall how many there are who want to go to the Senate. Nor do I recall any specific proposal by any of them for the limitation of the inflation which is destroying the foundations of your business, and of your family's security. This is the responsibility of the Congress. The blueprint of the machinery of government places the responsibility there in order to establish justice, insure domestic tranquility, promote prosperity and secure liberty.

What can you, the business and professional leaders of Raleigh, do about all of this? You can reexamine and revive your own faith in the American system of government, you can inform yourselves about the blueprint for the machinery whereby we are to achieve justice, tranquility, prosperity and liberty in this country of ours. You can raise your voice at the lunch table, in the business conference, on the golf course and in your home to see that those of the people of America, who are within the range of your voice, maintain their faith in the American system of government and exercise their constitutionally protected powers to elect to office men who will respect and comply with the Constitution of our country and discharge the responsibilities placed by it upon them. A great Democratic President, Grover Cleveland, once observed, "Your every voter, as surely as your chief magistrate, exercises a public trust."

It is sometimes said, "Politics is a dirty business." I have had some experience in politics and I have observed that part of our American life longer than have most of you. It is not exactly immaculate. In fact, the competition therein is not very different from the competition in your business. Statements by candidates for office on television frequently do not tell the whole truth, any more than do the commercials advertising detergents and hair rinses. Many of them are like the cigarette commercials of a few years ago, which implied that if a man smoked a particular brand of cigarette lovely women would be attracted to him like bees to a pot of honey. Having tried several brands in days gone by, my personal conclusion is that these commercials left out some factor in that equation.

But, if politics be a dirty business, it will not be any cleaner for your staying aloof from it. So, on this Law Day, I invite you business and professional men of Raleigh to take an active interest in politics and thus help to restore the faith of the American people in their Government.

COMPREHENSIVE VIETNAM-ERA VETERANS EDUCATIONAL BENEFITS ACT

Mr. INOUYE. Mr. President, as one of the original authors of the Comprehensive Vietnam-Era Veterans Educational Benefits Act, S. 2789, I have been pleased to see the support for this legislation grow. The 39 Senate cosponsors have all lent their efforts toward bringing about action on this measure. The Senate Veterans' Affairs Committee, un-

der the able leadership of Senator VANCE HARTKE, has been giving the provisions of S. 2789 a fair and judicious review. Companion legislation has been introduced in the House of Representatives by Representative LESTER WOLFF. The chairman and ranking minority member of the House Veterans' Affairs Subcommittee on Education and Training, Representative HENRY HELSTOSKI and MARGARET M. HECKLER are cosponsors of H.R. 12584.

I ask unanimous consent that the following analysis of the Comprehensive Vietnam-Era Veterans Educational Benefits Act be printed in the RECORD. It was prepared by Forrest B. Lindley, a young Vietnam veteran, who has been instrumental in support of this legislation. This analysis contains many useful statistics on the present utilization and impact of the GI bill and makes a persuasive case favoring S. 2789.

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

THE VIETNAM ERA VETERANS COMPREHENSIVE EDUCATION AND TRAINING ACT—(S. 2789)

The Comprehensive Vietnam Era Veterans Education and Training Act is the only legislation before Congress that will provide *equal* education, training assistance and opportunities for all Vietnam era veterans; that will assist veterans in their readjustment to society and their transition to civilian employment; and will equip veterans with the education, training and skills needed for secure and productive careers.

The present GI Bill system violates the intent of Congress and denies education and training to millions of needy Vietnam era veterans. The use of the present GI Bill is often inverse to the need for education, training, and readjustment assistance.

Today's GI Bill:

Discriminates against poor, minority and educationally disadvantaged veterans.

Discriminates against veterans with families to support.

Discriminates against veterans who live in states with high-cost public education.

Severely restricts the effective use of a veteran's total benefits.

Severely limits the number and types of educational and training programs available to veterans.

These are the conclusions of the congressionally commissioned Veterans Administration study conducted by the Educational Testing Service of Princeton, New Jersey. These conclusions are verified and supported by Veterans Administration statistics, hearings and studies conducted by the National League of Cities, U.S. Conference of Mayors, the American Association of Community and Junior Colleges, the New York City Mayor's Office of Veterans Action, and by the personal experiences and testaments of Vietnam era veterans.

HISTORY OF THE GI BILL

"The World War II GI Bill was one of the most important and effective pieces of social legislation ever enacted. It profoundly affected the fortunes of veterans and postwar society and it transformed the Nation's higher education system."—Report of the Educational Testing Service on Educational Assistance Programs for Veterans.

The World War II GI Bill extended education and training opportunities to World War II veterans, assisted their readjustment to society, and eased the impact of 17 million returning veterans on employment. This bill produced 450,000 engineers; 180,000 doctors, dentists, and nurses; 360,000 teachers; 150,000 scientists; 107,000 lawyers; 233,000 accountants; 36,000 ministers; 380,000 metal workers; 138,000 electricians; 83,000 policemen and firemen; 700,000 businessmen; and 17,000 writers and journalists.

Sixty-five members of the House of Representatives and twenty Senators trained under the World War II GI Bill.

The "GI Bill of Rights" was directly responsible for a 200% increase in the number of undergraduate, graduate and doctoral degrees conferred by institutions of higher learning—from 160,000 in 1946 to over half a million in 1950. GI Bill dollars enabled public colleges and universities to expand their facilities, academic resources and develop faculties to the extent that a college education became possible for the average American.

The massive scientific, medical, technological, cultural, political, economic, vocational, industrial and social contributions of World War II veterans, and others who owe their education to the World War II Bill, cannot be estimated, but the economic contributions of what the Veterans Administration called the "best investment in American history" can be. The Internal Revenue Service estimates the 14 billion dollars invested in the World War II GI Bill was returned six times over by veterans in increased tax revenues. If the Government's 62.5 billion dollar profit were to include revenues from non-veterans who benefited from the GI Bill's expansion of the educational system, it could reach over 150 billion dollars.

Despite the enormous benefit to both veterans and the Nation, the World War II GI Bill was subject to abuses and administrative problems. In 1952, a special Congressional investigating committee, headed by Congressman Olin Teague, concluded:

"In view of the waste, abuse, and inefficiency which occurred during the World War II program, it would be grossly unfair to veterans of the Korean conflict and to the Nation as a whole, to extend the present program without corrective action. Veterans of the Korean conflict are no less entitled to readjustment benefits than veterans of World War II. The scholarship allowance should be sufficient to maintain a veteran-student under reasonable and normal circumstances in a reliable institution with customary charges for nonveteran students used as a guide."

The resulting action was the abandonment of the separate tuition payment and monthly subsistance allowance system and the adoption of the present one-payment system of a monthly allowance payment for the purpose of covering both educational and subsistence expenses.

The present GI benefit system was adopted to prevent abuses, but has instead unintentionally denied educational and training benefits to the most needy of Vietnam era veterans.

COMPARISON OF THE WORLD WAR II GI BILL AND THE VIETNAM ERA GI BILL

I. *Tuition assistance*

A. World War II

The World War II GI Bill paid a monthly subsistance allowance *and* the full cost of tuition, books and fees at almost every public and private college, university, vocational, professional, and technical institution in America. By paying tuition, the World War II GI Bill accorded all veterans an equal opportunity to enter education and training programs. In the few schools where tuition, books and fees exceeded the $500 a school year ceiling, any veteran could accelerate the consumption of his 48-month entitlement to cover the difference. In current buying power, the World War II direct tuition payment is equivalent to $2,517 (per nine month school year).

B. Vietnam Era

The Vietnam Era GI Bill provides no direct payment for tuition, books and fees. It pays only a monthly subsistance allowance to veterans enrolled in education and training programs. Vietnam era veterans unable to pay the "educational" costs necessary to enter education and training programs receive none of the educational and training benefits they are entitled to. The financial resources available under today's GI Bill limits veterans without supplemental resources to education and training programs at low-cost public institutions.

II. *Monthly subsistence allowance*

A. World War II

The World War II GI Bill paid a monthly subsistence allowance equal to one-third the average national monthly earning. Since the GI Bill paid for tuition, books and fees, all of the veterans' subsistance allowance could be devoted to "living expenses".

B. Vietnam Era

The Vietnam Era GI Bill pays only a monthly subsistence allowance to veterans enrolled in school. Since the Vietnam veteran must pay the cost of tuition, books and fees from his monthly subsistence allowance, the portion of his subsistence allowance that can be devoted to "living expenses" depends upon the amount of the subsistence allowance that is left after "educational expenses".

All World War II veterans were assured of paid "educational expenses" and of receiving an equal monthly subsistence allowance for their "living expenses". The amount of a Vietnam veteran's monthly subsistence allowance that can be devoted to living expenses after educational expenses are paid varies greatly from veteran to veteran, school to school, and state to state.

III. *Cost of basic living essentials—food, shelter and transportation*

A. World War II

The World War II GI Bill went a long way toward providing the basic living essentials. Food and transportation were not expensive, and low-cost housing was available. Government housing was provided to World War II veteran students by converting existing military and federal facilities into student housing; furnishings, beds and equipment were provided at government expense; public war housing projects were converted into low-rent student housing facilities, and government surplus housing (quonset huts, barracks, etc.) were transported to and erected at government expense on college sites.

B. Vietnam Era

The Vietnam Era Veteran must cover not only the cost of living, but the cost of tuition, books and fees with his monthly GI Bill subsistence allowance. The cost of living has increased over 200% since World War II. Government subsidized housing is no longer available and housing near schools, especially for married veterans, is limited and expensive. The cost of food has increased 14% in the last year and the energy crisis has inordinately increased housing and transportation expenses.

IV. *Part-time Employment*

A. World War II

Part-time employment was readily available after World War II and most veterans required little or no supplementation of their GI benefits.

B. Vietnam Era

The Vietnam Era GI Bill requires substantial supplementation for veterans in private institutions in states with high cost public

education and veterans with families to support. Part-time employment is scarce and Vietnam era veterans must compete with many other needy students for available jobs. The energy crisis is reducing the employment market and the number of part-time public service employment positions available to veteran students.

V. *Financial aid*

A. World War II

The World War II GI Bill required little or no supplemental financial aid since it paid the veteran's tuition, books and fees at almost every public and private school in America. Veterans received as much as $300 in "mustering out" pay, which could supplement their educational financial needs.

B. Vietnam Era

The Vietnam Era GI Bill requires substantial supplemental assistance for veterans desiring to attend private school, out-of-state public schools, or schools in states with high cost public education. Despite the great need for financial assistance, Vietnam veterans are often discriminated against by financial officers who refuse veterans scholarships because they are receiving "aid" from the GI Bill. The influx of many minority and economically disadvantaged persons into the educational system has put a substantial demand upon student financial assistance that might otherwise be available to veterans.

Vietnam era veterans do have the Work Study and Cost of Instruction programs which were not available to veterans of World War II. Presently these programs amount to $3 a month per veteran in training.

VI. *Period of entitlement*

A. World War II

The World War II veteran was entitled to a total of 48 months of benefits which could be accelerated to cover "educational expenses" in excess of $500 a school year.

B. Vietnam Era

The Vietnam era veteran is entitled to a total of 36 months of benefits which he must use over a period of 36 months or longer.

VII. *Special programs*

A. World War II

Mustering out pay

World War II and Korean War veterans received $300 in "mustering out" pay if they served outside of the U.S., $200 if they served wholly within the U.S., and $100 if they served less than 60 days. "Mustering out" money could be used however the veteran chose, including supplementing his education and training needs.

52–20 program

The 52–20 program, a Federal unemployment insurance payment, provided the unemployed World War II veteran with $20 a week for 52 weeks.

48-month entitlement

There were no "special programs" for "educationally disadvantaged" World War II veterans (veterans with less than a high school education). 28.3% of World War II veterans had 8 years or less education, and 26.3% had 1–3 years of high school, which made 54.6% of the World War II veterans "educationally disadvantaged" by today's standards. The 48 month entitlement period, however, did enable World War II veterans to take 12 months of remedial or preparatory work and still have sufficient benefits to pursue a normal 4 year college education.

Under the World War II GI bill there were thousands of institutions that provided "educationally disadvantaged" veterans with technical, vocational, educational and professional skills and opportunities they would not otherwise have been able to obtain.

B. Vietnam Era

Remedial and preparatory programs

There are three special programs for "educationally disadvantaged" Vietnam era veterans with remedial or preparatory needs that provide the same opportunities as the additional 12 months of education and training entitlement that were available to World War II veterans. They are:

Free entitlement. Free entitlement assists veterans with academic deficiencies in attaining a high school diploma, General Educational Development certificate, or refresher or preparatory courses needed to qualify for enrollment in a post secondary program, without charge to a veteran's 36 month entitlement period.

Predischarge Education Program. This is the inservice "free entitlement" program. It enables veterans to prepare (without charge to their entitlement) for their future education, training or vocational programs through programs of education or training while in the service.

Tutorial Assistance. Tutorial assistance programs provide special help to veterans in overcoming difficulties in a subject required for the satisfactory pursuit of an educational objective. In addition to his educational subsistance allowance, a veteran may receive an additional $50 a month for a maximum of 9 months or until a total of $450 has been used.

Other special programs

Work Study Program. The work-study program provides an allowance to veterans pursuing full time programs in exchange for services such as outreach activities, paper processing, school liaison and telephone staffing. The program is currently limited to a maximum $250 allowance for which the veteran must work 100 hours during an enrollment period. The work study program is also restricted to 4 million dollars during a fiscal year.

Cost of instruction payment program

The veterans' Cost of Instruction programs provides funds to schools who offer specific services and incentives to attract and assist Vietnam era veterans. The program is funded at 24 million dollars. The Administration has requested the discontinuation of the Cost of Instruction program in its Fiscal '75 budget.

INADEQUACIES OF THE VIETNAM ERA GI BILL

Congressional Declaration of intent of the Veterans Educational Assistance Program

"The Congress of the United States hereby declares that the purpose of the educational program created by this chapter is for the purpose of (1) enhancing and making more attractive service in the armed forces of the United States, (2) extending the benefits of a higher education to qualified and deserving young persons who might otherwise be unable to afford such an education, (3) providing vocational readjustment and restoring lost educational opportunities to those servicemen and women whose careers have been interrupted or impeded by military service, and (4) aiding such persons in attaining the vocational and educational status they might normally have aspired to and obtained had they not served their country."

The present Veterans Educational Assistance Program violates the intent of Congress by denying education and training opportunities to millions of needy and deserving Vietnam era Veterans. The use of the present GI Bill is inverse to the need for education, training and readjustment assistance.

Vietnam era veterans most able to use the present GI Bill:

1. Single veterans. 1 in 2.6 single veterans is currently using his GI benefits for education and training, compared to only 1 in 7.5 veterans with dependents.

2. Veterans in states with low-cost public education. "There is a marked difference (35–60%) in participation rates between states in the eastern section of the nation and the western section of the nation. This may be due in part to low tuition costs, and greater access to public institutions (particularly junior colleges) in the West."—Department of Veterans Benefits, Veterans Administration, Information Bulletin, April 1973.

Veterans least able to use the present GI Bill:

1. Married Veterans. 2 out of every 3 Vietname era veterans are married, yet only 1 in 7.5 married veterans is currently using his education and training benefits. Out of 4,700,000 married Vietnam veterans, only 630,000 are using the GI Bill. (42% married vs. 58% single veterans *currently* using the GI Bill).

2. Black Veterans. The participation rate for black veterans under the Korean War GI Bill was 53%. It is less than 25% for black Vietnam era veterans.

3. Educationally Disadvantaged Veterans. The participation rate for educationally disadvantaged veterans (veterans with less than a high school education) is less than 30% compared to 50% for non-educationally disadvantaged veterans.

4. Veterans desiring to attend private schools. 18% of all Vietnam veterans using their benefits for college level programs are enrolled in private institutions with 50% of all World War II veterans enrolled in college level programs at private institutions.

INADEQUACIES OF THE PRESENT GI BILL

A. Discrimination against married veterans and veterans with dependents

Two thirds of all Vietnam era veterans are married, yet only one in 7.5 (13.8%) married Vietnam veterans is currently using his education and training benefits. The subsistance allowance paid to veterans with dependents goes only half as far in meeting their "living expenses" as does the subsistance allowance paid a single veteran. Discounting "educational expenses" (which are constant regardless of the marital status of a veteran) subsistance allowances (as approved by the House of Representatives in H.R. 12628) of: $250 for a single veteran is 1.6% less than the average amount needed for "living expenses", $297 for a veteran with one dependent is 46% less than the average amount needed for "living expenses", and the $339 for a veteran with two or more dependents is 58% less than the average amount needed to meet "living expenses". On the average a single Vietnam era veteran is 50% better off in meeting his living expenses under the GI bill than is the married veteran.

Married veterans have the difficult burden of pursuing an education and supporting a family. The scarcity of part time employment to supplement GI benefits makes it impossible for many married veterans to ever use their benefits. Often, veterans pursuing an education and supporting a family through part-time or full-time employment find that the dual responsibilities place an unacceptable burden on family and academic life. The 1972 Harris survey on veterans readjustment found that 60% of married veterans not in school would use their educational and training benefits if they were provided with adequate financial assistance.

B. Restriction on the type & number of institutions available to veterans for education and training

1. Public v. private institutions.

The World War II GI Bill paid the full cost of "education expenses" at almost every pub-

lic and private educational, technical, vocational or professional institution in America. Regardless of his lack of funds, or place of residence, a World War II veteran needed only meet the admissions requirements of an educational or training institution, and the GI Bill would meet the financial requirements up to $500 a school year, the equivalent of $2,517 in today's buying power. In the few institutions where educational expenses exceeded $500 a school year, the veteran could accelerate the consumption of his 48 month entitlement. The World War II GI Bill provided veterans an equal opportunity to attend the educational or training program of their choice. Under the present GI Bill system, many of the colleges, universities, technical and vocational institutions that were open to World War II veterans are closed to Vietnam era veterans who cannot pay their "educational expenses".

The present educational assistance system pays only a monthly subsistence allowance to veterans enrolled in school. If a Vietnam veteran cannot pay the "educational expenses" needed to enter an educational or training institution, he will receive none of the benefits that he is entitled to.

"Educational expenses" were not a significant factor in a World War II veteran's choice of educational and training programs and institutions because the GI Bill paid "educational expenses".

"Educational expenses" are a major factor in a Vietnam era veteran's choice of educational and training programs and institutions because the veteran must pay for "educational expenses"

"Educational expenses" determine not only if a Vietnam era veteran will be able to use his benefits at all, but substantially limit the type of educational and training programs and the number of educational and training institutions available to Vietnam era veterans.

Under the World War II GI Bill 50% of the veterans in college level programs attended private colleges and universities. The average cost of "educational expenses" at private college level institutions under the World War II GI Bill was $446 for an ordinary school year (nine months), $54 under the $500 a school year limit.

The 1974 cost of "educational expenses" at a private college level institution is $2,245 a school year, $265 more than a single veteran's entitlement for a school year. This completely rules out a private education for Vietnam veterans without substantial supplemental resources. Less than 20% of the Vietnam era veterans in college level programs are attending private institutions.

C. Discrimination against veterans in States with high cost public education

"The accessibility of postsecondary education for the Vietnam conflict veteran is a function not only of his military service but also his particular state or residence. The effectiveness of the benefits is directly related to the availability of low cost readily accessible public institutions. The current veteran seeking to use his education benefits finds that equal military service does not provide equal readjustment opportunities with respect to attendance at post secondary schools."

"It appears that the states are subsidizing the cost of education for veterans of the Vietnam conflict as compared with earlier subsidation by the Veterans Administration. Since higher costs of education appear to reduce participation, this is a significant factor in determining whether the veteran in a particular state will participate in education."—Report of the Educational Testing Service September 19, 1973.

"There is a marked difference in participation rates between states in the eastern section of the nation and the western section of the nation. This may be due in part to low tuition costs, and greater access to public institutions (particularly junior colleges) in the west".—The Veterans Administration DVB Information Bulletin, April 1973.

Analysis of participation rates by state indicate a direct correlation between participation and the availability of low cost easily accessible institutions of higher learning.

39% of veterans participating in college level programs attend community colleges compared to 29% for non veterans.

D. Restriction to four-year programs of instruction

Under the present educational assistance system, a veteran with two or more years of honorable military service is entitled to $7,920 in benefits if he is single, $9,393 if he has one dependent, and $10,728 if he has two dependents. However, he is restricted to using those benefits at a maximum rate of $220 a month (single), $261 a month (one dependent), and $298 a month (two dependents), over a period of 36 months or longer. The 36 month restriction on a veteran's use of his benefits is the most serious shortcoming of the Veterans Educational Assistance system. The 36 month limitation makes the Veterans Educational Assistance Program ineffective except for single veterans attending low cost institutions. This restriction makes it impossible for the two thirds of all Vietnam era veterans to effectively use their GI Bill benefits without substantial supplementation even though they are rightfully entitled to total benefits that would enable many to fulfill their educational or training objectives.

Congress established the GI Bill "to provide vocational readjustment and restore lost educational opportunities to those service men and women whose careers have been interrupted or impeded by active military service". Married veterans often suffer the severest interruption in their family lives, and the greatest impediments to their careers, yet they are denied effective readjustment assistance by the present GI Bill.

Denying veterans access to educational assistance that would enable them to attend two year technical, vocational, or professional institutions, and to complete their education at private institutions or attend graduate, medical or law school, defeats the purpose of the GI Bill.

The Office of Education estimates that only one in five jobs will require a college degree in the next six years. Because the present GI Bill restricts veterans' access to many technical and vocational programs, it is denying large numbers of veterans the alternative of gainful employment in secure and productive careers where college degrees are unnecessary.

The average educational level for all Vietnam era veterans have completed one or more years of college prior to or during their military service. If they were attending a private institution, or are married, the current GI Bill does little to restore their lost educational opportunities.

The World War II GI Bill had a provision which enabled veterans to accelerate their benefits if their yearly "educational expenses" exceeded the $500 ceiling. This acceleration provision assured that every World War II veteran had opportunity and flexibility to attend the institution and pursue the education and training program of his choice.

ANALYSIS OF VETERANS ADMINISTRATION CLAIMS AND STATISTICS

The Veterans Administration's statistics and claims often convey the impression that the Vietnam era veteran is as well off, or better off, than the World War II veteran. Some of the most frequent VA claims are:

Claim

"Nearly 4.5 million veterans and servicemen have trained under the current GI Bill since it went into effect in June 1966" and ". . . the participation rates for Vietnam veterans have now exceeded those of World War II and Korean veterans".—The Veterans Administration Profile of the Vietnam Veteran, March 1974.

Reality

"The Veterans Administration has used participation rates only as an indicator of what percentage of eligible veterans use their entitlement, and not as a measure of whether the GI Bill educational programs were serving their intended purpose."

"While the Veterans Administration does now collect and report data on degree and vocational objectives, there is little data currently available on completion rates in such programs. Without this information it is difficult to determine the ultimate effectiveness of the GI Bill use.

"We have been of the view that the assessment of the effectiveness or quality of education and training has not been explicitly committed to the VA by the Congress. We believe this is a matter which should be considered further."—The Veterans Administration, September 1973.

The Veterans Administration participation rate statistics measures only the number of veterans who have received some benefits and not 1) the number of veterans who have completed educational and training programs, 2) the number of veterans forced to terminate programs and their reasons for termination, 3) the amount of time the veterans participated under the GI Bill, and 4) whether the GI Bill is fulfilling the intent of Congress and meeting its objectives.

Claim

"The average Vietnam veteran attending a 4 year public or a 2 year public institution has educational benefits slightly higher than his World War II counterpart when adjustments for changes in the Consumer Price Index are made." In terms of buying power, the educational assistance for Vietnam era veterans is comparable to that available to World War II veterans". "The Vietnam era veteran actually has $292 (per nine month school year) more in buying power than did the World War II veteran!"—The Veterans Administration September 1973.

Reality

According to the Department of Veterans Benefits of the Veterans Administration, the $500 paid for tuition, books, and fees and supplies under the World War II GI Bill is currently equivalent to $2,517 in today's buying power. The current dollar value of the World War II subsistence allowance for a nine month school year is $1,278 for no dependents, $1,800 for one dependent, and $2,061 for two or more dependents. By adding the current buying power of the World War II tuition payment and subsistence allowance for a school year and comparing the total to the total a Vietnam Veteran receives from today's GI Bill for a school year ($1,980 for a veteran with no dependents, $2,349 for a veteran with one dependent, and $2,682 for a veteran with two dependents), it is apparent that the Vietnam era veteran actually has $1,896 (per nine month school year) less in buying power than did the World War II veteran!

LEGISLATION CURRENTLY BEFORE CONGRESS

There are currently three major GI Bill legislative efforts before Congress:

1. An increase in the benefits accorded by the present GI Bill.
2. A tuition equalizer provision.
3. The Comprehensive Bill.

They represent distinctly different strategies and scopes for providing Vietnam era Veterans readjustment assistance.

1. *Increases in the present GI Bill system*

The House and Senate Veterans Affairs Committees have both introduced (and the House has passed) legislation designed to increase the amount of subsistance allowance accorded under the present GI Bill system, and otherwise generally improve the GI Bill.

Senator Hartke's bill, S. 2784 (The Senate Committee Bill), known as the Vietnam Era Veterans Readjustment Assistance Act, provides for a 23% increase in the veteran's monthly subsistence allowance. Under S. 2784, the monthly rate for a single veteran with no dependents would increase from $220 to $270, or $50 increase. A veteran with one dependent would receive an additional $60 from $261 to $321. A veteran with two dependents would receive an increase of $69, or from $298 to $366 a month.

The 23% subsistance increase would be an invaluable asset to the 1.5 million veterans and servicemen currently pursuing educational programs. The increase would more than compensate for the 13% rate of inflation since the enactment of the present subsistance rates in October of 1972.

S. 2784 would also authorize low cost direct federal loans in amounts up to $2,000 a school year for those veterans attending higher cost institutions. The bill also contains amendments to improve and expand opportunities for disabled veterans and improve employment opportunities for widows of veterans who died of service connected disabilities, and wives of totally disabled veterans.

The loan provisions in S. 2784 are designed to assist veterans in meeting the high cost of tuition through loan opportunities which are otherwise unavailable because of discriminatory practices against veterans.

Most of the other provisions in the Senate and House Veterans Affairs Committee legislation are technical and perfecting amendments or provisions that are compatable with and should be incorporated into any final veterans legislation before it becomes law.

2. *The tuition equalizer provision*

The Tuition Equalizer Provision is a provision of the Comprehensive Bill and a separate legislative proposal. This provision would pay the cost of a veteran's tuition (excluding books, fees and other educational expenses) over $400 up to $1,000 for a maximum total of $600 per school year. The Veterans Administration reports that the "average" tuition at a public institution is $424. The tuition equalizer provision, by paying tuition expenses in excess of $400 (up to $1,000) gives veterans in states with high educational expenses an opportunity to enter education and training programs equal to the Veterans Administration's average veteran in states with low educational expenses.

The Tuition Equalizer Provision will equalize "educational expenses" up to $1,000 and thus eliminate the major obstacle (inability to pay educational expenses) preventing veterans without dependents from entering public institutions.

It would not:

Eliminate the major obstacle preventing veterans with dependents from using their GI benefits (inability to meet "living expenses").

"Substantially assist veterans wishing to pursue private two year technical or vocational programs, complete their education, or attend graduate programs at institutions with high educational expenses."

The Tuition Equalizer Provision is an integral and vital part of the Comprehensive Bill, but in itself is only a partial solution in providing all Vietnam era veterans with equal educational and training opportunities.

A. Cost

The Tuition Equalizer Provision is estimated by the Veterans Administration to cost $250 million.

B. Prospects for enactment

Prospects for enactment depend upon public and congressional support. The Comprehensive Bill containing the tuition equalizer provision has 39 co-sponsors in the Senate and the provision itself has over 70 co-sponsors in the House of Representatives.

The Comprehensive Vietnam Veterans Benefits Act amends the basic system of administering readjustment assistance for Vietnam era veterans in order to provide specific and flexible solutions to the inequities of the present system.

ANALYSIS OF THE COMPREHENSIVE VIETNAM VETERANS BENEFITS ACT

The Comprehensive Bill recognizes that the present system of administering veterans educational and readjustment benefits is not meeting the specific intent and objectives of Congress and is denying readjustment assistance to thousands of Vietnam era veterans. The Comprehensive Bill amends the current GI Bill to provide specific solutions to inadequacies and shortcomings of the present system and improve the effectiveness of existing programs and opportunities for Vietnam era veterans.

It will accord all veterans presently in training programs the same subsistence increases and similar improvements to House Act H.R. 12628, to include a 13.6% increase in the subsistence allowance and an extension of the time period in which a veteran must use his benefits from 8 to 10 years.

No Vietnam era veteran will receive less benefits than he is currently entitled to. All veterans will have greater flexibility to use their education and training benefits.

The Comprehensive Bill, in its present form, does not contain many technical and perfecting provisions that are generally supported and should be incorporated into final legislation. However, it does contain other provisions which appear similar to those approved in H.R. 12628, but are not. These provisions are the expansion of the Work Study Program and the Veterans Communication Center. (Those provisions will be clarified in section by section analysis.)

ANALYSIS OF SPECIFIC PROVISIONS OF THE COMPREHENSIVE VIETNAM VETERANS BENEFITS ACT

A. 13.6 percent increase in the subsistence allowance paid to veterans in vocational rehabilitation and education programs

Explanation of Provision

Increases the educational assistance allowance under all veterans vocational rehabilitation and education programs by 13.6%.

Justification of Provision

This provision is identical to an increase enacted by the House of Representatives. It increases the monthly subsistence allowance paid to veterans in educational programs to a level that compensates for inflation and the inordinate rise in basic "living expenses" since the enactment of the current benefit levels in Oct. 1972.

Safeguards against Abuse

This provision would be no more subject to abuse than the present system, therefore, no additional or special safeguards would be necessary.

Cost

The estimated cost of the 13.6% increase in educational allowance for fiscal year 1975, applied to veterans currently using their education and training benefits is $374.1 million (OMB). Total cost projections for fiscal 1975–79 are $1,415 billion. (OMB)

Since the purpose of the Comprehensive Bill is to enable many veterans to effectively use their readjustment benefits for the first time, it is possible that cost figures could exceed OMB estimates.

B. Extension of the 36-month entitlement period

Explanation of Provision

This provision would enable the VA to extend a veterans benefits up to an additional 9 months in special circumstances.

Due to circumstances beyond their control, many veterans are unable to complete their programs of instruction within the time frame they are entitled to receive benefits. Such circumstances include: credits lost in transfer from one institutions to another, change of a major or program of instruction, lack of sufficient preparatory background or training to complete a program of instruction. Under these or similar circumstances, the VA would have the authority to extend a veteran's benefits to enable him to complete his education or training.

Justification of Provision

The conditional extension of entitlement would provide needy and deserving Vietnam veterans with special circumstances a maximum of 45 months entitlement to complete their education. All World War II veterans were accorded a full 48 months of GI benefits to complete their training.

This provision is not intended to be a blanket extension of entitlement. Its intent is similar to the "free entitlement" accorded Vietnam era veterans who need assistance *to begin* education and training programs. The conditional extension of entitlement would benefit veterans who need assistance *to complete* education and training programs.

Safeguards Against Abuse

Safeguards and administrative procedures similar to those used to administer the "free entitlement" and "prep" programs would be required to administer the conditional entitlement extension. Since similar programs are now in affect, the VA should have the expertise to administer the program and prevent abuses.

Cost

The cost of the conditional entitlement extension is difficult to estimate, since the VA has no data on the effectiveness of the current program or the number and nature of problems veterans encounter in completing their education and training.

C. Extension of the delimiting period from 8 to 10 years

Explanation of Provision

This provision would extend the period in which a veteran must use his benefits from 8 to 10 years. Veterans who were discharged after January 31, 1955 and before June 1, 1966 whose eligibility for training is scheduled to expire on June 1, 1974 will have until June 1, 1976 to complete training.

Justification of Provision

This provision is identical to one passed in H.R. 12628. It would enable veterans discharged in the years 1965–66 who were unable to begin education and training until 1970 when benefits were raised (above $130) to complete their training before their eligibility expires. It provides the same relief to "Cold War Veterans" who would otherwise lose their entitlement on June 1, 1974.

Safeguards Against Abuse

This provision would not be subject to abuse.

Cost

$166 million, Fiscal 1975; $513 million, Fiscal 1975–79. (OMB estimates)

D. Acceleration of entitlement

Explanation of Provision

The Acceleration of Entitlement Provision is the most important provision of the Comprehensive Veterans Education legislation. It would enable a veteran in a full time program of instruction to receive a greater monthly subsistance allowance (reducing his total entitlement a proportional rate) provided acceleration would lead to completion of an educational or training program. Acceleration is the only means whereby millions of Vietnam veterans can use their existing entitled benefits to receive vitally needed readjustment assistance for education and training.

Acceleration would open up educational opportunities to veterans who have been denied assistance and opportunities under the present GI Bill system. Under acceleration, a two year technical or vocational education could be possible for every veteran. Veterans with previous college experience could complete their educations at private institutions or attend graduate programs.

Acceleration, combined with the tuition equalizer provision would enable veterans with dependents to attend education and training programs for three school years (24 months) at almost any public school in America.

Acceleration, combined with the tuition equalizer provision would enable single veterans and veterans with one dependent to receive two school years (18 months) of education and training at almost every private institute of higher learning, vocational, technical or professional institution in America. (See special supplement on acceleration/Appendix E).

Justification of Provision

Acceleration is the only provision that will enable the Educational Assistance Program to fulfill the intent of Congress and provide assistance to millions of veterans without massive supplemental cost to the GI Bill. Acceleration recognizes that readjustment assistance and education and training must not be restricted to a four year period and that two year programs of instruction can go a long way to restoring lost educational and career opportunities for Vietnam era veterans.

The World War II GI Bill had an acceleration provision that enabled veterans to use their "educational payment" at an accelerated rate to cover yearly educational expenses in excess of the alloted $500.

Safeguards Against Abuse

The acceleration provision requires that a veteran must be enrolled in a program that will lead to a recognized and predetermined vocational, eduactional, or technical objective in order to receive his monthly payment at an accelerated rate. The acceleration provision is the only provision of the Veterans Educational Assistance Act that makes the ability to complete a program of instruction a prerequisite for receipt of benefits. The Veterans Administration has substantial latitude to determine regulation for administering the provision. It is possible that an income ceiling could be applied, as was used in the World War II GI Bill.

Cost

With the exception of the cost of veterans using benefits for the first time, this provision would add no new cost to the benefits that all eligible Vietnam era veterans are currently entitled to. Current cost by veterans using their benefits is estimated by OMB to be $600 million for fiscal 1975.

E. Tuition equalizer program

Explanation of Provision

The Tuition Equalizer Provision pays the cost of tuition over $400 up to $1,000 (a total of $600) per school year. The purpose of the tuition equalizer provision is to provide veterans in states with high cost public education an equal opportunity to enter school by subsidized tuition costs to a level equal to the average tuition paid by veterans in public institutions, presently $424.

Justification of Provision

"Current benefits levels, requiring as they do the payment of tuition, fees, book, and supplies, and living expenses provide the basis for 'unequal treatment of equals'. To restore equity between veterans residing in different states with differing systems of public education, some form of variable payments to ameliorate the differences in institutional costs would be required."—Finding, Educational Testing Service Report, September 1973

The tuition equalizer provision is the form of variable payment that will restore equity between veterans residing in states with different systems of public education.

Safeguards Against Abuse

The tuition equalizer provision is not a return to the World War II system of VA payment to schools for total "educational expenses" and therefore precludes many of the abuses inherent in the World War II system. The tuition equalizer provision specifically prohibits veterans from being charged tuition rates exceeding those paid by nonveterans, and prohibits payment of educational expenses other than tuition, i.e. "fees, books, supplies and other expenses".

(See appendix for further analysis of safeguards against abuses)

Cost

Cost of the tuition equalizer provision is estimated by OMB to be $250 million for the fiscal year 1975.

F. Expansion of the work study program

Explanation of Provision

The Work Study program is currently operating on a budget of $4 million per fiscal year, limiting payments to veterans at $250 per school year. This provision lifts these severe restrictions to provide a comprehensive and effective Work Study program.

Justification of the Provision

The present work study program is so restricted that it cannot adequately augment a veteran's subsistance allowance, and cannot fulfill such critically needed functions as Outreach and the VA new VETREACH Program, veterans counselling, preparation and processing of administrative work, veterans hospital and health care work, etc.

(See appendix on Veterans Work Study programs).

Safeguards Against Abuse

Work Study programs would be determined by the Veterans Administration and the funds must be appropriated by Congress. Experience gained from other Work Study programs should provide effective guidelines against abuse.

Cost

To be determined by Congress and the Veterans Administration. ($30–$50 million/estimate)

G. Vietnam era veterans communications center and Vietnam era veterans advisory committee

Explanation of Provisions

This provision establishes a Vietnam Era Communications Center and a Veterans Advisory Committee. The purpose of the center would be to insure that the Vietnam era veterans' experience and perspective would be instrumental in the planning, coordination, implementation and administration of all government programs affecting Vietnam era veterans. The Advisory Committee would assist the Communications Center in a high level national effort to utilize the $6 billion a year the Defense Department spends on training its servicemen by civilian recognition, certification, utilization, or acceditation of military training, skills and experience.

Justification of Provision

"The limited affect of other federal agencies to provide education and training to veterans has been due in part to lack of overall direction, leadership and coordination."—Report of the Educational Testing Service, September 1973.

"It is recommended that government and private licensing and certification agencies, labor unions in the apprenticeable trades, and the academic community establish procedures whereby appropriate credits can be established for specific military job skills."—National Jobs for Veterans Report of the President, March 1974.

Safeguards Against Abuse

The only abuse inherent in this provision would be ineffective and uninspired implementation.

Cost

The Community Center and Advisory Committee would be funded through existing agency funds.

THE ACCELERATED ENTITLEMENT PROVISION

The present GI Bill system, by restricting an eligible veteran to using his entitled benefits over a 36 month period, and by effectively denying that a majority of Vietnam veterans have an opportunity to use their benefits, defeats the purpose of the GI Bill and violates the intent of Congress.

It is the intent of Congress that the GI Bill:

Extend the benefits of a higher education to qualified and deserving young persons who might otherwise be unable to afford such an education.

Provide vocational readjustment and restore lost educational opportunities to those servicemen and women whose careers have been interrupted by military service.

Aid such persons in attending the vocational and educational programs they might normally have aspired to, and obtained, had they not served their country.

The Educational Testing Service Report on Educational Assistance Programs for Veterans, the hearings conducted by the National League of Cities U.S. Conference of Mayors, the American Association of Community and Junior Colleges, the Mayor's Office of Veterans Action of the City of New York, and Veterans Administration statistics contained in this document clearly demonstrate that the present GI Bill is violating the intent of Congress and its benefits are inaccessible to all those except single veterans in low cost public institutions.

If the intent of Congress is to be realistically fulfilled, and all eligible Vietnam era veterans are to be given an equal opportunity to use the benefits they are rightfully entitled to, the 36-month restriction must be removed.

OPPORTUNITIES FOR EDUCATIONAL AND TRAINING PROGRAMS EXTENDED BY THE ACCELERATED ENTITLEMENT PROVISION

Technical and vocational opportunities

"By demanding educational reform now, we can gain the understanding we need to help every student reach new levels of achievement; only by challenging conventional wisdom can we as a nation gain the wisdom

we need to educate our young in the decade of the seventies".—President Nixon, March 1970.

"At the very heart of our problem is a natural attitude that says vocational education is designed for somebody elses children . . . We have promoted the idea that the only good education is an education capped by four years of college. This idea, transmitted by our values, our aspirations, and our silent support, is snobbish, undemocratic and a revelation of why schools fail so many students. The attitude infects federal government which invests $14 in the nations universities for every $1 it invests in the nations vocational-education programs . . . The attitude must change. The number of jobs which the unskilled can fill is declining rapidly. The number requiring a liberal arts college education, while growing, is increasing far less rapidly than the number demanding a technical skill."—The National Advisory Council of Vocational Education.

"Henry Adams once wrote: 'Nothing in education is so astonishing as the amount of ignorance it accumulates in the form of inert facts'."

Whatever prompted Adams remark, he could not have been talking about trade and technical schools because the tools of that business are lively fact, facts that can be put to good use.

I have long been a critic of our nations public schools because I have never felt that they were achieving even a reasonable degree of their potential.

One reason is a philosophy of education which insists upon treating every student as though he were college material and tends to hold the blue collar worker in contempt.

I personally see the private trade and technical schools as a great resource for training millions of Americans, both the disadvantaged and others.

I believe that those educators and public officials who ignore the private trade and technical schools simply are not aware of the high quality of schooling offered by accredited proprietory schools and the unique ability they have to meet special educational needs.

It seems quite obvious that vocational education should be assigned greater importance in our scale of spending priorities at all levels of government.

It also appears quite clear that the role of the proprietory trade and technical school is vital to the success of the individual in a rapidly changing society.

I personally believe trade and technical schools should be given a far greater role in government training programs.

If equality of educational opportunity is not to be written off as a myth, we must expand the scope of vocational education and make full use of private vocational schools for training disadvantaged.

"People are this country's greatest resource. Whatever we do to develop our people to their fullest potential benefits the entire Nation. Every time we save an individual from the human scrap heap the lives of all of us will be enriched."—Gerald R. Ford.

The scientific and technical revolution is creating career opportunities literally by the millions. The demand for veterans with technical skills is growing twice as fast as the demand for veterans with college degrees. The energy crisis threatens to cost many veterans their jobs. The veteran hardest hit will be the married veteran who never had an opportunity to use his GI benefits because he was forced to take a job immediately after leaving the service to support his family.

The accelerated entitlement provision would enable these veterans to enter training programs, acquire meaningful, productive, and secure employment, and ease the impact of the energy crisis on the job market.

The Department of Labor and the Office of Education estimates that only one in five jobs will require a four year college education by 1980, while there will be over a million job openings in technical and vocational fields by 1975.

Most veterans have had extensive training and direct experience in complex and challenging vocational and technical fields by virtue of their military service. The Department of Defense reports that over fifty percent of military skills are related to civilian technical and vocational skills.

The following are major technical and vocational fields that have a substantial growth and employment potential:

Aeronautical and Aerospace.
Air Conditioning and Refrigeration.
Agricultural.
Architectural and Construction.
Automotive.
Chemical.
Civil Engineering.
Commercial Pilot.
Electrical and Electronic.
Electromechanical.
Electronic Data Processing.
Fire Protection.
Forestry.
Health Service.
Industrial Production.
Metallurgical.
Nuclear and Radiological.
Oceanography.
Office Specialists.
Police Science.
Sanitation & Environmental Control.

Under the provisions of the Comprehensive Bill, a veteran with two or more dependents could receive sufficient funds from his total entitlement to attend school at almost any 2 year public or private technical or vocational school in America. Under the current GI Bill the Vietnam veteran receives less money ($1,980) per year than the average yearly tuition ($2,000) at a private vocational or technical institution. The Comprehensive Bill would not limit any veteran's choice of education and training to a 2-year technical or vocational program the way the present GI Bill limits opportunities to single veterans in low cost public institutions, but would insure that every veteran who sought a technical or vocational education has a realistic opportunity to pursue it.

PUBLIC COLLEGE AND UNIVERSITY OPPORTUNITIES

The greatest fallacy of the 36-month restriction on the use of benefits in the present GI Bill system, in relation to a college education, is that it presupposes that every veteran wishing to attend college requires four school years of education. This assumption is particularly absurd in view of the fact that the average Vietnam veteran has little less than one year of college at the time of his discharge from the service. 20% of all Vietnam era veterans have one or more years of college education at the time of their separation from the service.

Under the Comprehensive Bill, the tuition equalizer provision would enable a veteran with no dependents to attend almost any four year public institution for a full four year education. The Comprehensive bill, with the tuition equalizer provision (the payment of tuition expenses over $400 up to a $1,000) and acceleration of entitlement to 24 months would enable almost every veteran with dependents to attend 3 school years at a public institution.

Veterans with dependents desiring a four year public education could supplement their income through the Work Study program (See Work Study appendix), receive the equivalent of a year or more of college education through testing advance placement, evaluation of inservice training and experience (See Communication Center and Advisory Committee Appendix), or take the additional courses required to complete a four year education in three years.

For those veterans with dependents and families who are reluctant to pursue four year educational programs which would delay the pursuit of their careers, the Comprehensive Bill would be flexible to the point of allowing veterans to pursue their education and training at a rate compatable with their personal career and family needs.

PRIVATE COLLEGES, UNIVERSITIES, AND GRADUATE PROGRAMS

The education at a private college or university that was available to all World War II veterans is completely out of reach for all Vietnam era veterans who must depend upon today's GI Bill for their financial support. The World War II GI Bill paid for an education at Harvard and Yale. In 1948 60% of the student body at the nation's most prestigious universities were veterans. Today, veterans represent less than 2% of the student bodies at these same universities. To provide the Vietnam era veteran the same opportunity to attend private institutions that was available to the World War II veteran, a monthly subsistance allowance of $600 would be required. The Comprehensive Bill recognizes that this is unfeasible. However, it does provide opportunities for all Vietnam veterans to complete the last two years of their education at a private institution or pursue two year graduate programs. (See Appendix —.) This would enable many veterans who were drafted while in school or upon graduation to use their benefits to complete their educations at private institutions or take graduate courses to augment their careers. The acceleration entitlement provision would reaffirm and restore the intent of Congress to "restore lost educational opportunities to those servicemen and women whose careers have been interrupted or impeded by military service."

SAFEGUARDS ON THE ACCELERATED ENTITLEMENT PROVISION

The Comprehensive Bill requires that any veteran using the accelerated entitlement provision must be enrolled in a program of instruction that will lead to a recognized and predetermined vocational, educational, technical, or professional objective before his total benefits are expended. The completion stipulation of the accelerated entitlement provision not only insures that veterans will not use their benefits solely to obtain extra money, but provides the first reasonable assurance that the GI Bill is fulfilling the intent of Congress, actually providing veterans with readjust assistance that will lead to a "vocational and educational status".

The Veterans Administration admits that "there is little data available on completion rates in such (education and training programs). Without this information it is difficult to determine the ultimate effectiveness of GI Bill use." With no way of assessing the completion, effectiveness or quality of education and training programs veterans are receiving under the GI Bill, there is little way the Veterans Administration can judge how the present GI Bill is being abused. The Comprehensive Bill would provide substantially more assurance than the current system than the GI Bill was fulfilling its intended function. It is possible that income limitation such as those on the World War II GI Bill could be applied to veterans using the accelerated entitlement provision. A realistic ceiling (comparable to the World War II GI Bill) on earned income after payment of educational expenses would be $350 for a

veteran with no dependents, $500 for a veteran with one dependent, and $600 for a veteran with two dependents, with an additional $50 for each additional dependent, per month.

COST OF THE ACCELERATED ENTITLEMENT PROVISION

The accelerated entitlement provision would add no additional cost to the benefits all eligible veterans are entitled to today. However, by enabling the millions of veterans currently unable to use their benefits to use them for the first time, the Comprehensive Bill would incur the cost of veterans entering these education and training programs.

VIETNAM ERA VETERANS COMMUNICATION CENTER AND VIETNAM ERA VETERANS ADVISORY COMMITTEE

The Comprehensive Bill will establish a Vietnam Era Veterans Communication Center to insure that the perspective, experience, knowledge, needs and advice of Vietnam era Veterans will be an integral part of the coordination, planning and implementation of all federal government programs affecting Vietnam era veterans. The Communications Center will serve as a voice at the highest level of government for all Vietnam era veterans, including the alienated, the disadvantaged, the poor, the radicalized, the "silent majority", as well as those veterans with less than honorable discharges.

"If we are to be successful in our endeavors, we must first examine our attitudes and our reactions toward our Vietnam era veterans. We must do so for the very simple reason that most of us in VA have not had the opportunity to serve young veterans their age for a generation or more. Not since World War II or the Korean conflict, when some of the veterans we served were our contemporaries, have we thought young and acted young and reacted young. We can learn from youth and they from us. And we can profit in the process, especially if the drive and idealism of our Vietnam era veterans can rekindle the drive and idealism that once made our lives so exciting and promising."

"I would be the last to suggest that I have even the faintest concept of the kind of war our Vietnam veterans have had to fight, a war in which it is virtually impossible to tell friend from foe, a war in which there are no front lines, and no lasting, final battlefield triumps in the traditional, tactical sense."

"More than 54,000 of our fellow Americans have died in Vietnam and nearly 200,000 have been hospitalized for wounds. Thousands more still carry the psychological scars of their combat experience. Having paid this price they return home to what? To brass bands and parades and a hero's welcome? Perhaps a few have. For most, however, their return has been distinguished by indifference and even hostility. By the expectation on the part of their fellow citizens that they will get jobs, pick up the pieces of their lives, and be good citizens. But what about those who haven't? Have we bothered to ask ourselves why? Is it because in this difficult transition from a wartime to a peacetime economy jobs are scarce? Do they no longer "belong" because their old friends have scattered or they have found new friends to replace them? Or have they found it hard to be a "good citizen" in a society rampant with stress, polarized by racial tensions, and even hostile to young people whose manner of dress and lifestyle are at variance with the views of their elders? Or is it all of these reasons and more?

"Whatever the answer we must ask ourselves and answer at least one more question. What do we owe our Vietnam era veterans? I say that we owe them a sincere effort to understand them and the impact their military experiences and return to civilian life has had. We owe them a critical self-examination of everything that we do and the manner in which we do it. We owe them the honest recognition of the fact that many of our programs conducted primarily by employees much older than they are not fully attuned to their needs, their lifestyle, and their problems. And we owe them the responsibility to do something about it NOW."

"We must understand what we must do to meet their needs in a positive, individual and responsive way. It is not good enough to count "contacts", and to provide information and assistance in a formal, mechanical style or to treat their medical problems in our hospitals and clinics while ignoring their human needs. There is no better way to honor these courageous young veterans than to listen, think, discuss, and then, to ACT."

"We are agreed I am certain that there is a serious crisis of confidence on the part of many young people with regard to the willingness of public and private institutions of all kinds to be responsive to new needs and to be adaptable to contemporary society. And I might add that many older persons as well can express genuine concern when needed changes are not effected. VA has the opportunity to demonstrate that it can be responsive and adaptable."—Donald Johnson, Administrator, Veterans' Administration.

The Vietnam Veterans Communications Center will provide a voice for Vietnam era veterans within the federal government. The Advisory Committee will be located within the Veterans' Administration for administrative purposes only, and its scope shall cover programs pertaining, but not limited to:

1. Veterans educational and vocational training programs.
2. Veterans outreach programs.
3. Veterans medical programs (including drug treatment and psychological readjustment).
4. Armed Forces educational programs.
5. Project Transition.
6. The Veterans Employment Service.
7. The Pre-Discharge Education Program.
8. Office of Education veterans programs.
9. Department of Health, Education & Welfare veterans programs.
10. The Jobs for Veterans and the National Alliance of Businessmen's veterans programs.

The Vietnam Era Veterans Communication Center will have an Executive Director and four Assistant Directors all appointed by the President. All directors will be Vietnam era veterans and at least three must be less than thirty years old at the time of their appointment. No more than two directors can be employees of the Federal Government at the time of their appointment.

It is the intention of the Comprehensive Bill that the veterans appointed to the Communications Center owe their allegiance to Vietnam era veterans, and that they be responsive and receptive to the needs and problems of Vietnam era veterans as well as the agencies that they are working with. The members of the Communication Center should represent the many diverse economic, social, racial, educational, and political spectrums that comprise 6.8 million Vietnam era veterans. Additional employees may be appointed to the Communications Center to assist in carrying out its functions.

In working cooperation with the Communications Center in Washington, there shall be a Vietnam veteran in each of the following:

Veterans Administration Hospital, drug and out-patient clinic.
United States Veterans Assistance Center.
Veterans Administration Regional Office.
Veterans Employment Service Office.

All other federal agencies which administer programs for or have substantial affect on Vietnam era veterans.

It is not the intent of the Comprehensive Bill to circumvent the normal organizational structure of the Veterans Administration, but to insure that Vietnam era veterans have communication and input at all levels of government on programs that directly affect them.

VIETNAM ERA VETERANS ADVISORY COMMITTEE

The Vietnam Era Veterans Advisory Committee shall assist the Communications Center in insuring that the Vietnam veterans voice is heard and his experience and input are recognized. The membership of the Advisory Committee shall include the Veterans Administrator, the Secretary of Defense, the Secretary of Health, Education and Welfare, the Secretary of Labor, the Secretary of Commerce, persons who represent the major veterans organizations, and persons appointed by the President who are eminent in the fields of labor, management, education, State and Local government, the medical profession, and others whose expertise would be useful to the Advisory Committee in carrying out its functions.

FUNCTIONS OF THE VIETNAM ERA VETERANS COMMUNICATIONS CENTER

The Center shall evaluate and report to Congress the effectiveness of veteran outreach services and make recommendations for establishing new, and improving existing, methods and procedures for insuring that all Vietnam veterans are informed of and are assisted in applying for all benefits and services they are entitled to.

The Center will advise, assist, consult and participate in the coordination, development, planning and administration of all Federal programs pertaining to Vietnam era veterans. The Communications Center, in close cooperation with the Advisory Committee, shall:

(1) Promote and encourage, in cooperation and conjunction with the Jobs for Veterans Program and the National Alliance of Businessmen, publicize the skills, experience, training, maturity and leadership abilities of veterans, and assist in the development and procurement of employment opportunities consistent with veterans abilities;

(2) Encourage, with the assistance of all departments and agencies of the Government concerned, the incorporation of relevant military training skills and experience into Union apprenticeship and training programs;

(3) Advise and assist in the development of transition training programs and courses instituted by the Armed Forces to augment the military training of active duty personnel in order to meet employment or union apprenticeship standards after their release from active duty;

(4) Develop programs, in cooperation with business management to recognize and utilize in management positions, the leadership, discipline, responsibility and other assets acquired by veterans in military service.

(5) Work and consult with educational and training institutions to evaluate (and where possible, grant academic accreditation for) the special education and training given to members of the Armed Forces, including but not limited to, training received under the General Educational Development program, the College Level Examination Program, and courses of the United States Armed Forces Institute;

(6) Assist in the revision, expansion, improvement and the effective promotion and utilization of the "Guide to the Evaluation of Educational Experience in the Armed

Forces" and in the development of an information system to enhance the transfer of military skills, training and experience to civilian terms.

(7) Promote and develop programs under which employers and employment agencies will evaluate and give appropriate recognition to military occupational specialties of veterans.

(8) Assist in the development of programs and facilities that encourage and provide employment, training, education, housing, and other needed services for disabled Vietnam era veterans; including a compilation of schools, institutions, training programs, employers and housing that offer special services, facilities, or programs for disabled or handicapped persons, and a description of the nature of such services and programs.

(9) Perform other duties and functions that might be required.

THE DIFFICULTIES WE FACE

Mr. McINTYRE. Mr. President, this piece, written by the distinguished nuclear scientist, Ralph E. Lapp, points up the difficult choices we have to make and must continue to make if we are to continue to have the energy we need.

Fossil fuels that are readily available, the oil and natural gas that we have long taken for granted, are now running out. Even the pool of oil under the Middle East won't last forever.

In place of these fuels we must develop new substitutes through new technologies or revitalized old technologies. While I, for one, would prefer that we not destroy prairies mining for coal or saddle ourselves with nuclear waste products that would come from large nuclear powerplants, the need for energy must push us ahead.

As Lapp says:

I have found that in lecturing about the subject of future energy supply people discount rather gloomy forecasts.

We must not discount the gloomy forecasts. We must work to avoid their coming true.

Mr. President, I ask that Ralph Lapp's "The Hard Energy Choices Ahead" be printed in the RECORD.

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

[From the Wall Street Journal, April 23, 1974]

THE HARD ENERGY CHOICES AHEAD

(By Ralph E. Lapp)

The United States is entering a disquieting new era in its economic history. We are moving out of an era when energy was easy to find and easy to exploit—a fundamental development whose implications will reach well into the 21st Century.

The Arab oil embargo has ended, the long lines at the service stations have disappeared at least temporarily and the short-run "energy crisis" has eased. Yet we remain an energy-short nation even now and the long-run trends are not comforting. An analysis of this nation's future energy needs leads inevitably to these conclusions:

There is no way we can meet the self-sufficiency goals of "Project Independence" by President Nixon's 1980 deadline, and probably not even by 1985. Dependence on foreign oil will be a brutal fact of life for at least a decade, more likely two.

There is no way we can sustain the giddy growth rates in energy consumption of recent years. Even under the best of circumstances energy conservation is going to be mandatory. We are going to have to adapt our transportation system—indeed our whole system of generating and using energy—to an age of energy scarcity, and this will require a whole series of profound political and economic adjustments.

There is no alternative, in the long run, to primary reliance for our energy needs upon coal and atomic power. Simultaneously, we are going to have to move toward an "all-electric" economy, perhaps even to the extent of eventually substituting electric automobiles for gasoline-burning ones.

Increasing U.S. energy consumption has accompanied a growing Gross National Product for well over a decade. Last year the U.S. consumed an amount of energy equivalent to the heat produced by burning 3 billion tons of high-rank coal or 13 billion barrels of oil. Actual oil consumption in 1973 amounted to 6.3 billion barrels; add to this the natural gas consumed and it develops that 77 percent of our energy was delivered in the form of pumpable fuels.

GROWTH EVERY YEAR

Last year our energy consumption increased 4.8 percent over that of the year before, and consumption increased 4.9 percent the year before that. If we were to continue growing at this rate, then in 1984 we would be using the energy equivalent of 24 billion barrels of oil annually. Of course, we could get some of this energy from non-petroleum sources, but even so, we would need some 11.6 billion barrels of petroleum products in 1985.

There is no way we can get those 11.6 billion barrels, unless the Arabs decide to act against their own self-interest and authorize greatly stepped-up production at low prices. There is no way we can get even the 9.5 billion barrels that the National Petroleum Council estimates we will need in 1985. And there is no easy way we can make up the difference out of U.S. resources either. America, to repeat, has run out of easy energy sources. It must now grapple with the touch choices.

What are those choices? Although our petroleum resources are not fully exploited, they hold little promise of keeping pace with demand. This means we must now look to coal, lignite and oil shale, all of which, unfortunately, must be mined. Mining, of course, entails many problems—not the least of which is the sheer volume of earth which will have to be moved. For example, production of 1 billion barrels of synthetic crude oil from oil shale would require mining and processing 1.7 billion tons of the shale, not to mention disposing of the talc-like waste. By way of comparison, the U.S. coal industry mines only about 0.6 billion tons annually.

The Fort Union Formation in the Upper Missouri Basin holds a vast treasure of subbituminous coal, some of it reaching 100 feet or more in bed thickness. Luckily, it's low in sufur and is quite close to the surface; and, because coal is a close chemical cousin to oil, it can be liquefied and/or gasified.

But will a Northern Plains state like Montana allow the industrialization that could convert it into a new Texas on the U.S. energy map? Can the necessary water be found to operate huge synthetic fuel plants? What price-per-barrel has to be assured the synthetic fuel industry to attract the necessary capital? What should be the use of the coal which is now being unit-train shipped to mid-western electric utilities? Who decides what fraction of the coal goes to boilers in steam-electric plants and what goes to making gasoline or aircraft fuels? These are critical questions for the nation's energy future.

But here's an even more fundamental question: Just what is an "allowable" annual growth rate in energy consumption? Our present growth rate of nearly 5% a year simply cannot be sustained. On the other hand, a "zero growth" policy, advocated by some environmentalists, would have an economy-wrecking potential.

Rather arbitrarily, I have calculated that each barrel of oil (or its energy equivalent) is linked to about $100 of Gross National Product. If so, a cutback of 1 billion barrels in annual oil consumption would mean a $100 billion dent in the GNP. Of course, this is a grossly simplified calculation, but it does indicate the scope and painfulness of the economic decisions we are going to have to make.

Detroit's monomania for the superhorsepower engine, coupled with the fuel robbery perpetrated by lowered compression ratios and air pollution controls, has contributed mightily to our fuel crisis. Yet with so much of the nation's well-being linked to the motor car, we can hardly afford to dislocate our economy by precipitous, ill-considered responses. Nor can we let environmental considerations alone dominate policymaking for such things as transportation, the location of power plants and the development of energy resources. I believe the much-publicized Environmental Impact Statement must be replaced by a "Triple E" statement that strikes a balance between environmental, economic and energy considerations.

SHIFT TO LIGHTER CARS

It seems obvious, however, that for the nation to live within its energy means, Detroit must at least shift to lighter, higher performance cars. I see no reason why Detroit cannot continue to increase unit sales, adding 25 million more vehicles to the car population by 1980—provided the gasoline mileage goes up to an average of 18 miles per gallon. This would allow full mobility for Americans—that is, 10,000 miles per-vehicle-year—while consuming no more fuel than automobiles did in 1973. It would, however, mean flushing the low-performance cars out of circulation.

Similarly, it is obvious that the air cargo business cannot rocket ahead on the vertiginous growth rate of past decades. Shipping cargo by air is energy lunacy, much more wasteful of fuel than transporting things by rail, measured on a ton-mile basis. Trucks, too, are less efficient than trains. Inevitably, we must return to the rail, and this will require a national metamorphosis that will occupy the remaining decades of this century.

The fact that the United States is running out of pumpable fuels places high priority on central station generation of power, using either solid fossil fuels or uranium. Next year about 30% of all U.S. fuel consumption will be directed to electric energy generation and this is expected to grow to 50% by the end of the century. By then, up to 60% of all electric generation is projected to come from nuclear power sources—from 1,000 nuclear stations. By the year 2000, uranium should be substituting for the annual burn-up of more than 2 billion tons of coal.

Atomic power raises environmental and safety issues which must be faced. But for anyone concerned about the ravages of strip-mining, it also offers immense advantages over coal and oil shale. In fact, once the power-breeder reactor comes on line, it will be possible to coast through the entire 21st Century without mining a single ton of uranium ore; industry will merely rework ore already mined and tap the full potential of the atom.

As we move toward massive reliance upon coal and atomic energy, we also will move toward an all-electric economy. Unlike oil and gasoline, which can be distributed easily for utilization in automobile engines and

other small power plants, coal and atomic energy lend themselves best to exploitation in central power plants. If advances in electric batteries or other methods of storing energy make the electric car a reality, each garage, in effect, will become a private filling station, with the car charged up there overnight for use the next day.

The U.S. energy economy is so often projected only as far as the year 2000 that people overlook the energy requirements of the next century. Whereas this century will be reckoned by energy historians as 90% fossil and 10% nuclear, the relationship will become increasingly nuclear in the future. Although it's unlikely that 21st Century Americans will be free to waste energy the way we have, many experts think that the U.S. population will grow very slowly in the next century and not exceed 400 million by the year 2100. Thus, I would expect that total energy consumption would no more than triple in the next century and that nuclear sources could maintain a viable U.S. energy economy through the 21st Century.

A BLEAK PICTURE

The world-wide energy picture, on the other hand, is very bleak. The "easy energy" sources of other nations should run out rather soon in the 21st Century. The proved reserve of 500 billion barrels of oil in the Persian Gulf may seem immense, but it cannot satisfy the rising energy expectations of developing countries for very long. The run-out of "easy energy" and the on-set of "tough energy" could have revolutionary consequences for the growth of the planet's population. Merely feeding the growing populations of underdeveloped nations may eventually impose energy requirements that many nations will not be able to meet. Nor will many of these nations be able to afford the U.S. solution: a highly-electric economy designed to mate with nuclear power. Result—a widening of the gap between the have and the have-not nations.

I have found that in lecturing about the subject of future energy supply people discount rather gloomy forecasts as these by saying that "scientists will come up with a solution!" There are, of course, a number of energy options already in sight, but all have their drawbacks. None qualify as "easy energy," especially if all costs are reckoned, and it is this advent of "tough energy" that has such fundamental significance to our future way of life.

FOLLOWTHROUGH

Mr. MONDALE. Mr. President, a number of my colleagues in the Senate recently joined me in sponsoring an amendment to the supplemental appropriations bill to restore $20 million to the followthrough program. As one of the most successful programs in the Office of Education, followthrough has proven itself a valuable asset for improving, through education, the life chances of low income children. The administration's response has been to announce a nationwide phaseout of followthrough beginning next September with complete termination of the program by 1976.

The reaction to the program from parents, program directors, teachers and others connected with followthrough has been particularly impressive. They have expressed their concern for the need to retain this program and are dismayed when efforts such as followthrough, which are designed to improve opportunities for disadvantaged children, are frustrated by elimination of the programs. Parents unanimously convey a sense of new opportunity in followthrough, emphasizing the achievement their children have shown because of the program.

I understand that the Appropriations Committee in markup session just agreed to include in the supplemental appropriations bill the amendment I proposed. I want to thank and commend all the members of the committee for taking this positive step toward restoring $20 million to followthrough to allow the program to continue with an entry level grade class next year. And I want to especially thank the chairman of the Labor-HEW Subcommittee, the senior Senator from Washington (Mr MAGNUSON) for the special leadership he provided on this issue, and the humane and sensitive role he has played on behalf of all programs like this one that provide hope and opportunities for American families and their children.

I ask unanimous consent that appropriate background materials and correspondence be printed in the RECORD, including examples of the letters I have received from teachers and parents with children in followthrough program.

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

FOLLOW THROUGH

Building on Head Start's Gains: Follow Through was initiated seven years ago to sustain the impact of Head Start, as a response to studies which indicated that Head Start gains were often lost after the children entered elementary school. Follow Through continues through the third grade the same types of comprehensive health, education, and social services that Head Start provides in preschool, with heavy parent involvement.

Legislation Creating Follow Through—The Intent of Congress: An amendment to Title II of the Economic Opportunity Act launched Follow Through. The Senate report accompanying the 1967 amendment stressed that Follow Through was a service program, not a time-limited experiment. The report emphasized that Follow Through "builds on the experience of Head Start which shows that unless a systematic follow through is made with children previously enrolled in Head Start the gains made tend to fade away."

A Comprehensive Program: Follow Through is comprehensive in the services it offers. Instructional programs in the schools are strengthened by new, innovative teaching methods. Aides, drawn from the community, assist the teachers in the classroom as do parent volunteers. The health and nutritional well-being of disadvantaged children is improved by nutritional education and lunches provided through the program. Medical and dental care, social and psychological services are part of Follow Through. Career Development is fostered by Follow Through as low-income parents employed as aides are enabled to earn high school equivalency diplomas and take college level courses leading to degrees in teaching and other fields. Parental participation is another significant aspect of Follow Through. Classes and workshops are provided that help parents work with their children in the classroom or in the home. Parents are involved in decision-making as members of advisory committees, taking part in decisions on all phases of the program.

Administrative Alteration of the Program: Upon Congress' initiation of Follow Through as a comprehensive service program, the administration requested $120 million to operate a large-scale service-type program. However, before legislation was enacted, it became known that OEO would receive less money than had been appropriated, and that Follow Through, as a new program, would receive very little funding. An administrative decision was made, and agreed to by OEO, Department of Health, Education and Welfare, U.S. Office of Education and the Bureau of the Budget, that Follow Through should be an experimental program for the time being, designed to produce information which would be useful when the program was expanded to nationwide proportions.

Despite the alteration in program emphasis, the legislation was not changed and passed the Congress as originally intended. For the first several years, OE referred to Follow Through as "a research and development program in a service setting" and the appropriations justifications called it a pilot program with the objective being to capitalize on the gains made by poor children in Head Start. Since 1971, and despite the wording of the legislative authorization, Follow Through has been officially regarded as solely a research and development program.

Results of Evaluative Studies: National evaluation of Follow Through done by the Stanford Research Institute produced results significantly in favor of the program. The overall impact on pupil development, and on parent and teacher attitudes is positive. The effects of Follow Through become stronger as children progress through the program. Participation in Follow Through produces greater growth in children—both academic and nonacademic—than that displayed by the non-Follow Through comparison groups.

The Phaseout: The Administration has called for a phaseout of the Follow Through program, claiming that its so-called basic purpose as an experiment has been fulfilled, while legislative history indicates this was never intended to be just an experimental program. Follow Through has proven itself too valuable and successful to be eliminated. The phaseout will have an adverse effect on further planned evaluations. The integrity of the remaining classes will be jeopardized as key local administrators and teachers leave the program. The evaluation is being seriously compromised and the phaseout may prove to be self-justifying. Follow Through is in danger of going down as another compensatory education program that somehow turned out a failure.

Maintaining Follow Through at Present Level: There are currently 170 Follow Through projects throughout the nation providing new educational opportunities for more than 80,000 poor children in kindergarten through third grade. To maintain Follow Through with approximately the present number of children in grades K through 3 at the current level of funding will require approximately $60 million annually, $20 million in addition to the present appropriation authorization for next school year.

U.S. SENATE,
Washington, D.C., April 5, 1974.

Hon. WARREN G. MAGNUSON,
Hon. NORRIS COTTON,
Labor-Health, Education & Welfare Appropriations Subcommittee, Senate Office Building, Washington, D.C.

DEAR CHAIRMAN MAGNUSON and SENATOR COTTON: We are writing to you of our intention to introduce an amendment to the Sup-

plemental Appropriations Bill restoring $20 million to the Follow Through Program.

As you know, this program provides special follow up services to Head Start graduates during the first three years of school. At a cost of about $60 million annually, the Federal government has been funding about 180 Follow Thruogh programs across the country for the past several years.

Follow Through has been one of our most successful programs for the education of the disadvantaged and we believe it must continue without reduction. Unless these funds are provided in the Supplemental, no existing program will be able to support an entering class this fall and the program will be phased out over three years.

With warmest personal regards.

Sincerely,

WALTER F. MONDALE,
HARRISON A. WILLIAMS,
HUBERT H. HUMPHREY,
ROBERT TAFT, JR.,
MARK O. HATFIELD,
JOHN V. TUNNEY,
CLAIBORNE PELL,
ROBERT T. STAFFORD,
GAYLORD NELSON,
JACOB K. JAVITS.

U.S. SENATE,
Washington, D.C., April 23, 1974.

Hon. WARREN G. MAGNUSON, *Chairman,*
Hon NORRIS COTTON,
U.S. Senate, Labor, Health, Education & Welfare Subcommittee, Senate Appropriations Committee, Washington, D.C.

DEAR CHAIRMAN MAGNUSON and SENATOR COTTON: On April 5th I wrote to you with Senators Humphrey, Taft, Williams, Hatfield, Tunney, Nelson, Javits, Pell and Stafford, indicating our hope that the Subcommittee would include in the supplemental appropriations bill for 1974, $20 million to be restored to the Follow Through program for the current fiscal year.

Since that time, a number of other Senators have asked to be associated with this effort. Specifically, Senators Cook, McGovern, Ribicoff, McGee, Clark, Hart, Fulbright, Randolph, Stevenson, and Brooke would like to be recorded as cosponsors of this measure.

Thank you very much for your consideration.

Sincerely,

WALTER F. MONDALE,
Chairman, Subcommittee on Children & Youth.

COSPONSORS OF MONDALE AMENDMENT

As of this time the following Senators have expressed their sponsorship of this measure: BROCK, BROOKE, CLARK, COOK, FULBRIGHT, HART, HATFIELD, HUGHES, HUMPHREY, JAVITS, MCGEE, MCGOVERN, MCINTYRE, NELSEN, PELL, RANDOLPH, RIBICOFF, STAFFORD, STEVENSON, TAFT, TUNNEY, and WILLIAMS.

SAGINAW, MINN., *March 12, 1974.*

Senator WALTER MONDALE,
Senate Office Building,
Washington, D.C.

DEAR MR. MONDALE: As a teacher in the Follow Through environment I have been able to observe many benefits to the students as a result of the the program. As you probably know, Follow Through puts a great deal of emphasis on developing a positive self concept of the child, giving emphasis to individualized instruction, and involving parents in the classroom.

Sincerely,

FRANK HELQUIST.

MOUNDS, ILL.

Senator WALTER F. MONDALE,
Russell Senate Office Building,
Washington, D.C.

SIR: I am writing in regard to our school program, Follow Through. We have been informed that this year Our Kindergarten is being phased out and then each year after first through third grade until the program is gone. I have one child in Follow Through and one in the fourth grade who had Follow Through. I feel they both have benefited from this very much.

Our Community has benefited from this very much. It has increased parent, teacher and pupil relationship. I feel it is a great assist to Our Community.

I am asking for all the help and support you can give us in keeping Follow Through in Our Community.

Sincerely,

PHYLLIS BUCKLES.

THE 1974 CHESAPEAKE & OHIO CANAL HIKE

Mr. BEALL. Mr. President, I wish to pay tribute today to an intrepid band of some 33 persons, members of the C. & O. Canal Association, who on April 27 completed an 11-day, 184-mile long hike of the C. & O. Canal from Cumberland, Md. to Washington.

The purpose of the canal hike was to emphasize the unique recreational treasures which the canal offers our citizens and to call attention to the deteriorating condition of the canal as a result of tropical storm Agnes and the demands of time.

In June, 1972, Agnes caused an estimated $34 million worth of damage to the canal. The waterway suffered some 26 major breaks, and all along the canal, locks were destroyed, banks eroded and structures damaged.

Additionally, the process of decay has begun to claim more and more historic structures along the canal. For instance, on October 31, 1973, the 140-year-old Catoctin Creek Aqueduct collapsed, giving us dramatic evidence of the critical need for restoration.

Clearly, this year's hike was just as important as the first hike in 1954, which began efforts to make the canal a national historic park. That effort, of course, was culminated by the enactment of Public Law 91–664, the Chesapeake & Ohio Canal Development Act, in January 1971.

This year the walkers, starting from Cumberland, moved down the towpath at a rate of approximately 17 miles a day, camping along the way. Local supporters organized dinners for the hikers in Cumberland, Williamsport, Frederick and Washington, and many people joined the walkers for short stints in their home areas.

I was able to join the hikers for one of the last legs of the journey, from Great Falls to Sycamore Island, a distance of 8 miles, and it was well worth the effort, for we were exposed to some of the best parkland America has to offer.

As I pointed out, much work remains to be done to restore the canal. Unfortunately, since the 1972 storm, only $1.8 million has been spent to repair the damage wrought by Agnes, an amount little more than one-twentieth of the need. For fiscal year 1975, only $3 million is included in the budget, an amount I deem greatly inadequate. It is my strong hope that the Congress this year can rectify this fiscal oversight. Should any of my colleagues have some reservations on that score, I would invite them to walk the canal, as the members of the C. & O. Canal Association have done. That, I would think, would be more persuasive than any speech on the floor of the Senate.

I salute each person who walked the canal, and commend them for their dedication to this unique and irreplaceable parkland. I especially want to congratulate Mr. Bruce Wood, chairman of the C. & O. Canal Level Walkers, who more than any other was particularly responsible for organizing this most successful hike. Bruce Wood has been one of the champions of the C. & O. Canal, and by this walk he has helped immeasurable to bring attention to the need for renewed efforts to repair the canal.

Mr. President, it is by hope to translate the commitment of these people to the canal into legislative action to restore the C. & O. Canal in time for our Nation's Bicentennial.

THE DANGER IN A SYSTEM THAT REQUIRES FALSE REPORTING

Mr. HUGHES. Mr. President, on March 27, I told the Senate that I was pursuing an investigation into one of the unresolved issues of the secret war in Cambodia—the false reporting of tactical air strikes during and after the U.S. ground attacks in 1970. That investigation is now complete, and I want to report my conclusions to my colleagues.

This matter arose in testimony before the Armed Services Committee last August, when two witnesses testified that, on strikes deep inside Cambodia, they were required to call the Tactical Air Control Center—TACC—in Saigon to get "reporting coordinates" so that the bombing could be listed as having taken place close to the South Vietnamese border.

The Defense Department white paper, issued in September, confirmed these procedures but said that—

Inquiries to date have failed to disclose the source of the orders . . .

For nearly 8 months I have tried to pin down the source of these orders and the justification, if any, for them. I raised questions of several nominees for promotion and inserted the answers from four of them in the RECORD on December 14.

The Defense Department's own investigation of this matter was grossly inadequate. General Walter T. Galligan, the Commander of the TACC during the summer and fall of 1970 was never questioned. Nor were his subordinates.

It was only in February of this year, when General Galligan's name came before the committee for promotion, that a serious inquiry began in the Pentagon. I requested and received written answers to key questions from General Galligan, but I was not satisfied with his responses. I sent two additional letters on February 28 and March 5, requesting further information.

When the committee finally acted on the nomination list on April 4, it took the unprecedented step of deferring ac-

tion on General Galligan until my letters had been answered. Finally, on April 23, I received the long-delayed replies. I have been assured that these replies are based on lengthy and careful consideration of the available evidence.

My goal all along has been to get the Air Force to investigate this matter fully, and to report to the committee. By necessity, we must depend upon the services to police themselves and to put their own houses in order. The committee was reluctantly involved because of the failure of the Pentagon to come forth with a full explanation.

The newly provided materials show that the Air Force has still been unable to locate the precise orders which established the dual reporting procedures. These documents were apparently destroyed routinely during the withdrawal of U.S. Forces from Vietnam. Nor can the Air Force locate the orders from higher levels of command which General Galligan remembers as authorizing his actions.

In addition, there are discrepancies in General Galligan's letters, and I have lingering doubts as to the adequacy of his supervision of his subordinates since he does not recall knowing about their dual reporting procedures.

Nevertheless, I am prepared to have the committee and the Senate act on his nomination, and I shall not oppose his confirmation.

My basic conclusion is that General Galligan was not personally at fault. Rather, the "system" was to blame.

The military reporting system provided logistical and other data necessary for planning and accounting purposes. But many air combat missions were considered so secret that personnel were required to limit access to the information and to use special, more secure reporting channels. The computers which held the routine data could not be trusted with the facts of the secret bombing.

As the official Air Force letter says:

To make the system work, . . . attributed targets were required.

In other words, our men were forced to falsify certain reports. For many men, the false report was the only one they ever made; it was up to others, elsewhere in the system, to make the accurate reports.

Was there no other way? Did falsification have to be a way of life for men in order to overcome the deficiencies of computers?

In the secret B–52 bombing—called menu—in the secret preinvasion tactical bombing—called patio—and in the subsequent Cambodia bombing under investigation now—called freedom deal—the basic procedures were the same. In fact, the dual reporting system which developed to conceal the first secret bombing was applied, without further question, to those later operations.

The pattern of falsification took on a life of its own.

One can question whether any of these operations deserved secrecy in general terms. After all, those who were subjected to the bombing knew about it.

But why could not the military trust its own personnel with the classified reports which included coordinates of past strikes? Or alternatively, why could not commanders simply delete a reporting requirement for target coordinates, while including all other information, as was in fact done on certain operations over North Vietnam?

Instead of trusting our men to preserve secrecy, the Air Force conditioned them to the practice of falsification. And as these men pursue their careers, can we ever be sure that they will not again surrender their integrity to that of the system?

General Abrams did not try to justify these procedures. He had told General Lavelle:

We just cannot have a military organization where you are requiring people to falsify reports.

Referring to freedom deal, he later told the Armed Services Committee:

I see no reason for falsly reporting any of these strikes.

Now, of course, we have the official rationale: The system could not work unless there was false reporting.

Contrary to the fine traditions of the U.S. Armed Forces, as well as the dictates of conscience and of the Uniform Code of Military Justice, thousands of men had to compromise their own integrity and surrender to the tyranny of computers.

If the military were ever to act so as to jeopardize our system of democratic government, it might well be because we did not take measures to prevent this behavior.

Even if one grants that false reporting was the easiest path to secrecy, why was the secrecy necessary?

What was being kept secret? In the case of the B–52 strikes, it was the fact that the President had widened the war into another country, without the knowledge or approval of the Congress; in the case of the patio strikes, it was that U.S. tactical aircraft had begun to attack in Cambodia just prior to the surprise U.S. ground invasion; in the case of freedom deal, it was that the United States was continuing and deepening its involvement in Cambodia, despite the official assurances that our actions were designed solely to permit the safe withdrawal of U.S. forces from Vietnam.

The North Vietnamese and their allies knew what was happening; the Cambodians knew; only the Congress and the American people were kept in the dark.

This secrecy cannot be justified as necessary for national security, it was plain and simple deception.

We cannot change what has happened. Maj. Hal Knight did what the system required of him; Capt. George Moses followed his orders; Gen. Galligan and his subordinates went along with the same system.

But looking to the future, I think it is clear that we have to change that system to prevent it from corroding our principles or corrupting our servicemen.

I have done what one Senator can to point the way toward reform. I hope and pray that the services themselves will carry out their responsibilities to restore integrity and ruthfulness to the system of command and control.

Mr. President, I ask unanimous consent that the various letters relating to this matter and specifically to the nomination of Gen. Galligan be printed in the RECORD.

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

DEPARTMENT OF THE AIR FORCE,
HEADQUARTERS, UNITED STATES
AIR FORCE SECURITY SERVICE,
San Antonio, Tex.

HON. HAROLD E. HUGHES,
Committee on Armed Services,
U.S. Senate, Washington, D.C.

DEAR SENATOR HUGHES: I appreciate this opportunity to respond to questions submitted in your letter of 19 February 1974. The following answers reply to each question to the best of my knowledge:

1. Q. General Galligan, is it correct that you served as Director of the 7th Air Force Tactical Air Control Center from 11 June 1970 until 24 January 1971?

A. I was Director of the TACC from 11 June 1970 until 5 January 1971.

2. Q. On tactical air operations in Cambodia (1) during and (2) after the U.S. ground operations in that country, how were targets selected and validated?

A. I was new to the TACC for the 20 days prior to the cessation of U.S. ground activities in Cambodia and cannot recall the specifics of target selection for that period of time. However, between 1 July 1970 and until I departed, targets east of the Mekong in the area known as Freedom Deal were generated by a variety of sources including FACs, requests of ground force commanders, aerial photography, signal intelligence, POW/rallier information, etc. Targets developed west of the Mekong were primarily requests from the FANK or targets developed from intelligence sources. In each instance all targets were validated by FANK officers assigned to the TACC.

3. Q. How would you define "close air support"? When did the United States begin operations in Cambodia which would come within that definition of close air support for Cambodian forces?

A. The JCS definition of close air support is: "Air attacks against hostile targets which are in close proximity to friendly forces and which require detailed integration of each air mission with the fire and movement of those forces." I do not recall any air operations in Cambodia directed by the TACC while I was Director that I would classify as close air support.

4. Q. To whom did FACs report on air operations in Cambodia?

A. Through their Direct Air Support Centers in South Vietnam to the TACC.

5. Q. Did you receive reports or briefings from both FAC and fighter-bomber elements regarding air strikes in Cambodia?

A. I was deeply involved in our TACC air operations in Cambodia, but I do not recall receiving any briefings or reports from either FAC or fighter-bomber units.

6. Q. Were you aware of any differences in these reports, particularly in terms of where the strikes were conducted?

A. No.

7. Q. Were any Air Force personnel tasked with the responsibility of comparing after-action reports for completeness, accuracy and consistency. If so, why do you believe that they failed until shortly after you left TACC in 1971 to disclose the system of dual reporting?

A. I do not know.

8. Q. The Armed Services Committee has received testimony to the effect that, on

certain strikes deep inside Cambodia, there were written orders from 7th AF HQ instructing intelligence officers to call TACC for "reporting coordinates" which were at variance with the actual targets struck. Were you aware that this was being done? If so, please explain why and under what authority it was done.

If not, please describe the nature of your supervision of men in TACC and how they might have been able to respond to calls for "reporting coordinates" without your knowledge.

A. I have not read nor am I familiar with the testimony to which you refer. I know of no orders whatsoever directing intelligence personnel to call TACC for "reporting coordinates" which were at variance with those of the actual target nor am I aware that this was done. I supervised the TACC through the organizational lines established at HQ 7AF. I directly supervised about five or six division chiefs who in turn supervised their subordinates. I also coordinated with the VNAF and FANK, TACC representatives.

9. Q. The Defense Department has told the Armed Services Committee that "Instructions in the field relating to the reporting of such operations which occurred outside the designated Freedom Deal areas stipulated that special security communications channels would be employed." Who "in the field" originated these instructions? Were you aware of, and did you approve, these instructions?

A. I do not know who, or if anyone, "in the field" originated the referenced instructions. Authority for operations beyond "Freedom Deal" were contained in a HQ CINCPAC wire forwarding JCS authority, limitations, rules of engagement and special reporting instructions. All 7th Air Force activities of which I am aware strictly complied with 7th Air Force interpretation of these instructions.

10. Q. The Defense Department has also admitted that a system of "attributed targets" arose "in the field." Were you involved in any way in developing that system of reporting? Do you have any knowledge of how that system developed or who was responsible for its creation? Were you aware of any orders which could reasonably be interpreted as *forbidding* the development of such a system?

A. No, I am not aware of such a system being developed "in the field." I was not involved in developing such a system nor do I know how it was created, nor am I aware of any specific instructions forbidding the development of such a system.

As I indicated in answer to question No. 9 I am confident all reporting was carried out in accordance with 7th AF interpretation of instructions from higher authority.

11. Q. To your knowledge, what information regarding attributed targets, reporting instructions, or any other matters related to operations outside the Freedom Deal areas was conveyed to General Brown? What orders were received from General Brown with regard to these matters?

A. I have no knowledge of any such information that was conveyed to General Brown. I don't recall ever discussing operations west of the Mekong with General Brown.

12. Q. Who conducted BDA and post-strike reconnaissance on strikes in Cambodia?

A. I believe post-strike reconnaissance was conducted by RF–4 and FAC aircraft while BDA was done primarily by FACs.

Q. Was the information from these missions ever available to the same people who received the reports with attributed targets?

A. I do not know.

13. Q. What specific offices in Saigon received the after-action reports which contained the attributed targets?

A. I do not know.

Q. Did any of these people ever rely on them for information such as the amount of ground fire or other matters of the threat from the ground?

A. I do not know.

14. Q. Although DOD investigation has thus far failed to find the source of the orders for attributed targets, can you say on your own knowledge whether such an order existed or by whom it was probably issued or under what authority or guidance?

A. Reference my answer to question No. 9. I issued no such order nor was I aware such an order was issued. While I was Director of the TACC we operated and reported exactly in accord with our understanding of instructions from higher authority.

15. Q. The Armed Services Committee has received conflicting testimony on the question of what limits on air operations were imposed by the President during the U.S. ground operations in Cambodia in May and June of 1970. What orders set limits on penetration of Cambodian air space? What were those limits? Were there any exceptions to the general limitation? What were they?

A. I cannot answer this question since I was not at the TACC until 10 June and don't recall any specifics of target selection during my apprenticeship in the latter 20 days of June.

16. Q. In target planning and validation, what instructions did you have to distinguish between bombing requests which should have been classed as interdiction and those which were for the support of Cambodian forces or Cambodian objectives? How and when did those instructions change?

A. My instructions as I recall them were to *not* provide any close air support to the FANK who were directly engaged in combat with the enemy. Our mission was interdiction of troop concentrations, supply points, routes of communications and troop billeting/training areas. These instructions did not change during my tour at the TACC. Since each target was validated by the FANK, I assume that results were in consonance with Cambodian Government objectives.

17. Q. What coordination procedures were there between Cambodian and U.S. authorities to handle and verify bombing requests as being for interdiction purposes only? Were strikes planned and/or reported in terms of purpose such as interdiction or close air support? If so, please explain the basis for such distinctions?

A. All tactical air missions flown in Cambodia to support the FANK were coordinated between TACC and FANK personnel. These missions were only approved for execution when they were for interdiction. On several occasions requested "interdiction" missions were denied by 7th AF due to the presence of troops in contact or the close proximity of civilian population concentrations. In those circumstances the FANK was advised they would have to use their own aircraft or request aid from the VNAF.

WALTER T. GALLIGAN,
Major General, Commander.

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., February 20, 1974.

Hon. HAROLD E. HUGHES,
Committee on Armed Services,
Washington, D.C.

DEAR SENATOR HUGHES: This letter is in response to an inquiry from Mr. Stevenson of your office concerning six Air Force officers who were recently nominated to the Senate Armed Services Committee for promotion to either a permanent or temporary general officer rank.

Brigadier General William C. Burrows and Major General William M. Schoning served as Deputy Assistant for NSC matters in the 1968–1972 time frame. In this position, they were not in the direct line of communication between the Pentagon and the National Security Council. Instead, they were responsible for providing an Air Staff position regarding particular NSC issues which had been referred from the NSC through the Department of Defense and the JCS to the Air Force for action. In this job, neither General Schoning nor General Burrows were involved in the unauthorized transmittal of documents from the NSC to the Chairman of the JCS. Their activities instead were concerned with preparing Air Staff responses to requests from higher authority.

Major General Howard M. Fish was Director of the TAC Analysis Center at Seventh Air Force. This office was not connected to the TACC but instead was responsible for analyses which were directed primarily toward improving the efficiency of the functions of Seventh Air Force. Thus, General Fish's position was not in the operational chain of command.

Major General Ray B. Sitton and Brigadier General Bennie L. Davis both had positions in the Joint Chiefs of Staff whereby they had knowledge of the B–52 operations in Cambodia. Both officers, however, were in the action officer level and were not responsible for policy regarding the planning or directing of these B–52 operations.

Major General Walter T. Galligan was not contacted by the Air Force Inspector General preparatory to the white papers on Cambodia bombing; however, he was queried as part of the JCS investigation. It was concluded that General Galligan was not involved in the policy making aspects of planning or executing the Cambodian operation.

Sincerely,

(Signed) M. L. BOSWELL,
Major General, USAF, Director, Legislative Liaison.

FEBRUARY 28, 1974.

Maj. Gen. M. L. BOSWELL,
Director, Legislative Liaison, Headquarters, U.S. Air Force, The Pentagon, Washington, D.C.

DEAR GENERAL BOSWELL: Thank you very much for obtaining and forwarding General Walter T. Galligan's answers to my questions regarding his service in South Vietnam.

Quite frankly, I am puzzled at his denial of knowledge of reporting procedures followed by the men under his command at the Tactical Air Control Center (TACC).

George Moses and Maurice O'Connell both testified to these procedures, and the Defense Department White Paper on Cambodia bombing confirmed that these procedures, involving false reporting coordinates for strikes west of the Mekong River, were followed.

Perhaps these discrepancies could be resolved if I and the Committee could be provided with the documents referred to by General Galligan in his answer to question 9: the "HQ CINCPAC wire forwarding JCS authority, limitations, and rules of engagement and special reporting instructions" and the documents stating the "7th Air Force interpretation of these instructions."

I believe that a full clarification of these discrepancies is necessary before the Committee can properly act on General Galligan's promotion.

Sincerely,

HAROLD E. HUGHES.

MARCH 5, 1974.

Maj. Gen. M. L. BOSWELL,
Director, Legislative Liaison, Headquarters, U.S. Air Force, The Pentagon, Washington, D.C.

DEAR GENERAL BOSWELL: In your February 20 letter to me, you state that General Walter T. Galligan was not questioned by the Air Force Inspector General prior to the issuance of the Defense Department white paper on Cambodia bombing, but that "he was queried as part of the JCS investigation."

What was the nature of that JCS investigation? When and by whom was it conducted? What conclusions were reached? Can the Committee be furnished a copy of the report on this investigation?

In addition, will you please provide me with the names and current addresses of the "five or six division chiefs" who served under General Walter T. Galligan at the 7th Air Force's Tactical Air Control Center in Saigon?

Please also provide the names and current addresses of the subordinate personnel who handled calls from intelligence officers connected to tactical air units which reported to TACC.

Which, if any, of the aforementioned personnel were questioned by Air Force or JCS investigators?

I hope that this information can be supplied without such difficulty. Any delays will, in my judgment, require a postponement in Committee consideration of General Galligan's promotion.

Sincerely,

HAROLD E. HUGHES.

DEPARTMENT OF THE AIR FORCE,
San Antonio, Tex., April 23, 1974.

Hon. HAROLD E. HUGHES,
Committee on Armed Services,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HUGHES: I am taking this opportunity to reply to your letters of 28 February and 5 March 1974 to General Boswell regarding my nomination for promotion and involvement with tactical air operations in Cambodia.

I believe it would be helpful to outline my duties as Director of the Tactical Air Control Center (TACC), and thus explain how a duty controller could be involved in a "reporting coordinates" procedure without my knowledge.

The 7th Air Force TACC planned and directed the air battle in South Vietnam and Cambodia. Within the TACC much activity was involved in preparing the daily operations order for each tactical fighter, B-57 bomber, FAC, gunship, and reconnaissance unit. Each strike request from U.S. Forces, the FANK and the RVNAF was analyzed prior to approval to insure that it was authorized by the rules of engagement. We prepared the next day's operational plan for briefing to the 7th Air Force Commander and reaccomplished those portions of the operations order he desired changed. I attended numerous meetings during the day to discuss the allocation of resources and to develop tactics to be employed as the situation changed in SVN and Cambodia. In addition, I was in charge of the four Direct Air Support Centers located throughout South Vietnam. As a result, I was often absent from 7th Air Force Headquarters to inspect those facilities, provide guidance, and check on the progress of the Vietnamization program.

The command post function of the TACC was supervised by a senior controller who monitored and reported to me the progress of our missions. I would check with the senior controllers when difficulties such as changing weather, a drawdown of alert aircraft due to stepped up ground activity, etc., would require an immediate diversion from the planned operation order. Very seldom did I have an occasion, or need, to get involved in routine operations of the duty controllers. While I was periodically briefed by their supervisor on the happenings within that area of responsibility, the organization was deliberately designed to free me of routine tasks so that I could concentrate on my role in prosecuting the war.

It is important to note that operational reporting was not a function of the TACC. We did not originate the "OPREP 4" reports nor do I recall ever seeing one while I was at the TACC. I did review drafts of the special security communications reports on selected strikes which were delivered to MACV for approval and transmission to CINCPAC and JCS. I was charged with recommending MACV or higher headquarters approval of missions to be flown outside the Freedom Deal area based on our intelligence at 7th Air Force. It is important to note that neither I nor my superiors at 7th Air Force had authority to approve Cambodian air strikes outside the Freedom Deal area. All of these had to be approved at least at MACV level. I was also responsible for guaranteeing the accuracy of the special security communications channel reports which covered these special missions. However, I did not become involved in the preparation or review of the more routine OPREP 4 reports on either normal missions or those special missions flown outside of the Freedom Deal area. For this reason, I suspect, I do not remember that a procedure of attributed targets was used for those targets outside of Freedom Deal and reported in the administrative channel. However, I can understand that a procedure such as this would be required for operations which were directed by higher authority to be reported through special security communications channels, in order to provide routine administrative and logistics data for accounting purposes.

What I'm saying is that the TACC was a busy place—24 hours a day—planning, coordinating and employing the myriad of resources available to 7th Air Force, the VNAF, and the FANK. Everything I saw accurately reflected how and where we employed our resources. But I must admit that I either didn't see, or don't remember the details of the reporting system which was used to provide the routine administrative and logistics data in "front channel" communications. I consider this understandable in view of the fact that the review of OPREP 4 reports was not invested in my agency and was much more of a routine matter than the hour-by-hour prosecution of the war in which I was involved. I can state, however, that all of our tactical air activities beyond the Freedom Deal area were fully authorized by higher authority and were fully reported in special security communications reports.

Q. Will you please provide me with the names and current addresses of the "five or six division chiefs" who served under General Walter T. Galligan at the 7th Air Force's Tactical Air Control Center in Saigon?

A. At the time I became Director, the TACC had only two Division Chiefs. Colonel (then Lt. Col.) James H. Ahmann (Commander 20th TFW, APO NY, XXXXX was Chief of the Current Operations Division and Brigadier General (then Colonel) Malcolm E. Ryan (TAC Inspector General, Langley AFB, Virginia 23365) was Chief of the Current Plans Division. These were the two individuals primarily involved in the planning and execution of the Cambodian air campaign during the time period concerned. In October there was a major reorganization of the 7th Air Force DCS/Operations and I was redesignated as the Director of Combat Operations. At that time I lost the 7th Air Force TACC when the two Command Centers were combined into a new Directorate of Command and Control.

Q. Please also provide the names and current addresses of the subordinate personnel who handled calls from intelligence officers connected to tactical air units which reported to TACC?

A. Providing names of subordinate personnel who handled telephone calls from officers in the tactical units is much more difficult. Liaison with intelligence personnel of the tactical units was primarily handled through an intelligence desk within the TACC manned by an officer from DCS/Intelligence, 7th Air Force rather than by a controller assigned to the TACC. With the dissolution of 7th Air Force headquarters in Saigon most of the documentation which might have assisted in this research was destroyed. The one officer who immediately comes to mind as the expert on the hour-to-hour management of the duty controllers of the TACC is Colonel James C. Davis (Office of the Secretary of Defense, Security Assistance Agency, The Pentagon, Washington, D.C. 20330). Colonel Davis was the senior supervisor of the duty controllers within the TACC during the time period under question.

Q. Which, if any, of the aforementioned personnel were questioned by Air Force or JCS investigators?

A. I have been advised that none of the officers named in this letter were queried by either the JCS or Air Force regarding their knowledge of tactical operations in Cambodia.

I hope the above has clarified the questions posed in your letters.

WALTER T. GALLIGAN,
Major General Commander.

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., April 23, 1974.

Hon. HAROLD E. HUGHES,
Committee on Armed Services,
Washington, D.C.

DEAR SENATOR HUGHES: We apologize for the length of time it has taken to respond to your letters of February 28 and March 5, but in view of your continued interest we elected to review conduct of air strikes west of the Mekong. This review was to insure that what we have said in the past was complete or, alternatively, to determine if there were any additional facts which would further clarify reporting of our air operations in Cambodia. We hope the following will eliminate uncertainties and reservations you may have.

In the last paragraph of my letter to you of February 20, I referred to a JCS "investigation"—"investigation" is possibly too strong a description. It may be helpful to clarify that statement. You will recall that on August 9, 1973 during hearings before the Armed Services Committee Secretary Clements promised Senator Symington and the Committee a report on Southeast Asia operations. The Organization of the Joint Chiefs of Staff advises that they did participate in the gathering of information which resulted in the "Department of Defense Report on Selected Air and Ground Operations in Cambodia and Laos," dated September 10, 1973. We have been informed that there was no formal Joint Chiefs of Staff Investigation or Report as such. This activity was viewed by the JCS as staff action and not an investigation; and, in this regard, the entire Joint Staff participated as required in the preparation of the Department of Defense Report.

With regard to the HQ CINCPAC wire, the Air Force does not have a message matching General Galligan's description. In addition, regarding the Seventh Air Force "interpretation of these instructions" to which you refer, as was explained in the "Department of Defense Report on Selected Air and Ground Operations in Cambodia and Laos," it appears that the relevant directives were disposed of in accord with established security procedures during dissolution of MACV, establishment of the United States Support and Assistance Group (USSAG), and displacement of Seventh Air Force headquarters from Vietnam to Thailand in March of 1973.

The questions you have asked indicate your continuing concern lies primarily with the reporting associated with the Cambodian bombing. First, I would like to assure you

that our restudy of the situation indicates that USAF air strikes in Cambodia were conducted and reported in consonance with directives and standard reporting requirements from authority higher than Seventh Air Force. The following explanations of how Operation Patio and those air strikes outside the Freedom Deal area were reported, their relationship to Menu, and why they were required to be reported in this manner, are offered to further clarify any points not understood.

As you know, Menu was the nickname for B–52 aircraft operations in Cambodia. Permission for these strikes was requested by MACV and approved by the JCS. In authorizing Operation Menu, the JCS directed that special security communications would be used for operational reporting of these strikes.

To further protect the sensitive diplomatic aspect of these operations, the JCS also directed use of cover (attributed) targets in South Vietnam. They were required because normal reporting had to continue to avoid compromising the close-hold security directed by the JCS, and also in order to maintain administrative and logistic data for sortie accounting purposes. Attributed targets for these purposes were provided by the normal targeting agencies. Operation Menu was very closely held—with access limited to those few personnel who had an absolute need to know in order to execute the mission. Reports in the special security communications channels kept those requiring the data accurately informed on actual happenings.

Finally, Menu was directed and reported through the JCS SAC/PACOM/MACV channel. Seventh Air Force neither generated nor received operational reports of Operation Menu.

The initial tactical air operations in Cambodia were conducted under the code name of PATIO. Authority to conduct PATIO was granted by the JCS after Macv requested permission to conduct tactical air operations—against lucrative fleeting targets not considered optimum for B–52 strikes—within Cambodia for a 30 day period. The request to conduct Patio preceded the incursion of U.S. and South Vietnamese troops into Cambodia. The JCS in approving the Patio operation stated: "Patio procedures will be identical to Menu procedures," and "due to the extremely close hold nature of these operations, only individuals with an absolute need to know will have access to Patio information."

The direction to conduct Patio operations using procedures identical to Menu required Macv to use special security communications channels for operational reporting. Front channel reports were required and attributed targets—in a strike zone in which normal reporting procedures were authorized—were used to satisfy this requirement. From all we have been able to determine, this is exactly what was done.

When the JCS authorized strikes outside Freedom Deal, reporting was again directed to be through special security communications channels. So again, to make the system work (i.e., to keep from compromising security and provide administrative sortie data), attributed targets were required. These procedures were necessary to satisfy security requirements directed by authorities above Seventh Air Force and were implemented in the field on an evolutionary basis starting with MENU, continuing through PATIO to those tactical air operations outside of the Freedom Deal area. Differences in missions and the capabilities of the executing units required some changes in methods of establishing attributed targets, but the basic framework for the procedures used was the same for all three of these operations.

Captain Moses testified to the existence of a message from Seventh Air Force which outlined a procedure requiring intelligence officers in the field to call the TACC for reporting coordinates. I think it becomes clear at this juncture that Captain Moses' reference to "reporting coordinates," is probably another term for attributed targets, the use of which I hope is fully explained above. While the Air Force has been unable to locate or verify the existence of a message outlining those procedures, it is known that on strikes outside the Freedom Deal area, units were given, by the TACC, the coordinates to which the strikes would be attributed in routine reports.

Finally, to address the question, "Why did it take until February 1971 to discover the dual reporting?" The requirement to maintain a constant flow of administrative information of a lower classification, while protecting the sensitive special security communications reports placed a considerable strain upon Seventh Air Force Headquarters.

In February 1971 the two parallel reporting systems—with attributed targets in the routine communications channel and operational reporting via the special security communications—apparently both became visible to CINCPAC. In this particular circumstance the loss of an aircraft—which was actually lost outside the Freedom Deal area, and so reported through special security communications—was also reported in the routine communications channel as having gone down within Freedom Deal (where normal reporting was authorized). With the entire reporting system thus surfaced it was ordered stopped by authority above Seventh Air Force. Why it was not stopped sooner cannot be precisely determined. It must be concluded that authorities above Seventh Air Force determined that the sensitivity of these operations justified and required special security handling irrespective of the inconvenience or demand that this placed on subordinate headquarters.

I am pleased to provide you in the enclosed letter General Galligan's response to those matters within his knowledge. Senator Hughes, I hope this summary of the Cambodian reporting situation has clarified your questions.

Sincerely

M. L. BOSWELL,
Major General, USAF, Director, Legislative Liaison.

THE TIME HAS COME FOR SMALL BUSINESS TAX REFORM

Mr. BIBLE. Mr. President, during the past week Americans have been recovering from their annual income tax ordeal. The term "ordeal" is an accurate one, I think, because most of our citizens are not acountants or lawyers, and yet they are asked to interpret and comply with one of the most complex laws ever devised by the mind of man. Our free society depends upon the considerable effort and good faith of our people in paying the taxes they assess upon themselves in hard labor over Federal and State forms, schedules, statements, records, and bills with the clock ticking away the hours to the deadline.

The way our Nation does this job every year reflects an exceptional exercise in good citizenship. The proof of this is a comparison with other countries, many of which are not so fortunate. I feel that congratulations are in order for the American people on the way they have honored their tax obligations year after year.

This performance is all the more remarkable in light of the questions which have arisen about the basic fairness of the laws with which we are asked to comply.

When low- and middle-income wage earners and small businessmen take an overall view of the tax system, they see the following:

One. Sharply regressive employment and effective corporate tax rates: Small manufacturers pay actual Federal taxes of more than 50 percent of their profits and the largest 100 companies pay less than 25 percent.

Two. High taxes on new enterprises: Beginning businesses pay a tax of 22 percent of their first dollar of profits, almost as much as the 100 or so billion-dollar asset corporations. This is also far higher than competing companies which were growing to maturity before World War II.

Three. Preferences for property over labor: Our system taxes income from labor at 100 percent, income from capital gains at less than 50 percent, and income from some larger aggregations of capital, in municipal bonds, at zero percent.

Fourth. Increasing discrimination in the law: The tax laws of 1969 and 1971 increased the advantages of large businesses over small businesses.

Fifth. Escalating paperwork: The number of forms, particularly for businesses, have been mounting sharply for the past 5 years, further snowing the enterpreneur under a pile of new regulations and forms. This makes it increasingly difficult for the smaller firm not only to compete but to stay in business at all.

Sixth. Lack of attention to the needs of the little man: It was in 1958, 16 years ago, that Congress last acted upon broad small business tax legislation.

The small business community is composed of 8½ million full-time commercial businesses, the nearly 3 million farmer-rancher businessmen and independent self-employed businessmen, as well as the part-time and would-be entrepreneurs, who together make up 97½ percent of the 12 million business units in this country. These taxpayers account for about half of all the jobs in the economy and close to 40 percent of the gross national product. I am also talking about the wage earner, almost 80 million nonagricultural workers. These people are the backbone of this country.

The evidence has been accumulating over recent years that the hard-working small businessmen and wage earners are paying more than their share of taxes. I would like the Senate to note their increasingly insistent calls for tax reform. And why not? Are the small businessmen and wage-earning taxpayers supposed to just grin and bear their unequal burden forever?

My colleague, the distinguished junior Senator from Nevada (Mr. CANNON), has put the matter as follows:

The patience of middle and lower income taxpayers is exhausted with the tax loopholes for the rich and with a tax burden in 1974 that will eat away 2½ hours of wages every working day for the average family. Smoldering discontent breaks into anger over revelations of the . . . tax dodges and . . . statistics that last year some 402 wealthy Americans were able to earn over $100,000 and not pay one penny in income tax. Congress cannot remain mute in the face of evergrowing and justified public cries for positive action. Tax reform in 1974 should have an indispensable place on the legislative calendar of Congress.

Since 1970 I have attempted to restore some equity to the tax system by way of my introduction of the small business tax simplification and reform bill. The 28 Senators and 43 Representatives who have joined in the sponsorship of this measure three times in the past 4 years have tried to emphasize that this pervasive discrimination against smaller firms undermines our democratic government as well as the entire system of free enterprise which has formerly served America so well.

Regressiveness is a beacon attracting institutions and others with capital to invest to the largest corporations where it is more lightly taxed. It thus drains available capital away from smaller, newer and more venturesome enterprises. The result has been a further increase in concentration of assets and profits, which already are at levels inviting serious concern.

Small businesses which do not have the financial strength to raise money through stock or bond issues or commercial paper are penalized disproportionately by the tax system, when it heavily taxes the funds which they have already earned and on which they must rely. If, as a last resort, the growing firm elects to borrow money for expansion and modernization, interest rates of 10 percent plus, and personal guarantees make it doubly risky and onerous for the small businessman.

Perhaps it is not a coincidence that for the past few years we have been witnessing a breakdown in the free market mechanism in the United States to the extent that economic controls were imposed in August of 1971, and some of these mechanisms still persist.

As has been shown dramatically in relation to such diverse fields as independent truck drivers, service station operators, and small coal and oil producers, small business operates at vital junctures of production, manufacturing and distribution. Undermining small business, therefore, weakens our whole economy.

However, the most corrosive effect of this situation is upon the confidence of businessmen and wage earners about whether they are being fairly treated. Ultimately, this may be the most damaging consequence of all to what we like to think of as the American way of life.

Small businessmen who have been the mainstays of American industry and of cities and towns across the country for so many decades are beginning to "get the message" that they are "low men on the totem pole" of the American tax system. Many persons facing the decision about whether to go into business for themselves are receiving the same message loud and clear.

Since 1958, no small business tax bill has been enacted by Congress. The inequities have accumulated over the years.

We advocates of small business have been fighting an uphill battle. The distinguished chairman of the House Small Business Committee (Mr. JOE L. EVINS) and I, as I have said, have for nearly 4 years been putting forward the tax simplification and reform bill (S. 1098 and H.R. 5222) as a framework from which to build toward meaningful small business tax reform. We have been encouraged by the 28 Senators and 43 House Members who have taken up this cause, including Representative RICHARD FULTON, a member of the House Ways and Means Committee, who introduced this measure as H.R. 8705.

Since the introduction of our bill, it has been evaluated widely throughout the country and has been endorsed in principle by 30 national business organizations. Additionally, two of the most highly qualified tax professional organizations in the Nation, the Section on Taxation of the American Bar Association, and the Tax Division of the American Institute of Certified Public Accountants have expressed support for specific provisions of the bill.

The Bar Association evaluation—current as of mid-April, 1973—is based upon consideration of many of the matters set forth in titles V and VI of our bill by the specialized committees and the house of delegates of the association.

The tax division of the American Institute of Certified Public Accountants is composed of 130 members from all parts of the country, presently under the chairmanship of Robert Skinner. The institute itself is the sole national organization of certified public accountants representing more than 100,000 members of this profession. It was founded in 1887 and has made many contributions toward improving professional standards in its own field and the national interest. A book by a former President of the group, J. L. Carey, states:

The CPA's sense of social responsibility has been amply demonstrated. They have invested millions of dollars in research directed toward improvement of financial reporting, and toward tightening their own technical procedures. Through their professional societies they cooperate with government at all levels, and with lawyers, bankers, financial analysts, corporate financial executives (many of whom are CPAs themselves), stock exchanges, and business and trade groups. Individually, CPAs serve in countless capacities in civic and community affairs.

The establishment of a Washington, D.C., office by the institute for the purpose of working more closely with Congress and the executive branch is evidence that this commitment is taken seriously. We thus believe the comments of the AICPA are entitled to be given considerable weight in questions of small business tax reform.

The necessity for immediate action on this legislation was eloquently stated in recent remarks by a president of a venture capital organization, Milton Stewart, to a gathering including the Speaker of the House of Representatives and over 50 other Congressmen.

I recently had occasion to transmit to Representative WILBUR MILLS, the distinguished chairman of the Ways and Means Committee, Mr. Stewart's remarks as well as this list of 30 organizations supporting the bill. I ask unanimous consent that these materials be printed in the RECORD at the conclusion of my remarks in order to make them more widely available.

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

(See exhibit 1.)

Mr. BIBLE. Mr. President, the Ways and Means Committee is the instrument of the constitutional mandate that the House of Representatives act first in all revenue measures. That committee will soon return to executive sessions on the subject of general tax reform.

Representative EVINS and I joined last April 17 in testimony before that committee to place the small business tax bill in formal consideration.

Representative FULTON has taken steps to obtain reports from the executive branch and detailed revenue estimates of the bill for the committee's information.

Thus, after 16 years a comprehensive and technically sound small business tax reform bill is at the threshold of consideration as a steppingstone toward the development of an appropriate small business tax reform bill. Our proposal has passed every hurdle in order to be formally considered on its merits by the Ways and Means Committee and the House of Representatives as a whole.

If the Congress delays further in this task, there may be substantially fewer small businesses in this country left to save. I, therefore, hope and urge that the Ways and Means Committee take affirmative action on small business tax reform and those provisions of the Bible-Evins-Fulton bill (S. 1098, H.R. 5222, H.R. 8705) as they believe it will be appropriate.

EXHIBIT A

APRIL 5, 1974.

HON. WILBUR D. MILLS,
Chairman, House Ways and Means Committee, Washington, D.C.

DEAR MR. CHAIRMAN: The case for small business tax reform and simplification has never been better illustrated than it was one week ago on March 28 at a Capitol Hill meeting in the Rayburn Building attended by some 55 Members of the House, and a number of small business leaders, under the sponsorship of the National Small Business Association—a breakfast gathering attended by more Members of the House on small business matters than any of us knowledgeable in this subject can ever recall.

Our dual judgment is that this presentation set forth unequivocally a meeting of the minds and an evaluation by the small business community that the time is now for some kind of affirmative Congressional consideration of tax adjustments and simplification for this important segment of our business community. We believe that some provisions of our jointly sponsored Small Business Tax Simplification and Reform Bill,

H.R. 5222, H.R. 8705 and S. 1098, might be utilized as a stepping-stone forward for meaningful small business tax reform.

Particularly incisive as to the plight of American small businesses in today's economy were some excellent remarks made by Mr. Milton Stewart, a House and Senate staff member of some years ago, and persently Vice President of the National Small Business Association and President of a New York City venture capital corporation. We attach a copy of his remarks for you and your staff's examination.

We might suggest that 30 national business organizations have endorsed this small business tax reform approach without qualification. Again, we respectfully urge that when your Ways and Means Committee confers in executive session on tax reform that this subject be appropriately considered.

Sincerely Your Friend.

Cordially,

ALAN BIBLE,
Chairman.

JOE L. EVINS, M.C.,
Chairman.

APRIL 9, 1974.

Hon. WILBUR D. MILLS,
Chairman, House Ways and Means Committee, Washington, D.C.

DEAR MR. CHAIRMAN: At the time of the hearings on tax reform last Spring, there were 20 business associations on record as supporting the Small Business Tax Simplification and Reform Bill, as indicated by a letter which is part of the testimony of the National Committee on Small Business Tax Reform.

Since there are presently 30 such organizations supporting the bill, I thought it might be appropriate to bring the Committee up to date in this respect, with a list of these organizations attached for your full information.

Also enclosed are the detailed comments of the Division of Federal Taxation of the American Institute of Certified Public Accountants which were transmitted to our Committee on August 16, 1973. The Division is composed of 130 members of the Institute from all parts of the country, and it has specifically endorsed 7 sections as parallel to its own recommendations. This evaluation is similiar to that of the Section on Taxation of the American Bar Association which endorsed 11 sections of the bill in a letter included as an exhibit to our April 17, 1973, testimony.

We hope that this additional information will be of assistance as the Committee approaches its executive sessions on general tax reform.

With best wishes.

Cordially,

ALAN BIBLE,
Chairman.

LIST OF ORGANIZATIONS SUPPORTING THE SMALL BUSINESS TAX SIMPLIFICATION AND REFORM BILL

1. American Association of Nurserymen.
2. American Hotel and Motel Association.
3. American Metal Stamping Association.
4. Associated General Contractors.
5. Association of Steel Distributors.
6. Automotive Warehouse Distributors Association.
7. Industrial Fasteners Institute.
8. Menswear Retailers of America.
9. National Association of Black Manufacturers.
10. National Association of Small Business Investment Companies.
11. National Business League.
12. National Concrete Masonry Association.
13. National Home Furnishings Association.
14. National Home Improvement Council.
15. National Insulation Contractors Association.
16. National Jewelers of America.
17. National Office Products Association.
18. National Parking Association.
19. National Patent Council.
20. National Restaurant Association.
21. National Retail Hardware Association.
22. National Screw Machine Products Association.
23. National Shoe Retailers Association.
24. National Small Business Association.
25. National Society of Public Accountants.
26. National Sporting Goods Association.
27. Packaging Machinery Manufacturers Institute.
28. Professional Golfers Association.
29. Screen Printing Association.
30. Tobacconist Association of America.

STATEMENT OF MILTON STEWART, PRESIDENT OF CLARION CAPITAL CORP., NEW YORK CITY, N.Y.

(As part of the presentation of the National Small Business Association to members and the Staff of the House of Representatives, on a program of catchup growth for Small Business, March 28, 1974)

Let me say very quickly that my claim to fame is not that I am President of Clarion Capital Corporation, but that I worked in both Houses of Congress as a young person and was educated in small business by distinguished men whose names you would know. It was my privilege many years ago to work for Senator Murray of Montana over on the other side of the Hill and for young Mr. Roosevelt here; and from that you can deduce what political side of the fence I have lived on.

But I must tell you that for more than 25 years, I have never known an issue which has been as bi-partisan and as non-partisan in the Congress as small business. For me this has meant that—and I have to be perfectly honest, I have been as disappointed in the performance frequently of my own party colleagues as with the Members from the other side of the aisle. I say this with some sadness because there is no part of the government which is traditionally and historically as sympathetic, as sensitive, and as understanding about small business as a Congress. And why should not this be the case. Two-thirds of the Members are, themselves, lawyers who represented small companies looking for money, confronted with creditors rights problems, dealing with bankruptcy, and reorganization. They don't have to hear much from me about small businesses. They know about it in their bones.

Twenty percent of the Members, down to 15 percent from time to time, have themselves been in small business, or are in small businesses. So that when we come here after being lectured at and browbeaten down in the Executive Branch, and that's what has happened to us, we feel like we are coming home to our own. We are talking to our team now, because over the last 25 years there is not a significant measure helping small business which did not originate in the Congress of the United States.

Back in World War II, I remember the Smaller War Plants Corporation which General Johnson from down in New Jersey headed. Then Mr. Maverick from Texas acted in the Chamber here when Senator Truman and others, including Senator Meade from my State, persuaded President Roosevelt that small business needed a special agency to protect it during the war from the effect of material shortage. I kind of think we are going to be hearing more and more about that in the months ahead. So, we got the Smaller War Plants Corporation, courtesy of that Congressional pressure.

After the war, the Executive Branch, traditionally abolished it. Congress said, "No thank you." Along came Korea in 1950 and Congress set up the Smaller Defense Plants Administration. Mr. Truman signed the bill and again it originated in Congress. Later in 1953, President Eisenhower wante to reorganize the Agency. Congress said n e, but it's going to be a permanent agency; it's going to be an independent agency. And that is where the Small Business Administration comes from.

In 1968, the national small business investment company program—which has now put over 2 billion dollars in more than 40,000 companies—again, courtesy, Members of Congress, House and the Senate, legislation originated up here and was accepted (let's be honest, somewhat grudgingly) downtown. So when we come here, we don't come with a sense of bellyaching, we come with a sense of coming to our partners in the continuing effort to maintain the diversity of America, economically and politically.

In the House especially, Members here are closer to their constituents than any part of the government. We don't have to talk long and hard to get across to you what the problem is. We're losing ground to big business. People who don't understand this are the people who tell you it's inevitable. I'm in the money business. I'm in the venture capital business. I scour the country for small companies to take risks with and I lose lots of my stockholder's money and some taxpayer's money. But, I'll fight with the Small Business Administration for the right to continue to do it and do it harder again and again and again, because once in a while we hit it good and we make up for lost ground.

I've had a hard schooling in financing problems of small companies, equity financing and debt financing. I spend probably 25 percent of my time talking to banks trying to arrange credit lines for small companies that have growth needs that can't be met by normal credit lines.

What I'm here to talk about is our Federal partner and every business in America has Uncle Sam as its partner, because of the way our tax laws are written. All of us pay taxes unless we can figure out some way not to and none of us are very good at that. But what I did want to emphasize to you is that we are not here seeking a tax loophole for a company, for an industry, for a group of companies, for a group of industries—we are here to argue to you for a taxing principle that's as old as this country: the principle that the broader the back is, the heavier the burden of public responsibility it ought to bear.

Ever since 1913, we have become accustomed to the idea that if you take 25 percent of the income of a poor farmer or a poor merchant or a poor workingman, and you take 25 percent of the income of a fat cat, you are not being fair, because you are leaving less disposable income in the hands of the poor people. Now, if that makes sense for personal income taxing will someone tell me why it doesn't make sense for business? And, of course, your magnificent small business Chairman here, Mr. Evins, in the Bible-Evins bill, has proposed to remedy exactly this, and that's the first step in what we regard as the tax magna carta which we urge the Congress to enact. That measure will go further than any single bill in my own opinion to make small business attractive to investment capital, because sit back and ask yourself: Suppose you are in my spot but you are not committed to small business; you run a mutual fund or you run a pension fund or you run an insurance company investment pool. You've got the choice of putting money in a big company or in ten little ones. Now what in the world is going to make you put the money in the 10 little ones if you are going to be taxed the

same way as the large company if you have a gain or a loss?

That leads to Point 2 in our tax magna carta and what we're going to urge the Members of the Ways and Means Committee when they finish reporting and enacting the Bible-Evins bill. We should have a graduated capital gains tax that runs something like our personal income tax, which gives due recognition to risk and reward it, or penalizes it as it is taken or not taken in terms of size.

Remember that our capital gains tax began as an inducement to persuade people with money to risk it. It's an advantageous incentive tax rate lower than our personal income tax rate and it's designed to encourage us to make gains out of the use of capital. It has worked magnificently for about 200 big companies—the ones on the big board, the ones that really are the magnets for the capital dollars out of the major pension funds. But, it has actually hurt and worked as a repellent for millions of small businesses for a simple reason that if I have $10,000 to invest in either a big company or a little one, I have the following decision: I know that if I put the money in a little one, and I back it, some guy is going to spend his life building that company, and if 25 years from now he manages to sell it at a profit, I'm going to pay, let's say, 25 percent tax.

On the other hand, you know, just suppose I am a Wall Street type and I pick up my telephone and call my broker and tell him to buy me 100 shares of General-General. Then I hold it six months and one day, and I sell it and make a profit. The tax is exactly the same rate as what that man who put his life blood, sweat and tears in building a business pays as tax.

And I submit to you that this is not the best that this country can do for its small businesses. That's why we recommend a capital gains tax treatment which will cure this situation.

We ostensively have a fair tax level, where every company is taxed at the same rate. But when you get into the way it really works and you know that's an awfully complicated document with a lot of sharp wise-guy lawyer language in it. You have got to understand what it finally winds up doing. Down at the bottom of the heap here, really the top of the heap, cause it's upside down, the companies that have over a billion dollars in assets get taxed at an effective tax rate of 35 percent.

Now go up to the top of the chart where most small businesses are under a million dollars in assets, and they get taxed at 51 percent. Now that 15 percent or 16 percent differential is life and death; attractiveness and unattractiveness for investment people. And this is the reason that you're getting the concentration of investment dollars in fewer and fewer pension funds, fewer and fewer mutual funds, and fewer and fewer insurance companies who in turn are putting the dollars in fewer and fewer companies.

We've got to provide incentive if we're going to liberate those dollars and get them down to small business where we need them. We're going to need some tax treatment changes: Number one, the Bible-Evins bill; Number two, improved capital gains rates; and Number three. I won't go into detail about this, we really, believe me ladies and gentlemen, need two tax codes, one for big companies and one for small companies. The reason is that in section after section, there are provisions written by the sharp lobby people advising Members of the House, and advising with the Treasury Department (and from 25 years of experience with the Executive Branch, no agency of government is as hostile to small business as the United States Treasury Department and I'm embarrassed to have to say that it has been as true under administrations of my party as it is under the present one). That place cares about the people who, I'm reluctant to say it, have the most to say about the most dollars. But the tax code as it should read should distinguish with every definition between large company and small company treatment.

To conclude, and you've all been terribly patient, I don't think many Americans get a chance to talk to many Members of Congress as I am here, and it's just an almost overwhelming privilege. I would just like to conclude by telling you there are no better people than the people who fight for small business through the National Small Business Association.

I'm a newcomer to it and one reason I am is most of the fellows in it are maybe a little more conservative than I am. I was raised on the liberal democratic side of the fence, so I start out with sort of maybe wondering whether this ought to be my crowd.

But when we get to talking about the problems of our country that go beyond party, that go way beyond region, that go way beyond everything expect what we want for our children and our grandchildren, all of us agree. We don't want them left with a choice of having to work for either a big government agency or a big corporation. We want them to be free to have the choices we have, to go into the independent professions and to start their own businesses. We know you'll do the job for us. Thank you very much.

STATEMENT ON CONSOLIDATION

Mr. PELL. Mr. President, S. 1539, this year's amendments to the Elementary and Secondary Education Act, have been faulted by the administration as having not carried out the administration's views on consolidation. This is probably an accurate statement but one which does not tell the full story.

The administration would have, in effect, done away with most of our categorical education programs on no basis of fact; they presented no evidence to support their proposals, and they did not submit anything which would have stated where a specific program failed or what would be gained by the so-called delivery systems.

It should be noted that S. 1539 does contain consolidation; indeed, it contains three separate consolidations. The report discusses these on pages 60 through 70. I believe the charts which I shall ask to be inserted in the RECORD will further explain to the Senate just how the consolidation is affected in the Senate bill.

What is even more interesting, Mr. President, is the fact that those very organizations whose programs would be affected by the Senate consolidation have sent me a letter and statement in which they strongly endorse the Senate view on consolidation. All too often we hear of interest groups that are intransigent and fault all change. It is heartening to receive this type of statement which puts the interest and needs of the Nation's youngsters before personal interest.

Mr. President, I ask unanimous consent that the charts, the letter and the statement be printed in the RECORD.

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

THREE CONSOLIDATIONS

I. ADMINISTRATIVE—PAGE 195

A. Programs Whose Paperwork Is Consolidated (All Elementary and Secondary State Plan Programs):
1. ESEA Title I—Aid to Disadvantaged.
2. ESEA Title II—Library Assistance.
3. ESEA Title III—Innovative Programs.
4. NDEA Title III—Equipment.
5. Adult Education.
6. Vocational Education.

B. Changed From Many State Plans to One State Plan:
1. Long-range Plan Filed.
2. Single Program Plan Updated Yearly.

C. No Money Involved.

II. CONSOLIDATION OF STATE FORMULA PROGRAMS—PAGE 203

A. Consolidated Programs:
1. Title II ESEA (Textbooks and Library Resources).
2. Title III ESEA, 85% State Share (Supplementary Centers and Services).
3. Title V ESEA (Strengthening State Edutional Agencies).
4. Title III NDEA (Equipment).
5. Title V–B–2 EPDA (Attracting and Qualifying Teachers).

B. Consolidated Into a Single Program:
1. Hold Harmless for Programs Consolidated at Most Recent Appropriations Level.
2. When Appropriations Exceed Existing Levels, 50% of the New Money Could Be Used At the Discretion of the State Agency for Any of the Purposes Consolidated.
3. 50% Would Be Spent By the States in the Same Ratios as Spent Under Existing Law.
4. 15% Set Aside of Title III ESEA for Handicapped Remains.

C. New Eligibility Formula Applies to Funds Appropriated Over Existing Levels, Based on Three Factors:
1. Number of Children in the State, Multiplied by $20.
2. State Average Per Pupil Expenditure, Multiplied by the Number of Children in Families With Incomes Below $3,000.
3. The Relative Wealth of the State.

D. Authorization: Existing Levels (Approximately $340 Million), Plus $600 Million for Additional Consolidated Programs Under the New Formula.

III. COMMISSIONER'S DISCRETION—"SPECIAL PROJECTS ACT"—PAGE 226

A. Consolidated Programs (Remaining OE Discretionary Programs):
1. Cooperative Research Act.
2. Dropout Prevention.
3. Health and Nutrition.
4. Consumer Education.
5. Correction Education.
6. 15% Set Aside of Title III ESEA (Innovative Programs).
7. Education Professions Development Act.

B. New Discretionary Fund—"Special Projects Act":
1. Old Programs and Purposes Cease to Exist, But Are Given Priority in Funding.

C. Congressional Oversight and Control:
1. Authorizing Committee Approval of:
(a) Yearly Spending Plan, Including Report on All Contracts Over $100,000.
(b) Commissioner's Proposal to End Priority Status for Old Programs Consolidated.

D. Money to Be Determined By Programs Included.

E. Set Aside of 50% of Funds for New Categorical Programs As Follows:

AUTHORIZATION OF FUNDS

[In millions]

Section	Subject	Fiscal year 1974	Fiscal year 1975 through fiscal year 1978 Amount	Percent
404	Metric education		$10	5
405	Gifted and talented		12.25	6.125
406	Community schools (LEA)		15	7.5
	(higher ed.)		2	1
407	Career education		15	7.5
408	Consumers' education	$15	15	7.5
409	Women's educational equity.		30	15
410	Arts education		.75	.375
	Total	15	100	50
	Total authorization for Special Projects Act for each fiscal year.		200	50

ASSOCIATION FOR EDUCATIONAL COMMUNICATIONS AND TECHNOLOGY,
Washington, D.C., April 30, 1974.

Hon. CLAIBORNE PELL,
U.S., Senate,
Washington, D.C.

DEAR SENATOR PELL: On behalf of the 20 associations in this coalition and the thousands of other teachers, librarians, school administrators, school board members and concerned citizens, we would like to thank you for the leadership you provided in bringing S. 1539 to the Senate floor. We want you to know we are strongly supporting you in your effort to retain unamended the Senate Committee language on consolidation.

Although we would have preferred no consolidation—as you know so well from our testimony before your Sub-committee—we believe the version of S. 1539 which you wrote will provide a fair and equitable test of consolidation theories without abandoning tried and successful individual programs. And should the consolidation concept founder in practice, the Congress will have an opportunity, thanks to the Committee bill, to redirect the thrust of Elementary and Secondary Education Act legislation. The Committee bill preserves the vehicle to make such redirection in the event a change becomes necessary.

We support your Committee bill as a particularly acceptable compromise between those groups who oppose all consolidation of the particular programs affected and, on the other hand, those who want education revenue sharing with no earmarking of funds.

Because S. 1539 is such an effective compromise, we are urging all Senators to support you in voting against any floor amendments destroying the ratios and percentages in, or substituting other consolidation formulas for, the Senate Committee bill. By defeating all such amendments, the Senate can go to Conference with the strongest possible position, including ease of application and administration, consolidation, plus some degree of protection for library, guidance, counseling, and instructional media priorities.

In order that you and your staff may read our views, we are enclosing the joint statement of our 20 associations. If you would like further information, please do not hesitate to let us know.

Again, Senator, thank you for your support and leadership in education.

Sincerely,

EILEEN D. COOKE,
Director, Washington Office.
PATRICK J. MCDONOUGH,
Assistant Executive Director for Professional Affairs, American Personnel & Guidance Association.
HOWARD B. HITCHENS,
Executive Director, Association for Educational Communications & Technology.

A STATEMENT CONCERNING THE CONSOLIDATION PROVISION OF THE EDUCATION AMENDMENTS OF 1974 (S. 1539)

By these associations:	*Membership*
American Library Association	37,875
Association for Educational Communications and Technology*	10,000
American Personnel and Guidance Association	33,000
Impact Area Superintendents	4,900
Catholic Library Association	4,000
State Supervisors of the Association for Counselor Education and Supervision	50
Association of Chief State School Audio-Visual Officers	50
Association for Counselor Education and Supervision	4,000
National Vocational Guidance Association	10,000
Student Personnel Association for Teacher Education	500
American School Counselor Association	13,000
American Rehabilitation Counseling Association	2,000
Association for Measurement and Evaluation in Guidance	2,000
National Employment Counselors Association	1,250
Association for Non-White Concerns in Personnel and Guidance	1,000
National Catholic Guidance Conference	1,500
Association of American Publishers	260
National Audio-Visual Association	1,000
American College Personnel Association	8,249
Association for Specialists in Group Work	60

*Affiliate of the National Education Association (NEA).

IS CONSOLIDATION REALLY THE ANSWER?

Shortly after Congress enacted the landmark education programs of the 60's, efforts began to dismantle them. Here are a few of the critics' themes: we have too many individual programs, the Federal government has too much to say about local education, the Federal investment in education is excessive, and Federal programs have either outlived their usefulness or never worked in the first place. To each criticism, consolidation of programs has been offered as the answer. Is consolidation really the answer?

Every one of the above issues was thoroughly examined by the Senate Education Subcommittee and the Committee on Labor and Public Welfare before reporting the Education Amendments of 1974 (S. 1539).

The Senate Committee bill, while continuing the Federal commitment to certain priority areas of education such as school library materials, guidance and counseling, and instructional media for the classrooms, is responsive to requests for consolidation. Ease of application and administration is provided for along with some degree of protection for each of the key priorities in each individual state.

Furthermore, the Senate bill responds to the requests of several organizations in the education community who advocate general aid for education. Utilizing the consolidation language, the bill provides the basis on which general aid can be built, while still retaining for Congress the right to establish and maintain certain essential priorities to assure the American taxpayer that certain basic goals are being achieved. We believe this approach has great merit and we congratulate the Senate on its pioneering contribution in this area.

Consolidation has been viewed by many as a panacea and recommended as a substitute for highly successful individual programs. We believe the Senate bill provides a fair and equitable test of the consolidation theory without abandoning tried and tested successful individual programs. But should the consolidation concept flounder in practice, as we fear it may, the Congress will have an opportunity, thanks to the Senate Committee bill, to redirect the thrust of the Elementary and Secondary Education Act legislation. The Senate bill preserves the vehicle to make such redirection in event a change becomes necessary.

FLOOR AMENDMENTS WOULD DESTROY COMPROMISE

Therefore, we believe all amendments destroying the ratios and percentages in, or substituting consolidation formulas for, the Senate Committee bill should be rejected. Passage of such amendments would undermine the careful balance achieved by the Senate Committee in S. 1539 and would not serve the best interests of education in our land.

It should be emphasized that the Senate language on consolidation is a compromise between all who oppose all consolidation of the particular programs affected—and, on the other hand, those who want education revenue sharing or block grants with no earmarking of funds. Furthermore, it should be fully understood that this Committee bill compromise represents a major shift in the history of Senate education legislation. We do not agree with the fundamental pressures which encouraged this shift. But at the same time, we strongly advise the Senate to avoid the counsel of those who propose even more radical shifts than are now contained in S. 1539.

BILL CONSOLIDATES KEY PROGRAMS; PROVIDES BASIS FOR GENERAL AID

There are those who claim the Senate bill provides "no consolidation at all." We have examined the language of this bill thoroughly, and we have applied it to local situations; based on our knowledge of day-to-day operations at the local level throughout the nation, we feel that the bill will result in actual consolidation of programs in your state. Assuming there are sufficient appropriations for the consolidation provisions, the Consolidation will divert money which should have been available for the priorities of school libraries, instructional equipment and materials, and guidance and counseling. We have consistently opposed such diversion of funds. And we are absolutely opposed and could never agree to amendments on the Senate floor increasing the percentage of funds to be diverted—for any further diversion would be shortchanging our students and teachers.

There are those who claim the Senate bill rejects the concept of general aid or special revenue sharing targeted at education. On the contrary, the Senate bill provides the basis on which future general aid to education may be built. Through its consolidation language, the Senate bill contains the seed from which can grow future general assistance: while creating a new dimension in education funding, the seed would retain for Congress the right to establish and maintain certain essential priorities so as to assure the American taxpayer that several basic goals are being achieved. We believe this approach has great merit and we congratulate the Senate Labor and Public Welfare Committee on its pioneering contribution in this area.

SENATE LANGUAGE ASSURES AN END TO REDTAPE

There are those who claim the Senate consolidation does not go far enough. We believe it goes too far. For example, we believe most of the support for consolidation would disappear if state and Federal agencies would act to clear up unnecessary redtape.

Throughout the consideration of the Education Amendments of 1974, the number-one complaint by advocates of consolidation has been the excessive paperwork which is caused by the various basic Federal educa-

tion programs.[1] It has been our contention that this problem of redtape could have been solved by (1) states acting within existing legislation to combine their administration and paperwork for Federal grants and (2) the U.S. Office of Education lifting some of the most onerous regulations which produce unreasonable burdens on local schoolpeople.

With the states having failed to act on this matter and with the U.S. Office of Education unwilling to provide the leadership required, it has become necessary for the Congress—as proposed in the Senate bill to authorize single grant applications and single administration of Federal programs. We believe these Senate bill provisions alone will adequately answer the critics and thus make grant consolidation unnecessary. Nevertheless, if there must be some consolidation of the actual funding, we believe S. 1539 carries solid assurance to your state and to every state in the Union that: (1) no state will be forced to administer the broadened authority in consolidation with fewer dollars than existed under categorical funding and (2) no state will be forced to interrupt the nation's commitments to sound and adequate guidance and counseling, and responsible support for library and instructional equipment and materials so essential to both student and teacher.

PAST CONSOLIDATIONS WERE FAILURES

In 1970, NDEA V-A, on guidance, counseling and testing, was consolidated with ESEA III, Innovative Programs, into a new consolidated structure, ESEA III—Supplementary Centers and Services; Guidance, Counseling and Testing (Public Law 91-230). The Guidance and Counseling program was no longer a line item.

While the new consolidation was broadened (to encompass both elementary guidance programs and guidance programs for junior colleges and technical institutes, as well as non-public school testing) the amount of money allocated has been decreased steadily, a 50% cut from $25 million to $11 million. Why? The program lost its identity and was forced together with other competing priorities. This failure is discussed in the Senate report on S. 1539, pp. 67-68.

Past experience with program consolidation has shown that all too often it has been used as a means of cutting funds for the programs consolidated. For example, Congress agreed to the Administration's proposals to consolidate title III ESEA (Innovation) and title V NDEA (Guidance, Counseling, and Testing) in 1970. That merger required that at least fifty percent as much be spent on guidance and counseling activities as had been spent by each State in the preceding fiscal year. Yet, as Dr. Judy H. Lombana, Consultant for Middle and Secondary School Guidance to the Florida Department of Education, testified before the Subcommittee on Education, *this floor of support all too quickly was interpreted by many States as a ceiling. Support for counseling, testing, and guidance programs dropped sharply. This was not what Congress intended by effecting the consolidation; however, the fact of consolidation was used as a budget-cutting device.* [Emphasis added.]

Only time will reveal whether or not the Administration will attempt to use the Education Amendment of 1974 as a further "budget-cutting mechanism" for reducing guidance, counseling and testing. However, we believe the Senate Committee has done everything it could in S. 1539 to ensure that the budget cuts will not emasculate the basic program.

[1] A poll of Virginia educators (conducted by former U.S. Senator William Spong) showed that the two most popular programs, least encumbered by redtape, are Title II of the Elementary and Secondary Education Act and Title III of the National Defense Education Act—both programs subject to consolidation in S. 1539.

Another example of a consolidation which failed concerns NDEA III. When the National Defense Education Act first passed, provision was made for state level in-service training for teachers (Public Law 85-864). However, this authority was consolidated into Title V of the Elementary and Secondary Education Act when this program was enacted (Public Law 89-10). Since ESEA V began, the teacher training program has disappeared in most states. California, for example, let this program die quietly in 1972 while diverting the funds to "in-depth planning and evaluation of existing programs." Despite agreement among all experts on this subject—training is essential to successful utilization of educational technology in the classroom—training was abandoned when it was split away from NDEA III and consolidated into ESEA V.

Because of this experience, we fear consolidation. Any Senate floor amendment which tilts toward still further consolidation in S. 1539 can only contribute to the fears and to disenchantment with our system of commitments and national priorities.

DOCUMENTED NEED FOR CONTINUED FEDERAL FUNDS AND FEDERAL LEADERSHIP

Because all the consolidated programs (particularly NDEA III, ESEA II, and NDEA V-A) have been underfunded, the successes have not been as spectacular as we would have wished. With consolidation, we see no improvement in the funding picture.

The fact that the consolidation concept was contained in the proposed Better Schools Act is no guarantee that the Administration would advocate increased funding. This Administration has supported numerous "authorizations" without recommending the needed appropriations. We have only to recall our experience under the Education Amendments of 1972 to document this point.

What are the current unmet needs?

Is it true, as asserted by some, that many states do not need NDEA III or ESEA II or Guidance and Counseling (NDEA V-A) any more? That, in fact, all needs are being met? Here are the facts.

GUIDANCE AND COUNSELING, TITLE V-A, NATIONAL DEFENSE EDUCATION ACT (NDEA V-A)

While the need for more guidance and counseling programs was recognized in the 1970 amendments to the Elementary and Secondary Education Act, the states have actually reduced their effort in this area in recent years. With the consolidation of NDEA V-A into ESEA III in 1970, guidance, counseling and testing lost its identity and is fading into the background. The American Personnel and Guidance Association has repeatedly asked the Administration and the President's National Advisory Council to make the regulations compatible with the law; but no changes have been made. We can only hope to see improved treatment under the consolidation in S. 1539. The new provisions in S. 1539 are designed to assure observance of the law by administration officials.

We estimate that expenditures for guidance and counseling today should exceed the $24.5 million appropriated in fiscal year 1969. Yet, the actual expenditures are, in fact, less than half the needed amount—around $11 million. This, despite the importance of guidance and counseling to such continuing human service needs as career education, vocational guidance and placement, drug abuse prevention and those ordinary personal, social and educational needs of all normal youth and adults. If these human needs are decreasing, if life is becoming less complex, complete consolidation may be the answer. If not, why is a program such as guidance and counseling being threatened by Senate floor amendments to the consolidation provisions in S. 1539? What good is a national priority, which is given national publicity by the Office of Education, when the means to that priority—such as adequate guidance and counseling—are being cut off?

We regret to report to the Senate that today, because of declining Federal leadership and support, the student-counselor ratio in our schools is increasing; it is especially burdensome at the elementary level. The future under consolidation may be brighter if the Senate provisions in S. 1539 are left intact.

One measure of the increased need for the Federal commitment to guidance and counseling is contained in the Senate Report on S. 1539:

"(14) The term 'vocational training' means training or retaining which is conducted as part of a program designed to prepare individuals for gainful employment as semi-skilled or skilled workers or technicians or subprofessionals in recognized occupations and in new and emerging occupations, but excluding any program to prepare individuals for employment in occupations which the Commissioner determines, and specifies by regulation, to be generally considered professional which requires a baccalaureate or higher degree; *such term includes guidance and counseling (either individually or through group instruction) in connection with such training or for the purpose of facilitating occupational choices. . . .*" [Emphasis added.]

Here the Senate expands the concept of Vocational Training to encompass an essential career guidance component. Such a change recognizes the growing role of guidance and counseling in one of the nation's most pressing problems. Additionally, the Senate Committee bill recognizes the importance of career education and career guidance when in section 407 it expands the definition of career education to include the all-important concept of career guidance.

It is difficult to argue for more use of guidance and counseling without the protection so wisely afforded NDEA V-A and career guidance in S. 1539.

INSTRUCTIONAL EQUIPMENT AND MATERIALS, TITLE III, NATIONAL DEFENSE EDUCATION ACT (NDEA III)

Some maintain that there is no longer an important need for instructional equipment and materials in our nation. Do the schools have enough? Can equipment be safely lumped together with other programs, so that equipment money can be diverted to other uses?

The answer, according to the states, is no. A survey conducted in the California State Department of Education shows that in fiscal year 1974, the states need $121.6 million in Federal NDEA III dollars, far more than double the actual FY 1973 appropriations ($50 million) and four times the actual FY 1974 spending level ($28.5 million). Is there a need? Today, less than 20 percent of our schools can meet the minimum standards for equipment and materials developed by the Association for Educational Communications and Technology in 1969, in cooperation with the American Association of School Libraries and some 20 other organizations.

On the basis of subject, some progress has been made under NDEA III, although, due to low funding levels, not near enough. For example, according to a 1972 HEW publication (State Department of Education and Federal Programs, p. 130):

PERCENT OF ADEQUACY

Subject	Elementary schools	Secondary schools
Science	15	50
Mathematics	35	60
Industrial arts	1	5
Reading	50	15
English	20	35
Economics	5	15

In other words, our nation has not even approached the level of adequacy in some subjects, as reported by the U.S. Office of Education. Therefore, we can ill-afford to destroy the NDEA III program which can assure us that adequacy will continue to be a national priority.

Here are the results of the California survey of states indicating what the states need compared to what they received in fiscal year 1974.

1974 NEEDS COMPARED WITH 1974 ALLOCATION FOR TITLE III, NATIONAL DEFENSE EDUCATION ACT—BASED ON SURVEY OF STATES BY CALIFORNIA DEPARTMENT OF EDUCATION

State	State's estimated need in 1974	State's 1974 allocation
Alabama	$1,178,000	$601,040
Alaska	300,000	46,093
Arizona	922,000	283,906
Arkansas	1,250,000	316,892
California	18,000,000	2,022,468
Colorado	2,000,000	308,533
Connecticut	500,000	273,152
Delaware	200,000	68,425
Florida	5,000,000	801,383
Georgia	2,500,000	719,417
Hawaii	400,000	100,573
Idaho	550,000	123,586
Illinois	6,000,000	1,170,627
Indiana	3,000,000	698,869
Iowa	2,500,000	383,739
Kansas	2,000,000	284,277
Kentucky	2,000,000	510,055
Louisiana	5,000,000	665,617
Maine	600,000	151,626
Maryland	2,000,000	478,438
Massachusetts	2,000,000	571,303
Michigan	5,000,000	1,173,929
Minnesota	2,500,000	555,186
Mississippi	1,600,000	414,274
Missouri	1,600,000	593,798
Montana	357,000	115,822
Nebraska	600,000	199,992
Nevada	150,000	54,435
New Hampshire	325,000	99,440
New Jersey	2,500,000	704,875
New Mexico	600,000	203,849
New York	9,500,000	1,487,171
North Carolina	3,500,000	786,782
North Dakota	340,000	108,710
Ohio	5,000,000	1,379,208
Oklahoma	1,000,000	352,439
Oregon	1,000,000	266,046
Pennsylvania	5,000,000	1,354,415
Rhode Island	400,000	98,994
South Carolina	1,200,000	467,538
South Dakota	750,000	113,209
Tennessee	2,000,000	601,447
Texas	10,000,000	1,691,985
Utah	650,000	199,440
Vermont	240,000	65,432
Virginia	3,000,000	644,974
Washington	1,400,000	407,302
West Virginia	1,500,000	266,922
Wisconsin	2,000,000	632,756
Wyoming	(1)	51,026
Total	121,612,000	25,671,415

[1] No figures received.

SCHOOL LIBRARY RESOURCES, TEXTBOOKS, AND OTHER INSTRUCTIONAL MATERIALS, TITLE II, ELEMENTARY AND SECONDARY EDUCATION ACT (ESEA II)

This title provides grants to the states to acquire school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools. It requires that grants be used within each state on the basis of relative need. So this program fits well with the plans of those states moving toward equalizing school expenditures. States will more and more need ESEA II support to strengthen their own efforts.

School library and audio-visual materials and equipment have been used as essential ingredients in Right to Read projects around the nation and as such have made possible the survival of Right to Read and other local reading programs during a period of severe underfunding at the federal level. ESEA II has served many other priority programs such as compensatory education or drug abuse education which depend on an available supply of library and instructional materials.

The states report that on the average nearly one-third of their elementary schools lack libraries, and the Office of Education reported in 1970 that no more than half the secondary schools in any state met the standards for school libraries set by the states themselves. Much progress has been made since 1955 when the Elementary and Secondary Education Act was first enacted, but the job of providing all American school children access to adequate library resources is still not done, as the following figures show:

Estimated percentage of elementary schools without libraries: 1972

State	Percentage
Alabama	5
Alaska	60
Arizona	15
Arkansas	35
California	55
Colorado	30
Connecticut	40
Delaware	0
District of Columbia	0
Florida	0
Georgia	.001
Hawaii	13
Idaho	60
Illinois	20
Indiana	20
Iowa	8
Kansas	43
Kentucky	25
Louisiana	50
Maine	55
Maryland	11
Massachusetts	35
Michigan	30
Minnesota	.014
Mississippi	40
Missouri	48
Montana	75
Nebraska	50
Nevada [1]	27
New Hampshire	66
New Jersey	40
New Mexico	22
New York	5
North Carolina	3
North Dakota	51
Ohio	80
Oklahoma	68
Oregon	7
Pennsylvania	44
Rhode Island	7
South Carolina	3
South Dakota	95
Tennessee	2
Texas	59
Utah	15
Vermont	90
Virginia	4
Washington	20
West Virginia [2]	95
Wisconsin	49
Wyoming	48

[1] 1969 estimate latest available.
[2] 1969 estimate latest available.

BEFORE ENACTMENT OF ESEA

Estimated percentage of schools without libraries, 1965

Public Schools

	Percent
Elementary	69
Junior High	14
Senior High	6

Private Schools

	Percent
Elementary	47
Junior High	5
Senior High	3

ESEA II is administered by the Division of Library Programs in the U.S. Office of Education. As one test of the Administration's sincerity with respect to the continuation of ESEA II programs within the Office, the FY 1975 Budget for salaries and expenses specifically calls for the elimination of the entire staff of 10 who administer ESEA II as well as NDEA III. Thus, despite a small budget item under consolidation—for program grants—the Administration appears unwilling to fund the actual staffing of the programs. These programs do not run by magic, they must be staffed—as they are today—by dedicated hard-working professionals who can give guidance and leadership. If the Administration is unwilling to provide this staff, it is difficult to imagine them proposing funding under any new consolidation authorization in future years.

We believe S. 1539 strives to maintain the Federal commitment to school library programs and we believe any amendments to alter the language will only diminish or eliminate money available for libraries and thus undermine the progress we have made to date.

SUMMARY

The members of these 20 national associations believe the Senate Committee bill (S. 1539) is responsive to requests for consolidation. However, we do not believe consolidation is a panacea for education problems—as some maintain—and for this reason we have been vigorously opposed to consolidation plans which affect library, guidance and counseling, and instructional media programs in our schools.

The consolidation language in S. 1539 is a compromise between our position and the views of those who argue for more extensive consolidation.

We respect the careful balance achieved by the Senate Committee in S. 1539 and therefore oppose all amendments destroying the ratios and percentages in, or substituting consolidation formulas for, the Senate Committee bill. Any floor amendments would damage the compromise and divert funds away from three highly successful programs which have been consistently underfunded throughout recent years.

We already know past consolidations were failures. For example, two portions of the National Defense Education Act were consolidated by other Congresses. In both cases, the consolidation resulted in budget cuts, loss of identity, or destruction for the particular guidance, counseling and instructional media programs involved.

We believe the Senate Committee bill carries assurance to your state that (1) if adopted the consolidation in S. 1539 will not result in fewer dollars and (2) the nation's commitment to guidance and counseling, to equipment and materials, and to libraries will not be interrupted.

In this statement we have documented above the continuing need for Federal help in these vital areas. If we are to serve our children with the best possible education system we must meet these needs. Any amendments to consolidation language in the Senate Committee bill that divert funds from these priority programs, would not only destroy the compromise so judiciously worked out by the Senate Education Subcommittee and the Senate Labor and Public Welfare Committee, but would also dilute the effectiveness of currently successful efforts in every state, and postpone indefinitely the day we reach our national and local educational goals.

WAGE AND PRICE CONTROLS IN THE WOOD PRODUCTS INDUSTRY

Mr. PACKWOOD. Mr. President, last night, at midnight, the Economic Stabilization Act expired. After 2½ years of peacetime wage and price controls, we have finally decided to return to the market economics that made this Nation the economic giant it is and will continue to be.

Unfortunately, there are still some among us who would have us continue to ingest the narcotic of wage-price controls in the mistaken belief that for some strange reason free enterprise does not work any longer.

Recently, the president of the Weyerhaeuser Co., George H. Weyerhaeuser, presented a paper to a meeting of the National Association of Manufacturers. Contained therein is an excellent discussion of the truly harmful consequences of wage and price controls as they related to the wood products industry and consumers of wood products. As a Senator from the State of Oregon which produces more lumber and plywood than any other State in the Nation, I am painfully familiar with the conditions that developed in the wood products industry as a result of well-intentioned, but ill-conceived and unworkable wage and price controls on this vital sector of the Nation's economy.

Because so much of what Mr. Weyerhaeuser has to say in this paper is of value to the Senate as we debate the need for the maintenance of a controls program, I ask unanimous consent that the text be printed in the RECORD.

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

STATEMENT BY G. H. WEYERHAESER

The forest products industry has three basic components:

1. The growing of trees for harvest as raw materials.

2. The manufacture of wood products from those materials.

3. The manufacture of pulp and paper products.

The production of wood-based building materials, including lumber and plywood, provides residuals which, in combination with lower-grade materials from the forest harvest, provide the raw material for the production of wood pulp and the products, including paper and paperboards, which are made from it.

The growth, harvesting and marketing of raw materials is an agricultural activity, and it has remained free of controls throughout the various phases of Economic Stabilization.

Price controls helped to add to shortages of lumber and plywood during the building boom of late 1972 and early 1973, and amplify the price fluctuations in these products. Most of the lumber and plywood production industry was effectively decontrolled early in 1973 at the height of the shortage situation. Prices escalated quickly, new production was attracted by the higher prices, demand fell with the fall in housing starts, and prices fell just as quickly as they had risen, to levels below those which had existed before 1971. Lumber and plywood remain in a free market situation today.

In the lumber and plywood industry, production can be increased rather rapidly, within limits, by the addition of extra shifts and week-end overtime, and by delaying regular maintenance shutdowns. Lead times for planning and construction of new mills are two years or less, environmentally acceptable building sites are generally available for such investments, and they are of relatively low capital intensity. Wood products provide a concrete and classical example of the ability of an uncontrolled free market to respond to consumption needs through the reaction of supply to price. Controls hinder and cannot solve supply problems.

In the pulp and paper industry, there is no such operating flexibility, the planning and construction time frame is at least three years, environmental constraints on building sites are severe, and capacity additions require immense capital expenditures. Therefore, both the time and conditions requisite to investment in and start-up of new capacity is much longer.

My remarks today will be directed to the pulp and paper industry. It is the one major portion of the forest products industry in which shortage psychology, and actual shortages, prevail.

Controls obviously cannot bring about increases in production, but, they do lead to a distorted production mix in a shortage situation. Controls can indeed provide a temporary psychological brake in cost-push situations such as that which prevailed in 1971. to cool that type of inflation. But, if they are allowed to continue, they begin to have a different inflationary impact of their own, and the longer they continue, the more drastic this effect. Their inflationary impact comes in the disincentive they provide for investment in new production capacity. Even standby controls have this impact. Their very existence makes it impossible to chart normal market trends and price patterns with any certainty, and thus makes it more difficult to make new-capacity investment decisions.

SHORT-TERM IMPACTS

The short-term legacy of controls in the pulp and paper industry has been the current climate of shortages. Those shortages, for a few products, actually represent current capacity shortages. For others, they have resulted not from current capacity shortage but from consumer hoarding because of fear of such shortage. The shortages result from the uneven effect of controls upon various producers, and upon the product mix of those producers.

It is demand, reflected in price, that leads to the decision to make product runs of any of the hundreds of pulp paper, and paperboard grades, and it is price which leads to the decision to switch to other grades as overcapacity in one begins to appear. Price, then, is the allocation mechanism in the free market.

When price is removed as that mechanism, through controls, such economic decisions must be based upon productivity per machine hour—upon manufacturing cost. In uncontrolled free markets, consumers through price changes determine the products to be produced. Under controls and tight supply, the market must instead respond to the margins of the producer as he allocates his available production time to the products that produce the largest margin on his available machine time, regardless of whether or not the products match the demands in the marketplace. The result is a lack of freedom of choice among consumers, and the appearance of non-price bartering, allocations, and overuse or misuse of the products.

In the pulp and paper industry, with its extraordinarily high fixed capital costs, this can be the only response to a price-controlled economy. Weyerhaeuser Company has greater financial and product flexibility than most producers, but under controls in tight markets we have been forced to optimize returns by reducing our mix of market pulps from 41 grades to 20; our mix of fine papers from 86 grades to 42; and our mix of bleached paperboards from 30 grades to 8.

Controls did not cause the present shortfall in total U.S. pulp and paper production. They have aggravated the present shortage, through misallocation in production and misuse in the markets—and they have slowed growth in supply both in the short and long term.

LONG-TERM IMPACTS

During most of the past 20 years, the pulp and paper industry has been characterized by recurring surges of over-capacity, with a resulting pricing level which did not provide a return on investment adequate to make the industry an attractive channel for new investment dollars. Controls froze the industry in this depressed stance just as it was about to come out of its worst cyclical downturn in 20 years.

Industry annual cash flows (retained earnings plus depreciation) averaged $1.4 billion in 1969–71, rising to $1.9 billion in 1972 and to more than $2 billion in 1973. Industry capital investment in pulp and paper has averaged $1.3 billion annually during that period. However, from 30% to 40% of that total has gone for pollution abatement control. Thus, the remaining investment in maintaining existing capacity and in adding new capacity, has averaged considerably less than $1 billion per year, and many older mills during this period have been forced to close. Return on investment during the period has averaged only 7% to 8% on the old asset base, before the additional pollution control investment on these older facilities has been added to that base.

As a result of this low level of capacity investment, coupled with normal increase in demand, the overcapacity cycle has ended abruptly and apparent demand exceeds supply in most products. In this situation, in a free market, the rise in total profit and cash flow would lead to rapid debt repayment and major investment flows into new productive capacity. But, controls have held down both margins and prices, lowering the cash flows which otherwise would have resulted; and at the same time uncertainty over future conditions including price controls and pollution standards have seriously eroded or deferred major new investments.

If supply and demand are to come back into balance and halt the inflationary pressures for these commodities, the U.S. pulp and paper industry will have to invest in 80 new full scale (300,000 ton-per-year) mills by 1980. This would require industry investment at a rate of more than $3 billion per year in current dollars through the balance of this decade to bring supply and demand back into balance. That investment in new capacity will be required to catch up on the present shortfall, and to serve new demand growth projected at about 4% per year, on average.

So far this year, however, only one major new mill has been announced in the industry, and it will not come on line until 1977. My company announced plans last week for a new containerboard mill at Columbus, Mississippi.

This Mississippi investment is illustrative of the long-term nature of the pulp and paper industry, and its vulnerability therefore to short-term crisis management in governmental policy. The wood sourcing for this proposed mill began to be assembled more than 15 years ago, and we accepted losses or extremely low returns in that area throughout that period, as the mill wood supply land base was assembled, and timber growth stimulated through forest management investment.

Today, we are planning a $213 million in-

vestment at Columbus for a 2,000 ton per day mill, the first announced since linerboard and corrugating medium moved into tight supply world-wide more than a year ago. It will provide more than 600 jobs directly, most of them highly skilled. Its effect will spread into woods jobs, into jobs in related facilities, and into jobs in the service sector, accounting directly and indirectly for perhaps 2,000 new jobs in Mississippi and Alabama. It will provide a new market for the owners of small tree farms. And, it will help to close the gap between supply and demand for a product essential to the shipment of industrial and agricultural goods throughout our economy.

We have taken a calculated risk in announcing this project at this time. We think it is the way the log-jam will be broken. There is a need for such new investments to get product on the market as rapidly as possible, to blunt inflation, increase industry productivity, increase the efficiency of its use of raw materials, and increase its energy self-sufficiency.

The risk we have assumed is this: We have made this announcement, and have proceeded with this planning, on the assumption that the Congress and the Administration of this nation have recognized the ineffectiveness and counterproductiveness of maintaining a control structure. In other words, this investment is predicated upon our assumption that we will indeed have a control-free economy.

The rationale for this investment is that U.S. price for linerboard, the unbleached paperboard which is the proposed mill's principal product, will increase, by the time it comes into production, to about $200 per ton, slightly above the current world price level of about $195 per ton. Under last year's control structure, U.S. prices averaged about $127 per ton. This year, they have averaged $142. Under our present Cost of Living Council price commitment, they will go no higher than $165, until the expiration of that agreement.

But, if the price were not allowed to rise to world levels during the period of this mill's construction, the economics of this particular project would be marginal, at best.

The cost of money today is in the 8% to 9% range. This cost, coupled with the risks inherent in a capital commitment of this magnitude, requires that, in making any major investment decision, we feel relatively assured of a return on investment after tax of from 11% to 12%. And, in the case of an investment such as this one, that requires a price per ton of $200, and higher in later years as costs escalate. The equation is that simple. World free market trends make that price projection reasonable. But, continuance of controls would block such investments. The uncertainty associated with standby controls would have the same effect.

IMPACTS OF DECONTROL

As I have indicated, prices of pulp and paper products will rise to world levels after decontrol. There will be a short-term inflationary impact. This does not mean, however, that over the long term there will be a significant increase in the per capita cost of paper consumption in the United States. Paper long has been "over-engineered" for the functions it is called upon to perform in this nation; we read magazines with pages of blinding brightness; we read newspapers heavier—in physical weight per page—than anyone else in the world. We overpackage many items. Because paper has been so cheap, we waste it through inappropriate grade uses. With lighter-weight newsprint, with magazine and business papers just a shade less bright, with lighter weight boxes, and in thousands of unnoticeable ways, we can use paper and the resource from which it comes much more efficiently. It is price movement that will have just that gradual economic result.

In individual consumer terms, this more appropriate use of paper, as well as the increase in total supply, will make the long-run price impact of decontrol insignificant.

THE U.N. AND THE RICH-POOR GAP

Mr. McGEE. Mr. President, in yesterday's edition of the Washington Post, there appeared an excellent column written by Marquis Childs entitled "The U.N. and the Rich-Poor Gap."

I am in complete agreement with Mr. Childs' assessment of the performance of U.N. Secretary General Kurt Waldheim in focusing on the issue of the widening gap between rich and poor nations. The Secretary General has dramatically brought to the attention of the international community the gravity of the world situation, today, and the need for a cooperative effort aimed at preventing disintegration of the global economic order. I commend the Secretary General for this vital leadership role he is shouldering so admirably.

The point is well taken that despite the erosion of support in the United States Congress for the United Nations, this institution has never been needed more than it is right now. It is virtually impossible for any nation in the world today to live in isolation or to ignore the plight of less fortunate peoples in other nations. When we talk of starvation in the Sahel, for example, we are really talking about the survival of mankind on this planet. For, if we cannot respond to human misery elsewhere, particularly when the virtual survival of a people is at stake, our value system as a Nation becomes so eroded that we are in danger of losing the capacity for saving even ourselves.

All the rhetoric in the Senate about "America first" will never prevent ultimate disaster in this country.

I have often pondered that with mankind's capacity to conquer new frontiers and overcome physical and technological barriers, why human development should occupy such a low rung on the ladder of our priorities.

In my estimation, the most exciting challenge facing this Nation and the world is the true development of our human resources. This is man's greatest frontier; it is his greatest challenge. Yet, what prevents us from accepting that challenge? Our willingness to accept that challenge and our willingness to come to grips with these problems in an effective manner can only strengthen us as a Nation and as a global community. Like it or not, we are just that—a global community. We will either all survive together, or we will all perish together.

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

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

THE U.N. AND THE RICH-POOR GAP

(By Marquis Childs)

NEW YORK.—On the lonely pinnacle of the tower on the East River over which he presides, Secretary General Kurt Waldheim talks about the limits of his powers to direct the policy of the United Nations. Persuasion is almost his only recourse along with the lever of public opinion which, at this point of world turmoil, is of little avail.

His immediate goal is to try to get the affluent nations to put up money to help poor and developing nations that face starvation and break down. This need has been made vividly known by the special session of the General Assembly called by Algeria to show the fearsome gap between the poor raw material producers and the rich industrialized countries.

Because he feels the need is so urgent, Waldheim took an almost unprecedented step. Although normally he sits mute on the General Assembly rostrum, the other day he spoke out after the speeches had ground on for 15 days.

"The fate of millions of people may well depend," he said, "within the next few months on what this special session does or does not do."

The sad fact is that almost no one outside the glass house on the East River is listening. Of course, Waldheim says in his office on the 38th floor, we can get an agreement on principles. But he wonders whether, as the session ends, any practical measures in terms of money or even the pledge of money from the affluent is in sight.

Recently, Waldheim visited the sub-Saharan region where starvation is developing at an accelerated pace. One thing he found was the great difficulty of getting existing supplies out to remote localities where primitive air strips would not take planes sufficiently large to carry meaningful loads. Waldheim agrees with those in Mali, Kenya, Ethiopia and the other drought stricken states that this may become the widest mass starvation in recorded history.

Aware of how little support the United Nations has, Waldheim talks of how it has functioned as a keeper of the peace. U.N. forces were ready to move in as Israel and Egypt worked out the disengagement of their troops in the Sinai. If Secretary of State Henry Kissinger can bring Syria and Israel to disengagement, the United Nations is prepared to carry out a peace keeping operation under more difficult and dangerous circumstances.

Having begun with such overblown hopes when it was founded nearly 30 years ago, there is disillusion because performance has fallen so far short of those hopes. But this ignores so much that the United Nations does in addition to its peace keeping functions. The specialized agencies have notable achievements to their credit.

Foremost among them is the U.N. Children's International Emergency Fund. The appeal of UNICEF is universal because of the work done with children around the world. UNICEF's director, Henry R. Labouisse, is an able and imaginative public servant who served as American ambassador in several posts before going with the United Nations.

He succeeded several months ago in getting his people into Hanoi to have a look at the plight of children in North Vietnam. A first for the U.N., UNICEF will give help proportionate to the need in South Vietnam, Cambodia, Laos, in the areas in South Vietnam held by the Vietcong and in the North. This is in accord with the agreement signed in Paris in January 1973, calling for humanitarian assistance to all parties to the conflict. That has been largely ignored as the fighting goes on.

When he spoke to the special session of the General Assembly, Secretary of State Henry A. Kissinger committed the United States to a "wide-ranging multilateral effort." The speech was long on analysis and

broad generalizations and short on any specific promise of help. Ten days after Kissinger spoke, President Nixon asked Congress for more than $5 billion in new foreign aid, much of it going to the Mideast to underwrite the Nixon-Kissinger peace initiatives.

A controversy has long continued over whether aid should be unilateral, as is this latest package, or multilateral through such agencies as the United Nations and the World Bank. Opposition has increasingly stiffened in Congress against distributing American dollars through international agencies. For nations in desperate straits as a result of the oil-fertilizer shortage, for the millions close to starvation in sub-Saharan Africa, it is a debate as empty as the principles adopted by the United Nations are likely to be.

THE GENOCIDE CONVENTION: GOOD GROUP LIFE INSURANCE

Mr. PROXMIRE. Mr. President, today I wish to urge the adoption of the Genocide Treaty. The United States is proud of its heritage of being a country developed by many different ethnic, national and religious groups. The "melting pot" of the 19th century may no longer exist, but it is a reminder of how many diverse groups joined together to make a very strong nation. The benefits of this social phenomenon have been enormous and should be continued and promoted.

The United States has laws against homicide—the murder of an individual. However, there are no laws in America against genocide—the deliberate extermination of a group of individuals. An individual should be able to belong to any group without fear of harm. Groups of individuals should be protected and insured of their survival in the same manner as an individual is protected with laws by this Government.

With its tradition of being a nation made strong by its internal diversity of groups, our Nation has a responsibility to insure the survival of these groups within its own boundaries as well as pledging its belief in the protection of all groups throughout the world.

The cultural benefits of a group cannot be maximized if its survival is uncertain. The United States should insure any group of individuals from deliberate annihilation. The ratification of the Genocide Convention will show to the world that we stand behind our tradition of great achievements made possible by the "McHing Pot" and at the very least that we are willing to insure the survival of all groups. I urge the prompt consideration of the Genocide Treaty as a good group life insurance policy for the United States and the world.

CHEMICAL WEAPONS SYSTEMS

Mr. NELSON. Mr. President, I took great interest in reading an article by Congressman WAYNE OWENS in the Outlook section of Sunday's Washington Post. The piece is entitled "Assessing Chemical Warfare," and perceptively sets forth the major issues involved in this important subject. Among other things, the distinguished Congressman from Utah points out the sad fact that over the past 10 years our country has spent more than a half billion dollars in connection with chemical weapons systems.

I ask unanimous consent that this article be printed in today's RECORD.

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

ASSESSING CHEMICAL WARFARE

(By Representative WAYNE OWENS)

With hearings about to begin this week on U.S. chemical warfare policies, a House subcommittee will be considering a range of issues from U.S. Army proposals to adopt a new binary nerve gas system to international implications of our chemical warfare program on total arms control.

There is no concrete evidence that the chemical warfare program, which has been in effect since World War I, has contributed in any constructive way to the defense posture of this country.

Indeed, it is possible that the substantial funds spent since that time, and especially since the end of World War II, may have had a limiting effect on the development of other new military systems and the procurement of additional conventional weapons.

There is also the question of what impact a revamped U.S. chemical warfare system would have on current international negotiations controlling these weapons.

That old military adage about winning by "getting there firstest with the mostest" is particularly true about chemical warfare.

Most military tacticians agree that the first to attack with a chemical agent will gain the maximum advantage; once this advantage is lost, the effectiveness of chemical weapons is reduced. Our policy since the end of World War I has been that this nation will not initiate the use of chemical warfare but reserves the right to retaliate against an enemy which has initiated its use.

Since other nations have chemical warfare agents in their stockpiles, this means that the U.S. has had to adopt a posture which would prevent the use of chemical agents by other nations or to develop protection against them.

HISTORIANS DISAGREE

An attempt to meet this objective was made, at least in part, by producing and stockpiling chemical warfare agents and munitions to deliver them. An effort also has been made to develop detection and preventive devices so that U.S. troops would be able to survive a chemical attack. This was well before this or any other nation had the tactical or strategic deterrent capability of nuclear devices.

There is no evidence today that the capability which the U.S. possesses in the form of chemical warfare stockpile has had an effect of deterring any plans for the use of chemical weapons by any other nation.

For example, military historians disagree as to whether the fact that the U.S. was prepared to retaliate with chemical weapons had any influence at all on the decision by the enemy not to use chemical weapons during World War II.

While the possession by the U.S. of chemical weapons may have had some deterrent value during that war, retaliation today could be an immediate and instant use of nuclear weapons.

Since an enemy which made a decision to use chemical agents obviously would have the capability of fighting in a toxic environment, the net effect of retaliation with chemical weapons probably would be a stalemate, with both sides slowed in their operations by the use of cumbersome chemical protective equipment. The advantage in such a stalemate would swing to the forces with the best defense against chemical weapons and with troop superiority.

In Europe, where chemical warfare most likely would occur, there is little question but that the Soviet Union has the most troops, so that the capability of producing such a stalemate would not appear to be the deciding factor in a war in that theater of operations.

This means, to many analysts at least, that the threat of retaliation with a chemical weapon would have little value in a confrontation between large, aggressive and nuclear-armed forces.

We must add to this the observation by Gen. Creighton W. Abrams, during testimony before the House Armed Services Committee, that, based on the evaluation of equipment captured during the Arab-Israeli October war, the U.S. Army is well behind the Soviets in defense against chemical weapons.

DELIVERY SECTION

While the binary chemical system is often referred to as totally new, actually the Army has been working on its research and development for more than 15 years. The system is not dramatically new except that it provides new approaches to the delivery of the toxic chemical agent. The chemical agents which may be produced within the munition are still the standard chemical nerve agents.

The military code names for these agents are GB, an odorless, colorless, lethal gas which evaporates at room temperature and is absorbed primarily by inhalation, and VX, a more toxic and less volatile nerve agent which can kill either when absorbed through the skin or inhaled.

The binary chemical weapon system developed by the U.S. is said to offer many advantages in safety, munitions handling, manufacture, transportation and stockpiling.

Basically, the system has been engineered so that the nerve agent is not actually produced until the munition is fired. This munition is loaded with one chemical which is relatively safe and non-toxic and then another chemical of the two-part system is stored separately until the munition is prepared for firing. When ready, the second ingredient is loaded, and, during the flight to the target, the two chemicals react with each other to produce the toxic nerve agent. Each of the ingredients can be stored separately and the munition can be handled, shipped, demilitarized or other functions carried out with no more than the risk associated with any explosive material.

NO U.S. PROPOSAL

For the past several years, the U.S. and other nations have been seeking a treaty at Geneva to control chemical weapons. The talks resumed last week with the U.S. still expressing an interest in banning chemical weapons, but we have yet to come forward with our own definite proposal for a chemical warfare weapons treaty.

Our representatives at these negotiations have indicted their dissatisfaction with proposals from other nations. The U.S. has, however, made it known that we are close to transforming our existing stockpile of post-World War II nerve agent munitions into the new binary system.

This has produced reactions at Geneva indicating that such a plan on the part of the U.S. suggests a lack of real interest in reaching a treaty on chemical warfare. Indications are that, should a binary weapons system be introduced, other nations would be enticed into the development of the same system, especially since the risk of handling chemical warfare agents would be reduced.

The U.S. Arms Control and Disarmament

Agency has publicly stated its opposition to the adoption of the binary system because of concern that such an action would essentially negate the current disarmament efforts.

The U.S. Army no doubt has some rationale for the proposed switch to binary weapons. It may be that a primary objective is to divert public attention by removing the public health hazards associated with current chemical weapons through the substitution of the safer binary weapons.

While improved safety is a worthy objective, the priority of this decision should be based upon a public evaluation of the need to maintain a chemical weapons stockpile in any form. Since the United States already possesses a chemical weapons stockpile, if this stockpile is managed more effectively than it has been in terms of avoiding public health and safety issues, there should be no urgency in pressing on to the binary system until the Congress has had adequate time to examine the proposed switch in chemical weapon systems.

This proposal should be thoroughly evaluated before the nation's limited assets are committed any further to the maintenance or restructuring of a weapon stockpile which seems to have only a doubtful military credibility at best.

LARGE INVESTMENT

Many citizens are unaware of the large investment which this nation has made in chemical weapons. Although it is not possible to obtain precise data on this investment due to the super-secret controls in the past, some perspective on the costs can be acquired through examination of current research and development programs. As a part of the total investment in national defense, the toxic chemical weapons program is small.

However, over the past 10 years, this nation has spent more than half a billion dollars in research, development, test and engineering of toxic chemicals and procurement of these chemical systems.

It can be estimated that a decision to begin the introduction of the binary weapon into our stockpiles would initially cost many millions of dollars. Final replacement of all current chemical munitions systems—rockets and spray tanks as well as artillery and destruction of current weapons—will cost from $1 billion to $2 billion.

The Army has already asked for funds in the new budget for fiscal 1975, starting this July 1, to begin production of the binary system and plans currently are under evaluation to begin open-air testing of the munitions. Examination of these proposals by the Congress should be thorough and should precede any further financial support.

Legislation I have introduced is now before the House Foreign Affairs Subcommittee on National Security Policy in Scientific Developments. This will provide an opportunity for this public examination in five days of hearings scheduled to begin May 1. It will also provide a forum for consideration of the total implications of adopting the binary weapon as well as full examination of the validity of the policies of no-first-use and retaliation in kind.

This nation made the decision that biological warfare agents could be eliminated from its arsenal. Policies concerning chemical warfare should be examined in public to establish whether the U.S. could safely make the same decision regarding chemical weapons.

If not, the public should be given the opportunity to participate in any decision committing public resources to retaining such a controversial weapons system and adoption of the new binary system.

At the same time, every effort should be made to insure that our forces are equipped to defend themselves against any enemy which would risk nuclear war by attacking with chemical weapons.

MIDWEST WOMEN'S HISTORICAL COLLECTION

Mr. PERCY. Mr. President, to both preserve and encourage an accurate accounting of women's history, the University of Illinois at Chicago Circle has established a midwest women's historical collection as an archive of source materials pertaining to 19th and 20th century women. The collection is housed in the manuscript section of the university library and is available for both scholarly and public use.

The purpose of this collection is to "gather, preserve, and make available for study those records which reveal women's roles and activities as these have been historically defined—and are currently being redefined."

For the information of those who may wish to take advantage of the materials that are now available, I ask unanimous consent that the current list of the midwest women's historical collection holdings be printed at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. PERCY. The university library would welcome suggestions for other possible acquisitions. Comments and inquiries may be addressed to the collection at the University of Illinois at Chicago Circle, Post Office Box 8198, Chicago, Ill., 60680.

EXHIBIT 1

MIDWEST WOMEN'S HISTORICAL COLLECTION: HOLDINGS UNIVERSITY OF ILLINOIS LIBRARY AT CHICAGO CIRCLE, MANUSCRIPT SECTION

Personal papers including correspondence, diaries, published and unpublished writings, speeches, awards and citations, photographs, newspaper clippings, artifacts. Inclusive dates are given for material in the collection; footage indicates linear feet occupied by the collection on shelving.

Jane Addams Collection, 1860–1970, 24 ft. Founder of Hull-House, Chicago.

Neva Leona Boyd Papers, 1911, 1963, 6 ft. Recreation training specialist and social group workers; Professor of Sociology, Northwestern University, Evanston.

Helen Tieken Geraghty Collection, 1933–1969, 5 ft. Theatrical producer of pageants for A Century of Progress, Chicago Railroad Fair, etc. Drama director, Ravinia Festival.

Haldeman-Julius Family Papers, 1833–1961, 14 ft. Marcet Haldeman-Julius, author and publisher of rationalist and Socialist literature in Girard, Kansas. Family papers pertaining to Jane Addams.

Irene Kawin Papers, 1922–1969, 1 ft. Probation officer and social worker. Also material on her sister, Ethel Kawin, child development specialist.

Nina M. Kenagy Papers, 1897–1961, 200 items. Educator. Director of Mary Crane Nursery School, Hull-House.

Esther Loeb Kohn Papers, 1896–1965, 20 ft. Hull-House Resident. Medical social work, child labor, immigrants.

Evelina Belden Paulson Papers, 1905–1968, 17.5 ft. Social worker, first director of social service department of Chicago Boys' Court.

Adena Miller Rich Papers, 1890–1966, 7 ft. Head Resident, Hull-House, 1935–1937; director, Immigrant's Protective League, 1926–1954.

Esther Saperstein Papers, 1949–1969, 20 ft. Member, Illinois House of Representatives, 1956–1966, Illinois Senate, 1966–. Education, mental and public health, and discrimination in employment of women.

Eleanor Smith Collection, 1887–1942, 1.5 ft. Director of Hull-House Music School until 1936. Includes her published and unpublished music.

Ellen Gates Starr Papers, 1881–1949, 1 ft. Co-founder of Hull-House. Xerox of items in Smith College Collection, Northampton, Massachusetts.

Lea Taylor Papers, 1896–1969, 5 ft. Settlement head, Chicago Commons.

Harriet Vittum Papers, 1900–1952, 3 ft. Head Resident, Northwestern University Settlement, Chicago.

Organizational records including charters and by-laws, annual and special reports, correspondence of Board members and officers, membership lists, minutes of meetings, committee records, publications, financial records, photographs, newspaper clippings, and scrapbooks. The designation "papers" indicates a virtually complete archive; "collection" indicates miscellaneous record holdings.

Bohemian Women's Publishing Company Collection, c. 1895–1900, 1 vol. Staffed and directed entirely by women, the company was located in Chicago.

Chicago Woman's Aid Papers, 1882–1967, 10 ft. Literary, civic, educational, welfare, and philanthropic programs.

Florence Crittenton Anchorage Papers, 1892–1973, 10 ft. Chicago branch of a national organization providing residence and assistance to unmarried pregnant women.

Illinois Humane Society Collection, 1879–1953, 143 ft. Case records on women and children focusing on suspected neglect or abuse.

Immigrant's Protective League Papers, 1904–1967, 17.5 ft. Founded in 1908 to assist immigrants to Chicago. Grace Abbott and Adena Miller Rich were directors.

Juvenile Protective Association Papers, 1887–1959, 11.5 ft. Organized in 1904 to aid delinquent and dependent children. Jessie F. Binford, director, 1916–1952.

League of Women Voters of Chicago Papers, 1910–1970, 20 ft. Organized in 1950 by ten Chicago-area chapters.

Mary Crane League Papers, 1928–1959, 2 ft. and 5 vols. Organized at Hull-House to assist the Mary Crane Nursery School.

National Congress of Parents and Teachers Papers, 1896–1965, 11.5 ft. Education, child labor, and juvenile delinquency.

Phyllis Wheatley Association Collection, 1908–1967, 15 items. Provides home for young Black women coming to Chicago to seek work. Chiefly annual reports.

Scholarship and Guidance Association Papers, 1914–1970, 3.5 ft. Established by Jewish women to provide scholarships for Jewish children.

Travelers Aid Society of Chicago Papers, 1914–1961, 6.5 ft. Established in 1888 by YWCA to assist newly-arrived women seeking jobs in Chicago.

Woman's City Club of Chicago Collection, 1914–1954, 1.5 ft. Annual reports.

Women for Peace Papers, 1963–1971, 200 items.

Women's Advertising Club of Chicago Papers, 1918–1969, 9 ft.

Women's Trade Union League Collection, 1908–1922, 1 ft.

Young Women's Christian Association of Metropolitan Chicago Papers, 1876–1960, c. 20 ft.

DARLING, WE CAN'T GO ON MEETING LIKE THIS, YOUR PRESIDENT IS GETTING SUSPICIOUS!

Mr. METCALF. Mr. President, the British humor magazine Punch provides a refreshing view on life with unique English wit. Punch writers show us that often the way to put a subject into its proper perspective is to laugh at it. Occasionally a Punch article leaves the humorous arena for a "straight" look at a subject, an examination which loses none of its perception when sharp, pointed criticism is substituted for slashing sarcasm. The March 27, 1972, issue of Punch contained just such an article by Alan Coren called, "Darling, We Can't Go On Meeting Like This, Your President Is Getting Suspicious!"

Mr. Coren's article is an especially refreshing and nostalgic piece that calls back memories to many of us that were in England in World War II. At this time when the United States is under attack in many portions of the world it comes as a welcome and poignant expression from an important British author.

In these times of international "diplomacy" it is comforting to find our old British friends have not lost sight of the history we sometimes overlook.

I ask unanimous consent that Mr. Coren's article be printed in the RECORD.

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

DARLING, WE CAN'T GO ON MEETING LIKE THIS, YOUR PRESIDENT IS GETTING SUSPICIOUS!

(By Alan Coren)

Childhood, if you like, sweethearts.

We lived near the USAAF base at Ruislip, and from 1942 on they used to come to dinner, and they looked pretty good in those lightweight olive jackets and the beige gabardine slacks, and yes, of course, they brought gum and Mickey Mouse comics and model P–38's and Hershey bars, but I couldn't be bought for such gee-gaws, even then. I liked them for other reasons; they could talk uncondescendingly to four-year-old kids, and they made me laugh, and when they came for lunch on Sundays, they always wanted to go out in the garden and play softball. They had brought a new mood to the beleaguered premises, and though I couldn't have put my pudgy finger on it then, I can go back thirty-odd years and will catch the whiff of it, and I know now that it was youth. They had energy, and the British grown-ups I knew were all tired.

Added to which, they were flash, and kids like flash. They used to turn up in staff Hudson Terraplanes, and honk the horn. Up until then, my norm for servicemen had been my father, who used to pedal home from East Anglian bomber bases on forty-eight-hour passes, sixty miles on a rusty Rudge, and there he was in his blue serge overcoat and cycle clips and a filthy mood.

Let me not play down the significance of the gum and the comics. It was the beginning of the special relationship for me, the first currency of the long cultural interchange. Donald Duck and Goofy and Horace Horsecollar entered into the imagination the way Biffie the Bear and Korky the Cat and Keyhole Kate never did. Our cartoon characters were skinny, skimped, black-and-white, frequently spiteful. The Mickey Mouse crowd did good things, in full colour. They went fishing a lot, in nice country, they cooked outdoors, they drove red sports-cars.

By 1945, when I was seven, I had read a lot of *Saturday Evening Posts*. All those ads, people in swimming pools outside their back doors. Aunt Jemina blueberry muffins, and, at Christmas time, Lionel model trains with real steam coming out. American kids could also buy BB guns, and magic rings, and real cameras, and get muscular for only $1.98, whatever that was. I had also seen *Snow White* and *The Five O'Sullivans* and Mickey Rooney films where kids actually *ran* things, and the head swam with dreams of sitting on drugstore stools and ordering milkshakes and hamburgers. The only English film I remember was *Brief Encounter*, grey and damp and austere, where my mother, I recall, cried a lot.

It has, I suppose, to be said that a number of grown-ups of my acquaintance, if it could be called that, did not take as wholeheartedly to the Americans as I did, and the reasons are too well known by you and me to be worth repeating now. Except for the prime among them, which was that Britain had "carried the burden alone for long enough."

The words in quotes, as you know, are Richard M. Nixon's. Mutatis mutandis, as we Europeans say.

By 1946, they had gone; the three-dimensional ones, anyhow. But by then my Americanisation was well-founded; the mature comic books, the continuing movies, brought myth into my imagination, my codes were not those of Biggles and Drummond and Greyfriars School; my fantasy-tests took place on a nylon rope halfway up the Gotham Building lashed beneath Batman, or in the middle of Main Street with the dust and tumbleweed blowing between me and the advancing gun, or, a little later, twelve perhaps, in a shoddy Los Angeles one-room office, with my name on the frosted glass, and my feet on the secondhand desk, and a battered Studebaker coupe downstairs, and a .45 automatic in the top-right-hand drawer, and the silhouette of Sidney Greenstreet sliding suddenly across the door-panel, cigar-smoke threading through the transom. The childhood crush on America was deepening into infatuation. It was not yet love, but it would come to be.

Girls, at fifteen, 1953.

What chance did the pigtailed pimplies in their school blazers stand? They had to look like Susan Hayward and sing like Judy Garland, they had to have eyes that melted and long fingers that got into your hair. They had to be prepared to dance in the streets, even when it rained, without embarrassment or losing the beat as a result of passing buses. They had to have front porches and sassafras trees and magnolias, and it would help if their old man had a Buick convertible, and a star had to appear on their lower lip, just off-centre, when they smiled. I spent a long time looking for a star like that.

Joe Loss and Ted Heath and Mantovani playing *Charmaine*, who needed that? Or Troise and his Mandoliers, either? I used to play Hot Five and Bix Biederbecke records, in the dark, smoking illicit joints cobbled together from dogends and Bronco, and think of the long white turnpikes of an imagined Illinois that ran out in Chicago, with jazzmen up from the Delta blowing *After You've Gone*, impervious to the Thomson bullets whanging among the gin-filled coffee cups.

You will never know how much I wanted a tuxedo with a wing-collar.

And to play the cornet.

By eighteen, when I came to read books somewhat more seriously, the relationship started to get very special indeed. I pecked at Europe, but devoured America: I would read Malraux, but reread Hemingway; I would flick through the latest Angus Wilson in Smith's, but walk out with *The Great Gatsby;* I would take a poem or two of Dylan Thomas or Stephen Spender at an idle moment, but sit down for an evening with e. e. cummings or T. S. Eliot or Ezra Pound. At Oxford, I Read English, but read American; Spenser and Wordsworth came out of the library, Dos Passos and Fitzgerald and Dreiser and Anderson and Salinger and Lardner and Perlman and Thorne Smith and Ford and Lewis and Farrell and Crane and Chandler and Bellow and Faulkner and Roethke and Thurber and Frost and Styron came out of the bookshops. As I write this, they're behind me on the shelves, my education.

It was time, too, when the European film industry surged on its assorted waves, and I admired Truffaut and Resnais and Antonioni and de Sica, and I would queue for them, in sleet. Unless *The Oxbow Incident* or *The Treasure of the Sierra Madre* or *The Maltese Falcon* was playing anywhere within fifty miles that night, for the umpteenth time.

In 1961, I went to Yale, and for two of the sort of years which will make up for whatever else happens in most lifetimes I travelled the United States and fleshed out the skeleton excavated from page and screen, and I cannot remember disappointment. Of course it was flawed; but I had never been anywhere so constantly and self-critically conscious of the need to repair its flaws; I had been used to old countries which had given up pursuing dreams. I returned to England in 1963 because I was, culturally, an Anglo-American, not an Americo-Englishman, and because I wanted to come home, but nothing that America did or that was done to it diminished my affection for it during the subsequent decade, even if my respect for it took a hammering, because I knew that whatever filthy side-alleys the country got itself up, it would come down again aware of its deviation from its ideals, if not, perhaps, totally cleansed of the filth. Anyway, nobody's perfect, comparisons are not odious, there's not a European country which has not stood among the My Lai bodies more than once, and with less recrimination.

For political and economic expediencies, I am a European. Sometimes people marry for money. No doubt they, too, become mushily sentimental about the loves they leave behind, because they do not stop loving them. But with countries, and with national relationships, need practical affiliations ruin emotional predilections?

Whatever the answer, Mr. Nixon, if my paramour wants to break it off, I want to hear it from her before I believe it. Not from some two-bit shyster lawyer she has temporarily retained to do her talking for her.

THE MIDDLE EAST

Mr. ABOUREZK. Mr. President, although the United States has vital economic and political interests in the Middle East, the foreign policy we have traditionally followed in that region has not often reflected the balanced approach which is necessary if those interests are to be protected.

The imbalance in America's Middle East policy stems in part from the perspective on the Middle East which is held by many Americans. If our Middle East policy is to reflect an accurate realization of our interests in the area, if it is to become more "evenhanded," as I believe it must, then the perceptions the American people have of the Middle East and its peoples must also undergo a change. This can only happen if we rectify the imbalance of "information" referred to by Edwin A. Roberts, Jr. in his article "On Considering the Case for the Arabs." In the article, Mr. Roberts recalls a ques-

tion which "came to mind the other day when an Army veteran told me the following story."

During World War II the man was stationed in the Middle East. He was assigned to hunt down AWOL soldiers who often attempted to hide from the military police by dressing up in traditional Arab garb.

"Do you know how we used to tell who was a real Arab and who was an American deserter? We would watch the flies. When a fly would land on an American's face he would immediately brush it away. But the real Arabs would let flies crawl all over their faces and never bother to shoo them."

I was impressed by the story. It is exactly the kind of generalization that has haunted the Jews through the centuries. It is the kind of story ideal for promoting contempt for an entire people. It is the kind of story that is pure poison.

Mr. Roberts' article provides a very intelligent commentary on the state of contemporary American public opinion on the Middle East, and it points up several popular misconceptions which, although they are not held by all Americans, are nonetheless dangerous and ought to be changed. The article appeared in the National Observer on March 16, 1974. I ask unanimous consent that it be printed in the RECORD.

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

. . . ON CONSIDERING THE CASE FOR THE ARABS

(By Edwin A. Roberts, Jr.)

World at War, the brilliantly produced TV documentary about World War II, offered a chapter the other week on how the Nazis went about exterminating millions of Jews. The death camps were built along railway lines to simplify transportation problems, the occupants of the jammed boxcars were separated into those fit for work and those who would die; the latter were herded into gas chambers, and the corpses were disposed of in specially designed furnaces.

Nazi genocide is not unbelievable. We believe it because we can see it in films and read the accounts of survivors. Nor is the pain of the thought of it eased by 1,000 or 2,000 years of time. It happened just 30 years ago. Yesterday. Many crimes of state will eventually pass from human memory, but the systematic murder of six million innocent Jews will be remembered forever.

If there are any anti-Semites around, and if they want to get well, they might decide to watch the *World at War* installment called "Genocide." After that they could minister to their brains with James Michener's *The Source* and Anne Frank's *The Diary of a Young Girl*. If those measures don't lance and drain their hatred, they must be considered hopelessly insane.

BECAUSE OF HITLER . . .

Ironically, it is chiefly because of Hitler that the state of Israel exists today, and it is because of the holocaust that 50 per cent of all Americans sympathize with the Israelis and only 7 per cent with the Arabs (43 per cent expressed their neutrality or had no opinion, according to a recent poll).

The problem that arises, then, in conventional American assessments of the Middle East dilemma is that the Arabs are penalized for the crimes of the Nazis. And penalized in fact as well as in analyses are the Arab refugees who lost their homes when Israel declared itself an independent state in 1948.

Therefore, it's reasonable for those of us who wish Israel well to remember that Israel's callous attitude toward the Arabs it dispossessed 26 years ago is a crime, a crime that has hugely exacerbated Middle East tensions. And while we are saying this we should say something else as well. There are people in the United States who seem to believe that any criticism of Israel is prima-facie evidence of anti-Semitism. As for name-callers of that stripe we may fairly invite them to drop dead.

AN IMBALANCE OF INFORMATION

The injustice done to the Arab world by American attitudes stems from an imbalance of information. Most of us learned about the great Jewish civilization of the ancient world from Bible lessons and schoolbooks. But how many of us were taught about the flowering of Arab culture and the rise of Islam some 1,300 years ago?

At its height the Arab empire stretched from northern Spain across North Africa into the heart of Asia. Inspired by the teachings of Islam, the Arabs produced some of the world's greatest art in their buildings (especially the mosques), book illustrations and bindings, textiles, metal objects, glassware, pottery, wood carvings, and molded plaster. They were the leaders in medicine and mathematics. Parts of the Arab world produced a rich literature and paintings of the highest quality.

Some years ago I was a guest in the home of a vice president of Morgan Guaranty Trust, a big New York bank that specializes in financial dealings with foreign governments. Several Arab businessmen were present. At one point during the evening one of the Arabs turned to me and asked: "Why is it that so many Americans think of Arabs only as sweaty riders of camels?"

The question, which was more a lament than a question, came to mind the other day when an Army veteran told me the following story.

During World War II the man was stationed in the Middle East. He was assigned to hunt down AWOL soldiers who often attempted to hide from the military police by dressing up in traditional Arab garb.

"Do you know how we used to tell who was a real Arab and who was an American deserter? We would watch the flies. When a fly would land on an American's face he would immediately brush it away. But the real Arabs would let flies crawl all over their faces and never bother to shoo them."

I was impressed by the story. It is exactly the kind of generalization that has haunted the Jews through the centuries. It is the kind of story ideal for promoting contempt for an entire people. It is the kind of story that is pure poison.

In Odessa in 1966 I met a young man who had just finished several years of engineering school in Russia. He was on his way home to become director of the electric company in Cairo. He said to me: "I like Americans. They mean so well. But their ignorance of the Arab world is dangerous—to us and to them."

THEIR ONLY WEAPON IS OIL

Well, the great days of Arab civilization are in the past. Now the Arab world is composed largely of very poor, underdeveloped countries that are struggling to catch up with the industrialized nations. Their only important weapon is oil. Should we wonder that they decided to use it when they felt their interests were being ignored, when they could see their brethren living in extreme misery because they were the flesh-and-blood victims of the establishment of Israel?

Henry Kissinger, the most spectacular diplomat of modern times, understands that in the Middle East both sides have a strong justification for their posture. He knows both sides have ample cause for fear and anger—no matter on which side of the scale he presses his thumb from time to time. It would be well if more of his countrymen were similarly aware.

The Israelis deserve a secure national home. The Arabs deserve a better break from American public opinion.

EDUCATION AT THE U.S. NAVAL ACADEMY

Mr. HATFIELD. Mr. President, today I wish to insert in the RECORD the following essay, "On the Inside Looking In," by James E. Schreiber and Chris R. Perrien, two graduating midshipmen at the U.S. Naval Academy at Annapolis. This essay won first place in the Naval Institute Midshipman Essay Contest last spring. The judges were comprised of Naval Academy faculty.

Although the Naval Institute normally publishes each year's winning essay in its monthly journal—Naval Institute Proceedings—this essay about the quality of education at the U.S. Naval Academy was considered "inapplicable" to its readers. Thus the Institute's Board of Control instead chose to publish the third place winner on a topic about the New England fishing industry

I feel this essay should be published as it is applicable not only to the Navy and its future officers but to the American people and the Congress as well. I am proud of such idealism and sincere desire to improve the quality of education at the Naval Academy—an education that costs the American taxpayer between $65,000 and $100,000 per graduate. The education of our future officers and citizens is important. No one should censor the students' right to speak their own mind on their educational process. This essay represents the individual perceptions of two gifted midshipmen. We can all learn from them. We should be proud of what they have to say. And we are delighted that the spirit of John Paul Jones is still alive and well in Annapolis.

I ask unanimous consent that the article, "On the Inside Looking In," be printed at this point in the RECORD.

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

ON THE INSIDE LOOKING IN

(By James E. Schreiber and Chris R. Perkins)

"It is by no means enough that an officer of the Navy be a capable mariner. He must be that, of course, but also a great deal more. He should be as well a gentleman of liberal education, refined manners, punctilious courtesy, and the nicest sense of personal honor. He should be the soul of tact, patience, justice, firmness, and charity."

—JOHN PAUL JONES.

These words of John Paul Jones are as true today as they were in the days of the colonial Navy in describing the characteristics of a good naval officer. Our Navy has always needed men of such caliber to man her ships. These qualifications are still demanded, but the environment in which these officers must be produced and function has changed radically. Today's Navy must ensure the continued production of such men. The Naval Academy, as the Navy's primary source of career officers, plays a vital role in the professional development of these men. The Academy is in danger of allowing itself to become outdistanced by the ever-increasing pace of social change. The inevitable result of this gap is the failure for further justification for the Academy's existence. Its mechanisms of personnel management are in danger of becoming as archaic as the *Bon*

Homme Richard would be in today's fleet. In taking time to examine the Naval Academy as an institution we feel that its structure needs to adapt in order to continue to produce men worthy of John Paul Jones' description.

We must ask ourselves if Academy structures, as presently constituted, really bridge the separation between a man and his ideals, or, in fact, present additional barriers to their attainment. The analogy of bridges and walls provides us with a ready means of analyzing many conceptual goals which the Academy sets. An aspect of the structure can stimulate a midshipman to interact intelligently with his surroundings, thus bridging thought and action; or it can repel him, thus walling him off from concepts he needs to understand. The walls are many, causing a midshipman to become alienated from society, from officers and enlisted men, from his peers, and from his profession. The same materials which build walls, however, can serve to build bridges.

The Naval Academy's great strength has always been its ability to simultaneously *educate* an individual while *training* him in the art of the naval profession. As a college the Academy sets the stage upon which a man molds his mental framework. Consciously or unconsciously, he develops a moral ethic and self-image that will hopefully possess the resiliency to endure a lifetime. During this period he must practice a mental discipline that will enable him to make confident decisions about his environment. He learns to effectively interact with people of divergent backgrounds in unrehearsed circumstances. These are the demands of an educated individual.

Additionally, within a framework of military discipline the Academy must be able to provide effective functional training. The profession needs the man who has the necessary expertise to do his job and the intellectual discipline to articulate and project his personality as a leader.

We feel the Naval Academy's perspective has become too task-oriented, critically neglecting the need for accommodating individual development. Greater concern has been given to the external image of the school rather than its internal composition. Training is allowed to dominate education. The individual is prostituted to the smooth functioning of a group which merely serves a decorative purpose. Individual submission for group benefit is the essence of military discipline, but within the specialized training environment of the Academy an individual's conception of his own value must be reinforced. The midshipman must feel that he has contributed to the group's realization of its function, and not that the group has manipulated him to that end. Walls have been constructed between the midshipmen and the fulfillment of our mission, diluting their enthusiasm for professional involvement.

Within the Brigade of Midshipmen there seems to be little perception of any concrete goals other than the positive maintenance of traditional behavior. The Academy appears to many as a discontinuous series of obstacles to be endured, and when possible, avoided, rather than a continuous opportunity for personal expansion and the development of professional skills. Young men enter the Academy with the necessary resources to become naval officers. It should be the purpose of the Academy structure to channel and translate these attributes into a sound foundation upon which effective careers can be built.

Constant criticism, lacking sensitivity and foundation, is analogous to indiscriminate saturation bombing. It sometimes strengthens the enemy's will to resist and his unwillingness to negotiate. Recognizing this, we do not intend to propose an itemized account of those areas of Academy life which are often the focal point of midshipman consternation. This is not to say such criticism is invalid, but rather we hope to probe deeper into these inconsistencies, and contribute to an atmosphere of mutual respect which promotes possible solutions. A system which can create and react, within itself, to constructive thought possesses the dynamic force which makes an institution pliable enough to endure inevitable change from without. We cannot be complacent with precedent nor defensive to criticism. Let us then investigate some fundamental features of the Academy. We will deal with the friction between dichotomous areas both of which must strike their balance within the Academy structure. Our purpose is not to be comprehensive, but rather, contentious, for contention leads to dialogue and dialogue to bridge-building.

The Naval Academy realizes it cannot complete the transformation of a candidate from civilian to sailor in a period of four years. It can merely provide its graduates with a common nautical background and attitudes to guide their future development. The indoctrination of a midshipman emphasizes the formation of certain character traits which the Academy feels are essential to this transition. A flaw lies in the fact that in implementing its training policies the Academy in many cases obscures its intentions. Just one effect of this obscureness is to cause many midshipmen to associate accountability merely with attendance at informations and not as a fundamental trait of a disciplined officer. In 1966, aboard the aircraft carrier USS Oriskany, the negligence of but two or her crew resulted in a fire that imperiled the ship and killed 44 men. The men had been unqualified to do the job and were unsupervised at the time, two situations a responsible officer would not have allowed to occur. A sense of accountability for one's actions is vital in preventing such occurrences. This serves to illustrate the serious consequences the lack of such a basic concept can have. It is vital that a midshipman be provided an appropriate atmosphere in which he can perceive this characteristic as more than just a nostalgic initiation to naval tradition.

The Academy attempts to impart an innate sense of many virtues organic to a good naval officer. Nebulous terms such as integrity and responsibility are used in justifying many Academy structures on philosophical grounds. Unfortunately the serious distortion which these structures introduce results in many midshipmen rejecting the arguments and sensing a poorly integrated overall philosophy. Thus the Academy defeats its own purpose. Its ideals are sound, but their implementation is poor. This partially stems from the fact that Academy structures are the result of years of modification with little consideration of their cumulative effect. The upshot of this is a disjointed set of regulations and precedents. The effect on midshipmen is a decidedly negative one. Few midshipmen feel as if they are a part of the Navy. Graduation is not viewed as a logical step from one phase of the professional pattern to another but as an induction into a distinct new way of life. Midshipmen are treated as neither enlisted man nor officer, save for appropriate conduct purposes. Our system places midshipmen in a kind of limbo in relation to the naval rank structure. It appears to lack sufficient correlation to fleet policies in terms of personal management, privileges, and procedures. The standards of the Academy should adhere more closely to the guidelines of the fleet in order not to distinguish the Academy as a separate service within the Navy.

Midshipmen are constantly reminded to conduct themselves as officers, yet are not granted many of the prerogatives of an enlisted man, notably in financial matters. Midshipmen should be categorized as one or the other, enlisted or officer, and treated accordingly. They could then shed their feelings of dissociation from both groups and identify more closely with them.

The dual role of the Academy as an educational and training institution often results in a confrontation between intellectualism and militarism. The two must appear in separate but well balanced proportions. It is not difficult to see how mutually antagonistic intellectualism and militarism can be. There can be no dispute that orders in battle must be unquestioningly obeyed, for when authority becomes the target of disbelief anarchy soon follows. It must also be apparent, however, that a rapidly changing world demands officers capable of rational thought to develop new doctrines and social forms. The answers to the Navy's drug and racial problems cannot be found in any personnel manual; they will come from officers with the capacity to empathize with and comprehend the roots of the problem. Coerce our officers to be unthinking organization men and the Navy will become a stagnant institution concerned only with its own perpetuation.

The Naval Academy product must combine militarism and intellectualism. Allow one to wall out the other and a vital dimension is lost. A blend of the two is essential. When military smartness seems for show only, and not a measure of pride; when midshipmen officers are chosen for their ability to follow every regulation rather than for their ability to arouse enthusiasm for the job; when officers view midshipmen as incapable of making significant decisions—then a feeling of frustration and impotence can only result and any good the system may try to do is vitiated.

The Academy must realize the danger of implementing its policies in a purely militaristic manner. Every action of a midshipman is specified to the letter without chance for debate. Men of the age group into which most midshipmen fall are in a questioning period of their lives as a fact of psychological maturation. To demand that they adhere to a predetermined doctrine is obstructive and perhaps destructive. Midshipmen should be allowed to further develop the abilities which gained them their original admission. The Academy structure seems to deny a midshipman the chance to assert himself for fear that he will fail. Learning is a process of trial and error. People do fail, but learn by such failure. To give a man a task along with a specific manner in which to do it reduces his position to one of a person following a recipe. The Academy must give the midshipmen free reign to manage their affairs and accept the possibility that they may fail.

Many midshipmen allow their creative talents to stagnate during their stay at the Academy. One need merely look at the generally poor quality of the student publications to see that many people who were formerly adept at this activity are not participating. The largest obstacle to the development of such abilities is the lack of sufficient time for their pursuit. The remedy is not the addition of a three-hour course in arts and crafts or shop skills, but a relaxation of rigid daily routine in order that the midshipmen can make time within the day for their interests. Midshipmen must be entrusted to budget their time effectively. Time to read, think, or create cannot be scheduled, but must be accommodated when one's mood is inclined to it. Provisions for more activities of a creative nature would encourage more men to develop their artistic talents. This is not to suggest the abandonment of physical development but rather a balance of the areas in which a midshipman may care to

develop himself. Instead of merely tolerating extracurricular activities the Academy should provide the time and encouragement for their development.

The Academy trains midshipmen how to deal with a defective gun mount or a high water boiler, but it is deficient in educating them to deal with the men who must maintain and repair the equipment. To anticipate the problems they will face in the fleet they must be attuned to the crosscurrents shaping our society. Were a man chained in a cave and his only images of the world were seen as shadows on the wall we could not hope for his conceptualization of reality to be accurate. While midshipmen wear no chains, they often rely on shadows for their experience. Our military, deriving its manpower as it does, must reflect the society it serves. A familiarization with society's problems will enhance their capabilities for relieving their disruptive effects in the fleet. Men are human beings, not pieces of machinery; it takes a subtler technique to keep them working. Good performance requires a just measure of discipline and understanding. The Naval Academy fails in this respect, that if a graduate treated our machinery the way the Academy conditions him to treat his men we would soon have a fleet of derelict ships.

At present the academy tends to wall midshipmen off from society. Aside from restricting them physically from outside contacts, it programs them so that even when such contact is possible it is not fruitful. The harsh class distinction prevalent in many companies causes midshipmen to stereotype people and ideas excessively. Many are too willing to accept mediocrity without question. The low tolerance for unconventional personalities and ideas leads to a blandness of character within the Brigade.

People are pressured officially and by unusually strong peer pressure to "fit the mold" of a midshipman. Such pressure denies the individual the opportunity to meet people objectively and take advantage of the opportunity to observe different modes of social behavior. Even many of the most perceptive midshipmen acquiesce in this area. Lack of contact with the changes in the culture creates circumstances wherein the Naval Academy becomes the only area of concern. Midshipmen become their own breed. Situated as it is, the Naval Academy has a plethora of cultural activities available for midshipman patronage. Midshipmen should be encouraged to utilize these facilities as a means of broadening their social outlook.

The opportunity for interaction with other social groups must be encouraged. The prevailing social trend of disaffection with the military will cause some groups to reject socializing. If midshipmen attempt contact with these then both have profited by the experience. Initiation of cooperative programs with local universities would aid the development of more worldly graduates.

A relaxation in the sharp delineation between the upper three classes could produce a cohesive, articulate brigade. Partial equalization of privileges between classes and the use of a general midshipman collar device, with the exception of midshipman officers, would encourage this. Midshipmen would be forced to view each other as people rather than as superiors and subordinates. Such ideas fly in the face of longstanding tradition, but in light of the Academy's mission they deserve consideration.

Further deliberation on the Academy's part is required to define the type of officer needed in the fleet. The leadership environment into which today's Academy graduates will be injected is one of the most complex imaginable. Recent disturbances in the Navy have been attributed to a lack of strong leadership on the part of many junior officers. With the development of the all-volunteer military, acting in a period of decreased public support, such deficiencies are alarming. The primary characteristic differentiating the Naval Academy from a civilian institution is its concern for developing men as leaders. Developing a man's leadership style is a crucial factor in producing a good officer. In light of this, the quality of leadership midshipmen are exposed to, and will naturally assimilate, becomes of paramount importance.

The Academy has produced a variety of leaders, each pursuing one of two leadership styles: offensive or defensive. A defensive leader has a "me *against* the world" attitude while the offensive leader is of a "me *and* the world" view. Defensive leaders deal with matters *ex post facto*, allowing themselves to be insulated from the real problems in their organization and viewing them as unchangeable.

Either by design or ignorance they do not confront a problem until it can no longer be avoided. Offensive leaders are able to recognize potential problem areas and are willing to actively pursue solutions, relying upon disciplinary action only as a final resort. They use standard doctrine as a guideline for the achievement of their mission rather than as a set of rules intended to solve every leadership problem. The defensive leader is like a housepainter, painting because the exterior is cracked and peeling. He declines personal involvement with a problem situation out of fear of failure, lack of ability, or apathy. The offensive leader is an artist, using his paint to achieve a desired effect, shaping a solution out of personal involvement. The defensive style is the safer of the two, but it is only remembered as long as the paint lasts. The offensive style, when successful, is more rewarding and remembered long after its time.

Currently, the Brigade is exposed to defensive leadership style. Punishment is assigned for an infraction of the regulations with little consideration for the cause of such behavior. A note to see a company officer more often than not indicates an impending reprimand. Officers are portrayed not as advisors for the professional development of the midshipmen, but as policemen enforcing the regulations on untrustworthy juveniles.

The situation can be changed. Midshipmen can be encouraged to use their initiative in the solution of company problems. The result would be officers employing offensive leadership styles, seeking to solve, not suppress, problems before they reached the critical stage. The lines of communication necessary for responsive leadership need to be opened. An "officers' call" for stripers during morning quarters, as aboard ship, would allow problems to be aired before they became serious. Monthly "company forums" in which company officers and interested midshipmen meet would allow officers to explain their goals and policies and for the midshipmen to raise points of dissatisfaction. This is not advocacy of the "town meeting" approach so seriously criticized after the USS Constellation disturbance, but rather a two-way flow of ideas in order for all to better understand their leadership positions.

More authority to make significant policy decisions should be granted to the midshipman leadership organization. Companies could be made more autonomous, along the lines of a shipboard department. Company commanders should be able to make positive changes in the administration of their units and not be used as puppets for negative leadership. The conduct system presents a logical point to initiate a reapportionment of authority. The present structure of the conduct system acts only as a demotivating influence.

The system does not allow an accused midshipman an adequate opportunity to defend himself when accused. He thus feels that he is the victim of an uncaring system designed solely to keep him in constant jeopardy of punishment. Midshipmen are liable for punishment always, but seldom for reward. We have a demerit system without the balance of a merit system. A more constructive approach would be to administer conduct along the lines of justice in the fleet. A midshipman charged for an offense would appear before a "company mast" and would be judged by his company commander. The accuser and witnesses would be summoned as necessary. Noteworthy achievements of individuals could be processed in like manner with appropriate rewards. If under such a system an accused midshipman is made to see the reason for a rule and why he must adhere to it, far more than the mere maintenance of order has been accomplished. Such an alteration would reinstate authority to its proper place.

Equally as important as the authority attached to a position of leadership is the type of man filling that position. The selection of midshipmen officers is a constant subject for debate and criticism within the brigade. Dr. Frederick Herzberg, a well-known figure in the management field, has said that an organization "defines its members as it needs them to be." The Naval Academy defines its desired midshipman officer as it needs him to be in order for the system to function in a predictable manner. A midshipman willing to follow the prescribed route will rise to a position of responsibility. The definition calls for defensive leadership—following regulations to the letter, accepting middle-of-the-road positions to appease dissident factions, and never taking the initiative to implement an untried or unproven program. In an attempt to find the "offensive" leaders within the brigade we propose a new idea. At present superiors evaluate their subordinates' performance. A training environment such as this it seems justifiable to accept the evaluation of the led as the measure of the leader. Underclassmen ought to be allowed a constructive evaluation of the leadership demonstrated by their immediate upperclassmen. Such evaluations should be weighed heavily in any assessment of a man's abilities. Only by doing this can we gain an accurate picture of a man's leadership potential. A man should be made aware of his weaknesses and failures now, and not when he reaches the fleet and his shortcomings become far more serious. Such a system is more demanding of all concerned, but adopting it could transform the character of leadership training at the Naval Academy.

Leadership ability is but one facet of the more encompassing term professionalism. The Navy today finds itself in an environment where its capabilities for protecting America's freedom of the sea are being questioned.

The rapidly expanding Soviet fleet, threatening to outshadow our own, demands the highest standards of professionalism among our officers if our Navy is to continue as a viable means of projecting our national interests. Where we lack quantity we must compensate with quality. "Professionalism is a way of life" is an often used cliché at the Academy, but the wisdom of the statement gives it validity. The Navy needs professionals in the truest sense of the word, men dedicated to their work, achieving self satisfaction through total involvement. An officer must have a deep personal concern for his profession if he is to become adept at it. He must actively seek out and understand new developments and trends within the Navy. He must possess a sense of the Navy's value in today's political situation. Such professionalism is self imposed, for no amount of coercion can force a man to become a dedicated officer. We cannot impress professionalism.

Impressed professionalism, however, seems to be the type being cultivated at the Academy today. Many future naval officers see "professionalism" as a euphemism for seemingly petty examinations and impractical courses. This attitude is brought about mainly by the midshipman's lack of real shipboard experience. He lacks a background against which to put his training in perspective. It is presently possible for a midshipman to pass through his four years at the Academy while spending only 2 or 3 months at sea. A special newsletter for midshipmen relating to them current events within the Navy is suggested as one solution, but it can only serve a limited purpose. The only effective way to make a midshipman a part of the Navy is to do just that, send him to sea more often. Thus we look back to earlier times when midshipmen spent their entire careers aboard a ship until they were ready to become officers. The modern day solution would be to adopt a trimester system similar to that by many other colleges. Midshipmen would alternate their academic semesters at the Academy with professional semesters in the fleet. A certain portion of the brigade would be assigned aboard ships of the fleet at all times in regular billets. Courses such as engineering and weapons could be learned first hand with immediate application for studied material. The advantages accruing from the adoption of such a system are immediately obvious. Professionalism would lose its "dirty word" connotation and become a source of pride and satisfaction. The schedules of a midshipman regarding leave and liberty would be brought more into line with those he would experience as an officer. Day to day association with the men manning our ships would provide first hand knowledge of problems facing the Navy and allow leadership courses at the Academy to assume a new dimension. Implementation of such a system would be a stormy process, but in the end we feel it would result in a vastly superior Naval Academy and a graduate fully prepared to assume his responsibilities as a naval officer.

In all probability the Naval Academy will continue to exist even if it fails to produce a significant number of acceptable naval officers. The Academy has a definite role in providing a showplace to project the pride and heritage of the Navy; but if it does become merely a self perpetuating body of routine, tradition, and facade with no real concern for the midshipmen then its existence has become incongruous. We can obtain officers with the professional competency to run the fleet from other programs such as OCS or ROTC. It should be the Academy's forte that it produces, in the long run, officers who have the versatility and adaptability to provide the Navy with dynamic leadership.

The Naval Academy obtains the raw materials to build men by admitting a cross-section of America's finest high school scholars and athletes. Though these young men range in political, economic, and social background they are all people accustomed to some degree of success and self-satisfaction. The Academy attracts, in a phrase, the "best and brightest" the nation has to offer. Unfortunately, from a midshipman's vantage point, it seems that many of their most promising contemporaries never graduate, and those that do, remain outstanding in spite of, rather than because of, the system. The Academy keeps the mediocre, hopes to lose the worst, and allows the best to escape.

The reasons commonly given for resigning are as varied as the individuals themselves. Some lose their desire for a career in the military based upon the experience gained during plebe summer and youngster cruise. Others do not feel that they are receiving the quality college education they felt had been promised. None deny the future an Academy ring assures them, but they decide that its price is too dear. They feel they are not realizing their fullest potential and that the Academy is stifling their growth.

Current retention statistics are misleading in justifying the Academy's apparent popularity. The spiraling costs of education will always be a factor in the retention of midshipmen. Hometown prestige, parental pressure, or social inertia prevents additional resignations. Most important, many midshipmen will overlook the insufficiencies and disadvantages of the Academy in anticipation of finding satisfaction in the fleet. Such reasons do not contribute to a healthy attitude within the brigade. Midshipmen should feel that they are building a satisfying life style for themselves. If the Academy is content to shrug its shoulders and bid goodbye to those it has disillusioned without ascertaining the reasons for their dissatisfaction then it had better prepare itself for a future in obscurity.

The possibility for a bright future exists. The Academy possesses some of the finest academic and athletic facilities in the nation. Despite its problems it remains a fine school, but it is in analyzing the realization of its purpose to its potential that shortcomings are apparent.

Only when the Academy decides to seriously come to grips with its problems, to find the cancer and prescribe a cure, will it graduate effective officers—mature, reliable individuals prepared to accept the challenge of a naval career. It cannot content itself with producing fragmented specialists and leaving the man of liberal background in the civilian world. It must strive for perfection but not expect complete fulfillment. Setbacks and conflicts are acceptable and, when properly understood, advantageous. It is a question of accepting the challenge and taking the risks.

"He who will not risk cannot win."

—JOHN PAUL JONES.

WITHDRAWAL OF MORE PUBLIC LANDS FROM MINERAL ENTRY

Mr. BIBLE. Mr. President, for some time I have been concerned by the continuing actions of the Department of the Interior in withdrawing more and more public lands from mineral entry. In this context, I have recently received a letter from one of the most knowledgeable individuals in the West expressing the same concern, Dr. Vernon E. Scheid, dean emeritus, the Mackay School of Mines, University of Nevada at Reno. He is former director of the Nevada Bureau of Mines and Geology, as well as former chairman and director of the Nevada Oil and Gas Conservation Commission. Dr. Scheid points out that through publication in the Federal Register, the Department of the Interior has announced proposals to withdraw over 1.6 million acres of land in the State of Nevada from mining location, while the Forest Service is proposing additional regulations and restrictions on millions of acres throughout the country which are so oppressive that, in effect, they will prohibit the operation of the mining law in these lands. The doctor points out that these actions are the same as scores of similar actions that have been going on for several decades and they are nibbling America to death. Dr. Scheid goes on to ask the Congress to stop these continuing withdrawals that infringe on America's ability to adequately protect itself in the future.

About the same time Secretary Morton delivered a speech before the Illinois Chamber of Commerce. The news release attached to it states:

Secretary of the Interior, Rogers C. B. Morton, today called for a new national minerals policy which would reduce United States dependence on important minerals and thwart a possible cutoff of supplies by an international minerals cartel. The heart of the new policy he said should be a discovery of new domestic deposits of minerals and better recovery from known deposits.

To both of these objectives, I wholeheartedly agree. However, the release goes on to say—

President Nixon's administration has proposed legislation to update procedures and policies for the management, protection, development and sale of the natural resource lands and for other purposes.

These measures, in my opinion, would not accomplish the Secretary's objective but would place such serious restrictions on mineral discovery and locations as to eliminate the small miner and prospector from his historic role of accounting for the bulk of the Nation's mineral discoveries. I would urge my colleagues to read carefully the letter to the Nevada congressional delegation by my good friend, Vernon Scheid.

I ask unanimous consent, Mr. President, that the Scheid letter be printed in the RECORD.

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

MACKAY SCHOOL OF MINES,
UNIVERSITY OF NEVADA,
Reno, Nev., March 27, 1974.

An Open Letter To: The Honorable Members of the Nevada Congressional Delegation: Senator Alan Bible, Senator Howard W. Cannon, and Representative David G. Towell.

GENTLEMEN: Attached to this letter are copies of the first page of two official documents issued by the U.S. Bureau of Land Management (USBLM) (Federal Register, vol. 39, no. 39, p. 7474, Tuesday, Feb. 26, 1974) and the U.S. Forest Service (USFS) (Federal Register, vol. 38, no. 243, p. 34817, Wednesday, Dec. 19, 1973). In these documents the USBLM and the USFS announce their proposals to withdraw or to place prohibitive restrictions upon major portions of the U.S. Public Domain, so as to prevent a legally valid and time-honored public use of these lands.

The USBLM proposes to withdraw almost 1,600,000 acres of land in southern Nevada from mining location under existing mining laws. The USFS is proposing additional regulations and restrictions on 140,000,000 acres which are so oppressive that, in effect, they will prohibit mining on these lands. These actions are but two of scores of similar actions that have been going on for two or three decades and that are nibbling America to death: 10,000 acres here, 1,000,000 acres there. One might almost think it is a deliberate attempt to gradually eliminate mining from all federal land so that America becomes completely dependent upon foreign sources for its minerals!

Those who propose and support such withdrawals and restrictions may do so with the best of intentions, but they generally lack knowledge of the need for mineral materials. They have failed to apply the nationally accepted concept of "multiple use" of public lands, and in so doing they endanger the future security of America. Yet this is done in the face of an impending national "Mineral Crisis"! Have they learned nothing from the present "Energy Crisis", about which we were warned periodically for the past two decades?

The almost 1,600,000 acres, which the

USBLM plans to withdraw from mineral activity, is approximately 2,500 square miles, and the 140,000,000 acres, that the USFS is placing under impossible restrictions, amounts to about 220,000 square miles. The "Withdrawers", the "Restricters", and their supporters have said that these are small prices to pay to preserve the land for recreation and related activities. They ignore the fact that multiple use will produce an acceptable environment while allowing the land to be used for recreation, wildlife, necessary mining, etc., and when the mining is over, the land is reclaimed for other uses.

And is it such a small price? 2,500 square miles is larger than the entire state of Delaware; it is more than two times the size of Rhode Island; it is equal to one-half of Connecticut! 2,220,000 square miles is a tremendous area. It equals the total area of about 14 states: all of Rhode Island, Delaware, Connecticut, Hawaii, New Jersey, Massachusetts, New Hampshire, Vermont, Maryland, West Virginia, South Carolina, Maine, Indiana added together; plus more than three-fourths of Kentucky! This is a small price? The lands that have been withdrawn or placed under unworkable restrictions in recent decades, plus the land of these two proposals, equals about one-half of America's total public land! When will it end? We continue to weaken ourselves until some day, having become too dependent upon unreliable foreign sources and unable to mine and supply our country with vital industrial and defense minerals, we will be powerless to defend ourselves in case of a national military emergency.

To justify the withdrawals and restrictions, we are told constantly that no mineral deposits exist beneath those lands. Who says so—it must be some ethereal seer or supernatural crystal-gazer; for no man is capable, with our present knowledge, of saying that minerals for the future may not exist beneath many of the lands that have been withdrawn. History abounds with many instances when man through study, exploration, and deep drilling has found valuable mineral deposits; where others, in times past, have said they did not exist!

Among the many natural resources, the occurrence and existence of minerals and mineral materials is unique. They exist at specific locations, where nature put them. They cannot be transferred to other locations. They are non-renewable and cannot be grown by man. Thus, they must be discovered and developed where they occur. Therefore, in order to protect and safeguard the future national security and well-being of the United States of America, all lands under federal government control should remain open for all future time to mineral entry, prospecting, development, and production.

Our "Withdrawers" and Restricters" will say, "Ah, but these lands can be opened up very quickly by an Act of Congress in an emergency". This again demonstrates their lack of knowledge and understanding of mining and mineral production. Assuming rapid action on the part of Congress; how long will it take to explore and discover a needed mineral deposit—one year, twenty years? Even after having found such a deposit, it will take 6 to 15 years to develop the deposit and start producing. By that time the emergency is over and America is lost!

The United States cannot become completely self sufficient in mineral supplies, and it probably should not try to in the internationally minded world of today. However, we should not permit ourselves to become strategically dependent on unreliable foreign sources for the materials necessary to our security and economic life. If, however, we continue to withdraw and restrict our lands, we certainly will become dependent on foreign sources; which can be stopped on short notice and leave us vulnerable to foreign attack—witness the position of certain foreign nations in the present energy situation!

Is there no one in Congress to stop these continuing withdrawals? Those who fight against them win one small battle and the withdrawal of one small parcel of land is prevented, but next month or next year another area is withdrawn; for those who wish to see America remain free and our lands open are not always at hand to fight, or have been worn down by the constant battle against the well-intentioned federal workers, who regretfully are uninformed in mining but who in all sincerity think they are helping America. Surely there is someone in Congress who will attempt to reverse this suicidal trend. Someone who will present legislation to reexamine all withdrawn and highly restricted lands, to compel organizations such as the USBLM and the USFS to have their proposals reviewed and approved by U.S. agencies knowledgeable in mining; such as, the U.S. Bureau of Mines and the U.S. Geological Survey; before they are presented to the public for hearings and opinions. We must keep our lands open to supply our country with its necessary critical and strategic minerals.

Slowly but surely these never ending withdrawals and restrictions are destroying America's ability to protect itself in the future. I urge you, the Congressmen from Nevada and your colleagues in Congress to rescue your country, to reverse this disease that eats at the life of America before it is too late.

Sincerely yours,

VERNON E. SCHEID,
Former Director, Nevada Bureau of Mines and Geology, Former Chairman and Director, Nevada Oil and Gas Conservation Commission, Dean Emeritus, Mackay School of Mines, University of Nevada.

Bureau of Land Management

[N-219]

NEVADA

Proposed Withdrawal of Desert National Wildlife Range From Mineral Entry

FEBRUARY 15, 1974.

A request to withdraw the lands described below from location under the mining laws, 30 U.S.C. Ch. 2, but not from leasing under the mineral leasing laws, has been filed by the Bureau of Sport Fisheries and Wildlife. The lands involved are withdrawn and reserved from appropriation under the public land laws as the Desert National Wildlife Range by Public Land Order 4079 of August 31, 1966.

The withdrawal of the lands from the mining laws will further protect the area which is set aside for protection, enhancement and maintenance of wildlife resources, including bighorn sheep. Disturbance of the range by prospecting and/or mining activity cannot be tolerated in an area where wildlife survival depends on already sparse water and forage supplies.

For a period until March 28, 1974, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 300 Booth Street, Reno, Nevada 89502. The Department's regulations (43 CFR 2351.4(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

MOUNT DIABLO MERIDIAN, NEVADA

T. 16 S., R. 53 E.,
  Sec. 10, E½;
  Secs. 11, 12 and 13;
  Sec. 14, E½;
  Sec. 24.
T. 15 S., R. 59 E.
T. 16 S., R. 59 E.,
  Secs. 1 to 30, inclusive;
  Sec. 31, NE¼;
  Secs. 32 to 36, inclusive.
T. 17 S., R. 59 F.,
  Secs. 1 to 4, inclusive;
  Sec. 5, E½;
  Sec. 7, SW¼, E½;
  Secs. 8 to 18, inclusive;
  Secs. 21 to 23, inclusive;
  Secs. 33 to 36, inclusive.
Tps. 9 to 12, inclusive, 12½, and 13 to 15, inclusive, 16 and 17 S., R. 60 E.
T. 13 S., R. 60 E.,
  Secs. 1 to 18, inclusive;
  Secs. 22, 23, 24;
  Sec. 25, N½;
  Sec. 26, N½;
  Sec. 27, N½.
Tps. 9 to 12, inclusive, 12½, and 13 to 16, inclusive, 17 and 18 S., R. 61 E.
T. 9 S., R. 62 E.,
  Sec. 4, S½S½;
  Sec. 5, NW¼SW¼, S½S½;
  Sec. 6, SE¼NE¼, W½NE¼, NW¼, S½;
  Secs. 7, 8 and 9;
  Sec. 10, W½E½, W½;
  Sec. 15, W½E½, W½;
  Secs. 16 to 21, inclusive;
  Sec. 22, W½E½, W½;
  Sec. 27, W½E½, W½;
  Secs. 28 to 33, inclusive;
  Sec. 34, W½E½, W½.
T. 10 S., R, 62 E.,
  Secs. 3 to 10, inclusive;
  Sec. 14, SE¼NW¼, W½NW¼, SW¼;
  Secs. 15 to 22, inclusive;
  Sec. 23, W½, W½SE¼;
  Secs. 26 to 35, inclusive;
  Sec. 36, W½W½.
T. 11 S., R, 62 E.,
  Sec. 1, W½W½;
  Secs. 2 to 36, inclusive.
Tps. 12, 12½, 13, 14, 15, 16 and 17 S., R. 62 E.
T. 18 S., R. 62 E.,
  Sec. 1 to 31, incl.
Tps. 9 to 13, incl., 14 and 15 S., R. 54 E., located within Lincoln and Clark Counties.
Tps. 9, 10, 11, 12, 13, 14, 15 S., R. 55 E.
Tps. 9, 10, 11, 12, 13, 14 and 15 S., R. 35½ E.
Tps. 9, 10, 11, 12, 13, 14 and 15 S., R. 56 E.
Tps. 9, 10, 11, 12, 13, 14 and 15 S., R. 57 E.,
T. 16 S., R. 57 E.,
  Secs. 1 to 9, incl.;
Tps. 9, 10, 11, 12, 13, 14 and 15 S., R. 58 E.
T. 16 S., R. 58 E.,
  Secs. 1 to 9, incl.;
  Sec. 10, W½;
  Sec. 14, W½;
  Secs. 16 to 23, incl.;
  Secs. 25, 26, 27, 34, 35 and 36.
Tps. 9, 10, 11, 12, 13 and 14 S., R. 59 E.
T. 16 S., R. 59 E.,
  Sec. 31, W½SE¼.
T. 17 S., R. 59 E.,
  Sec. 5, W½;
  Sec. 6;
  Sec. 7, NW¼.
T. 18 S., R. 62 E.,
  Secs. 32 to 36, incl.

The areas described aggregate approximately 1,583,000 acres in Clark and Lincoln Counties.

ERNEST T. GROVER,
Acting Chief,
Division of Technical Services.

[FR Doc. 74-4474 Filed 2-25-74; 8:45 am]

PROPOSED RULES

Forest Service

(36 CFR Parts 251, 252 and 293)

MINERAL RESOURCES ON NATIONAL FORESTS

Use Under U.S. Mining Laws

The Forest Service proposes to amend Parts 251 and 293, and add a new Part 252 to Chapter II, Title 33 of the Code of Federal Regulations. The new and revised regulations proposed will apply to prospecting, discovery, exploration, development, mining, and processing operations under the United States mining laws of May 10, 1872. They will apply to approximately 140 million acres that are open to location and entry under the mining laws within the National Forest System.

Increasing demand for minerals is causing an intensive search for new resources. Most easily accessible deposits have been found and it will be necessary to mine from greater depths and from larger, low grade near-surface deposits. Regulation of surface use of National Forest lands has not been adequate to achieve uniform protection of the environment. In order to meet environmental responsibilities, insure future productivity of renewable Forest resources, and more clearly define the rights and obligations of mineral operators; it is appropriate to provide new mining regulations to meet these objectives. Primary authority for these regulations is found in the Organic Administration Act of 1897, which provides that persons entering the National Forests for purposes of prospecting, locating, and developing mineral resources must comply with the rules and regulations covering the National Forests.

All persons who wish to submit written data, views, or objections pertaining to the proposed amendment may do so by submitting them to the U.S. Department of Agriculture, Forest Service, Division of Watershed Management, Rosslyn Plaza E, Room 810, 1621 North Kent Street, Arlington, Virginia 22200, by February 15, 1974.

All written submissions made pursuant to notice will be available for public inspection in the Division of Watershed Management during regular business hours (7 CFR 1.27 (b)).

The proposed amendment of Chapter II follows.

PART 251—LAND USES

§ 251.12 [Revoked]

1. Part 251 is amended by revoking § 251.12.

2. A new Part 252 is added to read as follows:

PART 252—MINERALS

Sec.

252.1 Authority.
252.2 Purpose.
252.3 Scope.
252.4 Definitions.
252.5 Use of mining claims, surface resources.
252.6 Plan of operations—requirements.
252.7 Plan of operations—approval.
252.8 Availability of information to the public.
252.9 Inspection, noncompliance.
252.10 Requirements for environmental protection.
252.11 Maintenance during operations, public safety.
252.12 Cessation of operations, removal of structures and equipment.
252.13 Prevention and control of fire.
252.14 Access.
252.15 Performance bonds.
252.16 Appeals.
252.17 Operations within National Forest Wilderness.

§ 252.1 Authority.

Pursuant to the Act of June 4, 1897 (30 Stat. 85, 86, as amended; 16 U.S.C. 478, 551), persons entering National Forests for the purpose of prospecting, locating and developing mineral resources must comply with the rules and regulations covering National Forests. Section 4 of the Act of July 23, 1955 (69 Stat. 368, 30 U.S.C. 612), provides that mining claims subject to the provisions of that Act are to be used only for prospecting, mining, or processing operations and uses reasonably incident thereto, and that rights under such claims are subject to the right of the United States to manage and dispose of the vegetative surface resources and to manage other surface resources thereof. The Multiple Use-Sustained Yield Act of June 12, 1960 (70 Stat. 215, 16 U.S.C. 528–531), authorizes and directs the Secretary of Agriculture to develop and administer the renewable natural resources of the National Forests for multiple use and sustained yield of their several products and services for outdoor recreation, range, timber, watershed and wildlife and fish purposes. Section 102 of the National Environmental Policy Act of 1969 (83 Stat. 853, 42 U.S.C. 4332), authorizes and directs that, to the fullest extent possible, the policies, regulations, and laws of the United States shall be interpreted and administered in accordance with the policies of the Act.

§ 252.2 Purpose.

It is the purpose of these regulations to set forth rules and procedures through which use of the surface of National Forest lands in connection with operations authorized by the United States mining laws shall be conducted so as to minimize adverse environmental impacts on National Forest resources.

§ 252.3 Scope.

These regulations apply to operations under the United States mining laws of May 10, 1872, as amended (30 U.S.C. 22 et seq.) on all National Forest land under the jurisdiction of the Secretary of Agriculture to which such laws are applicable: *Provided, however,* That any area of National Forest lands covered by a special Act of Congress (16 U.S.C. 482a–482q) is subject to the provisions of this part and the provisions of the special act, and in the case of conflict the provisions of the special act shall apply.

ANNOUNCEMENT OF POSITION ON VOTE

Mr. CLARK. Mr. President, I was necessarily absent from the Senate Tuesday, April 30. Had I been present I would have voted "nay" on the Abourezk amendment to S. 354 (rollcall No. 158, leg.).

TAX REFORM LEGISLATION

Mr. HUGH SCOTT. Mr. President, a revealing article prepared by David S. Broder for the Washington Post Writers Group lays before us a scenario on tax reform legislation coming before the Senate this spring. In view of imminent debate on this heady issue, 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:

ARTICLE FOR THE WASHINGTON POST WRITERS GROUP

(By David S. Broder)

WASHINGTON—Like flowers that bloom in the spring, tra-la, the Democrats are bursting with plans to spare you from the burden of taxes. Their biennial tax reform ballet is here—as spectacular, and predictable, in its way, as lilac time in the capital.

Say what you will about the Democrats—they do know how to manage these bits of political pageantry. About a month ahead of show time, the Congressional Joint Economic Committee, Maestros Patman and Proxmire conducting, will whip up the overture, with a fanfare of brass in their annual report for "elimination of various tax preferences which favor the highest income families and a reform of the regressive payroll tax."

Such long-time favorite performers as Walter Heller and Arthur Okun are provided suitable Capitol Hill stages from which to serenade the virtues of a bit a stimulus for the economy and a jolt of equity for the old Internal Revenue Code.

By April 9, the stage is set for Speaker Albert to do one of his infrequent solo numbers—a formal statement and press conference on the economy and taxes.

Two days later, Sen. Edmund S. Muskie arranges a corps de ballet exercise for more than a dozen of his Democratic colleagues (and a handful of willing Republican handmaidens, many of them up for reelection this year), who fill the Senate stage with bassoon blasts at the unfairness of the tax laws they and their predecessors wrote.

On the weekend of the income tax deadline, a pair of Brookings Institution scholars, Joseph A. Pechman and Benjamin A. Okner, conveniently chime in with a study showing that in the U.S. tax system, the poor man is privileged to pay just as steeply as the rich, which is not exactly what the civics texts say.

Finally, on Deadline Day itself, none other than the master of the 1972 Democratic Tax Revels, George McGovern, announces that "he will shortly introduce a comprehensive tax reform bill patterned after the tax proposals he outlined during the 1972 presidential race."

Since McGovern has spent most of the last two years denying to his South Dakota constituents that he ever heard of the fellow by the same name who ran for President in 1972, his unpacking a proposal from that campaign kit is evidence that something big is afoot.

And it is. Encouraged by Mr. Nixon's personal tax troubles and the signs of voter revolt in the special elections, the Democrats really are about to revive the issue that looked so promising to so many of them in the 1972 spring primaries—the broadly shared feeling among American voters that they are being rooked on their taxes.

It's a good issue for the Democrats. Unlike so many others, it does not set them cursing each other. And it addresses itself to a genuine public concern, a sense of unfairness which Pechman and Okner, in their little book, "Who Bears the Tax Burden?," say is based on a genuine grievance with the lack of progressivity in the overall tax structure.

Among those who can taste the political succulence of the tax issue are those prospective 1976 rivals, Ted Kennedy and Walter Mondale. They happen to be the principal sponsors of the major alternative tax proposals the Senate will consider shortly after its return to work this week. Both want to cut the taxes of low and moderate-income workers, as a stimulus to what they see as a lagging economy.

They have different methods for doing so. And their efforts to attach one plan or the other on HR 8127, the innocuous tariff bill on certain ship repair equipment which Sen. Russell Long has served up as a vehicle for this exercise, will offer a polite preview of what may be a more serious competition two years hence.

Later on, impeachment permitting, the Democrats may attempt more ambitious tax reforms, building on the energy legislation, in which the House Ways and Means Committee has already taken a sizable bite out of the oil depletion allowance.

The chairman of that august committee,

the redoubtable Wilbur Mills, is in a mood to play some tax law politics himself. He is busy defending his committee jurisdiction from a reform proposal which would strip him of control of health care and trade legislation.

Eager for allies in the Democratic caucus, Mills may well decide not to throw his body in front of the tax-reform express. In that case, the Democrats' baby may well wind up, as everything else seems to nowadays, on Mr. Nixon's doorstep.

The Democrats would dearly love to confront that gentleman with the prospect of having to veto a tax cut and/or tax reform bill just at the time he will be appealing to the public to help save him from impeachment.

It should be quite a show.

THE EISENHOWER CONSORTIUM

Mr. MONTOYA. Mr. President, the Eisenhower Consortium for Western Environmental Forestry Research is an organization made up of nine universities in the Rocky Mountain West and the Rocky Mountain Forest and Range Experiment Station in Fort Collins, Colo. Mr. Paul H. Silverman, the vice president for research and graduate affairs at the University of New Mexico, one of the charter members in the consortium, has recently sent me material pertaining to the work of the consortium.

So that my colleagues may appreciate the scope and the importance of the work being carried out under the auspices of the consortium, I ask unanimous consent that the new pamphlet entitled "Eisenhower Consortium for Western Environmental Forestry Research," and the paper entitled "A Program of Western Environmental Forestry Research" be printed in the RECORD.

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

EISENHOWER CONSORTIUM FOR WESTERN ENVIRONMENTAL FORESTRY RESEARCH

(Seeking to understand relationships between man and his open-space environment.)

THE SITUATION

A hundred years ago, settlers and transients swept West, seeking homes and fortunes. Their impacts on the environment were unplanned, unregulated. They cut trees, mined minerals, hunted wildlife, and their livestock grazed the ranges. Parts of the West are still recovering from that first westward migration.

Now a new and different wave of "settlers and transients" is surging into the central and southern Rocky Mountains and adjacent High Plains. They come as home seekers and vacationers. They differ from their predecessors in that they have enough money to reinvest part of it in pleasure—using the natural environment for personal enjoyment. So many people are making homes or vacationing in this region that their activities endanger the very open-space environment they came West to enjoy. Nature needs some well-planned help to cope with this second wave.

WHAT CAN BE DONE?

A key to dealing with open-space problems created by concentrated use is knowledge—of the ecologic consequences of use, of the ability of nature to absorb the effects of use, and of the degree to which demands for different levels and kinds of use can be satisfied.

Ten western research institutions have joined forces to fill some of these critical knowledge gaps. Nine universities and the Rocky Mountain Forest and Range Experiment Station (USDA Forest Service) have formed the Eisenhower Consortium for Western Environmental Forestry Research.

The Eisenhower Consortium pools a broad spectrum of research talent and expertise to find solutions where man-environment problems are most urgent in the West: the central and southern Rocky Mountain region and associated High Plains. It selects problems, establishes priorities, formulates research programs, solicits research proposals, and channels Forest Service and other research funds to member universities to solve identified problems.

CONSORTIUM GOALS AND PLANS

The goals of this consortium are to: (1) increase understanding of the interactions between people and the environment; and (2) develop methods to provide for the needs and wants of increasing permanent and transient populations while maintaining, and enhancing where possible, the attractive features of the environment.

The Consortium makes its findings available to resource planners and managers—the people who guide resource allocation and use, and make on-the-ground decisions. These planners and managers need more sound information than they now have if they are to make decisions that will perpetuate clean water, beautiful surroundings, the harvest of forest and range resources, peace and quiet, space to be alone.

The intent of the Consortium is to provide commissions, planning boards and agency administrators with facts to help them chart coordinated, environmentally sound open-space planning and development programs for public and private lands.

CONSORTIUM MEMBERS

Arizona State University, Tempe, Arizona.
University of Arizona, Tucson, Arizona.
Northern Arizona University, Flagstaff, Arizona.
Colorado State University, Fort Collins, Colorado.
University of Colorado, Boulder, Colorado.
New Mexico State University, Las Cruces, New Mexico.
University of New Mexico, Albuquerque, New Mexico.
Texas Tech University, Lubbock, Texas.
University of Wyoming, Laramie, Wyoming.
Rocky Mountain Forest and Range Experiment Station, Forest Service, U.S. Department of Agriculture, Fort Collins, Colorado.

A PROGRAM OF WESTERN ENVIRONMENTAL FORESTRY RESEARCH

Forestry is one of our nation's most basic industries and has contributed materially to our country's development. We must prepare now for even greater contributions to the nation's welfare than ever before. Housing materials, fiber, paper products and forest based recreational and residential services are increasingly demanded to meet the needs of our growing population, to meet world market demands (including our own needs for foreign exchange) and to provide a human release valve for an increasingly complex mode of living.

The Rocky Mountain West has contributed its share to the nation's development. Because the region is such a vast storehouse of natural resources—timber, minerals, recreation and energy sources—it is very apparent that it is now going to be called upon by the entire nation to contribute an increasing share. The inevitability of rapid growth and development in this region is equally apparent. Moreover, this development must be planned and accommodated under quite different conditions than those which have obtained in the past. Physical constraints imposed by fragile environments coupled with legal and social constraints imposed by environmental concerns dictate new approaches to resource management and development.

The planned massive energy production facilities and more complete exploitation of the extensive natural resources promise a further surge of population. Localities that are now rural and thinly populated will become industrialized and urbanized. Consequently, an additional wave of new building and sharply increased demands for renewable resources and outdoor recreational opportunities are in prospect.

The impacts of ever-increasing numbers of people on the fragile western environments can be disastrous unless methods of controlling and mitigating these impacts are developed. Land in the West is slow to recover from disturbance because of short, cool growing seasons and generally limited rainfall. Soils are thin and unstable in many localities. Thus, heavy use can result in accelerated erosion, heavy sedimentation and contamination of waterways, sharp reductions in fish and wildlife populations, and destruction of the esthetic and amenity values of the open spaces of the West.

Energetic attempts are being made to plan land use and land management to minimize and control effects of increased activities and new developments, but the process is seriously hindered by lack of information of effects on vegetation, soils, water and air quality, wildlife and fish population and distribution, esthetic quality, and amenity values of open land. Main sources of impacts are residential and industrial developments, recreational sites and activities, transportation systems and resource exploitation.

Planners and decisionmakers need specific information on environmental and socioeconomic effects of current and prospective activities to determine the available alternatives and to choose those that will optimize benefits to society and minimize both adverse environmental effects and economic costs. Therefore, we propose a program of research to:

1. Determine the environmental, ecologic, and socioeconomic effects of new and expanded residential and industrial developments, recreational sites and activities, and transportation systems.

2. Develop methods and techniques for monitoring and controlling changes in environmental and ecologic factors, for many aging use of natural environments, and for reducing adverse consequences.

3. Analyze constraints of current laws and institutional arrangements on maintenance of a high-quality environment, and identify and evaluate needs for new legislation and modified or additional institutional arrangements.

4. Improve methods for achieving broad public understanding of man's interrelationships with, and needs for, products and experiences from forests and associated wild lands.

Progress toward timely solution of environmental problems of the central and southern Rockies and the adjacent high plains requires an array of scientific and technical disciplines and research skills not found in sufficient quantity in any one institution. Therefore, nine universities in the region and the Forest Service, through the

Rocky Mountain Forest and Range Experiment Station, in 1972 formed the Eisenhower Consortium for Western Environmental Forestry Research to mobilize and coordinate the array of research experience and skills available in these institutions. The universities are: University of Wyoming, University of Colorado, Colorado State University, University of New Mexico, New Mexico State University, University of Arizona, Arizona State University, Northern Arizona University, and Texas Tech University. The consortium is able to coordinate regionwide, multidisciplinary research on regional problems. This capability has been demonstrated in the consortium's first two years of research, which has made outstanding progress with very limited funds.

Currently, the consortium has been joined by the Institute of Ecology in a natural resource problem assessment of the entire Rocky Mountain West, mobilizing the efforts of more than 200 experts from industry and Federal and State agencies, as well as universities. The National Science Foundation and the Environmental Protection Agency are helping fund this problem assessment project. We estimate that a minimum of $4 million annually will be required for the program, and we propose its implementation over 5-year period.

Protection of soil and water quality is fundamental not only to maintenance of productivity for commodities but also to amenity value. Soil loss is an irreversible change of the ecosystem; plants and animals are fewer in species and number and smaller in size than in the undamaged system. Thus, soil loss makes an area less attractive, less useful, and less productive. Eroding also carries with it organic material and mineral elements, so that aquatic life suffers from excessive sediment, reduced oxygen, and sometimes harmful levels of mineral elements. The same constituents also mar the attractiveness of the water-courses for recreational activities and reduce the usefulness of the water for irrigation, industry, and human consumption. The results are reduced revenues from recreation, hunting, fishing, and commodity production, and increased costs of water use.

The research planned for initial implementation will be aimed at determining: the intensities and modifications of land use and management practices permissible without inducing soil erosion; the water quality-water yield effects of recreation and residential developments and of various land uses; and the recreational carrying capacity in terms of impact on the land, the limiting effect of human interactions on the recreational experience, and in relation to demands for outdoor recreation.

The Rocky Mountain Forest and Range Experiment Station and the nine universities mentioned earlier are already cooperating in a number of exploratory studies aimed at environmental problems in the central and southern Rockies and adjacent high plains. An additional $800,000 is needed as a first increment to the current effort to mount an effective attack on these problems. Approximately one-half of new funds allocated to the program will be used to support research by the Rocky Mountain Forest and Range Experiment Station and one-half will support complementary research by the participating universities.

EISENHOWER CONSORTIUM PROGRAM—STATUS REPORT, OCTOBER, 1973

University	1972	1973	Total
A. Studies underway, by university:			
ASU	4.0	2	6.0
NAU		3	3.0
UA	5.0	3	8.0
CSU	3.0	6	9.0
UC	1.0	1	2.0
UNM	1.0	2	3.0
NMSU	.5		.5
TTU	.5	1	1.5
UW		4	4.0
Total	15.0	22	37.0
B. Studies Underway, by subject matter:			
1. Second home developments:			
(a) Economic factors			3
(b) Environmental effects			3
(c) Fire protection			2
(d) Waste disposal systems			3
Total			11
2. Recreation:			
(a) Economic factors			1
(b) Environmental effects			6
Total			7
3. Fire:			
(a) Esthetics of hazard reduction			22
(b) Ecological effects			6
Total			8
4. Other			11
All categories			37

EISENHOWER CONSORTIUM FOR WESTERN ENVIRONMENTAL FORESTRY RESEARCH—SUMMARY OF FOREST SERVICE-FUNDED COOPERATIVE STUDIES INITIATED IN FISCAL YEAR 1972, BY COOPERATING UNIVERSITY

Study No.	FS funding	Principal investigator	Period of study	Study title
ARIZONA STATE UNIVERSITY				
16-298-CA	$5,000	B. A. Segall	June 1, 1972–June 30, 1973	Effect of second homes and related vacation developments on the quality of Arizona streams and groundwater.
16-296-CA	4,200	R. D. Ohmart	June 1, 1972–June 30, 1973	Effects of timber harvesting on bird populations.
16-286-CA	3,670	R. C. Mings	May 15–Dec. 31, 1972	Exploratory study of opportunities for improving waste management on outdoor recreation areas on selected national forests in Arizona.
16-285-CA	5,000	T. D. Hogan	May 15, 1972–Dec. 31, 1973	Exploratory study of probable future demand for second homes in selected areas of Arizona.
UNIVERSITY OF ARIZONA				
16-282-CA	5,000	D. A. King	May 15, 1972–Sept. 30, 1973	Development of a land use planning system for national forests.
16-291-CA	5,000	C. F. Bohren	June 1, 1972–Sept. 30, 1973	Exploratory study of the ecological effects of snowmobiling.
16-295-CA	5,000	C. F. Bohren	June 1, 1972–Sept. 30, 1973	Forest influences on radiant energy transfer to snow in forest clearings and under various densities of crown clover.
16-283-CA	3,000	A. H. Smith	May 15, 1972–June 1, 1973	Future demands for outdoor recreation in Arizona.
16-281-CA	5,000	S. K. Brickler	May 15, 1972–Sept. 30, 1973	Impact of recreation use on water quality in the White Mountains of Arizona.
COLORADO STATE UNIVERSITY				
16-287-CA	5,000	R.B. Held	May 15, 1972–May 1, 1975	Environmental, economic, and social effects of urbanization of mountain watersheds.
16-294-CA	5,000	G. H. Fechner	June 1, 1972–June 30, 1974	Factors affecting vegetative cover on ski slopes.
16-297-CA	10,000	L. Teller	June 1, 1972–Sept. 30, 1974	Water quality effects of wood chip decomposition on cleared forest slopes.
UNIVERSITY OF COLORADO				
16-292-CA	10,000	N. Caine	June 1, 1972–Sept. 30, 1974	Volume and rate of stream discharge from an Alpine snowpack.
UNIVERSITY OF NEW MEXICO				
16-293-CA	10,000	J. R. Gosz	June 1, 1972–June 30, 1973	Stream chemistry as a tool in evaluating ski area development effects on a spruce-fir watershed.
TEXAS TECH UNIVERSITY				
16-284-CA	9,500	J. D. Mertes	May 15, 1972–June 30, 1973	Analysis of regional environmental management problems and opportunities.

EISENHOWER CONSORTIUM FOR WESTERN ENVIRONMENTAL FORESTRY RESEARCH—FOREST SERVICE-FUNDED STUDIES INITIATED IN FISCAL YEAR 1973, BY COOPERATING UNIVERSITY[1]

Study No.[2] (EC/FS)	Study title	Lead college or department	Principal investigator
University of Arizona:			
EC-31; 16-340-CA	Impact of recreation use on water quality in the White Mountains of Arizona	W. S. Mgt	Stanley K. Brickler.
EC-68; 16-352-CA	Evaluation of fire control, esthetic, wildlife and other values of a "greenbelt" fuelbreak designed to protect mountain communities from wildfire.	W. S. Mgt	Robert F. Wagle.
EC-70; 16-364-CA	Effect of previous controlled burning on damage caused by the Carrizo-Cibecue Wildfire	W. S. Mgt	Robert F. Wagle.
Arizona State University:			
EC-35; 16-335-CA	Effect of second homes and related vacation developments on the quality of Arizona streams and groundwater.	Civil Engr	Burton A. Segall.
EC-38; 16-337-CA	Requirements and costs of Forest Service Environmental Impact Statements under the National Environmental Policy Act.	Law	Richard C. Dahl.
Northern Arizona University:			
EC-40; 16-345-CA	Evaluation of impacts of various recreation uses on air quality in selected forest areas of Northern Arizona.	Physics	Thomas H. Bedwell.
EC-42; 16-346-CA	Potential environmental impact of future surface mining or quarrying operations on the Coconino National Forest.	Geology	J. Dale Nations.
EC-43; 16-347-CA	Analysis of costs to public land agencies resulting from recreation developments on adjacent private lands.	Bus. Adm	David D. Chase.
University of Colorado:			
EC-82; 16-384-CA	Roles of fire and allelopathy in ponderosa pine forests of the Colorado Front Range	Biology	James R. Eckert.
Colorado State University:			
EC-47 and 71 combined; 16-352-CA.	Analysis of fire hazard and risk in Front Range forests of Colorado	For. and Wood Sciences	Fred F. Wangaard.
EC-59; 16-363-CA	Economic implications of second home developments in selected areas of Colorado	Economics	Richard G. Walsh.
EC-72; 16-373-CA	Effects on wildlife of fire in lodgepole pine forests	Fish. and Wildlife Biol	Dale Hein.
EC-73; 16-392-CA	Effects of forest roads on big game populations	Fish. and Wildlife Biol	James A. Bailey.
EC-74; 16-374-CA	Esthetic perception of wildlife fuels near second home developments	Fish. and Wildlife Biol	Harold W. Stienhoff.
EC-75; 16-375-CA	Fire ecology in high elevation forests in Colorado	For. and Wood Sciences	Edwin W. Mogren.
University of New Mexico:			
EC-53; 16-360-CA	Environmental costs and socio-economic benefits of second home developments	Inst. Soc. Res. and Dev. and Archit.	Peter Montague.
EC-54; 16-361-CA	Effects of road surfacing and salting on roadside vegetation in New Mexico mountain areas	Biology	James R. Gosz.
Texas Tech University:			
EC-58; 16-348-CA	Costs and effectiveness of selected, alternative second home waste disposal systems applicable to West Texas conditions.	Agric. Econ	Kenneth B. Young.
University of Wyoming:			
EC-65; 16-353-CA	Analysis of suitability of closed-system waste disposal for recreation facilities in selected semiprimitive mountain environments.	Agric. Econ	Warren E. Hedstrom.
EC-66; 16-354-CA	Analysis of suitability of evapotranspiration waste disposal systems for selected semiprimitive mountain environments.	Civil Engr	Stephen R. Jenkins.
EC-79; 16-391-CA	Early vegetative and wildlife species successions resulting from wildfire and timber harvest	Zool. and Phys	Peter R. Davis.
EC-80; 16-376-CA	The effect of prescribed burn on the vertebrate fauna in a Douglas fir forest on Blacktail Butte, Jackson Hole, Wyo.	Zool. and Phys	John M. McGee.

[1] Forest Service funding averaged about $5,000 per study. Total support per study averaged about $9,400.

[2] Each study is identified both by an Eisenhower Consortium number (preceded by "EC") and a Forest Service contract number. The latter identification should be referenced in all correspondence with the Forest Service regarding individual studies.

MENTALLY RETARDED PERSONS AT D.C.'S FOREST HAVEN—ACTION REQUIRED BY CONGRESS

Mr. HUMPHREY. Mr. President, in a statement in the Senate on November 9, 1973, I discussed a very serious situation at Forest Haven, the residential facility operated by the District of Columbia government for the care and treatment of mentally retarded persons. At that time I referred to conditions at Forest Haven as "a shocking case of governmental abuse of some 1,300 people through neglect or totally inadequate efforts to improve services of care and habilitation."

The program of required corrective steps which I outlined was in response to a profoundly disturbing series of articles appearing in the Washington Star-News. Forest Haven has been in the news since then, with reports of incidents resulting in the departure of certain staff. But the problems of which I spoke remain—insufficient and inadequately trained staff, reports of poor medical treatment, buildings in disrepair, but most important of all, the absence of a comprehensive program of services that would reflect a therapeutic-rehabilitative approach to the care and treatment of several hundred residents. Instead, we continue to witness a major complex only 22 miles from our Nation's Capital where a substantial number of human beings are simply warehoused, kept alive from day to day with minimal custodial attendance.

Mr. President, on May 2 and 3, the Senate Appropriations Subcommittee on the District of Columbia, chaired by Senator BAYH, will hold hearings on the proposed D.C. budget for fiscal 1975. It is well recognized that there are a number of urgent needs in the District of Columbia and that all too often, congressionally enacted appropriations are inadequate. The desperately needed program of reconstruction and urban renewal, promised by President Nixon, has yet to be undertaken in earnest. Visitors to the Capital witness streets in disrepair and frequent evidence of uncollected trash. The proper education of children remains a critical problem; public services and health and social welfare programs too often are inadequate. The District of Columbia government continues to struggle to address all these priorities, but it must frankly acknowledge that its capabilities and resources are limited despite the determined effort and leadership of the Mayor and others.

Washington, D.C., ought to be a focal point in our Nation's Bicentennial celebration, now less than 2 years away. However, Congress and the administration must share the blame for the adverse conclusions that visitors from abroad must reach about 200 years of progress in the United States on the basis of current conditions in this city.

However, to suddenly launch a crash program of urban renewal and beautification would reflect a seriously distorted perspective of the comprehensive corrective action that is required, for there is a strong probability that it would be at the expense of desperately needed programs to improve the lives and living conditions of people. This would be especially true with respect to several thousand people in D.C. facilities located away from the center attention, as at Forest Haven. We simply must not permit them to remain the forgotten people of Washington—out of sight, and therefore, out of mind.

My deep concern about conditions at Forest Haven has been borne in large measure out of a strong personal view that society suffers, reduces the quality of life of all its members, precisely to the extent that it ignores the needs of some of its people who are denied an equal share in hope and opportunity and human dignity and decency.

Therefore, I urge that the Senate Appropriations Subcommittee on the District of Columbia, in the course of its upcoming hearings, examine closely the plans and expectations of the D.C. Department of Human Resources with respect to improvements urgently needed at Forest Haven.

I am taking this opportunity to make public the results of an investigation which I requested by the General Accounting Office of the accounting of funds appropriated by the Congress for Forest Haven, and especially of staffing problems at this facility.

The GAO letter report notes that as of February 1974, Forest Haven had 1,155 residents and 568 employees, and that 593 of the residents were rated profoundly or severely retarded and in need of total care, while the other 562 residents were rated moderately or mildly retarded.

ACCOUNTING PROCEDURES LAX

An impression that comes across strongly in this report is that there is confusion and uncertainty, if not misfeasance, in the utilization of funds appropriated by Congress and program grants approved by the Department of Health, Education, and Welfare, to increase qualified staff and to launch rehabilitation programs for residents. Due to time constraints placed by my office on the GAO investigation, a complete examination of accounting records in various D.C. government offices could not be undertaken, but enough was learned to warrant the strong recommendation that there should be substantial improvements in certain accounting procedures.

It was discovered, for example, that the D.C. Department of Human Resources may have improperly spent $67,314 of an HEW grant awarded in fiscal 1972, to pay the salaries of Forest Haven staff members, rather than to hire new staff as required under the grant program to provide special educational services to handicapped children. On the basis of several such examples, the GAO advises that it plans to request HEW to thoroughly examine the use of its grant funds at Forest Haven, and to advise the GAO of its findings and planned corrective actions.

Noting that some $6.8 million was available to operate Forest Haven during fiscal 1973, increasing to about $7.9 million in fiscal 1974, the GAO report comes to the seriously disturbing conclusion that the problems it identified with the accounting data for Forest Haven are sufficient to raise questions concerning the Department of Human Resources' ability to effectively control the use of its funds.

I would strongly oppose a hasty conclusion, however, because the DHR appears to have difficulty in accounting for Forest Haven expenditures that there should be an immediate impoundment or cutback in available funds. There is no evidence that any funds were diverted from services at Forest Haven. The GAO report calls, rather, for measures to assure the effective and on-time expenditure of funds. And, my office gave approval to discussion of these report findings by GAO staff with D.C. government officials in April, precisely to assist in the initiation of appropriate accounting reform measures.

CENTRAL PROBLEM: STAFF SHORTAGES

The GAO report makes it clear that adequate financial resources are critically needed to address significant staff shortages and vacancies that exist at Forest Haven in top management positions as well as in direct service positions. It is incredible that the position of superintendent should have remained vacant since October 1971, until very recently. I find it unconscionable that this major complex should have had two of its five top management positions vacant throughout 1973 and a third position unfilled for half of that year.

Coupled with widespread shortages in personnel for the immediate care of residents, and of education and counseling specialists, what more could be expected than that this major institution should struggle to maintain even a "holding operation" for months on end?

Urgent measures to address these problems were dictated when administrative reforms were undertaken with a reorganization in 1971 by which Forest Haven was placed under the administrative jurisdiction of the District's Mental Health Administration, Department of Human Resources. There had been an escalation in the resident population, which had risen only moderately over three decades to a level of about 750 in 1955.

But there can be no administrative reforms without administrators; there can be no dramatic therapeutic-habilitative programs launched when present staff are seriously and constantly overworked, when pay scales are inadequate and possibly not even competitive with other positions in the Department of Human Resources, and when extensive delays are encountered in the hiring of new staff.

I believe it is totally inexcuseable that of 691 authorized staff positions at Forest Haven as of February 1974, there were 123 vacancies, resulting in a staff-to-resident ratio of 49, about the same seriously inadequate ratio that has existed for at least 3 years. The GAO report notes that if staffing standards established by the American Association of Mental Deficiencies for mental retardation institutions were applied to Forest Haven, there should be almost 1,500 staff at that facility.

The authorized staff level of 691 reflects an increase of 50 positions over last year. This was the direct result of specific funding provided by Congress in enacting fiscal 1974 District of Columbia appropriations. At that time, it was noted that this action met only one-half of the request of the District of Columbia Department of Human Resources for additional staff—primarily counsellors, social workers, special education teachers, nurses, occupational therapists, and psychologists.

However, a table in the GAO report, on yearly staff strength at Forest Haven, indicates that the increase in the number of staff vacancies over last year is almost identical to the number of additional staff positions approved by Congress. In fact, I am advised, only 12 persons have been hired under that additional staff funding, with a hiring freeze being placed on other positions. Whatever the budgetary reason for this failure to implement a congressionally-approved hiring, it is also alleged that there are at least two reasons why qualified staff have not been obtained for these positions. One reason given is the traveling distance of over 20 miles to get to these jobs.

A second reason that merits immediate administrative corrective action, or a specific legislative authorization if this is required, is that Forest Haven must adhere to Civil Service Commission hiring procedures, which require several processing steps and considerable time delays. At the very least, an exception should be instituted on this civil service requirement with respect to positions at Forest Haven—similar to the exception that Congress frequently authorizes in connection with the enactment of new programs to assist their early implementation. Beyond this step, there should be careful consideration of the recommendation that Forest Haven be granted direct hiring authority. While there are valid arguments for centralized personnel policies under the District of Columbia government, the simple fact is that qualified applicants for positions at Forest Haven can be "lost" while bureaucratic redtape is unwound and they turn elsewhere for employment.

The severe costs of the failure to fill these staff vacancies are not only in terms of dollars, but also in terms of the lives of people—both present staff at Forest Haven who are seriously overworked, and hundreds of residents who can only be enabled to exist from day to day, but who could otherwise be helped in their development until many could live independently in the community or obtain gainful employment. Undoubtedly, the heaviest cost is paid by the children who are residents, and who cannot receive the full range of educational, psychological, and health services that they need and deserve.

However, dollar costs alone justify the filling of staff vacancies. The GAO report states flatly that overtime payments at Forest Haven amounted to about $318,600 during fiscal year 1973 and $306,400 during the first 7 months of fiscal year 1974.

Meanwhile, because of these vacancies, daily operations at Forest Haven cannot be effectively monitored; plans cannot be developed and followed through.

Some 177 children and youth should be receiving 6 hours of classroom instruction daily, but only 60 get this full amount of instruction.

Only one counsellor is available to supervise and assist every 30 residents—a primary reason for reports of injuries to residents in the absence of a counsellor.

In the infirmary, nursing staff shortages result in a totally inadequate staff-to-patient ratio of 1 to 14.

Housekeeping staff must work considerable overtime just to keep facilities in decent condition. And, in one recent month, almost one-third of requests for maintenance and repairs had to be left untouched because of staff shortages.

Mr. President, in response to my request, Mr. Joseph Yeldell, Director, Department of Human Resources, government of the District of Columbia, in a letter date January 23, 1974, described current programs at Forest Haven and provided the outline of an 8-year program of improvement for this facility, with an estimated cost of $8.2 million.

Mr. Yeldell's report has been most helpful, and I am bringing it to the attention of the Senate Appropriations Subcommittee on the District of Columbia, along with the report by the General Accounting Office.

The 8-year plan which the Department of Human Resources has developed

for improving the services to meet the needs of the residents at Forest Haven, including expansion into a community-oriented system, is impressive. It was obviously designed with the rights of the residents in mind.

However, this entire plan is contingent on the ability to attract and hire the additional staff. And that, as I believe I have spelled out in my remarks today, is the weakest link of the current operation. Therefore, I believe the DHR should be closed questioned as to what changes in employment practices are anticipated to effect this improvement plan?

Mr. President, I intend to review carefully the information that is eventually to be available when legislation authorizing appropriations for the District of Columbia for fiscal year 1975 is before the Senate. While I have discussed in the Senate over the past months several issues regarding conditions in the Nation's Capital, and will be reviewing this legislation in the light of these concerns, I intend to give particular attention to recommendations on the improvement of operations at Forest Haven, especially with respect to staffing problems. While it is clear that Congress should again provide funds for the hiring of additional staff, it will be necessary this time to have at hand also a specific plan to implement this hiring without delay.

Mr. President, I want to conclude my remarks by expressing my appreciation to the Washington Star-News for calling to our attention the conditions at Forest Haven, the staff of the General Accounting Office which undertook the Forest Haven investigation, and to the many persons who wrote to me and provided additional information. I should note, in particular, my thanks for having had the opportunity to review the following materials: First, a memorandum, dated January 5, 1973, from the Environmental Health Administration of the government of the District of Columbia, regarding necessary improvements in the culinary department at Forest Haven; second, a report, dated August 28, 1967, by a professional team from the American Association of Mental Deficiency, evaluating operations at Forest Haven; and third, a comprehensive mental retardation plan, published by the D.C. Department of Public Health in 1969, and containing 177 recommendations by some 500 citizens who served on 24 major task forces.

Mr. President, I ask unanimous consent that the following items be printed in the RECORD: The letter report, dated April 1, 1974, submitted to me by the Comptroller General of the United States; and the letter from Mr. Joseph P. Yeldell, Director of the D.C. Department of Human Resources, including an attachment describing an 8-year improvement plan for Forest Haven.

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

COMPTROLLER GENERAL OF
THE UNITED STATES,
Washington, D.C., April 1, 1974.

Hon. HUBERT H. HUMPHREY,
U.S. Senate.

DEAR SENATOR HUMPHREY: This letter is in response to your November 9, 1973, request for an investigation of the possible misuse of funds appropriated by the Congress for Forest Haven, a residential facility for the care and treatment of mentally retarded persons operated by the Government of the District of Columbia. Your office subsequently requested that we also examine staffing problems at Forest Haven and report to you as soon as possible.

Because of inadequacies of the accounting system, the unavailability of accounting records for the facility, and your need for a timely response, we selected a limited number of finacial transactions to examine. In many cases we could not examine these transactions thoroughly because either we could not obtain supporting documentation or the available accounting data was unreliable and inaccurate.

We found that (1) improper expenditures may have been made, (2) accounting controls appeared weak and accounting data was inaccurate and unreliable, (3) staff shortages resulted in significant overtime costs and may be hindering Forest Haven's ability to provide sufficient services to residents, and (4) delays in getting a grant program underway resulted in the loss of use of grant funds because the grant period expired—a situation that may occur with other active grants.

BACKGROUND

Forest Haven is under the administrative jurisdiction of the District's Mental Health Administration, Department of Human Resources. Forest Haven was established to supplement residential care with treatment, training, and rehabilitative services. The facility is part of the District's Children's Center in Laurel, Maryland, and consists of 15 residential cottages, a 200-bed residence for ambulatory patients, a 200-bed infirmary, a school, and support buildings.

As of February 1974, Forest Haven had 1,115 residents and 568 employees. Of the residents, 593 were rated profoundly or severely retarded and needed total care; the other 562 were rated either moderately retarded (needing supervision in caring for themselves) or mildly retarded (able to care for themselves). The employees included nurses; counselors; social workers; educators; and food service, housekeeping, and administrative personnel.

During fiscal year 1973, about $6.8 million was available to operate Forest Haven, including $6.5 million in funds allotted by the District and about $275,000 in Federal grants awarded by the Department of Health, Education, and Welfare (HEW). Funds available to Forest Haven during fiscal year 1974 include $7.7 million of allotted District funds, including $1 million of revenue-sharing funds and about $249,000 awarded under several Federal grant programs.

The Department is responsible for handling the financial transactions and accounting records for Forest Haven and is therefore responsible for maintaining accounting control with respect to the facility's activities.

APPARENT IMPROPER USE OF GRANT FUNDS

We found that the Department may have improperly spent $67,314 of a $118,466 grant HEW awarded during fiscal year 1972 to the District for use at Forest Haven. The grant was to provide special educational needs to handicapped children and was awarded under title I of the Elementary and Secondary Education Act (20 U.S.C. 241c(a)(5)).

This act, and HEW's implementing regulations, prohibit recipients from using title I grant funds to supplant State, local, or private effort. According to the grant provisions, grant funds were to be used to pay the salaries of new staff who were to be hired to carry out the grant program. However, the $67,314 was apparently used to pay the salaries of Forest Haven staff members who were not officially employed under the grant program.

Officials of the District's Public Schools system, the District agency responsible for monitoring the use of these grant funds, have informed the director of the Department that Forest Haven nongrant staff cannot be paid from these grant funds. Furthermore, the Department was informed that the $67,314 should be returned to HEW because the grant funds were not properly used before the grant period expired. As of March 13, 1974, these funds had not been returned. We have discussed this situation with HEW officials, who stated that the expenditure appears to have been improper but that a detailed examination will be necessary.

In addition, Department accounting records show that, as of November 30, 1973, $12,000 in salary costs were obligated and spent during fiscal years 1973 and 1974, under a Federal grant which expired on June 1, 1972. The grant was awarded to enable Forest Haven to employ local students to work with the residents. The HEW officials responsible for monitoring this grant told us that HEW withdrew the grant funds that were unobligated as of June 1, 1972, and that no obligations or expenditures should have been made under that grant after that date. We have not been able to determine whether the $12,000 was an improper expenditure or an error in the Department's accounting records.

From our review of these two grants and other transactions and because of numerous errors noted in the accounting data for Forest Haven, we believe other improper expenditures could have been made. We therefore plan to request HEW to (1) thoroughly examine the use of HEW grant funds at Forest Haven and (2) advise us of its findings as well as of corrective actions planned as a result of any improprieties identified.

INADEQUATE ACCOUNTING CONTROL

We found several shortcomings (listed below) in the District's accounting data for Forest Haven which prevented us from making a complete examination of many of the financial transactions we selected for review.

Numerous errors existed in the accounting records.

Documents supporting many transactions could not be located in the appropriate files.

Entries in the Department's official obligation and expenditure records did not always agree with entities in the accounting records designed for financial management. Department accounting personnel told us that these differences were not resolved because time was not available.

Obligations and expenditures charged against some grant accounts appeared in several different places in the accounting records. We found no summary of all transactions charged against the accounts.

Forest Haven's computerized payroll run for September 30, 1973, through October 13, 1973, listed 45 persons whose employment at Forest Haven terminated as far back as 1971. None of the 45 persons were paid during the 2-week period. We traced the payroll records for five of these persons back to the date they terminated their employment; none of the five apparently received improper payments.

Department and Forest Haven personnel told us that they could not rely on the accounting data because it was so inaccurate.

We believe that the problems we identified with the accounting data for Forest Haven are sufficient to raise questions concerning the Department's ability to effectively control the use of its funds.

STAFF VACANCIES AND SHORTAGES

Significant staff shortages and vacancies exist in top management positions as well as in direct service positions—personnel who directly provide services and supervision to the residents. These shortages have resulted in significant overtime costs and are apparently hampering Forest Haven's efforts to provide needed services to the residents. Staff vacancy and resident population data since fiscal year 1972 is shown below.

Fiscal year	Authorized positions	Vacancies	Resident population	Staff to resident ratio
1972	643	74	1,203	0.47
1973	641	84	1,172	.48
1974 [1]	691	123	1,155	.49

[1] As of February 1974.

In June 1972 the Forest Haven staff prepared a study which concluded that 1,064 positions were needed to provide minimum therapy care to the residents. The study referred to staffing standards established by the American Association of Mental Deficiencies for mental retardation institutions, which, when applied to the number of residents at Forest Haven at that time, would indicate a need for 1,446 positions. As indicated above, the staff to patient ratio at Forest Haven has not significantly improved since fiscal year 1972.

Two of the top five management positions at Forest Haven were vacant during all of calendar year 1973, and a third was vacant for about 6 months during that year. The superintendent's position, for example, has been vacant since October 1971. Although District officials advised us on February 28, 1974, that a superintendent had been hired, as of March 18, 1974, the Assistant Superintendent for Clinical Services was still acting as superintendent. The position of Assistant Superintendent for Program Development, Training, and Evaluation has been vacant since December 1972. The position of Assistant Superintendent for Administration was vacant from June 1973 to January 1974.

	Authorized positions	Vacancies	Percent vacant
Education	[1] 39	5	13
Counseling	174	34	20
Nursing services	294	[2] 39	13
Housekeeping	50	14	28

[1] This does not include at least 30 grant positions at Forest Haven, of which 24 were filled.
[2] As of Mar. 18, 1974, 25 vacancies existed in nursing service positions.

OVERTIME COSTS

Vacancies and shortages have resulted in Forest Haven employees' working considerable amounts of overtime in order to have personnel available on all shifts. Overtime payments at Forest Haven amounted to about $318,600 during fiscal year 1973 and $306,400 during the first 7 months of fiscal year 1974. A Department official estimated that overtime amounting to about $517,000 would be worked at Forest Haven during fiscal year 1974.

Total overtime payments at Forest Haven for fiscal years 1973 and 1974 are therefore estimated at $835,600. Of this amount, about $278,500 is estimated to represent premium pay (50 percent of base pay) for the overtime work. Forest Haven officials stated that much of the overtime work and premium pay could have been avoided if Forest Haven had more service employees, especially in nursing, counseling, and housekeeping.

ABILITY TO PROVIDE SERVICES TO RESIDENTS

Forest Haven officials told us the following to illustrate the effects of staff shortages on operations.

MANAGEMENT

Because of the vacancies in the top management positions, supervisory personnel at Forest Haven have not been able to monitor and supervise daily operations to the extent necessary. Instead, they have been performing the administrative functions that are normally the responsibility of the persons filling the vacant management positions.

EDUCATION

Although some residents are receiving sufficient educational services, others are receiving only a limited amount. For example, 177 residents between the ages of 3 and 21 should be receiving 6 hours of classroom instruction daily at Forest Haven. Although 60 are receiving such instruction, 117 are only receiving 3 hours of classroom instruction daily due to staff shortages. If Forest Haven did not have the supplemental educational positions funded by HEW grants, many children would either be receiving no educational services or less than they are now receiving.

COUNSELING

Counselors supervise residents as well as assist them in taking care of themselves; see that they get to school, to dining facilities, and elsewhere; launder their clothes; and even help clean living quarters. Each counselor is responsible for 30 residents, on the average. Because counselors must perform so many different functions and because of shortages in counselor positions, many programs planned for the residents cannot be undertaken. Counselors must work considerable overtime to provide coverage to the residents on all shifts.

A number of incidents have occurred at Forest Haven during the last several years: several children were scalded, one child choked to death, another resident was electrocuted, and several residents sustained injuries as a result of disturbances caused by other residents. Forest Haven officials stated that some of the incidents may have been avoided and the severity of the others could have been lessened if sufficient counselors had been available to supervise the residents.

NURSING

Nursing assistants provide total care to the more infirmed residents as well as to the severely and profoundly retarded who cannot take care of themselves. The number of nursing staff available is not adequate to provide sufficient services to those residents. For example, in the infirmary, the staff to patient ratio is 1 to 14. Nursing personnel in the infirmary bathe, clothe, feed, and take care of other personal needs as well as provide medical care. Personnel providing nursing services now must work considerable overtime to provide coverage during all shifts, and adequate coverage for all shifts cannot always be obtained.

HOUSEKEEPING

Housekeeping personnel are responsible for keeping the facilities clean. Housekeepers do the best they can to cover all the buildings, but cannot always do this. In prior years some of the less handicapped residents were able to assist in the housekeeping functions. In more recent years, however, fewer less handicapped residents are available because they have been placed in the community. Therefore, the work previously done by the residents must be done by the housekeeping staff who have worked overtime when authorized to do as much cleaning as they could.

A May 16, 1973, report of an inspection at Forest Haven by the District's Environmental Health Administration stated that more attention must be given to daily routine housekeeping to improve environmental hygiene and sanitation. Forest Haven officials stated that, while progress has been made, staff shortages have precluded complete daily housekeeping services to all the buildings.

MAINTENANCE

The Department's Administrative Services Division provides maintenance services to the entire Children's Center complex, including Forest Haven. Twenty-six positions are authorized for building maintenance. Of these 26, 3 are vacant and more positions are needed.

Staff shortages preclude any preventative maintenance and preclude maintenance personnel from making many timely repairs requested by Forest Haven officials. For example, although maintenance personnel responded to 362 requests for service during February 1974, they could not respond to 165 requests—carpentry (79), electrical (61), and plumbing (25)—made during February because of staff shortages. On a walk-through inspection, we noted a number of leaking faucets and roofs, several buildings that needed interior painting, and other items needing maintenance service.

REASONS FOR STAFFING PROBLEMS

Forest Haven officials have attributed their staff shortage problems to frequent Department hiring freezes, insufficient funding from the Department to hire more employees, and the necessity to adhere to Civil Service Commission hiring procedures, which require several processing steps and considerable time delays. On February 15, 1974, the Director of the Department placed a freeze on filling all vacant positions in the Department, except those positions for which hiring commitments have already been made. Since most vacant positions have not been committed, Forest Haven will be unable to fill the majority of its 123 vacant positions. In addition, Forest Haven officials stated that a number of employees terminated employment because of the additional duties required of them and overtime required due to staff shortages, thereby perpetuating staffing problems. Forest Haven officials stated that if they had direct hiring authority and sufficient funds, they believe that they could fill most of the vacant positions in a short time.

LOSS OF USE OF GRANT FUNDS

Because of its inability to get grant programs fully underway before entitlement to obligate the funds expired, Forest Haven lost the use of up to $25,000 in grant funds in fiscal year 1973 and for the same reason may lose the use of up to $65,000 in grant funds in fiscal year 1974. The terms of the Federal grants at Forest Haven required that the grant funds be used within a specified time; otherwise the remaining funds had to be returned to the granting agency.

Forest Haven officials stated that they could not initiate grant programs until the grants were officially accepted by the District and that the delays in acceptance reduced the time available for using the grant funds. After the District accepts grants, additional time delays occur because Forest Haven cannot begin hiring efforts until paperwork authorizing grant expenditures flows from the District to the Department's accounting office. Forest Haven officials told us that, once the District officially accepted grants and they were notified that they could use the grant funds, additional time delays were encountered because of the necessity of following Civil Service Commission competitive hiring procedures.

We have not obtained formal comments from District officials on the matters in this report. As agreed with your office, we plan to furnish copies of this report to the District of Columbia and the Department of Health, Education, and Welfare so that they may take actions as warranted.

Sincerely,

ELMER B. STAATS,
Comptroller General of the United States.

GOVERNMENT OF
THE DISTRICT OF COLUMBIA,
Washington, D.C., January 23, 1974.

Hon. HUBERT H. HUMPHREY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HUMPHREY: I am pleased to have this opportunity to respond further to the series of articles about Forest Haven pub-

lished in the Washington Star-News in October 1973. As you requested in your letter of November 9, 1973, I am also outlining the Department's plan for improvement in the program and in the facilities of Forest Haven, as well as the status of our plans for directing services to community-related facilities.

I share your concern for the residential care of the Nation's retarded persons. As you know, for FY 1974, I proposed that an additional 100 positions be authorized for Forest Haven, to alleviate some of the problems you recently addressed on the Senate Floor. This proposal was approved by the Senate Appropriation Subcommittee for the District of Columbia.

Mr. Michael Satchell's series of articles in the Washington Star-News was on the whole a helpful piece in drawing attention to some of the problems at Forest Haven. There was, however, some error in fact and some lack of understanding of treatment processes.

Forest Haven has for the past three years been undergoing a gradual conversion from a traditional custodial institution to one using a limited therapeutic rehabilitative approach.

Federal grant funds have permitted the implementation of training in vocational skills of several types. More than 200 residents are receiving training on the grounds of Forest Haven; an additional 100 are in outside employment or training. Federal funding has also supplemented the Behavior Modification, Infant Stimulation and Foster Grandparent Programs. In addition to persons attending special education classes in the Mary Ziegler School at Forest Haven, 35 residents are transported daily to public school classes in the District. Fifty young women now reside in a newly converted cottage that provides them with private rooms and responsibilities for self-care. Pay telephones give mildly retarded residents easy access to the outside community. These new and innovative programs are directed not only toward a strengthening of the program within the facility, but also toward the objective of preparing the more capable residents to move into the community. A large number of Foster Haven residents could live more rewarding and productive lives in the community if appropriate facilities and support services were available.

For FY 1974, Forest Haven received 50 new positions and, through redirection one million dollars to decrease the overall patient-staff ratio and to improve the level of care at the facility. Funds have been requested through the capital improvements budget for a preliminary survey to identify the physical and program criteria necessary to provide suitable surroundings for an improved program.

The Department has reason to be proud of the progress made in the recent past; however, more needs to be done to improve care of mentally retarded persons and to expand their opportunities for leading meaningful lives.

As you requested, my staff has prepared a program of improvement for Forest Haven, which includes additional staffing, a new medical component, equipment and repairs, salaries for working patients, community day care centers, community-based sheltered workshops, and small group homes.

This plan, to be implemented over an eight year period, has an estimated cost of 8.2 million dollars (See Attachment).

Please let me know if you wish additional information on the District's programs for the mentally retarded.

Sincerely,

JOSEPH P. YELDELL.

ATTACHMENT No. 2

EIGHT-YEAR IMPROVEMENT PLAN FOR FOREST HAVEN

The plan for improvement of Forest Haven, which is outlined in the following pages, is directed toward the achievement of the following objectives:

a. to improve more direct-care staff bringing staff-patient ratio to an acceptable level.

b. to improve medical care by increasing the number of personnel and technical medical support.

c. to upgrade skills of nursing and counseling staff so that they may become more therapeutic, instead of merely custodial.

d. to replace faulty and worn out equipment and refurbish the old physical plant.

e. to improve transportation, maintenance, housekeeping and other support services.

f. to move the less handicapped patients into community-based programs and to provide enough such programs to limit the use of Forest Haven to those persons whose handicaps are so severe that they can only be served institutionally.

These goals are interdependent, all leading to a more therapeutic approach within the institution and to the maintenance within the community of as many persons as possible. The plan has been divided into eight annual increments, the amount of funding to increase with each increment. When the plan has been fully implemented, the cost will be 8.2 million dollars, and 500 additional personnel will be provided for both Forest Haven and Community facilities.

During this period, the number of staff working within the institution will be increased by approximately 300 persons, and the focus of the mission will shift to the care of profoundly retarded persons, including those severely handicapped by accompanying physical disorders. The level of proficiency of personnel to provide the more medically and therapeutically-oriented services required for these disabled individuals will be raised through appropriate selection of new employees and through training of personnel currently employed at Forest Haven. Expansion of current medical services to include specialty consultation and pharmaceutical and prosthetic supplies will better support the medical needs of Forest Haven residents.

To prepare an estimated 400 residents for entrance into the community, day treatment and community-based sheltered workshops will be established. The transporting of residents into the community for day treatment and workshop activities will facilitate our making full use of the City's resources to develop self-care skills.

We anticipate that by the end of the eight year budget period, approximately 200 clients will have entered sheltered workshops following a period of training in day treatment centers. In addition to establishing the practice of paying clients for services rendered within the Department, we expect that 100 clients will be in competitive employment or in training for entrance in the regular labor force. Of the 400 who leave Forest Haven, approximately 300 will be in a protective work setting, and 100 will be living in their own homes or in foster homes. The number of Department staff needed in the community to serve this group of 400 is estimated to be 175. This includes the full scope of treatment and rehabilitation personnel.

As the moderately retarded persons leave Forest Haven, the Department will be able to admit to the Institution additional profoundly retarded persons who are now on a waiting list. We believe they number approximately 200. The number of residents at Forest Haven will be reduced from 1300 to 1100, while the total number of retarded persons in the care of the Department will increase by 200.

Table One, which follows, shows the cost of the individual elements of the plan as it will be implemented over an eight year period. Table Two summarizes the assignment of increased personnel and the movement of residents into the community. The Tables are accompanied by a brief explanation.

TABLE 1.—COST OF IMPROVED SERVICES FOR DHR CLIENTS OF FOREST HAVEN

	1st year	2d year	3d year	4th year	5th year	6th year	7th year	8th year
Medical unit	150,000	150,000	150,000	150,000	225,000	225,000	350,000	500,000
Increased direct-care personnel at Forest Haven	450,000	900,000	1,350,000	1,800,000	2,200,000	2,500,000	2,750,000	3,150,000
Administrative services personnel	50,000	50,000	50,000	80,000	100,000	150,000	200,000	300,000
Community-based day treatment		400,000	800,000	1,000,000	1,200,000	1,000,000	1,000,000	800,000
Community-based sheltered workshops		125,000	250,000	310,000	500,000	750,000	875,000	1,000,000
Community-based residences		150,000	150,000	450,000	600,000	1,200,000	1,500,000	1,650,000
Wages for residents	300,000	300,000	250,000	200,000	175,000	175,000	175,000	150,000
Employee training		50,000	100,000	50,000	50,000	50,000	50,000	50,000
Repairs and equipment	250,000	75,000	100,000	100,000	150,000	150,000	300,000	600,000
Total	1,200,000	2,200,000	3,200,000	4,200,000	5,200,000	6,200,000	7,200,000	8,200,000

TABLE 2.—SUMMARY OF PERSONNEL INCREASES AND NUMBER OF FOREST HAVEN CLIENTS IN COMMUNITY-BASED FACILITIES

	1st year		2d year		3d year		4th year		5th year		6th year		7th year		8th year	
	Clients	Personnel	Clients	Personnel	Clients	Personnel	Clients	Personnel	Clients	Personnel	Clients	Personnel	Clients	Personnel	Clients	Personnel
Medical unit		5		5		5		5		6		6		8		9
Increased direct care at Forest Haven		38		82		122		164		200		227		250		285
Administrative services personnel		5		5		5		8		1		15		20		30
Community-based day treatment	50		25	100	50	125	62	150	75	125	62	125	62	100	50	
Community-based sheltered workshops	25		6	50	12	75	18	100	24	150	36	175	42	200	54	

TABLE 2.—SUMMARY OF PERSONNEL INCREASES AND NUMBER OF FOREST HAVEN CLIENTS IN COMMUNITY-BASED FACILITIES—Continued

	1st year		2d year		3d year		4th year		5th year		6th year		7th year		8th year	
	Clients	Personnel	Clients	Personnel	Clients	Personnel	Clients	Personnel	Clients	Personnel	Clients	Personnel	Clients	Personnel	Clients	Personnel
Community-based residences			25	6	25	6	75	18	100	24	200	48	250	60	300	72
Wages for residents																
Training for employees																
Repairs and equipment																
Total		48		129		200		275		339		394		442		500

FIRST YEAR

In the first year, personnel will be added to the Institution itself in order to improve the overall level of care and to initiate the plan for community-based programs.

The medical unit will include a psychiatrist, a general medical officer, a dentist, a physical therapist and a pharmacist. Other medical services will include specialty consultation, prostheses and other equipment for residents, laboratory equipment and pharmaceutical supplies.

The greatest number of new personnel will be nursing assistants, counselors and housekeepers. Several vocational specialists will also be added to implement the plan for workshops and establish procedures for payment of wages to residents.

An in-depth diagnostic evaluation of residents to establish groups for placement in forthcoming community-based programs will be undertaken.

Training of all staff will be initiated to develop therapeutic skills in dealing with profoundly retarded individuals, as well as those less handicapped who will enter the community. As community-based programs are established in succeeding years, treatment and rehabilitation personnel will be selected from within the Institution to staff them.

SECOND YEAR

In the second year, the number of direct-care personnel within the Institution will continue to increase. At the same time, a number of residents will be transferred into community-based programs. The first sheltered workshops and small residences will be established, and day treatment facilities will be developed in addition to one now operating on the grounds of D.C. General Hospital.

The purchase of buses to transport residents to community-based treatment facilities and workshops will be necessary in the second year.

THIRD AND FOURTH YEARS

During this period there will be increases in direct-care and administrative services personnel at Forest Haven, and in the number of community-based staff and facilities. In conjunction with the movement of Forest Haven residents into community-based workshops, the number of residents receiving wages within the Institution will begin to decrease. Other elements of the plan will remain basically the same.

FIFTH YEAR

In the fifth year, additional increases are planned for the medical unit. This reflects the forthcoming severity of disability among Forest Haven residents, as those who are less severely retarded move out and are replaced by individuals requiring medical attention and a higher level of other therapeutic skills. Cost of repairs and equipment is expected to rise. Increases in personnel at Forest Haven and in community-based programs will continue at approximately the same rate as in previous years. Wages to residents will continue to decline.

SIXTH, SEVENTH AND EIGHTH YEARS

It is anticipated that in the sixth year the number of clients in community-based day treatment programs will begin to decline slightly as the number in the less costly workshops continues to rise. The trend toward medically-oriented services will continue within Forest Haven. Cost of repairs and equipment is expected to rise in order to provide for the safety and comfort of a substantial number of new admissions who fall in the profoundly retarded range or have multiple disabilities.

By the 8th year the number of clients maintained in day treatment will be approximately 100 and the number in sheltered workshops approximately 200. Employment or some other training or educational program is expected for the remaining 100 persons. Approximately 300 of these will be maintained by the Department in community-based residences. We anticipate that 100 will be living in their own homes or in foster homes. Four hundred clients will have left Forest Haven to enter the community and two hundred profoundly retarded individuals will have been admitted for care in Forest Haven.

THE PANAMA CANAL: IMPORTANT U.S. PROPERTY

Mr. HANSEN. Mr. President, Stanley Meisler recently reported his experience traveling with a large vessel from the Pacific to the Atlantic through the Panama Canal. The article was printed Sunday by the Washington Post.

This report helps to illustrate the importance to the United States and other nations of the world, as well, of keeping the canal open to shipping.

Mr. Meisler notes:

The New York Maru pays a $23,994 toll to transit the canal on this trip. It is worth it, the captain says. Otherwise, he would lose 14 days if he had to travel around Cape Horn. And the cost of operating his ship, he says, is $20,000 a day.

Mr. Meisler further notes in the article a U.S. pilot, expert at his job with years of experience, is required to take through the locks the large ships of other nations. He reported:

That is the way of the Panama Canal: United States officials believe that seamanship through the canal is so demanding that their own pilots must have command.

Mr. President, I ask unanimous consent that Mr. Meisler's article be printed in the RECORD.

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

PILOT IS THE BOSS IN PANAMA CANAL

(By Stanley Meisler)

COLON, PANAMA.—The Panama Canal is the only waterway in the world where pilots take full command of the ship.

In predawn darkness, Capt. Burley F. Pruett, 48, the pilot, takes over the New York Maru, waiting in the Bay of Panama, Pacific Ocean. It is 5:15 a.m. In 10 hours, he and a second pilot will guide the ship through this marvel of engineering to the Caribbean Sea on the Atlantic Ocean.

The New York Maru is 863 feet long and 106 feet wide—only 137 feet shorter and 4 feet narrower than the canal locks which raise or lower ships as they pass.

There is no ceremony when Capt. Pruett takes command.

Capt. Honma asks, "We go through now?"

"Yes," the U.S. captain replies.

It would be hard to imagine a greater contrast than that between these two officers. Capt. Pruett is a large man, taller than 6 feet, and weighing more than 200 pounds. He is so large, that some of his colleagues think Burley is his nickname.

He has worked as a pilot on the Panama Canal for 13 years, and looks on Missouri, where he owns a farm, as home. On this trip, he wears a red yachting cap with the emblem of the Panama Canal Pilot's association, and a white Guayabera, the fancy, tropical sports shirt popular in Central America.

Capt. Honma, a Japanese, is far more formal. Tieless, he wears a freshly pressed and laundered white uniform with captain's stripes on the shoulders. He is short, well under 6 feet. His hair is unstylishly cropped. He resembles Peter Lorre holding his cigarette with three fingers.

The Japanese captain paces the bridge repeating Capt. Pruett's orders to the crew. But he is not piqued by loss of command.

That is the way of the Panama Canal: United States officials believe that seamanship through the canal is so demanding that their own pilots must have command.

Between oceans the canal is 51 miles. Because of a peculiar twist in the Isthmus of Panama, a ship moving from the Pacific to the Atlantic goes from southeast to northwest. While so doing, it must rise 85 feet above sea level by the time it reaches the other side of the canal.

It works this way: after seven miles, a ship from the Pacific reaches two gates called Miraflores locks. The locks make Panama different from the Suez Canal, which is like a 105-mile sea-level ditch.

In fact, one reason that Ferdinand de Lesseps, who, in the 19th century, dug the Suez Canal failed to dig the Panama as well, was his insistence on trying to do it the same way—without locks.

The locks are like giant elevators or bathtubs. In either case, water inside a lock floats the ship up or down. The two Miraflores locks raise an Atlantic bound ship 54 feet. After a mile on the small, artificial Miraflores Lake, a ship enters the third Pedro Miguel lock, better known by the men working on the canal as "Peter McGill" lock. This one carries the ship up a final 31 feet.

The ship then enters Gaillard Cut—the most difficult work of U.S. engineers who finished the canal in 1914. The cut is a passage through the Continental Divide, remnant of the Rocky Mountain chain in Central America. Workers had to cut through eight miles of almost solid rocks.

It must have been spectacular going in the early days. The passage then was only 300 feet wide rimmed by thick vegetation on the banks. Today, the banks are still overgrown, but the cut has since been widened to 500 feet.

Despite the widening, however, a ship the size of the New York Maru is given exclusive passage.

Once out of the thin pass, a ship heads 23½ miles across Gatun Lake, formed by

damming the Charges River. It follows a channel over the old river bed, dotted with islands that were once tops of hills.

At the end of the lake, a ship reaches the three Gatun locks which lower it 85 feet to the Atlantic Ocean. After another 6½ miles, the ship finally reaches the breakwater outside the Port of Colon—and the end of the Panama Canal.

A passenger on the bridge of the New York Maru gets his first grasp of the Panama Canal when the ship approaches the Miraflores locks. As he looks up, he sees Lake Miraflores above, held back by gates— a lake to which his ship must climb.

As the New York Maru enters the first lock Panama Canal crewmen climb aboard to hook 12 cables to six locomotives at the sides of the dock. This power pulls the ship through the locks, although the New York Maru uses some of its own power to move between locks.

Younger pilots stand forward on the ship and talk with locomotives drivers via walkie-talkies. This is called "working the mules up front." Capt. Pruett, with his own walkie-talkie, coordinates it all. There are only two feet between ship and lock on each side; sometimes they touch.

"One thing you have to have," says Capt. Pruett, "is a lot of guts. You keep having revolutions and horsepower going through your head."

No pumps are used in moving ships through the locks. Water enters and leaves by gravity.

Every time a ship goes through the canal, 52 million gallons of lakewater spill into the seas. According to canal company officials, the 40 ships that go through every day would displace enough water to supply Boston for two weeks.

The New York Maru is at the heart of Panama Canal commerce. On this trip, it is taking Japanese electrical appliances from Kobe to Baltimore, New York and Savannah. Almost 40 per cent of the traffic through the canal comes from ships moving between Japan and the east coast of the United States.

The New York Maru pays a $23,994.00 toll to transit the canal on this trip. It is worth it, the captain says. Otherwise, he would lose 14 days if he had to travel around Cape Horn. And the cost of operating his ship, he says, is $20,000 a day.

At 3:15 p.m. 10 hours later, the New York Maru ends its transit through the canal near the Port of Colon.

A few minutes later, a Panama Canal launch comes alongside the ship. While both the huge Japanese container ship and the launch are in motion, U.S. pilots climb down the ladder and jump onto the launch, ready for another trip back to the Pacific.

SENATOR HASKELL ON TAX REFORM

Mr. CLARK. Mr. President, now that April 15 has come and gone, the American people have been reminded once again that this country's tax structure is simply not equitable. Tax shelters and loopholes designed specifically for the wealthy allow thousands of people every year to pay little or no income tax.

In 1970, for example, 106 people with an annual income of more than $200,000 paid no income tax at all, while the "average" person in this income bracket paid 30 percent of that amount in income taxes. There are similar examples at every income level, and the vast majority of American people are justifiably angered with the situation.

Tax reform in the United States is long overdue.

Senator FLOYD K. HASKELL recently wrote an excellent article for the New York Times on the need for tax reform. In it, he argued that tax reform should meet two basic principles: First, all deductions, credits, shelters, or referrals that are neither generally applicable to all taxpayer nor essential to a fair determination of ability to pay should be repealed; second, the gain in Treasury revenues which would result from comprehensive tax reform should be the basis for a drastic reduction in the tax that everyone pays.

Mr. President, I agree wholeheartedly with Senator HASKELL, and especially with his comment that—

Until all citizens pay their fair share, there is no way the American people can really have faith, trust and confidence in the political system.

I ask that the Senator's article, which appeared in the April 26 edition of the Times, be printed in full in the RECORD.

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

TAX REFORM—A CALL FROM THE HINTERLAND—AND A REFORM PLAN

(By Floyd K. Haskell)

WASHINGTON.—Public opinion in this country rates President Nixon at an all-time low. Yet the voters rate the Congress even lower. Is it disillusionment resulting from a general atmosphere of distrust that we have come to label "Watergate"? Will public disillusionment disappear if the Congress remains resolute and we discover once and for all the truth of the President's involvement or noninvolvement in the Watergate affair? Will an impeachment trial eliminate public disappointment and dismay?

I believe not. The people's disillusionment with their Government and leadership antedates and runs far deeper than a lack of confidence in the President. To many, Watergate and all the official improprieties that that term has come to suggest offer proof that virtually everyone in our Government is corrupt, that the rich and the powerful have greater access to the centers of policy-making than do the millions whose lives are affected by those policies, and that ordinary taxpayers have been but a pawn in the game of power.

Impeachment, whatever its result, will not dispel the vast distrust of politics and Government. Impeachment will only mean that the people's branch has brought an indictment against the President. But the people have already indicted their institutions, in a political sense, and an impeachment inquiry may only be one step in halting the erosion of confidence.

If we are to regain public confidence we must address the root cause of long-standing popular disillusionment: a widely-held view that the Government and its policies are neither responsive nor responsible to the people.

Many reasons for such disillusionment can be found, but one above all is our tax laws. How is it that millionaires pay no tax and the President pays large sums only after an investigation by Congress, but the filling-station attendant, the secretary and the miner pay exorbitant taxes, unrelieved by even debatable loopholes?

Perhaps the millionaire invests in low-income housing, oil wells, or in municipal bonds, and thus legally eliminates any income-tax liability. We need low-income housing and oil wells, and our cities must have services. But does this make the tax system palatable? I think not, and the American people think not.

America realizes that every dollar of tax "breaks" for a few people means that the rest of the people must take up the slack through higher taxes. I don't object to tax breaks that have general applicability. What I object to are those provisions written not for all the people but for a select few who have chosen to pursue a particular, narrow economic objective.

We must soon undertake a complex and radical overhaul of our tax laws. We must say that taxes are to raise revenues, not to induce economic behavior. We must reverse a generation of policy and bar subsidies by tax incentive.

Tax reform should follow two basic principles. First, all deductions, credits, shelters and deferrals that are neither generally applicable to taxpayers, and hence distort progressiveness in the tax structure, nor essential to an accurate and fair determination of the ability to pay should be repealed. Second, the net gain in Treasury revenues that this brings about should be the basis for a drastic reduction in all tax rates.

Under this approach, such items as the use of percentage depletion in excess of cost, the deferral of export income, various forms of accelerated depreciation and the like would all be repealed.

But we must retain tax provisions designed to help all taxpayers meet certain basic needs or that are designed not only to provide an incentive to a given economic activity but also to define realistically one's ability to pay.

One might easily justify exempting from taxation such items as public assistance payments, certain income of the elderly, and certain medical-care benefits. And one might acknowledge the need for some form of tax recognition for certain consumer expenditures such as housing and medical care. But it is not clear that the tax mechanisms used for those purposes are as equitable or efficient as others might be. Thus, a deduction for medical payments might be replaced by some form of tax credit. Under the deduction system, the Government in effect subsidizes 70 percent of the medical care of the wealthiest taxpayers but only 14 percent of the care needed by someone earning $5,000 a year.

There should be a revision of the treatment of capital gains, beginning with a redefinition of the term "capital asset" to exclude the source of ordinary income. And there should be an end to the practice of allowing capital gains to escape taxation entirely when the assets are transferred at death.

A preliminary estimate of the projected revenue yield of such reforms is about $25 billion—a sum that would allow a substantial reduction in the tax rates on all income brackets.

Until all citizens pay their fair share, there is no way the American people can really have faith, trust and confidence in the political system.

TOO MANY U.S. TROOPS IN ASIA

Mr. CRANSTON. Mr. President, I believe we have 100,000 more American troops stationed in Asia than we need there. We ought to bring them home and deactivate them.

Bringing home about half our military forces from that part of the world would save American taxpayers $1 billion in direct manpower costs alone; billions more for troop support, military construction, maintenance, and logistics. The balance-of-payments savings associated with such a cutback would be roughly $800 million a year.

The sky would not fall. We would still

have more than enough men—and firepower—to protect American security in the Pacific and to live up to our legitimate treaty commitments to our allies.

Even with 100,000 servicemen pulled out of South Korea, Thailand, Japan, the Philippines, and Taiwan, we would still have 59,000 air and ground forces left in those countries, plus 33,000 men of the 7th Fleet in Southeast Asia and the western Pacific, and 14,000 air and ground forces in Guam—106,000 men in all.

Immediately after the last world war, it was reasonable to keep hundreds of thousands of U.S. troops in Asia to allow our allies to rebuild and recover from the recent conflict. But such a huge American military presence was never meant to be permanent. The spectacular economic growth experienced by those countries in recent years—thanks in large part to U.S. aid—now makes them better able to support their own defense.

I have also actively supported Senator MANSFIELD's efforts to whittle down the $17 billion we spend on European military support, and this 25 years after World War II. I still do. I am convinced that reducing our overseas forces would make us stronger as a nation than we are today.

This is not an idle proposal. A growing number of Members of Congress—Republicans and Democrats alike—are fed up with the wasteful, provocative, and counterproductive deployment of huge numbess of U.S. troops in the far corners of the globe.

Last year the Senate passed an amendment I wrote with HUBERT HUMPHREY to cut back 110,000 troops worldwide. But the House would not go along. This year, I believe we will have the backing of the House as well.

POLITICAL AND MILITARY REFLECTIONS IN THE WAKE OF THE WAR OF OCTOBER 1973

Mr. ABOUREZK. Mr. President, in an article entitled "Political and Military Reflections in the Wake of the War of October 1973," Meir Pa'il has commented insightfully on the conflict, the motivations, and aspirations of the participants, and interested foreign parties. Mr. Pa'il is an eminently qualified observer of the Middle East. He is a member of Israel's parliament, the Knesset, and is a lecturer in history and military history at Tel Aviv University. He is also a former commander-in-chief of the Central Officer's School of the Israeli army, and is a member of the Board of Directors of the Israeli Peace Research Society. Recognizing that "the root" of the Arab-Israeli conflict is Israeli-Palestinian struggle, Pa'il proposes that:

The government of Israel permit the early holding of democratic elections in the occupied territories—elections in which the Palestinians will choose their representatives. Israel should declare that it recognizes the right of the Arab Palestinian people to self-determination, which will be implemented alongside a guarantee of peaceful coexistence with Israel. Israel's efforts should be directed towards including the representatives of the occupied areas in every negotiation aimed at discussing the future of the territories in which they live, or the refugee problem.

I want to bring this important article to the attention of all Members of Congress, and others interested in the Middle East situation. I ask unanimous consent that "Political and Military Reflections in the Wake of the War of October 1973" be printed in the RECORD.

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

POLITICAL AND MILITARY REFLECTIONS IN THE WAKE OF THE WAR OF OCTOBER 1973

(By Meir Pa'il)

I. GEOGRAPHIC DEPTH VERSUS POLITICAL FREEDOM OF ACTION

The Egyptian-Syrian offensive on Yom Kippur 1973 testifies to the fact that the status quo policy of the government since the end of the Six-Day War was a complete failure. This policy held that time works only in our favor, that we must follow a line of consolidation, settlement and creating facts in the occupied territories (as outlined by the Galili Document), and that ultimately this would be accepted by the world, and we would extend (de facto or de jure) our territory and establish security and tranquility for a long time to come. This policy proved to be a dreadful delusion. It did not prevent the renewal of a war on a much larger and more deadly scale than the Six Day War and the War of Attrition. This policy failed even in terms of strategic considerations.

The two wars compared

Let us make a short historical comparison between the Six-Day War and the War of October 1973.

On the eve of the Six-Day War, from the end of May till the beginning of June 1967, when Egyptian forces gathered in Sinai, and the forces of Jordan, Iraq, and Syria began to concentrate to our east, we lacked strategic depth because of the size of the State of Israel at that time. But during the three weeks which preceded June 5, 1967, it became clear that Israel had great freedom of political action in terms of the interests of the world powers. We had at least the support of the United States and Great Britain and the sympathies of world opinion in most countries.

This state of affairs enabled us to strike a pre-emptive blow in the Sinai Penninsula, in the central mountain range of the Jordanian West Bank (Hebron-Jerusalem-Neblus-Jenin) and afterwards, in the Golan Heights. As a result, we achieved the most striking military victory that Israel has known since its founding, followed by a significant political improvement based on the very fact of our control over the "occupied territories."

On the eve of the October 1973 War, as the Egyptians and Syrians prepared for their attack, Israel enjoyed reasonable strategic depth, but found herself in a situation of greatly reduced freedom of action. Our friendly relations with Africa were in a process of disintegration, those with Western Europe were becoming increasingly aloof and detached (not to mention the outright animosity of the Eastern European countries), and even the one Great Power which backed Israel, the United States, would under no circumstances have allowed us to make a preemptive attack on Yom Kippur eve. Had we taken the initiative of a preemptive attack, they would have stopped us in a day or two; and we would have been forced to pull back and been compelled by the United States to relinquish most of the territorial and political gains of the Six-Day War.

Why such isolation?

Why did Israel find itself in such a bind? Though this problem requires a separate discussion, it would be missing the point to shrug our shoulders and blame Divine Providence for our troubles. It should be clear that Israel's policy itself is at least partly to blame for the isolation we found ourselves in on the eve of the Yom Kippur War. Israel's policy for the past six years regarding the "occupied territories", has been to perpetuate the status quo through a series of faits accomplis. This policy of "creating facts" in these territories has been part of a tough political line based on an unwillingness to relinquish territories in return for a possible peace settlement.

As a result of such policies, we were thrown into the War of October 1973 with strategic depth, from a military point of view, but without the necessary freedom of political action to fully use our military capabilities. It is true that we succeeded in containing and repelling the Syrians and Egyptians and even conquering additional territory in Syria and the West Bank of the Suez Canal; we achieved a clear military victory. However, this victory only came after a war which was three times as long as the Six-Day War and cost us, so it appears, more than twice the number of lives.

When we examine the political situation which now prevails between Israel and the Arab states since the recent cease-fire came into effect, we must conclude that in spite of a military victory, we have not obtained a single positive political achievement. We are in about the same political situation as we were vis-a-vis the Arab world after the Six-Day War and we still face the same dilemmas that resulted from that war.

The question still remains, are we prepared to return the "occupied territories" (even gradually and in stages) in exchange for their demilitarization and steps towards political peace between ourselves and the Arabs? Or shall we continue to "establish facts" in the territories in the false hope that the world will be reconciled to this and with clear anticipation of another round of battles in the future? It seems that our political situation has even deteriorated following the October War for now there is a good chance the Super Powers will press more forcefully for a political settlement which will involve significant Israeli territorial concessions in return for political concessions from the Arabs.

In our comparison of the Six-Day War with the October 1973 War, therefore, we can draw the conclusion that there are international-political factors which contribute more to political and military victory than secure borders, even if the latter provide strategic depth; moreover, strategic depth can also be achieved by demilitarizing the territories after their return.

Initiatives could have prevented isolation

Could Israeli willingness to gradually relinquish the occupied territories in exchange for their demilitarization and contractual peace settlement have altered the political situation prior to October 1973? Could a massive Israeli peace initiative between 1967 and 1973 have prevented the October War or any other war? This is very difficult to know, for even the most extensive peace initiative on our part might not have received an appropriate response from the main leaders of the Arab world. But one thing is almost certain: such an initative would have helped to avoid Israel's isolation among the nations of the world. It is also likely that such an initiative would have deepened our own faith in the justice of our cause and moderated some of the ultra-nationalistic feelings which have surfaced in our society. It might have also succeeded in opening a channel of communica-

tion with someone in the Arab world in the post-Six-Day War period.

The question which arises is: today, after a cease-fire has been imposed on the parties, will Israel wait and be forced by pressures from the Big Powers? Or will she now initiate a peace policy and publicly announce without Big Power pressure that the territories occupied since the Six-Day War are competely negotiable in return for demilitarization and peace settlements.

II. POSSIBLE ARAB INTENTIONS IN THE OCTOBER WAR

The actions of the Egyptian and Syrian Armed Forces during the first days of the battle, and our knowledge of Soviet tactical and operational doctrine, allow us to determine the military objectives of these countries in the October '73 attack.

Syria

The Syrians apparently intended to recapture the Golan Heights in two or three days. They expected to be protected from our air force by their modern anti-aircraft missile systems which extended throughout the Syrian Golan Heights and Bashan (Houran) and which would certainly be moved into the re-conquered Israeli Golan Heights. At a second stage, it appears the Syrians intended to contain counter-attacks by the Israeli armoured infantry and air force in an effort to weaken our strength and bleed us for a few more days until the United Nations and the Great Powers would arrange a cease-fire approximately along the old (pre-1967) border with a few changes in favor of the Syrians.

Egypt

The Egyptian objective was apparently to cross the Suez Canal at a number of bridgeheads, and to penetrate the Sinai Peninsula over a period of three to four days until Egyptian military control extended along the East Bank of the Canal to a depth of twenty to thirty kilometers. This was to be effected under the protection of a dense anti-aircraft missile system spread along the west side of the Canal—part of which would accompany the land forces crossing over to the East Bank. At a second stage the Egyptians intended to contain counter-attacks of the Israeli armoured infantry and air force, with the aim of crushing us before the United Nations and the Great Powers would bring about a general cease-fire.

Little Expectation of a Third Stage

It is very likely that there were some Syrian or Egyptian commanders or leaders, who in their sweetest dreams, hope to continue into a third stage, after the Israeli Defense Forces (I.D.F.) was crushed, and advance into the Upper and Lower Galilee and into the Sinai expanses through armoured-motorized-warfare. However, it seems that such expectations were not considered realistic by those who made the decisions in Syria and Egypt in light of their evaluations of I.D.F. since the Six-Day War. Moreover, armoured-motorized-warfare requires air control and close coordination with the air force which neither the Egyptians nor the Syrians could count upon, for they did not even attempt to eliminate our airfields in the early stages of the attack.

Jordan

The question arises: Why didn't the Hashemite Kingdom of Jordan join the attack of October '73? Her participation would certainly have placed Israel in an even more difficult situation. It seems that King Hussein and his advisors had two considerations in not joining the war:

(1) I.D.F.'s deterrent image was still clear in the minds of the Jordanian authorities and they feared—and rightly so—that when the I.D.F. would make a counter-attack, Israel would likely gain control of the East Bank of the Jordan (including the cities of Irbid, Mifraq, Jerash, a-Salt, Amman, Karq, Ma'ar, and Aqaba) and simply put an end to the present Kingdom of Jordan. The Egyptians and the Arab countries along the lines even in the event of an Israeli military victory.

(2) The Jordanian ruler reasoned that should the October War bring about or impose talks between Israel and Syrians did not face such a danger of "territories in exchange for demilitarization and peace," this would have to, in any case, also involve the Israel-Jordan plane. Thus, Jordan could reap the benefits following the war without having to spill the blood of her soldiers and citizens to obtain them.

The Jordanian aid to Syria in the form of sending an armoured brigade to Southern Syria were merely a political move. Had Jordan joined the war full force, she would have activated her military strength on the land and in the air in a third strategic theatre of war allowing for those optimal benefits which follow from the wise operation of an "External Lines" strategy.

Whatever King Hussein's considerations, he acted wisely by not involving his country in the October War, and he succeeded in emerging with honor in the eyes of the Arabs because of his symbolic military contribution to the Syrian effort.

If the Arabs had won

Had the Syrian or Egyptians realized their plans, Israel's military and political security would have deteriorated. On the Israeli-Syrian front, our northern border would have returned to its pre-'67 vulnerability; on the political plane any chance of a settlement with Syria would have been removed for a long time to come.

As for Egypt, from a military standpoint we would have lost part of the strategic depth of the Sinai; from a political standpoint, we would have lost the Suez Canal which, because of its international geopolitical importance, could and still can, serve as a good political bargaining card for Israel. In return for voluntary relinquishment of the Canal there is a chance of achieving the first step in the complicated process of political rapproachement between Israel and Egypt, as well as other political centers of the Arab world.

It should not be forgotten that any significant military gains by the Egyptians or Syrians would have put off any possibility of dialogue between Israelis and Arabs. This is because the most realistic part of our bargaining position—the territories—would have been returned to the Arabs. Any serious Egyptian or Syrian military achievement would also have increased the Arab sense of military security; reduced the deterrent force of the I.D.F. and automatically opened the option of an additional round of bloody war in the near future—this time including Jordan in the fighting.

III. REFLECTIONS UPON ISRAELI STRATEGY

After the War of Independence, it became clear to us that any war that Israel would have to fight in the future would only last the number of days it would take the Great Powers to impose a cease-fire. This meant that the classic strategy of "Internal Lines" by which the I.D.F. carried out its offensives in the second part of the 1948 War, was now antiquated. In its place, the I.D.F. would have to operate according to a strategy that would allow it to take the initiative, not just in one direction, but in two or more parallel offensives, giving us the ability to achieve, from a political point of view, a maximum exploitation of time available. If there were any reasons for doubting this line of reasoning before June 1967, the Six-Day War proved that if we don't know how to carry out a number of parallel attacks, we will in the end miss out on historic opportunities.

Importance of the Reserves

In order to meet this vital challenge, we cannot enter a serious war without mobilizing our reserve forces. Only with their mobilization can the I.D.F. achieve the dimensions which will enable it to protect its initiative on a number of parallel strategic fronts. This is essentially the secret of the Israeli Army's quantitative power. Against this background, the failure to mobilize parts of the reserves before Yom Kippur 1973 was a serious mistake which must be thoroughly and fundamentally investigated and from which we must draw all the relevant conclusions about the management of our Intelligence Service, its decision-making processes, the hierarchical structure of its decision-making bodies; perhaps we will have to make necessary personnel changes. Had part of the reserve detachments been mobilized in time, it would have been possible to contain the Egyptian and Syrian attacks more easily, to repel them more quickly and carry the war into enemy territory on both fronts in three or four days, or at most, a week—and with much fewer losses.

Limitations to Our Strength

However, even the problem of carrying the war into enemy territory must be handled wisely. The aggressive fighting spirit of our commanders and I.D.F.'s superior capacity of performance over the Arab armies—a superiority revealed again in the October War despite certain disappointments—must be constantly tempered by the sort of reasoned wisdom which is an integral part of both the Jewish and Israeli-Zionist tradition. On this subject we should consider the following analysis.

Even military strength has objective limitations which must be considered lest we be burnt out by the intensity of our own strength. Despite our military superiority over the entire Arab world, we cannot, even if our population was to number eight to ten million Jews, forcibly control the entire Arab Middle East and impose political settlements on the Arab States as we see fit. The Arab world, despite its social, economic and even cultural backwardness, is "bigger than we are" demographically and geographically. This is without taking into account the reaction of the Great Powers (including the U.S.) should we attempt to take over the ruling centers of the Arab Middle Eastern countries. We must remember that Damascus numbers around eight hundred thousand Arabs and Cairo around five million Arabs who cannot be counted among Israel's sympathizers; and these two cities are only a small part of the Arab world.

These limitations to our military strength are apparently clear to our political and military leadership for such considerations, in addition to fear of active intervention of the Great Powers, prevented them from ordering the I.D.F. to carry out a blitz on Damascus and Cairo. This is a credit to their wisdom.

A new strategy of attrition

However, during the October War, a tendency began to appear among our political and military leadership to try and persuade the Arab leaders to talk and to recognize Israel by means of a new strategy. This strategy proposes to prove to the Arabs that in any battle or war, their armies can anticipate such a beating that it is not worth the price they must pay—either in loss of life or in the material and economic spheres. This strategy by nature necessitates prolonged military attrition which is supposed to—God willing—open the eyes of the Arab leaders and make them realize that it would be better for them to talk about political settlements with Israel than to suffer the debilitation of their human and material resources. This strategy, which was explicitly voiced by the Minister of Defense in his television appearance of 14 October 1973, should be severely criticized on two grounds:

The strategy of attrition is by nature two-sided and will take its toll from us in lives, as well as economically, in every battle. The

people of Israel cannot afford the luxury of such a strategy.

The Arab leaders control tremendous resources of manpower and have political and economic alliances which allow them to resupply themselves with relative ease again and again. The destruction of part of the Arab armies in devastating battles on land, sea, and in the air, has little effect upon the Arab leaders over the long run. The end result will be to draw us into additional and frequent rounds of ravaging war due to the rehabilitation rate of the Arab forces. The Arab side will suffer less than we do from these wars and will be affected by them less. In the above-mentioned television interview, the Minister of Defense admitted that he's not even sure he can bring Syria and Egypt to accept a cease-fire by means of this method of attrition.

Territory as a Bargaining Card

Despite the limitations we mentioned regarding Damascus and Cairo, in the complex situation existing between us and the Arabs, military control over territorial possessions provides a great number of military and political advantages.

The advantages of controlling territory are both defensive (strategic depth) and offensive (solid bases for our attacks). On this, there has been general agreement. To sense the dimensions of the military importance of the territories, we need only imagine how bitter our lot would have been in the Jordan Valley, the Kinneret Basin, and Eastern Upper Galilee had the Syrians successfully gained control—God forbid—of the Golan Heights during their Yom Kippur attack.

However, the political advantages of controlling the territories do not lie in annexationist visions of the territorial expansion of the State of Israel, but in the geo-political importance of certain territories as bargaining cards in exchange for significant political concessions from the other side, including the total demilitarization of the territories accompanied by suitable military and political guaranties. The Yom Kippur War certainly proved that merely holding territories without using them to promote political negotiations, ultimately leads to renewed warfare and spilling of blood.

The question of how many Egyptian, Syrian, Iraqi or Jordanian forces were wiped out in the October 1973 war is of secondary importance. The dimensions of the damages (which, to our great sorrow, were mutual) will be determined only if the next round takes place in three, five, or seven years. However, the territories we succeed in holding can, *if we behave intelligently and generously on the political plane*, serve as a bargaining card which can gradually alter the political situation in exchange for gradual territorial concessions.

Egypt—We Should Not Have Trapped the Third Army

This analysis compels us to question some of our leadership's strategic considerations after we assumed the initiative in the October War.

On the Egyptian front, it is clear that our establishing a bridgehead north of the Great Bitter Lake on the west bank of the Suez Canal, and our expansion to the north and south of it, upset the Egyptian strategic balance and persuaded the Soviets to put pressure on Egypt and the United States. This is what brought about the ceasefire on October 22 and October 24.

This I.D.F. operation was a good example of an *indirect approach*, which exploited the Achilles heel of the Egyptian Army's deployment and his slow reactions. If anything was lacking in brilliance, it was, in my opinion, the final polish: we should have *not* completely encircled the Egyptian Army either in the southern or northern part of the Canal, but, instead, left him an opening for communication with his rear. These outlets are vital from a military standpoint, for there was a chance they could assist in the psychological disintegration of the Egyptians, and perhaps even hasten the collapse of part of their formations east of the Canal.

It should be noted, that these openings are manifoldly even more important politically, for as long as the Egyptian Armies maintain minimal ties with their rear and their problem of subsistence is not critical, there could be a chance of avoiding external and superfluous pressure on the part of the Great Powers. This would make it easier to gain time in order to maintain our presence on the West Bank of the Canal and achieve without undue involvement by the Great Powers, significant political concessions. If the Egyptian Third Army's very existence is in danger, however, we openly invite urgent international pressure to begin an Israeli withdrawal.

In conclusion, wise and original military thinking would have been to leave some small opening for the Egyptian Third Army which would serve as a valve to release political and psychological pressure while allowing the I.D.F. to keep open the option of total encirclement.

SYRIA—A TEMPORARY BUFFER WAS NEEDED

As for the Syrian front, when we went over to the offensive, we were apparently caught up too quickly in battles to destroy the Syrian and Iraqi forces; our leadership did not seem to have determined a clear strategy for the offensive. There were various hints about aiming for Damascus, but these were apparently leaked to "confuse the enemy." In my opinion, after we took the initiative we should have directed our attack toward controlling the region of Sheikh-Maskin and joining up with Jabal Druze. This would not be to annex territory, but rather to establish a temporary buffer between Jordan and Syria in preparation for political contacts to follow, and also to hold something significant for further bargaining with the Syrians.

A Limited-Arms Strategy

In conclusion, I believe that given the specific conditions of the Middle East and the conditions of the protracted Israel-Arab Conflict, we are compelled to follow a *limited-arms strategy and not a strategy of unconditional surrender or of total destruction.* In this framework, the correct approach is not a strategy of pulverising the enemy, but a strategy of limited territorial control, meaning, control for bargaining purposes only, and not at all for purposes of annexation.

IV. REFLECTIONS ON ISRAELI TACTICS

There is no doubt that the October 1973 War put the I.D.F. to a difficult tactical test, which involved us in considerable "hand-to-hand" combat, mechanized or otherwise. The I.D.F., with its regular and reserves branches, ultimately stood the test, contained and repelled the attacks and took the offensive, carrying the battle into enemy territory. This fact serves as proof that the I.D.F. is superior in principle to its Arab enemies, both in fighting spirit and in the tactical and operational management of its fighting forces.

A War of Foot-Soldiers

But from the information reflected in the press, it becomes clear that the I.D.F. must undertake basic changes in several aspects of military doctrine and tactics. First and foremost is the improvement of the status, size, and combat role of the foot-soldier as a modern twentieth century fighter.

It is not our intention here to become involved in operative-strategic polemics as to whether we should have been organized defensively in fortified installations along the Canal and the Syrian Purple Line. We assume that such arrangement were required from a political standpoint, and it is clear that political considerations must always take precedence over military considerations. What I want to point out is that, even though most of our fortified installations along the Suez Canal and some of them on the Syrian lines were captured by the enemy within the first day or two, this does not necessarily prove the conceptual failure of the defensive formations. It does, however, prove that our infantry is in need of substantial improvement.

Similarly, we must thoroughly examine our defense tactics and our fortification system to see if we have not mistakenly preferred a "bunker conception" over a sound and effective fire capability. We must also examine our standards of fighting spirit, for good infantry units operating properly from fortified installations with the help of tanks, artillery, engineering and air support, and possessing an adequate supply of ammunition, should know how to fight from within their installations even if they are completely surrounded for a week or even more. The stronghold at the southern dock of the Suez and the northern stronghold on the Mediterranean Coast are good cases in point.

The need for night fighting

The veteran soldiers among us were not comfortable with the fact that during the first days of the battle there was little said about offensive night fighting at least in two areas:

Large-scale raids, mostly with helicopters, against all of the enemy anti-aircraft missile bases and airfields and even against his communications and transportation systems. There is no reason why the operation against the batteries of missiles must be solely carried out by the air force or the use of the sophisticated homing-in "Shrike" missiles.

Counter attacks by the infantry at night with the support of tanks and artillery, with the infantry either on foot, fighting from half-tracks or carried by helicopters.

Necessary overhauls

It is difficult to evaluate where exactly the weakness of I.D.F.'s infantry lies. It is unclear whether there are insufficient infantry troops to carry out all the above-mentioned objectives or whether the infantry lacks sufficient modern equipment in the areas of personal weapons, half-tracks, or helicopters.

It may be that there are deficiencies in the fighting doctrine and education of the fighters themselves. In any case, there is the impression that in I.D.F.'s "philharmonic orchestra," the lack of a modern infantry is keenly felt; this is a matter which requires investigation and correction.

A second overhaul should be made of the formative structure of I.D.F. It appears that the present Defence leadership was excessively hasty in adopting a divisionary structure as a fixed formation, seemingly based on the historical examples of various foreign armies.

The complications of the October War and the need for flexibility may compel us to re-examine the concept of a division as a fixed formation. The nuclei of the fixed formations should be on a lower level (brigade) and these small fixed formations should be structured so as to absorb quickly and easily non-integrated fighting units. This must be accompanied by the complete abolition of all differences in work procedures between the infantry and the amoured corps.

The Navy was successful

It appears that the only combat force whose fighting doctrine functioned flawlessly in the October War was the Navy. After a generation of learning, the Israeli Navy finally came into its own and adapted itself to a unique fighting doctrine which is appropriate to our conditions of war. The protraction of the war allowed the Navy this time to prove its originality and its offensive

spirit by using small vessels and special methods of fighting. We can only hope that they do not succumb to excessive self-satisfaction and complacency.

V. ON THE INTERVENTION OF THE SUPER-POWERS

It happened again, although this time only after eighteen days, to our good fortune. Had the Powers intervened at the end of the first week of the war, we would have been in a much less pleasant situation.

It should be understood that before actually intervening, the Soviet Union and the United States first weigh their global interests in relation to their positions in the Middle East. I want to stress that the objective situation of these two Super-Powers is *not* the same.

Soviet interests

The Soviet Union is the Power which was thrown into the greatest distress in the Middle East when it became clear that the initiative had passed to the Israeli side and that the Egyptian Army was in danger of serious defeat. Under these circumstances, the Soviet Union feared (and still fears) that absolute defeat of the Egyptian and Syrian armies would lead the regimes in these countries to abandon their alliance with the Soviet Union and transfer their political sympathies to the United States. This could occur either by means of overthrow of the Arab regimes or without any change in government.

After less than two weeks of fighting, the Soviet Union discerned that her vital interests in the Arab world were likely to be damaged; therefore she quickly worked for a cease-fire through her contacts with Egypt and Syria as well as the United States. This is also the reason that the Soviets will in the near future apply steady pressure for additional political changes which could be interpreted as Egyptian and Syrian gains.

American interests

The United States is in a much better situation vis-à-vis her position in the Middle East. No vital interest of hers has been damaged in the course of the October War. Even the Arab boycott on oil to the United States will scarcely affect the economy of America. Her motives for bearing down on Israel are important, but not as acute as those of the Soviet Union. The motives of the United States are:

The unstable position of President Nixon at home following the Watergate affair—a situation which is likely to influence the President to aspire to the historic role of peacemaker in the Jewish-Arab conflict;

Long-range consideration of the United States regarding friendly economic and strategic ties with the Arab world;

Concern as to whether extreme support of Israel will contribute to further emphasis of the contradictions between the United States and the countries of Western Europe;

The unwillingness of the United States to reach a military confrontation with the Soviet Union because of the Israel-Arab confrontation.

Forthcoming American pressure

In any case, the United States is the only Power which can influence Israel and, it should be added, she has good reasons for wanting the Soviet Union to lose her prestige in Egypt, Syria and Iraq in favor of herself. Therefore, though objective American interest in pressuring Israel exists, it is much more moderate than the pressures required by the Soviets. Hence, the Soviets will try to goad the U.S. into pressuring Israel by means of severe pressures and threats—both local and global—in an effort to have Russian stature in the Arab world. We may assume that because of the above-mentioned American motives, the Soviets will succeed to a certain degree and that certain pressures upon us from the United States are forthcoming.

In addition to the political game on the United States-Soviet Union plane, Egypt, Syria and Iraq (with the help of Saudi Arabia, Jordan and Lebanon) can initiate political contacts between themselves and the United States to encourage her to pressure Israel. We can assume that as the U.S. effects diplomatic relations with Egypt, and later on with Syria and Iraq, the pressures upon Israel will increase.

An imposed peace may be no peace

If the government of Israel continues to follow the policies she has adopted from 1967 to 1973, that is, maximum perpetuation of the territorial status quo in order "to gain time," in the hope that time works in our favor, there is a good possibility that in the end the Great Powers will win out. If so, Israel will be forced against her will, to begin significant withdrawals with the United Nations Emergency Force "goading" our withdrawing forces and supervising the various stages of evacuation. If these events take place we will find ourselves in a situation where we are forced to evacuate territories, but the Egyptians and Syrians, and perhaps the Jordanians as well, will not be compelled to pay the full political price for our forced territorial concessions. In this case, they won't be obligated to arrive at any political settlement which would lead to mutual recognition and the beginnings of commerce, communications, diplomatic relations and normalization between Israel and her neighbors. In other words, there is danger that no peace will develop from these imposed arrangements.

Since the United Nations Emergency Force serves not only as an instrument for observation of the front lines and borders but also as territorial buffer zone, we can already venture a guess as to what the first political step imposed will be. Israel will be forced to evacuate her forces some tens of kilometers east of the Suez Canal and perhaps commit herself publicly or secretly (or the United States will do it in her place) to an eventual total withdrawal from Sinai on the condition that it be demilitarized. Egypt will probably be allowed to station a symbolic military force east of the Canal and will commit herself to permit free Israeli navigation on the Suez Canal when it opens. Between Israeli and Egyptian forces will be stationed the United Nations Emergency Force which will operate in the Sinai.

Steps to be taken

Perhaps this model is to a certain degree reminiscent of the Roger's Plan of several years ago, or of the various calls by "dovish" circles in Israel during the past four years for an Israeli peace initiative as a first step toward Israeli-Egyptian talks. In any case, the question now is whether the Israeli government will wait until she is forced or will rather, immediately express publicly her readiness to exchange the occupied territories for their demilitarization and for peace. In doing the latter, we will express not only our willingness to negotiate with our enemies, but also our position on the principles of such negotiations.

Now, too, when attention is focused on our contact with Egypt, we should not forget that the root of the conflict is with the Palestinians.

I propose that the government of Israel permit the early holding of democratic elections in the occupied territories—elections in which the Palestinians will chose their representatives. Israel should declare that it recognises the right of the Arab Palestinian people to self-determination, which will be implemented alongside a guarantee of peaceful co-existence with Israel. Israel's efforts should be directed towards including the representatives of the occupied areas in every negotiation aimed at discussing the future of the territories in which they live, or the refugee problem.

There is a chance that such a broad peace initiative on our part will contribute to a healthy process of Jewish-Arab normalization and bring us closer to peace by gradually opening the borders between Israel and Egypt and later between Israel and Jordan. In this way, we can hope to create increasing contact between Israel and her neighbors in the areas of commerce, tourism, transportation, economics, culture and diplomatic relations. If this process is successful, perhaps even the Syrians will be persuaded to try their luck at peaceful relations with Israel.

In this situation, it is obvious that not everything depends on Israel alone, but it does depend on us to a considerable extent. Despite the cruelty of the Yom Kippur War, one can now assume that there is finally a hopeful opening for peace. It is our task and responsibility to take every step necessary to further the cause of Israel-Arab peace and brotherhood.

VICTIMS OF RAPE

Mr. JAVITS. Mr. President, as a principal cosponsor of S. 2422 the Rape Prevention Control Act, I have been concerned about the treatment accorded rape victims in our hospitals—and in criminal justice systems. In an effort to address one aspect of this serious problem, it is noteworthy that Mayor Abraham D. Beame of New York City recently announced the start of a pilot project that will provide improved medical and evidence gathering procedures in rape cases received by the municipal hospitals.

The project, being carried out by the police department and Health and Hospitals Corporation, is underway at Morrisania Hospital in the southwest Bronx—an area which has unhappily one of the highest incidences of reported rapes in New York City.

Upon completion of the 1-month test period, the program will be evaluated and if proven successful, it will then be instituted at 14 other hospitals administered by the Health and Hospital Corporation that are equipped with emergency rooms.

Special procedures being undertaken as part of the program include:

Having a policewoman available at all times to speak with the rape victim if the victim so desires.

Submitting all evidence of a rape case directly from the attending physician to the police crime lab for analysis, via hospital security.

Establishing new hospital procedures for those involved in the initial contact and treatment of rape victims.

This last procedure involves step-by-step guidelines for all those who will handle the rape victim, from the time she enters the hospital till she leaves. The guidelines have been designed to insure the proper handling of evidence, to aid in the prosecution of the alleged perpetrator, and to guarantee that the victim will be given prompt medical attention by hospital and police personnel who are sensitive to her particular problems. Psychiatric and abortion counseling will also be available if it is needed.

Mr. President, this coordinated effort, the first of its kind in the city, is in

response to the need for more sensitive treatment of rape victims and efficient handling of rape cases.

In addition, the police department now has a special sex crimes unit with divisions in each of the boroughs and recently, rape coordinators have been established at the municipal hospitals.

I commend Mayor Beame for the establishment of these important programs which reflect a long overdue sensitivity in handling the delicate emotional problems that so often affect rape victims.

SHIFTING THE BURDEN OF THE SOCIAL SECURITY TAX

Mr. CRANSTON. Mr. President, since I have been in the U.S. Senate, cost-of-living benefits for social security recipients have gone up 68.5 percent. I voted for those increases, and I believe in them.

Congress must provide for the elderly on fixed incomes at a time of savage inflation and rising prices.

But the payroll tax that supports social security has also gone up. The maximum salary deduction has gone from $374 a year in 1969 to $772 today.

The real burden is on middle- and low-income workers. Workers who make up to $13,200 a year pay 5.8 percent off the top of their salaries into social security. Every income level above that figure pays exactly what the $13,200-a-year worker pays: $772.

It is hard on small businessmen, too. Employers dollars match 50/50 with workers to finance the system.

As social security costs necessarily go up, I believe the Government should begin to contribute support from corporate, estate, and progressive income taxes which reach the upper-income strata. It is just too unfair to saddle 58 million hard-pressed low- and middle-income workers with the principal burden of supporting a nationwide system of social security.

At the same time, we in Congress must make sure we do not just take from the working person's left pocket what we stop taking out of his right pocket.

If the Government begins to chip in a share to social security from corporate taxes, estate and gift taxes, and income taxes—as I am proposing—then we must make sure this does not backfire on those same middle- and lower-income families. Instead, we must reform the tax structure to close loopholes that deprive the Treasury of billions of dollars.

FAIR AND EQUAL TREATMENT FOR VIETNAM VETERANS

Mr. CHURCH. Mr. President, it has been called forcibly to our attention that the veterans of the Vietnam war are not receiving benefits comparable to those that Congress provided veterans of our earlier wars.

This is intolerable. As a veteran of World War II, I was a beneficiary of the GI bill in the late 1940's. It enabled me to complete my college education and obtain a law degree. When I am told that Vietnam veterans are not receiving comparable educational benefits, when the difference in living and tuition costs is taken into account, I am dismayed.

In many ways, the veterans of the Vietnam war have shouldered greater burdens than those of us who served either in Korea or World War II. Vietnam was never a popular war, and thousands of young men who were drafted to fight there felt the same misgivings that so deeply divided public opinion here at home. This made their sacrifice all the greater and one can understand the anguish that many of them felt upon returning to an indifferent homeland after their term of service had expired.

This makes it all the more imperative that the benefits we make available to the veterans from Vietnam are generous and fair.

In furtherance of that objective, I recently submitted testimony before the Committee on Veterans' Affairs. I ask unanimous consent that the text of my remarks be printed in the RECORD.

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

TESTIMONY SUBMITTED BY SENATOR FRANK CHURCH BEFORE THE COMMITTEE ON VETERANS' AFFAIRS

Mr. Chairman, I am pleased to submit testimony on improving and modernizing our programs for the education and training of American veterans. These programs are, of course, for the veterans of the Vietnam era. I feel that we, as a Nation, have failed to fully meet our responsibilities to these men. Improving and modernizing these programs would be a step in that direction, but even more is required. For example, we must see to it that these programs lead to jobs, not to further frustration in unemployment lines.

As you know, I have again introduced my legislation, S. 1509, which would provide a small step in the modernization of the current G.I. Bill. S. 1509 would simply eliminate the counting of days on which schools are closed from the counting of absences against veterans engaged in vocational/technical programs.

I would like to quote from the Committee's "Final Report on Educational Assistance to Veterans: A Comparative Study of Three G.I. Bills" (conducted by the Educational Testing Service) in conjunction with S. 1509:

"In the immediate postwar years, Congress and the Veterans Administration were confronted with an unprecedented number of institutions and students using their entitlement for education and training in programs below the college level. As a response to abuses by profit-making institutions, it was necessary to clarify and define existing laws and add legislation to respond to these students and their educational situation. Today, 23 years later, several of the policies designed to respond to this specific educational situation are still in effect. As a consequence, current policies frequently constitute differential treatment of students pursuing college degrees and students involved in other forms of postsecondary educational programs.

"There has been a steadily increasing student enrollment in vocational and technical training throughout the country . . . There has been an increased emphasis on vocational education through Federal legislation . . . Russell Flanders, Chief of the Division of Manpower and Occupational Outlook, the Bureau of Labor Statistics, predicts that '. . . 80 percent or more of all jobs will require fewer than 4 years of college by 1980.'

"Thus, at a time when there is increased emphasis through legislation, government programs and job needs on vocational and technical education and training, there is a differential treatment accorded veterans who wish to pursue vocational/technical education which might very well be keeping veterans away from vocational education."

S. 1509 is designed to do away with one form of such differential treatment. Yet, the Veterans Administration has consistently opposed enactment of this measure, even though it was approved by the Committee and the Senate in 1972. The VA argues that 30 days absence is a reasonable requirement, that this restriction is based on the kind of course being pursued and not the kind of institution involved (which it recognizes is today often the same academic school whose other students have no such absence requirement), and cost. But my bill would only eliminate counting the days when school is closed, periods like Christmas and spring vacations.

To me, the VA's opposition boils down to bureaucratic intransigence. Times have changed. We cannot allow intransigence, which recognizes the new demand for vocational/technical education but refuses to respond to it, to stand in the way of veterans and their pursuit of an education which will lead to fulfilling and fruitful careers.

Quoting again from the ETS study: "This is not to imply that fewer veterans should go to college . . . It is rather to suggest that existing statutes and regulations make it less attractive for veterans to pursue a vocational/technical program of education."

I am hopeful that enactment of S. 1509 will serve as a prod for the bureaucracy to end other forms of differential treatment which I understand can be accomplished without legislation. An example would be the mandatory filing of monthly attendance cards by vocational/technical students. Veterans regard this policy as a special affront to their integrity, a niggling harassment by the bureaucracy not pressed upon their academic brothers. Discontinuing it is clearly in both the veterans' and the VA's best interests.

Mr. Chairman, I am also a cosponsor of S. 2789, legislation which contains a number of provisions to improve the current G.I. Bill, including a tuition payment, an increase in monthly benefits, possible extension of the entitlement period, extension of the eligibility period and several other measures. I strongly support all of the provisions of this bill, but I would like particularly to comment on two of them.

First, I feel that it is vital that we extend the period of eligibility to utilize the G.I. Bill from the current eight years to ten years. Existing law will result in the expiration of eligibility for veterans discharged in 1964, 1965 and part of 1966 on May 31st of this year. Many of these Vietnam veterans were financially unable to use the G.I. Bill until Congress increased the basic monthly benefit in 1970. It is these veterans in particular who will benefit from this extension, and I strongly urge the Committee to act on this proposal as soon as possible.

The other provision would allow veterans to accelerate their monthly benefits by reducing their months of entitlement, doubling the amount of their monthly benefits by halving their months of entitlement. This proposal would encourage academic dropouts to complete their educations, enhance the opportunities for veterans who wish to attend graduate schools, and provide an excellent incentive for veterans to become involved in vocational-technical programs not only in colleges but also in non-college programs like On-the-Job Training.

It is in these latter areas that I feel we must place the greatest emphasis in order to really improve the G.I. Bill program. These are the opportunities we must open if we are to furnish educational and training pro-

grams to our veterans most likely to lead them to jobs. For example, the advancing age of our farmers is such that we must wonder who will be producing our food in the years to come. Idaho veterans have suggested that we should expand the On-Farm training program as a means for training young farmers. I agree. We must meet the responsibility we owe to veterans of the Vietnam era in all areas of education and training, but especially in those areas which will lead to jobs that will enable them to earn a good living. Our programs should be better designed to accomplish that objective.

FIGHTING CRIME IN PUBLIC HOUSING: THE JERSEY CITY EXPERIENCE

Mr. WILLIAMS. Mr. President, there has been a dramatic reversal in the rate of crime and vandalism in public housing in Jersey City. Over the past year the new management of the Jersey City Housing Authority has initiated a successful combination of active tenant security patrols and a program of buildng refurbishing. The results have surpassed all expectations as virtually "unmanageable" projects have become, once again, decent and enjoyable places to live.

In my opinion, the success of Jersey City deserves the careful consideration of every housing authority in the country with similar problems. It is even more essential that the Office of Housing Management at the Department of Housing and Urban Development explore all possible avenues to extend this worthwhile approach to other areas of the country.

I should hasten to point out that tenant security patrols are not a novel idea. They have been tried in other parts of the country with varying degrees of success. Nevertheless, the impact of the Jersey City experience is especially significant to me, because of the degree of change that has taken place.

As chairman of the Subcommittee on Housing for the Elderly, I have conducted several hearings on the issue of crime and vandalism in housing for the elderly. By design and by necessity, this inquiry included the effects of crime on tenants of all ages. Our concentration, however, has focused on the older person only because he has been the most frequent victim.

From the hearings, research, and staff visits that my subcommittee has undertaken, the A. Harry Moore project in Jersey City stands out as one of the most dangerous. Following several visits by my staff to Jersey City, witnesses from the A. Harry Moore project came to Washington on August 1, 1972, to tell their story. Here are just a few excerpts from that testimony:

[My children] can't have friends in the house because their parents won't let them come down to the projects.

It is like a prison. We have all metal plates on our hall windows.

The elderly are the people being the most hurt. One woman living in A. Harry Moore has been mugged over 20 times. Her house—all she has is a little bed to sleep on and a chair and a table to eat off. She has absolutely nothing left in her apartment. To talk to her, she is in another world, simply because of the beatings this woman has taken . . .

We have no social life. If we go out, we go in two's. If the children go out, they go out in two's. My son is 15. I can't give him a $5 bill to go to the store because you never know who is standing in the halls.

Today, the conditions of A. Harry Moore are vastly different. Where once tenants were terrified to step outside their apartments, they now willingly place plants and personal decorations in their hallways. Bright, cheerful, newly painted interiors have replaced dark, dirty, graffiti-marred common areas. For months in buildings under this program no money has been spent on broken lightbulbs, because none have been broken. In the past, bulbs, windows, and elevators were often broken before the repairman left the building.

I submit that the dramatic changes which have taken place at A. Harry Moore clearly indicate that this is a program which should be greatly expanded on a nationwide basis.

Mr. President, the success of the Jersey City Housing Authority and the dedicated tenants who are making this program work deserves high praise. And, their success reemphasizes a point I have been making for a long time. The problem of crime and vandalism in HUD-assisted housing does not lack for answers. There are solutions that have been tried and found to be overwhelmingly successful. The problem has been financing. The Jersey City Housing Authority, because of its success, is encountering some problems. Other buildings and other projects want to repeat the story of A. Harry Moore, but the authority's budget will only stretch so far. They wisely do not want to promise tenants what they cannot provide.

So again, I urge the Department of Housing and Urban Development and the Congress to heed this cause. The need for funding specially earmarked for security is persistent. The Senate, I am pleased to say, has passed my Housing Security Act, as part of S. 3066, the Housing and Community Development Act of 1974. It includes $10 million for security programs for fiscal year 1975. To date, the House has not responded with similar legislation. At the same time, HUD, while recognizing the problem, has done very little to make funds available in any coordinated or specific way.

The experience in Jersey City at the A. Harry Moore project should erase any doubts about the feasibility of making public housing work. After several years of looking carefully at this problem, I regret to say that national leadership from the administration is still sorely missing.

Mr. President, I ask unanimous consent to have printed in the RECORD at the close of my remarks an article by Neil S. Piro, executive director of the Jersey City Housing Authority. The article is entitled "Jersey City's Experiment in Tenant Safety," from the May 1974 issue of HUD Challenge.

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

JERSEY CITY'S EXPERIMENT IN TENANT SAFETY

(By Neil S. Piro)

There is an unmistakable gleam of pride today in eyes which once emanated despair as they gazed upon properties under jurisdiction of Jersey City's Housing Authority.

In March 1973 the Authority was in default of its obligations to its tenants, its sponsors and itself; however, today there are activities which manifest hope and determination to improve the quality of life in the projects. In four high-rise buildings, formerly notorious as "tough, unmanageable projects," newly-painted walls have remained without graffiti since September 1973. A year ago, in at least five of the nine JCHA housing projects, bitter anger and frustration of the resident was unmistakably etched on battered walls of bleak hallways. JCHA's housing was in physical disrepair; its operating deficit was large and it maintained a negative if not antagonistic relationship with tenants. Such is no longer the case now as each evening groups of tenants voluntarily sit in their lobbies and monitor access to their buildings; an indication of a community spirit which has galvanized project tenants toward initiating plays, cake sales, Christmas programs, gospel sings and other activities including the placing of decorations in public corridors.

THE BEGINNING OF IMPROVEMENTS

The first step toward a revival of public housing in Jersey City came about when it became clear that the complete absence of any working relationship with tenant organizations was a primary issue that had to be faced squarely and *soon*. Efforts to make physical improvements, stimulate fiscal solvency or deal with the rising crime rate and vandalism were viewed as futile in the absence of a meaningful tenant-management relationship. Besides a rather obvious lack of professional staff and massive internal reorganization that would be necessary, other factors had to be considered in developing effective tenant strategy. Existing tenant councils were considered inadequate bases from which to proceed, because they were loosely knit groups, unable to bring about improvements or to expand their base of support. Second, confronting project-wide problems was considered too large a task for a small group of tenants to handle when they were having difficulties dealing with problems in each of their individual units. We concluded that rather common and somewhat superficial strategies of the past, such as LHA employment programs and provision of social services, would be grossly insufficient. Such strategies were individually geared and/or administered, and could not deal with the existing gamut of problems. Finally, whatever approaches were considered would have to be comprehensive in both theory and practice; they would have to encompass tenant organization, policy participation, security, daily maintenance, large scale remedial maintenance and tenant screening.

After much theoretical and empirical investigation with the help of New York City Housing Authority, we decided to initiate a five phase program that would:

Organize the residents of a building into a "tenant patrol" to monitor maintenance of and access to their own building;

Refurbish the interior of buildings where tenant patrols are operating, in accordance with patrol priorities and engineering necessity;

Install a tenant grievance and screening procedure through which patrol members can deal with disorderly tenants and with the Housing Authority and deny future access to disruptive tenants;

Install a series of interior hardware devices which would assist patrol members in monitoring their building and enhancing the privacy of their residences;

Improve the appearance of the housing site and maintain upkeep with tenant patrols.

We decided to concentrate initial efforts on the A. Harry Moore complex which consists of seven twelve-story buildings containing 664 units located on a 7.6 acre site. The

project houses 2,080 persons—70 percent black, 10 percent Spanish-speaking, and 20 percent white. Vacancies were increasing monthly. The grounds and building interiors were rundown and the project was viewed by public officials as "unmanageable" and by tenants as "the toughest." However, it was believed that it might be turned around and become the project that would begin to dispel the notion that low-income high rises can't work.

We decided to begin organization of tenant patrols and interior refurbishing in only one building; this, we believe, would serve a number of key purposes. Organizationally, it allowed for a limited professional staff to concentrate on a smaller number of tenants, thereby allowing communication to be relatively easy and rapid. This coincided with our original intention to utilize the building as the unit for patrol organization. This lent a high self-interest plane of motivation (i.e., to improve *our* building) and maximized the potential for individual, rather than representative, participation in the definition and fulfilling of patrol program roles. Also, by executing interior refurbishing in only one building concomitant with patrol organization, the work would be within staff capacity and could be accomplished in a reasonable time. Producing visible results quickly would be imperative to expanding and sustaining tenant confidence in the Authority and in themselves. As tenants within the building and in other buildings actually saw dramatic improvements accompanying the organization of a building patrol, the connection between the two would become self-evident.

CHANGES IMPLEMENTED

Project leaders were contacted. They in turn solicited floor captains who solicited the support of two or three neighbors. Tenants and LHA officials met to determine repair priorities; an engineering survey was taken of the building, and refurbishing began, consisting of plastering and painting hallways in colors of the tenants' choice. Tiling, painting stairwells, replacing metal-plated "windows" with panes of lexan, and other improvements were made.

As refurbishing proceeded so did the organization of the building patrol. Tenants designed patrol buttons which were given to each member; lobby patrol duty schedules were compiled and a series of training sessions held to train patrol members in handling a variety of situations they might encounter. On September 4, 1973, the first organized tenant patrol began working in the first refurbished building in A. Harry Moore.

SECURITY PATROL FULLY OPERATIONAL

Three to four tenants began to sit in the lobby of their building from 7:00 to 9:00 p.m. and a second group from 9:00 to 11:00 p.m., greeting fellow tenants, explaining the program to tenants in the building who were not yet participating, and asking non-residents to "sign-in" and indicate their destination. The tenants are not cops and not vigilantes; if an incident and/or crime develops it is reported to the Jersey City Police Department Headquarters radio room which dispatches either a police officer or guard from its Bureau of Housing Security. The patrol members are simply interested tenants committed to insuring that their building is a decent place to live and raise children.

The program caught on quickly; concerned and dissatisfied tenants from other buildings and other projects asked, "Why that building? What about us?" Our response was simple: "Those tenants organized into an effective building patrol and the Authority made repairs with the confidence that improvements will be maintained through the patrol's commitment." The message seemingly got across clearly. Numerous groups of other concerned tenants began the difficult process (with some LHA staff assistance) of organizing cohesive building organizations. To date there are eight high-rise buildings in various stages of patrol organization, six of which are currently in various stages of interior refurbishing. The Authority has not spent one dollar on broken lightbulbs in organized buildings; none has been broken. Nor have we had to replace one hallway or stairwell window, despite an average of more than two children per unit. New front and back doors in each patrolled building are still on their hinges; they belong to the patrols and the tenants take personal responsibility for their maintenance.

It is important to note here, however, that although the program has far surpassed any of our expectations, as evidenced by both the present condition of the organized buildings and by the growing spirit of real community among the patrol members, it is neither devoid of problems nor a public housing panacea.

THE VALUE OF ORGANIZING

The formation of building organizations has clearly surpassed our capacity to initiate concomitant refurbishing activities, so much so that we have directed our tenant organizers to curtail further contact with any building not already in the process of organizing. There is absolutely no point in encouraging the formation of additional building patrols until our maintenance task force can handle additional buildings. In fact to do this would in all probability have a negative effect, making future organizational efforts even more difficult. Our staff presently can refurbish only one building at a time, at an approximate cost of $20,000 a building—$6,000 in materials and $14,000 in labor. Average completion time is 1½ months. Tenant patrols are organizing themselves at twice the pace. We also have insufficient funds to properly approach the fourth and fifth phases of the program, i.e., interior security hardware and site improvements. Two projects will in all probability be ready and waiting for such activity by the summer of 1974.

PROBLEMS SCRUTINIZED

Patrol leadership is not yet as problem-free as it might become. Building organizations are often too dependent upon a few key tenants; this creates problems for both the patrol and its leaders.

Nonetheless, despite difficulties and temporary weaknesses we find the patrol program a significant first step in making public housing work and are confident the program will persist and prevail. A number of public officials have observed the Jersey City program in operation and voiced their support and enthusiasm. Jersey City Mayor Paul Jordan has committed over two million dollars in police, sanitation, planning and social services to the LHA in support of the program. James Sweeney, HUD Newark Area Office Director and S. William Green, New York Regional Office Director, have given the LHA maximum flexibility in administering the program and have committed their offices to support of the program as best they can.

Finally, and most importantly, our greatest hope lies with the tenants, themselves, the consumers of public housing. Participation on their part has crossed age, race and family size barriers. There are two—parent and one-parent families who are active patrol members; there are welfare recipients and fully-employed families; blacks, Puerto Ricans and whites; senior citizens and teenagers—all exerting exemplary efforts to improve the quality of their residence. Their response to our initiatives has become literally overwhelming; we can foresee no reason to doubt its continuance.

OCCUPATIONAL SAFETY AND HEALTH ACT

Mr. DOMINICK. Mr. President, last Wednesday I introduced five amendments to S. 3203, the bill amending the Taft-Hartley Act to extend its coverage to nonprofit hospitals. One of my amendments, No. 1215 would amend the Occupational Safety and Health Act. Since last Wednesday my office has received many inquiries concerning this amendment as well as support from colleagues and many interested groups, particularly small businessmen. Because of the considerable interest in this amendment, I desire at this time to explain the amendment and set forth some of my reasons for introducing what I consider to be necessary changes to OSHA.

Amendment No. 1215 is identical to S. 1147, a bill to amend the Occupational Safety and Health Act, which I introduced in the Labor Subcommittee and has attracted the cosponsorship of 29 other Senators.

All of my colleagues are aware that the Occupational Safety and Health Act has resulted in much controversy in the last 4 years. Complaints about the features of the act and about the method of enforcement have come from all types of employers, and in particular small employers.

I do not believe that anyone would disagree with the objective sought to be accomplished by OSHA—to provide a safe and healthful environment in which to work for all Americans. I am afraid, however, that that objective currently is not being fulfilled by this act, and the discontent of many employers has made it obvious that changes are needed. I believe that as presently written the Occupational Safety and Health Act fails to emphasize sufficiently, assistance to employers while overemphasizing punitive aspects for noncompliance.

It is clear that employers must bear the responsibility for complying with the act, and that penalties are necessary where they refuse to comply. But it is equally clear that the objectives of the act cannot be achieved without their cooperation. There simply are not, and never will be, enough Federal inspectors to coerce this country's employers into compliance. Moreover, it will be a sad state of affairs indeed if we ever arrive at the conclusion that this is the best way to proceed.

Businessmen are a pretty independent breed, and they have gotten their backs up against what seems to them to be an unfair law. In that sense, OSHA enforcement is at this moment crosswise with the purpose of the act. Additionally, we need to recognize that employers, particularly small ones, need assistance in understanding and complying with complex OSHA standards. So I think Congress has a duty—to employers and employees alike—to make the changes necessary for OSHA to work.

This amendment proposes the changes I think are necessary to make OSHA work effectively. It is addressed to the provisions of the act which I feel are more punitive than constructive, and it

would place more emphasis on assisting employers toward compliance. None of the changes it proposes would result in lessened protection for employees. It is not intended to make all of the changes which have been suggested by critics of the act—only those I feel are absolutely essential to make it work. I should note that this amendment would not exempt any employers from coverage. While I believe that small employers frequently need more assistance in complying, I believe all workers are entitled to the same protections, whether they are employed by large or small businesses.

Let me summarize briefly the changes this amendment would make. First, it would require OSHA to provide advice and technical assistance to employers having 100 or fewer employees. Such advice and assistance would be provided through onsite consultations where requested by the employer. Such consultations would be limited to matters specified by the employer, and no citations could be issued during the consultative visit. OSHA would be permitted to provide advice and technical assistance by means other than a visit to the worksite where such other means would be more appropriate and equally effective.

At the present time, OSHA cannot provide technical assistance through onsite consultations. If an OSHA inspector observes a violation during a visit to the worksite, he is obliged to issue citations and propose penalties, depending on the nature of the violation. And I might add that for that reason many employers have declined to ask any advice from the OSHA people as to what they should or should not do about conditions in their own plants.

Second, the amendment would remove OSHA's discretionary power to assess penalties for nonserious violations on the first inspection. Under the act as presently written, an employer can be fined up to $1,000 for a nonserious violation discovered for the first inspection of his premises, often a violation of a standard of which the employer was totally ignorant. This change would not affect the provisions of the act imposing penalties for willful or repeated violations, or for failure to correct violations within the abatement period prescribed by OSHA. Thus, an employer who received a citation for a nonserious violation could receive a penalty for failing to correct that violation within a reasonable time; and he could be fined up to $10,000 for a subsequent nonserious violation.

Third, the amendment would change the penalty for serious violations from mandatory to permissive. In determining whether a fine should be assessed, OSHA would be required to take into account the gravity of the violation, the good faith of the employer—for example, whether he had tried to comply—and the history of previous violations. Again, whether or not a penalty is assessed for the first serious violation, the employer would be subject to stringent penalties for failure to abate the violation, and for any subsequent violation. While the amount of a fine for a violation classified by OSHA as "serious" is discretionary under the act—up to $1,000—a fine in some amount is mandatory. I have generally been opposed to mandatory sentences for criminal offenders on the ground that the trial judge should have the discretion to consider all of the circumstances surrounding the crime. I think employers ought to be entitled to at least equal treatment, particularly since this is not supposed to be a criminal statute. It should also be kept in mind that, unlike a criminal defendant, an employer accused of violating an OSHA regulation is not entitled to a trial by a jury of his peers.

Fourth, it would establish a procedure under which an employer who has received a citation could apply for a variance from the OSHA standard violated on the ground that work procedures in operation at the time of the citation are equally effective in protecting his employees. The act now permits an employer to apply for such a variance in advance of an inspection or citation. Under this change, an employer could apply for a variance after receiving a citation, and no penalty could be assessed, pending review of the application. If a variance were granted, the citation would be withdrawn. OSHA would not be required to suspend enforcement proceedings where the application for a variance were determined to be frivolous or filed for the purpose of delay. This provision would add needed flexibility without reducing the incentive for employers to comply, and without reducing protection to workers.

Fifth, the amendment would provide that citations for violations need not be posted by employers after such violations have been abated.

This is a ridiculous situation. An OSHA inspector comes into a plant and finds a violation. They have to post a notice that there has been a violation. Then they correct the violation but the notice has to stay up as though they were still in violation. That is simply nonsense so far as I am concerned. It does not help anyone—the worker, the employer, or I think, the health and safety of the area.

The act as presently written requires that citations be posted near the site of the violation. OSHA regulations under the act frequently require posting long after the violation has been corrected. This clearly serves no useful purpose other than to further punish employers, and to damage the morale of his employees.

Sixth, the amendment would require OSHA to consider the economic impact of proposed new standards on affected employers, and to publish in the Federal Register along with such standards a statement summarizing their expected economic impact, including an estimate of the total costs which will be incurred by each affected industry in complying. I think this provision would result in a healthy awareness on the part of OSHA regarding the costs of proposed new standards, and would better enable all interested members of the public to measure the benefits against expected costs, which are, of course, ultimately passed on to consumers.

INCREASE DELAYED RETIREMENT CREDIT FOR SOCIAL SECURITY BENEFICIARIES

Mr. CHURCH. Mr. President, I am pleased to join the ranking minority member of the Senate Committee on Aging, Senator FONG, in cosponsoring S. 3386, to increase the delayed retirement credit from 1 percent to 6⅔ percent per year for persons who continue working after age 65 until 72.

As the chairman of the committee, one of my foremost goals is to remove existing roadblocks which pose formidable barriers to older Americans who want or need to be employed.

To my way of thinking, our Nation should take down these arbitrary stop signs which unmistakably suggest, "65 is the end of the road for employment opportunities in Americe."

Additionally, there is a growing sentiment that advancing age may be the stopoff point in terms of occupational advancement.

In recent years, pressures for earlier and earlier retirement have continued to mount steadily—to the point where many people now think that this trend is not only inevitable, but also desirable.

But no nation can ever hope to achieve its full potential if some of its most experienced and talented persons are relegated to the sidelines.

Much more can be gained, I strongly believe, by a comprehensive national policy to maximize job opportunities for all age groups, the old as well as the young.

In this regard, I have proposed or cosponsored several measures to implement this goal, including:

Liberalization of the earnings limitation for social security beneficiaries who are under 72 years of age;

Establishment of a national senior service corps to take advantage of the wealth of skill and talent with which the elderly are so richly endowed; and

Creation of a comprehensive manpower and training program for older workers.

However, other actions are still needed if our Nation is to fulfill one of the major objectives of the historic White House Conference on Aging: To provide older Americans with a wide range of choices. Briefly stated, these choices should include as a bare minimum:

To work or to retire in dignity;

To work full-time or part-time; or

To work for pay or as a volunteer.

In 1972 the Congress enacted legislation to remove some of the disincentives for social security beneficiaries who continue working after 65. A 1 percent increase in social security benefits was provided for each full year after age 65 and before 72 that an individual delayed his retirement.

This provision recognized that a person who continues working beyond age 65 pays contributions on his earnings, oftentimes foregoes benefits, and may receive no more in monthly benefits when he finally retires than would be the case if he retired at 65.

However, the 1-percent delayed retirement credit—although a positive

measure—is still a very modest step forward.

A more realistic figure, in my judgement, would be a 6⅔ percent annual benefit increment. First, such a proposal would clearly be legislatively feasible in terms of cost considerations. Second, it would provide parallel treatment with the reduction in social security payments for earlier retirement. Workers who now receive earlier social security benefits before age 65 have their payments actuarially reduced by 6⅔ percent for each full year.

Equally important, this measure would help to make it crystal clear that older Americans who want or need to work should be encouraged, instead of discouraged.

For these reasons, I urge the early adoption of this bipartisan measure.

ENERGY AND FOOD

Mr. HUMPHREY. Mr. President, the American Association for the Advancement of Science published on April 19, 1974, a very useful and timely issue of Science devoted to the topic of energy and food. The issue addresses itself to the energy problems of the United States and the world from a technological, social, economic, and policy perspective.

Mr. President, those of us in the Senate and in America who are concerned about the world food shortage should be alerted to this excellent article by John and Carol Steinhart entitled, "Energy Use in the U.S. Food System." The article is especially informative as to the impact of the energy crisis upon the production of food in industrialized as well as developing nations.

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:

ENERGY USE IN THE U.S. FOOD SYSTEM

(By John S. Steinhart and Carol E. Steinhart)

(NOTE.—Tables and figures not printed in RECORD.)

(NOTE.—Dr. J. S. Steinhart is professor of geology and geophysics, and professor in the Institute for Environmental Studies, University of Wisconsin—Madison. Dr. C. E. Steinhart, formerly a biologist with the National Institutes of Health, is now a science writer and editor.)

In a modern industrial society, only a tiny fraction of the population is in frequent contact with the soil, and an even smaller fraction of the population raises food on the soil. The proportion of the population engaged in farming halved between 1920 and 1950 and then halved again by 1962. Now it has almost halved again, and more than half of these remaining farmers hold other jobs off the farm (1). At the same time the number of work animals has declined from a peak of more than 22×10^6 in 1920 to a very small number at present (2). By comparison with earlier times, fewer farmers are producing more agricultural products and the value of food in terms of the total goods and services of society now amounts to a smaller fraction of the economy than it once did.

Energy inputs to farming have increased enormously during the past 50 years (3), and the apparent decrease in farm labor is offset in part by the growth of support industries for the farmer. With these changes on the farm have come a variety of other changes in the U.S. food system, many of which are now deeply embedded in the fabric of daily life. In the past 50 years, canned, frozen, and other processed foods have become the principal items of our diet. At present, the food processing industry is the fourth largest energy consumer of the Standard Industrial Classification groupings (4). The extent of transportation engaged in the food system has grown apace, and the proliferation of appliances in both numbers and complexity still continues in homes, institutions, and stores. Hardly any food is eaten as it comes from the fields. Even farmers purchase most of their food from markets in town.

Present energy supply problems make this growth of energy use in the food system worth investigating. It is our purpose in this article to do so. But there are larger matters at stake. Georgescu-Roegen notes that "the evidence now before us—of a world which can produce automobiles, television sets, etc., at a greater speed than the increase in population, but is simultaneously menaced by mass starvation—is disturbing" (5). In the search for a solution to the world's food problems, the common attempt to transplant a small piece of a highly industrialized food system to the hungry nations of the world is plausible enough, but so far the outcome is unclear. Perhaps an examination of the energy flow in the U.S. food system as it has developed can provide some insights that are not available from the usual economic measures.

MEASURES OF FOOD SYSTEMS

Agricultural systems are most often described in economic terms. A wealth of statistics is collected in the United States and in most other technically advanced countries indicating production amounts, shipments, income, labor, expenses, and dollar flow in the agricultural sector of the economy. But, when we wish to know something about the food we actually eat, the statistics of farms are only a tiny fraction of the story.

Energy flow is another measure available to gauge societies and nations. It would have made no sense to measure societies in terms of energy flow in the 18th century when economics began. As recently as 1940, four-fifths of the world's population were still on farms and in small villages, most of them engaged in subsistence farming.

Only after some nations shifted large portions of the population to manufacturing, specialized tasks, and mechanized food production, and shifted the prime sources of energy to move society to fuels that were transportable and usable for a wide variety of alternative activities, could energy flow be used as a measure of society's activities. Today it is only in one-fifth of the world where these conditions are far advanced. Yet we can now make comparisons of energy flows even with primitive societies. For even if the primitives, or the euphemistically named "underdeveloped" countries, cannot shift freely among their energy expenditures, we *can* measure them and they constitute a different and potentially useful comparison with the now traditional economic measures.

What we would like to know is: How does our present food supply system compare, in energy measures, with those of other societies and with our own past? Perhaps then we can estimate the value of energy flow measures as an adjunct to, but different from, economic measures.

ENERGY IN THE U.S. FOOD SYSTEM

A typical breakfast includes orange juice from Florida by way of the Minute Maid factory, bacon from a midwestern meat packer, cereal from Nebraska and General Mills, eggs and milk from not *too* far away, and coffee from Colombia. All of these things are available at the local supermarket (several miles each way in a 300-horsepower automobile), stored in a refrigerator-freezer, and cooked on an instant-on stove.

The present food system in the United States is complex, and the attempt to analyze it in terms of energy use will introduce complexities and questions far more perplexing than the same analysis carried out on simpler societies. Such an analysis is worthwhile, however, if only to find out where we stand. We have a food system, and most people get enough to eat from it. If, in addition, one considers the food supply problems present and future in societies where a smaller fraction of the people get enough to eat, then our experience with an industrialized food system is even more important. There is simply no gainsaying that many nations of the world are presently attempting to acquire industrialized food systems of their own.

Food in the United States is expensive by world standards. In 1970 the average annual per capita expenditure for food was about $600 (3). This amount is larger than the per capita gross domestic product of more than 30 nations of the world which contain the majority of the world's people and a vast majority of those who are underfed. Even if we consider the diet of a poor resident of India, the annual cost of his food at U.S. prices would be about $200—more than twice his annual income (3). It is crucial to know whether a piece of our industrialized food system can be exported to help poor nations, or whether they must become as industrialized as the United States to operate an industrialized food system.

Our analysis of energy use in the food system begins with an omission. We will neglect that crucial input of energy provided by the sun to the plants upon which the entire food supply depends. Photosynthesis had an efficiency of about 1 percent; thus the maximum solar radiation captured by plants is about 5×10^3 kilocalories per square meter per year (3).

Seven categories of energy use on the farm are considered here. The amounts of energy used are shown in Table 1. The values given for farm machinery and tractors are for the manufacture of new units only and do not include parts and maintenance for units that already exist. The amounts shown for direct fuel use and electricity consumption are a bit too high because they include some residential uses of the farmer and his family. On the other hand, some uses in these categories are not reported in the summaries used to obtain the values for direct fuel and electricity usage. These and similar problems are discussed in the references. Note the relatively high energy cost associated with irrigation. In the United States less than 5 percent of the cropland is irrigated (1). In some countries where the "green revolution" is being attempted, the new high-yield varieties of plants require irrigation where native crops did not. If that were the case in the United States, irrigation would be the largest single use of energy on the farm.

Little food makes its way directly from field and farm to the table. The vast complex of processing, packaging, and transport has been grouped together in a second major subdivision of the food system. The seven categories of the processing industry are listed in Table 1. Energy use for the transport of food should be charged to the farm in part, but we have not done so here because the calculation of the energy values is easiest (and we believe most accurate) if they are taken for the whole system.

After the processing of food there is further energy expenditure. Transportation enters the picture again, and some fraction of the energy used for transportation should be assigned here. But there are also the distributors, wholesalers, and retailers, whose freezers, refrigerators, and very establishments are an integral part of the food system. There are also the restaurants, schools, universi-

ties, prisons, and a host of other institutions engaged in the procurement, preparation, storage, and supply of food. We have chosen to examine only three categories: the energy required for refrigeration and cooking, and for the manufacture of the heating and refrigeration equipment (Table 1). We have made no attempt to include the energy used in trips to the store or restaurant. Garbage disposal has also been omitted, although it is a persistent and growing feature of our food system; 12 percent of the nation's trucks are engaged in the activity of waste disposal (1), of which a substantial part is related to food. If there is any lingering doubt that these activities—both the ones included and the ones left out—are an essential feature of our present food system, one need only ask what would happen if everyone should attempt to get on without a refrigerator or freezer or stove? Certainly the food system would change.

Table 1 and the related references summarize the numerical values for energy use in the U.S. food system, from 1940 to 1970. As for many activities in the past few decades, the story is one of continuing increase. The totals are displayed in Fig. 1 along with the energy value of the food consumed by the public. The food values were obtained by multiplying the daily caloric intake by the population. The differences in caloric intake per capita over this 30-year period are small (1), and the curve is primarily an indication of the increase in population in this period.

OMISSIONS AND DUPLICATIONS FOR FOOD SYSTEM ENERGY VALUES

Several omissions, duplications, and overlaps have been mentioned. We will now examine the values in Table 1 for completeness and try to obtain a crude estimate of their numerical accuracy.

The direct fuel and electricity usage on the farm may be overstated by some amounts used in the farmer's household, which, by our approach, would not all be chargeable to the food system. But about 10 percent of the total acreage farmed is held by corporate farms for which the electrical and direct fuel use is not included in our data. Other estimates of these two categories are much higher [see Table 1 (15, 16)].

No allowance has been made for food exported, which has the effect of overstating the energy used in our own food system. For the years prior to 1960 the United States was at times a net importer of food, at times an exporter, and at times there was a near balance in this activity. But during this period the net flow of trade was never more than a few percent of the total farm output. Since 1960 net exports have increased to about 20 percent of the gross farm product (1, 3). The items comprising the vast majority of the exports have been rough grains, flour, and other plant products with very little processing. Imports include more processed food than exports and represent energy expenditure outside the United States. Thus the overestimate of energy input to the food system might be 5 percent with an upper limit of 15 percent.

The items omitted are more numerous. Fuel losses from the wellhead or mineshaft to end use total 10 to 12 percent (6). This would represent a flat addition of 10 percent or more to the totals, but we have not included this item because it is not customarily charged to end uses.

We have computed transport energy for trucks only. Considerable food is transported by train and ship, but these items were omitted because the energy use is small relative to the consumption of truck fuel. Small amounts of food are shipped by air, and, although air shipment is energy-intensive, the amount of energy consumed appears small. We have traced support materials until they could no longer be assigned to the food system. Some transportation energy consumption is not charged in the transport of these support materials. These omissions are numerous and hard to estimate, but they would not be likely to increase the totals by more than 1 or 2 percent.

A more serious understatement of energy usage occurs with respect to vehicle usage (other than freight transport) on farm business, food-related business in industry and commerical establishments, and in the supporting industries. A special attempt to estimate this category of energy usage for 1968 suggests that it amounts to about 5 percent of the energy totals for the food system. This estimate would be subject to an uncertainty of nearly 100 percent. We must be satisfied to suggest that 1 to 10 percent should be added to the totals on this account.

Waste disposal is related to the food system, at least in part. We have chosen not to charge this energy to the food system, but, if one-half of the waste disposal activity is taken as food-related, about 2 percent must be added to the food system energy totals.

We have not included energy for parts and maintenance of machinery, vehicles, buildings, and the like, or lumber for farm, industry, or packaging uses. These miscellaneous activities would not constitute a large addition in any case. We have also excluded construction. Building and replacement of farm structures, food industry structures, and commercial establishments are all directly part of the food system. Construction of roads is in some measure related to the food system, since nearly half of all trucks transport food and agricultural items [see Table (27)]. Even home construction could be charged in part to the food system since space, appliances, and plumbing are, in part, a consequence of the food system. If 10 percent of housing, 10 percent of institutional construction (for institutions with food service), and 10 percent of highway construction is included, about 10 percent of the total construction was food-related in 1970. Assuming that the total energy consumption divides in the same way that the Gross National Product does (which overstates energy use in construction), the addition to the total in Table 1 would be about 10 percent or 200×10^{12} kcal. This is a crude and highly simplified calculation, but it does provide an estimate of the amounts of energy involved.

The energy used to generate the highly specialized seed and animal stock has been excluded because there is no easy way to estimate it. Pimentel *et al.* (3) estimate that 1800 kcal are required to produce 1 pound (450 grams) of hybrid corn seed. But in addition to this amount, some energy use should be included for all the schools of agriculture, agricultural experiment stations, the far-flung network of county agricultural agents [one local agent said he traveled over 50,000 automobile miles (80,000 kilometers) per year in his car], the U.S. Department of Agriculture, and the wide-ranging agricultural research program that enables man to stay ahead of the new pest and disease threats to our highly specialized food crops. These are extensive activities but we cannot see how they could add more than a few percent to the totals in Table 1.

Finally, we have made no attempt to include the amount of private automobile usage involved in the delivery system from retailer to home, or other food-related uses of private autos. Rice (7) reports 4.25×10^{15} kcal for the energy cost of autos in 1970, and shopping constitutes 15.2 percent of all automobile usage (8). If only half of the shopping is food-related, 320×10^{12} kcal of energy use is at stake here. Between 8 and 15 percent should be added to the totals of Table 1, depending on just how one wishes to apportion this item.

TABLE 1.—ENERGY USE IN THE U.S. FOOD SYSTEM

[All values are multiplied by 10^{12} kcal.]

Component	1940	1947	1950	1954	1958	1960	1964	1968	1970	References
On farm:										
Fuel (direct use)	70.0	136.0	158.0	172.8	179.0	188.0	213.9	226.0	232.0	(13–15).
Electricity	.7	32.0	32.9	40.0	44.0	46.1	50.0	57.3	63.8	(14, 16).
Fertilizer	12.4	19.5	24.0	30.6	32.2	41.0	60.0	87.0	94.0	(14, 17).
Agricultural steel	1.6	2.0	2.7	2.5	2.0	1.7	2.5	2.4	2.0	(14, 18).
Farm machinery	9.0	34.7	30.0	29.5	50.2	52.0	60.0	75.0	80.0	(14, 19).
Tractors	12.8	25.0	30.8	23.6	16.4	11.8	20.0	20.5	19.3	(20).
Irrigation	18.0	22.8	25.0	29.6	32.5	33.3	34.1	34.8	35.0	(21).
Subtotal	124.5	272.0	303.4	328.6	356.3	373.9	440.5	503.0	526.1	
Processing industry:										
Food processing industry	147.0	177.5	192.0	211.5	212.6	224.0	249.0	295.0	308.0	(13, 14, 22).
Food processing machinery	.7	5.7	5.0	4.9	4.9	5.0	6.0	6.0	6.0	(23.)
Paper packaging	8.5	14.8	17.0	20.0	26.0	28.0	31.0	35.7	38.0	(24.)
Glass containers	14.0	25.7	26.0	27.0	30.2	31.0	34.0	41.9	47.0	(25).
Steel cans and aluminum	38.0	55.8	62.0	73.7	85.4	86.0	91.0	112.2	122.0	(26).
Transport (fuel)	49.6	86.1	102.0	122.3	140.2	153.3	184.0	226.6	246.9	(27).
Trucks and trailers (manufacture)	28.0	42.0	49.5	47.0	43.0	44.2	61.0	70.2	74.0	(28).
Subtotal	285.8	407.6	453.5	506.4	542.3	571.5	656.0	787.6	841.9	
Commercial and home:										
Commercial refrigeration and cooking	121.0	141.0	150.0	161.0	176.0	186.2	209.0	241.0	263.0	(13, 29).
Refrigeration machinery (home and commercial)	10.0	24.0	25.0	27.5	29.4	32.0	40.0	56.0	61.0	(14, 30).
Home refrigeration and cooking	144.2	184.0	202.3	228.0	257.0	276.6	345.0	433.9	480.0	(13, 29).
Subtotal	275.2	349.0	377.3	416.5	462.4	494.8	594.0	730.9	804.0	
Grand total	685.5	1,028.6	1,134.2	1,251.5	1,361.0	1,440.2	1,690.05	2,021.5	2,172.0	

It is hard to take an approach that might calculate smaller totals but, depending upon point of view, the totals could be much larger. If we accumulate the larger estimates from the above paragraphs as well as the reductions, the total could be enlarged by 30 to 35 percent, especially for recent years. As it is, the values for energy use in the food system from Table 1 account for 12.8 percent of the total U.S. energy use in 1970.

PERFORMANCE OF AN INDUSTRIALIZED FOOD SYSTEM

The difficulty with history as a guide for the future or even the present lies not so much in the fact that conditions change—we are continually reminded of that fact—but that history is only one experiment of the many that might have occurred. The U.S. food system developed as it did for a variety of reasons, many of them not understood. We would do well to examine some of the dimensions of this development before attempting to theorize about how it might have been different, or how parts of this food system can be transplanted elsewhere.

ENERGY AND FOOD PRODUCTION

Figure 2 displays features of our food system not easily seen from economic data. The curve shown has no theoretical basis but is suggested by the data as a smoothed recounting of our own history of increasing food production. It is, however, similar to most growth curves and suggests that, to the extent that the increasing energy subsidies to the food system have increased food production, we are near the end of an era. Like the logistic growth curve, there is an exponential phase which lasted from 1920 or earlier until 1950 or 1955. Since then, the increments in production have been smaller despite the continuing growth in energy use. It is likely that further increases in food production from increasing energy inputs will be harder and harder to come by. Of course, a major change in the food system could change things, but the argument advanced by the technological optimist is that we can always get more if we have enough energy, and that no other major changes are required. Our own history—the only one we have to examine—does not support that view.

ENERGY AND LABOR IN THE FOOD SYSTEM

One farmer now feeds 50 people, and the common expectation is that the labor input to farming will continue to decrease in the future. Behind this expectation is the assumption that the continued application of technology—and energy—to farming will substitute for labor. Figure 3 shows this historic decline in labor as a function of the energy supplied to the food system, again the familiar S-shaped curve. What it implies is that increasing the energy input to the food system is unlikely to bring further reduction in farm labor unless some other, major change is made.

The food system that has grown in this period has provided much employment that did not exist 20, 30, or 40 years ago. Perhaps even the idea of a reduction of labor input is a myth when the food system is viewed as a whole, instead of from the point of view of the farm worker only. When discussing inputs to the farm, Pimentel *et al.* (3) cite an estimate of two farm support workers for each person actually on the farm. To this must be added employment in food-processing industries, in food wholesaling and retailing, as well as in a variety of manufacturing enterprises that support the food system. Yesterday's farmer is today's canner, tractor mechanic, and fast food carhop. The process of change has been painful to many ordinary people. The rural poor, who could not quite compete in the growing industrialization of farming, migrated to the cities. Eventually they found other employment, but one must ask if the change was worthwhile. The answer to that question cannot be provided by energy analysis any more than by economic data, because it raises fundamental questions about how individuals would prefer to spend their lives. But if there is a stark choice between long hours as a farmer or shorter hours on the assembly line of a meat-packing plant, it seems clear that the choice would not be universally in favor of the meat-packing plant. Thomas Jefferson dreamed of a nation of independent small farmers. It was a good dream, but society did not develop in that way. Nor can we turn back the clock to recover his dream. But, in planning and preparing for our future, we had better look honestly at our collective history, and then each of us should closely examine his dreams.

THE ENERGY SUBSIDY TO THE FOOD SYSTEM

The data in Fig. 1 can be combined to show the energy subsidy provided to the food system for the recent past. We take as a measure of the food supplied the caloric content of the food actually consumed. This is not the only measure of the food supplied, as the condition of many protein-poor peoples of the world clearly shows. Nevertheless, the comparison between caloric input and output is a convenient way to compare our present situation with the past, and to compare our food system with others. Figure 4 shows the history of the U.S. food system in terms of the number of calories of energy supplied to produce 1 calorie of food for actual consumption. It is interesting and possibly threatening to note that there is no real suggestion that this curve is leveling off. We appear to be increasing the energy input even more. Fragmentary data for 1972 suggest that the increase continued unabated. A graph like Fig. 4 could approach zero. A natural ecosystem has no fuel input at all, and those primitive people who live by hunting and gathering have only the energy of their own work to count as input.

SOME ECONOMIC FEATURES OF THE U.S. FOOD SYSTEM

The markets for farm commodities in the United States come closer than most to the economist's ideal of a "free market." There are many small sellers and many buyers, and thus no individual is able to affect the price by his own actions in the marketplace. But government intervention can drastically alter any free market, and government intervention in the prices of agricultural products (and hence of food) has been a prominent feature of the U.S. food system for at least 30 years. Between 1940 and 1970, total farm income has ranged from $4.5 to $16.5 billion, and the National Income originating in agriculture (which includes indirect income from agriculture) has ranged from $14.5 to $22.5 billion (1). Meanwhile, government subsidy programs, primarily farm price supports and soil bank payments, have grown from $1.5 billion in 1940 to $6.2 billion in 1970. In 1972 these subsidy programs had grown to $7.3 billion, despite foreign demand of agricultural products. Viewed in a slightly different way, direct government subsidies have accounted for 30 to 40 percent of the farm income and 15 to 30 percent of the National Income attributable to agriculture for the years since 1955. This point emphasizes once again the striking gap between the economic description of society and the economic models used to account for that society and the economic models used to account for that society's behavior.

This excursion into farm price supports and economics is related to energy questions in this way: first, so far as we know, government intervention in the food system is a feature of all highly industrialized countries (and, despite the intervention, farm incomes still tend to lag behind national averages); and, second, reduction of the energy subsidy to agriculture (even if we could manage it) might decrease the farmer's income. One reason for this state of affairs is that the demand for food quantity has definite limits, and the only way to increase the unit price of agricultural products. Consumer boycotts and protests in the early 1970's suggest that there is considerable resistance to this outcome.

Government intervention in the functioning of the market in agricultural products has accompanied the rise in the use of energy in agriculture and the food supply system, and we have nothing but theoretical suppositions to suggest that any of the present system can be deleted.

SOME ENERGY IMPLICATIONS FOR THE WORLD FOOD SUPPLY

The food supply system of the United States is complex and interwoven into a highly industrialized economy. We have tried to analyze this system on account of its implications for future energy use. But the world is short of food. A few years ago it was widely predicted that the world would suffer widespread famine in the 1970s'. The adoption of new high-yield varieties of rice, wheat, and other grains has caused some experts to predict that the threat of these expected famines can now be averted, perhaps indefinitely. Yet, despite increases in grain production in some areas, the world still seems to be headed toward famine. The adoption of these new varieties of grain—dubbed hopefully the "green revolution"—is an attempt to export a part of the energy-intensive food system of the highly industrialized countries to nonindustrialized countries. It is an experiment, because, although the whole food system is not being transplanted to new areas, a small part of it is. The green revolution requires a great deal of energy. Many of the new varieties of grain require irrigation where traditional crops did not, and almost all the new crops require extensive fertilization.

Meanwhile, the agricultural surpluses of the 1950's have largely disappeared. Grain shortages in China and Russia have attracted attention because they have brought foreign trade across ideological barriers. There are other countries that would probably import considerable grain, if they could afford it. But only four countries may be expected to have any substantial excess agricultural production in the next decade. These are Canada, New Zealand, Australia, and the United States. None of these is in a position to give grain away, because each of them needs the foreign trade to avert ruinous balance of payments deficits. Can we then export energy-intensive agricultural methods instead?

ENERGY-INTENSIVE AGRICULTURE ABROAD

It is quite clear that the U.S. food system cannot be exported intact at present. For example, India has a population of 550×10^6 persons. To feed the people of India at the U.S. level of about 3000 food calories per day (instead of their present 2000) would require more energy than India now uses for all purposes. To feed the entire world with a U.S. type food system, almost 80 percent of the world's annual energy expenditure would be required just for the food system.

The recourse most often suggested to remedy this difficulty is to export methods of increasing crop yield and hope for the best. We must repeat as plainly as possible that this is an experiment. We know that our food system works (albeit with some difficulties and warnings for the future). But we cannot know what will happen if we take a piece of that system and transplant it to a poor country, without our industrial base of supply, transport system, processing industry, appliances for home storage, and preparation, and, most important of all, a level of industrialization that permits higher costs for food.

Fertilizers, herbicides, pesticides, and in many cases machinery and irrigation are needed for success with the green revolution. Where is this energy to come from? Many of

the nations with the most serious food problems are those nations with scant supplies of fossil fuels. In the industrialized nations, solutions to the energy supply problems are being sought in nuclear energy. This technology-intensive solution, even if successful in advanced countries, poses additional problems for underdeveloped nations. To create the bases of industry and technologically sophisticated people within their own countries will be beyond the capability of many of them. Here again, these countries face the prospect of depending upon the goodwill and policies of industrialized nations. Since the alternative could be famine, their choices are not pleasant and their irritation at their benefactors—ourselves among them—could grow to threatening proportions. It would be comfortable to rely on our own good intentions, but our good intentions have often been unresponsive to the needs of others. The matter cannot be glossed over lightly. World peace may depend upon the outcome.

CHOICES FOR THE FUTURE

The total amount of energy used on U.S. farms for the production of corn is now near 10^3 kcal per square meter per year (3), and this is more or less typical of intensive agriculture in the United States. With this application of energy we have achieved yields of 2×10^3 kcal per square meter per year of usable grain—bringing us to almost half of the photosynthetic limit of production. Further applications of energy are likely to yield little or no increase in this level of productivity. In any case, no amount of research is likely to improve the efficiency of the photosynthetic process itself. There is a further limitation on the improvement of yield. Faith in technology and research has at times blinded us to the basic limitations of the plant and animal material with which we work. We have been able to emphasize desirable features already present in the gene pool and to suppress others that we find undesirable. At times the cost of the increased yield has been the loss of desirable characteristics—hardiness, resistance to disease and adverse weather, and the like. The farther we get from characteristics of the original plant and animal strains, the more care and energy is required. Choices need to be made in the directions of plant breeding. And the limits of the plants and animals we use must be kept in mind. We have not been able to alter the photosynthetic process or to change the gestation period of animals. In order to amplify or change an existing characteristic, we will probably have to sacrifice something in the overall performance of the plant or animal. If the change requires more energy, we could end with a solution that is too expensive for the people who need it most. These problems are intensified by the degree to which energy becomes more expensive in the world market.

WHERE NEXT TO LOOK FOR FOOD?

Our examination in the foregoing pages of the U.S. food system, the limitations on the manipulation of ecosystems and their components, and the risks of the green revolution as a solution to the world food supply problem suggests a bleak prospect for the future. This complex of problems should not be underestimated, but there are possible ways of avoiding disaster and of mitigating the severest difficulties. These suggestions are not very dramatic and may be difficult of common acceptance.

Figure 5 shows the ratio of the energy subsidy to the energy output for a number of widely used foods in a variety of times and cultures. For comparison, the overall pattern for the U.S. food system is shown, but the comparison is only approximate because, for most of the specific crops, the energy input ends at the farm. As has been pointed out, it is a long way from the farm to the table in industrialized societies. Several things are immediately apparent and coincide with expectations. High-protein foods such as milk, eggs, and especially meat, have a far poorer energy return than plant foods. Because protein is essential for human diets and the amino acid balance necessary for good nutrition is not found in most of the cereal grains, we cannot take the step of abandoning meat sources altogether. Figure 5 does show how unlikely it is that increased fishing or fish protein concentrate will solve the world's food problems. Even if we leave aside the question of whether the fish are available—a point on which expert opinions differ somewhat—it would be hard to imagine, with rising energy prices, that fish protein concentrate will be anything more than a by-product of the fishing industry, because it requires more than twice the energy of production of grass-fed beef or eggs (9). Distant fishing is still less likely to solve food problems. On the other hand, coastal fishing is relatively low in energy cost. Unfortunately, without the benefit of scholarly analysis fishermen and housewives have long known this, and coastal fisheries are threatened with overfishing as well as pollution.

The position of soybeans in Fig. 5 may be crucial. Soybeans possess the best amino acid balance and protein content of any widely grown crop. This has long been known to the Japanese who have made soybeans a staple of their diet. Are there other plants, possibly better suited for local climates, that have adequate proportions of amino acids in their proteins? There are about 80,000 edible species of plants, of which only about 50 are actively cultivated on a large scale (and 90 percent of the world's crops come from only 12 species). We may yet be able to find species that can contribute to the world's food supply.

The message of Fig. 5 is simple. In "primitive" cultures, 5 to 50 food calories were obtained for each calorie of energy invested. Some highly civilized cultures have done as well and occasionally better. In sharp contrast, industrialized food systems require 5 to 10 calories of fuel to obtain 1 food calorie. We must pay attention to this difference—especially if energy costs increase. If some of the energy subsidy for food production could be supplied by on-site, renewable sources—primarily sun and wind—we might be able to continue an energy-intensive food system. Otherwise, the choices appear to be either less energy-intensive food production or famine for many areas of the world.

ENERGY REDUCTION IN AGRICULTURE

It is possible to reduce the energy required for agriculture and the food system. A series of thoughtful proposals by Pimental and his associates (3) deserves wide attention. Many of these proposals would help ameliorate environmental problems, and any reductions in energy use would provide a direct reduction in the pollutants due to fuel consumption as well as more time to solve our energy supply problems.

First, we should make more use of natural manures. The United States has a pollution problem from runoff from animal feedlots, even with the application of large amounts of manufactured fertilizer to fields. More than 10^6 kcal per acre (4×10^3 kcal per hectare) could be saved by substituting manure for manufactured fertilizer (3) (and, as a side benefit, the soil's condition would be improved). Extensive expansion in the use of natural manure will require decentralization of feedlot operations so that manure is generated closer to the point of application. Decentralization might increase feedlot costs, but, as energy prices rise, feedlot operations will rapidly become more expensive in any case. Although the use of manures can help reduce energy use, there is far too little to replace all commercial fertilizers at present (10). Crop rotation is less widely practiced than it was even 20 years ago. Increased use of crop rotation or interplanting winter cover crops of legumes (which fix nitrogen as a green manure) would save 1.5×10^6 kcal per acre by comparison with the use of commercial fertilizer.

Second, weed and pest control could be accomplished at a much smaller cost in energy. A 10 percent saving in energy in weed control could be obtained by the use of the rotary hoe twice in cultivation instead of herbicide application (again with pollution abatement as a side benefit). Biological pest control—that is, the use of sterile males, introduced predators, and the like—requires only a tiny fraction of the energy of pesticide manufacture and application. A change to a policy of "treat when and where necessary" pesticide application would bring a 35 to 50 percent reduction in pesticide use. Hand application of pesticides requires more labor than machine or aircraft application, but the energy for application is reduced from 18,000 to 300 kcal per acre (3). Changed cosmetic standards, which in no way affect the taste or the edibility of foodstuffs, could also bring about a substantial reduction in pesticide use.

Third, plant breeders might pay more attention to hardiness, disease and pest resistance, reduced moisture content (to end the wasteful use of natural gas in drying crops), reduced water requirements, and increased protein content, even if it should mean some reduction in overall yield. In the longer run, plants not now widely cultivated might receive some serious attention and breeding efforts. It seems unlikely that the crops that have been most useful in temperate climates will be the most suitable ones for the tropics where a large portion of the undernourished peoples of the world now live.

A dramatic suggestion, to abandon chemical farming altogether, has been made by Chapman (11). His analysis shows that, were chemical farming to be ended, there would be much reduced yields per acre, so that most land in the soil bank would need to be put back into farming. Nevertheless, output would fall only 5 percent and prices for farm products would increase 16 percent. Most dramatically, farm income would rise 25 percent, and nearly all subsidy programs would end. A similar set of propositions treated with linear programming techniques at Iowa State University resulted in an essentially similar set of conclusions (12).

The direct use of solar energy farms, a return to wind power (modern windmills are now in use in Australia), and the production of methane from manure are all possibilities. These methods require some engineering to become economically attractive, but it should be emphasized that these technologies are now better understood than the technology of breeder reactors. If energy prices rise, these methods of energy generation would be attractive alternatives, even at their present costs of implementation.

ENERGY REDUCTION IN THE U.S. FOOD SYSTEM

Beyond the farm, but still far from the table, more energy savings could be introduced. The most effective way to reduce the large energy requirements of food processing would be a change in eating habits toward less highly processed foods. The current aversion of young people to spongy, additive-laden white bread, hydrogenated peanut butter, and some other processed foods could presage such a change if it is more than just a fad. Technological changes could reduce energy consumption, but the adoption of lower energy methods would be hastened most by an increase in energy prices, which would make it more profitable to reduce fuel use.

Packaging has long since passed the stage of simply holding a convenient amount of food together and providing it with some minimal protection. Legislative controls may be needed to reduce the manufacturer's competition in the amount and expense of

packaging. In any case, recycling of returnable bottles could reduce this large item of energy use.

The trend toward the use of trucks in food transport, to the virtual exclusion of trains, should be reversed. By reducing the direct and indirect subsidies to trucks we might go a long way toward enabling trains to compete.

Finally, we may have to ask whether the ever-larger frostless refrigerators are needed, and whether the host of kitchen appliances really means less work or only the same amount of work to a different standard.

Store delivery routes, even by truck, would require only a fraction of the energy used by autos for food shopping. Rapid transit, giving some attention to the problems with shoppers with parcels, would be even more energy-efficient. If we insist on a high-energy food system, we should consider starting with coal, oil, garbage—or any other source of hydrocarbons—and producing in factories bacteria, fungi, and yeasts. These products could then be flavored and colored appropriately for cultural tastes. Such a system would be more efficient in the use of energy, would solve waste problems, and would permit much or all of the agricultural land to be returned to its natural state.

ENERGY, PRICES, AND HUNGER

If energy prices rise, as they have already begun to do, the rise in the price of food in societies with industrialized agriculture can be expected to be even larger than the energy price increases. Slesser, in examining the case for England, suggests that a quadrupling of energy prices in the next 40 years would bring about a sixfold increase in food prices (9). Even small increases in energy costs may make it profitable to increase labor input to food production. Such a reversal of a 50-year trend toward energy-intensive agriculture would present environmental benefits as a bonus.

We have tried to show how analysis of the energy flow in the food system illustrates features of the food system that are not easily deduced from the usual economic analysis. Despite some suggestions for lower intensity food supply and some frankly speculative suggestions, it would be hard to conclude in a note of optimism. The world drawdown in grain stocks which began in the mid-1960's continues, and some food shortages are likely all through the 1970's and early 1980's. Even if population control measures begin to limit world population, the rising tide of hungry people will be with us for some time.

Food is basically a net product of an ecosystem, however simplified. Food production starts with a natural material, however modified later. Injections of energy (and even brains) will carry us only so far. If the population cannot adjust its wants to the world in which it lives, there is little hope of solving the food problem for mankind. In that case the food shortage will solve our population problem.

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13. We have converted all figures for the use of electricity to fuel input values, using the average efficiency values for power plants given by C. M. Summers [*Sci. Am.* 224 (No. 3), 148 (1971)]. Self-generated electricity was converted to fuel inputs at an efficiency of 25 percent after 1945 and 20 percent before that year.

14. Purchased material in this analysis was converted to energy of manufacture according to the following values derived from the literature or calculated. In doubtful cases we have made what we believe to be conservative estimates: steel (including fabricated and castings), 1.7×10^7 kcal/ton (1.9×10^4 kcal/kg); aluminum (including castings and forgings), 6.0×10^7 kcal/ton; copper and brass (alloys, millings, castings, and forgings), 1.7×10^6 kcal/ton; paper, 5.5×10^6 kcal/ton; plastics, 1.25×10^8 kcal/ton; coal, 6.6×10^6 kcal/ton; oil and gasoline, 1.5×10^6 kcal/barrel (9.5×10^3 kcal/liter); natural gas, 0.26×10^3 kcal/cubic foot (9.2×10^3 kcal/m^3); petroleum wax, 2.2×10^6 kcal/ton; gasoline and diesel engines, 3.4×10^6 kcal/engine; electric motors over 1 horsepower, 45×10^3 kcal/motor; ammonia, 2.7×10^7 kcal/ton; ammonia compounds, 2.2×10^6 kcal/ton; sulfuric acid and sulfur, 3×10^6 kcal/ton; sodium carbonate, 4×10^6 kcal/ton; and other inorganic chemicals, 2.2×10^6 kcal/ton.

15. Direct fuel use on farms: Expenditures for petroleum and other fuels consumed on farms were obtained from *Statistical Abstracts* (*1*) and the *Census of Agriculture* (Bureau of the Census, Government Printing Office, Washington, D.C., various recent editions) data. A special survey of fuel use on farms in the 1964 *Census of Agriculture* was used for that year and to determine the mix of fuel products used. By comparing expenditures for fuel in 1964 with actual fuel use, the apparent unit price for this fuel mix was calculated. Using actual retail prices and price indices from *Statistical Abstracts* and the ratio of the actual prices paid to the retail prices in 1964, we derived the fuel quantities used in other years. Changes in the fuel mix used (primarily the recent trend toward more diesel tractors) may understate the energy in this category slightly in the years since 1964 and overstate it slightly in years before 1964. S. H. Schurr and B.C. Netschert [*Energy in the American Economy, 1850–1975* (Johns Hopkins Press, Baltimore, 1960), p. 7741], for example, using different methods, estimate a figure 10 percent less for 1955 than that given here. On the other hand, some retail fuel purchases appear to be omitted from all these data for all years. M. J. Perelman [*Environment* (*St. Louis*) *14* (No. 8), 10(1972)] from different data, calculates 270×10^{12} kcal of energy usage for tractors alone.

16. Electricity use on farms: Data on monthly usage on farms were obtained from the "Report of the Administrator, Rural Electrification Administration" (U.S. Department of Agriculture, Government Printing Office, Washington, D.C., various annual editions). Totals were calculated from the annual farm usage multiplied by the number of farms multiplied by the fraction electrified. Some nonagricultural uses are included which may overstate the totals slightly for the years before 1955. Nevertheless, the totals are on the conservative side. A survey of on-farm electricity usage published by the Holt Investment Corporation, New York, 18 May 1973, reports values for per farm usage 30 to 40 percent higher than those used here, suggesting that the totals may be much too small. The discrepancy is probably the result of the fact that the largest farm users are included in the business and commercial categories (and excluded from the U.S. Department of Agriculture tabulations used).

17. Fertilizer: Direct fuel use by fertilizer manufacturers was added to the energy required for the manufacture of raw materials purchased as inputs for fertilizer manufacture. There is allowance for the following: ammonia and related compounds, phosphatic compounds, phosphoric acid, muriate of potash, sulfuric acid, and sulfur. We made no allowance for other inputs (of which phosphate rock, potash, and "fillers" are the largest), packaging, or capital equipment. Source: *Census of Manufactures* (Government Printing Office, Washington, D.C., various recent editions).

18. Agricultural steel: Source, *Statistical Astracts* for various years (*1*). Converted to energy values according to (*14*).

19. Farm machinery (except tractors): Source, *Census of Manufactures*. Totals include direct energy use and the energy used in the manufacture of steel, aluminum, copper, brass, alloys, and engines converted according to (*14*).

20. Tractors: numbers of new tractors were derived from *Statistical Abstracts* and the *Census of Agriculture* data. Direct data on energy and materials use for farm tractor manufacture was collected in the *Census of Manufactures* data for 1954 and 1947 (in later years these data were merged with other data). For 1954 and 1947 energy consumption was calculated in the same way as for farm machinery. For more recent years a figure of 2.65×10^6 kcal per tractor horsepower calculated as the energy of manufacture from 1954 data (the 1954 energy of tractor manufacture, 23.6×10^{12} kcal, divided by sales of 315,000 units divided by 28.7 average tractor horsepower in 1954). This figure was used to calculate energy use in tractor manufacture in more recent years to take some account of the continuing increase in tractor size and power. It probably slightly understates the energy in tractor manufacture in more recent years.

21. Irrigation energy: Values are derived from the acres irrigated from *Statistical Abstracts* for various years; converted to energy use at 10^6 kcal per acre irrigated. This is an intermediate value of two cited by Pimentel *et al.* (*3*).

22. Food processing industry: Source, *Census of Manufactures;* direct fuel inputs only. No account taken for raw materials other than agricultural products, except for those items (packaging and processing machinery) accounted for in separate categories.

23. Food processing machinery: Source, *Census of Manufactures* for various years. Items included are the same as for farm machinery [see (*13*)].

24. Paper packaging: Source, *Census of Manufactures* for various years. In addition to direct energy use by the industry, energy values were calculated for purchased paper, plastics, and petroleum wax, according to (*14*). Proportions of paper products having direct food usage were obtained from *Con-*

tainers and Packaging (U.S. Department of Commerce, Washington, D.C., various recent editions). [The values given include only proportional values from Standard Industrial Classifications 2651 (half), 2653 (half), 2654 (all).]

25. Glass containers: Source, *Census of Manufactures* for various years. Direct energy use and sodium carbonate [converted according to (*14*)] were the only inputs considered. Proportions of containers assignable to food are from *Containers and Packaging*. Understatement of totals may be more than 20 percent in this category.

26. Steel and aluminum cans: Source, *Census of Manufactures* for various years. Direct energy use and energy used in the manufacture of steel and aluminum inputs were included. The proportion of cans used for food has been nearly constant at 82 percent of total production (*Containers and Packaging*).

27. Transportation fuel usage: Trucks only are included in the totals given. After subtracting trucks used solely for personal transport (all of which are small trucks), 45 percent of all remaining trucks and 38 percent of trucks larger than pickup and panel trucks were engaged in hauling food or agricultural products, or both, in 1967. These proportions were assumed to hold for earlier years as well. Comparison with ICC analyses of class I motor carrier cargos suggests that this is a reasonable assumption. The total fuel usage for trucks was apportioned according to these values. Direct calculations from average mileage per truck and average number of miles per gallon of gasoline produces agreement to within ±10 percent for 1967, 1963, and 1955. There is some possible duplication with the direct fuel use on farms, but it cannot be more than 20 percent considering on-farm truck inventories. On the other hand, inclusion of transport by rail, water, air, and energy involved in the transport of fertilizer, machinery, packaging, and other inputs of transportation energy could raise these figures by 30 to 40 percent if ICC commodity proportions apply to all transportation. Sources: *Census of Transportation* (Government Printing Office, Washington, D.C., 1963, 1967); *Statistical Abstracts* (*1*); *Freight Commodity Statistics of Class I Motor Carriers* (Interstate Commerce Commission, Government Printing Office, Washington, D.C., various annual editions).

28. Trucks and trailers: Using truck sales numbers and the proportions of trucks engaged in food and agriculture obtained in (*27*) above, we calculated the energy values at 75×10^6 kcal per trucks for manufacturing and delivery energy [A. B. Makhijani and A. J. Lichtenberg, *Univ. Calif. Berkeley Mem. No. ERL-M310* (revised) (1971)]. The results were checked against the *Census of Manufactures* data for 1967, 1963, 1958, and 1939 by proportioning motor vehicles categories between automobiles and trucks. These checks suggest that our estimates are too small by a small amount. Trailer manufacture was estimated by the proportional dollar value to truck sales (7 percent). Since a larger fraction of aluminum is used in trailers than in trucks, these energy amounts are also probably a little conservative. Automobiles and trucks used for personal transport in the food system are omitted. Totals here are probably significant, but we know of no way to estimate them at present. Sources: *Statistical Abstracts, Census of Manufactures, and Census of Transportation* for various years.

29. Commercial and home refrigeration and cooking: Data from 1960 through 1968 (1970 extrapolated) from *Patterns of Energy Consumption in the United States* (6). For earlier years sales and inventory in-use data for stoves and refrigerators were compiled by fuel and converted to energy from average annual use figures from the Edison Electric Institute [*Statistical Year Book* (Edison Electric Institute, New York), various annual editions] and American Gas Association values [*Gas Facts and Yearbook* (American Gas Association, Inc., Arlington, Virginia), various annual editions] for various years.

30. Refrigeration machinery: Source, *Census of Manufacturers*. Direct energy use was included and also energy involved in the manufacture of steel, aluminum, copper, and brass. A few items produced under this SIC category for some years perhaps should be excluded for years prior to 1958, but other inputs, notably electric motors, compressors, and other purchased materials should be included.

31. There are many studies of energy budgets in primitive societies. See, for example, H. T. Odum [*Environment, Power, and Society* (Wiley, Interscience, New York, 1970)] and R. A. Rappaport [*Sci. Am.* 224 (No. 3), 104 (1971)]. The remaining values of energy subsidies in Fig. 5 were calculated from data presented by Slesser (*9*), Table 1.

32. This article is modified from C. E. Steinhart and J. S. Steinhart, *Energy: Sources, Use, and Role in Human Affairs* (Duxbury Press, North Scituate, Mass., in press) (used with permission). Some of this research was supported by the U.S. Geological Survey, Department of the Interior, under grant No. 14-08-001-G-63. Contribution 18 of the Marine Studies Center, University of Wisconsin—Madison. Since this article was completed, the analysis of energy use in the food system of E. Hirst has come to our attention ["Energy Use for Food in the United States," *ONRL-NSF-EP-57* (Oct. 1973)]. Using different methods, he assigns 12 percent of total energy use to the food system for 1963. This compares with our result of about 13 percent in 1964.

ENERGY SITUATION

Mr. HOLLINGS. Mr. President, 22 years ago the Paley Commission study on national materials policy devoted an entire volume to the energy situation and found a pressing need that the Nation's energy problems be reviewed in its entirety and not as a loose collection of independent pieces involving different sources and forms of energy. On May 10, 1973, the Senate passed S. 70 by an overwhelming vote. This bill would create a three-member council on energy policy in the Executive Office of the President. In passing S. 70 the Senate was again warning of the need to organize and coordinate the energy efforts of the Government. We again called to the President's attention the total disorganization and inability of the Government as presently organized to respond to the impending energy crisis. As I said at that time "No one is minding the store, and we are running out of supplies."

But the administration apparently was not listening and we are now all too well aware of how totally unprepared the Government was in dealing with the energy crisis when it hit. S. 70 is still pending in the House. In an attempt to give the proposal a second chance, the Senate again passed it on December 10, as an amendment to S. 2176, the National Fuels and Energy Conservation Act, and on December 19, as an amendment to S. 2776, the Federal Emergency Energy Act. And still no response from the White House. I want to emphasize that the council would not be a substitute for existing line agencies, such as FEO, FPC, AEC, or the Department of the Interior. Nor would it substitute for the pending proposals to create a DNER and ERDA.

Rather the Council is designed to complement the functioning of these agencies by providing a coordinated and long-range planning capability. For the first time, there would be a central organization designed to provide policy advice and activity coordination throughout the Federal Government. In this respect the Council on Energy Policy would parallel in the energy field successful organizational structure of the Council of Economic Advisors and the Council on Environmental Quality in the economic and environmental fields.

In a letter to the President dated April 26 I was joined by four of my colleagues in urging the President to recognize the urgency and need for establishing a Council on Energy Policy. In addition to recalling the comments of the Paley Commission and the actions by the Senate in 1973, we pointed to the recent recommendations of the President's own study team which on April 12, 1974, strongly recommended the creation of an independent national energy council as the best solution to the Government's regulatory problems in the energy field. We called on the President to join forces in the Senate in implementing this recommendation.

I ask unanimous consent that a copy of this letter be inserted in the RECORD. In addition, I ask unanimous consent that a fact sheet on S. 70 and a fact sheet on the President's study team recommendations also be printed in the RECORD.

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

(See exhibit 1.)

Mr. HOLLINGS. Mr. President, 22 years after the Paley Commission report, the crisis has come, memories of the long gas lines are fresh in our minds and fuel prices are at the highest level in history. But we are still debating the need for a National Energy Policy Council.

The hearings have been held. The comments are in. The need is there. It is time to act, and I hope the President will respond and lend his support to enactment of this vital legislation.

EXHIBIT 1

U.S. SENATE,
Washington, D.C. April 26, 1974.

THE PRESIDENT,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: We are all too well aware of how totally unprepared the government was for dealing with the energy crisis. Since the most visible aspect of this crisis is the shortage of fossil fuels, your proposals for solution to date have focused on various methods to increase supply and encourage conservation.

However, it is imperative that we recognize the root cause of this crisis, namely that the government lacked the capacity to anticipate the impending problem and take steps to avert it. The need for a long-range energy planning capability has been one of Washington's best kept secrets. In 1952, the Paley Commission devoted an entire volume of its study on materials policy to the energy situation and therein stated:

"In the past, government has dealt with energy problems largely on a piecemeal basis with separate programs for coal, gas, for

petroleum, for electricity, and for atomic energy, with each usually handled by one or more separate agencies operating under one or more separate legislative authorizations.

"The Commission is strongly of the opinion that the nation's energy problem must be viewed in its entirety and not as a loose collection of independent pieces involving different sources and forms of energy. So numerous and vital are the interrelations among all sectors of the energy field, that problems in any one sector must be dealt with always in full consideration of the effects on all other sectors. The aim must be to achieve a constant pattern of policies and programs throughout the entire energy field."

Twenty years later their observations are still revelant. In fact, on June 29, 1973, you commented on the failure of the present governmental structure to deal with the energy situation, and you directed that a comprehensive study be undertaken to determine the best way to organize all energy related regulatory activities of the government. The Study Team, which was formed as a result of your directive, issued its report on April 12. It found, as did the Paley Commission, that over the past fifty years the federal regulatory structure has become increasingly complex. "It has evolved in response to narrowly defined problems and the specific demands of the moment, rather than in relation to an overall plan." The Team found that over forty agencies are involved in one way or another in regulatory decision making on energy matters. The Team concluded that "the establishment of an institutional mechanism to provide policy guidance would be the single most significant contribution to correcting the deficiencies in the existing system of regulation," and that the best mechanism for this would be the creation of an independent national energy council to formulate national energy objections and provide general policy guidelines.

The Senate has come to an identical conclusion and on three occasions beginning on May 10, 1973, has passed S.70, a bill to establish a Council on Energy Policy.

It would be a three-member Council in the Executive Office of the President, appointed by the President. The Council would: 1) provide policy advice and prepare a long-range comprehensive plan for energy development, utilization and conservation; 2) coordinate energy activities throughout the Federal government; and 3) supervise the collection and the analysis of energy information, identifying the need for certain energy data and insuring that this information is being collected and analyzed as a basis for policy decisions.

It should be made clear that the Council would not be a substitute for a Department of Energy and Natural Resources (DENR) and it would be needed even if DENR were in existence today. Nor would the Council interfere with existing line agencies such as FEO, FPC, AEC, etc. Rather the Council is designed to complement the functioning of these agencies by providing the coordination and long-range planning capability these agencies cannot obtain on their own.

Energy, like economics and the environment, cuts across the responsibilities and operations of virtually every department and agency of the Federal government. In this respect, the Council on Energy Policy parallels in the energy field the successful organizational structure of the Council on Economic Advisors and the Council on Environmental Quality in the economic and environmental fields. It is imperative that we develop, as your study team recommends, "the organizational mechanism with the mission and the means for harmonizing these interlocking impacts."

As we consider proposals to establish FEA, ERDA, DENR, etc., we are reacting once again to the immediate problem and we are once again creating specific agencies to deal with specific aspects of the energy picture. As the Paley Commission and now your own Study Team has recommended, we must also address the basic failure.

The OMB refers to the study as a *preliminary* report to be aired and commented upon by all interested parties before any action is recommended. We submit that the hearings have been held. The comments are in. It is time to *act* and we urge you to lend your support to S. 70 and your assistance to enactment of this vital legislation.

Sincerely

WARREN G. MAGNUSON,
ERNEST F. HOLLINGS,
HENRY M. JACKSON,
JENNINGS RANDOLPH,
ABRAHAM RIBICOFF.

FACT SHEET—S. 70

PROPOSING A COUNCIL ON ENERGY POLICY

S. 70 would create a three-member Council on Energy Policy in the Executive Office of the President, appointed by the President. The Council on Energy Policy would: (1) provide policy advice and prepare a long-range comprehensive plan for energy development, utilization and conservation; (2) coordinate energy activities throughout the Federal government; and (3) supervise the collection and the analysis of energy information, identifying the need for certain energy data and insuring that this information is being collected and analyzed as a basis for policy decisions.

S. 70 was first introduced by Senator Ernest F. Hollings (D-S.C.) on July 18, 1972. It passed the Senate on May 10, 1973, by a vote of 79 to 12. It passed the Senate again on December 10 and on December 19 as an amendment to S. 2176, the National Fuels and Energy Conservation Act and to S. 2776, the Federal Energy Emergency Administration Act.

It should be made clear that the Council is not a substitute for a Department of Energy and Natural Resources (DENR) and it would be needed even if DENR were in existence today. Nor would the Council interfere with existing line agencies such as FEO, FPC, AEC, etc. Rather the Council is designed to complement the functioning of these agencies by providing a coordinated and long-range planning capability. The FEO, for example, was created to administer the emergency programs designed to alleviate current energy shortages. The Council on Energy Policy, rather than being a temporary line agency, would be a permanent organization designed to provide policy advice and activity coordination throughout the Federal government as well as supervising the establishment of a credible and useful system of energy information. The existing agencies and departments would continue to carry out their functions of regulation, administration, implementation and collection of information.

Energy, like economics and the environment, cuts across the responsibilities and operations of virtually every department and agency of the Federal government. The FPC, the AEC, the Departments of Treasury, State, Transportation, Housing and Urban Development, Commerce and Interior as well as the FEO and the proposed Energy Research and Development Administration (ERDA) all have major energy functions. To be effective, the Council must be independent of these agencies and must be in a position to coordinate their activity. In this respect, the Council on Energy Policy parallels in the energy field the successful organizational structure of the Council on Economic Advisers and the Council on Environmental Quality in the economic and environmental fields.

The energy plan formulated by the Council would serve as a basic blueprint for other agencies to better carry out their assigned tasks as they relate to energy. The Council would take a long-range view of the nation's energy needs and productive capabilities and would provide the agencies with better information upon which to base their decisions. In addition, the Council would be in a position to provide the President with high quality information and advice.

FACT SHEET

SUMMARY OF PRESIDENTIAL STUDY TEAM RECOMMENDING A NATIONAL ENERGY COUNCIL

On April 12, 1974, the Presidentially-designated Federal Energy Regulations Study Team released its organizational study.

In his energy statement of June 29, 1973, President Nixon commented on the failure of the present governmental structure to deal with the energy situation and the need for the government to change its organizational framework to meet the increasingly complex and increasingly critical energy problems facing our society. The President then directed that "a comprehensive study be undertaken, in full consultation with the Congress, to determine the best way to organize all energy related regulatory activities of the government." In July 1973, the Presidentially-commissioned inter-agency study team was formed under the chairmanship of Atomic Energy Commissioner William O. Doub.

The study team's report set forth its findings and recommendations in response to the President's directive. In summary, the team found that over the past 50 years the Federal regulatory structure has become increasingly complex. "It has evolved in response to narrowly defined problems and the specific demands of the moment, rather than in relation to an overall plan. While over 40 agencies are involved in one way or another in regulatory decision making on energy matters, the nation lacks an organizational mechanism with the missions and the means for harmonizing these interlocking impacts. Within the nation's overall energy problem, the Federal energy regulation system emerges as a key element."

Based on these findings, the study team made several recommendations, the primary recommendation being that a National Energy Council be established to formulate national energy objectives and provide general policy guidance. Such a policy guidance would provide a background against which agencies could make decisions with an understanding of the broader implications. The report indicated that government leaders, business spokesmen, environmentalists, consumer groups and other members of the public continually emphasized the need for more coherence in energy policy and concludes that "the establishment of an institutional mechanism to provide policy guidance would be the single most signficant contribution to correcting the deficiencies in the existing system of regulation."

While there are many forms that a policy entity could take, the study team concluded that creation of an independent National Energy Council was the best solution. They stressed the importance that the powers and functions of the Council be carefully elicited to avoid duplication of effort and jurisdictional quarrelling among Federal agencies. And they recommended that this Council be given a strong statutory mandate that will permit it to gain inter-agency support required to carry out its functions effectively. Specific objectives of the Council would be to: formulate national energy objectives; monitor and review the performance of Federal agencies; highlight existing and potential Federal inter-agency conflicts; monitor state and local energy activities and recommend steps to improve Federal-state cooperation; prepare a comprehensive annual energy report to the President and Congress that includes an up-to-date assessment of

the Federal energy regulatory system; develop and propose executive and legislative solutions to the emerging energy policy problems.

The Council, unlike FEO, would have no operational responsibilities. Implementing national energy policy would remain the function of the agencies that currently regulate the energy sector. As precedents for this action, the study team cited the National Security Council, the Council on Economic Advisors, and the Council on Environmental Quality.

PRESIDENT HAS POWER TO FIGHT INFLATION

Mr. PROXMIRE. Mr. President, controls have been ineffective against the present inflation. The President should mount a vigorous attack on the rampaging inflation now eating up the income and savings of the American people. Even though wage and price controls will end on April 30, there are still a dozen or more major steps the President can take to fight the mammoth increase in prices. And these actions can be far more effective against inflation than continued controls.

Inflation is here. It is rampant. The President should act to bring it under control. Here are some of the things he can do by administrative action.

Cut the budget and cut it hard.

The President has proposed the biggest peacetime increase in the budget in the history of the country. While Congress controls appropriations the President controls outlays, or the speed, pace, and timing of spending. He has the power to cut back on spending. He should cut Federal outlays this year from his proposed $304 billion back to at least $295 billion. He should cut, especially, military spending which is highly inflationary, highways which the energy crisis have made less important, space spending and concentrate on the needs of those on Earth instead, and public works which are both inflationary and wasteful.

Roll back the price of both old and new oil.

The Federal Energy Office has no facts and no cost data from the big oil companies to justify the increase of old oil from $3.50 to $5.25 a barrel, and it has no cost data to justify the sky-high prices for new oil. The President has the authority to roll back these prices to levels which can be justified by actual costs plus a fair return and adequate incentives to drill. In my view this would mean old oil would sell for no more than $4.50 and new oil at $7 or less. This is one of the key causes of inflation. The President should act.

Take constructive action in the area of food.

Food, along with oil, is also a key inflationary cause. For the coming year the President should initiate a program to provide for those at home first. Then there should be a set-aside for a domestic reserve to protect the U.S. consumer against future shortages. The remainder of our crops could be sold in international markets under conditional contracts limiting the total amount of exports in case the domestic crop and supplies fall short. The American consumer should be at the head of the food line for U.S. grown crops, not at the foot. It is the policy of every other producing country to supply their own people with an abundance of food at reasonable prices. The United States should institute that policy, too.

More competition in procurement.

Both at the Defense Department and in other Government agencies as well, the Government should get back to competitive procurement. The day of negotiated, cost-plus, and open-ended contracts should end.

Bring in more revenue to help balance the budget.

There are three principle areas which come to mind immediately. First, the Government should begin to get its money's worth from oil and gas leases on the Outer Continental Shelf. Second, we should institute an effective minimum tax so that those with large incomes pay at least as large a proportion of their income as those in the lowest brackets. Third, we repeal the special tax privileges for oil, percentage depletion, the intangible drilling and development cost special provisions, and the "golden gimmick" which allows billions to be paid out to Middle Eastern sheiks in the form of royalties and then offset in full as a credit against U.S. owed taxes. They get the money. We get only dribbles of oil. That is a bad deal. With Presidential leadership, we can get these things done. Without it, they will probably fail.

Stockpile cuts.

Examine the Government stockpiles to determine if additional amounts of the almost $7 billion in minerals and other items can be sold to increase supply and ease prices in the private markets.

Cut military foreign aid to the bone.

We now grant military foreign aid to at least 40 countries. It not only hits the American taxpayer in the neck, it increases tensions in the world. Cut it out. This year, foreign aid goes up to at least $5.3 billion which we know about. The total according to the Joint Economic Committee studies, is actually nearer $10 billion. Now, during this roaring inflation is no time to increase foreign aid.

Actually enforce the anti-trust laws.

Everybody talks about this. Nobody does it. Increased competition would bring down prices.

Stimulate housing.

We should reduce the upward pressures on rents and mortgage rates by stimulating housing production through moderate additions to Federal programs. By increasing the supply of housing, inflationary pressures would be reduced and jobs provided. This should be high on the list as the best means of fighting both inflation and a possible recession. It also helps people.

Cut frills.

We should cut back on all the frills of Government cars, limousines, boats, planes, and helicopters now used for the luxury of major civilian and military officials. Those who are paid with taxpayers hard earned money should live simply.

These are just a few ways that the President, acting on his own and without changes in the law, can fight inflation. He should get on with the job.

It is not necessary to continue controls, with the massive bureaucracy and red tape that goes with it, with the one-sided administration we have had in the past, and the restrictions on the play of the free markets where they genuinely exist, in order to fight inflation.

The President should fight inflation. It is time he got on with the job. But it is time he did it by action that will work instead of through controls which have not worked.

ANTI-RECESSION TAX CUT

Mr. KENNEDY. Mr. President, today's Washington Post contains an excellent article and analysis by Prof. Walter W. Heller in support of a tax cut at this time to reduce the burden of inflation on millions of American citizens and pull the economy out of its current tailspin toward recession.

As Professor Heller, a former Chairman of the Council of Economic Advisers and now professor of economics at the University of Minnesota, concludes,

The proposed tax cut would be socially, economically and fiscally responsible.

The $5.9 billion tax cut that Senator MONDALE and I are sponsoring would be achieved by raising the personal income tax exemption from its current level of $750 to a new level of $825, and by offering a new $190 tax credit, in lieu of the exemption, to be taken at the option of the taxpayer.

As Professor Heller makes clear, a tax cut at this time will not add to the inflationary pressures in the economy, but will be channeled instead into increased output and jobs. Today, the American economy is impaled on the twin horns of the dilemma of simultaneous inflation and recession. The administration's policies have been a failure in the fight against inflation, but that is no excuse for Congress to miss the opportunity to win the fight against recession.

Mr. President, Professor Heller's arguments in favor of the antirecession tax cut are eloquent and succinct, and I ask unanimous consent that his article may be printed in the RECORD.

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

[From the Washington Post, May 1, 1974]

TAX CUTS AND INFLATION

(By Walter W. Heller)

That the "savage inflation" of recent months scared the Post into opposing income tax relief in its April 23 editorial is understandable, but wrong. To say that "the most sensible thing to do right now is nothing" reflects (a) a misreading of economic facts and (b) an unwillingness to incur even very small risks on the inflationary front in exchange for sizeable gains in social justice and economic recovery.

First, the Kennedy-Mondale tax cut of $6 billion would redress a glaring social grievance. By boosting the per capita exemption to $825 and providing the option of a $190 per capita credit against taxes, it would concentrate the bulk of the tax benefits at the middle and lower ends of the income scale

where the past year's surge in food and fuel prices has taken a particularly heavy toll. (It would be the logical counterpart of the sharply expanded Food Stamp Program and unemployment compensation to aid the poor and the jobless.)

Second, by restoring some of the consumer's badly eroded buying power, the $6 billion cut would help arrest the sharper-than-expected slide of the economy toward recession and brighten the chances of recovery in an economy staggering under a new burden of soaring interest rates.

But won't the costs outweigh the benefits? Aren't supply shortages rather than weak demand the hallmark of today's recession? No.

The consumer is reeling under the blows of tight money and run-away food and fuel prices. Not only have car sales plummeted, but sales of household durables have been falling in real terms for nearly a year. Total retail sales in dollar terms are limping along at a pace only 5 per cent above a year ago, or only half the advance in prices over the same period.

Nor is any early rebound of consumer spending in sight. Exploding oil prices are still working their way through the economy. They are siphoning about $15 billion of consumer buying power away from other goods and services into the pockets of foreign and domestic oil producers. As the Post cogently pointed out in an earlier editorial, the end of the Arab embargo has not relieved us of this paradox of "oil drag"—a cost inflation of prices and a taxlike deflation of consumer demand.

The tax cut would offset a considerable part of the demand drag without increasing cost push. Indeed, by helping labor regain part of the 3 per cent loss of real pay in the past year, the carefully targeted Kennedy-Mondale exemption increase might even ease wage-push pressure somewhat. If we are to de-escalate inflation in the longer run, we will have to think more in terms of such broad trade-offs, of changes in the terms of the social contract.

But won't the added buying power released by a tax cut run up against industrial and materials bottlenecks? Federal Reserve capacity data don't support this:

In manufacturing, the combination of falling output and rising capacity—at a 4½ per cent rate in the past 6 months—has cut operating rate to 80 per cent of capacity.

In major materials industries, capacity rose 2 per cent in the past quarter, while output fell 1.7 per cent, thereby easing the operating rate to 92 per cent.

With demand falling significantly below our capacity to produce, then, this seems a relatively safe time to release a moderate amount of funds into the economy.

But for all that, won't much of the tax cut run off into higher prices? On the contrary. Given the special nature of today's inflation, the real thrust of added consumer buying made possible by the tax cut will be to expand output and jobs rather than prices:

The fuel, food, and commodity price explosions are largely the work of outside forces like the oil cartel and worldwide food and commodity shortages, not of excess domestic demand.

The pop-up effect of dumping Phase IV price and wage controls is also largely immune to fiscal or monetary policy.

So inflation has a life of its own. It is in major part the product of special forces that will be ebbing by the end of 1974 even if economic recovery is under way.

Insofar as wage-push pressures take over from these factors, the tax cut will not worsen them and might, as noted, ease them a bit.

But can we spare $6 billion of the $129 billion annual yield of the individual income tax? This year, yes. But for future years, the loss can and should be offset, preferably through removal of tax shelters, especially for oil.

Finally, isn't the Nixon budget already stimulative? Not if we are to believe analyses by the Council of Economic Advsers, the Library of Congress, the St. Louis Federal Reserve Bank, and Michael Levy of the Conference Board. All of them conclude that the fiscal 1975 budget is either neutral or somewhat restrictive.

In short, the proposed tax cut would be socially, economically, and fiscally responsible.

STRATEGIC ARMS LIMITATION

Mr. BUCKLEY. Mr. President, at the time the first round strategic arms limitation accords were signed in Moscow in 1972, many observers including some of the Nation's most sophisticated defense analysts expressed concern about the impact of the accords on the strategic balance. Specifically, concern was expressed about the payload capacity or "throw-weight" advantage conferred on the Soviets as a result of the one-sided character of offensive weapons limits where the Soviets were permitted to retain a 3-to-2 advantage in the number of land and sea-based missiles and a 4-to-1 advantage in "throw-weight." This, according to Secretary of Defense Schlesinger's analysis, could result in the Soviets possessing 23,000 warheads by the end of the decade if the Soviets used a warhead with the design features of the U.S. Poseidon C–3 warhead—a design worked out by U.S. scientists and engineers in the mid-1960s.

The editor of Aviation Week and Space Technology, Robert Hotz, has reviewed the SALT accords nearly 2 years after their signing. The results of his review has been published in the April 22 and April 29 editions of the magazine. The results of this review reflect some of the most ominous concerns of the SALT critics in 1972. In view of the fact that we may soon embark on a summit-level effort to negotiate a second round agreement, I urge a careful reading of these essays so that we may avoid another agreement with the Soviets which is as tragically one-sided as the first one.

Mr. President, I ask unanimous consent that these articles be printed in the RECORD.

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

[From Aviation Week & Space Technology, April 22, 1974]

THE PINCH OF SALT

(By Robert Hotz)

The U.S. is just beginning to feel the real pinch of SALT (Strategic Arms Limitation Talks). The euphoria with which President Richard M. Nixon and his satraps hailed the SALT 1 agreement as part of their "generation of peace" panegyrics is melting fast under the harsh facts of Soviet political and technical behavior since that agreement was signed on May 26, 1972. Less than two years later, this country finds itself being pushed toward grim alternatives—yielding permanent strategic weapons superiority to the USSR or embarking on a huge new multi-billion-dollar ICBM technology development and deployment program.

The sad fact is that the U.S. was badly outmaneuvered at SALT 1 by the classic Russian chess gambit of trading a pawn for a knight. In Salt 1, the U.S. gave up its superior missile defense technology, which promised to provide effective protection for the Minuteman ICBM force, for limitation of an extremely ineffective Soviet anti-missile system that offered little promise of protecting either its cities or its missile silos. But even worse, the U.S. conceded the Soviets a quantitative ICBM superiority because of the qualitative superiority of U.S. ICBMs with multiple independently-targetable reentry vehicles, more accurate guidance systems and more efficient nuclear warheads and a misconception of what the Soviets could and would do in future ICBM development.

Now the Soviets are exploiting these SALT concessions in negotiations for a SALT 2 agreement to achieve a permanent, unmistakable superior margin in strategic military power. Defense Secretary James Schlesinger recently bared to Congress the blunt facts on what is happening. Instead of an anticipated U.S. strategic advantage of about 6,000 reentry vehicles on MIRV Minuteman 3 and Poseidon missiles compared with some 2,500 Soviet reentry vehicles on submarine and land-based ICBMs, the U.S. faces a probable disparity of land-based missile strength, pitting about 2,000 Minuteman 3 warheads against from 7,000 to 8,000 Soviet MIRV warheads on board the SSX–18 and SSX–19 new-generation ICBMs now being test-fired. The submarine-based strengths would remain roughly comparable although massive MIRVing could change that too. In total nuclear throw weight, the new generation of Soviet ICBMs could deliver from 10 to 12 million pounds of nuclear warheads compared with 2 million pounds for the U.S.

All of this in prospect without any Soviet violation of the terms of SALT 1. Its sole cause is massive miscalculation by President Nixon and his SALT advisers on what they "thought" the Soviets would do and their failure to understand the technical significance of many of the phrases they agreed to in SALT 1 protocols. These include:

New Soviet ICBM development program that surfaced on the Tyuratam and Plesetsk test ranges less than six months after SALT 1 was signed and that Defense Secretary Schlesinger recently described to Congress as "staggering in size and depth." It includes four new ICBMs–SSX–16, 17, 18 and 19 plus a new SLBM, all with MIRV capabilities of 4–6 warheads compared with three on current U.S. ICBMs

Cold-launch "pop-up" technique that enables the Soviets to replace their present 1,000 single warhead SS–11 missiles with the 4–6 MIRV warhead SSX–19s within the silo limitations of SALT 1. This cold launch would also permit the mammoth SSX–18 to replace the SS–9 in the 300 existing silos with modifications allowed by the 15% silo enlargement provisions of SALT 1. The U.S. currently has no missiles under active development that could take advantage of these technical conditions, although a research program is being rushed in the Pentagon to try to remedy this deficiency.

These developments give the Soviets the capability of expanding the numerical advantage in ICBMs conceded to them by the U.S. at SALT 1 into a huge and significant superiority and at the same time wiping out all of the qualitative advantages the U.S. thought it would enjoy through the 1970s.

All attempts to reach an agreement with the Soviets to limit this exploitation in SALT 2 have met with rude rebuffs and harsh demands that the U.S. not only scrap its ongoing strategic weapons developments, such as the B–1 supersonic bomber and the Trident submarine-launched ICBM, but also severely curtail the deployment of nuclear weapons already carried by USAF and carrier-based tactical aircraft. These proposed restrictions would push back the limits of

U.S. airpower and open major new fringe areas for Soviet exploitation, such as the Middle East and Persian Gulf oil fountainheads.

The Soviets have maneuvered the Nixon Administration over a strategic barrel in SALT 1, and now they intend to roll it as hard as they can. Secretary of State Kissinger got that Soviet message loud and clear in his recent visit to Moscow.

None of this could have transpired except in the atmosphere of deep secrecy and deception which the Nixon Administration has created. Even now, White House satraps are angry that details of the Soviets' great missile developments and their harsh SALT 2 demands have reached the Congress, the press and the American people, whose safety is at stake.

President Nixon will feel the hard pinch of SALT when he goes to Moscow in June. But the American people will feel it long after he fades from the political scene, and they will have to expend a vast amount of sweat, treasure and perhaps blood to regain what so naively was negotiated away at SALT.

[From Aviation Week & Space Technology, April 29, 1974]

MORE SALT ON THE TABLE

(By Robert Hotz)

It is becoming more obvious with each passing month that the assumptions under which the U.S. negotiated the SALT 1 ballistic missile defense treaty and the accompanying interim agreement on intercontinental ballistic missile (ICBM) deployment were in gross error on Soviet technology and policy. Held up now in the harsh light of Soviet performance, these pieces of paper are as full of holes as a Swiss cheese. Some examples:

U.S. assumptions accepted the 10–15% enlargement of missile silos as "not significant." Soviet technology, revealed since SALT 1, has shown it to be enormously significant in increasing Russian ICBM reentry vehicle and throw weight margins over the U.S. ICBM forces.

U.S. assumption that the interim agreement limited deployment of "heavy" ICBMs generally and the Soviet 25-megaton SS–9 specifically. This was erroneous because the SS–9 is not mentioned in either the agreement or accompanying protocols and there is no specific definition of a "heavy" missile. The Soviets refused to agree to any definition, so the U.S. unilaterally appended its own concept and hoped the Soviets would accept it. The trend of new Soviet ICBM development shows clearly that they did not.

U.S. agreement to omit land-mobile ICBMs from the agreement on the Soviet claim that neither side possessed any. Soviets now have the SSX–16, a fully land-mobile ICBM, in advanced development that surfaced after SALT 1, while the U.S. is still studying whether it should begin development of this type weapon.

Although U.S. officials are still lamely professing that SALT 1 was a "good" agreement because it could lead to something better, much of the fervor has gone out of this litany recently. It is apparent to a growing audience that the U.S. was so badly outmaneuvered at SALT 1 that it will be impossible to achieve any of its real objectives at SALT 2 or beyond.

There is something both sad and dangerous in the way the U.S. gives away its best tangible assets to the USSR in exchange for nebulous and transitory intangibles in these type negotiations. Most U.S. participants in SALT 1 agree the Soviets were frantically anxious to achieve a halt to ballistic missile defense deployment. The U.S. superiority in this field, which eventually would eliminate any possibility of a Soviet first strike capability, was a very tangible asset that this country gave up in SALT 1. Meanwhile, the USSR is pushing its own advanced missile site defense technology at a rapid pace to make up this disparity as soon as possible. It is already testing new ABM missiles and radars but has a large deficiency in computer technology.

Now there are whispers that, in a supposedly commercial deal, the U.S. is officially offering the Soviets the Control Data Corp. 7600 high-speed digital computer that is the heart of the U.S. ABM site defense system.

In exchange for the ABM limit, U.S. officials thought they got a brake on the momentum of Soviet ICBM deployment, which had already overtaken the U.S. both in numbers and warhead throw weight. The new Soviet ICBM development program, characterized by Defense Secretary James R. Schlesinger as "staggering in size and depth," has shown clearly the Russian path—through MIRVs and increased accuracy—to tremendous multiplication of the current disparity between the opposing ICBM forces. The Soviets can accomplish all of this in the next 5–7 years without violating any of the specific agreements in SALT 1 and its protocols—only the U.S. assumptions. New Soviet ICBM technology only surfaced in the visible test-firing stages a few months after SALT 1 was signed. This demonstrates once again how the Soviets use negotiation as a tool to achieve long-term significant advantages in contrast to the U.S. goal of freezing a status quo.

Now that they have eliminated the deployment threat of a U.S. ICBM site defense system by treaty, established their own prerogatives for a numerical superiority in ICBM launchers by agreement, and developed the technology to force a multiplication of that superiority into strategic significance, the Soviets are getting tougher in their demands for SALT 2 and even more nebulous in what they offer in return. The Soviets now believe they are operating from a growing technological strength against a growing U.S. political weakness caused by Watergate and no realistic U.S. understanding of the game being played.

As reported exclusively in this magazine some weeks ago (AW&ST Apr. 15, p. 14), the Soviets are now demanding the scrapping of the B–1 supersonic bomber and the Trident SLBM and a rollback of current Navy carrier-based and USAF strike aircraft equipped with nuclear weapons as the price for any future SALT negotiations.

For years there has been a wailing wall of academicians in the northeast U.S. who bemoaned most U.S. weapons technology development as a provocation that "frightened" the Soviets into countermeasures. Now the U.S. has exercised so much restraint in SALT 1 that it is almost falling over backwards strategically. This has only whetted the Soviet appetite for a more significant strategic advantage. It is now the Soviet pace of new ICBM weapons development that is the stimulating and pacing factor in setting off a new arms race. If there has been any evidence of Soviet restraint in this area during the past two years, we wish somebody would call it to our attention.

Too much of the SALT negotiations and their peripheral maneuvering have been conducted under the table in deep secrecy, with their significance only dimly perceived by many of the key participants. It is time that the American public and the Congress demanded more SALT on top of the table where they can see how much of their safety and future is being bartered away by glossy diplomats who do not really understand what they are doing.

DEFENSE SPENDING PROMOTES INFLATION

Mr. PROXMIRE. Mr. President, if Congress approves the record-high defense budget requested this year the chances of bringing inflation under control in 1974 will be reduced to zero. There is no way to reduce inflationary pressures while defense spending surges forward.

This is not only my judgment. It is also the judgment of respected economists and financial experts.

FIRST NATIONAL CITY BANK SAYS DEFENSE BUDGET INFLATIONARY

The First National City Bank of New York in its April 1974 Monthly Economic Letter carefully analyzes the current defense budget request and concludes:

If defense spending swings up as planned in late fiscal 1974 and 1975, the result could be inflationary stimulus to an economy that has already started on the road to recovery.

RESOURCES WILL SHIFT FROM DOMESTIC PROGRAMS TO DEFENSE

The First National City Bank shows that in the next few years, in addition to inflation, a shift in national resources from domestc program to defense will occur if the Pentagon gets its way.

A REAL INCREASE IN OUTLAYS FOR REST OF DECADE

It is pointed out that the budget proposal represents a real increase in military outlays, after taking pay and price increases into account, and that the budget is even more expansionary than the figures indicate.

The spending plans reflected in the defense budget, according to First National City Bank—

Suggest a strongly rising trend in real defense spending over the rest of the decade.

POOR WAY TO PROP UP ECONOMY

Finally, First National City Bank comments on the apparent intent of the administration to increase defense spending so as "to give a sluggish economy a spring tonic."

The bank observes that the increase proposed would not have the intended effect and that even if it would, it has seldom proved good economics to provide a fiscal stimulus through the defense program.

The reason the defense increase cannot be used to prop up the economy when it could use propping up is because a large chunk of the proposed increase is for additional military hardware and the higher level of economic activity from the new purchases would not be felt until the last half of the year. The fiscal push would come too late, at a time when most experts are forecasting an economic upturn.

Mr. President, I ask unanimous consent to print in the RECORD a copy of the First National City Bank of New York Monthly Economic Letter for April 1974, entitled "Defense Spending—Count-up for a Launching."

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

DEFENSE SPENDING—COUNTUP FOR A LAUNCHING

If defense spending swings up as planned in late fiscal 1974 and 1975, the result could be inflationary stimulus to an economy that has already started on the road to recovery.

This is the time of year when the men of the Pentagon trudge up Capitol Hill on their

perennial quest for more funds. For the past six years, they have been turned away with less in real terms than they got the year before. But this year for a number of reasons, some having little to do with national defense, their persistence may pay off. And the outcome over the next few years could be a shift in national resources from domestic programs to defense.

The Pentagon says it needs additional funds to improve the nation's readiness for military emergencies, to modernize its weapons systems and to cover costs boosted by inflation. The Administration seems prepared to buy these reasons, because they comport with one of its own—to give a sluggish economy a spring tonic. Historically, it has seldom proved good economics to give an economy a fiscal shot in the arm by upping defense outlays. Yet Congress—mindful of mounting unemployment and aware there is no political edge to be gained these days from dovish gestures—may go along, even though chances are the boost will come at a time when it could rekindle the fires of inflation.

In the program outlined in the 1975 budget, defense spending is scheduled to turn sharply upward after declining to $74 billion in fiscal 1973—$5 billion below the level of spending at the height of the Vietnam war in fiscal 1969. And a $4.5 billion supplemental increase in outlays booked for late 1974 is expected to be followed by successive increases of $6 billion each in fiscal years 1975 and 1976.

This rise may not appear very strong when inflation is taken into account—and inflation is severe enough to make comparison in real terms a necessity. Even in real terms, however, this increase represents a switch from negative to positive yearly percentage changes in defense spending. Moreover, the budget is more expansionary than the numbers would suggest. While the rise in manpower and operations expenditures in the budget reflects the soaring of prices and wages, long-range plans for procuring materiel, laid out in 1975 Report of the Secretary of Defense, suggest a strongly rising trend in real defense spending over the rest of the decade. Although forecasting defense expenditures is perilous since their levels are dictated less by economic considerations than by changing perceptions of the international and domestic political scene, the rise in the cost of defense over the next five to six years could well be as rapid as the rise in gross national product.

Domestic politics also shape the course of defense spending, since governments sometimes vacillate between fiscal constraint and surges of spending.

TARDY STIMULUS

Obligations—commitments to spend in the future—are slated to rise much faster than expenditures in fiscal 1974. The Pentagon plans to step up awards of procurement of hardware of all sorts, ranging from tanks to sophisticated missiles and including ammunition which is expendable rather than durable. Obligations are scheduled to reverse dramatically from an 11% decline in fiscal 1973 to a 22% increase in 1974.

Congressional approval of the supplemental defense funds for fiscal 1974 would be unlikely to have much effect on the economy before the end of the second quarter of calendar 1974. More than half—$3.3 billion out of a total of $6.2 billion requested—is to pay for pay and pension increases that took effect during 1973 and in January of this year, so that fiscal stimulus has already been felt. Most of the rest of the supplemental is to buy more military hardware and to maintain equipment. Even if this legislation were passed in time to increase obligations in May or June, the higher level of economic activity would not be felt until the second half of the year because of the delay between incurring obligations and the new hiring and purchasing. Thus the fiscal push would not come until after the forecasted upturn from the recessionary trough.

The desire to boost the economy is not the only reason the spending level for defense is being pressured upward. Inflation is pushing up costs for the Pentagon just as it is for businesses and individuals throughout the country, and part of the increase in manpower costs comes from that factor. Moreover, the Defense Department says that spending constraints in the last few years have forced it to operate on a barebones budget. During fiscal years 1970–73, a time of controversy over the Vietnam conflict, Congress slashed defense budget requests by an average of about 4% per year—much sharper cuts than the approximately 1% a year cuts that were made in the 1960–69 period. Historically, defense expenditures always have fallen after wars. But the fall in current dollars has never been back to prewar levels. And now, because inflation has caused real outlays to lag, the Defense Department wants to hold its own.

Other factors leading to increased requests come from within the department itself. Manpower costs are higher because of the volunteer army, the comparability pay principle and climbing retirement costs stemming from the growing number of retirees and their higher salary base. The cost of weapons also is going up, not only from inflation but because the expense of increasingly sophisticated technology squeezes the funds available. It is difficult to assess to what degree inflation affects the total amount spent for unique and experimental equipment that may have no other market than the Defense Department. Many military purchases require exquisite and painstaking hand tailoring to meet changing requirements, and the result often is low productivity and cost overruns. However, the Pentagon argues that modernization is needed and that weaponry must be upgraded.

TO MARKET, TO MARKET

If it gets the money, the Pentagon has a long shopping list of items needed to achieve these goals. For the remainder of 1974, it wants funds to replace weapons shipped to Israel, to accelerate buying of weapons and equipment that proved particularly effective in the October war and to make up "deficiencies . . . that were made apparent by the Middle East hostilities." Included on the proposed list for late 1974 are antitank missiles, M–60 series tanks and armored personnel carriers. The Pentagon would also increase purchases of supplies "to improve readiness and increase airlift capability," according to the report of the Secretary of Defense.

In its plans for 1975, the Administration wants to spend its money on a number of research and development projects, as a hedge both against failure of the Strategic Arms Limitation Talks and the possibility of increasing Soviet military capability. In addition, the Administration carries on its push for modernization of strategic equipment—the Trident sea-based missile system, completion of the program to replace the Minuteman I missiles with advanced missiles that can carry three independently targetable warheads, and a half-billion-dollar continuation of the five-year development effort on the B–1 bomber. Also, the Army plans to continue buying M–60 tanks and antitank missiles and the Navy has asked $143 million as a downpayment on a $1 billion program to build sea control ships to provide protection for sea-based aircraft, amphibious groups and convoys. The Navy is also planning to continue the purchase of antisubmarine-warfare aircraft, destroyers, frigates, missiles and nuclear-powered attack submarines. The Pentagon also would continue to enlarge its fleet of F–14 and F–15 fighter planes, develop close-support aircraft and to expand the Air Warning and Control System.

FUTURE BUYING

If the Defense Secretary's programs go forward as planned, beyond fiscal 1975 a number of programs now in the research-and-development stage will be ready for a buy-no buy decision. The purchase of these weapons and equipment items along with ongoing procurement plans would involve an investment of well over $50 billion, according to estimates of the Brookings Institution. These purchases by 1979 could raise real spending by as much as $5 billion above current levels. The key items on this list are:

Strategic forces: Conversion of the 450 Minuteman II missiles to an MIRV version, the actual purchase of B–1 bombers and modernization of air defenses. Development of the cruise missile—a new kind of strategic missile for submarines—and a new mobile land missile to suceed the Minuteman. The spending for these last two weapons would depend on the outcome of the SALT negotiations.

Ground forces: Battle tanks, mechanized combat vehicles, surface-to-air missiles and transport and attack helicopters.

Naval general purpose forces: Purchase of more aircraft carriers, patrol frigates and sea control ships.

Tactical air forces: Buying more F–14 and F–15 fighters and acquiring close-support aircraft.

There is a good chance the Pentagon's shopping list eventually will be adopted—unless the present political climate changes. The Secretary of Defense himself has said that the department was allowed higher expenditures last year than it might have been under previous "tight money" budgets. This could be an omen of a turnabout in the outlook for the budgetary process, and the beginning of an era when the trend in real defense spending is rising rather than falling sharply. If this happens, it seems obvious that pressures will be brought to bear on nondefense spending—or, conversely, on any loose talk of lower taxes.

DRUG BIOEQUIVALENCE DILEMMA

Mr. KENNEDY. Mr. President, the Office of Technology Assessment has convened a blue ribbon panel to try to resolve the drug bioequivalence dilemma raised by HEW Secretary Caspar Weinberger's announcement before the Health Subcommittee last December of a new drug reimbursement policy.

This distinguished group of scientists is chaired by Dr. Robert Berliner, the dean of the Yale University School of Medicine.

I ask unanimous consent that the accompanying summary of the committee's charge, and its request for technical documentation be printed in the RECORD.

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

OFFICE OF TECHNOLOGY ASSESSMENT, DRUG BIOEQUIVALENCE STUDY

The Office of Technology Assessment, Congress of the United States, has been directed by the Health Subcommittee (of the Senate Committee on Public Welfare) to examine the scientific aspects of the drug bioequivalence issue. A panel, chaired by Dr. Robert Berliner, Dean of the Yale University School of Medicine and approved by OTA, has been formed to issue a report based upon a review of available technical information. (A list of panel members is provided below.)

The panel invites interested individuals

and organizations to submit written technical documentation related to the study charge as presented in the following sections. Given the report's due date of June 30, 1974, the panel requests that all information be submitted no later than May 20, 1974 to: Drug Bioequivalence Study Staff, 1910 K Street, N.W., 8th Floor, Washington, D.C. 20006.

BACKGROUND

The Health Subcommittee (of the Senate Committee on Labor and Public Welfare) is conducting a series of hearings on the pharmaceutical industry. Testimony has been presented on a number of issues including drug safety, Federal regulatory functions, drug costs, physician prescribing and drug utilization.

Wednesday, December 19, 1973, HEW Secretary Weinberger appeared before the Committee and recommended a new Federal drug purchasing policy. In brief, he proposed that "in absence of demonstrated differences in uniform quality and therapeutic equivalence, there is no reason why the Government should pay more for a drug than the lowest price at which it is widely available."

The Secretary reasoned that most chemically equivalent drugs are also clinically or therapeutically equivalent. The Secretary's recommendation was further based on the observations that "It has been shown in recent years that in a few instances two or more chemically equivalent drugs, even though they meet all official standards, produce significantly different blood levels when administered to man. In scientific terms they differ in bioavailability or, to use another term, they are lacking in bioequivalency."

The Secretary went on to say that "all evidence to date indicates that clinically significant differences in bioavailability are not frequent." In those few instances when chemically equivalent drugs are not clinically equivalent, these differences may be measured by additional bioavailability data. Therefore, the Secretary was proposing to advance the national interest by a policy of paying for "lowest priced" chemical equivalents.

In a subsequent hearing on February 1, 1974, the Subcommittee received testimony from representatives of the pharmaceutical industry. They stated that in terms of quality and therapeutic equivalence, significant differences among chemically equivalent drugs have been shown. Further, Mr. C. Joseph Stetler, President of the Pharmaceutical Manufacturers Association, argued that "inequivalency unproven is not equivalency assured".

Thus, the hearings developed differences of opinion on the frequency with which chemical equivalents will be found to differ in therapeutic equivalence.

CHARGE

The overall charge to the panel is to examine the relationship between the chemical equivalence and therapeutic equivalence of drug products. The panel will evaluate the extent to which technology short of therapeutic trials in man can be used to determine whether drug products that meet the same official standards of chemical composition but that are produced at different times or under different manufacturing processes and that may contain different inert ingredients can be expected to produce comparable therapeutic effects.

The panel recognizes that chemically equivalent drug products can produce measurably different therapeutic effects. The panel will therefore focus its attention on whether such differences in therapeutic effect can be predicted from measurable differences in bioavailability. The panel will also examine whether such differences in bioavailability can be correlated with different responses to *in vitro* tests.

To make these judgments the panel's assessment of the state of the technology will include:

1. An evaluation of currently available methods for determining in man the bioavailability of the active ingredient of drug products. Included will be analytical methodology, the influence of disease states on bioequivalence, and the assessment of bioequivalence in the instances in which there are no methods known. To be specified are:

a. the target populations under consideration

b. objective standards as to what may be considered to constitute comparable bioavailability.

2. An assessment of current technology for drug product formulation as it relates to continuing assurance of adequate bioavailability. This should include:

a. evaluation of data on batch to batch variations over time in bioavailability of drug products manufactured by current production methodology

b. the extent to which continuing bioavailability can be related to in-process formulation, excipient effects, shelf life characteristics, etc.

3. An assessment of whether present and future compendial *in vitro* tests can be used to predict bioavailability. Also, the panel's assessment of whether *in vivo* tests in species other than man can be used to predict bioavailability.

The conclusion of the panel will be based on current technology as well as technology that the panel believes will become feasible over time. The report will also include a consideration of the need and potential for new research relevant to the problems under consideration.

TECHNOLOGY STATEMENTS

The panel considers several definitions necessary for this study:

Chemical Equivalents: Drug products from different sources which contain essentially identical amounts of the identical active ingredients, in identical dosage forms, and which meet existing physicochemical standards in the official compendia. (Inert ingredients in chemical equivalent drug products need not be identical.)

Therapeutic Equivalents: Chemical equivalents, which when administered to a specified population in the same dose regimen and schedule, will provide essentially the same therapeutic and/or toxic effect as measured by the control of a symptom or disease.

Bioavailability: The extent and rate of absorption from a dosage form as measured by the time concentration curve of the active ingredient in the system's circulation.

Drug Product: A total dosage form containing an active therapeutic ingredient(s) along with other substances required in the manufacturing process. The composition of the active ingredient(s) is specified within certain tolerances established in the official compendia. When administered, the drug product releases the active ingredient(s) in order to produce a therapeutic effect.

For the purposes of this study the panel will focus its attention on solid formulation drug products administered by mouth in order to produce a systemic effect. The therapeutic effect of such drug products is assumed to be a function of its availability in the general circulation as measured by blood level or urinary excretion curves of the active therapeutic ingredient(s).

The panel will be concerned primarily with the principles and methodology involved in comparing therapeutic effects of chemically equivalent drug products. The panel will attempt to identify categories of drug products for which bioavailability measurements may be critical to assuring therapeutic equivalence. When appropriate the panel will also refer to specific examples of drug products within these categories.

The panel will focus its attention on categories with the following criteria:

Drug products used for treatment or prevention of a serious illness, rather than for the alleviation of temporary symptoms.

Drug products which have step dose-effect curves.

Drug products which have unfavorable therapeutic indices.

Active ingredients which are relatively water insoluble.

Drug products which have previously been the subject of reported or suspected nonequivalency or therapeutic failure.

Drug products which are available from multiple sources for national distribution and have been identified by recognized sources as being among the most heavily prescribed.

The panel will not undertake in-depth studies of individual drug products. Rather, it is the intent of the panel to bring to the attention of HEW, compendial and industrial interests those categories to which the methodological principles should be applied on a priority basis.

OFFICE OF TECHNOLOGY ASSESSMENT, BIOEQUIVALENCY DRUG STUDY PANEL MEMBERS

1. Robert Berliner, M.D., Dean, School of Medicine, Yale University, 333 Cedar Street, New Haven, Conn. 06510.

2. Leighton E. Cluff, M.D., Professor and Chairman, Department of Medicine, College of Medicine, J. Hillis Miller Health Center, University of Florida, Gainesville, Fla. 32610.

3. James T. Doluisio, Ph.D., Dean, College of Pharmacy, The University of Texas at Austin, Austin, Texas 78712.

4. Kenneth Melmon, M.D., Chief, Division of Clinical Pharmacology, University of California, San Francisco Medical Center, San Francisco, Calif. 94143.

5. Alexander S. Nadas, M.D., Chief, Cardiology Department, Children's Hospital Medical Center, 300 Longwood Avenue, Boston, Mass. 02115.

6. John Oates, M.D., Professor of Medicine and Pharmacology, Department of Pharmacology, Vanderbilt University, Nashville, Tenn. 37232.

7. Sidney Riegelman, Ph.D., Professor of Pharmacy and Pharmaceutical Chemistry, Chairman, Department of Pharmacy, University of California, San Francisco, Calif. 94143.

8. Fred Shideman, Ph.D., M.D., Professor and Head, School of Pharmacology, 105 Millard Hall, University of Minnesota, Minneapolis, Minn. 55455.

9. Marvin Zelen, Ph.D., Professor of Statistical Science, Director of Statistical Laboratory, Statistical Laboratory, SUNY at Buffalo, 4230 Ridge Lea Road, Amherst, N.Y. 14226.

Frederick Robbins, M.D., Exofficio Member, Member of OTA Advisory Council, Dean, Case Western Reserve Medical School, Case Western Reserve University, 2119 Abington Road, Cleveland, Ohio 44106.

Stanley Kleiner, Pharm.D., Staff Executive Director, 1910 K Street, NW., Washington, D.C. 20006. [redacted]

Carl Taylor, Congress of the United States, Office of Technology Assessment, Washington, D.C. 20510. [redacted].

INFLATION

Mr. HOLLINGS. Mr. President, I would like to bring to the attention of my colleagues in the Senate three resolutions sent to me from Aiken, Saluda, and Bishopville, S.C.

I share the concerns which are expressed in these resolutions, and I ask unanimous consent that they be printed in the RECORD.

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

A RESOLUTION RELATING TO THE STATE OF THE ECONOMY AND THE ENERGY SHORTAGE

Be it resolved by the Mayor and Councilmen of the City of Bishopville, in meeting regularly assembled, as follows:

(1) That grave convern is felt over continued inflation and continued skyrocketing of costs.

(2) That it appears imperative that steps be taken to halt inflation and roll bactk prices.

(3) That the energy shortage, particularly in reference to supplies of gasoline, is becoming increasingly acute and creating numerous, varied and substantial problems.

(4) That it appears necessary and desirable that further positive steps be taken in an effort to relieve the problems being caused by existing shortage of gasoline.

(5) That the Mayor of the City of Bishopville is authorized and directed to transmit this Resolution and to convey its content to any and all persons in interest at any and all government levels in any situation in which it is felt that such action might prove helpful.

Done and ratified in meeting assembled on this the 25th day of April, 1974.

A RESOLUTION RELATING TO THE STATE OF THE ECONOMY AND THE ENERGY SHORTAGE

Be it resolved by the Mayor and Councilmen of the Town of Saluda, in meeting regularly assembled, as folows;

(1) That grave concern is felt over continued inflation and continued skyrocketing of costs.

(2) That it appears imperative that steps be taken to halt inflation and roll back prices.

(3) That the energy shortage, particularly in reference to supplies of gasoline, is becoming increasingly acute and creating numerous, varied and substantial problems.

(4) That it appears necessary and desirable that further positive steps be taken in an effort to relieve the problems being caused by existing shortage of gasoline.

(5) That the Mayor of the Town of Saluda is authorized and directed to transmit this Resolution and to convey its content to any and all persons in interest at any and all government levels in any situation in which it is felt that such action might prove helpful.

Done and ratified in meeting assembled on this the 22 day of April, 1974.

A RESOLUTION RELATING TO THE STATE OF THE ECONOMY AND THE ENERGY SHORTAGE

Be it resolved by the Mayor and Councilmen of the City of Aiken, in meeting regularly assembled, as follows:

(1) That grave concern is felt over continued inflation and continued skyrocketing of costs since the cost of living continues to spiral upward and now is more than a 10% rate.

(2) That it appears imperative that steps be taken to halt inflation and roll back prices. Construction costs have more than doubled in a three year period and prices of materials and supplies in many cases have more than doubled. A blanket 5% increase to our employees is a futile gesture in that inflation and required deductions erode the raise so that employees receive little or no benefit.

(3) That the energy shortage, particularly in reference to supplies of gasoline, is becoming increasingly acute along with escalating prices and is creating numerous, varied and substantial problems.

(4) That it appears necessary and desirable that further positive steps be taken in an effort to relieve the problems being caused by existing shortage of gasoline.

(5) That the Mayor of the City of Aiken is authorized and directed to transmit this Resolution and to convey its content to any and all persons in interest at any and all government levels in any situation in which it is felt that such action might prove helpful.

Done and ratified in meeting assembled on this 22nd day of April, 1974.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. tomorrow.

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

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order tomorrow, the following Senators be recognized, each for not to exceed 15 minutes and in the order stated—Senator PROXMIRE already has an order—after the order recognizing Senator PROXMIRE is completed, Senator MATHIAS be recognized for 15 minutes, and then Senator GRIFFIN for 15 minutes; and then there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 5 minutes, at the conclusion of which the Senate proceed to the consideration of the conference report on the Federal Energy Administration with a time limitation of 30 minutes thereon to be equally divided between Senator RIBICOFF and the minority leader or his designee; that upon disposition of the conference report, the Senate proceed to consideration of the Small Business Administration bill, S. 3331, with a time limitation thereon of 30 minutes, to be equally divided and controlled in the usual form; that on any amendments thereto—and I understand there will be one, which I understand the committee will accept—be limited to 30 minutes to be equally divided and controlled, and the agreement to be in accordance with the usual form.

That upon the disposition of the Small Business Administration bill, the Senate proceed to the consideration of the Peace Corps bill, H.R. 12920, with a time limitation thereon of 30 minutes, and with a time limitation on any amendment thereto of 30 minutes, the agreement to be in the usual form.

My understanding is that there is no opposition to the bill and that there will be a colloquy, or possibly an amendment, which I understand will not be controversial; that following the vote on the Peace Corps bill, the Senate proceed to the consideration of S. 3203, a bill to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals and for other purposes with no time limitation on that bill.

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

ORDER FOR ADJOURNMENT FROM CLOSE OF BUSINESS TOMORROW TO 10 A.M. ON FRIDAY MORNING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business tomorrow, it stand in adjournment until 10 a.m. on Friday.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON FRIDAY NEXT AND CONSIDERATION OF H.R. 11385

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, following any special orders on Friday morning which may be entered prior thereto, there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 5 minutes; that at the conclusion of routine morning business, the Senate proceed to the consideration of H.R. 11385, an act to amend the Public Health Service Act, on which there is a time agreement.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of H.R. 11385 on Friday, the Senate proceed to the consideration of the education bill, S. 1539, and that it become the unfinished business.

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

ORDER FOR ADJOURNMENT FROM FRIDAY NEXT, TO 10 A.M. ON MONDAY, MAY 6, 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business on Friday next, it stand in adjournment until 10 a.m. on Monday next, May 6, 1974.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next, May 6, 1974, following the recognition of Senators for orders, if there be any previously entered, there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 5 minutes; at the conclusion of which the Senate proceed to the consideration of S. 2999, authorizing appropriations for military procurement, on which there is a time agreement.

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

ORDER FOR CONSIDERATION OF SUPPLEMENTAL APPROPRIATION BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon disposition of S. 2999, the Senate proceed

on Monday to the consideration of the supplemental appropriation bill, on which there is a time agreement.

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

ORDER OF BUSINESS ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no roll-call votes occur on Monday next, May 6, 1974, prior to the hour of 2:30 p.m.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next, May 6, 1974, the then unfinished business, the education bill, S. 1539, be temporarily laid aside and remain in a temporarily laid aside status until the disposition of S. 2999, and the supplemental appropriation bill or until the close of business Monday, whichever occurs first.

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

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. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with statements therein limited to 3 minutes each.

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

ORDER FOR RECOGNITION OF SENATOR PROXMIRE ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, May 6, after the two leaders or their designees have been recognized under the standing order, the distinguished senior Senator from Wisconsin (Mr. PROXMIRE) be recognized for not to exceed 15 minutes.

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

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program is as follows:

The Senate will convene tomorrow at 10 a.m.

After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes and in the order stated: Mr. PROXMIRE, Mr. MATHIAS, and Mr. GRIFFIN.

There will then be a period for the transaction of routine morning business, of not to exceed 15 minutes, with statements therein limited to 5 minutes each.

At the conclusion of routine morning business, the Senate will proceed to the consideration of the conference report on the Federal Energy Administration, on which there is a time limit of 30 minutes.

Upon the disposition of the conference report, the Senate will take up the SBA bill, S. 3331, on which there is a time limitation.

Following the disposition of that bill, the Senate will proceed to the consideration of the Peace Corps bill, H.R. 12920, on which there is a time limitation, upon the disposition of which the Senate will take up S. 3203, the bill extending the National Labor Relations Act to employees of nonprofit hospitals, on which there is no time limiting agreement. Yeas and nays are expected on amendments to that bill on tomorrow.

On Friday, the Senate will take up H.R. 11385, an act to amend the Public Health Service Act, under a time limitation. Yea and nay votes are expected on amendments thereto and on passage of the bill.

Upon the disposition of that bill, the education bill will be laid before the Senate and made the unfinished business.

The Monday program will be stated on tomorrow or Friday.

ADJOURNMENT TO 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and at 7:13 p.m. the Senate adjourned until tomorrow, Thursday, May 2, 1974, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate May 1, 1974:

U.S. RAILWAY ASSOCIATION

Arthur D. Lewis, of Connecticut, to be Chairman of the Board of Directors of the U.S. Railway Association for a term of 6 years. (New position.)

THE JUDICIARY

Robert M. Duncan, of Ohio, to be U.S. district judge for the southern district of Ohio vice Carl A. Weinman, retired.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 1, 1974:

DEPARTMENT OF STATE

John P. Constandy, of the District of Columbia, to be Deputy Inspector General, Foreign Assistance.

Rodger P. Davies, of California, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cyprus.

INTERNATIONAL MONETARY FUND

Sam Y. Cross, of Virginia, to be U.S. Executive Directive of the International Monetary Fund for a term of 2 years.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

EXTENSIONS OF REMARKS

SOUTH BOSTON SKATES INTO SCHOOLBOY HOCKEY HISTORY

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 1, 1974

Mr. MOAKLEY. Mr. Speaker, as a former South Boston High student and a former member of the South Boston High Hockey Team, it is with great personal pride that I call the attention of this U.S. Congress to the inspirational and sensational achievements of the 1974 South Boston High School Hockey Team.

Champions of the city of Boston for the past 4 years, winners of the Recognition Trophy for League Champs given by the New England Whalers, the Mayor Kevin White Trophy for City Champs, and the Thomas H. Hines Trophy for the Division One Eastern Massachusetts Hockey Finalists, Coach Tom Aprille's skaters have been to schoolboy hockey in the hub what the Boston Bruins have been to the NHL—in a word, the "best".

Mr. Speaker, I could discuss at great length the exploits of the 1974 South Boston High School Hockey Team, but one story tells it all.

As long as I live, I will never forget "the ten minutes that made schoolboy hockey history," as one newspaper writer put it the next day.

Mr. Speaker, I refer to the Eastern Massachusetts Division One semi-finals when the tournament favorite, Arlington High School, built up an apparently insurmountable 5–0 lead over South Boston in the first period.

It was a Saturday afternoon at Boston Garden, a sports arena that had been the scene previously of many great moments in hockey. But none of the hundreds of veteran hockey buffs and scribes that sat with the thousands of stunned and adjoining spectators and rooters were able to recall later anything like what happened on the Garden ice during the next 10 minutes.