charges against the nation's highest officials, the authors of the Constitution left it to a purely political body to make them—namely the lower house of Congress directly elected by and responsible to the people.

As an intended decisive safeguard that politics would not triumph over justice, however, it was agreed that the non-elected members of our original Senate should be the body for deciding if the charges were valid. It was successfully argued that the Senate would be large and diverse enough to wash out prejudice one way or another—especially with the two-thirds vote provision.

The main point was something else, As envisioned and created by the men in Philadelphia, the U.S. Senate was to be something far different than it is now. Its members—two from each of the 13 states—were selected not by public vote but were designated by the various state legislatures. They were supposed to be the worthiest, most responsible and distinguished citizens available—essentially above the turmoil and combat of the political arena.

Recapturing the Philadelphia vision is vital to understanding. The ultimate tribunal in impeachment cases was to be 26 of the nation's most notable men, responsible only to their proven high conscience and unconcerned with public pressures. Men like Washington, Adams, Jefferson, Hamilton, Benjamin Franklin and the others who drew up the Constitution itself.

It was one noble vision of 1787 which hasn't worked out as intended. Even before the 17th Amendment providing for election of senators by direct popular vote was ratified in 1913, senators had long since proven that playing politics is all but irresistible to anybody engaged in the operations of government.

How this happened, and is happening right now, will be discussed in a second column on impeachment here next Sunday. Watch for it.

SENATE—*Wednesday, May 8, 1974*

The Senate met at 11:30 a.m. and was called to order by Hon. WILLIAM D. HATHAWAY, a Senator from the State of Maine.

PRAYER

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

O God, whose word declares, "Except the Lord build the house, they labor in vain that build it," we thank Thee for the revelation of Thyself in the law of Sinai and the person of Jesus. We thank Thee for Founding Fathers who built this Republic upon the sure foundation of Thy word. May we never be diverted from Thy precepts or allow the law of God to be diluted or compromised by the word of man. Keep us so committed to truth that we may never be trapped by falsehood, so dedicated to Thy word that no unworthy prompting may divert us from doing Thy will. In our prayer may we come to know Thy will, in our work help us to do Thy will, and in all things so to comport ourselves as to be worthy of Thy blessing.

In the name of Him who came to be servant of all. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 8, 1974.

To the Senate:

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

JAMES O. EASTLAND,
President pro tempore.

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

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 without amendment the following Senate bills:

S. 245. An act for the relief of Kamal Antoine Chalaby;

S. 428. An act for the relief of Ernest Edward Scofield (Ernesto Espino); and

S. 3304. An act to authorize the Secretary of State or such officer as he may designate to conclude an agreement with the People's Republic of China for indemnification for any loss or damage to objects in the "Exhibition of the Archeological Finds of the People's Republic of China" while in the possession of the Government of the United States.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 1715. An act for the relief of Cpl. Paul C. Amedeo, U.S. Marine Corps Reserve;

H.R. 1961. An act for the relief of Mildred Christine Ford;

H.R. 2208. An act for the relief of Raymond W. Suchy, second lieutenant, U.S. Army, retired;

H.R. 2950. An act for the relief of Mrs. Gertrude Berkley;

H.R. 3203. An act for the relief of Nepty Masauo Jones;

H.R. 3532. An act for the relief of Donald L. Tyndall, Bruce Edward Tyndall, Kimberly Fay Tyndall, and Lisa Michele Tyndall;

H.R. 5011. An act for the relief of James Lennon;

H.R. 5477. An act for the relief of Charito Fernandez Bautista;

H.R. 6191. An act to amend the Tariff Schedules of the United States to provide that certain forms of zinc be admitted free of duty;

H.R. 8322. An act for the relief of William L. Cameron, Jr.;

H.R. 11013. An act to designate certain lands in the Farallon National Wildlife Refuge, Calif., as wilderness; to add certain lands to the Point Reyes National Seashore; and for other purposes;

H.R. 11251. An act to amend the Tariff Schedules of the United States to provide for the duty-free entry of methanol imported for use as fuel;

H.R. 11392. An act for the relief of Raymond Monroe;

H.R. 11452. An act to correct an anomaly in the rate of duty applicable to crude feathers and downs, and for other purposes;

H.R. 12035. An act to suspend until the close of June 30, 1975, the duty on certain carboxymethyl cellulose salts;

H.R. 13261. An act to amend the International Claims Settlement Act of 1949, as amended, to provide for the timely determination of certain claims of American nationals settled by the United States-Hungarian Claims Agreement of March 6, 1973, and for other purposes;

H.R. 13342. An act to amend the Farm Labor Contractor Registration Act of 1963 by extending its coverage and effectuating its enforcement;

H.R. 13871. An act to amend chapter 81 of subpart G of title 5, United States Code, relating to compensation for work injuries, and for other purposes;

H.R. 14291. An act to amend the Northwest Atlantic Fisheries Act of 1950 to permit U.S. participation in international enforcement of fish conservation in additional geographic areas, pursuant to the international convention for the Northwest Atlantic Fisheries, 1949, and for other purposes; and

H.R. 14354. An act to amend the National School Lunch Act, to authorize the use of certain funds to purchase agricultural commodities for distribution to schools, and for other purposes.

The message further announced that the House had passed the bill (S. 3072) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes, with an amendment in which it requests the concurrence of the Senate.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 1715. An act for the relief of Cpl. Paul C. Amedeo, U.S. Marine Corps Reserve;

H.R. 1961. An act for the relief of Mildred Christine Ford;

H.R. 2208. An act for the relief of Raymond W. Suchy, second lieutenant, U.S. Army, retired;

H.R. 2950. An act for the relief of Mrs. Gertrude Berkley;

H.R. 3203. An act for the relief of Nepty Masauo Jones;

H.R. 3532. An act for the relief of Donald L. Tyndall, Bruce Edward Tyndall, Kimberly Fay Tyndall, and Lisa Michele Tyndall.

H.R. 5011. An act for the relief of James Lennon;

H.R. 5477. An act for the relief of Charito Fernandez Bautista;

H.R. 8322. An act for the relief of William L. Cameron, Jr.; and

H.R. 11392. An act for the relief of Raymond Monroe. Referred to the Committee on the Judiciary.

H.R. 6191. An act to amend the Tariff Schedules of the United States to provide that certain forms of zinc be admitted free of duty;

H.R. 11251. An act to amend the Tariff Schedules of the United States to provide for the duty-free entry of methanol imported for use as fuel;

H.R. 11452. An act to correct an anomaly in the rate of duty applicable to crude feathers and downs, and for other purposes; and

H.R. 12035. An act to suspend until the close of June 30, 1975, the duty on certain carboxymethyl cellulose salts. Referred to the Committee on Finance.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

H.R. 11013. An act to designate certain lands in the Farallon National Wildlife Refuge, Calif., as wilderness; to add certain lands to the Point Reyes National Seashore; and for other purposes. Referred to the Committee on Interior and Insular Affairs.

H.R. 13261. An act to amend the International Claims Settlement Act of 1949, as amended, to provide for the timely determination of certain claims of American nationals settled by the United States-Hungarian Claims Agreement of March 6, 1973, and for other purposes. Referred to the Committee on Foreign Relations.

H.R. 13342. An act to amend the Farm Labor Contractor Registration Act of 1963 by extending its coverage and effectuating its enforcement; and

H.R. 13871. An act to amend chapter 81 of subpart G of title 5, United States Code, relating to compensation for work injuries, and for other purposes. Referred to the Committee on Labor and Public Welfare.

H.R. 14291. An act to amend the Northwest Atlantic Fisheries Act of 1950 to permit U.S. participation in international enforcement of fish conservation in additional geographic areas, pursuant to the international convention for the Northwest Atlantic Fisheries, 1949, and for other purposes. Referred to the Committee on Commerce.

H.R. 14354. An act to amend the National School Lunch Act, to authorize the use of certain funds to purchase agricultural commodities for distribution to schools, and for other purposes. Referred to the Committee on Agriculture and Forestry.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. HATHAWAY) laid before the Senate sundry 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.)

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, May 7, 1974, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar Nos. 782, 783, and 784.

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

ADDITIONAL ASSISTANT SECRETARIES OF AGRICULTURE

The Senate proceeded to consider the bill (S. 3031) to provide for two additional Assistant Secretaries of Agriculture; to increase the compensation of certain officials of the Department of Agriculture; to provide for an additional member of the Board of Directors, Commodity Credit Corporation; and for other purposes, which had been reported from the Committee on Agriculture and Forestry with an amendment to strike out all after the enacting clause and insert:

That (a) section 5313 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(22) Deputy Secretary of Agriculture.".

(b) Section 5314 of such title 5 is amended by striking out paragraph (3).

(c) The Acts listed in paragraphs (1) and (2) of this subsection are amended by striking out the words "Under Secretary of Agriculture" wherever they appear and by inserting in lieu thereof the words "Deputy Secretary of Agriculture":

(1) The Act of March 26, 1934 (48 Stat. 467; 7 U.S.C. 2210).

(2) The Act of June 5, 1939 (53 Stat. 809; 7 U.S.C. 2211).

(d) The officer occupying the position of Under Secretary of Agriculture, on the date of enactment of this Act, may assume the duties of the Deputy Secretary of Agriculture. The individual assuming such duties shall not be required to be reappointed by reason of the enactment of this Act.

SEC. 2. There shall be hereafter in the Department of Agriculture, in addition to the Assistant Secretaries now provided for by law, two additional Assistant Secretaries of Agriculture who shall be appointed by the President, by and with the advice and consent of the Senate, shall be responsible for such duties as the Secretary of Agriculture shall prescribe, and shall receive compensation at the rate now or hereafter prescribed by law for Assistant Secretaries of Agriculture.

SEC. 3. (a) Section 5315 of title 5 of the United States Code is amended by striking out "(4)" at the end of paragraph (11) and by inserting in lieu thereof "(6)".

(b) Section 5316 of such title 5 is amended as follows:

(1) By striking out paragraph (23).

(2) By striking out paragraph (55).

(3) By striking out paragraph (63) and inserting in lieu thereof:

"(63) Administrator, Animal and Plant Health Inspection Service, Department of Agriculture.".

(c) Section 3 of Reorganization Plan Numbered 2 of 1953 (67 Stat. 633) is hereby repealed.

SEC. 4. Section 9(a) of the Commodity Credit Corporation Charter Act, as amended (62 Stat. 1072, as amended, 15 U.S.C. 714g (a)), is amended by striking out the third sentence and inserting in lieu thereof: "The Board shall consist of seven members (in addition to the Secretary), who shall be appointed by the President by and with the advice and consent of the Senate.".

SEC. 5. (a) Except as otherwise provided in this section, this Act shall take effect on its date of enactment.

(b) Subsection (b)(1) and subsection (c) of section 3 of this Act shall take effect upon appointment of a Presidential appointee to fill the successor position created by section two of this Act.

(c) Subsection (b)(2) of section 3 of this Act shall take effect upon appointment of a Presidential appointee to fill the successor position created by section 2 of this Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended, so as to read: "A bill to change the title of the Under Secretary of Agriculture to the Deputy Secretary of Agriculture; to provide for two additional Assistant Secretaries of Agriculture; and for other purposes."

PURCHASE, SALE, AND EXCHANGE OF CERTAIN LANDS ON THE SPOKANE INDIAN RESERVATION

The bill (H.R. 5035) to amend Public Law 90-335 (82 Stat. 174) relating to the purchase, sale, and exchange of certain lands on the Spokane Indian Reservation, was considered, ordered to a third reading, read the third time, and passed.

CERTAIN MINERALS HELD IN TRUST FOR CHIPPEWA CREE TRIBE OF ROCKY BOY'S RESERVATION, MONT.

The bill (H.R. 5525) to declare that certain mineral interests are held by the United States in trust for the Chippewa Cree Tribe of the Rocky Boy's Reservation, Mont., was considered, ordered to a third reading, read the third time, and passed.

FIRE PREVENTION AND CONTROL ACT OF 1974

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1769.

The ACTING PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 1769) to reduce the burden on interstate commerce caused by avoidable fires and fire losses, and for other purposes, which were to strike out all after the enacting clause, and insert:

SECTION 1. This Act may be cited as the "Fire Prevention and Control Act of 1974".

FINDINGS

SEC. 2. The Congress hereby finds that—

(1) the United States today has the highest per capita rate of death and property loss from fire of all the major industrialized nations in the world;

(2) the losses of life and property resulting from fire which are now being experienced in the United States are entirely unacceptable;

(3) while fire prevention and control is and should remain a State and local responsibility, the Federal Government can be of invaluable assistance in attaining significant reduction in fire losses;

(4) the firefighting and civil defense programs in each locality can both benefit from closer cooperation;

(5) there is a need for professional training and education primarily oriented toward improving the effectiveness of fire departments, developing leadership for fire prevention, and reducing firefighter injuries;

(6) the state-of-the-art in fighting and in protecting persons and property from combustion hazards, requires additional research and development in the area of fire safety;

(7) there is a need for a national fire data collection, analysis, and dissemination system to establish priorities for research and action;

(8) the number of specialized medical centers for the treatment of burns which are properly equipped and staffed to save lives and rehabilitate the victims of fires is severely limited in the United States;

(9) the Federal Government's role in fire research and development, information collection and dissemination, and education needs to be further strengthened in order that the effectiveness of the Nation's dedicated firefighting forces may be increased.

DECLARATION OF POLICY

SEC. 3. It is therefore and hereby declared that the policy of the United States shall be to—

(1) reduce the Nation's losses caused by fire through better efforts to prevent fires from starting and by improving the efforts and means for suppressing fires;

(2) supplement rather than supplant existing programs of research, training, and education, and to encourage new and improved programs and activities by State and local governments;

(3) place the responsibility for the Federal share of this fire reduction effort on the Secretary of Commerce of the United States;

(4) encourage increasing cooperation between the Nation's firefighting and civil defense forces at all levels;

(5) carry out an enhanced public education effort aimed at improving the understanding by every citizen of the methods and techniques of fire prevention, fire rescue, and firefighting;

(6) develop and provide for the widest possible use of new approaches, techniques, and improvements in fire prevention and control;

(7) establish a United States Fire Academy to provide training and education beyond the basic training level;

(8) establish an integrated and comprehensive fire data system; and

(9) direct the National Institutes of Health to conduct an intensified program of research into the treatment of burn and smoke injuries and the rehabilitation of victims of fires.

TITLE I

NATIONAL BUREAU OF FIRE SAFETY

SEC. 101. There is hereby established within the Department of Commerce a National Bureau of Fire Safety, hereinafter referred to as the "Bureau".

SEC. 102. The Bureau shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall serve subject to the provisions of section 5316 of title 5, United States Code.

SEC. 103. (a) It shall be the function of the Bureau, under the general direction of the Secretary of Commerce, hereinafter referred to as the "Secretary", and in cooperation and coordination with State and local governments and the private sector, to improve the Nation's efforts in fire prevention and control through public education, advanced technology, training, and education, improved statistics, and other relevant efforts.

(b) The Director shall insure that results and advances arising from the work of the Bureau are disseminated and shall encourage their use, where applicable, to further fire safety activities and to improve the effectiveness of fire-fighting and prevention activities.

PUBLIC EDUCATION

SEC. 104. The Director shall undertake, in collaboration with existing public and private organizations, including Civil Defense organizations, a continuing and extensive program of public education in fire prevention and fire safety which shall include specialized information aimed at those particularly vulnerable to fire hazards such as the young and the elderly, and shall sponsor and encourage research into new methods of public education in fire prevention.

FIRE TECHNOLOGY

SEC. 105. (a) The Director shall conduct a program of continuing development, testing, and evaluation of equipment for use by the Nation's fire, rescue, and civil defense services with the aim of making available improved suppression, protective, auxiliary, and warning devices incorporating the latest technology. In the conduct of this program, the standardization, compatibility, and interchangeability of fire equipment shall be given strong attention. Such development, testing, and evaluation activities shall include—

(1) safer, less cumbersome articles of protective clothing including helmets, boots, and coats;

(2) breathing apparatus with the necessary duration of service, reliability, low weight, and ease of operation for practical use;

(3) safe and reliable auxiliary equipment for use in firefighting such as fire location detectors, visual and audio communications equipment, and new types of mobile equipment;

(4) special clothing and equipment needed for brush and forest fires, oil and gasoline fires, aircraft fires and crash rescue, fires occurring aboard waterborne vessels, and other special firefighting situations;

(5) fire detectors for residential use having high sensitivity and reliability and low cost and maintenance to insure wide acceptance and use;

(6) in-place fire prevention systems of increased reliability and effectiveness;

(7) methods of testing fire alarms and fire protection devices and systems on a noninterference basis;

(8) the development of purchase specifications, standards, and acceptance and validation test procedures for all such equipment and devices;

(9) operation tests, demonstration projects, and fire investigations in support of the activities set forth in this section;

(10) such other development, testing, and evaluation activities deemed necessary to accomplishing the purposes of this section.

(b) The Director shall not engage in the manufacture or sale of any such equipment or device except as may be necessary to develop, test, and evaluate it.

(c) The Director shall perform studies of the operations and management aspects of fire departments and services using quantitative techniques including operations research, management economics, cost effectiveness studies, and such other techniques as are found applicable and useful. Such studies shall include, but not be limited to, the optimum location of fire stations, the manner of responding to alarms, the operation of citywide and regional fire dispatch centers, the effectiveness, frequency, and methods of building inspections, and firefighting under conditions of civil disturbance. In the conduct and support of such studies the Director is authorized to perform operational tests, demonstration projects, and fire investigations.

(d) The Director shall conduct research on problems concerning productivity measurement of fire department personnel, analysis of job categories and skills required under varying conditions, reduction of injuries to fire service personnel, the most effective fire prevention efforts by fire service personnel.

(e) In conducting the program under this section, the Director shall take full advantage of the applicable technological developments which have been made in other departments and agencies of the Federal Government, in State and local governments, and in business and industry.

FIRE DATA

SEC. 106. (a) The Director shall operate directly or through contracts an integrated, comprehensive national fire data program based on the collection, analysis, publication, and dissemination of fire information related to the prevention, occurrence, control, and results of fires of all types. The program shall be designed to provide an accurate national picture of the fire problem, identify major problem areas and assist in setting priorities, determine possible solutions to problems, and monitor progress of programs to reduce fire losses. To carry out these functions, the program shall include—

(1) information on the frequency, causes, spread, and extinguishment of fires;

(2) information on the number of injuries and deaths resulting from fires including the maximum available information on the specific causes and nature of such injuries and deaths, and information on property losses;

(3) information on the occupational hazards of firemen including the causes of death and injury to firemen arising directly and indirectly from firefighting activities;

(4) information on all types of fire prevention activities including inspection practices;

(5) technical information related to building construction, fire properties of materials, and other similar information;

(6) information on fire prevention and control laws, systems, methods, techniques, and administrative structures used in foreign nations;

(7) information on the causes, behavior, and best method of control of other types of fires, including, but not limited to, forest fires, brush fires, fires underground, oil blowout fires, and waterborne fires; and

(8) such other information and data as is judged useful and applicable.

(b) In the conduct of the comprehensive fire data and information program the Director is authorized to develop standardized data reporting methods and to encourage and assist State, local, and other agencies, public and private, in developing and reporting information.

(c) In the conduct of the comprehensive fire data and information program the Director is authorized to make full use of existing data gathering and analysis organizations, both public and private.

(d) The Director shall insure dissemination of such fire data to the maximum extent, and shall make the data available in appropriate form to Federal agencies, State and local governments, private organizations, industry, and business, and other interested persons.

FIRE TRAINING AND EDUCATION

SEC. 107. (a) There is hereby established within the Department of Commerce, as part of the Bureau, a United States Fire Academy (hereinafter referred to as the "Academy") which shall have the mission of advancing the professional development of fire service personnel, civil defense personnel, and related fire safety personnel.

(b) The Academy shall be headed by a Superintendent who shall be appointed by the Secretary and who shall be responsible to the Director of the Bureau.

(c) The Academy shall consist of such buildings and facilities and have such teaching staff and other personnel as the Superintendent determines to be necessary or appropriate for purposes of this section. The Superintendent shall have authority to enter into such contracts and take such other actions as may be necessary in carrying out the preceding sentence.

SEC. 108. The Academy shall be located on such site or sites as the Secretary selects subject to the following provisions:

(a) The Secretary is authorized to appoint a Site Selection Board consisting of the Academy Superintendent and two other members to survey the most suitable sites for the location of the Academy and make recommendations to the Secretary.

(b) The Site Selection Board and the Secretary, in making their recommendations and final selection, shall give consideration to the training and facility needs of the Academy, the accessibility and travel distance to the site from all parts of the country, environmental effects, the possibility of using a surplus Government facility, and such other factors as are deemed important and relevant.

SEC. 109. In furtherance of the mission of the Academy, the Superintendent is authorized to—

(a) conduct courses and programs of training and education in—

(1) the techniques of fire prevention, fire inspection, firefighting, and fire and arson investigation for members of the firefighting forces of the Nation;

(2) the tactics and command of firefighting for present and future fire chiefs and commanders of subordinate fire units;

(3) the administration and management of fire departments and fire services;

(4) the tactical training of personnel in the specialized field of aircraft fire control and crash rescue and the field of fires occuring aboard waterborne vessels;

(5) such other subjects including civil defense related subjects and fields of study as are deemed necessary or desirable; and

(6) the training of present and future instructors in all of the above subjects;

(b) develop and administer a program of correspondence courses to advance the knowledge and skills of fire service personnel;

(c) encourage new and existing programs of education and training by local fire units and departments, State and local governments, and private institutions by supplementing and supporting—

(1) vocational training in the techniques of fire prevention, fire inspection, firefighting, and fire and arson investigations;

(2) the establishment of fire training courses and programs at junior colleges; and

(3) the support and encouragement of the number of four-year degree programs in fire engineering at colleges and universities found necessary by the Superintendent to provide an adequate number of graduates;

(d) provide stipends to students attending courses and programs approved by the Academy at universities and colleges in amounts up to 75 per centum of the cost of attendance;

(e) provide assistance to State and local fire service training programs through grants, contracts, or otherwise; and

(f) encourage and assist in the inclusion of fire prevention and detection technology and practices in the education and professional practice of architects, builders, city planners, and others engaged in design and planning affected by fire safety problems.

SEC. 110. The Superintendent shall conduct a continuing study of the needs and contents of the educational and training programs needed at the Academy and elsewhere to educate, train, and maintain the Nation's fire forces. He shall coordinate these studies with appropriate officials of the Civil Defense Staff College.

SEC. 111. The Superintendent shall establish a Committee on Fire Training and Education which shall inquire into and make recommendations regarding the desirability of establishing a mechanism for accreditation of fire training and education programs and courses, and the role which the Academy should play if such programs are recommended. The Committee shall consist of the Superintendent as Chairman and eighteen other members appointed by the Superintendent from among individuals and organizations possessing special knowledge and experience in the field of fire training and education or in related fields. The Committee shall submit to the Superintendent for transmission to the Secretary within one year after its appointment a full and complete report of its findings and recommendations; and upon the submission of such report the Committee shall cease to exist. Each appointed member of the Committee shall be reimbursed for any expenses actually incurred by him in the performance of his duties as such.

SEC. 112. The Superintendent shall admit to the courses and programs of the Academy individuals who are members of the firefighting, rescue, and civil defense forces of the Nation and such other individuals, including candidates for membership in these forces, as he determines can benefit from attendance. Students shall be admitted from any State in the Nation (as defined in section 401) with due regard to the adequate representation in the student body of all geographic sections of the country. In selecting students the Superintendent shall seek nominations and advice from fire departments, civil defense organizations, and other organizations who wish to send students to the Academy.

SEC. 113. The Superintendent may establish fees and other charges for attendance at courses and programs offered by the Academy.

SEC. 114. The Superintendent is authorized to provide stipends to students attending Academy courses and programs in amounts up to 75 per centum of the cost of attendance as established by the Superintendent.

SEC. 115. The Superintendent is authorized to provide scholarships to students attending full time at a fire engineering program of a two-year junior college or the last two years of a four-year engineering program at college or university.

SEC. 116. The Superintendent is authorized to make, or to enter into contracts to make, payments to institutions of higher education for loans, not to exceed $2,500 per academic year for any individual, to individuals enrolled on a full-time basis in undergraduate or graduate programs in fire research or engineering recognized by the Superintendent. Loans under this paragraph shall be made on such terms and conditions as the Superintendent and each institution involved may jointly determine.

SEC. 117. The Superintendent is authorized to conduct short courses, seminars, workshops, conferences, and similar education and training activities in all parts and localities of the United States.

SEC. 118. The Secretary shall appoint a Board of Visitors to the United States Fire Academy. The function of the Board of Visitors shall be to review annually the program of the Academy and make comments and recommendations to the Secretary regarding the operation of the Academy and any improvements therein which the Board of Visitors deems desirable. The Board of Visitors shall consist of eight individuals designated by the Secretary including persons who are representatives of the fire service community or who otherwise possess special knowledge and experience in fire prevention or fire training or in related fields or who are active in the field of education generally. Of the members first designated three shall be designated to serve for terms of one year, three for terms of two years, and two for terms of three years. Persons designated thereafter shall serve for terms of three years, except that if a member of the Board of Visitors dies or resigns, a successor shall be designated for the unexpired portion of the term. Each member of the Board shall be reimbursed for any expenses actually incurred by him in the performance of his duties as such.

SEC. 119. (a) Each fire district or department that engages in the fighting of a fire on Federal property may file a report with the Bureau setting forth—

(1) the amount of losses and expenses incurred by such district or department as a result of fighting such fire;

(2) the total cost of operation for such district or department during the year in which the report is filed and during the preceding year; and

(3) the estimated total cost of operation for such district or department during the year following that year in which the report is filed.

(b) Upon receipt of a report filed under subsection (a), the Director shall pay to each such district or department a sum which shall represent the cost to such district or department of fighting such fire, less a pro rata share of the payment in lieu of taxes for fire protection services, if any, for the period between the beginning of the annual payment period until the time of the fire, as determined by the Director.

(c) In each instance where the Director makes payment under subsection (b), the President shall take such steps as are necessary to insure that the Federal department or agency having jurisdiction over the Federal property where the fire occurred shall reimburse the Director within 30 days for the amount paid to the fire district or department. Such payments shall be credited to the appropriation from which the Director made payment to the first district or department and shall remain available until expended.

SEC. 120. For the purpose of this title there is authorized to be appropriated not to exceed $2,000,000 for the fiscal year ending June 30, 1975, and such sums as may be appropriated for the fiscal year ending June 30, 1974.

TITLE II

FIRE RESEARCH CENTER

SEC. 201. (a) There is hereby established within the Department of Commerce a Fire Research Center (hereinafter referred to as the "Center") which shall have the mission of performing and supporting basic and applied research on all aspects of fire with the aim of providing scientific and technical knowledge applicable to the prevention and reduction of fires.

(b) The Center shall conduct directly or through contracts or grants a program of basic and applied fire research aimed at arriving at an understanding of the fundamental processes underlying all aspects of fire. Such program shall include scientific and field investigations of—

(1) the physics and chemistry of combustion processes;

(2) the dynamics of flame ignition, flame spread, and flame extinguishment;

(3) the composition of combustion products developed by various sources and under various environmental conditions;

(4) the early stages of fires in buildings and other structures, structural subsystems, and structural components and all other types of fires, including, but not limited to forest fires, fires underground, oil blowout fires, brush fires, and waterborne fires with the aim of improving early detection capability;

(5) the behavior of fire involving all types of buildings and other structures and their contents (including mobile homes and high-rise buildings, construction materials, floor and wall coverings, coatings, furnishings, and other combustible materials); and all other types of fires (including forest fires, fires underground, oil blowout fires, brush fires, and waterborne fires);

(6) the unique aspects of fire hazards aris-

ing from the transportation and use in industrial and professional practices of combustible gases, fluids, and materials;

(7) design concepts for providing increased fire safety consistent with habitability, comfort, and human impace, in buildings and other structures; and

(8) such other aspects of the fire process as are deemed useful for pursuing the mission of the fire research program.

(c) The Center shall conduct directly or through contracts or grants research into the biological, physiological, and psychological factors affecting the human victims of fires and the performance of the individual members of fire protection forces. Such research shall include—

(1) the biological and physiological effects of toxic substances encountered in fires;

(2) the trauma, cardiac conditions, and other hazards resulting from exposure to fires;

(3) the development of simple, reliable tests for the determination of the cause of death from fires;

(4) improved methods of providing first aid to the victims of fires;

(5) the psychological and motivational characteristics of persons who engage in arson, and the prediction and cure of such behavior;

(6) the conditions of stress encountered by firefighters, their effects, and their alleviation or reduction;

(7) such other biological, physiological, and psychological effects of fire as may have significance for purposes of this section.

SEC. 202. The Director shall insure that the results and advances arising from the work of the Center are disseminated and encourage the incorporation of these results and advances into the relevant building codes, fire codes, model codes, and other relevant codes, test methods, and standards. The Director is authorized to encourage and assist in the development and adoption of uniform codes, test methods, and standards aimed at reducing fire losses and costs of fire protection.

SEC. 203. For the purposes of this title there is authorized to be appropriated not to exceed $3,500,000 for the fiscal year ending June 30, 1975.

SEC. 204. Title I of the Fire Research and Safety Act of 1968 (Act of March 1, 1968, 82 Stat. 34; 15 U.S.C. 278f and 278g) is hereby repealed, and sections 201 and 202 of this Act are inserted as sections 16 and 17 of the Act of March 3, 1901 (15 U.S.C. 278f and 278g).

TITLE III

VICTIMS OF FIRE

SEC. 301. (a) The Secretary of Health, Education, and Welfare is authorized and directed to establish, within the National Institutes of Health and in cooperation with the Secretary, an expanded program of research on burns, treatment of burn injuries, and rehabilitation of victims of fires. The National Institutes of Health shall—

(1) sponsor and encourage the establishment throughout the Nation of twenty-five additional burn centers, which shall comprise separate hospital facilities providing specialized burn treatment and including research and teaching programs, and twenty-five additional burn units, which shall comprise specialized facilities in general hospitals used only for burn victims;

(2) provide training and continuing support of specialists to staff the new burn centers and burn units;

(3) sponsor and encourage the establishment in general hospitals of ninety burn programs, which comprise staffs of burn injury specialists;

(4) provide special training in emergency care for burn victims;

(5) augment sponsorship of research on burns and burn treatment;

(6) administer and support a systematic program of research concerning smoke inhalation injuries; and

(7) sponsor and support other research and training programs in the treatment and rehabilitation of burn injury victims.

TITLE IV

ADMINISTRATIVE AND RELATED PROVISIONS

SEC. 401. For purposes of this Act the terms "State" and "United States" include the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, and the Trust Territory of the Pacific Islands.

SEC. 402. For purposes of this Act, the term "fire department" means (and the terms "fire prevention", "fire fighting", and "fire control" relate to activities conducted by) any organization consisting of personnel, apparatus, and equipment under the direction of a chief officer for the principal purpose of protecting property and maintaining the public's safety and welfare from the inherent dangers of fire. The personnel of any such organization may be salaried, volunteer, or a combination thereof; and the location of the organization and its responsibility for extinguishment and suppression of fire shall include (but not be limited to) a city, town, borough, parish, county, fire district, fire protection district, or rural fire district.

SEC. 403. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the recipient that are pertinent to its activities under this Act for the purpose of audit or to determine whether a proposed activity is in the public interest.

SEC. 404. All property rights with respect to inventions or discoveries made in the course of or under contract with any Government agency pursuant to this Act shall be subject to the basic policies set forth in the President's Statement of Government Patent Policy issued August 23, 1971, or such revisions of that Statement of Policy as may subsequently be promulgated and published in the Federal Register.

SEC. 405. Any of the activities carried out under the provisions of titles I and II and section 301 of title III of this Act may be carried out directly or through contracts or grants.

And amend the title so as to read: "An Act to enhance the public health and safety by reducing the human and material losses resulting from fires through better fire prevention and control, and for other purposes."

Mr. MANSFIELD. Mr. President, I move that the Senate disagree to the amendments of the House and agree to the conference asked by the House, and that the Chair be authorized to appoint conferees on behalf of the Senate.

The motion was agreed to; and the Acting President pro tempore appointed Mr. MAGNUSON, Mr. PASTORE, Mr. MOSS, Mr. STEVENS, and Mr. BEALL conferees on the part of the Senate.

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.

U.S. AIR FORCE

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

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

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

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

U.S. ARMY

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

Mr. MANSFIELD. Mr. President, I make the same request for those nominations.

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

U.S. NAVY

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

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

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

U.S. MARINE CORPS

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

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

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

NOMINATIONS PLACED ON THE SECRETARY'S DESK

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

The ACTING PRESIDENT pro tempore. Without objection, they will be considered and confirmed en bloc.

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

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

LEGISLATIVE SESSION

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

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

ADDRESS BY SENATOR MOSS TO DUQUESNE UNIVERSITY LAW ALUMNI ASSOCIATION

Mr. MANSFIELD. Mr. President, on April 30, our distinguished colleague from Utah, Mr. Moss, addressed the Duquesne University Law Alumni Association on

the subject of impeachment procedures in the Senate. He prefaced his remarks with this observation:

It is improper and at odds with, in Hamilton's phrase, "the delicacy and magnitude of our trust," for Senators to issue judgment on the President before the orderly presentation of evidence to a Senate assembled as a court for the trial of an impeachment.

Because it does seem increasingly likely that the Constitutional processes which have been going forward in the House will bring to the Senate the impeachment of the President, it is proper, indeed it is our duty, to give careful, advance consideration to the procedures which would govern the conduct of an impeachment trial.

I believe that the Senator from Utah's remarks will be of keen interest to the rest of the Members of the Senate. I ask unanimous consent that the following excerpts from his address be printed in the RECORD.

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

EXCERPTS

The impeachment process in the Senate officially begins with notification by the House. In the case of Andrew Johnson, the Senate received two members of Congress, John Bingham and Thaddeus Stevens, who delivered the following message:

"By order of the House of Representatives we appear at the bar of the Senate, and in the name of the House of Representatives, and of all the people of the United States, we do impeach Andrew Johnson, President of the United States, of high crimes and misdemeanors in office; and we do further inform the Senate that the House of Representatives will in due time exhibit particular articles of impeachment against him, and make good the same; and in their name we do demand that the Senate take order for the appearance of the said Andrew Johnson to answer to said impeachment."

The subsequent events leading up to and including the beginning of the trial of President Johnson is of interest because of the light they shed on some of the unresolved conflicts concerning the conduct of impeachment trials.

After receiving the House message the Senate created a select committee to consider it and report back to the Senate. That was on a Tuesday. Acting with a speed uncharacteristic of congressional committees today, the select committee reported back on Friday, submitting a report prescribing rules of proceeding for the Senate "when sitting as a high court of impeachment". The Senate, acting with like speed, adopted the rules on Monday, March 2, 1868.

On Wednesday, March 4, the House managers. Bingham and Stevens, exhibited the articles of impeachment to the Senate, which set the next day for the start of the trial and requested the attendance of the Chief Justice. On March 5, the Chief Justice entered the Senate Chamber in his robes, accompanied by Justice Nelson, Senior Associate Justice of the Supreme Court. He had Justice Nelson administer to him the oath the Senate rules provided be administered to Senators, although the rules had not provided for an oath by the Chief Justice.

He then administered the oath, to "do impartial justice according to the Constitution and laws" in the trial of the impeachment, to the Senators.

The next day the Chief Justice took the position that the Senate, sitting as a court of impeachment, would have to re-adopt its rules of March 2, because it was now not sitting in a legislative capacity. The Senate did so.

Those rules with one addition made in 1935 have remained unchanged since their adoption and are still in effect as the "Senate rules of procedure and practice when sitting for impeachment trials".

The rules provide for the necessary housekeeping details: informing the House of the Senate's readiness to proceed; silence in the Senate chamber; and so forth. The rules also govern the parliamentary issues which arise in such a proceeding: time limits on debated questions and motions; when rollcall votes must be taken; suspension of other business of the Senate. Finally, the rules set forth the manner of conducting the trial; the powers and duties of the presiding officer; the powers of the Senate; the admission of counsel for the parties; motions, examination of witnesses; questions from and testimony by Senators.

The rules vary in important respects from the usual rules of procedure in civil and criminal trials.

For example, there is no requirement that a Senator be disqualified for bias or interest. In the Johnson impeachment trial, Senator Wade, the President pro tem, who would have succeeded to the Presidency had President Johnson been convicted, voted, and voted for conviction. Senator Patterson, who was President Johnson's son-in-law, voted for acquittal. Senator Sprague, who was Chief Justice Chase's son-in-law, took part and voted for conviction.

The person impeached, referred to as the respondent, is not required to be present, but may appear solely by counsel as President Johnson did. On the other hand, not just the managers from the House, who act as the prosecutors, but the entire House of Representatives is privileged to attend and sit in the Senate chamber.

Oral testimony may be presented before the full Senate, or (and this was the 1935 addition to the rules) it may be taken before a committee of twelve Senators.

Senators act as both judge and jury. They have power to rule on admissibility of evidence including, of course, relevancy, and may question the witnesses. The rules provide, however, that Senators may only put questions to a witness in writing and through the presiding officer, the Chief Justice.

The role of the Chief Justice is the least clearly defined of all the variables in the impeachment process. The part taken by Chief Justice Chase in the Johnson impeachment, however, created a precedent for strong and active participation by the Chief Justice. At one point, the Senate was debating the question of how much time to allow the president to answer the Articles of Impeachment, and it was decided that the Senate retire to deliberate the question in private. The Chief Justice accompanied the Senators to their conference room, leaving no doubt that he felt his presence was required at every point of the Senate's considerations.

On another occasion, although the relevant rule of proceeding said merely that the presiding officer could "submit to the Senate, without a division, all questions of evidence and incidental questions", the Chief Justice ruled that certain evidence was competent, subject to a contrary ruling by the Senate. Senator Drake objected that the Chief Justice had to submit all initial rulings to the Senate.

The Chief Justice maintained that the duty to rule in the first instance was his, subject to the decision of the Senate. On a procedural question to consider this ruling there was a tie, and Chase proceeded to break it by voting to sustain his ruling, asserting the power belonging to the Vice President as presiding officer of the Senate to vote in the case of a tie.

The matter was resolved in favor of the Chief Justice on both questions. A motion to declare his tie-breaking vote "without authority" was defeated, and the rules were amended to provide that the presiding officer may rule on all evidentiary questions, subject to a request by some members of the Senate that a formal vote be taken thereupon.

Thereafter Chief Justice Chase ruled on all questions of evidence, and was overruled by the Senate 17 times.

Testimony is taken in open session, but deliberations before the final vote on the articles are in closed session. The final vote is then taken in open session, with the question put to each Senator individually on each article of impeachment. Obviously, the Senate in 1868 did not have to decide on whether television coverage was permissable or desirable. That must be resolved by this Senate in the event of trial.

Of course, a two-thirds vote by those present and voting is necessary to find the respondent guilty. A lesser vote or a final adjournment of the Senate as a court of impeachment without voting on an article, automatically acts as a judgment of acquittal as to that article. Of the eleven articles of impeachment against President Johnson, only three were voted upon, and the President was acquitted on all three. The Senate then adjourned without consideration of the rest of the articles.

The system, as I hope this summary of it has shown, has by no means been perfected. Vague and uncertain spots appear throughout. To name just one, the applicability of the various safeguards of the Bill of Rights may well become a vexing problem. It would be clearly incongruous to apply some of these safeguards to the impeachment process: The ban on double jeopardy, for example, is inapposite because of the express language of the basic impeachment clause, which provides that "the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law." What, however, of the privilege against self-incrimination? What would be the proper action as a result of its invocation?

Hamilton eloquently pointed out the danger that all such questions arising out of an impeachment proceeding might be resolved by factional self-interest rather than the search for justice. Writing in the *Federalist*, number 65, he said:

"A well-constituted court for the trial of impeachment is an object not more to be desired than difficult to be obtained in a government wholly elective. The subjects of its jurisdiction are those offenses which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be denominated political, as they relate chiefly to injuries done immediately to the society itself. The prosecution of them, for this reason, will seldom fail to agitate the passions of the whole community, and to divide it into parties more or less friendly or inimical to the accused. In many cases it will connect itself with the pre-existing factions, and will enlist all their animosities, partialities, influence, and interest on one side or on the other; and in such cases there will always be the greatest danger that the decision will be regulated more by the comparative strength of parties than by the real demonstrations of innocence or guilt."

If the impeachment of President Nixon should reach the Senate, it will bring with it some hard questions. The long, hard struggle toward liberty and justice for all, toward the rule of law, toward a government that derives its just powers from the consent of the governed, will never be more clearly on the line than then, when each senator will have to undertake to answer those questions, for himself and for the Nation.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the Senator from Michigan desire recognition?

Mr. GRIFFIN. No, Mr. President.

TRANSCRIPTS OF TAPES SUBMITTED BY THE PRESIDENT: PUBLIC TRANSCRIPTS—IV

Appendix 8. Meeting: The President, Haldleman, Ehrlichman, Dean and Mitchell, EOB Office, March 22, 1973. (1:57–3:43 pm):

P. Well, John how are you? It is good to see you.

M. Mr. President, I am just great—how are you?

P. You're a big Wall Street lawyer—you do have to admit you're rich—

M. Not in front of all these people who help collect taxes. But I can report that the firm is doing quite well.

P. Are they?

E. There isn't any reason why it shouldn't.

M. I would agree.

E. (first part not audible) Eastland is going to postpone any further hearings on Gray for two weeks and allow things to cool off a little bit. He thinks Gray is dead on the Floor.

P. He's probably right—poor guy.

H. Gray, the symbol of wisdom today and future counsel for tomorrow.

D. Maybe someone will shoot him.

Laughter.

P. How's that?

H. He said yes he thinks John Dean did lie to the FBI when he said he wasn't sure whether Howard Hunt had an office in the White House.

D. I said I had to check it out—what happened is that the agent asked if he could see the office. It occurred right after an interview and I said I would have to check that out. And now it has been interpreted that I was lying to the FBI about the fact that he had an office or didn't have an office here.

H. Which wasn't the question—

D. Which wasn't the question—right.

H. But the headline for tonight will be "Gray Says Dean Lies."

P. Gray apparently didn't know what the testimony was—

D. He never really sought to find out the facts on the question.

P. Or the question, perhaps was put in a way that—that he misunderstood the question.

H. (something inaudible)

M. Another factor—those agents may not have reported it exactly.

D. That's right.

H. Gray says it is a matter of the FBI interview with Dean on (inaudible)—Dean said I will have to check it out when asked if Hunt had a White House office—he wasn't asked that—he was asked if they could see the White House office Hunt had, and Dean said I will have to check that. So then they say did Dean lie to the agents and perhaps to Gray? Looking back I would have to say that you were absolutely correct.

D. It's such an irrelevant point even—that is the funny thing.

P. As a matter of fact though—(inaudible)

D. They are working on it right now and we should have it in the next hour.

H. Wasn't Gray responsible for (inaudible)

D. Well, (inaudible) has it right now. I just talked to him. He would like to sit down and have the Senator talk to you right now because Byrd has indicated that he would like to have all the records of all the conversations we have had since the hearings started. It seems to me you had called me—you had initiated the calls—to report on the hearings.

P. Well—what's that all about?

D. He's a very down man right now—I might say.

H. (Inaudible) Did you check—

D. They are trying to find it over there right now. They are trying to find a copy of the transcript.

H. (Inaudible)

D. In fact that is a good point for Ziegler to say—that is what it reminds me of too.

H. (Inaudible)

P. Well he may be feeling sorry for himself (inaudible).

D. He sounds down—he realized after our conversation he sounded down—and I said, well I will talk to you later Pat and I needed conversion. He sort of paused and said, "boy I'm tired—keep the faith."

H. (Inaudible) Has he been coached?

D. I don't think so—Dick Moore is talking with him right now to get his feeling.

P. What did Dick have to say? He won't be able to get a solution.

D. (Inaudible) on the specifics.

H. Here they go—they all get on the wire right quick.

D. They got material—what they wanted—the information they wanted was in the office.

P. It was in the office?

D. To this day I don't really know where Hunt's safe was hidden.

H. I don't think there was one—was there?

H. John has been with Ziegler this morning.

D. Yeah, I left them to come over here.

P. You did. What are they working on?

D. They are trying to get all the facts right now. The transcripts, the hearings, and the frame up.

P. Is that true that (inaudible) or the Grand Jury? (Inaudible)

D. In about fifteen or twenty minutes I will shoot back over there and (inaudible)

P. How long will it take?

D. About fifteen minutes.

H. John had this (inaudible) he had lunch with Howard Baker's Administrative Assistant at the Administrative Assistant's request.

P. The same one who called Colson?

H. I don't know that it was the same one Bill had suggested. This fellow wanted to get guidance from Timmons as to what the President was expecting out of the hearings and he was talking about this executive privilege business and where we were going to stand on that. He expressed the personal view that the President could waive executive privilege. He did not think Ervin would accept the written interrogatories and that they would probably go to the subpoena.

P. (Inaudible.)

H. Nothing was raised about Baker being concerned that he didn't have contact—nothing on the earlier request was raised at all. He did say that Baker was a little pissed off at Kleindienst because he had not met with him at all. He had one meeting scheduled—on Wednesday—and Kleindienst cancelled it. And it has not been rescheduled—so Baker has had no communication with Kleindienst. The day it was scheduled was the day you had your press conference and announced that under executive privilege neither Dean nor anyone else could go up which caught Baker unawares. This (inaudible).

P. Well, then.

M. Plus the fact that they have impeachment and all Weicker does is (inaudible).

H. Oh yeah—

P. Don't get worried—but find John a lawyer right quick.

H. Well he is objecting to the agreement that Ervin made with Kleindienst—he is going to demand that they subpoena the Attorney General and the Director of the FBI to produce all the files, and materials they have on it.

D. I talked to Kleindienst last night—he raised that, and said he is working it out with Weicker but that Weicker was now dissatisfied with the hearings and so he thinks the views of the Chairman of the Senate Minority will bear the consequences.

P. (Inaudible.) In a letter to (inaudible).

P. It is Baker's idea—he wanted to talk with Kleindienst and didn't want to talk to anybody else. That's the way we left it.

D. I think that Kleindienst ought to be aware of the fact that Baker is distressed that he hasn't made a greater effort to see him.

P. You tell him that will you?

D. I will.

P. Follow through—

E. Could I suggest that you call Kleindienst? You had the other conversation with him. Could you call him and say that you have a rumor that Baker is unhappy?

P. Oh yes, I will call him and tell him that.

H. I don't think he (Baker) is standing on his tippy-toes.

E. Well, with all the publicity Baker is not going to be in any position to talk with anybody in the White House.

P. He doesn't want to talk with anyone, he doesn't want to collaborate.

H. He wants to cooperate—this guy Abrams says he wants to be helpful, he wants to work things out. He told the President he wanted to do that through the Attorney General.

P. That's right but he said he didn't want to talk with anybody but Kleindienst.

D. Does Kleindienst know that?

P. Yes, of course.

H. Yes he told the President—the President then called Kleindienst and told him.

P. Were you there?

H. Yes.

M. What are they going to collaborate on?

P. Oh, I suppose on such matters as whether Gray wants the FBI (Inaudible)

E. Well, again, . . .

P. Ok, all done.

H. Well, again I go back to the fact that Baker says Kleindienst cancelled their meeting. He should be called—

P. OK—you do it. I would think Kleindienst—

H. (something about broadcast)

M. Well that's another thing . . .

M. Well let's suppose—(inaudible)—do you think you can get anything accomplished with Sam Irvin?

H. Yeah, but we needn't be concerned about Baker's (inaudible) with Irvin.

P. Well let's talk about Gray—the problem with him is I think he is a little bit stupid.

P. Frankly, I think too maybe Kleindienst doesn't help him any.

D. He has up to this point. John Ehrlichman talked to Kleindienst last night and asked whether he had been giving Gray guidance.

H. The trouble is Dick has been giving him guidance to bear down—something like this comes along and Gray overreacts—almost spasm reaction. We had to really lay on Gray not to give them access to the FBI files. This is literally the opposite of what Kleindienst told him.

P. You shouldn't have even needed that. It should have been second nature. He should have known you never turn over raw files to a full committee.

E. I talked to Dick Saturday night and he was beside himself with the failure of Gray to follow any advice. He said, "Hell we covered this situation carefully. We had a real session on it."

P. Well, Ok. I'll help.

H. Well what words of wisdom do we have from this august body at this point?

E. Our Brother Mitchell brings us some knowledge on executive privilege which I believe—

M. (Inaudible)

P. I wish Byrd would come out and state—I believe it would be well worthwhile to—

M. Well there certainly could be stronger people in Washington.

P. There may be some.

Telephone Call taken by the President.

Hello.

Oh Dick, I wanted to tell you on Baker that his Administrative Assistant was talking to Timmons and they (inaudible) there has not been any move to have any discussion (inaudible). Well, I just wanted to tell you that the point is nobody here can talk to Senator Baker with any justification at all.

Really, uh, uh.

Today?

Well, the point is we are counting on you to be the man there Dick and I want to keep everybody else out of it, so—and I told Baker—if you want to talk with someone here—who would like to talk with—he said you. I said fine, he is running down here—

Yeah.

How about this—why don't you get him on the telephone—and get him down there. It is sort of a line with Baker saying he doesn't have any contact with the White House. Well, of course, he didn't want that—that is his fault—not our fault. We have to accept that would not be the right thing—on the other hand, it is essential for you to give him guidance. I get it, he wanted everybody to come back in public session.

Yeah.

Yeah. No way, etc.

Well, we will keep in touch with you, Dick—basically (inaudible) that would be the best way—in terms of what (inaudible) and in our guidelines but then I think you really have to be our Baker handholder too. That's a hell of a tough job—you have to have him move in with you to do it, huh? Yeah, yeah—the way, yeah, yeah, I understand. Postponed—right, right, yeah.

Yeah, yeah.

Right,

Yeah.

(Inaudible.)

Yeah, some of these open—I understand you were as shocked as I was that some of the raw files had already been made available to the Committee.

Did he?

Oh, he said so, huh?

Yeah.

Well, do what you can.

Incidentally, with Weicker did you work that thing out with him? He said he had written a letter you know—yeah. Why don't you talk to him? Weah, I expected that, Yeah—Yeah. Right. You don't—you never have done that before. No—that is for the birds, right, you were doing it to try to get him cleared. All right, let's leave it this way—you will handle Baker now—you will babysit him starting like in about ten minutes? All right.

(End of telephone conversation.)

P. He says he has called Baker a dozen times—he is either busy or out of town—but he says he will try. He talked with Weicker for an hour on the phone. Well, anyway, he says he has the picture now. I thought Kleindienst—

H. I would guess

P. Oh, yes, he said he talked with him for an hour—I talked to Kleindienst—maybe it's not Kleindienst, maybe its Baker.

H. I would guess that is right. I have always said—they are always down here bitching about nobody calling them—nobody giving them anything and all that.

P. Yet his Administrative Assistant called Colson—or that is what Colson informed me.

H. That is a casual pitch.

D. They were looking for some—Baker was looking for some such room—sort of link with the White House.

P. It's got to be Kleindienst. Go ahead on executive privilege. How would you handle it?

M. All I have worked out was—in the form—what we discussed—

P. Well, I guess under the situation with the statement that we have, we are in a position to negotiate with the Committee on the how, but we are not in a position to cross the bridge and just to say Hunt and Liddy will go down—say this one will go down and testify in open—in a public session—and to say the White House staff will not. But you've got a lot of other things

M. Oh, no.

P. Incidentally, that is what I told Baker too. We begin with that proposition and see what is there and what we can get by with.

M. On executive privilege, Mr. President, they already have something waived. (Inaudible) The point being is that this seems to be the only way to be involved. I would lay out the formula with Sam Ervin or negotiate it through Baker—or however else we can do it. And I would also put together a damn good PR team thing. The facts can be produced—what about this—what about the President's team? The team is important.

E. OK, I have written it. I can see that Chapin, for instance, could figure, without in any way bringing in the name of the President; so I am going to discuss right now with Baker that—

P. Not Baker.

E. Who else would you talk to? I've got a report here and I think I see where the danger points are and where they aren't. I would want to observe obviously any questions that may be asked. I can pinpoint some people now that really wouldn't make any difference.

H. John, you admit you are seeing danger points. If you send any one member of the White House up to testify it is no danger point for him but if some other one can't because it is a danger point then what you are saying is that the President was involved.

E. I didn't say danger from the sense of their being provocative—

M. Well, gentlemen for the sake of discussion (inaudible) the normal procedure for the Segretti matter and the like based on the evaluation of the FBI made (inaudible) or whether it is based on the Grand Jury and the trial transcript or whatever the record could have been available to me—investigation of the past memorandum would indict him.

(Inaudible) (two memorandum that the courts have public records.)

P. We tried that move, John—

M. Well, I did too—before Mr. President. But now that the indictment has come out (inaudible) has the feeling that they have the documentation back of it. Now that the bag has come out.

D. I think the proof is in the pudding, so to speak—it is how this document is written and until I sit down and write that document. I have done part of it so to speak. I have done the Segretti thing and I am relatively satisfied that we don't have any major problems there. As I go to part A—to the Watergate—I haven't written—I haven't gone through the exercise yet in a real effort to write such a report, and I really can't say until I do it where we are and I certainly think it is something that should be done though.

P. What do you say on the Watergate (inaudible).

D. We can't be complete if we don't know, all we know is what, its what—

P. It is a negative in setting forth general information involving questions. Your consideration—your analysis, et cetera. You have found this, that. Rather than going into every news story and every charge, et cetera, et cetera. This, this, this—put it down—I don't know but—

D. I don't think I can do it until I sit down this evening and start drafting.

H. I think you ought to hole up for the weekend and do that and get it done.

P. Sure.

H. Give it your full attention and get it done.

P. I think you need—why don't you do this? Why don't you go up to Camp David?

D. I might do it, I might do it.

P. Completely away from the phone. Just go up there and (inaudible) I want a written report.

E. That would be my scenario. He presents it to you at your request. You then publish—(inaudible)

E. I know that but I don't care.

H. You are not dealing with the defendants on trial. You are only dealing with White House involvement. You are not dealing with the campaign.

D. That's where I personally . . .

P. You could write it in a way that you say this report was not comment on et cetera, et cetera, but, "I have reviewed the record, Mr. President and without at all compromising the right of defendants and so forth, some of whom are on appeal, here are the facts with regard to members of the White House staff et cetera, et cetera, that you have asked me about. I have checked the FBI records; I have read the Grand Jury transcripts—et cetera, et cetera.

E. As a matter of fact you could say, "I will not summarize some of the FBI reports on this stuff because it is my understanding that you may wish to publish this." Or you may allude to it in that way without saying that fact. Just say that I do not summarize all the FBI documents and so forth.

D. It is my understanding that all the FBI reports have been turned over to the Ervin Committee.

H. Not everything. He has only seen half of them.

D. Another vehicle might be, take the report I write and give it to Ervin and Baker under the same terms that they got the FBI reports. You could say, "Now, this has innuendo in it—and from this the press might assume things that shouldn't be assumed, but I want you to know everything we know." And publicly state that, "I have turned over a Dean Report to your Committee." Then begin to say that, "You see that various people have various ingredients which may be of assistance in testifying. But it is not worth their coming up here to be able to repeat in some forum where is here in this report in some forum where they are going to be treated like they are in a circus. But I am also willing, based on this document, to set some ground rules for how we can have these people appear before the Committee."

H. In case of that the Committee would issue a warrant on our phone calls. Bully!

P. That's right.

H. That is all I know about the damn thing is that the Secret Service at some point has been bugged.

D. And that could go on forever with you on that tack. I could draw these things like this Staff into this report and have Kleindienst come get it and give it to Ervin in confidence—I am not talking about documents you see. I am talking about something we can spread as facts. You see you could even write a novel with the facts.

P. Inaudible

D. Inaudible

P. Inaudible

E. My thought is——

P. In other words, rather than fighting it, we are not fighting the Committee, of course—we are fighting the situation thing.

E. And I am looking to the future, assuming that some corner of this thing comes unstuck, you are then in a position to say, "Look, that document I published is the document I relied on, that is, the report I relied on."

P. This is all we knew.

H. That is all the stuff we could find out——

E. And now this new development is a surprise to me—I am going to fire A, B, C and D, now.

D. John, let me just raise this. If you make the document public the first thing that happens is the press starts asking Ziegler about it, expecting the document every day. "Well, why did Ehrlichman receive the call? How did they happen to pick out Ehrlichman? What did he do with the information after he got it?" Keep in mind every item, there will be a full day of quizzing. It will keep up day after day after day.

M. (Inaudible) I think there should be a concerted judgment about when and under what circumstances this is put out.

P. Another thing, let me say, that while Ziegler should be in on this stuff, I think Ziegler should (inaudible).

D. Well, you have said you are going to cooperate with the proper investigation.

P. But I am not going to comment on it while it is improper.

D. Well, why not put ourselves in a framework where you are way out above it? You are cooperating with the Committee, turn over the report, and no further comment.

P. I think you could get off of having Ziegler have to comment—I was trying to pull Ziegler off that for my own sake, too. We will give the Committee full cooperation, but we are not going to comment while the matter is being considered by the Committee—unless the Committee does this and that—

H. As John says for that reason don't publish the complete report. Only hand it over to the proper legislative committees.

P. Well, then we just turn it over to them. Can we get anything else out to the public? Putting out a statement to Republicans—we got a report from the White House?

E. I just got a report which bears out the—

H. Ron can make the statement.

E. Another way to do this would for you to have a meeting with Ervin and Baker.

P. Yeah. We have thought of that and decided against it.

E. Well we would have a reason for the meeting. This meeting would be for the purpose of turning over the document and discussing ground rules and before you did that you would have to have it all agreed in advance as to what the ground rules would be—namely, you've got quid pro quo here because you could come to Baker or to the Committee directly and say, "look, I will turn over the Dean report to you, providing we can agree on how witnesses will be treated up there." You could even screw executive privilege.

P. John—for example, if you were talking about executive privilege this really gets down to specifics. What you do about executive privilege. What about Colson—does he go or not?

D. I think Colson has to go.

P. He has to go?

D. Oh, yes.

H. Everybody goes under John's plan including Ehrlichman and me—everybody except John Dean, who doesn't go because he's got the client/lawyer privilege.

M. I think you and John could be negotiated out.

P. Should we negotiate it now?

M. I think the Court would show that a very simple thought, involvement with the (inaudible).

D. Well the trouble is—one of our arguments—

H. Let us go John—I don't see any argument against our going if you are going to let anybody go.

D. That's right.

H. You've got less to hurdle with us than you have with some of the others. Sure if you get the big fish out there in front of the television cameras I think you fellows would be tough. I think Strachan wouldn't get them nearly as excited as John and me going out there.

P. Strachan and Chapin.

H. Well, Chapin wouldn't have to go before them.

H. If you could do it in Executive Session.

D. Then we would have no reason not to go—

H. Then why hold us back?

P. These Executive Session things always appeal to me—Now of course you could always say (inaudible).

D. Maybe we could invite the Committee down to the Roosevelt Room or Blair House.

H. Maintain informality.

H. I don't know what Hunt will do

P. Would Executive Session help?

E. Well, Executive Session I suspect would at this point (inaudible). I really think these guys are concerned about this Mexican standoff and I think they will all—I do think that Ervin's crack on television about arresting people who cross the line about (inaudible) crossing the line—litigation.

M. In addition to that you have a long—really lengthy.

P. This thing could go on for a hell of a long time.

H. Sure it is going to be a long time.

D. Better take it on the counsel thing.

H. That's what he doesn't want.

D. I know, but—

H. Someone like Dwight Chapin—that's the easy one—you did that with someone who had no contact.

P. As bright as he is (inaudible). As long as Dean—they didn't test it. We asked them to. They didn't bite that one very fast did they John?

H. Chapin is the guy to ask on. You try to go to a federal judge on Chapin and that will be a good Court opinion. He is a former employee. He had no policy role, he had no major contact with the President.

M. (inaudible).

P. Chapin?

M. He is no longer employed.

H. He is the object of a subpoena. He's been called to testify at the Gray hearings, and what not. But he knows he's done nothing.

M. They could get him up there and—

E. Well, the precedent on this frightens me.

P. We have a precedent problem. In the case of a present White House employee there will not be a precedent problem.

M. In the case of a present one it does not—

P. Then they would have to go in front of the cameras and show how it would not become an important first.

E. Of course we have the anomoly of Clark Mollenhoff running up and trying to give testimony in a civil service ceremony here now—saying, "ask me a question—ask me a question. This is a Kangaroo Court." The guy running the hearing is telling him to sit down and shut up, and what is happening here is that the government is asserting the executive privilege.

M. No, they are not. That is not executive privilege.

E. It is the closest thing to it. The point is, who's privilege is it to assert? What do you do with a Chapin? I think—I don't know what you to think this is the reason I called you—to figure out a scenario but I assume that immediately a subpoena issued, that on behalf of the President you would immediately go over to the Committee saying that the Executive asserts privilege.

P. Let me ask this. This question is for John Ehrlichman and Dean. You were the two that felt the strongest on executive privilege thing. If I am not mistaken, you thought we ought to draw a line here. Have you changed your mind now?

D. No, I think it is a terrific statement. It puts you just where you should be. There is enough flexibility in it.

P. Well, all John Mitchell is arguing then, is that now we use flexibility in order to get off the coverup line.

E. And as I told him, I am so convinced that we are right on the statement that I have never gone beyond that. He argues that we are being hurt badly by the way it is being handled. And I told him, let's see—

H. I think that is a valid evaluation on the individual point, but that is where you look like you are covering up right there. That is the only active step that you have taken to cover up the Watergate all along was that.

P. Even though we have offered to cooperate?

H. On legal grounds, precedence, tradition, constitutional grounds and all that stuff you are just fine, but to the guy who is sitting at home who watches John Chancellor say that the President is covering this up by this historic review blanket of the widest exercise of executive privilege in American history and all that—he says "what the hell's he covering up, if's he's got no problem why doesn't he let them go talk."

M. And it relates to the Watergate—it doesn't relate to Henry Kissinger—foreign affairs or anything. The President and all that business they don't know what the hell you are talking about.

P. Maybe we shouldn't have made the statement.

H. We should have because it puts you in a much better position. They were over here. That is what Ervin wanted. He wanted all of us up there with unlimited, total, wide open. The statement in a sense puts us over here. Now you move back to about here and you probably can get away with that.

E. You can get away with it in the Watergate context. You said executive privilege and then you applied it in the first instance to Gray. I wouldn't change that, and that is exactly right. At the same time you are in a position to say, "Oh, now there is this other case and what I regarded there consistent with my statement is so, and so, and so."

H. It is very clear—that the questions once properly asked don't have any bearing on these people's relation to the President. Which they don't. The President had nothing to do with it.

M. I don't know.

E. There again, it would be hard to get proof. You are right and we are going to need some of that for our campaign. The argument will be that the President has backed off his rock solid position on executive privilege and is now letting Chapin, Colson, Haldeman and everybody testify.

P. (inaudible).

E. They are saying that there are PR problems.

P. People don't think so—Several—That's right.

H. They don't think—they think you clamped down an iron curtain and won't let anybody out of here ever. It was my understanding—I talked to you or maybe someone else—that the Committee's operating rules do not permit witnesses to have Counsel.

D. That is Grand Jury. I have never heard that about the Committee.

H. About the Committee?

D. No—not the Committee.

P. On the contrary the committees—ever since the days I was there they have always allowed counsel.

D. I can't imagine their not allowing counsel.

P. No sir, committees allow counsel.

H. It seems to me if we are going to do this that it becomes important to any White House staff members who testify that they should not only have private counsel, personal counsel, but that the President's Counsel should be there because you are under oath, as his waiver of executive privilege and the President's Counsel should be there to enforce the limitation and the witness should not have to be in the position of saying, "That is one I can't answer because it is outside the grounds."

E. You are appealing that someone should do it then for us?

P. How would it be with the Executive Session thing?

H. They would probably have television at that. What do you do when something comes up that is top secret?

P. How do you handle that PR wise?

M. You handle that only with the Executive Session. Otherwise you come up with another Roman holiday like we have had with Kleindienst and Gray. A fact-finding operation is there to get the facts and not to put on a political circus as they have in the past.

D. If there were no cameras up there, there would be no reason to have the Executive Session because—

H. Well then you come back to arguing for an open session with no television cameras

P. (Inaudible). I forgot about the formal session. It is a formal session.

E. I think that is the least personal—

D. That is correct we have said—no debate and there shouldn't be.

M. Well that won't wash.

E. Yeah, I probably think it would.

P. We ought to see about it.

D. I think it is arguable. They are interested in eliciting information and I think (inaudible)

H. Is there an executive session of a Senate Committee where other Senators can come in, where any Senator has the privilege of submitting questions? Senator Kennedy would want to sit there I am sure.

P. He can't ask questions.

H. He can't?

D. Not unless (inaudible).

P. All the members (inaudible) but we shall see. But it is normal practice that no one can ask questions but members of the Committee.

H. But Teddy could still sit there in the audience and then go out to the TV camera and say (inaudible) look this is what is being said, et cetera.

P. Oh, well we are going to have that.

D. I think if he did that he would be terribly criticized.

H. I was just thinking in the membership of the Committee. We are in reasonably good shape and that the people we have on the Committee are not as bad as some Senators who would turn the use of TV afterwards for their own purposes.

P. Not as spectacular.

M. (inaudible) Could I point out (inaudible).

D. (Inaudible).

H. When do they start hearings now?

D. (Inaudible).

P. The topic—here—we have plenty of time for those hearings, but what Bob is concerned about the PR. We don't have much time.

D. PR is going to start being better right away with the termination of the Gray hearings for ten weeks that will let some steam out of that—

P. The PR. What I meant is, and anyway that the main thing is to do the right thing. Don't rush too fast with the PR but it takes time to write, et cetera. John has to have time to write this report. Do we broach this whether we have a report or not? (Inaudible voice and answer).

P. Let me ask you this: On the broaching of that, should we get Kleindienst to be the broacher?

(Inaudible)

P. The point is, who else? I can't.

D. That's right. Kleindienst in his conversations with Ervin and Baker—Ervin indicated that he would like to talk with Kleindienst about the executive privilege question. Maybe it is now time to get that channel re-opened again.

M. Let me make this suggestion.

H. Write it out both chapter and verse—some exhibits. You are gonna—

M. Let me something first. I think one of you mentioned having a meeting with the Committee. It might be well say you want to discuss the executive privilege point with the Chairman. But don't discuss it with the Chairman until you get up there. At least this advises them that the discussion of the matter is available.

E. And then ask him not to take a Committee move on the subject either until—

H. Until he has talked to them, or the Committee has talked about it.

P. Would this be the time (inaudible)—

P. Who is going to talk to him?

E. Who is going to be there?

M. Kleindienst talks to—

P. In other words to Baker and Ervin. The conversation could occur like tomorrow. We have to move in this direction, regardless of the report. We have to move to start the negotiation.

M. Well, I think there is too much lead time. It will get into the press before the Committee meeting. What is Wally Johnson's status?

D. That's funny—because he is still here regardless of the fact that he has been announced apparently. I gather he will be in with the Attorney General. I was thinking maybe to preserve my Counsel role with Ervin and Baker that I ought to be present with Kleindienst.

P. I agree, and the four of us sit down and talk about executive privilege—we won't get into any of the substance.

P. The thing about your being there with Kleindienst they might be skeptical—

D. I must say they were pretty good when they were dealing with me as Counsel—that is one of the reasons I am not one of the—(inaudible)

M. I think it would be appropriate for your Counsel to be present.

D. That's right.

P. Alright. Now that that is done let's get down to the questions—

D. I think that possible Kleindienst ought to call today and let Ervin and Baker know that he would like to meet with them early next week to talk about executive privilege and indicate that I would be present to see if we can find—

P. A formula for them to get all the information that they desire.

D. That's right.

H. This would be an unpublicized meeting.

D. Unpublicized.

P. That seems to me to be a sensible way.

H. I wouldn't say early in the week I think he better say Monday so you can get them before they change.

P. (Inaudible) What is your position on Dean having to testify?

H. He might.

P. We would have to draw a line there, wouldn't we John?

M. I would agree wholeheartedly (inaudible) To have your Counsel testify would be a mistake.

H. Even if Dean would have to, it would be a mistake (inaudible)

P. Well on the Dean thing—you simply say well that is out. Dean has made this report and here is everything Dean knows.

E. I think John on Monday you could say to Ervin if the question comes up, "I know the President's mind on this and he is adamant about my testifying as such. At the same time he has always indicated that the fruits of my investigation should be available to you." And just leave it at that for the time being.

D. One issue that may come up as the hearings to along is the fact that the focus on this book is that Dean knew—as you all know I was all over this thing like a wet blanket. I was everywhere—everywhere they look they are going to find Dean.

P. Sure.

H. Well, I don't think that is bad.

E. I don't either. You were supposed to be.

P. You were our investigator. You were directed by the President to get me all the facts. Second, as White House Counsel you were on it to assist people in the Executive Branch who were being questioned. Say you were there for the purpose of getting information. That was your job.

D. That's right.

P. But the main point certainly is that Dean had absolutely no operational activity. The wonderful thing about your position is that as far as they are concerned—your position has never never been as operative.

H. That is true—that even in the private sessions then—you volunteered to give them a statement on the whole question of your recommendation of Liddy which is the only point of possible kind of substantive culpability that you could have and now you can satisfy all of those actions—that is if you want to.

P. At the President's direction you have never done anything operational, you have always acted as Counsel. We've got to keep our eye on the Dean thing—just give them some of it—not all of it. I don't suppose they say John—no—we won't take it. (inaudible) Just take the heat of being—on the other hand you've got Chapin going and you've got Colson going.

H. No, he doesn't.

P. You've got (inaudible) and inaudible going.

M. You can't keep them out of all these sessions, Bob. I will get back to (inaudible) on the basis of Chapin's talk to Segretti last week.

D. They can subpoena any of us. There is no doubt about that. If they don't serve it here because they can't get in. They can serve you at home somewhere. They can always find you.

H. We move to Camp David and hide! They can't get in there.

P. Well, go ahead.

D. The question is once you are served and you decline—then you have a defense situation. Now I would say that it would get very difficult to believe that they will go to contempt on people who are present White House employees.

P. They would on a Colson wouldn't they?

D. That would be a good test case for them to go on. The other thing though is they could subpoena Colson to come up there and Colson could then say, "Well, I decline to testify on the grounds that I think it is privileged communication, or privileged activity." Again you get a little fuzzier.

M. If they ask some unusual questions—

D. Yes, that's right.

D. Then it will get much fuzzier as to whether or not they would cite him for contempt or not.

P. Suppose the Judge tomorrow orders the move when he opens up the Grand Jury and says I want them to call Haldeman/Ehrlichman and everybody else they didn't call before.

D. They would send them all down.

P. Then do you still go on this with the Ervin Committee—the point is—if the Grand Jury decides to go into this thing, what do you think of that?

E. I think you say, "Based on what I know about this case, I can see no reason why I should be concerned about what the Grand Jury process is about." That's all.

P. Then they would have to do both—appear before the Grand Jury and the Committee?

D. Sure.

E. You have to bottom your defense, your position on the report. And the report says nobody was involved, and you have to stay consistent with that.

M. Theoretically, I think you will find the Grand Jury is not about to get mixed up with that sort of thing.

H. (Inaudible) Well, there is danger in a Grand Jury.

D. Well, there are no rules.

P. Well, Grand Juries are not really very fair sometimes—

D. That's right.

M. (Inaudible)

H. What would happen? Would Silbert be the prosecutor on this?

D. Unless the court appointed a special prosecutor.

H. Which he could do.

P. We better see tomorrow about that—but—if that is the case who is to move now on the first one? Who is to call Kleindienst?

D. I am to follow through with Kleindienst, Sir. I am going to call him and tell him to call Baker first and then Ervin and tell them that you would like to meet with them on Monday to discuss and to explore—a formula for providing the information they need that in a way that does not cause a conflict with general policies on executive privilege.

P. Yet meets their need for information. Right?

D. Right.

P. They have requested that kind of a talk already, haven't they?

D. Yes.

M. You will sit down with Dick, Mr. President?

P. Yes, yes. I don't want you to talk about this report with anyone.

D. Well, we are going out over the weekend (inaudible).

H. Also write out a thing for Kleindienst so that—

P. I think you can talk to Kleindienst. I think you can do most of the talking. You can do it.

D. I don't think we ought to read anything in this first session but I think we ought to let them know that we are thinking about reaching some sort of—

P. Saying, "What would you think here?"

H. Stay loose.

P. We want to see what can be worthwhile with regard to this—we will talk about informal sessions. Has Ervin's position been he insists on formal sessions? Is that his position?

D. Well, we don't know. We have never really discussed it.

H. His response to your position—naturally that is what you have now—that is Ervin's response—that written stuff isn't any good, "I want the body, we really can't ask a piece of paper questions." Now, what we are saying is that . . .

P. The written thing was in which?

E. That was a Ziegler (inaudible) I believe, not a statement.

H. But it is a general thing. That was in your press conference. You, they will provide written—I think you said it—

P. I may have said it.

H. I think you did in the press conference and Ervin's response is to that. Your statement could have been, "these people will be happy to provide written answers to appropriate questions."

P. Are you sure it wasn't in a statement?

E. No, I am sure we used informal—

D. It came up the third time when I responded to Eastland's invitation to furnish information, and you said we would furnish written information and then it was repeated after that—that we would be happy to supply information in writing.

H. Then Ervin responded—he specifically rejected that only on the grounds that you can't ask questions of a piece of paper. So we are giving him that opportunity. He hasn't said that the processes of the Senate require that those questions be answered in (inaudible).

P. What is the argument that you give John to people as to why Executive Session rather than an open session?

D. Well, I——

P. You can't really give—you can't really attack the Committee's guidance. What do you say?

D. Well, I think what I would do is to talk a little about the position in our mind—with the position he took so vocally in the Gravell case.

P. That's right.

D. Where he came out and said that a Legislative Aide could not be called to question for advice they give their Senator or Congressman. He just went on and at great length cited executive privilege, etc.

P. He will say this is not advice to the President. Go ahead.

D. Then I will say that these are men who do advise the President and we have to draw the line.

P. And that's the principle involved and to have that principle discussed in open session forum is the kind of thing where you have to go off to the Bench where the Jury doesn't hear it.

D. Well——

H. I don't think, John or Dick, if they're in a Monday meeting should tip their hand and offer to appear in Executive Session and get them on to the Executive Session wicket.

D. No, no, I agree.

H. We should openly indicate a willingness to listen to ideas as to what would be done and an open-mindedness to try to work something out. If that is going to become the issue it seems to me that that is an issue we could win publicly where we may not be able to win it with the Senate.

E. Where if we go in with the idea of expressing the President's concern about the protection of his people is expected.

P. I am also concerned about frankly having matters of seniority debated publicly. That is a matter that ought to be debated privately.

D. That's right.

P. And the fact that it is raised does not indicate guilt. That is part of his argument for Gravell, too. That fact that it is raised does not indicate guilt. That is what we are really talking about here. But having it in public session, those——

D. I will work out a complete negotiating scenario and have thought it through before I go up.

H. Your objective in that meeting is simply for you to indicate to them a willingness to discuss. It is not to have a proposal for them to accept or reject.

D. I agree. The scenario is for myself and for Dick (inaudible)—it is a record for the future.

P. It is the record for the future. Maybe you can tell Ervin on the mountaintop that this is a good way to set up a procedure for the future. You know what I mean, where future cases of this sort are involved. We are making a lot of history here, Senator.

M. And the Senator can be a great part of it.

P. A lot of history. We are setting a stirring precedent. The President, after all, let's find out what the President did know, talk about the Hiss Case.

D. Ervin away from his staff is not very much and I think he might just give up the store himself right there and lock himself in. You know I have dealt with him for a number of years and have seen that happen. I have reached accord with him on legislation—

H. If he holds out for anything you may get an answer from him—(inaudible)

P. Suppose now he just takes the adamant line—nothing?

D. Doesn't sound like Richardson's information—sounds like him sitting and saying nothing.

P. Well, if he just says, "we are going to have public sessions, it's got to be that or else."

E. Then we say, "Maybe we have a law suit Senator and it is going to be a long while before legislative hearings and what not."

P. If you want your hearings—then that is the other thing. The other point is would it not be helpful to get Baker enlisted in some way in advance. If that could be done not begging him. Could we put Kleindienst to that thing?

M. On the second step—not on the opening step.

P. Even on the opening step the problem that I have here is that if Baker sits there and just parrotts Ervin's adamant statement—"Hell no, there can't be anything except public sessions," you have nothing to do.

M. You know how these Senators act—Baker will lay the whole thing out on the table.

P. Yes, I guess you are right. Baker, on the other hand, Kleindienst should at least call and say look Howard, "Why don't you try to work something out here?"

H. Baker could in effect say—we want to work something out—what can you give us?

P. You can't be tough. Right now, Howard is just going for a law suit.

H. Give us a hand and try to open this up. Baker could find that much there, to be positive this time around.

D. Don't lock yourself in—we will have another session or so on it.

P. Yeah, the other point is if they insist (inaudible) it becomes essential, then that this be forgotten and then have a law suit.

E. You say well then ok, why don't we now discuss are we going to go legally and perhaps we can at least agree on what apparent legal issues there are, so instead of being three years it will only be a year and a half.

H. Get it settled before this Administration moves, or gets kicked out.

D. They know it is many months, who they are going after and under the circumstances that they know they have a tough law suit ahead of them. They have to hire counsel. It is going to cost money to freeze it on their side; they don't have money. They don't have Department of Justice to handle their case; they have to bring in special counsel who probably know nothing about executive privilege, will have to be educated. Get the Library of Congress clanking away getting all the precedence out and the like.

H. We've got all that.

D. It is a major operation for them to bring in. They have to get a resolution of the Senate to do it—

E. Of course Ervin is a Constitutional expert himself. Any Constitutional expert might want to do that.

P. Yeah. Have you considered any other possibilities? John, you are the one who is supposed to know the bodies.

D. That's right. I think we have had a good go-round on the things now.

P. Do you think we want to go this route now? Let it hang out so to speak?

D. Well, it isn't really that—

H. It's a limited hang out.

D. It is a limited hang out. It's not an absolute hang out.

P. But some of the questions look big hanging out publicly or privately.

D. What it is doing, Mr. President, is getting you up above and away from it. That is the most important thing.

P. Oh, I know. I suggested that the other day and they all came down negative on it. Now what has changed their minds?

D. Lack of candidate or a body.

H. Laughter.

M. (Inaudible) We went down every alley.

P. I feel that at a very minimum we've got to have this statement. Let's look at it. I don't know what it—where in the hell is it—If it opens up doors, it opens up doors—you know.

H. John says he is sorry he sent those burglars in there—and that helps a lot.

P. That's right.

E. You are very welcome, sir.

(Laughter)

H. Just glad the others didn't get caught.

P. Yeah, the ones he sent to Muskie and all the rest; Jackson; and Hubert, etc.

E. I get a little chill sitting over there now thinking of those people.

P. Yeah. I would hate to be those fellows at the moment.

P. Incidentally, we don't plan to have a press briefing today do we?

E. We hadn't planned it—it wouldn't hurt.

H. Well, I have a meeting upstairs with John at 3:30—with (inaudible).

E. All right he is going to top our press tomorrow.

P. Let's let it go.

E. OK.

P. OK suppose you take care of it now and I won't come over there. If you get any more soundings let me hear Friday. It would be my thought then that I would tend to break it off at 4:30 or 5:00 p.m.

M. 4:00 p.m. will be the minimum—I have to get to New York.

P. Yeah, then its done. Yeah, I understand. Bob—what time is my take-off scheduled for Florida? Are you ready?

H. Yes, sir.

P. Well we won't rush.

E. It is 3:16—how about 15 or 20 minutes from now?

Appendix 9. Meeting: The President, Haldeman, Ehrlichman and Ziegler, EOB Office, March 27, 1973. (11:10 am–1:30 pm):

P. I don't believe that I should go out on national television tonight or tomorrow and go out on the Watergate Commission and then come on the next day on national television on Vietnam. I don't like the feel of that. I don't think you—can be ready by that time? My view is to get the Vietnam thing out of the way, and then get this right as you could. In other words, that gives you time.

E. The picture of the Congress having an inquiry going on and the Grand Jury in session, the Judicial branch—

P. Right.

E. It seems to me it gives you a good opening for you to step in and say there doesn't seem to be anybody except me in position with all this. I have talked with the Chief Justice of the United States; I have talked with Senator Ervin, Senator Baker and I, after that consultation, have posed this three-branch—

P. For an inquiry to start with the proposition of Ervin and Baker, where you don't come a cropper right there at the beginning on whether you can get the three branches. What's the view of the three-branch, John?

E. Well, I am not sure you could get it either.

P. What,—well, that's it. Suppose you couldn't. Then I still think that it is good possibly that I—but we've got to have somebody other than me that could broker it. The problem you've got to recognize is that Haldeman can't, you can't, and Dean can't. Mainly because you possibly could, but its also the (unintelligible) about the whole White House. What we might have to do—I hate to assign this to anybody, but I might have to use Rogers on this to be the broker.

E. Yep.

P. Rogers can be a good broker at times. I don't know whether you could get a—

(Knocking on door—)

P. Oh, hi. How are you?

Z. Thought we would just check in.

P. Sure, sure. Right, right. In position, right—

Z. We have the patient rehabilitation veto today and the (unintelligible) to Thieu in South Vietnam, preparations—.

P. Right.

Z. I talked to Dean and to Moore this morning in terms of whether or not we say anything (unintelligible) the Grand Jury.

P. Right.

Z. And Dean's feeling is that we should not today.

P. That is my feeling.

Z. And Moore's feeling is that we should not today, and I concur in that.

P. Yeah. My view is today, unless you've got something more to say, I would simply say I have nothing to add to what (unintelligible) I think that would be better, just get out there and act like your usual cocky, confident self.

Z. Then if I am asked a question about whether or not Dean would appear before the Grand Jury, if I am asked that question—

P. Yeah.

Z. How should I handle that?

P. That's tough.

Z. I could—Two options: One would be to say that (unintelligible); the other would be to say the (unintelligible).

P. (unintelligible) Well, if you say (unintelligible) permission—What do you think, John? You tell him. Well, it is easier to get out of it if you say well that is not a matter (unintelligible).

Z. I am inclined to think that today my best position is just to say that this was discussed yesterday. We are willng to cooperate.

P. Why don't you say, "We have indicated cooperation and when we see the form of the request, or whatever it is—"

Z. "These matters must proceed in an orderly manner and I am not going to get up here and comment on the possibility of—"

P. "of future action" (unintelligible)

E. The other thing you might do is—this would put our friend John Dean III in a tough spot—say, "while there have been some accusations against him, he's really in the poorest position to defend himself of anybody in the government."

(Material unrelated to Presidential actions deleted)

E. I don't know whether it would add anything, really, from our standpoint to say this, but the point is here that the poor guy is under disability to step out and defend himself because of his position. Because he is Counsel to the President, and that in a way—

P. That helps—

E. inhibits him. Well, —

P. But (unintelligible) for Ron to get into that?

E. Well, but it is in the saying, would he appear before a Grand Jury?

P. Why don't we just say, "well, this is a matter that is not before us." Point out that he is Counsel to the President, Counsel to the White House—use the White House. Say, "He is the White House Counsel and, therefore, his appearance before any judicial group, therefore, is on a different basis from anybody else, "which is basically what I—you know when I flatly said Dean would not appear but others would. You know, I did say that, and of course—

E. It was on a different basis. And at the same time, a man in any position ought to be given a chance to defend himself from these groundless charges.

P. "Mr. Dean certainly wants the opportunity to defend himself against these charges. He would welcome the opportunity and what we have to do is to work out a procedure which will allow him to do so consistent with his unique position of being a top member of the President's staff but also the Counsel. There is a lawyer, Counsel—not lawyer, Counsel—but the responsibility of the Counsel for confidentiality."

Z. Could you apply that to the Grand Jury?

E. Absolutely. The Grand Jury is one of those occasions where a man in his situation can defend himself.

P. Yes. The Grand Jury. Actually if called, we are not going to refuse for anybody called before the Grand Jury to go, are we, John?

E. I can't imagine (unintelligible)

P. Well, if called, he will be cooperative, consistent with his responsibilities as Counsel. How do we say that?

E. He will cooperate.

P. He will fully cooperate.

E. Better check that with Dean. I know he's got certain misgivings on this.

Z. He did this morning.

P. Yeah. Well, then, don't say that.

E. Well, I think you can pose the dilemma without saying flatly what you are going to do.

P. Yeah. We—But maybe you just don't want to. You better not try to break into it, Ron.

Z. You get into posing the dilemma—

P. Then they are going to break into questions. I would simply stall them off today. Say that is not before us at this time, but let me emphasize, as the President has indicated, there will be complete cooperation consistent with the responsibilities that everybody has on the separation of powers. Fair enough? And, of course, consistent with Mr. Dean's other responsibilities as a Counsel. See? How about just saying it that way? Well, John, do you have doubts?

E. No. But if Ziegler opens, Ziegler has to answer something. About the only thing that occurred to me when I read this thing yesterday was somehow or another, he should be introducing the fact that Dean is going to get a chance to clear his name.

P. Yeah.

E. Eventually there is going to be an opportunity for that in some forum, at some time, in some way. But maybe you get into——

P. I don't think this is the day to do it.

Z. I think that is right. Give them more than a day to see how we approach the whole matter (unintelligible—RZ exit).

(Material unrelated to Presidential actions deleted.)

E. On the FBI, we will start moving some names to you. I hope you will look into that guy that (unintelligible) mentioned—we are trying to get a resume and some background.

P. A judge with a prosecuting background might be a hell of a good thing. I have decided when we move on it, it must be simultaneous. Gray comes in and says, "I am sorry, I can't get confirmed. I don't want to be confirmed in a way in which there is any division. There must be unanimous support for whoever is, and support for and trust in, the Director of the FBI. As a result of the hearings to date, it is obvious that I am not going to get that kind of support in the Senate, even though I believe that I may be confirmed under the circumstances, I respectfully request that you withdraw my name." We withdraw his name and send somebody else down. That is a very sound basis. I am thinking of doing that. I would hope next week right after (unintelligible).

E. Ah, what would you think of doing that simultaneously with the appointment of a Commission. We could make it in the same announcement. Could say, "here is a fine man who has been unfortunately splattered by this thing. It is a case study in how bystanders can get splashed by this sort of thing. It's not a fight where he came in."

P. You think, also, John, or at least you probably gave somebody the idea, that we should get Kleindienst out, too, at this point?

E. Yeah, yeah.

P. How do we do that?

E. Well, I am going to see him today, and Bob's going to talk to him, and we will hit him from two directions.

P. Get Kleindienst to resign?

E. Oh, no, no. Get him out front.

P. Oh, I thought you said get him out of the office.

E. Oh, no. I hadn't talked about that. That's Bill Rogers.

P. Oh, I am sorry, John.

E. No. We talked this morning about getting him out front.

P. I am afraid its (unintelligible) of can-

ning him right away. Let's see. Let's see about that. Maybe we can. Well, what have you got to report. John and I have just started on (unintelligible).

H. All I have is Dean's report. I did not talk to Mitchell, because this thing changed what you might want from Mitchell. He had a long conversation again today with Paul O'Brien. Everybody has been talking (unintelligible) this, that, and all that. Of course, O'Brien is very distressed with Mitchell. The more he thinks about it, the more O'Brien comes down to Mitchell could cut this whole thing off, if he would just step forward and cut it off. He said the fact of the matter is as far as Gray could determine, Mitchell did sign off on it. And if that's what it is, the empire will crack.

E. You said, "Gray."

P. What's that? I am sorry.

H. O'Brien, not Gray. As far as O'Brien can determine Mitchell did sign off and Dean believes that to be the case also. Dean doesn't think he can prove it, and apparently O'Brien can't either, but they both think that.

P. That's my—

H. And the more O'Brien thinks about it, the more it bothers him with all he knows, to see all the people getting whacked around in order to keep the thing from focusing on John Mitchell, when inevitably it is going to end up doing that anyway and all these other people are going to be so badly hurt they are not going to be able to get out from under. And that's one view.

Now, to go back on the Magruder situation as O'Brien reports it, having spent several hours with Magruder, yesterday afternoon, O'Brien and Parkinson. Jeb believes, or professes to believe, and O'Brien is inclined to think that he really does believe, that the whole Liddy plan, the whole supersecurity operation, super-intelligence operation was put together by the White House, by Haldeman, Dean and others. Liddy, Dean cooked the whole thing up at Haldeman's instructions. The whole idea was the need for a super-intelligence operation. Now there is some semblance of, some validity to the point, that I did talk, not with Dean, but with Mitchell, about the need for intelligence activity and—.

P. And Dean recommended Liddy?

H. Yes. But not for intelligence. Dean recommended Liddy as the General Counsel.

P. Yeah, but this is where Magruder might come—well, go ahead.

H. That Mitchell bought the idea that was cooked up at the White House for a super-intelligence operation, and that this was all set and an accomplished fact in December of 1971, before Liddy was hired by the Committee. But then Liddy was hired by the Committee to carry it out and that that's why Dean sent Liddy over to the Committee. Then there was a hiatus. There were these meetings in Mitchell's office where Liddy unveiled his plan. And the first plan he unveiled, nobody bought. They all laughed at it. It was so bizarre. So he went back to the drawing board and came back with a second plan and the second plan didn't get bought either—that was at the second meeting—and everything just kind of lingered around then. It was sort of hanging fire. Liddy was pushing to get something done. He wanted to get moving on his plans. And at that point he went to Colson and said, "Nobody will approve any of this, and, you know, we should be getting going on it." And Colson then got into the act in pushing to get moving with the Colson phone call to Magruder saying, "Well, at least listen to these guys." Then the final step was—all of this was rattling around in January—the final step was when Gordon Strachan called Magruder and said Haldeman told him to get this going. "The President wants it done and there is to be no more arguing about it." This meaning the intelligence activity, the Liddy program. Magruder told Mitchell this, that Strachan had told him to get it going on Haldeman's orders on the President's orders and Mitchell signed off on it. He said, "OK, if they say to do it, go ahead."

P. Was that this bugging?

H. The whole thing, including the bugging. The bugging was implicit in the second plan. He doesn't seem to be sure whether it was implicit or explicit.

P. Well, anyway—

H. He doesn't think that particular bug implicit, but that the process of bugging was implicit and, as I didn't realize it, nor did (unintelligible), but it was also in the Sandwedge going way back—the early plan. That, incidentally, is a potential source of fascinating problems in that it involved Mike Acree, who is now the Customs Commissioner or something. Joe Woods, a few other people.

P. Nothing happened?

H. It wasn't done, activated, but these—At some point, according to Magruder, after this was then signed off and put under way Mitchell called Liddy into his office and read him the riot act on the poor quality of (unintelligible). That's basically the scenario or summary of what Magruder told the lawyer. Dean's theory is that both Mitchell and Magruder both realize that they now have their ass in this thing, and that they are trying to untangle it. Not necessarily working together again, but they are. In the process of that they are mixing apples and oranges for their own protection. And that they are remembering various things in connection with others, like Liddy and Hunt.

(Material not related to Presidential actions deleted.)

H. He says for example, Magruder doesn't realize how little Dean told Liddy. He thinks that Dean sent Liddy in (unintelligible) Liddy (unintelligible) frankly to satisfy Dean. His screaming to Liddy was that he was General Counsel over there and also take as a side activity the political intelligence because we do need information on demonstrators and stuff like that. That they are not doing anything about, but he never got into any setting up an elaborate intelligence apparatus.

P. OK.

H. Dean says that as a matter of fact, in contrast to Magruder's opinion, at the first meeting where a Liddy plan was presented, everybody at the meeting laughed at the plan on the basis that it was just so bizarre that it was absurd and completely funny.

P. Yeah.

H. The second meeting, Dean came into the meeting late. He was not there during most of the presentation, but when he came in he could see that they were still on the same plan of orbit and he says in effect, I got Mitchell off the hook because I took the initiative in saying, "You know it is an impossible proposal and we can't, we shouldn't even be discussing this in the Attorney General's office," and all that Mitchell agreed, and then that is when Dean came over and told me that he had just seen this wrap-up on it, and that it was impossible; that they shouldn't be doing it; that we shouldn't be involved in it and we ought to drop the whole thing. Then as Dean said, "I saw a problem there and I thought they had turned it off and in any event I wanted to stay ten miles away from it, and did." He said the problem from then on, starting somewhere in early January probably, was that Liddy was never really given any guidance after that. Mitchell was in the midst of the ITT and all that stuff, and didn't focus on it, and Magruder was running around with other things and didn't pay much attention, and Liddy was kind of bouncing around loose there.

E. Well, now, how do you square that with the allocation of money to it?

H. Well that presumably was the subject in focus by somebody.

Who signed off on that?

E. Magruder, possibly Mitchell, possibly Stans, certainly—

P. I don't know that they can say that the allocation of money for this super-intelligence operation, I don't think I ever—that's what Magruder said—

E. Someone was paid to focus on—

H. Yeah, someone focused and agreed that there had to be some intelligence and that it would take some money and that Liddy should get it.

E. And against the background of the two plans being presented and rejected, the logical question that would arise is, well, what are you going to do with the money? You don't have an approved plan?

H. Yeah.

E. So that doesn't put anything together.

P. Well, it doesn't hang together, but it could in the sense of the campaign—

H. Well, what he thinks, he thinks that Mitchell did sign off on it.

P. My guess is Mitchell could just say, "Look," he says, "this, that and the other thing," and he says, "alright go ahead but there was no plan of this."

H. Except if you support Dean's opinion (unintelligible).

P. So—

H. Now O'Brien says that Magruder's objective in holding at the moment is a meeting with Mitchell and me. And that what he has told the lawyers, that will be a shot across the bough and tear down the meeting place. O'Brien doesn't really believe Jeb, but he's not sure. O'Brien is shook a little bit himself as he hears all this. But he does see very definitely and holds also to the theory of mixing of apples and oranges. He's convinced that Jeb is linking together things that don't necessarily fit together in order to help with (unintelligible). And, again, he's very disappointed in Mitchell. He feels that Mitchell is the guy that is letting people down. O'Brien made the suggestion that if we wanted to force some of this to a head, there is one thing you might consider is that O'Brien and Parkinson, who are getting a little shaken now themselves, are retained by the Committee. That is by Frank Dale. He is the Chairman of the Committee.

P. Does that still exist?

H. Yes. They are——

P. They aren't involved in the damn thing are they? O'Brien and Parkinson?

H. Yes.

P. They ran this all from the beginning?

H. Oh, no.

P. Well, that is what I thought.

H. But they are involved in the post-discovery, post-June 17th.

P. (expletive removed)! (unintelligible).

H. O'Brien says, "Everything with the Committee—what you might want to consider is the possibility is to waive our retainer, waive our privileges and instruct us to report to the President all of the facts as they are known to us as to what really went on at the Committee to Re-Elect the President."

P. For me to sit down and talk to them and go through——

H. I don't know. He doesn't mean necessarily personally talk to you, but he means talk to Dean or whoever you designate as your man to be working on this. Now, other facts. Hunt is at the Grand Jury today. We don't know how far he is going to go. The danger area for him is on the money, that he was given money. He is reported by O'Brien, who has been talking to his lawyer, Bitman, not to be as desperate today as he was yesterday but to still be on the brink, or at least shaky. What's made him shaky is that he's seen McCord bouncing out there and probably walking out scot free.

P. Scot free and a hero.

H. And he doesn't like that. He figures here's my turn. And that he may go——

P. That's the way I would think all of them would feel.

H. And that he may decide to go with as much as is necessary to get himself into that same position, but probably would only go with as much as is necessary. There isn't a feeling on his part of a desire to get people, but a desire to take care of himself. And that he might be willing to do what he had to do to take care of himself, but he would probably do it on a gradual basis and he may in fact be doing it right now at the Grand Jury. He feels, in summary, that on both Hunt and Magruder questions we're not really in the crunch that we were last night. He is not as concerned as he was when he talked with you last night. We are now going with Silbert——

P. Who's that?

H. The U.S. Attorney is going to Sirica seeking immunity for Liddy so Liddy can be a witness. Liddy's lawyer will argue against immunity, for he does not want it. Dean's judgment is that (unintelligible) will probably fail. Sirica will grant it. Sirica's clear disposition——

P. If he doesn't talk, then he gets contempt. Is that it?

H. Liddy, if he gets immunity, his intention, as of now at least, is to refuse to talk. And then he would be in contempt. The contempt is civil contempt and it only runs for the duration of the Grand Jury which is limited. And as long as he is in jail anyway, it doesn't make a hell of a lot of difference to him.

P. I will almost bet that is what Liddy will do.

H. Well that's what Dean will also bet. Dean has asked through O'Brien-Maurolis for Liddy to provide a private statement saying that Dean knew nothing in advance on the Watergate, which Liddy knows to be the case. To his knowledge, Dean knew nothing about it. Dean would like to have that statement in his pocket and has asked Liddy for such a statement. Dean feels that he would want to give it. O'Brien raised the question whether Dean actually had no knowledge of what was going on in the intelligence area between the time of the meetings in Mitchell's office, when he said don't do anything, and the time of the Watergate discovery. And I put that very question to Dean, and he said, "Absolutely nothing."

P. I would—the reason I would totally agree—that I would believe Dean there (unintelligible) he would be lying to us about that. But I would believe for another reason—that he thought it was a stupid damn idea.

E. There just isn't a scintilla of hint that Dean knew about this. Dean was pretty good all through that period of time in sharing things, and he was tracking with a number of us on—

P. Well you know the thing the reason that (unintelligible) thought—and this incidentally covers Colson—and I don't know whether—I know that most everybody except Bob, and perhaps you, think Colson knew all about it. But I was talking to Colson, remember exclusively about—and maybe that was the point—exclusively about issues. You know, how are we going to do this and that and the other thing. (unintelligible) mainly, the labor bill, how do we get this, how do we get aid to the Catholic schools.

H. Getting that aid to Catholic schools, you know, was a—Colson's fight was with (unintelligible).

P. Right. That was what it is. But in all those talks he had plenty of opportunity. He was always coming to me with ideas, but Colson in that entire period, John, didn't mention it. I think he would have said, "Look we've gotten some information," but he never said they were. Haldeman, in this whole period, Haldeman I am sure—Bob and you, he talked to both of you about the campaign. Never a word. I mean maybe all of you knew but didn't tell me, but I can't believe that Colson—well—

H. Maybe Colson is capable of—if he knew anything out of that, but not telling you what we were at least—

P. Well, at least, nothing of that sort because as a matter of fact I didn't even know—I didn't know frankly that the Ellsberg thing, etc.—electronically thing—you know what I mean?

E. (unintelligible).

P. And I guess there you deliberately didn't want me——

E. Well, sir, I didn't know. I didn't know what this crowd were up to until afterwards.

P. Right.

E. And I told you, afterwards we stopped it from happening again.

P. Right.

E. In that setting——

P. That was in the national security?

E. That was in the national security leak thing. But the interesting thing about Colson, corroborative of what you say, is that when I got a phone call from Secret Service saying there had been this burglary—the first guy I called was Colson.

P. Yeah.

E. And his response, as I recall it, was one of total surprise and he could have said then, "Oh, those jerks, they shouldn't have; Or, "I knew about it earlier"; Or, referred to it by saying, 'It would have been a meaningful leak," but he didn't. He was totally nonplussed, the same as the rest of us.

P. Well, the thing is too, that I know they talk about this business of Magruder's, saying that Haldeman had ordered, the President had ordered, etc., of all people who was surprised on the 17th of June—I was in Florida—was me. Were you there?

E. No, I was here.

P. Who was there?

E. I called Colson, Haldeman and Ziegler and alerted them to this.

P. And I read the paper. What in the name of (expletive removed) is this? I just couldn't believe it. So you know what I mean—I believe in playing politics hard, but I am also smart. What I can't understand is how Mitchell would ever approve.

H. That's the thing I can't understand here.

P. Well, Magruder I can understand doing things. He is not a very bright fellow. I mean he is bright, but not—he doesn't think through to the end. But, Mitchell knows enough not to do something like that.

H. Yeah, but I will tell you what could have happened very easy there. Mitchell was Attorney General. He was using, legally, and sometimes officially he was using his great, great capacity to pull irons out of (unintelligible) everyday and you get into a mine center and you get used to that.

P. Could be. Could be.

H. You don't regard it with the same kind of feeling that—

P. Yeah. Could be. Could be. Well, anyway.

H. Dean says—he says—I did see Liddy roughly five or six times during that period of January 5 to June, and it was always on campaign legal matters. You know.

P. Well, I know. Dean—remember you always told me Dean made all these studies of it and—

H. I believe that. He said at one of those meetings I went to, I said to Liddy something about how is it going? He said he started to say I am having a hell of a time getting Magruder going on this operation and Dean said, "I told you, Gordon, that is something I know nothing about and don't want to know anything about, as a matter of fact."

P. That's right.

E. That was prior to June of 1972. Right?

H. Right. Yeah. Here's another factor, now that we know he is following up that point. He said as a matter of fact, the reason I called him on June 19—I said, "Now wait a minute. You called Liddy on June 19?" He said, "Yes. The reason I did, because Kleindienst told me that Liddy had come to see him on the 18th at Burning Tree. That was the day after the discovery on Sunday, we, ah—the purpose of that was to tell Kleindienst he had to get his men out of jail and all that. Kleindienst said I wish that damn Liddy would quit talking to me about this stuff. At that time, Liddy told Kleindienst that Mitchell had ordered it.

P. Oh.

H. That's true. You know though, Liddy was using that as his means for trying to get to the (unintelligible)

P. You know Mitchell could be telling the truth and Liddy could be too. Liddy just assumed he had abstract approval. Mitchell could say, "I know I never approved this damn plan. You've got to figure the lines of defenses that everybody's going to take here. That's Mitchell's. Right? What's Haldeman's line of defense? Haldeman's line of defense, "I never approved anything of the sort. I just"—you know that—What's Ehrlichman's? There is no doubt he knows nothing about it. The earlier thing—yes. We did have an operation for leaks, etc. What would you say if they said, "Did you ever do any wiretapping?" That is a question they will ask. Were you aware of any wiretapping?

E. Yes.

P. You would say, "Yes." Then, "Why did you do it? You would say it was ordered on a national security basis.

E. National security. We had a series of very serious national security leaks.

P. As you were saying on the——

E. Let me go back and pick up this business about tapes. I think—I have done some checking and I want to get the feel for what I would say if this Hunt thing slopped over on me.

P. Incidentally, my view is—I don't know Hunt—I don't think Hunt will do that.

E. I don't think he will either, because——

P. You don't think he is going to have to take a fall for (unintelligible) any burglary? If he does——

E. The, the line of response would be this as I see it. Starting back in the days when I was Counsel to the President, we were very concerned with our national security leaks and we undertook at that time a whole series of steps to try and determine the source of the leaks. Some of this involved national security taps duly and properly authorized and conducted. We had three very serious breeches. After I left the office of Counsel, I continued to follow this.

P. Yeah. At your request.

E. We had three very serious breeches. One was the whole Szulc group; one was the Pentagon Papers and the other was the Pakistan-India situation; but there were leaks all through there and so we had an active and on-going White House job using the resources of the Bureau, the Agency and the various departmental security arms with White House supervision. In this particular instance, Hunt became involved because at the time of the Pentagon Papers break we had dual concerns. We had concern about the relationship of this particular leak to other security leaks that we had across the government—Rand, etc.—and so we moved very vigorously on the whole cast of characters in the Pentagon Papers thing. Some of our findings have never come out. It was an effort to relate that incident to the other national security breeches we had, and also to find out as much as we could about this. We put a number of people into this that we had at work on other things. One was Hunt and he in turn used Liddy. I didn't know—and this is fact—I checked this two or three ways. I didn't know what they were doing about this operation in Los Angeles until after it occurred and they came to me and told me that it had been done and that it was unsuccessful and that they were intending to make a re-entry to

secure papers that they were after. I said no, and stopped it at that time. Young and Krogh operated that, the whole operation. From the beginning as a matter of fact with the Szulc leaks and so on and they laid it out perfectly. And Krogh is very frank in saying, "I authorized this operation in Los Angeles, no two ways about it." He said, "If I am asked, that's what I will say and I will resign and leave the Department of Transportation and get out of town." He said, "I thought at the time we were doing the right thing and——"

P. Should he?

E. I don't think he will have to. Number one, I don't think Hunt will strike him. If he did, I would put the national security tent over this whole operation.

P. I sure would.

E. And say there are a lot of things that went on in the national interest where they involved taps, they involved entry, they involved interrogation, they involved a lot of things and I don't propose to open that up to (unintelligible) just hard line it.

P. I think this is what you have to do there. But I want to get that one out. O.K. Go ahead.

H. All right, now. One information idea in talking with Dean that he proposed last night—he says he still thinks it is possible and has a good possible approach—he has been trying to take it apart. He says the approach, as he sees it, is that the President says here's what's been charged about the White House and about the Committee to Re-Elect the President. He puts it all in perspective in terms of political, you know, this kind of stuff goes on, this is all (unintelligible) about.

P. Yeah.

H. But we are now at a point where fact and fiction are becoming badly confused. We are involved in an intense political situation with the press, with the Senate Committee, you know, and others are prejudging this case—(unintelligible) then Weicker and others who are.

P. Various people will—defendants that are guilty, known to be guilty, are making charges.

H. Right.

P. Which should, of course, be—

E. The FBI is being falsely charged with inadequate investigation activity and duplicity and so forth.

P. (unintelligible) Justice.

E. The Department and the U.S. Attorney's office are being—

P. They're (unintelligible) questionable.

H. Now, no man is above the law and that is a basic principle we must operate on, but under these circumstances there's no possibility of a fair hearing and every man is entitled to the protection of the law and the public is entitled to the facts in this matter. But the people who are in charge and are involved are entitled to fair treatment. People who are involved, well wasn't any (unintelligible) in being involved. So, I've created a super panel which will have the cooperation of all investigative agencies. All the people who have been charged in this matter have volunteered to submit their entire—their facts—to this panel.

P. Be questioned by it.

H. And be questioned by it. They've agreed to waive their right to trial by jury.

P. What (unintelligible)

H. And the panel is empowered to act to remove anybody that it sees fit because of involvement, to level fines and to impose criminal sanctions. The defendants in the Watergate trial, the men who have already been—can also submit any information that they want.

P. Right.

H. Anyone who does not submit to the proceedings of this committee under these conditions—

P. Resign.

H. Will be faced with the fact that all information developed by the committee and all other sources will be turned over to the Justice Department for criminal prosecution. There will be no judgment until all the facts are received by the commission and then the commission will make public all of its findings and the reasons for all actions taken. They will proceed in secret and their decisions will be final and not subject to appeal. And the people appearing before them will voluntarily submit to that. What (unintelligible) is appeal.

P. How's that (unintelligible).

H. I don't know.

E. That's—that sounds like a little bit simpler than that—than what I originally thought he had in mind. He says—

P. Wonder if the President has the power to set up such a thing. Can he do that sort of thing? You know, that's the whole point. I don't think so.

E. Executive process.

H. By voluntary—

E. You get the (unintelligible) away. Yeah but it isn't—it isn't that guy. It's the fellow who doesn't submit who in effect is being denied due process.

P. You're right.

H. The information on him will be turned over to the criminal—might be he'd be subpoenaed.

P. No then you see you sort of condemned him by—

E. Negative inference.

P. Negative inference.

H. We're all condemned by negative inference right now.

E. I appreciate that, but that's—

P. You're not condemned in a court.

E. It's a little different. Well, I—that isn't, that isn't a salient point at all in this thing.

H. He feels that there are a lot of advantages on this and two major internal ones. It will take the panel a long time to get set up, get its processes worked out, get its hearings done and make its findings and then you'll probably be past the '74 elections which'll be desirable.

Secondly, the President maintains the ultimate stroke on it, because he always has the option on January 19 to pardon anybody who (unintelligible) a pardon. So the potential ultimate penalty anybody would get hit in this process could be about two years. His view would be to put—you need to get someone on the panel who knows politics.

E. Former Governor, or something like that.

H. But if you would want Earl Warren, he'll do it but it's not (unintelligible). What could that matter to the people. I said what do you do about Ervin. Well, you call Ervin down. You tell him the plans and explain why you're doing it, that justice is not being carried out now, there's finger pointing and a lot of problems. And you ask him to hold his hearings in abeyance until the panel serves its purpose.

P. And what if Ervin would say, well I'll hold my hearings in abeyance on Watergate, but not on other things. I'm guessing here.

P. That's their problem.

H. Then you ask,—

P. Oh, that's not theirs.

H. Then, I said, what if I asked Ervin to serve on the panel. He said he thought that was a pretty good idea. He said he probably wouldn't do it, but it'd still give him an awkward stand on a sticky position. The only other idea he comes up with is he said, "One thing you might want to consider is the President calling Mitchell in for a one-on-one talk. The President now has all the facts on this—(unintelligible) tell us. But I, Dean, don't know the facts on Mitchell." He said, "I think that Mitchell would not pull any punches with the President and if the President—that would be a way to find out what Mitchell's true perception of what did happen."

P. And that's probably the only way.

H. Supposing——

P. Suppose now, the fact that (unintelligible) took my time. Suppose you call Mitchell and say to him, will you—what do you learn—for what. And Mitchell says, "Yes, I did it." Then what do we say?

H. It's greater knowledge than we possess right now—if he would only confess.

E. I was just going to say, maybe if Rogers said it to him—

P. Mitchell?

H. Bill thinks—

P. Mitchell? Mitchell despises him.

H. Yeah, I know he does. That's all it is—I didn't call Mitchell because I need (unintelligible) but we should go ahead with Magruder, I think.

E. Right now?

P. Oh, I agree.

H. (unintelligible)

P. (unintelligible)

E. I say any idea of a meeting between you and Mitchell ought to wait until the Magruder, Haldeman, Mitchell meeting.

P. Oh, really?

E. And see what transpires there. Maybe the idea that Magruder says he (unintelligible)

P. What about the other way around. How about me getting Mitchell in and say, look (unintelligible) you've go to tell us what the score is, John. You have to face up to where we are. What do we say? How do we handle (unintelligible)

H. My guess is Mitchell would turn on you. I think Mitchell would say, "Mr. President, if it will serve any useful purpose for you I would come—"

P. Isn't it just as well for me to call and ask him to meet with Magruder? Or what do you think, John? I have not really had from Mitchell but I have had from Haldeman, I have had from Ehrlichman, I have had from Colson cold, flat denials. I have asked each of you to tell me, and also Dean. Now the President, therefore, has not lied on this thing. I don't think that yet has been charged. Liability has been charged, but they haven't charged the President with any offense. They are (unintelligible) in trying to protect his people who are lying. But I don't—doesn't anybody suggest that I (unintelligible) this whole damn thing?

H. As of now it is all saying that you are being ill-served by (unintelligible).

P. By my people. But I don't know about Mitchell. I never asked him.

H. (unintelligible). It can't hurt anything. (unintelligible)

P. I should get Mitchell down rather than ask him, don't you think?

H. Yeah.

P. What I've go to do is think in terms of my own plans. I will spend my day today on this, but I will have to clear the deck for tomorrow (unintelligible)

E. You could say, considering legislative legal insurance, they tell me that according to the information they have, they need some assurances where you are concerned.

P. Here is what Magruder is saying.

E. Magruder is saying—

P. I think I will tell him here is what Magruder is saying. I don't know really know what he is saying about the White House, but I understand he is saying that you signed off on it. Is that what Magruder is saying?

H. If Magruder goes public on this, then you know—

P. Incidentally, if Magruder does that, let's see what it does to Magruder.

E. It depends on how he does it. If he does it under immunity, it doesn't do anything to him.

P. All right—except ruin him.

H. Well, yeah. It ruins him in a way he becomes a folk hero to the guys—

P. He becomes an immediate hero with the media. You know, in terms of—I know how these things work.

E. Mike Wallace will get him and he will go on "Sixty Minutes," and he will come across as the All American Boy who was doing, who was just doing—who was serving his President, his Attorney General and they misled him.

P. Yeah.

E. And he can do it.

P. So—

H. And look at the alternative that he now sees. It is either that or he goes to jail on perjury.

P. How are they going to prove it?

E. With other witnesses, not through his own mouth.

P. What other witnesses?

H. Beats me. I don't know how they can prove perjury.

P. Hunt?

H. He has to be a great big gamble because he knows—let's assume—he knows he did perjure himself and if you know that you are guilty, you have to be pretty concerned about someone's ability to prove it.

P. That's right.

E. And Liddy and McCord, and Sloan and that little thing in McCord's letter about Sloan has to worry him.

H. If it's about Sloan. That's another thought. It may be about Barker.

E. Is he (unintelligible).

H. And it is more likely because Barker worked for him.

E. I see. Well—

H. Barker said he couldn't remember who he delivered the tape reports to.

(Material unrelated to Presidential actions deleted.)

P. Well, what is Mitchell's option though? You mean to say—let's see what he could do. Does Mitchell come in and say, "My memory was faulty. I lied?"

E. No. He can't say that. He says—ah, ah—

P. "That without intending to, I may have been responsible for this, and I regret it very much but I did not realize what they were up to. They were—we were—talking about apples and oranges." That's what I think he would say. Don't you agree?

H. I think so. He authorized apples and they bought oranges. Yeah.

P. Mitchell, you see, is never going to go in and admit perjury. I mean he may say he forgot about Hunt/Liddy and all the rest, but he is never going to do that.

H. They won't give him that convenience, I wouldn't think, unless they figure they are going to get you. He is as high up as they've got.

E. He's the big Enchilada.

H. And he's the one the magazines zeroed in on this weekend.

P. They did? What grounds?

H. Yeah. (unintelligble) has a quote that they maybe have a big fish on the hook.

P. I think Mitchell should come down.

E. To see you, me, Magruder.

P. Yeah. We'll have him come down at 5:30. (unintelligible) I would like to talk with him. You, Magruder and he and Dean—no, no.

H. Well, Magruder said he would be happy to have Dean sit in. It's my view, I don't think we want Dean to sit in.

P. (unintelligible).

H. I don't think so.

P. Magruder has got to know—I just don't—my own feelings is, Bob,—the reason I raise the question of Magruder is what stroke have you got with Magruder? I guess we've got none.

E. I think the stroke Bob has with him is in the confrontation to say, "Jeb, you know that just plain isn't so," and just stare him down on some of this stuff and it is a golden opportunity to do that. And I think you will only have this one opportunity to do it.

P. (unintelligible) said it isn't so before.

E. That's all the better, and in his present frame of mind I am sure he will rationalize himself into a fable that hangs together. But if he knows that you are going to righteously and indignantly deny it, ah—

P. Say that he is trying to lie to save his own skin.

E. It'll bend—it'll bend him.

H. Well, but I can make a personal point of view in the other direction, and say, "Jeb, for God's sake don't get yourself screwed up by—solving one lie with a second. You've got a problem. You ain't going to make it better by making it worse.

P. Hero for the moment, but in the minds of—

H. Well, then you've got Magruder facing all—

P. Let me tell you something—let me tell you something. I have been wanting to tell you this for some time. (unintelligible) always dealing with foreigners. Good causes are destroyed. Chambers is a case in point. Chambers told the truth, but he was an informer, obviously because he informed against Hiss. First of all, it wouldn't have made any difference whether the informer (unintelligible). First of all he was an (unintelligible) Hiss was destroyed because he lied—perjury. Chambers was destroyed because he was an informer, but Chambers knew he was going to be destroyed. Now, they've got to know that this whole business of McCord going down this road and so forth. I don't know the (unintelligible)

E. McCord is a strange bird.

P. Trying to get out. I have never met him. Ever meet him?

E. Nope. But Dean—

P. Tell me about him.

H. Let's go another one. So you persuade Magruder that his present approach is (a) not true; I think you can probably persuade him of that; and (b) not desirable to take. So he then says, in despair, "Heck, what do I do? Here's McCord out here accusing me." "McCord has flatly accused me of perjury—He's flatly accused Dean of complicity." Dean is going to go, and Magruder knows of the fact that Dean wasn't involved, so he knows that when Dean goes down, Dean can testify as an honest man.

P. Is Dean going to finger Magruder?

H. No, sir.

P. There's the other point.

H. Dean will not finger Magruder but Dean can't either—likewise he can't defend Magruder.

P. Well—

H. Dean won't consider (unintelligible) Magruder. But Magruder then says, "Look, if Dean goes down to the Grand Jury and clears himself, with no evidence against him except McCord's statement, which won't hold hold up, and it isn't true. Now, I go down to the Grand Jury, because obviously they are going to call me back, and I go to defend myself against McCord's statement which I know is true. Now I have a little tougher problem than Dean has. You're saying to me, 'Don't make up a new lie to cover the old lie.' What would you recommend that I do? Stay with the old lie and hope I would come out, or clean myself up and go to jail?"

P. What would you advise him to do?

H. I would advise him to go down and clean it up.

P. And say I lied?

H. I would advise him to seek immunity and do it.

P. Do you think he can get immunity?

H. Absolutely.

P. Then what would he say?

E. He would say, "I thought I was helping. It is obvious that there is no profit in this route. I did it on my own motive. Nobody asked me to do it. I just did it because I thought it was the best thing to do. Everybody stands on it. I was wrong to do it." That's basically it.

H. Magruder's viewpoint that to be ruined that way which isn't really being ruined is infinitely preferable to going to jail. Going to jail for Jeb will be a very, very, very difficult job.

E. (Unintelligible) he says he is a very unusual person. The question now is whether the U.S. Attorney will grant immunity under the circumstances.

H. Well he would if he thought he was going to get Mitchell.

E. Yeah, that's right.

H. The interesting thing would be to watch Mitchell's face at the time I recommend to Magruder that he go in and ask for immunity and confess.

P. John, what about this Commission?

E. The first step on that it seems to me is to sell Bill Rogers on the idea, if it's a good idea.

P. But the other thing first is to talk with Bill Rogers and see whether he comes up with a decent committee.

E. Well I would say first we've got to be convinced that it is a good idea. If the President's satisfied that it is a good idea, then we get Bill Rogers to—

P. Well you see to make it is—the problem that we've got here as everybody there felt at the time (unintelligible)—

E. There's glory in this for Bill. This is his idea.

H. You see you are saying Bill would publicly be the father of this.

E. Bill would be the father of this. He would go to Ervin and say I am terribly concerned about this whole business.

P. He would be the broker?

H. He came to the President and said this is what you must do.

P. Go to Warren?

E. He would go to Ervin and say I see this impasse developing between the Grand Jury and (unintelligible).

P. Might go to Judge Sirica?

E. I don't think he would. He's not really smart.

H. I know that, but why not see him? That's fine.

E. Either that or go to Burger (unintelligible) somebody in the Judicial branch and have them designate two senior judges from around the country who have retired—trial judge types. And just designate them at random. It takes it out of our hands. Ah, they represent the judicial and—

P. And not have Warren?

E. And not have Warren. No.

P. Warren is so old, you see.

E. He scares me to death.

H. Then you'd have to ask the Speaker—

P. The Warren thing.

H. and the Majority Leader—

P. No, I don't think the Congress.

E. No. They've already done that. I think you are off the hook on that.

H. You mean invite Ervin and Baker?

E. You invite Ervin and Baker and they decline. Then that is the whole story of the Congress.

P. Then just have the two senior judges.

E. The senior judges and—

P. Why don't we have a panel of senior judges rather than try to get—you talk about the former Attorney General and so forth—

H. I would take your senior judges.

P. You see, if we had the Chief Justice and a panel of three senior judges, or four—maybe Clark/

E. Maybe Clark as the Chairman.

H. Yeah.

P. Clark is a Democrat and a former Attorney General. He'd be the Chairman. A panel of three I think would make a lot of sense. Now they have to have a staff. How do we finance that? The Justice Department?

E. Of course (unintelligible). He's got an office over here in the Federal Building.

P. They would hire legal counsel—

E. What that does is tend to rob Ervin and the Grand Jury with yet a third investigatory group. It seems to me though, if it is just senior judges, you miss the genius of the fact that it's got to be executive, legislative and judicial.

P. Speaking of—why do that?

H. Executive is what's on top.

E. Executive in a sense that you have citizen members. You know, the public is represented. The government, the whole question of integrity—

P. By this (unintelligible) you forget Congress if you get just Judges. I think a panel of judges isn't all that bad either. A good standing panel of three judges.

E. I don't think it sells, though. That's the real trouble. Then you look like you are dragging a red herring across the trail. You have to have some kind of rationale—

H. Bill, last night, had some ideas on too—

P. Prominent Americans???

H. But then it has a reason for being and a reason for pre-empting.

P. What about making Clark chairman?

H. He could be called both an executive and judicial type, and then have two senior judges plus Ervin and Baker. There's a panel.

P. Well, anyway, let's (unintelligible).

E. I think in principle, though, getting a line around this whole subject is terribly important at this point rather than just bleeding this every day for hours at a time.

H. Sending down people to the Grand Jury—

P. Oh, I understand. I understand that. My point is, John, I don't think—people say, you have to get it out tonight for example. It isn't going to be done tonight or tomorrow night. We can't get it done that fast.

H. I don't think you want to anyway. I think you want to end the war and freeze food prices first and then do this.

P. I wish it were Friday.

H. Friday is the time to do it.

P. Good, that means we better get going today. Alright. Who talks to—should John Ehrlichman and you talk to Bill Rogers, or is that a waste of time?

H. As of now John should not, as Bill is very concerned about not talking to people about it. I already have, and I think I should.

P. Alright. Fine. You get Bill to come over. Say you want to talk to him first and that I want to talk to him. Fair enough? But you will say he comes over to see me. The second point is to call Mitchell. Maybe you better make these calls on this phone so I will know what the hell my schedule is this afternoon.

E. I am going to meet with Kleindienst—

P. Yeah.

E. On these other subjects.

P. Alright. What do we want Kleindienst to do?

E. We want to raise this thought with him in a hypothetical way.

P (Characterization deleted). The only thing I would say on Kleindienst at the moment is tell him we are going to have to break with Gray who is killing us. We need to know what Gray's going to do. Can we handle it that way?

E. How are we run the Bureau—

P. Who runs it, etc. etc. I don't know what Kleindienst knows or believes about this damn business. I once said to John or to Kleindienst, you know the man they are really after is John Mitchell. He said, "Oh, no, they are not after John Mitchell." I said, "Did you ever talk to him about it?" He said, "Oh, no." He has never discussed the damn thing with Mitchell. I wonder—

H. Well, damn it, he talked to Weicker. Now Weicker is out today with another statement.

P. What did he say today?

H. He has absolute proof that it goes to the White House staff and he is not going to name names until he gets his evidence in hand but something will turn up eventually.

P. Well, what—Kleindienst—well, raise that with him again.

E. Well Weicker (unintelligible)

H. He ought to say, "Well, I talked with the Senator and he told me he didn't have any. Now he is back out in the press again. I don't undertsand that."

P. Well, who is Weicker. Who does he think he is talking about?

H. I have no idea. I don't know. I don't know who it can be.

P. Maybe it's this—ah—has Magruder talked to Weicker?

H. I don't think so.

P. Where is Weicker getting this?

H. Porter talked to everybody he can, including Mary McGrory.

P. McCord at the present time only fingers—his present finger is pointed only at two people, Dean and Magruder, so far.

E. And of all people McCord would be in a position, I think, to involve Mitchell. He spent all that time with Mitchell and Martha.

P. But the question is whether McCord has got anything on the White House staff.

E. No, no. Hell, nothing.

P. Have you talked to McCord? I do think Kleindienst has got to take up the leading oar on this business of Weicker right away.

E. Right, Again.

P. Again—he got him in today—

E. Did Weicker have much to do with Gray?

H. Yes. He's a friend of Gray.

E. Might have come from Gray. I don't know.

H. Weicker has very much to do with Gray. Weicker is Gray's sponsor. Weicker was against the White House before they sunk Gray and Weicker has issued a very vicious statement about us. This doesn't reach to the President but it sure gets to those sons-of-bitches around him, and I think he almost uses the words sons-of-bitches. It's as close to it as he could get. Those terrible people around him, evil men.

P. Have you thought about Colson?

H. That's what Dean thinks.

P. Dean thinks Weicker is talking about Colson?

H. Yeah, I think he does. He thinks it is Chuck.

P. Do you think Gray would talk to Weicker? John, has Gray ever talked with Colson?

E. Not to my knowledge—

H. I don't think he has.

P. John, you would have no problems to talk to Pat Gray and ask him what the hell Weicker is up to. Do you mind?

E. Not at all.

P. I think you should. "We can't understand what you are doing here on this. If there is anybody, the President wants to know."

H. Why the hell does he tell the newspapers instead of (unintelligible)?

P. And ask him, as the Director of the FBI, to ask Weicker what it is. He, as the Director of the FBI, is supposed to get all the information he can now. If there is anybody, the President wants the information. Let's try to get to Weicker through Gray. Do you mind trying that? I would like you to try that very soon, like one o'clock.

E. Right away.

P. You go find out about Weicker. What time do you get to see Kleindienst?

E. I don't know. They were setting it up when I came over here.

P. All right. We're going to set up a meeting with Magruder—not right now. Mitchell first. Get him first.

H. Mitchell? All right.

P. You know John, let me add, there is one thing here that Kleindienst might look into. I was pointing out that (unintelligible)—Of course, you have to change Gray. You know that. Kleindienst, I think you have to ride with that a while. I don't think you can just kick the Attorney General out like that, you know. He was going to go anyway at a certain time, so he can go. Beyond that the point is to say that members of the White House staff who are indicted, etc., they would have to take a leave of absence—suspended—leave of absence. Say that you and Bob would have to in the event you were named. I think they have to mention cutting off at the pass some place here and I believe—put it this way, (unintelligible) the spectacle of their just taking the whole damn White House staff up. There is someplace where you've got to cut them off.

H. Once you establish it, that you are following that route, if they were smart they would just start naming everybody just so you'd have no choice.

P. There is no way except that, Bob.

E. What I am getting at here and, maybe that isn't the way to do it, I don't know, is to insulate you, number one.

H. Well, that doesn't bother these people.

E. To make you appear to be ahead of the power curve and also to have some symbolic act of absolution after the thing is over, by being able to take them all back on. And say, "Alright, we have been through the whole thing. They fired the worst they had, but didn't make the case. I am taking this fellow back and reinstating him with full status." So obviously that is the reason. I can see the practical problem you would be faced with: you've got an awful lot of guys around here who like to—

H. Hold each other off, you know.

P. That isn't the problem. The problem is not the fact that we can't run the shop. We can run the shop, maybe not as well, but we can run it. But on the other hand, you say—like—let's—suit yourself—let's use Haldeman, because Haldeman could really beat these charges. Say Haldeman wanted to leave then—

H. (Telephone rings) (Haldeman answers telephone) Hi, John: Any chance of your coming down? That's ok. Ah, could you come down first thing in the morning? Tonight? Which would you rather come? Yeah, Yeah. Ok. Well, this is to see me and also the other fellow. Good. Check out a couple things again. You mean that Commission thing. Yeah, what's your feeling on that?

H. She goes a little far on this thing about your baiting Marquis Childs and all that sort of thing. And not necessary. Just set up the Commission and let them report out their findings with the idea that criminal law and prosecution will evolve. It is a blue ribbon, four star grand jury. That's really what it is. Ah, one other thing that—delay in your coming down would be bad. Did he tell you that Jeb wants to meet with you? Oh, he is. Ok. That's the—I thought, well—the last I heard he wanted to get together with the two of us and now it is the next thing we are going to take a stab at down here. If he is there, you will have covered that ground with him. Ervin? Full Committee. No, no. That's a weak reed. Nothing. Yes. Well, we'd be glad to do it. There has been specific follow up on specific items, but he does. If you call and say, "Call somebody and say this," he calls somebody and says exactly that and calls back says, "Well, I didn't get any answer and that is the end of that." There is no initiative and there's no stuff beyond the vegetable. But Dean says we aren't getting that either. I'll—do you think I should talk to Kleindienst? You do? Ok, ok. On any of the Committee and indeed the Grand Jury. Ah, what will you do, have the office call what time you will be here? Ok. Right. Thanks. Yes, sir. Sure, Sure. Ok.

H. Magruder is with him right now.

P. What did he say about a meeting?

H. He is coming down the first thing in the morning.

P. Don't wait. What I meant is, I would like to get a report on his conversation with Magruder. Would you call him back on that?

H. Sure.

P. Do it this afternoon.

H. (unintelligible). It's worth a try, though.

P. Keep trying. It is now one o'clock, so probably—

H. Secretary of State, please. Yes, please.

(Telephone rings.)

P. Will he do it—what did he say?

E. The only thing he knew was that Kleindienst had reported to him briefly that he had a very amicable meeting with Weicker, but he didn't go into any of the details of the meeting. I suggested to him that he talk with Kleindienst first to find out what Weicker had said to Kleindienst before he, Gray, contacted him.

P. I don't want to—

E. Then I suggested to him—

(Telephone rings.)

H. Bill—could you come over this afternoon to meet with the President? What's your time? We ought to get together for a few minutes ahead of—give you some background on what we have done. What's the earliest convenient time for you? Two o'clock? Is that alright? Is it? Ok. Make it that you have an appointment with the President.

H. Wait a second.

P. Bob, I've got Mrs. Boggs at 3:00, so make it 1:30 so that I see him at 2:30.

H. How about 1:30? Good. With me, because the President is tied up for a few minutes at three and we could go over at 3:15 I think I would say with the President. Yeah, and just drop in my office on the way. I think your record ought to be a meeting with the President. Ok.

E. So Gray is going to do this. He is going to check with Weicker and then I left it with him that he either report through me if it were appropriate, or if not, to you direct, so that—

P. Is he going to call Weicker in?

H. He is going to Weicker?

E. He is going to see Weicker.

P. That's good.

H. Yep.

E. Today. I don't know where Weicker lives but mostly he (unintelligible) here—

P. What the hell makes Weicker tick?

E. Nobody's been able to figure that out.

H. He sure must be mad at one of us. I don't know who or why.

P. I am anxious to get his report. You know what I mean. I don't know.

E. I don't know of any specific spies of his down here at all. I have heard that he is just establishing his independence at this point against the upcoming Committee hearings.

H. Undoubtedly he's meeting with Jeb Magruder.

E. Oh, really?

H. He could have done it.

E. How about that?

H. That isn't why he's been at Weicker's office too. He says he could come down later.

P. He says at the market house?

H. I think he said market house. I don't know. I think—

E. I know what he means!

P. I really think I should not try to do that speech Thursday night. There are more important things.

H. No, sir!

E. That's the most important thing, that you keep the momentum of the business going—

P. I know, I know. I just meant though—I am just thinking—having this long seance with Mitchell tomorrow is going to be very difficult. Well, I will get it done. I will try to do—At least let's not have this difficult a schedule on Thursday. Keep one day of personal preparation. Although I feel pretty well.

(Material unrelated to Presidential actions deleted.)

P. Anybody else that you can think of to mull over this plan? Rogers is coming in at three. Well—

E. I will see Kleindienst. That's settled—

P. You'll see Kleindienst? When?

E. This afternoon at three o'clock.

P. Three o'clock, and then I think, when—huh?

H. Should I also see Kleindienst? Should I, or should John be the only one?

P. John, you do it.

H. That's what Mitchell was asking. Mitchell is very distressed that Kleindienst isn't stepping up to his job as the contact with the Committee, getting Baker programed and all that (A), and (B) that he isn't getting—see Dean got turned off by the Grand Jury. Dean is not getting the information from Silbert on those things said at the Grand Jury. And Mitchell finds that absolutely incompetent and says it is Kleindienst's responsibility. He is supposed to be sending us—

P. Ask Kleindienst, John, put it on the basis that you're not asking nor in effect is the White House asking; that John Mitchell says you've got to have this information from the Grand Jury at this time and you owe it to him. Put it right on that basis, now, so that everybody can't then say the White House raised hell about this, because we are not raising hell. Kleindienst shouldn't—where are you going to see him, there or here?

E. In my office.

P. Have a session with him about how much you want to tell him about everything.

E. Ah—

P. I think you've got to say, "Look, Dick, let me tell you, Dean was not involved—had no prior knowledge—Haldeman had no prior knowledge; you, Ehrlichman, had none; and Colson had none. Now unless—all the papers writing about the President's men and if you have any information to the contrary you want to know. You've got to know it but you've got to say too that there is serious question here being raised about Mitchell. Right? That's about it isn't it?

E. See Magruder is playing—the game is interesting here. McCord is throwing off on Magruder and Dean. Why he picked Dean, I don't know.

P. Why did he pick Dean to separate? Dean was in the news I guess.

E. Now wait a minute. Alright, not as much as Magruder. Magruder, too. What is shocking to me is his blowing off against the one fair guy you wouldn't think he would cut up, against Haldeman.

H. Yeah. Yeah, because he had thought—

P. He didn't pick Strachan. Nobody would care about Strachan—

E. But they care a hell of a lot about Haldeman.

P. And then Magruder was made by Haldeman.

E. Yeah.

P. And he also knows it's not true.

E. Oh, —

P. I can't figure it out.

E. Well, I wouldn't be surprised if McCord has been led by Committee counsel. You see all the stuff about—

P. Dash.

E. Yeah. All the stuff about Dean comes in the LA Times story. It doesn't come in the McCord letter.

P. Yeah.

E. And Dean is the logical target of the Committee.

P. Bob, how do you analyze Magruder tossing it off to you rather than to Mitchell? That startled you, didn't it?

H. Well, he hits Mitchell too. He is just trying to wrap me because he wants to get you in. I think my view is that what Magruder was doing here was firing a threat to the President and intends to say it—I don't think he intends to use that so much as he intended—he is trying to get people shook up.

P. He isn't asking to see me is he?

E. Oh, no. He is trying to get a line around you for his own protection.

H. In other words, if all Magruder is going to do is take the dive himself, then we are not going to hear about it. If he makes us worry that he is going to get Mitchell and you and me—

P. John, do you see any way though, any way, that Magruder can stick to his story? No.

E. Yes, because he's an ingenious—

P. Stick to his story?

E. He is an ingenious witness. I think, I am told, if he is really as good as they say he is as a witness, it is possible that he could get away with it. Ah, it's arguable.

P. It's his word against McCord.

E. And he is flowing with the stream, you see. He is saying the things they want him to say.

P. No, no, no. I don't mean if he says—

E. Oh if he sticks to his old story—I see, I see. I thought you meant the story he is laying out here.

P. Oh, no no. This story. They would take that in a minute.

E. I tell you I am to the point now where I don't think this thing is going to hold together, and my hunch is that anybody who tries to stick with a story that is not susceptible to corroboration is going to be in serious difficulty.

P. So, what do you feel then?

E. Well, that is why I said I thought he ought to move to a real and immune confession of perjury if he can do it. There's too many cross-currents in this thing now.

P. Yeah. This is my view. If Magruder is going to lie about it, you know, I am sure he checked it out. If Magruder is going to say then—then what the hell is in it for him.

H/E. Immunity.

P. Well, if he gets immunity—do we have—can't the U.S.—Who grants immunity? The judges?

E. Sirica grants immunity in the Grand Jury proceedings; Ervin grants it in Congressional proceedings; the Attorney General can grant it in anything.

P. Could the Attorney General Grant it in the Congressional?

E. No, but what he does there is informally work out with the Congress the pendency of Justice Department action.

(Material unrelated to Presidential actions deleted.)

P. This is a bad rap here. We are not going to allow it. Our real problem is Mitchell. Now what about this? What are you going to do about it? He knows damn well Mitchell is right. Of course, we ought to know—can't the Attorney General call Silbert, or is that too dangerous for him?

E. Well he doesn't have to do that—Henry Petersen follows that thing on a daily basis.

P. Henry Petersen?

E. Henry can let Dick know, and that's all there is to it.

P. Alright. You just tell Dick. You see the problem is, there, that Dick thinks I am—if he says he has furnished the Grand Jury things to the White House that there is a problem.

E. It's a tender problem. I think what he has to do—

P. No you could say this. Our need—our interest here—you could say is whether there are any White House people involved here and we will move on them.

E. That's right. And the President wants to know.

P. That is the purpose. Not to protect anybody, but to find out what the hell they are saying.

E. Absolutely. That is the only basis on which to go.

P. What have you today? Get every day so that we can move one step ahead here. We want to move. We are not going to wait until a Grand Jury drags them up there.

E. Ok, I will let you know as soon as that is done.

P. I wonder if we aren't in a position to talk with Rogers and so forth, and get all the evidence in.

E. Judge Sirica. That's, in effect, what you would do if you sent everybody down to the Grand Jury. I think the Judge does not have—

P. You don't think sending them to the Grand Jury is a viable option?

E. This idea doesn't appeal to me.

P. I am just thinking. I know picking out these commissions are so difficult, so (unintelligible) as the good doctor says.

E. Well, think about it in these terms. If you came out Friday and said, "Ok, I will get this thing cleared up, so I am going to send every man jack of the White House down to the Grand Jury to hang. Sure. Sure. You lay it out, directly or indirectly. I have talked to the Judge and he assures me it will be done very expeditiously and, ah—

P. What I was thinking, you see, as an alternative—the Judge has now come out as a white knight here. The judge is—and incidentally, we can say in a sense that the Judge has given a sentence of 55 years to somebody who had no former offense and so forth and so on—but the reason Sirica is doing this is much deeper, is because he thinks there is a cover.

H. Sure.

P. I don't think you can hold that against the Judge. You know, I mean—I do in a way, but you know—

E. He is the proprietor of the Court Room and he tries to conduct trial, to get publicity. That's what it is.

P. Yeah. Another alternative that I thought of, rather than try to set up another procedure, call the Judge in and say, "Judge, we will carry out this investigation by sending them all down here and you can question them. I want everybody here and I want to get to the bottom of this thing. You will have my total backing." Now that is another way to do it.

E. That's ok, as long as you then get out front.

P. Well, I—

E. The thing that I get over and over and this conversation with the Judge—"

P. Yeah. Well, that's what I mean. That's what I would say.

E. The thing that I get over and over and over again from just ordinary folks—

P. Right.

E. "Why doesn't the President," so and so and so and so.

P. "Say something what's he done on it?"

E. Yeah. So symbolically you've got to do something.

P. That's right. Do something so that I am out front on this every—they don't think the President is involved but they don't think he is doing enough.

E. That's it. That's it.

P. No matter how often we say we will cooperate—as you know we have done—and on and on and on—

E. They don't believe that at all—it is not getting through. Ziegler is not sufficiently credible on this.

P. That's right.

E. In a sense, because—

P. What about the Judge business? Let's look at it that way, rather than the Commission.

E. Well, then what you have done is you have said, "I will send John Dean; I will send Haldeman; I will send everybody to the Grand Jury. No immunity, just send them down there to testify. Let it all come out.

P. What's that mean to the Grand Jury?

E. (unintelligible)

P. No, I mean I'm not going to—

H. On the Grand Jury strategy, do you say, "I am waiving executive privilege?"

E. I think you do.

P. Yeah.

H. I think you do.

P. Now Colson disagrees with that one, doesn't he?

H. He says you're nuts.

P. No. I can say, consistent with that—when you say executive hearings, you mean—

H. You instructed us to be as forthcoming as we can—

P. All the facts that have to do with any of this thing, this thing here, there is no—I consider no—

H. But you don't specifically say you are giving up executive privilege.

P. No privilege will be claimed unless it is absolutely necessary, or something like that. We will work out something.

E. That will be the following question, the minute that you say that.

P. For me to say that on all matters that relate to this particular matter, "Yes, that is what I would say executive privilege is waived on." I think you've got to say that, Bob.

E. You could say this. You could say I have never had a communication with anybody on my staff about this burglary—

P. Therefore—

E. Or about Segretti, prior to—

P. Segretti, Segretti is not in this court so that is no problem.

E. Well—then alright—

P. I have never had any—

E. Since I had no communication with anybody on the White House staff about this burglary or about the circumstances leading up to it, there is no occasion for executive privilege in this matter.

P. With regard to this, I want you to get to the bottom of it. So there will be no executive privilege on that. On other matters—

H. And that takes you up to the June 17th. What do you do after June 17th?

P. Use the executive privilege on that.

E. Yeah, but there would be questions like, "Did you ever discuss with the President, Mr. Haldeman, the matter of executive clemency for any of these defendants."

P. Both of them say no.

H. Or the payment of money. The payment of—

P. Haldeman and Colson would both say no, there's no question.

H. Since you want to waive privilege so that we can say no, rather than invoking it—

P. You can say that.

H. I think you've got to say that because basically their situation—Well, Colson will be very disturbed by that and he must have a reason why he would.

P. Well, why don't you get (unintelligible) in so that I can hear it clearly and I will know. What is it, Bob, as you recall at the moment, and then I will let you go. Colson says don't give anything away that you don't have to, but you don't have to, but you don't know what the hell is going to happen to you if you go in and lie.

H. His thing is don't do any line to break your privilege, because if you get into (unintelligible) you may want it.

P. But don't use my privilege. Why don't we just say, "With regard to this (unintelligible)?

H. And then get a John Dean problem. What about all your lawyer/client privilege?

P. Lawyer/client with me—

H. Yeah.

P. Well, that's fine. I said that is a matter that has to be decided upon.

H. No lawyer/client with other members of the staff. Only pertains to his role as your (unintelligible) our role as your agents.

P. Well, I think we can work something out. John, consider for a moment the play—not for the big thing—incidentally I should put this down—or I would just say "The place that this should be—"

E. You see the argument that could be made.

P. I know the Judge is tough and all that sort of thing. The argument could be made. There is an honest judge. He will get the facts. The argument could also be made by (unintelligible). When criminal charges are involved, the proper place for those to be considered is not in a kangaroo court of this Congress that drags on and on and on, but before a Grand Jury. And indictments, indictments would be heard before a Criminal Court. Under the circumstances (unintelligible)—

E. Ervin's answer to that will be the President is trying to fight this battle on his battleground and it is obvious he wants his FBI, his Justice Department, his prosecutor—

P. But not his Judge. You see the one strong point is—Rogers had raised, not in this connection but with Bob—is that the Judge out of this is the big white knight now. He is as clean as a hound's tooth. He is as clean as anybody you can find.

H. You ask the Judge or direct the Judge or request the Judge—You can't direct a Judge.

P. No.

H. Request the judge and highly recommend to the Judge that he appoint a special prosecutor.

P. That's right.

H. The President's Justice Department, therefore, the President's FBI, the President's Special Prosecutor—

P. Let me say the same thing is going to happen before a Commission in the long run. Let's face it. They'll have special prosecutors who will want to make a name for themselves. Everybody wants to make a name for themselves in this (unintelligible). They'll drag it on and on and on. The idea that a Commission might go through the '74 election, etc.—my view is I can't have this (unintelligible) I think the damn thing is going to come out anyway, and I think you better cut the losses now and just better get it over much sooner and frankly sharper. Let's just say, "Well Judge, let's go."

H. How come all the rush now? You're not committed to this route. You are not necessarily forced to come out now Magruder can stay with his own position if he wants to.

P. Of (unintelligible).

E. Anybody would say—

P. What I meant is, John, if you called the Judge in and say, "Look Judge, you recognize that—while we've never met—that I would strongly recommend a special prosecutor," if he doesn't have confidence in the present prosecutor, "but you can pick anybody you want. Now have at it. That I will—"

E. I think that is something to talk to Kleindienst about. I'll talk to him.

P. You talk to him and Bob I think you should talk to Rogers about his.

E. Special Prosecutors, as Rogers points out, is a slam at the Justice Department, which is already in trouble.

P. It needs to be slammed. The Judge, in other words the idea of killing—

H. It's the popular route—

P. The idea, the President gets the Judge and says, "Now you are an honest judge. You are doing your job. Those special prosecutors have nothing to hide here. Alright, let's go.

E. I don't think the Judge appoints him. I think the Attorney General appoints him, as a matter of fact.

P. Well we can say, "if you want a Special Prosecutor, the Attorney General will appoint one. Kleindienst says he is a good friend of Sirica's, or whatever, so—

E. Yeah. He could work it out.

P. "He will appoint a special prosecutor if you request one."

H. Well, would it be acceptable to you even though he told you he wanted one? So that you get it out of the—

P. I am inclined to think that—I feel that that kind of a move—of course if he names (unintelligible) we could do that right tomorrow.

E. Uh, huh. Well, would you want to on television tomorrow?

P. No, but the way I would do the television—I am not planning to do this before—at 9:00 o'clock, on prime time. I would do this in the Oval Room; no make up at all. In other words, that's enough right there. What the hell, I could say I have done this, I have—I want to get to the bottom of this and what have you (unintelligible) Ok, John? Airight.

E. Surely nothing troubles me.

(Materials unrelated to Presidential actions deleted.)

P. Well you have plenty to do at this point. Inform me as soon as you get something from Gray on Weicker? Inform me as soon as you've got something on Kleindienst. Alright?

E. Yep.

P. I would have a real workshed with him. Just say, "Mitchell is just damn disappointed," and he will listen and he will jump up and down and shout. But what the hell, I am always kind. But you just say I want to level with you.

Appendix 10. Telephone conversation: Ehrlichman and Kleindienst, March 28, 1973:

E. The President wanted me to cover with you. Are you on an outside Line?

K. I'm at my parents' house.

E. Oh, fine, OK, so it's a direct line? Number one, he wanted me to ask you those two things that I did yesterday about the grand jury and about Baker. He had me call Pat Gray and have Pat contact Lowell Weicker to ask Weicker about this second story that he put out yesterday to the effect that he had information about White House involvement. And Weicker told Gray that he was talking there about political sabotage and not about the Watergate.

K. About the Segretti case?

E. Yeah, and that he was quite vague with Pat as to what he had.

K. I called him also, you know, after I talked to the President on Monday.

E. Well, the President's feeling is that it wouldn't be too bad for you in your press conferences in the next couple of days to take a swing at that and just say we contacted the Senator because we continue to exercise diligence in this thing and we're determined to track down every lead and it turns out he doesn't have anything.

K. I would really at this delicate point question the advisability of provoking, you know, a confrontation with Weicker. He's essentially with us, he and Baker get along good.

E. Is he?

K. Baker has had a long talk with him and told him to shut up and said he would and I talked with him on Sunday after he said he didn't have anything but he's kind of an excitable kid and we just might not want to alienate him and I think that if he finds himself in a direct word battle with the White House and me and loses face about it I think in the long run we might need that guy's vote.

E. I see. You don't think that this is evidence of alienation to the point of no return then?

K. No. You mean by Lowell?

E. Yeah.

K. No I don't. He's pretty disenchanted with the whole concept of it. Connecticut politician—

E. Well, use your own judgment on it, Richard.

K. On TV I guess 7 or 8 times this Sunday when I finished my testimony before my appropriations committee all three networks I referred to the letter that I sent to Sirica and I also emphasized and repeatedly said (a) the President wants this investigated, let the chips fall where they will but secondly that if anybody has any information we not only want it we expect to get it so we can investigate it and if necessary indict other people and that anybody who withholds information like that is obstructing justice. But I did not refer to Weicker. And my judgment right now is not to do so.

E. OK, OK.

K. If he gets to that point, the hell with him.

E. Well, our uneducated and uninformed impression was that he was trying to develop an attack line here on the White House or the President.

K. If that . . . if we would conclude that that is what he's up to that he is completely alienated then I say we've got to take him on.

E. Well, keep track of that and you'll be talking to Baker and you get a feel of it. OK, now, the President said for me to say this to you. That the best information he had and has is that neither Dean nor Haldeman nor Colson nor I nor anybody in the White House had any prior knowledge of this burglary. He said that he's counting on you to provide him with any information to the contrary if it ever turns up and you just contact him direct. Now as far as the Committee to re-elect is concerned he said that serious questions are being raised with regard to Mitchell and he would likewise want you to communicate to him any evidence or inferences from evidence on that subject.

K. With respect to them, unless something develops with these 7 people who were convicted all those people testified under oath before a grand jury and their testimony was not contradictory and until something comes along I think this fellow McCord if he has something besides his own testimony in addition to that to refute the sworn testimony, then you'd have to do it. The comment that I made yesterday about McCord was that it takes——

E. Take him for what he is.

K. He's facing a long jail sentence and he has all kinds of motives to say all kinds of things but I also pointed out that most of the people, well, these people who were involved were interviewed by the FBI and they testified under oath before a grand jury to the contrary of what McCord is saying. But I understand the President's direction.

E. He's concerned about Mitchell.

K. So am I.

E. And he would want to have a private communication from you if you are possessed of any information that you think he ought to have with regard to John.

K. Now he ought to think about John—McCord or Liddy or Hunt or any of these 7, you know, testify under oath specifically to their knowledge they have a basis for saying so that Mitchell or any of these guys knew about it; we have a very serious problem. Possible perjury, possibility of going back to the grand jury, they have a grand jury determine when anyone should be indicted. When you talk about Mitchell and me that really creates the highest conflict of interest. And we want to give some thought to having in such an event having a special prosecutor.

E. What is the procedure for that?

K. Well, I don't know. I think that the President could appoint somebody as a special prosecutor to direct the FBI to cooperate with him, giving them an opportunity to hire some attorneys, you know, on his staff and then just have complete authority to have his own investigation and if there's evidence that comes out that there were acts of criminal behavior have them presented to a grand jury then proceed with it.

E. Could you have somebody brief out how that's done? Just so we know? And the question would be whether the President or Sirica or you or you know who actually does it?

K. Well it wouldn't be the judge. The judge has no jurisdiction. I think it would be the President.

E. OK.

K. But it has its own problems that by doing that you in effect say publicly well OK the Department of Justice and the Attorney General the U.S. Attorney and the FBI all corrupt. I've now found that out and have got to get myself a new—

E. Of course we've resisted that right straight through.

K. I think that we have to do it in the event that it appears that Mitchell himself is going to be involved in any further litigation because all the men who are doing this who have worked for him been appointed and I think if it came down to him that that's what I would seriously start thinking about, recommending.

E. Also this business of the grant of immunity to witnesses before the grand jury, is that peculiarly in the province of the court?

K. No, that's the Department of Justice.

E. That is?

K. In almost every criminal case of any consequence when we convict somebody the next thing to do is haul them back in before a grand jury to find out what they know. You have to do it in this case—always going to do it. Quite a limitation posed on us John is that—who couldn't cut it (inaudible). But you have two really distinct situations here. You have the Watergate inquiry by Senater Ervin, that's the political side of it. And then you have the obligation imposed upon us to investigate criminal conduct. Two separate distinct operations. They're getting all fuzzed up.

E. What progress are they making right now, have you had a reading on it?

K. Well, the last time I talked to Henry Monday because of Sirica's sentencing procedures it got a little boxed up. Sirica is really lousing this thing up. I don't know. I'm going to talk to Petersen this morning and I'll call you back .

E. OK, great, that's all I had on my list.

K. Thanks, John.

E. Now, he said that there was a possibility he'd like to see you in San Clemente Saturday morning first thing. So you might just keep that in the back of your mind. Don't rearrange any of your schedules or anything but I'll let you know if that materializes. We'd send a chopper up to LA for you. Thank you.

K. OK.

Appendix 11. Meeting: The President, Ehrlichman and Ziegler, Oval Office, March 30, 1973. (12:02–12:18 p.m.):

Someone left the room after having a picture taken.

E. We have, I think, a useful statement that has been cleared by Dean and Mitchell and is directed with the cover-up charge.

P. Do you want me to read it?

Z. I think you probably better.

P. I can read it (unintelligible) discuss and so forth. Or do you want to read it?

Z. No, well it's not a statement, Mr. President, it's some talking points for me.

P. Yeah—O.K.

E. The brackets at the top go to the end.

P. Could we say—could we add one thing here? Say this for the last. Every—I've called for an investigation on the White House staff—is that? And—every—every. This is a statement of the President?

Z. No—no—I would make it.

P. Yeah—yeah—the President called for—fine. Every member of the White House staff who has been mentioned (unintelligible) mentioned as a—has submitted a sworn affidavit to me denying any knowledge of.

E. Any prior knowledge.

P. Any knowledge of or participation in. Could we say this?

E. No—I wouldn't.

P. Why? Not true? Too defensive?

E. Well, number one—it's defensive—it's self-serving. Number two—then that establishes the existence of a piece of paper that

becomes a focal point for a subpoena and all that kind of thing.

P. (Unintelligible) something.

(Long pause.)

P. Members of the White House staff would welcome an opportunity—Are we going too far and urging the Grand Jury to do it?

E. Well—that's—we were farther over and we've come back to welcome. I don't know. Maybe that's still too strong.

Z. We should tell the President about the framework which will be giving this. There's a leak out of the Committee—

P. Oh.

Z. For the Re-Election of the President and the suggestion that you have waived the—the restriction on—on Dean being

E. The Dean thing. See, we cleared it with Mitchell, we cleared it with Magruder and with Dean's lawyer.

E. And Dean thinks it was Magruder that leaked it.

P. Members of the White House staff. Well, (pause) I don't know whether you can say "would welcome the opportunity". Why don't you say, members of the White House staff will, will appear before the Grand Jury in person at any time the Jury feels it's relevant and furnish any information regarding that individual's alleged knowledge. You see what I mean? I don't think you say would welcome. Will appear—will appear before the Grand Jury if the Jury feels it is relevant. Furnish any information of an individual's alleged knowledge. (pause) Have you got it in hand?

Z. Well, except for that it is only for me, as a talking piece.

P. Yeah. Have you had it? If the Grand Jury feels it's relevant, members of the White House staff, by direction of the President, will—will appear before the Grand Jury. I think that's a little better than the idea that members of the White House staff would welcome. Don't you think so John?

Z. By direction of the President.

E. Right.

P. By direction of the President will appear before the Grand Jury and furnish any information regarding that individual's alleged. I like that a little better.

E. OK.

(pause)

P. I would say it is not the objective of the White House however to draw a curtain down over this matter, to cover up this matter, cover up this matter, and to withhold any information.

(Long pause.)

P. Why don't we say that we admit there are, of course, other informal ways that could be used. We are ready—we are ready to—say—we are ready to discuss those procedures with the Committee. No, and we are ready to cooperate with the Committee to work out the procedure—to work out a proper procedure—be proper to work out a proper procedure. How's that, John? Is that all right?

E. That's all right. You want to say, we continue to be ready?

P. No—just say, we are ready—let's—that's a little.

E. All right.

P. We are ready—we are ready to work out—to work out—that's right. Let them see that we are backing down a bit.

E. All right.

P. Ready to work.

Z. And then who should we get to say this?

P. We get.

Z. Well, John?

E. Well, now, you've given Kleindienst the franchise.

P. Yep.

E. You—we've got to get word to him which we were going to do Saturday. That we were going to shift courses.

Z. Let's say.

P. We are ready—we are ready—we'll say the—let's leave it with the Timmons' office.

E. Well why say it?

P. Yeah—just say it—well with members—the appropriate members of the staff.

E. Why not say this? This is going to be done without publicity.

P. Yeah.

E. And.

P. No—it's going to be done informally without publicity—by whatever.

E. Period.

P. This will be done informally.

Z. We can do it but we just have one problem to dwell on. If you give the name, like, if you say,

P. Yeah.

Z. Well Timmons' office would be.

P. That's right. Then they go after him.

Z. Prepared to do that. Then—no—then you do solidify your point, you see.

E. Yeah, but the problem is that there's always—there's already a lot of complaint on the Committee, and particularly with Baker, that there's too many people running this show.

P. That's right.

E. And if we introduce Timmons or we introduce somebody else.

P. Yeah. don't give them a name. The—the, why don't you just say the President will name a—no.

E. You could go this far.

P. Yeah.

E. You could say we've been in touch with the Committee.

P. Yeah. Yes.

Z. Have you?

E. And—yeah—I've talked to Baker.

P. We have been—we have been in communication with members of the—no—well, then you see—you've only been in touch with one member.

Z. When we're dealing with.

E. Well, why don't you say communications have been opened and will proceed.

P. Communications have been opened with members of the Committee. What members? That's—I'm not going to discuss that. I can't go into that. Communications have been opened with the Committee—why don't you say with the Committee—Committee—communications are handled with the Committee to—for the purpose of working out a proper, informal procedure.

Z. And that has taken place?

E. Yeah—I talked to Baker yesterday.

P. That's right. Well, we've had lots of talks with him. He talked to Baker at length, Ervin's gone. Is that all right, John?

Z. If I could say, John is—has.

E. You see, we got an Attorney General problem.

P. We got—we got Kleindienst.

E. Let's not force this.

Z. All right.

E. If you want to, you can say, well I may have something more to say about this later.

P. That's fine. Damn well. Just say, I'm not going to discuss it because these are informal negotiations at this point—informal discussions are taking place at this point.

Z. Right.

P. As soon as something is formalized we will let you know.

Z. Good.

P. That's really true and say if something is worked out we will let you know. The, some informal discussions have already taken place. That's right—some informal discussions. I'm not going to go into the.

Z. All right—I've got it.

P. How's that?

(Pause.)

P. Oh, it'll be a little long.

(Pause.)

P. Within the framework of our judicial system. You might say of our system. Don't you think so?

E. Read the phrase.

P. Yeah. It is our position today and in the past that if these charges are to be tested it should be done within the legitimate framework of our judicial system. Don't you think so?

E. That takes it out of the Congress, then.

Z. But the legislative.

P. Yeah—well then—just say system. And you don't—and then you're not using the last—the bracketed thing at all?

E. The bracket at the top goes at the end where he says,

Z. Not going to apply it specifically. But he's referring to the bracket at the end.

E. No—no—we're not going to use that.

P. You're not going to use that?

E. No—It's got a lot of problems associated with it.

P. Yeah—because you're taking the Committee on.

E. Yeah—well we worked with a lot of different variations of that and just decided really it was better to leave it out.

Z. Give the Committee—And give the Committee back into the start there by saying.

P. I question. (pause) I don't know. Well, anyway, it's all right. Do you think it helps some?

E. I think it does. And I think. Ron's going to get some questions—Ron's going to get up there—well Ron, you're not going to apply this to specific instances. What are you trying to say to us? And he again could come back and say, what I am saying to you is that the mistake that people are making—there's a mistaken impression that the White House is trying to cover up in this matter—is just a mistake.

P. Listen—I'd almost start this thing—I just want to lay to rest what I think is a—what is a—I'm not making any charges of how it happened. I want to lay to rest a massive misapprehension that has been created in the press, created in the country with regard to the White House position on the Watergate matter. The aftermath. That is, because of—because of our—and that is—we are attempting, the position is to withhold information and to cover up—this is totally true—you could say this is totally untrue. I think I'd start right out that—massive misapprehension and so forth and so on.

Z. Cover up and withhold information.

P. Cover up withhold information.

Z. And then bang into it.

E. Mm huh.

Z. Part of the case is built on the fact that fellows love this room, and your press of course—is no place to work this out.

P. Yeah—yeah. That's it exactly.

E. And our refusal to—our refusal to try this case in the newspapers.

P. Yeah.

E. Has led to.

P. Yeah—Yeah—now—I'd say our—now—a part of that, I must say, due to the fact—our refusal to try the case in the newspapers—and the position of maintaining the constitutional—the President's necessity of maintaining the constitutional separation of powers. But as the President, I'd say, as the President made crystal clear in his press conference on August 2, the purpose of his insistence on the separation of powers is not to cover up. There will be total and complete cooperation with the agencies of government to get at the facts. And the facts can be obtained and still maintain the principle of separation of powers—and all the facts can be obtained. Something like that.

E. That's in there I think pretty good. (dishes or walking around)

P. You don't want to make a sworn statement, huh?

E. I would just as soon not—I think we are better off not, oh, doing up a stream. Look at the—

P. The only position that I am concerned about is this. I wonder if you could take whatever Ron says and—

E. We're going to hypo it—we're going to get it around.

P. Get it to the Congress.

E. Right.

P. Get it to George Bush.

E. Right. I'm going to see the guys that are going to do that and I'll do it now.

P. All right, fine. If you could work on that between now and three o'clock I think it would be very helpful.

E. I shall.

P. Fine—you work on it and I'll take off.

Appendix 12. Press Briefing: Ziegler, March 30, 1973:

(Excerpt from Ziegler's Press Briefing.)

* * * * *

With regard to the Grand Jury, the President reiterates his instructions that any member of the White House staff who is called by the Grand Jury will appear before the Grand Jury to answer questions regarding that individual's alleged knowledge or possible involvement in the Watergate matter.

This is a re-statement of a policy which has been in effect. If the Grand Jury calls any member of the White House staff, that person, by direction of the President, will appear to testify regarding that individual's alleged knowledge of possible involvement in the Watergate matter.

* * * * *

Appendix 13. Telephone conversation: The President and Ehrlichman, April 8, 1973. (7:33–7:37 a.m.):

P. Oh, John. Hi.

E. I just wanted to post you on the Dean meeting. It went fine. He is going to wait until after he'd had a chance to talk with Mitchell and to pass the word to Magruder through his lawyers that he is going to appear at the Grand Jury. His feeling is that Liddy has pulled the plug on Magruder, and that (unintelligible) he thinks he knows it now. And he says that there's no love lost there, and that that was Liddy's motive in communicating informally.

P. Uh, huh.

E. At the same time, he said there isn't anything that he, Dean, knows or could say that would in any way harm John Mitchell.

P. But, it would harm Magruder.

E. Right. And his feeling is that Sirica would not listen to a plea of immunity at a (unintelligible) I should say. And that (unintelligible) from him. He would be much better off to go in there and have an informal talk and that's what he wants to do.

P. Right.

E. So obviously we didn't tell him not to, but we did say that it is important that the other people knew what he was doing.

P. Well, Mitchell, of course, was going to be put to the prod on this one.

E. That's right.

P. Mitchell has got to decide whether he's going to tell John Dean, "Look here, I don't think you ought to say a word or you've got to go down and lie." Well, John is not going to lie.

E. He says John Mitchell is sort of living in a dream world right now. He thinks this is all going to go away.

P. He thinks that?

E. Yeah.

P. John Dean thinks that John Mitchell is living in a dream world?

E. Yeah. He thinks that that's Mitchell's frame of mind on all of this. For instance, he hasn't bothered to obtain counsel. He hasn't really done much about preparing himself or anything of this kind. So—

P. But what does Dean think about it?

E. Well, Dean says it isn't going to go away. It's right on top of us and that the smartest thing that he, Dean, could do is go down there and appear cooperative.

P. Right.

E. So, he'll be around all day tomorrow and we'll see how this unfolds during the day.

P. What does he —Do you have any feeling about the Magruder thing as to what he ought to do?

E. Yes. And he said, "Well, the thing that I didn't understand was that Magruder was the target of the long Liddy discussion" . . . and there wasn't anything that he, Dean, could add.

P. No, no, no, no. But what about the theory of your idea that Magruder ought to come in and say, look my recollection has been refreshed and so forth.

E. Well, yeah, but he said that he's satisfied that they are not really after Magruder on perjury. They are after him—

P. On Watergate.

E. They are after somebody as the instigator of the plot.

P. I see.

E. And that, cleaning up the—

P. What does he think Magruder will do? Whether Magruder will——

E. Well, nobody knows.

P. Magruder could be the loose (unintelligible) of the whole plan.

E. He's entirely vulnerable and nobody knows.

P. Uh, huh.

E. But Dean's very strong feeling is that this is a time when you just have to let it flow. And that's his . . .

P. I tend to agree with him, you know. Do you?

E. Yes, I do. I do.

P. Basically, Mitchell must say—go in and hard-line it, John, etc. We cannot, we can't claim privilege for Dean on this kind of a matter, can we?

E. I don't believe on acts prior to the investigation, no.

P. That's right, and that's what they're asking for and Dean says, look, I'll be very careful, etc., but . . . So, where do we go from there then? Then, he pulls the plug on Magruder, but then the point that John Mitchell has got to be concerned about is that Magruder pulled the plug on him.

E. Well, that's right. That's right. That's correct.

P. But the next question, John, they are going to ask Magruder is, "Who told you? Did you clear this with anybody? Who gave the final approval?"

E. Yeah. Uh, huh. Obviously.

P. I don't think, strangely enough . . . If he's going to pull the plug, he's going to pull it on Mitchell rather than on Haldeman.

E. Well, that's right . . . and . . . and that's the reason that we felt that not only out of fairness, but also in order to make sure that nobody felt that the White House is buying them . . . that John ought to talk to these fellows and let them know what it is that he's intending to do.

P. When does he have to decide this?

E. Well, he has to get in touch with them tonight.

P. Uh, huh.

E. And he thought that he would probably see them tomorrow night.

P. Uh, huh.

E. You see, they prepare their case at night and work the jury during the day.

P. So—he'll tell them that tomorrow night I'll talk to you and . . . tonight, he says—what's he going to say tonight?

E. Well, he just says, give me an appointment tomorrow night.

P. So . . . he'll go over and see them.

E. Yeah.

P. Right.

E. I think he has to do that.

P. That's right.

E. All right, sir?

P. But he's got to let it off pretty hard with Mitchell . . . he hasn't got any choice on it, that he will not testify to anything after the fact. And that he'll not testify except . . . and then he'll be damn careful he's protective about it. Is that what he's going to say? We don't want Mitchell, you know, popping off.

E. Well, he's going to just say to John that he certainly is not going to look for. . . . But then, he, Dean, doesn't really know anything that jeopardizes John. Which is true.

P. Now, who is going to talk to Magruder?

E. Ah, Dean's lawyer is going to talk to Magruder's lawyer and. . . .

P. What the hell is he going to tell him, though?

E. He'll tell him that John has been invited to come down for an informal conference and that he is going to have to go.

P. That's right. So what does that do to Magruder?

E. Well, that undoubtedly unplugs him but . . . but it also alerts him in the most orderly kind of way.

P. Right.

E. And, . . .

P. But John Dean says Magruder can't get off by going in and confessing to the perjury.

E. No, no, he says that's not really what they're after.

P. They want to convict him for Watergate.

E. Right.

P. Well, if he confesses perjury, he's going to be convicted for Watergate, right?

E. Both.

P. They'll get him for both?

E. Yeah.

P. Under the (unintelligible) version of the law.

E. Well, I'm afraid that if he comes down and testifies, I would guess what he will try to do is plead some sort of a constitutional protection, Fifth Amendment, or something.

P. Yeah. That's what I would think. He had better plead the Fifth Amendment. I don't think he's got any other choice.

E. It doesn't sound like it to me.

P. Right. OK, you'll let me know tomorrow . . . after Ervin.

E. I'll let you know after Shultz.

P. Yeah. Yeah. Ok.

E. Bye.

TRANSACTION OF ROUTINE MORNING BUSINESS

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

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

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

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

ADDRESS BY SENATOR McINTYRE BEFORE ELECTRONIC INDUSTRIES ASSOCIATION GOVERNMENT/INDUSTRY SYMPOSIUM

Mr. MANSFIELD. Mr. President, the distinguished Senator from New Hampshire (Mr. McINTYRE) is chairman of the Subcommittee on Research and Development of the Committee on Armed Services. He has been doing an outstanding job in scrutinizing this enormously complex and far-reaching field. This area has needed the full-time attention of Con-

gress for so long, and the leadership is being provided by Senator McINTYRE.

Last week Senator McINTYRE addressed the Electronic Industries Association, and I commend his remarks to the Senate. I ask unanimous consent that the text of his remarks be printed in the RECORD.

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

SPEECH BY U.S. SENATOR THOMAS J. McINTYRE

Next week the Senate's Subcommittee on Military Research and Development, which I chair, will report its recommendations to the full Senate Armed Services Committee. My work on this Subcommittee has consumed more of my time and effort than any other responsibility I have had in the Senate because the size and complexity of our military R&D effort exceeds one's grasp, however ambitious one's reach. This year the Pentagon has requested 9.3 billion dollars for R&D spread over 3,000 individual programs and projects. You in industry know better than anyone how specialized these technologies are and how intricate the larger or higher-risk systems can be. But most of you only have to deal with a few of these programs. Our Subcommittee has the responsibility for reviewing all of them. So I feel sometimes as if we are wrestling with a greased octopus.

But at least I have been wrestling for six years as Chairman of the Subcommittee and a total of ten years on the full Armed Services Committee. And even a country lawyer like me should have learned something in that time—by osmosis if nothing else.

Technology's importance to our military security was evident to me when I became Chairman six years ago and my experience since has only intensified my appreciation. The axiom that superior military technology can give a nation a decisive advantage over its adversaries was true in the 14th Century when the English long bow made the armored knight obsolete. It is true today with ECM technology and Smart Bombs. And it will be true tomorrow whenever a nation can harness the laser to its military purposes. So to insure a technological edge, my Subcommittee will have recommended during these six years more money for military R&D than any previous six year period in the history of our Republic.

But I have also learned during these years that technology, while critical, is not sufficient to guarantee our national security. We relearned in Vietnam that the ability to wage war depends as much on our Nation's belief in the rightness of our cause as it does on the sophistication of our weapons. I have become more aware that our national security depends on the total health of the Nation. It depends, for example, on the confidence that our Government commands with the American people and with our allies and potential adversaries abroad.

It also depends on our economic health. The Senate Armed Services Committee itself said last year: "Over the long run a sound economy is as important to national security as conventional measures of military might." The double digit inflation we are experiencing saps every element of our national strength, including our military posture.

Paradoxically, the very inflation that diminishes the buying power of the defense dollar has, among its many other causes, the vastly expensive and inherently non-productive character of military weapons. Oh Yes, I am aware that the military budget represents a diminishing percentage of both gross national product and Federal spending, but I am also aware that this is the largest military budget in the history of our country, except one, and by far the largest peacetime budget ever.

So our national security, whether broadly or narrowly defined, will increasingly depend on how well we manage our defense dollar.

Tonight I want to express my conviction that our ability to manage our defense budget effectively depends heavily on our learning to exercise greater selectivity in our military R&D.

This selectivity in R&D is necessary because a program once initiated becomes most difficult to stop or substantially alter. It picks up momentum with each step in the R&D cycle. A service, or elements within a service, develop vested interest in programs deriving from R&D beginnings. So do you in industry. So do we in Congress.

In the realities of Washington politics, decisions are often forfeited to willful advocates who organize their every day for the purpose of perpetuating their program. So R&D programs, even in their early stages, therefore, acquire a force and power far beyond the pure merits of the case.

Such bureaucratic momentum has produced some of the saddest cases in recent R&D history: the MBT–70 tank and Cheyenne Helicopter which drowned due to excessive sophistication and cost; the duplication of the heavy lift helicopter efforts; the attempt to push the surface effect ship into a concurrency unjustified by its technological progress.

This momentum moves programs into the more expensive stages of the development cycle perhaps even to procurement with a power unrelated to the program's merits. For example, DOD's request for a third of a billion dollars this year for ballistic missile defense is in part due to the potency of five billion dollars of R&D investment in the Safeguard program—a potency which makes the decision to complete the deployment at the Grand Forks site irresistible whatever its military justification. The momentum of the Cheyenne Helicopter cost the taxpayer 400 million dollars before it could be cancelled.

Such momentum gives some R&D programs amazing resilience, so that DOD comes back again and again even after Congress has clearly said No. For example, the Armed Services Committee explicitly opposed the development of a light area defense capability in 1970. Yet, last year, my Subcommittee had to fight the battle all over again by zeroing such a request. Congress has decisively opposed R&D for destabilizing accuracy for our strategic missiles, in '71 the Senate, by votes of 66 to 17 and 68 to 12, and in '72 by insisting on the deletion of such a request in the post SALT supplemental. Yet this year we are once again facing the same issue in a set of R&D requests for silo-kill accuracy.

R&D programs gain momentum because each step in the R&D progression flows indistinguishably into the next so that clear decisions are avoided.

Let me explain this for a moment. My Subcommitee warmly supports the maintenance of a rich technology base in research and exploratory development, socalled 6.1 and 6.2 money.

When DOD identifies a possible application of a technology and recommends moving it to advanced development we are told that such a step is only "tentative," "exploratory" and "inexpensive."

When the programs move to engineering development, we are told that laboratory development has reached its limits and we must now find out whether in practice it is possible to integrate the component technology into a system. We are assured we are only trying to develop an option but not making a commitment to production.

When the program moves towards production we are told that we should protect the schedule for deployment in case such a decision is made, and that we must, therefore, fund long-lead time money and sometimes expensive pre-production copies. Nevertheless, we are told that the decision to deploy is still before us.

But—as a practical matter—by the time we come to the decision to deploy, that decision has already become an accomplished fact. We are told that we have now invested millions, perhaps hundreds of millions of dollars in the program—great sums which the taxpayer would lose if we cancelled out.

So in this way an R&D program acquires a life of its own that can preempt a decision.

And this is precisely why we need to exercise greater discipline especially in the critical middle stages of the R&D cycle. This selectivity is also required by the enormous cost of weapons development itself. For example, the American taxpayer will pay more than two billion dollars to develop the Trident I (C–4) missile. That will buy us just R&D for just one component of just one system of just one arm of just our strategic forces. Now this is a system which I feel we very much need. But in order to pay for its development we can't afford to spend our R&D dollars on uncompetitive programs.

But it is not only a question of dollars, however well spent, that is at stake. We need a greater selectivity in R&D because the development of certain military capabilities, even when not deployed, can set national policy which must be addressed at the outset. For example, in 1969, my Subcommittee zeroed a DOD request for money to develop offensive biological warfare materials because R&D by itself would have implied national policy that biological warfare was somehow an acceptable form of civilized warfare. Similarly last year my Subcommittee zeroed an Army request for R&D for light area defense because an R&D program by itself would have been, in our judgment, destabilizing to the strategic balance.

This year's request for silo-kill accuracy/yield development is in the same class because it would, even in R&D, drastically alter longstanding strategic policy.

We cannot say in such cases, "It's only R&D." President Eisenhower warned us in his farewell address of the "danger that policy could by itself become the captive of a scientific, technological elite." Such would be the case if we let basic policy be set by forfeit.

So the momentum, resilience, cost and policy implications of R&D programs require that we execute a greater selectivity. We need to identify those critical programs and technology and fund them and defend them and stabilize them. And we need to identify those marginal, uncompetitive or duplicate programs by requiring progressively more intense discrimination and competition in the middle and late stages in the development cycle. I am well aware that R&D by its very nature is the least predictable part of weapons acquisition. But however difficult, greater selectivity should be our goal.

Most public debate centers on the question of more R&D or less R&D. I am arguing for better R&D. More efficient. More selective.

But if we are going to exercise this kind of selectivity we are going to need better principles of selection. For example, DOD witnesses repeatedly tell my Subcommittee that the Soviets are superior to us in a broad range of technologies. Now I am sure that in some instances this unfortunately is the case.

But I for one get weary and skeptical of the uncritical litany which somehow judges our technology in the worst possible light and theirs in the best.

For example, in our perennial inquiry into our tank R&D I have been told that the Soviet tank was superior to ours. I was delighted to learn that my skepticism was justified when we recently pitted one of their captured tanks from the Middle East war

against one of our tanks in the field. Ours beat the hell out of theirs.

And our Navy habitually counts the Soviet diesel submarine as an important part of the formidable Russian submarine fleet, as if they somehow equate with ours. So this year I have been asking each Navy witness if they would like to have some diesel submarines in our own fleet. "Oh No," they say. "They're too noisy." "They're old technology."

So let's not forget or discount the quality of our own military technology, a technology that has been richly funded and represents the premier product of American engineering, scientific and industrial talent.

Their subs are not as quiet;

Their missiles not as accurate;

Their warheads not as efficient;

Their computers not as advanced;

Their ASW not as effective;

Their sub-launch missiles are not MIRVed;

Their bombers are not truly intercontinental.

I could go on, but you could extend the list better than I.

My point is simply that to assume in every case that the Soviets are better than us is as uncritical as to assume as we once did that American "know-how" is in every case better. What we need to do is discriminate realistically, to identify real gaps or advantages so we can allocate our R&D monies accordingly.

Another rationale which is unworkable as a principle of selection is what I call "The Fallacy of the Isolated If."

In this case, the DOD witnesses concentrate on a marginal, hypothetical threat that their particular R&D program can meet and they seem to ignore the vast array of parallel military capabilities which we have or are developing.

For example, the Navy strategic Cruise missile program has been justified this year to my Subcommittee on the grounds that it would provide us with an ultimate deterrent that could penetrate Soviet defense if our other strategic forces had failed to accomplish their mission. But what an if! This ignores the layers of redundant strategic forces which we already have and it assumes a set of inconceivable hypotheses such as:

If the Soviets achieve an ASW breakthrough, the character of which we cannot now anticipate;

And if they could afford to deploy this ASW force to both detect and kill our strategic missile fleet;

If they could do this even though our Trident fleet will compound the ASW problem tenfold;

If they can successfully complete their testing of MIRV technology;

If they can develop enough accuracy for those warheads;

If they can solve the tactical problems posed by the nuclear effects produced by their own attacks on our Minutemen;

And if they are willing to risk that we really won't launch on warning;

And if they abbrogate the ABM Treaty by building a modern ABM system;

And if they could, therefore, intercept any of our retaliating missiles which had escaped their attacks;

And if they could, develop a depressed trajectory sub-launched missile even though there is no present evidence they are;

And if they could successfully attack our SAC bases with such a missile;

And if they could attack all three elements of our Triad simultaneously even though this is logically impossible given the disparity of flight time for their ICBMs and sub-launched missiles;

And if they could intercept our strategic bombers which had escaped their attack, despite our remarkable penetration capabilities;

And if they could intercept our MIRVed Trident missiles;

And if they were mad enough to believe they could do all of this, then if we wish to insure that we could penetrate their remaining air defenses we should build strategic sub-launched Cruise missiles.

But why that particular if. What if the Soviets could devise defense against a Cruise missile. Then why not add another if, and another, and another, and another.

My point here is not to prejudge the Cruise missile program but show the inadequacy of this justification.

This Fallacy of the Isolated if is at the heart of DOD's flirtation with the bugaboo Soviet first strike. Secretary Schelsinger, to his credit, has repeatedly stated that a first strike is not obtainable by either side. But his own pre-occupation with a possible Soviet counter force capability implicitly ignores the deterrent of our sub and bomber forces.

There is an equally indiscriminate Fallacy recurrently offered by the other side of the political spectrum which you could call the Fallacy of the only if. One distinguished Senatorial colleague of mine justified his opposition to a strategic weapons system a few years ago by suggesting we should launch our Minutemen on warning if we perceived a Soviet missile attack. I shudder at the simplicity of this hair-trigger approach.

So none of these rationales which we hear so often before the Subcommittee provide us with useful principles of selection and I think we all need to work harder at developing a more pragmatic criteria.

I certainly could not offer a definitive set of such conceptual tools. But I know from my experience on the Subcommittee that we must be particularly sensitive to duplication. We must take every effort to develop new systems in an evolutionary rather than revolutionary way. We should develop a system only if it can stand in competition for procurement money. We should focus our R&D energies on the essential components of our defense rather than countering hypothetical marginal threats. At the heart of this selectivity there must be a confidence in the basic validity of our own judgment about what is enough and in the quality of our own rich technology judiciously applied.

The application of these principles of selection should in the first instance be the responsibility of DOD. And I am told that throughout his career Secretary Schlesinger has been a strong advocate of precisely this kind of discipline at the R&D process. He understands that a prudent Republic would fund the most promising young technologies and then exercise greater and greater discipline as they move through the development cycle toward weapons acquisition.

And there is ample evidence that the Secretary this year has been making substantial efforts to exercise such leadership within the Department. I congratulate him and offer him my support for his efforts. The restraint he has insisted upon in the surface effect ship, SAM–D, and Trident programs are encouraging.

But I am sure he has found it remarkable that some R&D programs have such momentum and force, far beyond the merits of their case, that even the Secretary of Defense finds it difficult to bring them to heel.

Last year in the midst of delicate negotiations with the Navy on the pacing of the Trident program he told me he would support a compromise proposal of mine that would have reduced concurrency but given Navy its first Trident on its accelerated schedule. Schlesinger agreed with me. This is he said he would support it "If Navy would." Well, Navy didn't as you all know. And we were forced to take the issue to the Floor of the Senate. But this year the Secretary, having been in his position longer and presumably having a firmer grip on the Department, modified Navy's Trident program by directing it to a pace and variety similar to the compromise I advanced last year.

So I am encouraged that Secretary Schlesinger, gives his long understanding for the need of selectivity in R&D and given more time on the job will continue to exercise the kind of discipline within the Department that is necessary.

But in other respects the Secretary's own budget request in R&D seems to run counter to the idea of greater selectivity. His emphasis on wide variety of strategic options in my view reflects an unwillingness to judge priorities and to face up to some hard choices at the R&D stage. In fact he specifically declined to state priorities in response to my formal request. The assumption that we can afford or restrain a whole smorgasbord of strategic initiatives ignores the reality of bureaucratic momentum that makes most R&D efforts virtually tantamount to a decision to acquire a weapons system.

Whatever successes or limitations Secretary Schlesinger may have in assuring greater discipline in R&D, Congress also has a Constitutional responsibility for this.

This is not because Congress' judgment is better than DOD's. We have no special wisdom. Congress can be just as eccentric and capricious and self-interested as DOD and its associated industries.

But we do have a responsibility under the Constitution to exercise an independent judgment in R&D, and the Founding Fathers were right to insure that there was a check and balance between the Executive and Congressional branches of government.

And we are generalists. Except for the President, no officer of the government, even the Secretary of Defense, or those in OMB, have quite the mix of general responsibilities that the Constitution assigns to Congress.

We have all the advantages and disadvantages of that approach. You all know the definition of a "Specialist:" A person who learns more and more about less and less until he knows everything about nothing at all. Well, a generalist is a person who knows less and less about more and more until he knows nothing about everything.

Still a generalist can contribute the essential discipline of balancing priorities that are very difficult to judge from a narrower perspective.

But if Congress is going to meet its responsibility it is going to have to shape up itself. We are going to have to make the committee system work even better than it has. I am proud of the hard work, the spirit of fairness and non-partisanship that the R&D Subcommittee has displayed over the years. I only wish that some of the interested critics of the Defense Department would join us on the Armed Services Committee and engage in the year-round responsibility necessary in carrying out the Committee's assignment.

Congress must also revitalize its center if it is going to be constructive and responsible in its work on the Defense budget. The "glamorous" Senate debates on the Floor have been typically characterized by a great deal of polarized passion for a few days. What we need is more hard homework throughout the year and a recognition that real discrimination and balance is rarely found at either of the political poles.

I am encouraged that Congress is moving in this direction. Last year's debate on the pacing of the Trident was led by the center of the Senate, and although the vote followed familiar lines in some respects there were signs of a fresh recognition that decisions on defense matters should not be conditioned political reflexes.

Let me sum up. The cost of R&D, the momentum which programs develop, the pol-

icy set by some R&D programs require a greater selectivity in military R&D. To do this we need better principles of selection than the indiscriminate exaggeration of Soviet technologies or a concentration on an isolated hypothesis. Both DOD and the Congress have a Constitutional role to play and Congress must revitalize its center and do its homework if we are to meet our responsibilities.

But this case for greater selectivity in R&D, however important generally, is supremely critical when applied to strategic weapons.

The arms race has, in fact, become an R&D race—a vast proliferating chess game played in a room with cloudy mirrors with the future of the Planet Earth at stake.

It becomes a game of futures because of the uncertainties of long lead times. Since neither side can rely on speculation about the other's intent in an R&D program, each R&D effort triggers a set of countering R&D programs designed as hedges for a variety of contingencies. And yet each of these programs can set new bureaucratic forces in motion and implicitly set new policy. So while the traditional arms race was linear in its growth, the R&D arms race expands geometrically.

The preoccupation with the R&D arms race has obscured how thoroughly secure the strategic balance is now and for the practical future. My Subcommitte has probed into every possible Soviet degradation of our strategic force and have been assured in detail from Secretary Schlesinger to the most talented program specialist that there can be no doubt whatever that our deterrent is secure; that our second strike capability is secure; that our ability to respond flexibly against large numbers and a wide variety of Soviet military targets is secure. And yet, this truth is now obscured by the alarmists.

The anxieties of the R&D arms race have also enable opponents of SALT to rewrite the history of our successes at SALT I. They have repeated the myth that somehow the Soviets out-foxed us in Geneva enough times that it has become cliche, however unsupported by the facts. Let us remember that Soviet momentum in deploying more missiles has been stopped. The insane ABM race has been halted. The problems posed by the Soviets' strategic arms buildup were not solved at Geneva but they were diminished. And there is no question that for the period for which the interim agreement is valid that our qualitative lead more than balances their margin in numbers. But above all SALT I demonstrated to our adversaries and ourselves that we do indeed have a common interest in limiting an arms race and that explicit, nationally verifiable agreements can be drawn which define and guarantee this mutual interest.

The anxieties generated by proponents of an R&D arms race also tend to obscure the validity of this Administration's continuing to seek secure SALT agreements at SALT II. There is no question in my mind that the Nixon Administration's greatest achievement and deepest tap root of public support was derived directly from having recognized that this Nation wants a secure end to the arms race. There is a danger that the achievements at SALT I and the hopes for SALT II might be discredited through forfeit in a period when our President is pre-occupied, our Secretary of State doesn't have enough hours in a day, and our Secretary of Defense gives mere lip service in support of SALT. The faint, ambiguous signals from the Administration are further weakened by the irony of having its most powerful Congressional ally in national defense debates now the most vocal critic of SALT.

I admit that my Party is at fault here. The vitality of the broad center of our Party on defense matters has been eroded in recent years by internal divisions and timidity.

But there are neither valid policy grounds nor a national constituency substantially to the right or to the left of the broad center symbolized by SALT. There certainly are no valid policy grounds or national constituency for a return to the Cold War. Our responsibility as the loyal opposition which controls Congress is ill served by suggesting that the President would seek a "quick fix" at SALT to counter his domestic problems.

SALT is a matter above Party politics. And it is both right and politic that the loyal opposition express our support and confidence to our negotiators. They also deserve our best judgment in Congress especially in exercising a greater selectivity in R&D programs so that the opportunity for a secure agreement is maximized. It is a question of balance and discrimination. We are like the fisherman who having hooked a fish will lose it if he gives the line too much slack, but will also lose it if he pulls the line so tight that it breaks.

There must be no question that we will develop, and if necessary, deploy whatever is necessary to show the Soviets that they will never be able to achieve a real military advantage that would erode the strategic balance. Yet we must also avoid programs which give ambiguous signals about our own intent—signals which would strengthen the hand of Soviet hawks, and thereby fuel the R&D arms race.

In sum, we must do in R&D what former President William Howard Taft used to tell his Yale law students: "Don't write so that you can be understood, write so that you cannot be misunderstood."

So tonight I earnestly solicit your support. As leaders of the defense industry you have a special responsibility to insure that we strike a proper balance in R&D so our aspirations for a secure SALT agreement will not be misunderstood.

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

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON CONTRACTS NEGOTIATED BY THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

A letter from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report on contracts, negotiated by the Administration, for the period July 1, 1973 through December 31, 1973 (with an accompanying report). Referred to the Committee on Aeronautical and Space Sciences.

SUPPLEMENTARY REPORT ON MILITARY USE OF HERBICIDES IN VIETNAM

A letter from the Secretary of Defense, transmitting, pursuant to law, part B, Supplementary Report of the National Academy of Sciences report on the ecological and physiological effects of the military use of herbicides in Vietnam (with an accompanying report). Referred to the Committee on Armed Services.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting a report entitled "More Competition Needed in the Federal Procurement of Automatic Data Processing Equipment", General Services Administration, dated May 7, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McGOVERN, from the Committee on Agriculture and Forestry, without amendment:

S. 3458. A bill to amend the Agriculture and Consumer Protection Act of 1973 and the Food Stamp Act of 1964 (Rept. No. 93–829); and

S. 3459. A bill to amend the National School Lunch and Child Nutrition Acts to increase the level of Federal assistance for child nutrition programs, and for other purposes (Rept. No. 93–830).

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. McGEE, from the Committee on Post Office and Civil Service:

Hayes Robertson, of Illinois, to be a Governor of the U.S. Postal Service.

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

By Mr. EASTLAND, from the Committee on the Judiciary:

Bert C. Hurn, of Missouri, to be U.S. attorney for the western district of Missouri; and

Lawrence A. Carpenter, of Texas, to be a member of the Board of Parole.

(The above nominations were reported with the recommendation that the nominations 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. BURDICK:

S. 3455. A bill to authorize the Devils Lake Sioux Tribe of the Fort Totten Reservation to consolidate its land holdings in North Dakota, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. CRANSTON:

S. 3456. A bill to provide emergency mortgage relief for middle-income families. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. ROTH:

S. 3457. A bill amending the Internal Revenue Code of 1954 to provide for an inflation adjustment in the rates of tax and the standard and personal exemption deductions, and for other purposes. Referred to the Committee on Finance.

By Mr. McGOVERN (for himself, Mr. YOUNG, Mr. ABOUREZK, Mr. BROOKE, Mr. BURDICK, Mr. CASE, Mr. CLARK, Mr. CRANSTON, Mr. DOLE, Mr. EAGLETON, Mr. FANNIN, Mr. HART, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. JACKSON, Mr. JAVITS, Mr. KENNEDY, Mr. MCGEE, Mr. MAGNUSON, Mr. MANSFIELD, Mr. MATHIAS, Mr. METCALF, Mr. MONDALE, Mr. PASTORE, Mr. PELL, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. SPARKMAN, Mr. TALMADGE, Mr. TUNNEY, and Mr. WILLIAMS):

S. 3458. A bill to amend the Agriculture and Consumer Protection Act of 1973 and the Food Stamp Act of 1964, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. McGOVERN (for himself, Mr. CASE, Mr. CLARK, Mr. DOLE, Mr. EAGLETON, Mr. HART, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. JAVITS, Mr. KENNEDY, Mr. MATHIAS, Mr. MONDALE, Mr. TALMADGE, and Mr. WILLIAMS):

S. 3459. A bill to amend the National School Lunch and Child Nutrition Acts to increase the level of Federal assistance for child nutrition programs, and for other purposes. Referred to the Committee on Agriculture and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRANSTON:

S. 3456. A bill to provide emergency mortgage relief for middle income families. Referred to the Committee on Banking, Housing and Urban Affairs.

THE MIDDLE INCOME MORTGAGE CREDIT RELIEF ACT

Mr. CRANSTON. Mr. President, the May 5 real estate section of the Los Angeles Times featured several articles on new housing developments in southern California. In one development homes ranged in price from $38,950 to $50,450; in another, between $61,900 and $70,650; and in a third, between $62,000 and $83,000. These prices for new homes are not peculiar to southern California. Last Saturday's Washington Post reported that in the Washington area homes priced at $75,000 and over are selling well.

That is good news for some homebuilders aiming at a special market. But for the vast majority of Americans, homebuyers and homebuilders alike, the housing news is dismal.

In mid-1973, conventional mortgage interest rates averaged 8.5 percent. Today they peak at 9 percent or better. In January 1974, Secretary Lynn announced a reduction in the FHA–VA rate to 8¼ percent in the hope that FHA would "lead a little" in the downturn in rates. In 3 months, the FHA rate was back to 8½ percent, and if the market rate keeps on rising, so will the FHA rate.

The housing industry and the homebuyer of average means are always the first, foremost, and full-fledged victims of tight money and high interest rates.

As a result of high financing costs, a large backlog of completed but unsold houses has developed. Inflation is gobbling up the average person's spendable income—it is also fueling the surge in housing prices. In February 1973, the median sales price of a new home was $29,700. Last February, the same house sold for $34,900.

The average wage earner is being clobbered by double-digit inflation. But the Federal Reserve Board's battle against inflation is taking its toll too: mortgage credit for the ordinary borrower has become either unavailable or too costly, or both.

Today, I am introducing legislation to restore the average family's home buying purchasing power. I am introducing this measure also to infuse vitality into the homebuilding industry whose strength is being sapped by the Federal Reserve's tight money policies.

Unemployment in the construction industry has been running between 8 and 9 percent nationally. Last month, another 70,000 construction workers lost their jobs.

In my State of California, one out of six carpenters is out of work.

In March, housing starts fell 36 percent below their level in 1973. Total starts for 1974 are projected at 1.6 million units—1 million units short of the number required to meet our national housing goal of 26 million units by 1978.

Housing is particularly vulnerable to changes in credit conditions and monetary policies. Yet we seem to tolerate the "boom and bust" cycles in housing as inevitable. I believe we can no longer afford this view. The Nation's economic health is too precarious.

The Middle Income Mortgage Credit Relief Act, which I introduce today, is not offered as a substitute for fundamental reform. It will not prevent a reoccurrence of our present mortgage money crisis. But it can lessen the consequences.

The Middle Income Mortgage Credit Relief Act is activated when the HUD Secretary determines that a substantial number of middle income families are unable to obtain mortgage credit at reasonable rates and that the national economy and our national housing goals are adversely affected as a result. The actions authorized by my bill cease when the Secretary determines that this crisis situation no longer exists.

The Secretary of Housing and Urban Development is given responsibility to trigger the special relief under my proposal. Thus, the mortgages involved are FHA insured—but not exclusively. Both the Veterans' Administration and the Farmers Home Administration can take full advantage of this program.

My bill does not set a dollar definition of "middle income." Rather, it limits assistance by setting a maximum mortgage amount of $30,000. Generally speaking, families with incomes ranging between $8,000 and $14,000 can afford housing priced around $30,000 and under.

With every 1-percent increase on a $30,000 mortgage, approximately 3.5 million families no longer qualify for the mortgage loan. My proposal will reverse the flow of mortgage credit back to middle income families by making mortgage loans available at a true 7 percent interest rate. I say a true 7 percent rate because no points, discounts, or other similar charges can be paid by the seller or buyer.

The program would work as follows. The Government National Mortgage Association—GNMA—a part of HUD, would be directed by the HUD Secretary to make commitments to purchase and purchase mortgages originated by lenders at a 7-percent rate. The total worth of mortgages that can be purchased by GNMA is limited to $6 billion, per year. The total value of GNMA owned mortgages will not be reflected in the budget on the theory that these mortgages represent a financial asset of the Federal Government and not outlays.

What is reflected in the budget are congressional appropriations required to make up the difference between the net yield on mortgages purchased by GNMA—the interest rate on the mortgages after expenses—and the cost of money borrowed from the U.S. Treasury—money that finances GNMA's purchase of mortgages.

If money loaned to GNMA costs, for example, 7.5 percent and the return to GNMA is at a rate of 6.5 percent, congressional appropriations would have to make up the difference of 1 percent.

If GNMA purchased up to $6 billion in mortgages and the difference between GNMA's return and the cost of money borrowed were 1 percent, Congress would need to appropriate $60 million to make up the 1 percent differential. This appropriation would be required for the length of time GNMA held the mortgages. The average life of a mortgage is 10 years.

The true cost of the program will, of course, depend on several factors: The duration of GNMA's special buying authority; the volume of mortgages originated; the cost of Treasury money; and the length of time GNMA held the mortgages.

If interest rates fall and GNMA mortgages become attractive to investors, GNMA would sell them, canceling the need for congressional appropriations.

The benefits of the program are potentially great. If GNMA purchases mortgages up to its full authority of $6 billion, 200,000 families could obtain 7 percent, $30,000 loans. Substantially more families would be helped if the houses were lower in price.

It is generally accepted that each dollar of Government assistance for housing triggers private investment of between $15 and $20 for construction and land improvement.

This total investment creates a demand for housing related goods and services. Jobs are generated, and with them, income tax revenues. Real estate taxes are generated from new housing sold.

I expect that another spin-off of this program will be to bring business back to the FHA. I think that is good. And I am hopeful that with improved processing procedures, FHA will be able to handle the stepped up volume.

The Middle Income Mortgage Credit Relief Act is an emergency measure for middle-income families. I believe it will restore a sense among people of average means that the Government has not overlooked their housing needs.

This authority is needed today. I believe it valuable to have ready as a means of smoothing out future "boom and bust" swings in homebuilding and home financing that are so harmful to

housing producers, home buyers, and the economy at large.

But the mortgage money crisis now facing us must not divert our attention from the housing needs of low- and moderate-income families that persist without relief through the fluctuations of credit and interest rates. The housing needs of the poor, the elderly and handicapped, the families with special needs, the wage earner whose income is too small to pay for decent housing—all these rely upon the programs authorized in the Senate-passed Housing and Community Development Act of 1974. I hope that the House Banking and Currency Committee will act swiftly on its companion bill.

Mr. President, I ask unanimous consent that the text of the Middle Income Mortgage Credit Relief Act be printed in the RECORD at this point.

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

S. 3456

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Middle Income "Mortgage Credit Relief Act".

SEC. 2. Title III of the National Housing Act is amended by redesignating sections 307 through 312, and any cross references thereto, as sections 308 through 313, respectively, and by inserting after section 306 a new section 307 as follows:

"MIDDLE INCOME HOUSING FUND

"SEC. 307. (a) (1) Whenever the Secretary determines that a substantial number of middle income families are unable to obtain mortgage credit at reasonable rates due to high interest rates or reduced availability of mortgage credit and that the inability to obtain such credit is causing or threatening to cause a significant reduction in the volume of residential home construction and thereby adversely affect the economy and delay the orderly achievement of the national housing goals contained in title XVI of the Housing and Urban Development Act of 1968, the Secretary shall direct the Association to begin making commitments to purchase and to purchase mortgages in accordance with the provisions of this section.

"(2) The Secretary may direct the Association to terminate its activities under this section whenever he determines that the conditions which gave rise to his determination under paragraph (1) are no longer present.

"(3) Not later than 60 days following the enactment of the Mortgage Credit Relief Act, the Secretary shall issue regulations to carry out the purposes of this section. Such regulations shall be published in the Federal Register and shall include the specific criteria to be used by the Secretary in making the determinations required under paragraphs (1) and (2).

"(b) There is hereby established within the Association a Middle Income Housing Fund (hereinafter referred to as the 'Fund') which shall be used to carry out the purposes of this section. Whenever the Secretary issues a directive under subsection (a) (1), the Association shall make commitments to purchase and purchase mortgages insured under the National Housing Act or title V of the Housing Act of 1949, or which are guaranteed under chapter 37 of title 38, United States Code. A mortgage may be purchased under this section only if—

"(1) such mortgage was executed to finance the acquisition of the principal residence of the mortgagor;

"(2) such mortgage involves a principal amount not to exceed $30,000;

"(3) such mortgage involves an interest rate not in excess of 7 per centum per annum; and

"(4) no points, discounts, or similar charges were assessed against the prospective buyer or seller in connection with the mortgage.

"(c) The Association may issue to the Secretary of the Treasury its obligations in an amount outstanding at any one time sufficient to enable the Association to carry out its functions under this section. The proceeds from the issuance of such obligations shall be deposited in the Fund. Each such obligation shall mature at such time and be redeemable at the option of the Association in such manner as may be determined by the Association, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the issuance of the obligation of the Association. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Association issued under this section, and for such purposes the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the Association's obligations hereunder.

"(d) The Association shall not permit the aggregate outstanding amount of mortgages held by the fund under this section to increase by more than $6,000,000,000 in any single fiscal year.

"(e) At least 75 per centum of the aggregate principal amount of home mortgages purchased under this section in any fiscal year shall involve residences upon which construction has been completed within 12 months preceding the date of purchase.

"(f) The Association is authorized to—

"(1) establish and charge a fee for making commitments to purchase under this section;

"(2) purchase mortgages at a price not greater than 101 per centum of the unpaid principal at the time of purchase with adjustments for interest and any comparable items;

"(3) contract with mortgagees or other persons to service mortgages purchased under this section;

"(4) sell such mortgages at any time at a price not less than the unpaid principal at the time of sale;

"(5) deposit the proceeds derived from the sale of such mortgages into the Fund; and

"(6) invest any excess amounts in the Fund in obligations of the United States.

"(g) There are hereby authorized to be appropriated to the Fund such sums as may be necessary to reimburse the Association for any net losses incurred in carrying out the functions under this section.

"(h) With the exception of any amounts appropriated pursuant to subsection (g), the receipts and disbursements of the Fund shall not be included in the totals of the budget of the United States Government and shall be exempt from any annual expenditure and net lending (budget outlays) limitations imposed on the budget of the United States Government."

By Mr. ROTH:

S. 3457. A bill amending the Internal Revenue Code of 1954 to provide for an inflation adjustment in the rates of tax and the standard and personal exemption deductions, and for other purposes. Referred to the Committee on Finance.

Mr. ROTH. Mr. President, I am today introducing legislation which would reduce in the future the personal income tax by the rate of inflation. The legislation would amend the Internal Revenue Code of 1954 to provide for an inflation adjustment in the tax rates and standard and personal exemption deductions.

Under this legislation, which is modeled after a system that was recently inaugurated in Canada, the personal income tax will be adjusted to reflect the increase in the rate of inflation, as measured by the Consumer Price Index.

For example, if inflation is determined to be 10 percent in 1974, the $750 personal exemption would automatically be increased to $825 in 1975. Similarly, the tax brackets would increase from $500 to $550, from $1000 to $1100, from $1500 to $1650, et cetera.

My proposal will correct the fault in our present tax system which actually penalizes people receiving cost-of-living wage increases. Under existing law, even if an individual is fortunate enough to receive a cost-of-living wage increase, he will merely be pushed into a higher tax bracket. One of the ironies of our present system is that cost-of-living increases to help pay for the increased costs of food and clothing are swallowed up by higher taxes.

Despite the predictable political pledges not to raise taxes the Federal Government has subjected each and every consumer with a hidden tax—an inflation tax. This inflation tax is one that none of us can really see, but one that we all can feel.

This hidden tax is a result of the effect that inflation has on a tax system which is based on a progressive tax rate. Under this progressive rate system, a person must pay a greater percentage of his income in taxes as his income increases. Although this system appears to be conceptually sound and fair, it has no way of determining whether an individual's increased income is real, or simply the result of inflation.

For example, a 7 percent cost of living wage increase, combined with an inflation rate of 7 percent, will not increase an individual's purchasing power. Yet, the wage increase could push the individual into a higher tax bracket, and he will end up paying for his raise.

My proposal will provide at least partial relief from inflation. It will insure that a person will no longer be forced to pay more taxes simply because inflation has pushed him or her into a higher tax bracket.

For the elderly person on a fixed income, this proposal would result in a tax reduction each year that prices rise.

This proposal will also reduce the amount of inflated revenues that the Federal Government collects and spends each year.

As inflation continues to rise, the inflation adjustment would provide tax relief for the American taxpayers and reduce the amount of revenues collected by the Federal Government.

The Government would then be faced

with some hard choices—either reduce the amount of Federal spending in order to reduce inflation, refuse to reduce Federal spending and suffer through inflationary budget deficits, or enact a tax increase.

Perhaps such a system will finally break the Federal Government of its habit of throwing money at every single problem our society encounters. If we adopt this proposal this year, the Federal budget in the future can be planned accordingly. Rather than relying on increased revenues every year, Congress will be forced to vote for every spending and tax increase.

This legislation, which is similar to proposals endorsed by the distinguished economist Milton Friedman, represents a major policy change for the Congress. The pros and cons of this proposal, and the various other indexing proposals should be studied and debated to the fullest extent. The Senate Finance Committee, of which I am a member, will be considering tax reform proposals this year, and I urge my fellow committee members to study this proposal carefully.

Inflation is a very serious problem, and I do not believe that we can sit back and ignore its disruptive impact on the American economy. We cannot continue to spend, spend, spend, and then cut taxes every election year.

We have to face up to the problem of inflation and deal with it directly. This proposal would force the Congress to come to grips with inflation, and I urge all of my distinguished colleagues to consider it carefully.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 411

At the request of Mr. McGEE, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 411, to amend title 39, United States Code, relating to the Postal Service, and for other purposes.

S. 3403

At the request of Mr. DOLE, the Senator from Ohio (Mr. TAFT) was added as a cosponsor of S. 3403, a bill to amend the act of August 31, 1922, to prevent the introduction and spread of diseases and parasites harmful to honeybees.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 302

At the request of Mr. BROOKE, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of Senate Resolution 302, relating to the "river blindness" rehabilitation program for the Sahelian countries of Africa.

STANDBY ENERGY EMERGENCY AUTHORITIES ACT—AMENDMENTS

AMENDMENT NO. 1268

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

Mr. ABOUREZK submitted an amendment intended to be proposed by him to the bill (S. 3267) to provide standby emergency authority to assure that the essential energy needs of the United States are met, and for other purposes.

AMENDMENTS NOS. 1269 THROUGH 1273

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

Mr. GURNEY submitted five amendments, intended to be proposed by him, to S. 3267, supra.

AMENDMEENT NO. 1274

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

TOWARD A NATIONAL ENERGY POLICY: ANNUAL REPORT BY PRESIDENT REQUIRED

Mr. HUMPHREY. Mr. President, during the past several weeks we have been informed that the energy crisis has subsided to the level of a mere problem The oil embargo has been lifted. All is well. While it may be tempting to hope that the energy problem in all its manifestations has been solved, such a belief, I submit, is dangerous and misguided. The energy crisis has been alleviated somewhat, but it will not be solved alone by the flow of oil from the Middle East.

In my recent remarks to the Democratic Governors' Conference, I spoke of the shortages and scarcities which have grown in the past several years through private greed and Government shortsightedness. The ability to reform human frailties may be beyond the scope of this or any other Congress, but there is certainly something which we can do about the laws that govern the actions of private industry and there is certainly something which we must do about Government shortsightedness.

To the average American the energy crisis appeared to materialize out of thin air, but nothing can be farther from the truth. The energy crisis had been in the making for a long time. Apparently, Federal officials were unaware of, or unabe to respond to, the impending crisis until it was too late to plan effectively to deal with it. All Americans suffered as a result.

One of the primary causes of poor Government planning in the energy crisis was lack of relevant knowledge. The 18th century essayist Dr. Samuel Johnson described knowledge as being of two kinds:

> We know a subject ourselves, or we know where we can find information upon it.

Applying these criteria, we must conclude that prior to the onset of the "crisis" the Federal Government was regrettably ignorant about energy. Not only were the decisionmakers poorly informed on the subject, but the Federal Government had no centralized energy information-gathering agency. Data was scattered throughout various agencies. This state of affairs, which still exists to a lesser degree, made it virtually impossible to develop a comprehensive energy policy. If we continue to operate without a clearly defined energy policy, we will probably muddle through in a manner similar to that of the past year.

Accordingly, we in the Congress must assure that this country develops a coordinated and comprehensive energy policy. One of the first steps toward this goal, in my opinion, is for the Federal Energy Administration to obtain and provide reliable energy information for Congress and the general public. It makes little difference how many departments or agencies are created to coordinate energy policy if, in fact, we do not provide them with the basic working tools to perform their task. And the basis for a comprehensive energy policy is knowledge.

An important step in providing this knowledge is taken under provisions of section 122, energy information reports, of the standby energy emergency authority bill, S. 3267. This section will establish an information system to enable the Congress, the Chief Executive, agencies of the Federal Government, and the public to keep fully informed about developments in the field of energy.

For the first time, energy information will be collected and coordinated by a single agency of the Federal Government. No longer will we be compelled to suffer the spectacle of a congressional investigating committee trying to coax reluctant representatives of the oil industry into revealing their plans for the development of the Nation's natural resources. To the contrary, knowledge made available through the energy information reports will allow the duly elected representatives of the people to effectively question private industry about actions which affect the common good.

The energy information reports are an essential tool in establishing a national energy policy based on facts rather than rhetoric. They will provide the knowledge necessary for long-term planning. They will grant the public sufficient knowledge to judge the actions of their Government. For these reasons I heartly endorse the present provisions of section 122.

There is, however, an area in which section 122 of the standby energy emergency authority bill could be strengthened. This section presently requires the Administrator of the Federal Energy Administration to submit periodic reports to the Congress and the public on the production, distribution, and consumption of energy resources. To further strengthen the reporting requirements of this act, my amendment would require the President to submit an annual energy report to the Congress based on the knowledge provided by the Federal Energy Administration and all other relevant Federal agencies.

This amendment is similar to a provision of Senate Joint Resolution 198, which I introduced on March 27, 1974. My joint resolution would create a Joint Committee on Energy to coordinate energy information and provide a basis on which a congressional energy policy could be formulated. To assist the joint committee in its task, the President would be required to submit to Congress an annual energy report.

My purpose in offering an energy report amendment to S. 3267 is to assure that the Executive utilizes the knowledge provided by the provisions in section 122 and uses it Government-wide. It is not enough simply to make the infor-

mation available. Knowledge must be used to be effective. The White House ought to propose a comprehensive national energy policy based upon such knowledge for all to see and evaluate. The bits and pieces of dozens of agency reports are not enough.

My amendment requires the President to submit to the Congress no later than February 15 of each year an annual energy report. The report must specify the status of energy resources both domestic and imported and include information about energy consumption, utilization, allocation, and control. It must survey current research and development efforts, and long-term needs and demands. And it should assess energy-related tariff and tax measures.

The President is also asked to make recommendations on energy policy, that is, to state for the review of Congress and the people an integrated, comprehensive policy. In effect, this amendment requires the President to formulate an energy policy. It places the focus for energy decisions squarely on the shoulders of the Chief Executive rather than allowing energy questions to be settled piecemeal by various department heads. It requires the Executive to develop a comprehensive view of the energy issue. As with the President's Economic Report, an annual energy report should clarify objectives and establish priorities for the executive branch in the field of energy.

The annual energy report, however, should not be construed as lessening the responsibility of the Congress in formulating energy policy. The Congress must not leave such momentous decisions solely to the President, nor should it simply vote "yes" or "no" on the President's recommendations. Congress, in my opinion, must become even more active in formulating energy policy. The efforts of Congress, however, will be enhanced by knowing the objectives and the priorities of the President.

Meeting our energy needs in the years ahead will require the concerted efforts of the executive and legislative branches of Government. Requiring the President to coordinate the thinking on a national energy policy in the executive branch is a constructive step toward meeting our future needs. For this reason, I ask my colleagues to give favorable consideration to my amendment to require the President to submit an annual energy report to the Congress.

Mr. President, I ask unanimous consent that the text of this amendment be included in the RECORD.

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

AMENDMENT No. 1274

On page 158, between lines 9 and 10 add the following new subsection (j):

(j) It shall be the duty of the President of the United States to utilize the information resources available through the Administrator and such other sources as the President may deem appropriate, to prepare an annual energy report. The President shall submit such a report to the Congress within thirty days of the convening of each session of Congress, but no later than February 15 of each year. Such report should specify the status of energy resources both domestic and imported and include information about energy consumption, utilization, allocation, control, research and development efforts, long-term needs and demands, and tariff and tax measures. The President shall also include in the report such recommendations on energy policy as he deems appropriate.

AMENDMENT NO. 1275

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

THE ROLE OF FEDERAL REGULATORY AGENCIES IN ENERGY CONSERVATION

Mr. HUMPHREY. Mr. President, I introduce an amendment to S. 3267, the effect would be to replace section 111, subsection (b) with a new subsection. The language which I propose is very similar to the existing language of the bill. However, my amendment reflects several significant changes with respect to the promotion of energy conservation under the authority of the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission. Very briefly, the wording of my amendment makes two basic changes in this subsection.

First, rather than reporting to Congress the need for "additional regulatory authority," my amendment would require the three designated regulatory commissions to recommend the "legislative actions or administrative measures" needed to increase the energy efficiency within their areas of responsibility. Therefore, the emphasis would be placed upon action by the Congress rather than expanded authority by the regulatory agencies.

Second, my amendment would not prejudge the necessity for new regulatory powers by the commissions in order to conserve fuel. The current wording of section 111, subsection (b) calls for a report on the need for "additional regulatory authority" when in fact a restriction of authority may be needed to achieve energy conservation in the transportation sector. My amendment calls for a report on the need of legislation or administrative action which may include recommendations for an expansion or the restriction of the regulatory authority of these agencies for the conservation of energy.

Mr. President, I ask unanimous consent that the 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

On page 123, section 111, strike subsection (b) and insert the following new subsection:

(b) Within 45 days after the date of enactment of this act, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress legislative actions or administrative measures they recommend to increase the energy efficiency within their subsectors of the transportation sector during the period beginning on the date of enactment of this Act and ending on June 30, 1975, while continuing to provide for public convenience and necessity.

Each such report shall identify with specificity:

(1) the type of legislative action or administrative measure needed; including actions to increase or diminish regulatory authority when such action is deemed desirable;

(2) the reasons why such actions or measures are needed;

(3) the probable impact upon fuel conservation of such actions or measures;

(4) the probable effect on the public interest of such actions or measures;

(5) the competitive impact, if any, which might result from such actions and measures.

Each report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to conserve fuel while providing for the public interest.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 1262

At the request of Mr. JAVITS, the Senator from Maryland (Mr. BEALL) was added as a cosponsor of amendment No. 1262 to S. 1539, to amend and extend certain acts relating to elementary and secondary education programs, and for other purposes.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. MANSFIELD. Mr. President, I ask unanimous consent, on behalf of the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD), to have an announcement printed in the RECORD.

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

Mr. ROBERT C. BYRD. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Laurence C. Beard, of Oklahoma, to be U.S. marshal for the Eastern District of Oklahoma for the term of 4 years (reappointment).

Robert E. Hauberg, of Mississippi, to be U.S. attorney for the Southern District of Mississippi for the term of 4 years (reappointment).

Paul J. Henon, of Virginia, to be an Examiner in Chief, U.S. Patent Office, vice Philip E. Managan, resigned.

Keith S. Snyder, of North Carolina, to be U.S. attorney for the Western District of North Carolina for the term of 4 years (reappointment).

Max E. Wilson, of North Carolina, to be U.S. Marshal for the Western District of North Carolina for the term of 4 years, vice Seibert W. Lockman, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Wednesday, May 15, 1974, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF HEARING

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD a notice of hearing by the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD).

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

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, May 15, 1974, at 9:30 a.m., in room 2228 Dirksen Senate Office Building, on the following nomination:

D. Dortch Warriner, of Virginia, to be U.S. district judge for the Eastern District of Virginia, vice Oren R. Lewis, retired.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Arkansas (Mr. MCCLELLAN); the Senator from Nebraska (Mr. HRUSKA) and myself as chairman.

ADDITIONAL STATEMENTS

HARRY S TRUMAN

Mr. McCLELLAN. Mr. President, on this day—May 8, 1974—we observe the 90th anniversary of the birth of a great American, Harry S Truman.

I first knew Harry Truman as a friend and colleague when we served together in the Senate prior to his election to the Vice Presidency—an office which he entered in 1945. Four months later when he was thrust into the Presidency by the sudden death of President Roosevelt, I joined in the great surge of admiration and respect engendered for this man who, in assuming overnight the leadership of a nation at war, captured the hearts and unstinting support of the American people.

Harry Truman was a man of deep loyalties and firm convictions—of clear-cut objectives and unyielding determination. To him, family and country came first. Those rash enough to attack either provoked the full force of his protective indignation and swift retaliation. His administration is identified with historic and momentous events. In a time of national crisis, he met awesome responsibility with irrevocable decision—and did not look back.

Endowed with what has been described as "the common touch," President Truman related to all our citizens and we took personal pride in his uncompromising attitudes, his reputation as a fighter, and his moral strength and courage. His uncanny political acumen when he was confronted with what appeared to be insurmountable odds was nothing less than miraculous. The polls had indicated that Harry Truman could not win election in 1948, but he did. His decisive victory in the face of predicted defeat dramatically emphasized the fact that "only the people liked him."

In this context I ask unanimous consent to have printed in the RECORD a poem composed by Mrs. K. F. Long, Sr., of Norphlet, Ark., for this special date. It is, indeed, a most appropriate tribute to a man who contributed so nobly and so lastingly to the country which he cherished and which he served as military officer, U.S. Senator, Vice President, and, finally, with great honor and distinction, as President. I heartily concur in the sentiments expressed by Mrs. Long.

HARRY S TRUMAN

(By Gladys B. Long)

The tired old warrior waged his last battle
And lost—
Not graciously
He had not known defeat
But when it was certain he could not win
He folded his frail tent
Checked his armaments with his Commander—
Reserving nothing for himself—
Yet, to a grateful nation
He bequeathed a heritage—untarnished—
A continuing democracy.

BUSING AND RACIAL BALANCE

Mr. BARTLETT. Mr. President, the Oklahoma House of Representatives recently passed a resolution which quite succinctly puts into perspective the whole problem of forced busing.

The resolution is just another instance of the people voicing their opposition to the Federal Government's illogical intrusion into schoolbusing.

Mr. President, this body cannot long continue to ignore the overwhelming sentiment of the American people in opposition to forced busing. Numerous bills which would stop forced busing are gathering dust in committee.

We are supposed to be a government representative of the people, yet the wishes of the people are being ignored.

Mr. President, I ask unanimous consent that the resolution enacted by the Oklahoma House of Representatives be printed in full in the RECORD.

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

[STATE OF OKLAHOMA]

RESOLUTION

A concurrent resolution memoralizing Congress to permit the various States to have some control over busing to achieve racial balance; and directing distribution

Whereas, forced busing of school children to achieve racial balance is creating havoc in much of Oklahoma's school system; and

Whereas, such busing is causing greater tension between the races, rather than bringing them closer together as intended; and

Whereas, forced busing is reducing the neighborhood school's effectiveness, destroying natural loyalties of students for their schools, as well as drastically lowering the quality of education; and

Whereas, our present energy shortage is worsened severely by the millions of extra gallons of gas and oil wasted on forced busing; and

Whereas, busing for the sole purpose of attempting to achieve racial balance is resulting in the closing of needed neighborhood schools in many Oklahoma cities; and

Whereas, forced busing has greatly increased the flight from city public schools to private schools and suburban public schools, thus further reducing the quality of and support for public schools.

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

That all members of the Oklahoma Delegation in the United States Congress be urged to support legislation now under consideration in the United States Congress which would permit the various states to have some control over busing to achieve racial balance because it has proved unworkable and harmful to the educational system and the school children of the State of Oklahoma.

That duly authenticated copies of this Resolution be distributed to:

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

2. All members of the Oklahoma Congressional Delegation.

Adopted by the House of Representatives the 29th day of April, 1974.

JOHN GRINER

Mr. BURDICK. Mr. President, the death of John Griner, president emeritus of the American Federation of Government Employees, came as a shock to me, as I know it did for many of my colleagues.

I knew John since his election to AFGE in 1962. Then, the union had 80,000 members. When he retired in 1972, the rosters had grown to 300,000 and AFGE had taken its place as a powerful force for good government through enlightened treatment of Federal employees.

A direct, plain speaking Georgian, John sometimes caused tense moments on Capitol Hill. But his talents were many and a handshake given at strategic moments often won the day for Government workers.

The forces for progressive Government employment practices lost a real battler when John Griner died and many of us in Congress lost a good friend. All will miss him.

THE "RIVER BLINDNESS" PROBLEM IN WEST AFRICA

Mr. BROOKE. Mr. President, on April 2, 1974, I, along with several of my colleagues, introduced a resolution calling for a "river blindness" rehabilitation program for the Sahelian countries of Africa. I am pleased that an additional 10 Senators have joined us in sponsoring this measure. The resolution has been referred to the Senate Foreign Relations Committee where I hope it will receive immediate attention and be reported to the floor for the consideration by the Senate as a whole.

There are some hopeful indications that greater attention is being given to this aspect of the tragic situation in West Africa. Perhaps the major one is the recent announcement that the World Bank, the World Health Organization, the Food and Agriculture Organization, and the United Nations development program will join in a cooperative endeavor to control the disease of "river blindness" in the Volta River basin of West Africa. This is a needed initiative that commands the support of all interested parties.

While I recognize the merits of the control approach in combating "river blindness," I am still convinced that emphasis should also be given to rehabilitating those already the victims of this disease. Hence, I hope that the Agency for International Development will proceed with a detailed examination of how best the United States can promote the needed rehabilitation program even though the resolution on this subject has yet to be voted on by the Senate.

I ask unanimous consent that both the news release from the World Bank Group entitled "First Year Costs Funded For Control of River Blindness," and the report of The American Council of Voluntary Agencies For Foreign Service entitled "Sahelian Drought Disaster Situation Report No. 3," be printed in the RECORD.

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

FIRST YEAR COSTS FUNDED FOR CONTROL OF RIVER BLINDNESS

After months of preparation, a unique effort in international cooperation—the first in which the World Bank is directly approaching development through disease control—is now underway. (That cooperation directly involves four specialized agencies of the United Nations as well as numerous countries on their own.) Its objective is to control a disease that affects an estimated one million people in the Volta River basin of West Africa—onchocerciasis, or river blindness.

The Bank's Executive Directors have approved a $750,000 contribution by the Bank Group to an advance fund to cover the first year costs of the control program. The Onchocerciasis 1974 Fund Agreement actually became effective on March 1 with the signatures of the United States and the United Kingdom. Canada and the Netherlands signed earlier. France signed on March 10 and Germany is expected to sign shortly.

The fund includes commitments totaling about $7.5 million. This will enable control and planning operations to begin immediately. The overall control program will cost more than $120 million over a 20-year period, however. The cost for the first six-year phase is about $40 million, and efforts are now underway to raise that sum.

The Bank has been asked to administer the fund and to take the lead in raising the money. The World Health Organization (WHO) is the executing agency. The United Nations Development Programme (UNDP), which has been involved for some time in the control effort, is assisting with planning and financing; the Food and Agriculture Organization (FAO) is also involved.

The control program, based on experience with a pilot project funded by France and the European Development Fund, has been endorsed by all seven countries concerned—Upper Volta, Mali, Niger, Ivory Coast, Dahomey, Togo and Ghana.

Although river blindness occurs in other parts of Africa, the Yemen and in Central and South America (about 20 million people in the world are infected), the largest endemic areas are in tropical Africa, mainly in the northern savanna belt; the Volta river basin is one of the worst of these areas. Of the estimated one million people suffering from the disease in the zone to be covered by the control program, as many as 60,000 may be blind. Approximate numbers for each country are: Upper Volta, 410,000; Ghana, Ivory Coast and Mali, 150,000 each; Dahomey, 120,000; Togo, 50,000; Niger, less than 10,000.

In many villages along the Red, the White and Black Volta rivers, large percentages of the population are either totally blind or suffering various stages of blindness. Most are men, usually in their most productive years—30's and 40's. Other symptoms include discolored or thick skin, intense itching, distended groins.

In addition to causing human misery, river blindness is also a major obstacle to development. The heaviest economic costs in the Volta river basin—and the most important benefits that would result from control of the disease—are associated with the retreat of population from heavily infested river valleys containing some of the most fertile land in the area. The phenomenon of retreating population, especially in Upper Volta, appears to have been under way since the turns of this century.

As a result, there is now an excessive concentration of population in the less fertile uplands. Over-cropping has reduced yields in the overpopulated uplands, while an estimated 65,000 square kilometers in the valleys have been lost to agriculture. If river blindness can be controlled, there is a reasonable expectation that most of this abandoned land can be brought back into cultivation.

River blindness is a parasitic disease caused by a thread-like worm that lives and grows in the fatty tissues of the human body. The worm is deposited in the body by a female black fly that breeds in fast-moving streams and rivers. The fly requires blood meals in order to lay its eggs. And, in the process of biting man to get blood, the fly can, at the same time, deposit an infectious parasite into the body. These invaders multiply within the body, as a person living in an endemic area is constantly being reinfected. In some of the worst infected areas, a single man may suffer as many as 13,000 fly bites daily.

Although there has been extensive research into the causes and possible cures of the disease, medical treatment continues to raise problems. None of the remedies presently available appears to be suitable for mass campaigns and the most effective drugs involve considerable risks for the patients treated.

Current plans for controlling the disease, therefore, rely mainly on attacking the breeding places of the black fly in an effort to kill the larvae. This is done by applying insecticides to the hundreds of breeding sites that have been identified throughout the Volta basin.

Control operations against the black fly have been undertaken in many parts of Africa, including Nigeria and Kenya, and much has been learned about the fly's breeding and biting habits, its flight range (up to 100 miles), its astounding role in the bizarre cycle (fly-parasite-man) that provokes such havoc in the Volta basin. None of the previous control operations has been on a large enough scale, however, to have had a major impact on the disease.

The current effort is designed to have such an impact in West Africa. The objective: To control the disease and help develop areas now controlled by the fly.

The Bank Group's involvement dates back to March 1972, when Robert S. McNamara, Bank President, after returning from a visit to Upper Volta where he saw the consequences of the disease first-hand, proposed to the Executive Directors that the Bank explore the possibility of supporting control efforts. Subsequently, he met with the Directors General of WHO and FAO and the Administrator of UNDP, and agreed to set up a Steering Committee for Onchocerciasis Control. Mare Bazin, a division chief in the Bank's West Africa region, was named the Bank's representative on the committee. It eventually recommended that the Bank should take the lead in mobilizing funds on an international basis for financing the first phase of the program.

For the past years or so other Bank staff members have been deeply involved in the other agencies and the governments involved: E. Peter Wright, County Programs Director in Western Africa, has headed the Bank team; Georges R. Delaume, of the Legal Department, has helped formulate the Fund Agreement and other legal documents; and Dennis Graff, loan officer in Western Africa, has worked on coordination and other aspects of the program.

SAHELIAN DROUGHT DISASTER: SITUATION REPORT NO. 3

I. THE RECURRING SAHELIAN DISASTER

Due to the late and inadequate rainfall in the six Sahelian countries and the resulting poor crop harvest for 1973, emergency operations of the United Nations are continuing through 1974.

Although mass starvation was reportedly averted in 1973 as a result of the efforts of the countries themselves and the donor community, the UN Special Sahelian Office declares that "emergency help now and through September 1974, at least will be necessary if the Sahel is to survive . . ." the recurring drought conditions. At the same time, medium and long term recovery and rehabilitation projects proposed for this desert zone, devastated by years of drought, must also be maintained.

The UN Sahelian Newsletter of January 1974, reported that "although in certain areas rainfall has been greater in 1973 than in preceding years, overall rains have been below average. Crop output has been less than expected, and as the six governments recently told the 17th Session of the Conference of FAO . . . in Rome, the total needs in cereals may exceed one million tons in 1974. It is for this reason that the emergency measures taken by the UN organizations and coordinated by FAO, through the intermediary of its Office for Sahelian Relief Operations, must have top priority through the end of 1974."

UNICEF foresees substantial need for special assistance in basic high protein foods, nutrition supplements, drugs and health supplies for children and pregnant and nursing mothers. This assistance will be required throughout the year with a peak demand during the period of soudure, the critical months before the next crop is harvested in November 1974.

In a recent New York Times article, a Fulani herdsman used the word "soudure" to describe the devastated drought conditions which has come to be "expected" and "accepted". The word carries the connotation of fingers welded together so that one is helpless to feed himself. "It is synonymous with the annual ritual of suffering that begins in late spring after food supplies are exhausted and grazing lands disappear, and it lasts through the summer rains that renew the pastures and bring a single harvest of millet, sorghum and peanuts in the fall."

Present conditions in the inland West African states of Chad, Mali, Niger and Mauritania on the coast have been described by David Ottaway of the Washington Post as grim and worsening. Food stocks which were available last year have been exhausted and the animals that provided milk and meat last year are now dead. Ottaway reports that for the first time, the drought has also reached crisis proportions in the nothern regions of Nigeria and Cameroon. Quoting U.S. AID officials, Ottaway also notes that Senegal and Upper Volta were in "somewhat better straits than last year in terms of rains and crops, but Senegal has lost 50% of its major foreign exchange earner, the peanut crop."

Secretary-General of the UN Kurt Waldheim and FAO Director General A. H. Boerma have launched a joint appeal for food and money to meet the 1974 emergency. They requested a minimum of 450,000 tons of food grains; 60,000 tons of protective foods and $30 million for transport and other needs such as health programs and the purchase, storage and supply of seeds.

Noting that "the worst is definitely not over," after returning from an inspection of the drought stricken areas, UN Secretary-General Waldheim said that transportation and distribution of relief supplies was the

major problem now. According to a N.Y. Times report (3/8/74), the Secretary-General said that he had seen piles of food in the capitals that had not eb shipped to afflicted areas in the north because not enough trucks were available. He added that he had been prevented from flying to two of the most seriously affected areas because of sandstorms and because airstrips were destroyed by heavy cargo planes that had delivered relief supplies.

Fermino Spencer, Director of AID Office of Central and West African Regional Affairs, predicted that if emergency attention were not given to water supplies, livestock, health care and the elimination of transportation bottlenecks, then the long-term efforts themselves could not survive.

II. ETHIOPIAN DISASTER

The Sahelian countries seemingly are part of "the climatic tragedy which stretches at the same line of latitude around the earth" and which now has spread into Ethiopia.

AID Disaster Memorandum noted that six provinces of Ethiopia; Tigre, Wollo, portions of Shoa, Begemdir, Eritrea and Harraghe, are severely affected. The memorandum included the results of a survey conducted by the Imperial Ethiopian Government (IEG) in eastern and southern Ethiopia which revealed mass starvation and malnutrition among the population where over two million now depend partially on the IEG for their survival.

AID reported that the National Relief Committee, established by the IEG, developed the following measures for meeting the emergency and long term effects of the disaster: 1) Establish 21 medium and long-range rehabilitation programs with a cost value of $1.0 million; 2) Purchase and transport grain to stricken areas at estimated cost of $7.8 million; 3) Designate funds for insecticides for the protection of food crops, worth $486,000; 4) Establish an interest free loan program for the purchase of seeds and oxen (draft animals) in the drought area.

Relief and recovery operations have been designated in three phases: 1) Short-term—provide water, clothing, medical aid to the drought victims; establish an effective transportation system and construct storage facilities; 2) Medium-term—replenish seed stocks and replace farm animals; and 3) Long-term—establish food for work projects in the areas of irrigation, road construction, resettlement and reforestation.

In addition, a team of the International Bank for Reconstruction and Development has assessed the rehabilitation/development needs from $12 to $15 million.

III. INTERNATIONAL RESPONSE

FAO Sahelian Zone Trust Fund; recent donations to the Fund included $660,000 from Sweden; $44,000 from the Australian FFHC and $1,500 from the Canadian Hunger Foundation. According to an FAO press release of 2/13/74, cash contributions now total approximately $1.7 million, while food commitments have reached about 500,000 tons.

The International Development Association, an affiliate of the World Bank, as of November 15, 1973 approved six development credits totalling $14 million to help finance a project for drought relief of the Sahelian countries of Western Africa. The individual credits will go to the Republic of Chad for $2 million; Republic of Mali for $2.5 million; Republic of Mauritania $2.5 million; Republic of Niger $2 million; Republic of Senegal for $3 million; and Republic of Upper Volta for $2 million. The project aims at helping people in drought affected areas to reestablish their self-sufficiency through the redevelopment and improvement of their farms and herds.

The United Nations Development Programme pledged a total of $8.7 million in support of the Office of the Sahelian Relief Operation (OSRO) established by the FAO. In addition to these funds, the UNDP has committed $500,000 for seed purchases and together with UNICEF has agreed to support a water resources development program amounting to $3.7 million.

UNICEF The total emergency relief assistance proposed by UNICEF to be delivered to the Sahelian zone in 1974 (subject to receipt of special contributions) is $7.3 million, including $280,000 for child feeding; $1.0 million for child health supplies; $5.6 million for distribution of food and child health services and $424,000 for support costs. Another $4.1 million has been estimated for UNICEF rehabilitation assistance in 1974 and 1975. As reported in the January, 1974 edition of the UN Sahelian Newsletter, UNICEF has provided $205,000 worth of rehydration fluids, bulk drugs and vaccines.

World Council of Churches made an appeal to its 267 member churches and their related agencies for $3.5 million to assist development programs in the drought stricken zone.

League of Red Cross Societies The Algerian Red Crescent has distributed relief goods to nomads during the last three years who have moved from Mali and Niger into southern Algeria. Additional aid, particularly cereals, milk powder and protein rich foods is needed to continue relief efforts.

International Development Research Centre (Ottawa, Canada) As of February 15, 1974 it was reported that the IDRC had provided a grant of $141,200 to the Ministry of Rural Economy in the Government of Niger to support an experiment in establishing woodlots near 70 villages from which the villagers may cut their firewood.

IV. U.S. RESPONSE

A. Federal Government

The U.S. has contributed $1 million to the FAO Sahelian Zone Trust Fund. U.S. assistance to the Sahel thus far has amounted to more than $129 million, including over 500,000 metric tons of food grains and its transport, other medical and relief supplies. For fiscal year 1974 $2,550,000 in non-food aid has been made available to meet emergency needs in the Sahelian drought stricken countries. Food for FY74 has been estimated at $230,000 metric tons with a cash value of $48 million.

The Agency for International Development (AID) recently announced a new rehabilitation and recovery program in the six Sahelian countries. An initial allocation of $20 million was made for the new quickly-implemented recovery type activities. Maurice Williams, the President's Special Relief Coordinator for Sub-Sahara Africa explained in AID newsletter of February 4, that the purpose of the new recovery program is to assist each country to expand its capacity to cope with existing emergency conditions and to provide a base for long-term development that will reduce the ravages of the drought . . . The program will concentrate on four major economic areas: food storage and transport; range management and irrigation; agricultural production; and health.

B. *Voluntary agencies (ACVAFS members)*

CARE has recently signed an agreement with the Government of Chad to work in that country. The agency is sending a survey team there to determine what program will be developed. It is also working to deepen 600 wells in addition to the 100 already completed with a project cost of $200,000. CARE is also surveying prospects in Niger and has sent carbohydrate disaster relief supplies.

Catholic Relief Services-USCC: CRS cash contributions to the Sahel have amounted to $1.1 million so far, with 40 percent of this amount distributed to Senegal; 40 percent to Upper Volta and 20 percent for remaining programs, e.g. $20,000 to Caritas/Niger.

Church World Service: In response to an emergency request, CWS supplied ten treadle sewing machines, sewing materials and up to 12,000 blankets. Also, CWS purchased 15,000 pounds of milk powder for shipment to Niger. Funds for the purchase have come from CROP who has received $15,300 for the Sahel emergency.

Lutheran World Relief: The date palm pest eradication program valued at $40,000 and the seed distribution project with an estimated cost of $96,000 are now underway in the Sahelian zone.

Medical Assistance Program sent $3,000 to Upper Volta and $2,000 to Mali for famine relief to be administered by the Christian and Missionary Alliance.

Mennonite Central Committee recently purchased twenty five tons of shelled peanuts in the area for Chad drought relief. The peanuts will be distributed through food-for-work projects in northern Chad. Mennonite Central Committee also plans to initiate a program to purchase food grains from southern Chad where the harvest was relatively good for redistribution in the north where drought and famine continue severe. Transportation, including the renting and purchasing of vehicles to haul food and medical supplies has been initiated. Total value of relief effort is $173,000 including the value of donations of breakfast mix, powdered milk, vitamins and antibiotics.

Longer term projects including water conservation projects such as small dams, catchment basements and wells are being planned for the Abeche area in eastern Chad. An irrigation project for the rice growing areas along the Chari River is planned. A technical advisor is being recruited to assist the director of the Societe Chretienne Evangelique du Tchad, a rural development program of the Protestant Churches. Estimated 1974 cost for these projects is approximately $64,000.

Near East Foundation has completed a livestock survey in Mali and is now in the process of scheduling a technician to spend about six weeks in the Sahel area to investigate specific services and help that the Foundation can contribute to one or more of the countries affected by the drought.

World Relief Commission. Since last November, approximately $40,000 has been sent to Upper Volta, Senegal, Niger and Chad for well digging and grain purchases. World Relief Commission has received certification from the Upper Volta Government to do emergency relief and rehabilitation work.

American Council of Voluntary Agencies for Foreign Service. At the 30th Annual Meeting of the American Council of Voluntary Agencies held on January 24, the Board of Directors authorized the establishment of an Ad Hoc Committee on the Sahel. The organizing meeting of the Committee was held on January 25, 1974. Pastor Ove Nielsen was elected Chairman.

Arnold Zandstra represented the Technical Assistance Information Clearing House of the ACVAFS on the second phase of an NGO Program Identification Mission to the Sahel. The Mission, which was sponsored by the Interstate Committee for Drought Control in the Sahel, was to identify local partners and work out proposals for NGO support of medium and long term rehabilitation programs in the Sahel.

Mr. Zandstra was born in Hammond, Indiana and grew up on his family's farm where he gained considerable experience in the practical aspects of farming, including gaining specific skills in planting and harvesting crops, supervision of farm help, managing a beef feeder operation, mechanical work, welding and application of chemicals.

Mr. Zandstra spent two years as a Peace Corps volunteer in Niger where he worked on construction, irrigation, well-digging, and semi-arid tropical agricultural projects in conjunction with work of the Near East

Foundation and USAID. After returning to the United States and working on his advanced degree Mr. Zandstra returned to Niger and West Africa in 1973 to see what progress has been made in the area and re-establish contact with the various projects. Mr. Arnold Zandstra's services for this mission were made available to the Council through the generosity of a member agency, Christian Reformed World Relief Committee.

C. Other U.S. private efforts

American National Red Cross has sent an additional $20,000 to the League of Red Cross Societies for Red Cross famine relief operations in the drought stricken areas of Africa.

Project Relief is cooperating with Oxfam America in sponsoring a Day of Fast on Wednesday, May 1st in U.S. high schools and colleges.

Africare received a grant of $250,000 from Lilly Endowment, Inc. (Indianapolis) to fund a large-scale well construction program assisting drought stricken rural villages, and a program to emphasize the development of small-scale vegetable gardens.

United Federation of Teachers is raising funds for the Famine Relief Fund of the African-American Labor Center to be used for food, medicines and supplies in the Sahel.

V. VOLUNTARY AGENCY REPRESENTATIVES IN THE SAHEL

In response to a Council request, the following brief biographical sketches of member agencies' field representatives in the Sahel were received. These may be of interest to readers. It is such representatives as these who administer, distribute, coordinate, etc., the relief and rehabilitative activities.

American ORT Federation

George Little was born in Nassawadox, Virginia on December 3, 1937. He served in the Peace Corps from 1964–1966 in Morocco where he was responsible for four medical labs serving the rural area twice the size of Belgium. Mr. Little received a B.A. degree from Portland State College in Oregon and a Master's in Public Health from the University of Hawaii in 1969, under a U.S. Public Health Service traineeship. Specializing in administration of medical and public health programs, he served as Director of Comprehensive Health Planning Commission in Radford, Virginia before joining American Ort Federation in November, 1973. Presently, Mr. Little is administrator of the American Ort Mother/Child Health Program in Niger.

Catholic Relief Services

Cameroon

Patrick A. Lyons of Foxborough, Mass. is a four year veteran of the U.S. Navy. He obtained his B.A. degree from Boston University in 1963 and his Master of Arts degree there in 1964. In 1969, Mr. Lyons joined CRS for overseas duty in Senegal and later that year was transferred to Gambia where he served until 1971 when he became Program Director of the CRS Program in Cameroon where he is currently stationed.

Senegal

Raymond K. Panczyk of Ozone Park, Queens, N.Y. graduated from Manhattan College in New York in 1955 where he received his B.S. degree in psychology. He then joined the U.S. Air Force serving four years and held the rank of 1st lieutenant. Upon his return from the service, he resumed his studies at Fordham University and received a Masters degree in psychology. Before joining CRS, he worked as placement officer for Fordham University. In 1961, Mr. Panczyk was assigned by CRS to Morocco where he distributed U.S. Government surplus foods and other relief materials. Following this, he was assigned to CRS programs in Ethiopia, Ghana, Malagasy and currently, since 1971, he is Program Director in Senegal. In 1973, he also became Area Advisor for five African countries in connection with the Sahelian Drought Program of CRS .

Upper Volta

W. Thomas Kelly is a native of Little Rock, Arkansas. He is a graduate of the University of Arkansas and holds an M.A. degree from the Thunderbird Graduate School of International Management in Phoenix, Arizona. Mr. Kelly came to work for CRS in 1971 as Assistant in the CRS/Senegal Program until 1972 when he was transferred to Upper Volta where he is currently Program Director.

Edward Seligman of San Francisco, Calif. is in *Upper Volta* where he is a Project Supervisor for CRS. A graduate of Middlesex High School in Concord, Mass., Mr. Seligman holds a B.A. degree from Yale University in New Haven, Conn. Before joining CRS, he was a Peace Corps Volunteer in Upper Volta for four years, during which time he built five dams, and 22 wells as well as supervised the construction of two schools and a warehouse.

Richard J. Adam of Belchertown, Mass. is a Program Assistant for CRS in *Upper Volta*. He holds a B.S. degree in accounting from Western New England College in Springfield. Before joining CRS, Mr. Adam served two years as a Peace Corps Volunteer in Gambia.

Lutheran World Relief

Harold Ottemoeller was born and raised in Grand Island, Neb. He attended the Lutheran Concordia Seminary in St. Louis, Mo. In 1948 he left the United States for Nigeria where he was a missionary. During the Nigeria-Biafra War in 1969, he was in charge of the first seed distribution program and again in 1971. Presently, he is directing the Lutheran World Relief seed distribution program in the Sahelian countries. He is stationed in Jos, Nigeria.

Steve Ottemoeller was born in Eket, Nigeria, where his father Harold Ottemoeller was a missionary. He completed high school in Hillsboro, Ore., and returned to Nigeria for a short while. On his return to the U.S. in 1972, Steve completed a course in advanced heavy equipment operation and maintenance at the West Coast Training Service, Inc. in Portland, Oregon, so he could help his father who was then involved in dam construction in Nigeria. In 1973, he joined Lutheran World Relief to assist his father in the two-year Sahelian seed distribution program and is currently stationed in Niger.

Dan Ottemoeller lived in Hillsboro, Oregon until 1962, when his parents went to Africa and became houseparents for the Lutheran Mission in Nigeria. His family returned to the U.S. in 1965. After graduating from high school in 1973, Dan joined his uncle, Harold Ottemoeller, in the Lutheran World Relief seed distribution project.

Dave Ingold was born in Akron, Ohio. When he was six years old, he went with his family to Nigeria where his father became Field Secretary of the Church of the Brethren Mission. He completed his primary and high school education at Hillcrest School, Jos, Nigeria, graduating in 1972. After graduation, he became a driver training instructor as part of the Mission public health program. At the request of Harold Ottemoeller, he has joined the Lutheran World Relief seed distribution project and is working in Niamey, Niger. He is engaged to Cheryl Ottemoeller who is currently secretary of the Sahelian program, based in Jos, Nigeria.

Mennonite Central Committee

Stephen Penner is the official representative of the Mennonite Central Committee in *Chad*. Mr. Penner joined MCC as a teacher in 1971. After spending a year in Belgium for French language training, he was transferred to Mulungwishi, Zaire, where he taught English and a variety of other subjects in the Methodist secondary school there. He also provided leadership for a number of small agriculture projects attached to this school. In November 1973, he was transferred to Chad at MCC's Representative in that country. Mr. Penner was born and raised in California and graduated from Pacific College, Fresno, California, with a degree in English. He is 25 years old.

CITIZEN'S ENERGY CONFERENCE

Mr. JACKSON. Mr. President, on February 16–18, 1974, more than 1,000 people from throughout the Nation met at the Shoreham Hotel in Washington, D.C., for a Citizen's Energy Conference. The conference was called to look into the structure of the oil industry, national policy options, the impact of the crisis on specific constituencies, and legislative proposals and local organizing strategies.

A wide variety of issues was discussed including unemployment, clean air, mass transit, alternate energy sources, taxation, inflation, strip-mining, nuclear power, and utility rates.

Organizers of the conference included Msgr. Geno Baroni, Center for Urban Ethnic Affairs; Jerry Berman, Center for Community Change; Richard Boone, Robert F. Kennedy Memorial; Bob Gallamore, Common Cause; Jim Hamilton, National Council of Churches; Hilton Hannah, Amalgamated Meat Cutters, AFL–CIO; William Lucy, American Federation of State, County, and Municipal Employees, AFL–CIO; and Rafe Pomerance, Urban Environmental Conference.

Sponsors included Agribusiness Accountability Project; Americans for Democratic Action; American Friends Service; American Lung Associates; American Public Health Association; Center for New Corporate Priorities; the Children's Foundation Clergy and Laity Concerned; Communities in Action Together Conservation Federation; Consumer Federation of America; Council on Economic Priorities; D.C. Lawyers' Guild; Energy Policy Project; Environmental Action Foundation; Environmental Policy Center; League of Women Voters of the United States; Medical Committee for Human Rights; NAACP Legal Defense and Education Fund, Inc.; National Association of Social Workers; National Council of Negro Women; National Council of Senior Citizens; National Student Association; National Student Lobby; National Urban League; Natural Resources Defense Council; PUSH; Project on Corporate Responsibility; Sierra Club; Unitarian Universalist Association; and the United Mine Workers.

U.S. Congressman RONALD DELLUMS, of California, gave the keynote address in which he defined the shortage, the conflicts it raises, and the need for action. He was followed by the conference chairman, Rt. Rev. Paul Moore, Jr., Bishop, Episcopal Diocese of New York.

The first day included speeches by Walter Heller, regents professor of economics, University of Minnesota. Professor Heller presented a documentation of the inflationary economic effects of the crisis and offered long- and short-term solutions. Barry Commoner of the Scientists' Institute for Public Information

told of his concept of energy resources use in this country in terms of private profits and human needs.

Thoughts on the impact of the energy crisis on people—who they are, what the issues are, where and how to focus attention and action—were given by Dorothy Height, president of the National Council of Negro Women.

Charles Hayes, vice president of the Meatcutters and Butcher Workmen, spoke on the economic impact of the crisis on labor, minorities, and the poor.

Mr. Hayes was followed by Joel Schatz, from the Center for Applied Energetics and consultant to the State of Oregon. Mr. Schatz viewed energy as its affects society. He offered a view of the dynamics of the energy industry, its uses and costs as key factors in inflation and controls leading to conservation and environmental and human needs.

A panel discussion entitled, "The Politics of Energy—the energy companies, who they are, what their role is, and the Government's role," closed out the first day's session. The moderator of this panel was Dave Freeman of the Energy Policy Project. He focused on options for change in the energy industry. Martin Lobel, an antitrust lawyer, commented on the character and structure of the oil industry. Dave Schwartz from the Federal Power Commission spoke on the character and marketing structure of the natural gas industry. Author Christopher Rand discussed overseas oil operations. Vic Reinemer of the Senate Government Operations Committee described the process of energy decision making.

The second session opened with John Hampton of the National Tenants Organization discussing strategy for public action. Ralph Nader followed with his views on "What Citizens Can Do."

Several panel discussions followed. The first was on the energy industry. Alan McGowan from the Scientist Institute for Public Information was the moderator. Martin Lobel detailed noncompetitive characteristics of the energy industry and the uses of anti-trust laws. Charles Porter, a former Congressman from Oregon, discussed public ownership of the oil and gas industry. Kay McKeough of the Senate Commerce Committee gave a presentation of alternatives and presented several bills pending in Congress.

Another speaker noting alternatives to the structure of the energy industry was Geoff Faux of the Exploratory Project for Economic Alternatives. An additional alternative approach—municipal-owned utilities as opposed to the privately owned utilities—was offered by Alex Radin of the American Public Power Association.

The topic of the second panel was meeting human needs. John Kramer, a professor at Georgetown Law School, was the moderator of this panel. Panelists included Dorothy Newman of the Washington Center for Metropolitan Studies. She gave statistical data on the impact of the energy crisis on people's real fuel needs. Bill Lynch, from the National Council on Public Service Employment, gave statistics on unemployment and argued for specific legislation and for more public service. Public interest lawyer Tersh Boasberg spoke of source of money for the poor for fuel use. Brownie Carson, Housing Insulation in Maine, and John Hampton, National Tenant Organization, presented a picture of the impact of the energy crisis on housing.

The next panel discussion suggested areas for citizens action. Bert DeLeeuw of the Movement for Economic Justice was moderator. Panelists included Richard Harmon of the Industrial Areas Foundation; Wade Rathke, from the Arkansas Community Organization for Reform Now; Maggie Kuhn of the Grey Panthers, a senior citizens group; and Bill Hill from the Fraternal Association of Steel Haulers.

The final panel gave a legislative overview. The moderator was Jack Moskowitz of Common Cause. He spoke on tax policies toward the oil companies. A discussion of the long-range view of energy production considerations now being affected by legislative and industry efforts was offered by Joe Browler of the Environmental Policy Center. Leonard Lesser of the Center for the Community Change, spoke of human needs, legislation, and the energy crisis.

The conference concluded with a summary and prospectus by Barbara William of the Coalition for Human Needs and Budget Proprietaries and conference cochairperson.

The Citizen's Energy Conference was a most important step toward the development of a continuing national discussion of the energy crisis. I congratulate the organizers and sponsors of and the participants in the Citizen's Energy Conference and commend them for their contribution to a national dialog on the energy crisis.

Mr. President, I ask unanimous consent that a February 18, 1974, article on the conference in the Washington Post be printed in the RECORD, along with a February 17, 1974, article from the Washington Star-News; a March 22, 1974, article from the Los Angeles Times; an article from the Christian Science Monitor; and an article from the publication Energy.

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

ENERGY HARDSHIP MAY COME, NATIONAL CONFERENCE TOLD

(By Adam Shaw)

Washington-area households, businesses and institutions have been reasonably successful so far in implementing energy-conserving measures, largely because of an unseasonably warm winter, according to a study released yesterday by the Washington Center for Metropolitan Studies, a local nonprofit research group.

But should the coming summer be long and hot and the ensuing winter long and cold, the study warned, "a much more heroic conservation effort (will be required) in order to escape severe dislocations of life and work."

The energy question also brought together nearly 1,000 people yesterday at the Shoreham Hotel, representing widely diverse civic, environmental, labor and church groups from around the nation. They discussed "A Crisis of Power," which they said meant not only an energy shortage but also a crisis caused by those in power.

The Washington-area study, made by Colin Waters, a former member of the United Planning Organization, was compiled by "interviewing key officials and executives responsible for energy concerns throughout the metropolitan area," as well as private citizens and businessmen. It does not attempt to be a comprehensive survey, its author said, but rather a "first look" at the energy problem in the area.

The study reports that while energy saving measures such as the trend toward smaller cars, the lowering of thermostats, and car pooling have been successful so far, they will no longer be effective in the future unless "the balancing act" kind of "relationship that exists between the production and distribution of . . . energy" is somehow solved.

Hints of possible future hardship, the study said, are drops in sales notably in businesses dependent on customers using automobiles, such as real estate, suburban supermarkets, restaurants and tourist-related operations.

"Now is the time to begin laying careful plans for the management of the area's energy needs over the long haul," the study said, and not to be lulled into a false sense of security by a warm winter more or less easily survived.

The emphasis on long-term planning was also a recurring theme at the Citizens Energy Conference at the Shoreham, which included groups as diverse as the Sierra Club, the League of Women Voters, the Fraternal Association of Steel Haulers and the Grey Panthers, a senior citizens' action group.

Wade Rathke, organizer of an Arkansas civic group called ACORN that has campaigned against the Arkansas Power and Light company, said he came to tell people how his group succeeded in mobilizing support from the legislature, and also to learn how other groups were faring.

"The issue now is simply keeping people working and keeping them warm," and Rathke, whose group took on the utility firm over the issues of rates and pollution. "But the issues we must all look to are not to just put things on paper, but to get people mobilized and working to see the energy crisis is not just waiting in line at gas pumps, but that it will affect our whole lives."

William J. Hill, the burly president of the Fraternal Association of Steel Haulers, said, "my purpose here is to help get more people involved to get the price of petroleum products rolled back."

The three-day conference was attended by persons who ranged from little old women in tennis shoes and bearded activists to pinstripe-suited lawyers. It was scheduled to be held at one of the area's universities but had to be moved to the Shoreham, costing the organizers about $25,000, they said. All the universities were closed on weekends to conserve fuel.

[From the Christian Science Monitor]

FED-UP CONSUMERS ORGANIZE ENERGY-CRISIS COUNTERATTACK

(By Monty Hoyt)

WASHINGTON.—Fed up with shortages of gasoline and home heating oil, dismayed over rising oil company profits and spiraling utility rates, and abandoned, they say, by a government that has forgotten about them, U.S. consumers are organizing to make their voices heard.

One of the widest cross sections of American public interest ever assembled has just met in Washington for a citizens' energy conference to discuss alternative courses of action.

"The energy crisis is really touching everybody," says Bert DeLeeuw, coordinator of the Movement for Economic Justice, one of 137 sponsoring organizations for Citizen's Forum.

"What we are trying to do is build a movement of organized people—something that goes beyond the narrower interests of the earlier civil rights movement, the peace movement, welfare rights groups, or tenants' rights organizations.

"The energy crisis and its sub-effects—fuel shortages, rising prices, utility rate hikes and the like—are issues that can pull everybody together," he states.

FLOW OF INFORMATION

Another conference organizer told The Monitor, "There is confusion of the . . . facts behind the energy crisis. Already the crisis is being used as an excuse for reversing recent gains for environmental protection and social and economic justice. There is a real need for citizens to get informed about the causes of the crisis and to find ways to gain access for citizen participation in energy policy decisions," says Barbara Williams, executive director for the Coalition for Human Needs and Budget Priorities.

More than 1,100 delegates have returned home without a grand-scale national strategy. That was not the purpose, conference sponsors say. But a flow of information from local organizations through a national clearinghouse and back out to the various interest groups has begun.

DIVERSE ACTIONS

"How many groups can afford to send delegations to Washington to try to influence Congress? It's not on their turf and it's not from a position of strength. It's our hope this citizen movement will keep people at home, broadening out, applying pressure in board rooms, city halls, and commission hearings at the local level where they can deliver a real punch," one coordinator states.

The actions being planned at the grassroots level are nearly as diverse as the groups represented here:

"We have advocated that the oil industry ought to be nationalized," says Hilton E. Hanna, international vice-president of the Amalgamated Meat Cutters. "But more immediately, oil depletion allowances should be ended and there should be a rollback in gasoline prices."

MILITANCY PLANNED

"We're concerned that corporations are using the energy crisis to ease off on affrmative action [programs for improving the job status of women and minorities]," says Judy Lightfoot, chairman of the National Organization of Women. "At times of crisis, minorities and women lose the most ground. We plan to be extremely militant to see that this doesn't happen."

"We're outraged—at the excess profits of the oil companies," says Maggie Kuhn of the Gray Panthers (a national senior citizens organization).

"We're getting militant because we're suffering," says Joseph Davis, another Gray Panther. "The elderly and other people on fixed incomes are the hardest hit by inflation and the energy crisis. It becomes difficult even to afford fuel and groceries."

The many disparate groups have agreed to "keep heating things up" at the local level: Some will be applying pressure to city halls, the congressional delegations, and other elected officials for relief against runaway energy prices and oil company profits; some will be demonstrating against utility companies and testifying at rate-hike hearings; some will take aim at the oil companies themselves.

"The energy shortage could result in some communities getting tax reform," says Lionell Castillo, city comptroller of Houston. "There's no reason why energy company properties should not be yielding higher revenues for cities."

MEDIA ONSLAUGHT

Other groups will be seeking public service time on television and radio to counteract the current multimillion-dollar advertising campaign of the energy industry:

"This media onslaught by the oil companies has been the most massive industrial propaganda campaign in our history," says Frank Greer of Public Interest Communications. "The public has been the victim of the one-way communications systems in our country. One of our greatest needs now is for citizens to begin responding to media to this biased view of things."

[From the Washington Star-News, Feb. 17, 1974]

ONE MILLION JOB LOSS SEEN

(By John C. White)

A two-day conference to explore citizen input into the nation's energy policies began yesterday with economist Walter Heller predicting an increase in unemployment this year of "at least 2 percent or around 2 million" workers.

About 700 people representing social activist groups, churches, consumers and environmental groups are attending the conference at the Shoreham Hotel designed to also examine the origins and impact of the current energy crisis.

Heller, professor of economics at the University of Minnesota and a former chairman of the Council of Economic Advisers, also predicted that inflation will continue and that the United States will experience a "fairly mild recession".

He said the nation could expect a drop in producton output for the next couple of fiscal quarters. A recession is conventionally defined as a decline in gross national product for two or more consecutive quarters.

Heller suggested an increase in the exemptions under the federal income tax as short-term relief for inflation. In the long run, Heller said, the government should order a rollback of wholesale crude oil prices rather than an excess-profits tax on the oil industry.

Barbara Williams, the conference vice chairman, said the goal of the conference is two-fold: "We must find ways to increase the chances for citizen participation in energy policy decisions and we must find and share the information we need in order to decide wisely."

Another of yesterday's opening speakers, Rep. Ronald Dellums, D-Calif., linked the oil shortage with United States military involvement in Southeast Asia.

A frequent critic of U.S. military decisions, Dellums said that the energy shortage is the "last major economic legacy of the over-all distortions brought about by 10 years of direct United * * *.

Dellums, who is a member of the House Armed Forces Subcommittee, said that 65,000 barrels of fuel a day are diverted for military use in Southeast Asia.

One of the strongest critics of the oil companies to speak yesterday was Barry Commoner, environmentalist and chairman of the board of Scientists Institute for Public Information.

"The oil companies have created an energy crisis just as though it were another campaign of full page advertisements or television spectaculars—and with the same goals in mind: more profit," Commoner said.

Commoner, who said he did not believe there is a true gasoline shortage, suggested the nationalization of the oil industry. "The nation needs oil, but it doesn't need the oil companies," Commoner said. He added that oil industry workers "can have good jobs working for a publicly owned agency—the TVA proved that."

Finally, Joel Schatz, an energy consultant to Oregon, called for a uniform tax levied on the potential energy content of all energy sources at the place of extraction and an extraction tax placed on the removal of raw materials.

Schatz said that this would have the effect of increasing the "net" energy available to the consumer. He also said that some of this revenue could be used to aid the lower-income people who are hardest hit by increased gasoline prices.

[From the Los Angeles Times, Mar. 22, 1974]

CITIZEN'S GROUPS FIND CAUSE—ENERGY CRISIS

(By Jacques Leslie)

WASHINGTON.—"You don't have to know what the whole octopus looks like to start chopping at a few tentacles."

Armed with that philosophy, Wade Rathke, 25-year-old chief organizer of the Arkansas Community Organization for Reform Now, has stepped into the middle of the complicated, confusing energy field and gotten results.

Organized less than four year ago, ACORN, an Arkansas public interest group representing 4,700 low-and middle-income families, decided last September to fight construction of a 2,800-megawatt power plant proposed by the Arkansas Power & Light Co.

Questioning the need for the plant and citing probable crop damage because of sulfur emissions from the plant, ACORN protested to state agencies, organized a partial consumer energy boycott, and appealed to the power company's stockholders, including several private universities.

As a result, Rathke estimates that ACORN now stands a better than even chance of preventing the plant from being built. And if it is constructed, environmental safeguards not originally planned probably will be included.

Given the tremendous demand for new energy sources, "one would have thought our position would be extremely unpopular," Rathke said.

Using similar methods, hundreds of other public interest groups across the country are trying to emulate ACORN's success. They are devoting much of their resources to lobbying and educating the public on the energy problem. Representing widely divergent interests, the groups seem united only in the assumption that in their drive to end fuel shortages neither the oil industry nor the government is protecting the public interest.

The public interest, however, is not always easy to define. And the already apparent disagreement on methods and goals among the groups reflects that. Consequently, local and state groups with limited goals seem to have had more impact so far than national ones.

"We're a long way from a national strategy," Rathke said. "If we knew what the solution was to the whole thing, we'd say it."

Public interest groups involved in the energy field range from established organizations such as the Sierra Club and Common Cause to a two-month-old San Francisco group called Electricity and Gas for People, which was formed to fight a rate increase requested by Pacific Gas & Electric Co. Most public interest groups in the energy field appear to operate on a local level.

A listing of a fraction of the organizations sponsoring a recent citizens' energy conference in Washington suggests the diversity of the groups: Americans for Democratic Action, American Lung Assn., Concerned Citizens of the Delaware Valley, Fraternal Assn. of Steel Haulers, Friends of the Earth, National Consumers Congress, National Welfare Rights Organization, United Presbyterian Church, War Tax Resistance, World Federalists.

"Everyone's self-interest is hit with the energy issue," said Jim Goodell, one of the conference coordinators. "Workers are laid off. Environmentalists see their gains of the last few years being rolled back. Consumers have to pay more. Poor folks are hit harder than anyone else.

"The civil rights movement, by comparison, only directly affected people who were being

discriminated against. Some others became interested essentially because they were good people."

Though the citizen's energy conference drew minimal national publicity, it attracted more than 1,000 people representing about 200 groups. Organizers managed to raise $25,000 in a month and a half before the conference began.

"The energy crisis is so amorphous an issue," said John Franzen, a conference coordinator. "It's not like the Vietnam war, which was relatively clearcut and simple. Energy includes not only the oil companies and oil prices and gasoline lines, but also international relations, coal, nuclear energy, alternate fuels and alternate life-styles.

"I can't imagine some vast organization putting together a movement on energy. What is needed is all these groups looking out for their concerns but looking at them in terms of energy."

Typical of groups which have done exactly that is the Chicago-based Industrial Areas Foundation, organized five years ago by the late Saul Alinsky and now run by Dick Harmon. The foundation is training teachers and clergy in several cities in the Eastern United States to lead citizens' action groups against corporations and government.

"Running through what we do is the sense that American citizens and consumers are powerless, are ready to do something but don't know what to do and are looking for handles," Harmon said. "A good handle from our point of view is training citizen leaders on how to conduct these rights.

"People are getting a tremendous economic education, courtesy of the oil companies, the banks and Nixon. Everybody is talking money."

Some radical groups think the energy issue can be used to build political coalitions. "We welcome the energy crisis in the sense that it's the kind of issue that's going to show people they have a common program," said Bert DeLeeuw of the Washington-based Movement for Economic Justice, which focuses on building local coalition groups to gain power on economic issues. "The energy crisis points out what a maldistribution of resources there is in this country."

A San Francisco group called Public Interest Communications has produced television, radio and newspaper advertisements "designed to answer the propaganda we've been getting from the oil and utility companies," said Roger Hickey, PIC's broadcast coordinator.

PIC is a nonprofit advertising agency which previously made ads for groups with causes such as opposition to the Vietnam war and support for the United Farm Workers Union. PIC financed the ads in its latest campaign with more than $6,000 solicited from foundations and individuals and received help from professional ad men.

Arguing that its television and radio ads should be shown under the broadcast industry's "fairness doctrine," PIC representatives will offer them to networks and local stations.

A recent decision by the Federal Communications Commission gives strength to PIC's argument. In litigation brought by another public interest group, the Washington-based Media Access Project, the FCC denied that broadcasters must run ads to counter those sponsored by the Georgia Power Co. advocating a utility rate increase. The Media Access Project is now involved in other kinds of litigation to challenging energy companies' advertising practices.

Despite the success of some of these groups, it is doubtful that an "energy movement" comparable to the antiwar and civil rights movements of the past will emerge, since public interest groups do not agree on solutions.

One subject of conflict is fuel pricing. Typically, organizations representing poor people and consumers favor a rollback in the price or crude oil because they believe their constituents will suffer unduly from high prices. On the other hand, most environmentalists oppose a rollback because high prices discourage energy consumption and promote development of alternate sources.

On the national level, groups such as Common Cause and Ralph Nader's organizations are developing energy lobbying arms. Common Cause plans to concentrate on monitoring activities of the proposed Federal Energy Administration.

Public interest groups have not yet had any major impact on energy policy at the national level. Spokesmen for Sen. Alan Cranston (D–Calif.) and Sen. John V. Tunney (D–Calif.) both say public interest groups have exerted little pressure so far in formulating energy legislation.

While Federal Energy Office Director William E. Simon has organized advisory committees, two of which represent environmental and consumer interests, the committees so far have met only two or three times each.

"There is a little early restlessness," said Lee White, a representative of the Consumer Federation of America, on the FEO consumer committee. "If we think we're being used, I think the whole damn crowd is going to quit."

One of the few groups organized specifically to deal with energy is the Energy Policy Project of the Ford Foundation. It began in September, 1972, with a $3.5 million Ford grant.

"Our purpose is to pull together all the pieces of the energy puzzle and lay out the policy options to the country," said the project's director, David Freeman, a former White House energy adviser.

CITIZENS GUIDE TO ENERGY—NO MORE MESSIAHS

(By Charley Lerrigo)

WASHINGTON, D.C.—"In a way, the Federal Energy Office doesn't exist," the government worker said, calmly.

It was an unsettling remark, because the people to whom it was made, participants in a Citizen's Energy Conference here Feb. 16–18, were mostly persons dedicated to making the government and big business accountable to America. How can you fight something that isn't really there?

Those who came, more than 1,100 individuals from 137 organizations and 45 states, had been called to examine the "energy crisis" as a crisis of power. Most of them shared an analysis that this time the great American rip-off was making the most middle class American angry, that the poor were hurting even more, that the Nixon Administration was clearly favoring corporate energy, and that a change in life style was being called for. But how to go about all that?

One approach, mightily stressed during the three days, was to push for legislative reform and control, to try to make the government rectify the inequities. The FEO was one obvious target. The workshop session on the FEO illustrated the difficulty of adopting that approach.

What the FEO worker who said his agency wasn't a reality meant, was that "every one I know on my level is on the payroll of another government agency." Simon himself is still a deputy secretary of the treasury.

Even Ralph Nader's people are having difficulty finding out what's happening inside the FEO. "I can't get guidelines from the FEO on conflicts of interest," complained Nader worker Gary DeLoss. "I can't get biographies on any but a few of the workers. There are no organizational charts and no telephone directories for the Office."

What that means, he explained, is that "Simon is really a czar. He winds up making unilateral decisions."

ACCOUNTABILITY WANTED

There is a widespread desire in the halls of Congress to build accountability into the FEO, it was reported. S. 2776 would turn the FEO into the Federal Energy Administration (FEA), an agency supposedly set up for 18 months. Dan Dreyfus of the Senate Interior Committee, however, told the workshop that "it's clear the Administration views Simons' office as an ongoing thing." Dreyfus said he didn't know anyone who would be "offended" by S. 2776.

Yet, the issue of consumer access to the new FEA was posed as an unanswered question. One of the citizens' advisory groups structured into the current FEO will have its third meeting this March—and has funds to meet only four times a year. In the new FEA, the citizens' and industry advisory groups will meet separately (a provision the Nader group would like to see changed). Given the numerous interlocks private industry already has with government, it does not look too good for the consumer voice.

What the members of Congress are faced with, though, is the prospect of either a supersize FEA accountable on paper, or continued formulation of the country's energy policy by the White House. "Congress had never been more confused," conference delegates were told, "and more receptive to public opinion. . . . " What the delegates were also told was that, public opinion or not, Congress is going to take some kind of action. By November, the word was.

It's not just Congress that is on the hook. Federal regulatory agencies also need to be exposed to the public eye. One of the more interesting bills reported on during the citizens' energy gathering was that of Sen. Warren G. Magnuson (D. Wash.). His bill, S. 2506, would create a national oil-gas corporation and give major benefits to the independent oil producers—a good slap in the face of the oil majors. Yet his bill would also put more energy policy in the hands of the Federal Power Commission.

The FPC has already demonstrated which side it is coming down on. In 1961, after the commission had approved a $4 billion rate increase for natural gas distributors, it was discovered that FPC chairman John Nassikas had misreported an FPC staff survey to justify the increase (*AR*, Jan. 21, 1974). The discrepancy between the FPC commissioner's report and the actual staff survey was uncovered with the help of a public, natural gas producing network. Unfortunately, FPC staff member David Schwarz reported that opposition between producers and distributors of natural gas has "completely evaporated." It seems that the distributors and producers, who once counterbalanced each other to consumer benefit, are now exchanging some functions.

INDUSTRY ALLY

"The FPC used to be an agency which regulated in the public interest," complained Schwarz. "Since 1968, they have gone downhill. Now they want to deregulate the industry . . . And they are not being simplistic. They think they are serving the public by protecting private industry."

The Magnuson bill, and other calls for nationalization of the energy companies, also came under attack from a more common criticism. As Geoffrey Faux, a local organizer from Maine, put it, "I don't want to exchange Exxon for Nixxon." The distrust of legislative and administrative remedies suggested another approach.

Martin Lobel, noted Washington attorney, argued for the breaking up of the oil majors by anti-trust suits—the judicial route to reform. But Lobel could only smile when Faux pointed out that Standard Oil had been broken up by the government once before.

Now, the branch of the old Standard Oil goes by the name Exxon.

"What can I say?" Lobel commented later. "You just have to keep at it."

It was that way at the conference: A lot of solutions, some of them contradictory. Economist Walter Heller told the people that an excess profits tax was not the way to stop the oil crisis, and that the price roll back being posed was the best of possible solutions. A little later, Ralph Nader charged that Sen. Jackson's proposed price roll back was a "phony" (as it could be changed later).

Joel Schatz, energy consultant to the state of Oregon, came forth with his theory of "Cosmic Economics" arguing that the best way to slow down the wasting of energy resources is to push the prices still higher (with appropriate checks so that the energy companies do not simply get higher profits). Christopher Rand, former oil executive now writing a book on big oil, argued as effectively that the oil majors are more concerned with control of volume than of price.

(Five days after the conference closed, some of the nation's major oil companies announced they were reducing their imports of crude oil because they were unhappy with FEO directives to sell surplus crude to companies with less reserves.)

Conference leaders spoke glowingly of the "human energy" being created at the three-day gathering, hailed it as "the only energy source we do control," and Ralph Nader declared that the movement generated by the whole issue "will be larger than the anti-war movement." But as the day approached when the people had to return to their own projects, the talk shifted to an assessment like that of the Movement for Economic Justice's Bert DeLeeuw: "One of the realities that we must face is that we just don't have the number of troops we need."

There was not the kind of unity which could have led to a single action agenda. Hulbert James of the National Council of Churches said the conference leaders had been unable to agree, beforehand, on any single strategy. The conference announcement had made that clear. The days in Washington would be primarily educational (share your strategies, learn new information), and inspirational (know ye that we are not alone). Those delegates interviewed said they had been strengthened by their time together, and undoubtedly some liaisons between the various groups were made.

NO SINGLE SOLUTION

If the conference demonstrated anything, it was that a solution to the energy crisis is not going to be found in any one arena. Rep. Ron Dellums (D. Calif), who opened the sessions, asserted that the key strategic issue *is* coalition. He got his biggest applause when he declared, "The ultimate question is whether you and I have the courage and conviction, not to find alternative sources of energy, but an alternative way to live." It's an all fronts battle ahead, and no single group, whether it concentrates on the price of oil, the human cost of the crisis, or the assault on the environment, is sufficient unto itself.

"There will be no more black and white messiahs," conference vice chairperson Barbara Williams told the faithful. "You are going to have to be the messiahs. You are going to have to be the experts. . . ."

"Unless you deal with the psychology of powerlessness and the reality of power," she admonished, "we'll have to have another conference next spring—on the 'food crisis.'" Those who want to wait around until all the "facts" are in on the energy crisis may do well to make their reservations for next spring.

EDUCATIONAL BENEFITS FOR VETERANS

Mr. BUCKLEY. Mr. President, on April 10 the Subcommittee on Readjustment, Education, and Employment, of the Senate Committee on Veterans' Affairs conducted hearings on educational benefits to veterans. I had the privilege of presenting testimony to that subcommittee. I would like to take this opportunity to share my statement with my colleagues and ask unanimous consent that it be printed in the RECORD.

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

STATEMENT OF SENATOR JAMES L. BUCKLEY

Mr. Chairman: I have reviewed the present laws outlining the benefits now available to veterans, and I find them inadequate. The veterans of Vietnam served as faithfully as those of the Second World War and the Korean War, and have earned in every way the same expression of national gratitude in terms of veterans' benefits. Congress is just beginning to come to grips with the realities of the civilian readjustment facing the Vietnam veteran. Recent activity on the part of the Senate Committee on Veterans' Affairs does brighten the outlook for realistic reforms in the entire approach toward correcting inequities and deficiencies in present policies.

The developments in legislation concerning veterans education benefits this year are of utmost concern to millions of American veterans, their families, and all of the men and women still on active duty with our nation's armed forces. They are anxiously waiting, and many are actively working, for Congress to establish adequate and equitable standards of compensation for the sacrifices they made while serving in our country's armed forces. This subject is important to all Americans, and it is of special importance to the veterans living in New York State, who make up 10 percent of this nation's 30 million veterans.

Mr. Chairman, you are now considering a number of bills dealing with educational assistance programs. The only real issue before us is the form that the increases in educational benefits should take. There is no dispute over the fact that veterans have found that their educational benefits must be supplemented by income from outside sources, and when those outside sources are not available, veterans have been unable to use the benefits at all. The need for additional funds is even more critical if the veteran has dependents. There can no longer be any question that the average veteran is priced out of private institutions, and even priced out of many state-supported schools where significant tuitions are being charged.

These conditions are particularly prevalent in New York, New Jersey, Pennsylvania, Ohio and Indiana, and 28 percent of our veterans are living within their jurisdictions. Not only is the cost of living generally higher in these states than in most, but in these states the tuition in public institutions averages above $750 per school year.

One of the most important proposals to come before this committee is contained in S. 2789 sponsored by Senator McGovern and Senator Dole and co-sponsored by 37 other Senators. It would augment the educational benefits by providing for the payment of tuition. Under this provision, the Veterans Administration would pay for the balance of a veteran's tuition costs up to a maximum of $1000, after the veteran pays the first $400. The V.A., therefore would not pay more than $600 to a veteran for tuition costs he would incur during a normal school year.

Approval for a program of tuition payment would remove a great source of frustration for many veterans around the country who want to pursue their education, and it would allow a somewhat greater use of private schools. It would point veterans legislation in the right direction once again, and it would eliminate the likelihood that such an expense in Congressional time and effort will be needed on this subject in the next Congress. The veterans themselves can ill afford and should not be expected to wage this same difficult fight every two years. I urge, therefore, adoption of this proposal as a giant step toward raising benefits to a level comparable to that enjoyed by veterans of past wars.

Another proposal, sponsored by the Chairman of this committee that I hope you will act upon promptly is the one that would establish a low-cost educational loan program. This would provide a much-needed alternative to those veterans who wish to attend higher-cost public and private institutions when no other Federal grants or loans are available, and in those cases where the tuition payment program would not be adequate to cover the higher costs of private education. The loan program would be of special value to many veterans attending schools in New York City, and in other areas where the cost of living is extremely high.

Finally, I wish to record my support of the proposal that would extend the eligibility period to ten years. I also wish to call your attention to the amendment I have introduced to HR 12628 that would extend the period of eligibility by an additional two years beyond that where rotating shifts, prolonged illness, or a similar handicap, has prevented a veteran from completing his education within the allotted time. Although it is generally recognized that totally inadequate subsistence benefits for veterans have created insurmountable difficulties for the veteran of recent years in attempting to complete his education within the allotted eight years, no acknowledgement has been given to the veteran who suffered additional hardship because of unexpected debilitating illness or working hours beyond his control. Not only will my amendment correct this situation, but it will encourage policemen, firemen, and other public safety officers who are veterans to pursue education under the GI Bill which will promote professionalism in their chosen vocations. If accepted, this amendment would provide 12 years in hardship cases.

Mr. Chairman, I have carefully considered the arguments in opposition to the proposals now under discussion, and I cannot dismiss lightly Administration claims that the proposed programs would be inflationary, but return on investment and budgetary constraints must receive a balanced consideration. You will recall, Mr. Chairman, that shortly before he resigned as Secretary of Housing and Urban Development, Mr. Romney stated that after having reviewed Federal efforts to improve the conditions of our cities at a cost of more than $100 billion, he could find little if anything that had actually been accomplished despite the huge expenditures. In far too many well-documented cases, the net effect of Federal programs has been to make a bad situation worse.

This has not been the factual experience with veterans educational benefits. The Veterans Administration aptly described the World War II G.I. Bill as the "best investment in American History." According to the Internal Revenue Service, the government's profit from the $14 billion invested was $62.5 billion in increased tax revenues. The G.I. Bill afforded colleges the opportunity to develop resources to the extent that a college education is now available for the average American. The economic and social contributions made by the veterans educated under this program cannot be measured.

Mr. Chairman, there are areas in the legislative proposals before you which do require a revival of fiscal responsibility. Those areas which encourage costly administrative changes may divert money away from the veteran's pockets. History has made it apparent that investments in federal bureaucracy don't pay off. I am, therefore, strongly opposed to additional financing for a Vietnam Veterans Administration within the

Veterans Administration or additional financing for any programs, methods or special committees which will channel precious money and man-hours into projects of relatively little value to the individual veteran.

Mr. Chairman, it is incumbent upon all Senators and Congressmen to monitor carefully the administrative practices of the V.A. as far as attitudes and methods are concerned. My mail indicates that mismanagement has occurred to the extent that a veteran can expect to wait anywhere from 7 weeks to 7 months to receive his subsistence checks. Abuses also occurred on the part of schools and students following World War II, as a result of inadequate safeguards and because the government reimbursed the student for books, fees and supplies as well as the tuition payment. We should be prepared to correct such abuses through persuasion or legislation.

In any event, the cost of the programs I have recommended is far from outrageous. There is a debt that in all equity, the country owes our Vietnam veterans. It is one that must be honored. I am grateful to have this opportunity to congratulate this committee for its leadership in revitalizing veterans benefits. I urge you to give fair and adequate consideration to these proposals. They will go a long way in restoring education benefits that our Vietnam veterans have a right to expect.

INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. McGEE. Mr. President, editorial comment continues to pour into my office urging the Senate to reverse House action earlier this year defeating the Fourth Replenishment to the International Development Association.

In the past weeks, I have had numerous editorials printed in the RECORD. Editorial comment in support of IDA has come from every State in the Union; from metropolitan newspapers to small rural community newspapers; from writers of liberal ideological persuasions to writers of conservative ideological persuasions.

Today, I am having printed in the RECORD editorials from the following newspapers: San Jose, Calif., News; Hackensack, N.J., Record; Hartford, Conn., Times; Monroe, La., News-Star; Hartford, Conn., Courant; Terre Haute, Ind., Tribune; Norfolk, Va., Virginian-Pilot; St. Petersburg, Fla., Times; San Bernardino, Calif., Sun; Green Bay, Wis., Press-Gazette; Denver, Colo., Post; and the Great Falls, Mont., Tribune.

I would hope that my colleagues would heed the message contained in this editorial comment from around the Nation. It represents what the people of this country feel regarding the International Development Association. In essence, a vote in favor of IDA is a vote to prevent massive starvation in the world's less developed nations. A vote against IDA is a vote in favor of human suffering and death.

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

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

[From the San Jose (Calif.) News, Apr. 13, 1974]

UNITED STATES AND WORLD BANK

The Senate Foreign Relations Committee will be voting soon on whether to continue American support of the World Bank's International Development Assn.

Last January, you may remember, the House of Representatives unexpectedly defeated legislation to continue American support. The Senate vote is an opportunity to correct what we think was a serious mistake.

At stake is a carefully negotiated new program to provide $4.5 billion in long-term loans to the poorest nations of the world. Under the plan, the United States is to provide one-third of the total—$1.5 billion—over a four-year period. That would represent the smallest share ever borne by the United States in the history of the program, which is a recognition by the other rich nations of the world of the need to share the burden of development aid.

Congressional rejection of the new replenishment would do two things: It would jeopardize the entire funding program, by eliminating the largest single share. And it would risk terminating the whole IDA program at the end of June, when existing funds are fully allocated.

Termination of IDA at this time would critically compound the financial crisis forced on the poor nations by the recent increases in oil prices.

Now, there are not a few who argue that the oil price problem is the right reason for ending the American commitment to IDA. Some members of Congress have said the IDA money will simply find its way to the oil producers to pay for the inflated oil bills of the poor nations.

That certainly is a risk. We think the appropriate response, however, is not to compound the crisis by withdrawing the desperately needed IDA funds, but to reinforce international efforts to win help from the oil rich nation.

[From the Hackensack (N.J.) Record, Apr. 23, 1974]

CUTTING OUT THE HAVE-NOTS

In a surprising and ill-advised display of neo-isolationism, the House of Representatives has voted down a Nixon Administration proposal to authorize a United States contribution of $1.5 billion to the World Bank's $4.5 billion development fund over the next four years. Unless it is reversed, the action will severely cripple international efforts to improve agriculture and develop sources of energy in the world's poorest countries.

It will also curtail programs designed to improve education, road construction, sewerage, and water supply in the underdeveloped nations.

Why did the lawmakers turn their backs on the have-nots? One factor seems to have been the opposition of Rep. George H. Mahon, the frail, 73-year-old Texas Democrat who heads the House Appropriations Committee. He said the United States' share was too large. And the action is being read as further evidence that the presidency has been weakened by Watergate. Democrats divided almost evenly on the measure, 111 against and 108 for, but Republicans rejected it overwhelming, 137–47. To its credit, the New Jersey delegation supported it, 10–4, with both Bergen congressmen, Republican William B. Widnall and Democrat Henry Helstoski, in favor.

But too many members of both parties, now that Mr. Nixon's internationalist influence is muted, appear to be misreading the lessons of Vietnam as a mandate to curtail overseas involvement of all sorts. Stiffening resistance to foreign aid, evident for several years, is accelerating in reaction to the President's cutbacks in spending for domestic programs.

Rep. Robert A. Roe of Wayne, the only New Jersey Democrat to oppose the measure, is one of those persuaded by this thinking. "Enough is enough with these foreign spending programs," he declared. "The President is impounding funds for domestic programs as too inflationary. Well, this is inflationary too. Our own people are out of work and can't get mortgage loans at any interest rate."

This reasoning is faulty. No program should be cut simply in retaliation for another unrelated action. And determination to avoid future tragic intrustions into the internal affairs of other nations must not be confused with our responsibility as the world's wealthiest nation to make some effort to help others climb out of the morass of ignorance and poverty.

Those persuaded by Mr. Mahon's argument that the United States is being asked to shoulder too large a share of the World Bank development chose the wrong time to take their stand. The figure had been set through negotiation with 24 other contributor nations. No compromise was possible on the floor of the House: the choice was all or nothing.

Secretary of State Henry Kissinger and Treasury Secretary George P. Shultz are mounting an effort to save the program, probably by pushing the bill through the Senate to provide momentum for another try in the House.

Individual citizens can help by letting Mr. Roe and other misguided opponents know that the United States must continue to play a role of world leadership consistent with its place as a world economic leader.

SAVING THE SAHEL

Besides being the richest and most powerful of nations, the United States is traditionally the most generous; as the Canadian on the phonograph record says, Americans have seldom hesitated to help other countries in trouble. Any natural disaster that threatened the lives of tens of thousands of people and the livelihoods of millions more would be viewed in this country as an unimaginably awful event, and we would do anything we could to prevent it.

What, then, are we to make of the American response to the drought and famine that have been devastating six countries in the sub-Saharan West African region known as the Sahel for the last six years? While most Americans enjoy three square meals a day, with between-meals snacks, more than a million inhabitants of these countries—Senegal, Mauritania, Niger, Chad, Upper Volta, and Mali—have died or are dying of starvation, malnutrition, and related diseases. And only recently has the American public begun to notice any of this, to say nothing of making any effort to prevent it.

Arresting mass starvation, to be sure, is not so simple as dropping a few thousand planeloads of American grain on strategically located African outposts. Food distribution techniques in these countries are often primitive—though they have improved greatly since the famine began—and the six governments may need technical assistance in such areas as water-resource management nearly as much as they need food. Nor is the United States the only nation that has neglected these countries. For example, France, which formerly held them as colonies, has been incredibly stingy with aid.

Nevertheless, there is no question that the United States can and should do more than it has done. Its billion-dollar-a-year Food for Peace program, which is designed specifically to get food to countries that need it, contributes only $60 million to the sub-Saharan countries, despite a universal recognition that they are the ones that need it most. By contrast, South Vietnam and Cambodia get almost half the Food for Peace aid, and even such non-starving countries as Israel and Portugal get more food than the nations of the Sahel.

In South Vietnam's case, the Food for Peace aid is in the form of "loans" that do not

have to be repaid; it is common knowledge in Washington that the money the Thieu government saves by not buying food is channeled into military spending. Congress, incidentally, has no say at all in the distribution of Food for Peace funds; that decision is made by the President's Office of Management and Budget. Not that Congress's record in this department is anything to be proud of. The House of Representatives' misguided, vindictive decision last January to cut off funds to the World Bank's development program—money that would have gone, in part, to technical assistance for the Sahel—is only now being reconsidered by the Senate.

In an article last week about starvation in the sub-Sahara, The Record's Lena Sherrod quoted Elliot Skinner, former United States ambassador to Upper Volta, as saying, "Black people in this country have the right to insist that their hard-earned tax dollars be used to help our people in Africa." He is wrong, of course, for black people are not the only ones who ought to be insistin~ it. The government's appalling neglect of this long-standing, increasingly desperate situation should trouble every American.

[From the Hartford (Conn.) Times, Apr. 8, 1974]

AN HOUR TO HELP THE NEEDY

The United States Senate has an opportunity this month to undo the damage done by the House, by authorizing our country's participation in the replenishment of loan funds in the International Development Bank.

IDA, sometimes called the "soft loan window" of the World Bank, makes long term loans available to developing nations that cannot afford more conventional interest-bearing loans. Without IDA money, key growth of schools, roads and transportation and basic industry would be impossible in nations representing a fourth of mankind. They would be sentenced to become ever poorer.

The United States has historically put up 40 per cent of the funds available for lending; in this fourth round of replenishing the fund, as other industrial nations become more prosperous, our share has been reduced to 33 per cent.

The loan funds are especially important this year, for the beneficiary nations are hard-hit by the rising cost of food and energy. They are precisely the nations that must import food or oil, or both, and the nations whose exports have not benefitted proportionately from world inflation.

They will one hopes, receive some help from the oil-producing nations' lending programs being spearheaded by the Shah of Iran; but that is not going to be nearly enough. There is a real danger that stable and progressive governments will be overwhelmed by popular resentment if they are unable to maintain modest growth without impoverishing their peoples; only continued generosity by the developed nations will make that possible.

The House of Representatives, in a mood that reflected the turning inward of the American people in this post-Vietnam period, turned the re-funding bill down. The Senate can resurrect the bill, and can then persuade the House to reverse itself.

Treasury Secretary Shultz, in testimony before the Senate Foreign Relations Committee, estimated the proposed American contribution to be about $1.80 a year from each American—less than an hour's wages at the proposed minimum wage, far less than an hour's earnings for most Americans.

That comtribution, as Secretary Shultz put it, "can make the difference between survival and starvation" for the developing nations. It is their hour of need; our hour of work is hardly too much.

[From the Monroe (La.) News-Star, Mar. 26, 1974]

TWO DIRE WARNINGS

When the Arabs imposed the oil embargo and the energy crisis hit the United States with fearful impact, there was an immediate outcry against the nation's leaders: Why didn't they anticipate the crisis? Why weren't the American people warned about the fuel shortage? Why wasn't something done about it before now?

We now know, of course, that a good many people in and out of government had indeed warned about the impending fuel shortage. Some of them made sensible recommendations for dealing with it.

The warnings went unheeded. So, when the Arabs turned off the oil spigots, the country was caught napping. It is just now emerging from the first after affects of the shock of long gasoline lines and a short supply of heating oil. Shortages of products made by petro-chemicals are the direct result of the fuel pinch and are expected to be with us for some time.

There's no way of knowing what impact the warnings about two grave situations in the world today is having in Washington because of its obsession with Watergate. One concerns the pollution of the sea. The other concerns the prospect of famine within the next 12 months.

Neither the problems in the several oceans nor the vast reaches of Africa, South Asia, and the Central American-Caribbean area lend themselves to quick solutions by the U.S. Congress or the White House. But inasmuch as what affects those areas affects all of us, Washington needs to be impressed with the dangers that lie ahead.

The warning about the sea comes from the best known oceanographer and explorer of the sea, Jacques Cousteau. He declares that "in ten years there will not be any fish remaining to take out of the ocean."

Overstating the case for shock value?

Not at all, says the famous Frenchman. "I could not be more realistic. I am not an alarmist. But I know that the rate with which the oceans are being depleted and befouled by man that, we can no longer harvest the sea as we have. We keep taking out and putting nothing back.

"It is a fact that if an area of the ocean no larger in size than Switzerland were famed and cultivated like the land, there would be more fish and other sea life than there is now."

Cousteau, author of 31 books and producer of 65 films on a variety of undersea fauna, has stressed over and over again his concern and urged several governments, including the United States, to pass measures to protect the environment. He says he finds a "lot of sympathy and concern but very little action on the part of politicians. But I won't give up."

Only a few years ago British author-statesman C. P. Snow warned Americans it might not be long before they began to view global famine on their living room television set. The time is apparently near.

Normally restrained experts and world economy are starting to predict bankruptcy, social breakdown and starvation for as many as one billion people by the late this year or early 1975.

Some 30 countries, they say, could be affected. The "oil crisis" and the "food crisis" are fast becoming joined into one total energy problem.

So many things have happened so fast there is a fear that even if the "rich bloc" of the United States, the Soviet Union, Europe, Japan and the Mideast oil states were to begin political steps now to forge a Marshall Plan—type response—and there is little sign yet that this will happen—it might not come in time.

Some elements in the impending crisis include a $10 billion increase in the cost of energy, mostly oil, for the poor two-thirds of the world; low-credit deals for surplus American food have come to a standstill; the World Bank's soft-loan subsidiary, the International Development Association (IDA), is on the endangered list; the earth's population will reach four billion by the end of the year, and five billion in little more than another decade. In the poor countries no satisfactory method of birth control has been found. The poor populations will likely double in the next 24 years.

The situation is by no means hopeless, but the leadership of the United States will be essential if the ravages of runaway population, drought, flood, and fuel scarcity are going to be curbed at all.

[From the Hartford (Conn.) Courant, Apr. 16, 1974]

A SOUND APPROACH TO FOREIGN AID

There was no hint beforehand that the address Henry A. Kissinger was to make at a special session of the United Nations' General Assembly would be a major policy statement. Yet that's what it turned out to be and the American secretary of state once again scored for his sound approach to foreign aid.

Typical of Mr. Kissinger, he stressed the positive—without being naive about the pitfalls of economic assistance. He rightly pledged that the United States would make a major effort to help developing countries but he cautioned them against any use of "the politics of pressure and threats." He also warned commodity producers against banding together to raise prices as the members of the Organization of Petroleum Exporting Countries have done.

His reasoning strikes us as particularly apt, touching as it did so forcefully on the interdependence of today's world. As he told the delegates: "Large price increases coupled with production restrictions involved potential disaster. Global inflation followed by global recession from which no nation could escape." Then, in the most telling point of all, Mr. Kissinger concluded that "no nation or bloc of nations can unilaterally determine the shape of the world."

That strongly suggests that America once again is ready to exert its good-neighbor role. And that's just what the secretary of state promised. To help meet increased food needs, he pledged that the United States will increase its aid to developing countries from $285 million to $675 million this year to raise agricultural production. In addition, to assist the poorest nations, he urged that America make a further contribution to the World Bank.

Last January, Congress killed a $1.5 billion measure to help underwrite the international finance organization. That move struck us at the time as most shortsighted. Now the lawmakers have another opportunity by adopting Mr. Kissinger's proposal. He at least is charitable—without being foolish about it.

[From the Terre Haute (Ind.) Tribune & Star, Apr. 12, 1974]

WORLD AID RECONSIDERED

Last January the House of Representatives voted against continued United States support of the International Development Association. Many astute observers saw this not merely as a backward step, but as a scandalous abdication of affluent America's responsibility toward the poorest nations of the world.

Happily, the Senate can do something about this. If it votes strongly in favor of continuing U.S. participation in the World Bank's IDA program, as it should, the House may be prompted to reverse its earlier action.

The arguments against such a reversal, and in favor of what the House did last January, are not persuasive. Primarily it is

asserted that the IDA money, including our share of 1.5 billion dollars over a four-year period, would just go to pay inflated prices for oil the poor countries must have.

Some risk of that exists, but there is a better way to deal with it than by withholding IDA funds. Instead, a vigorous and sustained effort should be made to get the oil exporting nations to pledge aid. Iran already has pledged a billion dollars, and a good total response from the Arab powers is not out of the question.

In any case, one gets back to the question of rich America's moral obligation to help countries staggering under a burden of poverty. Measured against our total resources, the commitment involve in the new IDA plan does not seem large. The Senate ought to accept that commitment with a strong vote and thus encourage the House to reconsider.

[From the Norfolk (Va.) Virginian-Pilot, Apr. 17, 1974]

DANGER—HUNGER AHEAD

While Americans complain about sharply rising food costs, much of the globe is facing the bleak likelihood of famine.

A monstrous tragedy is in the making and the chances seem less than even that it will be averted. Robert McNamara, who heads the World Bank, foresees "millions of people dying" of hunger unless the rich nations rush aid to the poor. Some "800 million [persons] live on, in our terms, 30 cents a day," Mr. McNamara said not long ago on "Meet the Press," "and are barely on the margin of life."

Drought is parching the sub-Sahara region of Africa, touching off migrations in pursuit of food and water. The crisis this week toppled the Government of Niger. Hunger and thirst have been mitigated by substantial relief assistance from the United States and elsewhere, but the disaster is continuing.

Meanwhile, India, Bangladesh, and Pakistan are imperiled by fertilizer shortages resulting from Arab oil-production cutbacks and soaring oil prices. The fertilizer shortfall portends a drastic falloff in grain production. International grain reserves have almost vanished. Dr. Normal E. Borlaug, father of the Green Revolution precipitated by his development of high-yield strains of wheat and rice, warns that "the world has got to the point where there has to be a sitting down together to decide what to do."

This month representatives of most of the world's nations did sit down together in an attempt to do something. Keynoting the special United Nations General Assembly session on raw materials, U.N. Secretary General Kurt Waldheim listed six related global problems—mass poverty, overpopulation, food shortages, depletion of energy resources, ballooning military expenditures, and inflation.

Of overpopulation he said: "It is anticipated that this special session will meet for three weeks. In that time the number of human beings on this planet will increase by four million."

Of food he said: "Never in recent decades have world reserves been so frighteningly low. The production of enough food to feed . . . people all over the world—let alone transport and distribute it—almost certainly represents the largest single pressure on our natural resources."

There is little ground for optimism. Food riots and death by starvation on a massive scale are ahead. Some 27 days' supply of reserve grains is on hand—in contrast to the usual two or three months' reserve.

While the rich nations have a surfeit of everything, or almost everything, and moderate their population growth rates, the burgeoning populations of poor countries have less than they require. Now the high cost of petroleum has exacerbated the problem of inequitable distribution of natural resources among the mass of mankind.

The hungry will direct many of their petitions for food to this country and Canada. Their pleas will test our generosity.

[From the St. Petersburg (Fla.) Times, Apr. 21, 1974]

AN OMINOUS FAMINE

Marquis Childs—The ominous shape of things to come is clear enough. The worst mass famine in recorded history is scarcely a year away. Already in large areas of Africa starving humans and animals litter the desert. This is merely a curtain raiser for the thousands, perhaps hundreds of thousands, who will die as the drought continues.

No one argues that the United States, having bartered away a large part of the grain surplus in a dubious deal with the Soviet Union, leaving the pipe line all but empty, can avert this catastrophe. At the very least, however, this country, still the richest and best able to survive the oil crisis, should join with other developed nations to do the minimum.

That minimum is to vote the funds for the consortium to finance the International Development Association, the soft-loan window of the World Bank.

The House in January by a stunning vote of 248 to 155 turned down money for IDA. Without the $1.5-billion spread over four years from the United States the "replenishment" for IDA, agreed to by 25 nations after lengthy negotiation, falls apart and IDA will be out of business.

The effort of those in Congress who see IDA as a last ditch means to help some 40 nations weather the oil-fertilizer pinch is to get a bill passed by a sizable majority in the Senate. This new measure would then go to the House with some hope of overcoming the die-hard opposition.

[From the San Bernardino (Calif.) Sun, Apr. 5, 1974]

THE HAVES AND HAVE NOTS

A world food shortage is on the horizon like a gathering storm. It will make the oil shortage look like a zephyr on a summer day.

So say the gloom and doomsayers.

An imposing array of scientists and "futurists" say they're right.

Several factors are working in that direction. It has been a bad year weatherwise. The giant U.S. surpluses, once the world's ace-in-the-hole for famine years, is no more. It was sold down the river to Russia.

The nations newly moving into relative prosperity—Japan, Brazil and the Arab countries chief among them—are seeking and paying the price for meat. It takes roughly 10 pounds of plant protein to produce a pound of meat protein.

Thus the prosperous nations are squandering the poor nations' grain in order to enjoy their juicy meats.

Another factor is that the United States and most of its citizens do not realize that we are the Arabs of the food world. The food is here. We can and do produce it, and we can take a bow for that.

But we can also sell or keep it, use it to reward friends and punish enemies, or use it judiciously as the leading edge of a world plan to keep starvation from everybody's door.

The Overseas Development Council, a Washington "think tank" led by former Cabinet officers, leading industrialists and labor leaders, says the 40 poorest nations face virtual economic collapse and famine.

Instead of talking leadership to forestall the catastrophe, the United States is "dragging our feet," says the Rev. Theodore M. Hesburgh, chairman of the council and president of Notre Dame University.

He says these 40 nations need an additional $15 billion to pay for increased food, fertilizer and fuel costs. That's roughly double the foreign aid now going to the developing world from the developed world. Yet, Father Hesburgh said, Congress recently killed a proposal for increased aid through the World Bank.

Another factor is a conception some Americans have of foreign aid as a handout to ungratefuls who are all too apt to bite the hand that feeds them; and secondly as a way to reward friends and influence policy. Nor are we above sending out military friends guns and blandly labeling them butter.

Few of us understand "bonedeep" that we are six per cent of the world's population consuming 33 per cent of its resources and energy. From our viewpoint of the expanding frontier and expanding technology, it was just good old American knowhow to go into primitive countries and organize the harvesting of their raw materials. After all, we gave them jobs in our mines and factories, didn't we?

But as the developing nations grow more able to handle their own resources, they look with hostile eyes at profits flowing away. They soon persuade themselves it's a ripoff.

The Arabs are pretty much proof of that.

What can and should the Americans do about this threatened famine?

First, the citizen should understand and support "foreign aid." The days under the Marshall Plan, when the United States looked as though it was trying to give itself away, show up in retrospect as a period of prosperity. The bread we cast upon the waters came back in the form of purchase orders on our economy.

Second, our government should assume leadership in and through the U.N. to prevent this world catastrophe from occurring. Every "have" nation should share in the action.

That includes the Communist world.

It would give us a good chance to throw their own—never carried out—motto at them:

"From each according to his ability; to each according to his need."

[From the Green Bay (Wis.) Press-Gazette, Mar. 26, 1974]

THE FINAL THREAT

Former Secretary of Defense Robert McNamara, now head of the World Bank, points to the deeply disturbing situations in many poor countries due to the energy crisis.

For many people it isn't putting off an automobile trip, taking a few less snowmobile rides or wearing an extra sweater in the oil-heated house. For them, the difference is between expanding industry to match growing populations. For some it is survival.

If the oil problem is bad enough, McNamara says, "The 1973 current account surplus of the developed nations would turn into a deficit of $41 billion, and the 1973 current account deficit of the developing nations would double to $23 billion. Such deficits threaten the stability of the economies of the oil-consuming nations throughout the world. Individual nations may seek to finance the deficits by unilateral beggar-my-neighbor policies of drastic exchange rate adjustments and severe trade restrictions."

A nation like India finds it will have to pay an extra billion dollars for oil. According to McNamara, the 100 poorest countries in the world, containing two billion people, will also have to come up with another $1 billion, for fertilizer.

So what are the developed countries doing in the face of crisis? Europe, to a large extent led by France, is seeking to make its own deals for oil with the Middle East. While Secretary of State Henry Kissinger correctly criticized Europe, the United States rejects more help to the poor nations.

American development assistance in 1949 was 2.78 per cent of our gross national prod-

uct. Now, it is only .22 per cent. The House of Representatives in January, apparently in annoyance with the Arab oil embargo, turned down more help for McNamara's International Development Association whose funds go only to the very poor nations.

It may not be accidental, McNamara points out, that in recent years most wars took place in poorer regions of the world. If things get bad enough, will what Helmut Schmidt, minister of finance of West Germany, calls "the irrational use of force" be turned loose once again?

[From the Denver (Colo.) Post, Apr. 12, 1974]

CAN UNITED STATES SPURN THE POOR?

We Americans have become acutely aware in recent months that food prices are rising rapidly; what is less well known is that the world probably is entering an era of food scarcity whose severity and duration cannot accurately be estimated.

Vastly increased food prices will, of course, be a source of concern here in the United States. Yet few Americans are apt to starve because of them.

However, this is a development of crucial importance to a great proportion of the globe's population. In the poorer countries, human lives by the hundreds of thousands, perhaps even millions, are at stake.

In fact, a recently-published study by the Overseas Development Council states flatly that the imminent world food crisis "will make the energy crisis look like a picnic."

The report adds that the food shortage comes at a time when no adequate response is being made to the pressing problems of poverty and hunger that still afflict the majority of mankind. In fact, it says, the number of people who live in misery is probably increasing.

So far, the response of the United States to world poverty has been fragmented and parochial. Instead of the single "development community" that existed in the post-World War II era, there now are many autonomous, but sometimes overlapping groups with an active or potential interest in overseas aid and development.

Such a dissipation of effort, coupled with sluggish interest on the part of the government, was one of the reasons the existing drouth in the Sahel region of sub-Saharan Africa reached crisis proportions so quickly.

Rapidly decreasing official U.S. concern with the ills of less favored parts of the world was underscored recently when the Congress defaulted on a prior commitment to help fund the work of the International Development Association (IDA), whose low-interest loans go only to the world's poorest nations. Earlier, the United States fell from 14th place among the 16 rich donor countries in terms of relative wealth devoted to development assistance.

The present U.S. mood of disenchantment with foreign aid programs stems largely from previous projects that were all too obviously mishandled.

And yet we cannot turn our backs on massive human suffering. Or on the daily misery facing three-quarters of the world's growing population.

[From the Great Falls (Mont.) Tribune, Mar. 26, 1974]

UNMITIGATED DISASTER

Robert McNamara, president of the World Bank and Secretary of Defense in the President Kennedy and President Johnson administrations, is appealing to the conscience of America to help prevent starvation and economic chaos in many undeveloped nations.

In the nationally televised, "Meet the Press" program Sunday, McNamara repeated his stand that it was an "unmitigated disaster" for the House of Representatives to reject a proposal for U.S. participation in the replenishment of International Development Association funds.

U.S. contributions to programs designed to boost standards in the poor nations has declined from 2.29 per cent of our gross national product in 1949 to but .22 per cent today, administration officials have been explaining.

McNamara called attention to the miserable conditions under which hundreds of millions of persons in undeveloped nations struggle just to sustain life. He said Iran is contributing far more per capita to help undeveloped nations than the U.S.

McNamara isn't being an alarmist when he declares there is a danger of widespread starvation in many areas of the world in the coming year. He said thouasnds of people starved to death in Africa last year.

In a column on this page Sunday, James Reston said McNamara has been running around the world trying to persuade the rich nations to calculate the consequences of the coming world disaster.

The United States, which clearly has been the most generous nation in history as far as helping needy nations and those facing disaster, can not afford to default on its obligations in the current crisis facing undeveloped nations.

METRIC SYSTEM

Mr. PELL. Mr. President, the House of Representatives yesterday failed to approve legislation that would provide for an orderly and planned conversion to the metric system of measurement, an action which I much regret.

It should be made clear, that the action of the House did not halt the process of metric conversion. It does mean, however, that without a coordinated plan, metric conversion in the United States will be more disruptive, more confusing and more costly.

Conversion to the metric system in the United States is inevitable. Indeed, conversion to the metric system is underway right now in many industries, government agencies, and in many school systems. The question therefore is not whether the United States will convert to the metric system—we will; the question is whether we will do so in the most efficient and least costly way.

The metric conversion legislation which passed the Senate in 1972 and which I introduced, and the bill considered yesterday by the House, did not compel conversion to metric measurements. The legislation basically would establish a national policy that metric should be the principal system of measurements, and would provide for the drafting of a comprehensive plan to coordinate the voluntary efforts of industry and government toward that goal.

The action of the House yesterday means we may have costly and chaotic conversion instead of coordinated, comprehensive conversion to metric measurements.

I have been urging conversion to the metric system now for more than 10 years. I introduced the legislation which resulted in the Commerce Department's comprehensive study recommending conversion, and I have introduced legislation, currently before the Senate Commerce Committee, providing for conversion. During these years, I have seen a very basic change in the nature of the debate over metric conversion.

For years, the question was whether we should convert. Now there is almost universal agreement not only that we should convert to metric measurement, but that we are converting.

The debate now is on how the conversion process should take place. That is real progress. I can not believe that with governments, school systems and industry vigorously moving toward metric conversion that the Congress will fail to provide the coordination necessary for an efficient, orderly, conversion.

Indeed, unless we want to take the unthinkable and impractical course of prohibiting the use of metric measurements, we must inevitably face up to the need for a planned conversion that will assure us the greatest advantages, and the fewest inconveniences, in the rapidly advancing changeover to metric measurements.

OUR IMPERILED CONSTITUTIONAL RIGHT OF PRIVACY

Mr. BROOKE. Mr. President, last week I spoke at the Boston College Law School alumni dinner on the subject of our imperiled right of privacy. In these troubled times no thoughtful person can escape the conclusion that there are powerful forces working against the privacy of the individual American citizen. I believe that these unwarranted invasions of privacy pose a greater threat to freedom in America than any other crisis that we now confront. If freedom, indeed democracy, is to survive, we must zealously safeguard the constitutional rights of all our citizens.

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

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

LIBERTY AND PRIVACY: INSEPARABLE ALLIES

(By Senator EDWARD W. BROOKE)

"Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court can save it . . . while it lies there, it needs no constitution, no law, no court to save it."

I think the time has come for all of us who cherish liberty to ponder carefully these eloquent words of Judge Learned Hand.

But I fear that liberty is moribund in the hearts of many Americans. And to those of us who love the law, such a malaise should arouse us not just to concern but to action! We must revise, reshape and revitalize our laws to make them consistent with our oath of allegiance to the Constitution.

Examining the troubled condition of American society, no thoughtful person can escape the conclusion that there are powerful forces working against the privacy of the individual American citizen. These forces work in ways which threaten our basic liberties. Indeed, evidence from private and public sources alike indicates an assault upon what has come to be called the right to privacy. This assault flourishes in—if it is not produced by—the atmosphere which is associated with the word Watergate.

Watergate is both a sign and a symbol of the steadily encroaching power of the State over its citizens. Watergate represents an encroachment furthered and defended on the basis of the need for national security and order.

Such encroachments must not continue!

If our freedom, indeed, our democracy is to survive, our right of privacy must be preserved.

The privacy crisis poses a more serious threat to democracy than other crises such as the energy crisis, the population crisis and the food crisis, which have been more widely publicized and the immediate effects of which are more visible. The lack of attention to and concern about the privacy crisis stems from the fact that both order and national security are in themselves legitimate concerns of Government. But, when these concerns are abused to cover self-interest, they become insidious pretexts for keeping secret—operations which, if known, would be repudiated by the American people.

Such, in fact, appears to have happened as the seemingly endless incidents of deception, dishonesty and defiance connected with the Watergate investigation have come to light.

The severity of the privacy crisis stems in part from the paradoxical attitude of many of our fellow citizens who give lip service to freedom in the abstract, but who seem unwilling to be vigilant in safeguarding these liberties.

The acquiescence of most Americans to all types of restrictions upon personal privacy in the name of national security and law-and-order is underscored in Lou Harris' recent book, "The Anguish of Change." In it Harris describes how many Americans have come to accept as a matter of course governmental interference with personal liberties.

His surveys show enormous inconsistencies between the protestations of freedom in principle among Americans and their willingness to sacrifice freedom in specific instances.

According to the surveys, the public would willingly violate eleven of the eighteen basic guarantees set forth in the Bill of Rights. For example,

Although by 91 per cent to 5 per cent, almost all Americans believed "every citizen has the right to express any opinion he wants to," a majority of 67 per cent to 22 per cent also favored outlawing "organizations which preach the violent overthrow of the government."

By 66 per cent to 23 per cent, a majority believed in the right to "hold a meeting on any subject a citizen pleases," but by 48 per cent to 37 cent, the public also believed that attendance at campus protest meetings ought to be grounds for an expulsion of a college student."

By a lopsided 73 per cent to 19 per cent the majority agreed in principle to the right of a citizen to, "print any point of view he wants," but a 52 per cent to 35 per cent majority favored "banning newspapers which preach revolution."

A 63 per cent to 29 per cent majority also wanted to give "authorities the right to censor films, TV shows and the theater for obscenity," and a 57 per cent to 32 per cent majority also favored giving authorities the right to "censor TV, radio, newspaper," and the theater for unpatriotic or revolutionary content.

And by a 48 per cent to 37 per cent plurality those polled disagreed with the statement in the Declaration of Independence that "when a government abuses the rights of its citizens, they have the right to overthrow it."

Harris concludes that while 90 per cent of the people interviewed support freedom in theory, few unfortunately support freedom in practice.

Such attitudes must be challenged and changed.

In the words of Thomas Paine:

"He that would make his own liberty secure must guard even his enemy from oppression; for if he violates this duty he establishes a precedent that will reach himself."

Recently a significant blow was delivered against the dangerous concept of using national security as a pretext for infringing upon individual liberties. Egil "Bud" Krogh, convicted and sentenced for participation in the Ellsburg break-in, rejected the use of misguided notions of national security for his defense. Bud Krogh said that: "The rights of the individual cannot be sacrificed to the mere assertion of national security," for it "strikes at the hearts of what American Government was set up to protect: the rights of the individual."

I submit that it is encumbent upon us who are in a position of leadership with respect to the law, to change the climate of public and private opinion which imperils the preservation of the liberties of every American citizen.

I commend the President's position in his February 23rd address on the "American Right of Privacy" as well as his remarks in the State of the Union address in January indicating that his Administration has come, though belatedly, to recognize the gravity of this matter. I also welcome his action in rescinding the Executive Order which threatened the confidentiality of individual tax returns.

But, there still is much more to be done!

And the appointment of another "blue ribbon" panel to study privacy will not suffice. For we have had our studies, and held our hearings. Now we must legislate and enforce the laws.

For Watergate-type invasions of privacy, the laws are already on the books. But they must be obeyed and enforced.

For computer-caused invasions of privacy there are no laws on the books. Here we must enact legislation to safeguard the constitutional rights of our citizens from cybernetic invasions.

Congress, in introducing computer data legislation has made some progress towards protecting individual privacy. And, I anticipate further legislation aimed at such areas of abuse, potential and actual, as police surveillance, credit data misuse, and the erosion of the confidentiality of news sources, tax returns, and other personal freedoms.

The need for effective legislation is especially urgent in the area of computer data banks. I believe the data collecting systems utilized by the federal government and private industry present the gravest threat of all to individual privacy in this country.

Data banks are collecting an enormous amount of information about millions of American citizens. Senator Sam Ervin, Chairman of the Senate Subcommittee on Constitutional Rights, estimates that in the federal government alone, there are 1000 different major personal computerized data banks.

The Federal Bureau of Investigation maintains more than 190 million criminal and civil files on American citizens. And millions of additional files are kept by other federal agencies.

The amount of information the government can collect on individuals is virtually unlimited. Harvard Law School Professor Arthur Miller, in his book "The Assault on Privacy," suggests that it will soon be technically feasible to store a 20-page dossier on every single American. And these dossiers would comprise in total a tape less than 5,000 feet long.

Despite the existence of this data and the unlimited possibilities of its future misuses no comprehensive legislation protecting citizens against potential abuse exists. In effect, the nature, use and distribution of all this information is uncontrolled.

The possibility of inaccurate, incomplete, unjustified, or improperly disseminated information threatens immeasurably the privacy of every citizen.

The most threatening example of potential abuse is perhaps the Federal Bureau of Investigation's National Crime Information Center. The F.B.I.'s data bank is fed by a computerized network designed to receive and store information from all 50 states through 40,000 federal, state, and local agencies.

This depository of information will likely contain the names and records of all those individuals arrested for any cause. And, since an estimated 50,000,000 Americans now have arrest records, implications of such a data bank are obvious.

Since the master computer is not required to show if an arrest led to indictment or trial, let alone to conviction, the records of many innocent individuals may end up in these files.

The danger of having arrest records centrally available for checking by government and private employers is inculculable.

And, more than arrest records can be fed into the computer. Raw materials, not evaluated for accuracy, could be supplied to the data bank.

We must not allow such potential for infringements of privacy to go uncontested!

History reminds us of the tragedy and inadequacy of the sole reliance of citizens upon the virtue and restraint of those who hold power and have access to data regarding individuals.

Societies in which freedom is valued have sought institutionalized legal safeguards to check arbitrary invasions of individual privacy and to secure personal privacy.

In Congress, a first step has been taken to protect our personal privacy while also recognizing the legitimate concerns of criminal justice agencies.

The Criminal Justice Information Control and Protection of Privacy Act of 1974, Senate 2963, of which I am a co-sponsor would:

First, impose certain restrictions upon the type of information which can be collected and disseminated by law enforcement agencies on the federal, state and local levels; and secondly, place limitations upon the interchange of such information among such agencies and outside the criminal justice community and otherwise protect the privacy and reputation of persons about whom the agencies have collected information.

The passage of this legislation would mark a good beginning. But, its fate is as much in your hands as mine.

I feel so strongly about protecting the right of privacy of all Americans that I shall be sending to every member of the Massachusetts Bar a copy of the remarks of Senator Ervin when he introduced Senate 2963; the Protection of Privacy Act, together with a copy of my remarks tonight. Fred Fisher, the President of the Massachusetts Bar Association has been kind enough to offer me the mailing list of the Bar Association.

But this mailing alone will serve little purpose, unless the members of the Massachusetts Bar respond to the urgent questions and problems outlined, either individually or jointly, by pressing for more legislative action in the Massachusetts General Court and in the United States Congress.

I hope that the members of the Bar will share with their fellow attorneys throughout the country their concern as well as their suggested remedies. Such action can spur the American Bar Association to greater vigilance in safeguarding our cherished liberties.

The impact of concerted and ceaseless efforts to oppose unwarranted invasions of privacy should not be underestimated.

The courageous leadership of our own State government is a splendid example for

the nation. May I commend Governor Sargent, and the General Court of Massachusetts for consistently opposing the federal information programs which were deemed unconstitutional infringements upon the privacy of the Commonwealth's citizens.

In 1973 the Bay State refused to join the F.B.I.'s Computerized Criminal History data bank until the F.B.I. adopted proper privacy safeguards. Also, in 1973 Massachusetts refused to allow the White House Special Action Office for Drug Abuse Prevention to collect individual identifying information on all Massachusetts patients in federally funded drug treatment clinics.

In both instances in face of federal punitive action, the Commonwealth refused to yield. And, twice the Commonwealth succeeded.

I hope that Massachusetts will continue to provide exemplary leadership by continuing the process of educating and inspiring the people of the Commonwealth, and the citizens of the nation to protect and cherish their imperiled liberties.

The results of our inaction and the continued acquiescence of the American people are too tragic to ponder.

In "Cancer Ward", his powerful indictment of the Soviet system, Alexander Solzhenitsyn portrays a society in which the right to individual privacy is subverted and destroyed by the State. He wrote:

"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 each man, millions of threads in all. If these threads were suddenly to become visible . . . people would lose all ability to move."

It has been said that a dictatorship of dossiers and data banks, is no less a dictatorship than one of hobnail boots and truncheons.

Discerning a balance between freedom and order is the burden of every age as it confronts its tensions and challenges. For a society in which the privacy of the citizen is only grist for official data is indeed Orwell's "1984." and we are but a decade from there.

In the end, good may emanate from the anguish and distress of recent events. Our consciousness of the potential dangers which beset our most personal liberties may be aroused. And through this consciousness there can be a reassertion of public morality, the intangible ideals and values which give purpose, integrity, and trust to our national life. Herein lies the ultimate protection of our liberties.

And herein lies your challenge and mine. Let us together meet this challenge without hesitation or trepidation.

Thank you.

PERSPECTIVE ON AGING

Mr. PELL. Mr. President, I would like to commend to my fellow Senators an excellent article, which recently appeared in "Perspective on Aging—A Publication of the National Council on Aging." The article is by Dr. Louis Lowy, Ph. D., who is a professor of social work at Boston University, and a nationally recognized authority on the social situation of elderly persons in America today.

I would like to point out a significant part of this article which relates specifically to the status and image of older people in this Nation today. Dr. Lowy correctly notes that this Nation does not highly value the attributes which the elderly possess, nor does it consider elderly persons to be a resource of information and wisdom, which they most surely are.

I believe that Dr. Lowy accurately assesses the senior center as an institution in its own rights, which can provide the elderly with an important base of operations in the community at large. I know that senior centers will soon play an important role in communities throughout this Nation, and deserve our full support as they start up and seek funding. The first step toward support is understanding, and I strongly recommend this article to my colleagues.

Mr. President, I ask unanimous consent that the article, "The Senior Center—A Major Community Facility Today and Tomorrow" from the March–April edition of "Perspective on Aging" be printed in the RECORD.

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

THE SENIOR CENTER—A MAJOR COMMUNITY FACILITY TODAY AND TOMORROW

(By Louis Lowy, Ph. D.)

THREE QUESTIONS TO THINK ABOUT

Senior Centers are a relatively new response to a large complex of conditions in which older people find themselves today. Senior Centers tomorrow ought to become a major community facility which helps shape conditions in our society for the old and the young. How can we get from today to tomorrow? Three questions come to mind which I will deal with briefly.

What are the conditions in which older people find themselves today?

It has to be recognized that there are at least five variables which differentiate older people:

Older people vary from age group to age group. Some are late middle-aged, between 50–60; others are people in their "late maturity," between 60 and 70; and others are 70 and older;

Socioeconomic backgrounds vary and have influence upon the way older people's needs are expressed;

Personalities vary and are revealed in the way older people respond to and adjust to aging;

Ethnicity varies and with it the subcultural values held toward aging; and

The communities in which older people live, including rural and urban communities, have different values and resources and these differences affect the needs of older people. We also have to keep in mind that the needs of the aged today will not be the same as the needs of the aged of tomorrow. Conditions and values change in our society, and the aged themselves will reflect these changes.

Throughout life man strikes a balance between his losses and his gains. During the later years, however, people are faced with an increase of losses and a decrease of gains. The "margin of safety" for the older person becomes considerably reduced. Older persons, at least those beyond age 65, face loss of income and work, loss of roles and status, loss of physical health and loss of friends and relatives.

The gains which an older person can utilize are those of experience and wisdom, new roles such as grandparents and, perhaps the greatest gain of all, the realization of having lived and endured through difficult times. Older people can become the symbol of man's endurance and man's ability to prevail in the face of vicissitudes.

But our society is still youth- work- and achievement-oriented, and the older person's gains are not highly valued. Prestige is measured by a person's income, work, health and marital status and since older people generally can't compete with the young in these considered prestige areas, they face loss of status and role deprivation. Consequently, many older people respond to these conditions by withdrawing from intergenerational activity.

In seeking to discover the universal needs of older people, Dr. Leo Simmons, an anthropologist at Yale University, studied 71 existing cultures and found five universal needs that pertain to all older populations. These are:

To live as long as possible;

To participate meaningfully in life;

To have rest from the "humdrum" tasks of life;

To hold on to prerogatives acquired earlier; and

To depart from life in dignity with the prospect of a pleasant life hereafter.

We have to move toward a balance which recognizes the strengths of older people. This requires group validation—that is, the acceptance by younger people of older people in their own right. Group validation in a society is accomplished through society's institutions. In summary, all older people, regardless of the variables mentioned have three universal needs:

Material and physical security;

Social and psychological security; and

Group security, a sense of being linked with the community, with the young and the old.

To meet the first need is the function of our pension programs, insurance policies, social security and health programs. The second and third needs can only be met through provision of services at the community level. The Senior Center can be one of those institutions. It can become a major social institution for the elderly which is rightfully theirs, as much as all other age groups can claim social institutions as their own.

What is the concept of the senior center today?

The Senior Center of yesterday was a recreational facility primarily meeting the needs of recreation and socialization. From these beginnings it moved toward becoming a community facility with additional services of counselling, information and referral. Today it is a community facility which not only provides a series of services, but also establishes links to other existing community institutions such as nursing homes, hospitals, clinics, schools, and employment agencies. It accomplishes this through exchange of personnel, through provision of its own personnel and through the training of others. It is a facility which offers a series of health, welfare, educational and recreational services to older people in the community. It is open at least five days a week and it attempts not only to make these services available but to bring older people and the services together. Older people themselves are engaged in planning, directing, and carrying out such activities.

Some specific services of the Senior Center today can be categorized into four groupings:

1. Direct services to older people.

2. Services offered to and through other institutions.

3. Community action with and on behalf of older people.

4. Training, consultation and research activity.

The type, nature, quantity, and quality of these services will vary from Center to Center. Not all such services are contained in one Center nor must they be. Needs of communities vary, their responses vary, and these elements must be balanced with the time, energy, money, and staff necessary to establish a Center. Following are some examples of the kinds of services under each of the categories.

1. Direct Services—Building centered and/or controlled:

Information and referral.
Health information and health care.
Nutrition education.
Housing application clinic.
Directory of services.
Relocation services.
Employment opportunity information.
Part-time work opportunity information.
Retirement preparation services.
ACTION—volunteer jobs information.
Medicare Alert information.
Foster Grandparents program management.
Green Thumb projects.
Meals-on-Wheels programs.
Friendly visiting.
Homemaker services.
Consumer information.
Recreation.
Informal education.
Community service projects (citizenship projects).
Personal counselling (casework).
Group work (small group approach).
And many others.

2. Services Offered to and through Other Institutions—such as hospitals, housing projects, nursing homes, and rehabilitation centers:

Bring together existing institutions for the delivery of appropriate services.
Establish Golden Age Councils.
Set up and arrange for home-care programs with hospitals, housing projects, and other institutions.

3. Community Action:

Planning for community projects and programs.
Planning to coordinate facilities and making them accessible to older people near places where they reside.
Identifying new needs and new problems.
Representing the interests of older people as a group (e.g. at public hearings) through advocacy.
Setting up a legislative information service.

4. Training, Consultation, Research: For Aged and Non-Aged:

Training younger volunteers for a variety of functions.
Training home aides.
Training personnel in social work, education, and nursing.
Training older people as volunteers and parttime personnel.
Consultation to community institutions related to needs and problems of the elderly.
Serving as centers for research, applied and basic.

There are few, if any, Centers which have such a fully developed array of services. Some have emphasized recreation, others informal education, and some, information and referral services. In 1963, the Welfare Administration of the Department of Health, Education and Welfare, developed a definition of Senior Centers which included at least three of any of the following five services—recreation, adult education, health services, counselling services, and information and referral services. These suggestions served as a framework for the community in canvassing the needs of older people and in developing priorities based on the needs.

What is the concept of tomorrow's senior center?

While we give our energy and attention to today's Senior Center, we should have a vision of tomorrow's Senior Center as well. A Senior Center should serve as a community facility to provide services on a coordinated, continuous, and comprehensive basis and thereby reduce fragmentation to a minimum. Such a Center would be able to deliver services where they are needed and when they are needed.

Since services and people have to be brought together, it is essential to develop not only adequate services per se, but also an adequate delivery system so that older people, especially those in the low-income group, can take advantage of them. This requires existing health and social welfare agencies and institutions under public and voluntary auspices to join in a common effort to create a "mobile service center for older adults." This Senior Center of tomorrow will combine the aforementioned services and deliver them to older people wherever they reside—in their own homes, in rooming and lodging homes, in housing developments designed for older people exclusively, in nursing homes, or in institutions for older people. The crucial aspect is that such services must be delivered in such a way that older people can take advantage of them according to their needs and state of health at the time they need the services. This could mean a twenty-four hour, seven days-a-week operation. In many other countries, this is indeed the case.

Such a Mobile Service Center would require that personnel of a variety of disciplines—social workers, nurses, physicians, clergymen, and adult educators—develop a team-approach in order to reach out to older people wherever they live. Older adults also should be involved as team-members. Indeed, they may be able to perform important functions in the delivery of services since they know of their own needs and are likely as well to know of the needs of their peers.

Human service workers have to assume a liaison function to bring together the various disciplines so that an effective team-approach can be developed to avoid the pitfalls of jurisdictional disputes. They will be required to work individually and with other professionals in order to bring services and people together. Old-line agency and professional boundaries will have to give way to a concept of integrated services. Many older people suffer from loneliness and social isolation. Golden age clubs—while eminently worthwhile for those who are more gregarious—are not the answer for all, as our national experience has demonstrated. Social workers and others have to work painstakingly to assist older people in forming small group contacts and relationships (as has been demonstrated in the South End of Boston under the aegis of the United South End Settlements, Inc.) to counteract the isolation in which many find themselves. Efforts have to be made to assist older people in finding their way through the cold, anonymous world of modern bureaucratic structures to avail themselves of the increasing services made possible by federal and state legislative programs. A Mobile Service Center can assist immeasurably, since its staff would be sensitive to such problems. A service such as this could also develop programs which would bring young and old together in common efforts such as learning a skill or serving others. How else can the young develop a positive image of the elderly and close the gulf that exists between the generations? Attitudes towards aging and the aged will only change for the better when those who are young can be exposed to those who are old in common endeavors and pursuits.

A Senior Center must become a core-institution (in the sociological sense of the term) which is truly identified and visible as an indigenous facility of the elderly. Children have their schools, young and middle-aged adults have their institutions, whether in the world of work or in the world of leisure. Somehow, older people have become excluded from most of them and their world has become identified as the Nursing Home and the Old Folks' Home. The Senior Center can indeed become a community institution for all the older people whether "needy" or not. It is identified with well-ness and not with debility. This can be enhanced by linking it with younger people through joint projects which have meaning to old and young. Youth would work with the elderly on their own "home ground" and they in turn could reciprocate by working with young people on their "home ground." Thus a base for identity would be established and intergenerational communication would be facilitated. This may lead to opportunities to develop new roles and a new status for the elderly simply by being aged in their own right. A Center can become a springboard for learning new roles such as making a contribution in new service roles such as home-health aides, foster grandparents, friendly visitors, and tutors to children, to name a few. Needed by our society, such roles can raise the status of the elderly on their own terms and would lead to the establishment of new relationships with the community. Instead of isolation and alienation, a sense of belonging would result because older people have a stake in the community again, which would be manifested to them by community acceptance.

The uniqueness of the Senior Multipurpose Center lies in its ability to facilitate, coordinate, and simplify the various essential services needed. Some day, every community will have a Senior Center as every community has a school. It will be part of the "normal" line of community institutions. It will be as natural for older people to use the Senior Center as it is for children to go to their school and for the middle-aged person to go to work and use his work affiliation as a means of identity. For this reason, we must be willing today to expand our imagination and to explore new goals and new directions. The first important step is to establish these goals and a commitment to move towards achieving them. The strategy of projection ultimately is the strategy of combining in a realistic way that which will be, that which may be, and that which we want to be.

NATIONAL HISTORIC PRESERVATION WEEK—PART III

Mr. BEALL. Mr. President, this is the third statement I have made in a series designed to coincide with National Historic Preservation Week. On Monday, I began a discussion on the Historic Structures Tax Act (S. 2347) which I introduced on August 3, 1973. This legislation was referred to the Senate Finance Committee which has to date, scheduled no action. In the interim, I am pleased to note that 13 of my colleagues have joined in cosponsoring this legislation. In addition, this legislation has received the endorsement of various State and local agencies, historical societies, and other organizations seeking to preserve our Nation's historical treasures.

Following the introduction of S. 2347, I received a large number of letters from governmental agencies; national, State, and local historical organizations; and interested individuals. A recurring theme which appeared in various forms throughout most of these letters was summed up in a quote by the late Dr. Henry Nelson Snyder, who said that:

An institution which tends to forget its past will soon have a past not worth remembering.

In a letter to the chairman of the Senate Finance Committee, Mrs. Elinor Stearns, assistant to the administrator of the Octagon—a National Historical Landmark administered by the American Institute of Architects Foundation, Inc.—stated:

To what extent, and under what conditions, we can hope to protect our environment and architectural heritage in a meaningful and adaptive manner is up to specula-

tion. Yet, what is real is our unique opportunity to do something constructive NOW before the wrecking ball takes its toll—and along with it, tangible and material symbols of our past with which we are able to identify.

This is not to say that all "old" buildings are viable and must be preserved but, rather, that those buildings which are potentially adaptive—as so many are—should be treated in such a manner as to encourage preservation, and not destruction. S. 2347 provides such incentive.

As long as this bill sits in your committee, you too are contributing to the waste of our environment and to the destruction of our precious heritage. If Congress has not the ability, motivation, or foresight to protect our heritage, who indeed does?

I was pleased to note that the Land Use Planning Committee and the Regional Open Space Technical Advisory Committee of the Metropolitan Washington Council of Governments approved a resolution of support for the Historic Structures Tax Act.

Mr. President, I ask unanimous consent that the text of this resolution along with the selected letters I have received from national and State preservation organizations, various State and local officials, and so forth, be printed in the RECORD at the conclusion of my remarks and I would once again urge the Senate Finance Committee to expedite consideration of this important legislation.

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

RESOLUTION IN SUPPORT OF THE HISTORICAL STRUCTURES TAX ACT OF 1973

Whereas, one of the most attractive features of the Washington Metropolitan Area is its large number of sites of historic significance, its architectural diversity, and its impressive open space system; and

Whereas, the Metropolitan Washington Council of Governments has through its development policies and planning program recognized the importance of these elements as a valuable resource of the area worthy of promotion and protection; and

Whereas, the Historical Structures Tax Act of 1973 (S. 2347) introduced in the Senate by Senator Beall of Maryland and the Environmental Protection Act of 1973 (H.R. 5584) introduced in the House by Representative Conable of New York are designed to achieve, by amending the Internal Revenue Code, the following three objectives:

1. Encourage the preservation of historical building sites and structures certified by the Secretary of the Interior, as listed on the National Register of Historic Places, or within a district listed on the National Register, or on the inventory maintained by state and local jurisdictions,

2. Encourage the rehabilitation, rather than the demolition, of existing structures for compatible and where possible profitable reuse,

3. Encourage charitable transfers of property for use as parks, open spaces, or other conservation purposes; and

Whereas, these objectives will serve to support COG in its effort to preserve the character and improve the quality of life within the Washington Metropolitan Area

Now, therefore, be it resolved, by the Regional Open Space Technical Advisory Committee and the Land Use Policy Committee of the Metropolitan Washington Council of Governments that the Committee support Congressional efforts aimed at promoting the principles of historic preservation and open space conservation and urges a thorough consideration of S. 2347 and H.R. 5584 by the Congress in the light of these principles.

NATIONAL TRUST FOR HISTORIC PRESERVATION,
Washington, D.C., November 28, 1973.

Honorable J. GLENN BEALL, Jr.,
U.S. Senate.

DEAR SENATOR BEALL: I have been most pleased and encouraged to receive a copy of your recent letter to Gordon Gray and to read the details of your Historic Structures Tax Act.

Much of the recent history of the kind of demolition that is homogenizing urban scenes throughout the nation can be attributed to tax treatment that has favored destruction over rehabilitation. Your proposal is one that would go far toward rectifying this inequality and encourage a more logical and sensitive attitude toward the preservation of landmark structures. I compliment you on initiating such a sound and imaginative program.

Gordon Gray wrote you that he has now relinquished the chairmanship of the National Trust for Historic Preservation. His contributions to national historic preservation in terms of leadership, legislation, and dedicated personal interest have been nothing short of spectacular. As I embark on my new assignment as his successor, I do so with great confidence that our efforts at the National Trust will be supplemented by legislative assistance from persons such as you, who perceive that the ultimate benefits of urban preservation must really grow from solutions to the fundamental problems of practical rehabilitation.

I shall look forward with keen interest to news of your scheduled hearings, and to meeting you. I am a native of your state and was born and brought up in Hagerstown. In addition, I had the pleasure of working with your father when I was Deputy Under-Secretary of State in the late 1940's and early 50's.

Sincerely,
CARLISLE H. HUMELSINE, *Chairman.*

NATIONAL TRUST FOR HISTORIC PRESERVATION,
Washington, D.C., November 7, 1973.

Hon. J. GLENN BEALL, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BEALL: The National Trust for Historic Preservation is most pleased to know of your support for amending the Internal Revenue Code by the provisions contained in S. 2347, the Historical Structures Tax Act of 1973.

The National Trust was pleased to have worked with the Tax Policy Advisory Committee of the Council on Environmental Quality when it was conducting its 1970–71 study of the effect of federal tax policy on our environment. We are pleased to note that the provisions of S. 2347 are identical to those sections of H.R. 5584 which relate to historic structures.

We support the provisions of S. 2347 and urge the prompt scheduling of hearings before the Senate Finance Committee.

The enactment of this legislation would be among the most significant contributions to the conservation of our worthy man-built environment during our nation's Bicentennial era.

Sincerely,
JAMES BIDDLE, *President.*

INSTITUTE OF EARLY AMERICAN HISTORY AND CULTURE,
Williamsburg, Va., October 16, 1973.

Hon. J. GLENN BEALL, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BEALL: I am very grateful to you for your letter of October 5, calling attention to S. 2347, the Historical Structures Tax Act of 1973, which you have recently introduced. I have also read your more detailed statement from the Congressional Record and the full text of the proposed act. The legislation you have proposed is in my judgment extremely desirable and most appropriate in this period of the Bicentennial.

That part of the legislation that would encourage owners to preserve and, if necessary, rehabilitate historical structures through tax advantages has, I think, a number of very desirable features. Among them I would include the following:

1. It would, as I understand it, encourage private owners to preserve their historic buildings, thereby making possible the preservation of individual buildings of historic importance that are not so situated so as to be conveniently included among the properties administered by an organized historical restoration, historical society, or the like. This is extremely important in situations where a valuable historical building is located in some isolation from similar structures.

2. The legislation would, moreover, by encouraging more restoration activity by private individuals, take some of the burden off restorations, museums, historical societies, or state and federal agencies who are already hard pressed to preserve and maintain the historic properties currently under their jurisdiction.

3. The additional amount of preservation that would result from the bill would be accomplished at very small cost to the federal government.

4. To me an important—and relatively hidden—benefit of the legislation is the extent to which it would encourage the preservation of buildings that would then be occupied and used as residences or for appropriate business activity. As much as we need organized restoration and preservation activity, in which the buildings are used only for exhibition to the public, this approach works best for sites of major importance or for large clusters of buildings. The men responsible for administering such properties are themselves the first to admit, moreover, that they must work very hard to prevent such buildings from becoming museums that convey very little sense of having been lived in and from seeming frozen and lifeless. Buildings preserved by persons who would continue to use them (which your legislation would encourage) would have the advantage of giving these historic properties that sense of life, vitality, and continuity with the past that is, I think, the highest goal of historic preservation.

I very much hope that the legislation will be favorably acted on in this session of Congress. If there is anything further that I can do to support it, I should be happy to do so.

Sincerely,
THAD W. TATE, *Director*

SUBCOMMITTEE ON LEGISLATION,
COMMITTEE ON HISTORIC RESOURCES/AIA,
Washington, D.C., October 29, 1973.

Senator J. GLENN BEALL, Jr.,
U.S. Senate,
Committee on Finance,
Washington, D.C.

DEAR SENATOR BEALL: I am writing in response to your letter of October 5, 1973, on the Historic Structures Tax Act of 1973. As a member of the National American Institute of Architects Committee on Historic Resources and Chairman of the Subcommittee on Legislation I would like to confirm the AIA endorsement of this legislation.

With respect to both preservation and appearance problems in our environment, there is no better way for renewing our declining communities than private economic incen-

tive, particularly when meshed with orderly, planned government action. Specifically, our present income tax laws encourage real estate ownership and investment. Pending legislation, such as S 2347, may add preservation incentives. Real estate taxes are currently encouraging continued community deterioration. Real estate tax now rises when existing buildings are preserved, improved or even well-maintained—this should be replaced by escalating taxes for deterioration, possibly boosted by assessments and fines. Our local governments should make negligence unprofitable. There could be no quicker way for improving some of the country's worst neighborhoods, stabilizing declining areas, and protecting those that are still good.

Sincerely yours,

DONALD B. MYER,
AIA, Chairman.

ORGANIZATION OF AMERICAN HISTORIANS,
Bloomington, Ind., November 1, 1973.

Senator J. GLENN BEALL, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BEALL: Thank you for informing this office of the proposed Historical Structures Tax Act. The objectives are in harmony with those of the Organization of American Historians, the largest organization of historians specializing in American history, and I see no reason to believe that the the tax power could not be used effectively for these objectives as it has been for many others.

I am bringing your letter to the attention of the chairman of our Committee on Historic Sites, Dr. Clement M. Silvestro, the Director of the Chicago Historical Society. The Committee serves as liaison between the OAH and local and federal agencies interested in historic sites. You may wish to call upon Dr. Silvestro for assistance.

With best wishes.

Sincerely yours,

RICHARD S. KIRKENDALL,
Executive Secretary.

AGRICULTURAL HISTORY SOCIETY,
Washington, D.C., December 28, 1973.

Hon. J. GLENN BEALL, Jr.
U.S. Senate
Washington, D.C.

DEAR SENATOR BEALL: The Agricultural History Society is pleased to learn of S. 2347, The Historical Structures Tax Act of 1973. We believe that this legislation would be of benefit in the preservation of historical buildings. At the same time, we believe that its provisions should be extended only to those structures certified by the Secretary of the Interior.

It is our hope that this Act would encourage the development of Living Historical Farms. These farms, depicting agriculture as it was at a particular time in a particular area, are a rather new development in the historical and museum field. Legislation which would encourage their development, as we believe your bill would, is most desirable.

We hope that your bill will become law.

Sincerely,

WAYNE D. RASMUSSEN,
Executive Secretary.

MARYLAND BICENTENNIAL COMMISSION FOR THE COMMEMORATION OF THE AMERICAN REVOLUTION,
November 6, 1973.

Senator J. GLENN BEALL, Jr.
Old Senate Office Building
Washington, D.C.

DEAR SENATOR BEALL: May I thank you and congratulate you on introducing S. 2347, the Historical Structures Tax Act of 1973. It is certainly worthy of consideration by the Congress and I feel it will be well received.

As Chairman of the Maryland Bicentennial Commission, I see every day the importance of the preservation of historic buildings and it is only during our time that these buildings can be saved. Certainly when we celebrate our Tricentennial they will all be gone unless we do our job and do it now.

Again, I commend you for your well thought out proposal and I wish you every success.

Sincerely,

LOUISE GORE,
Chairman.

MARYLAND HISTORICAL TRUST,
Annapolis, Md., November 14, 1973.

Hon. J. GLENN BEALL, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BEALL: Thank you for your letter and supporting materials of October 5th, concerning Senate Bill 2347, the Historical Structure Tax Act of 1973.

Your letter and copies of the bill will be sent to our trustees and our county committees for comment and support. I will gather these comments from those concerned and forward them on to you. Should you need expert witnesses and testimony in this area, I would suggest Mr. Brice M. Clagett of Covington and Burling, chairman of the Maryland Historical Trust.

Thank you again for involving the Trust in these important preservation matters. Your continued support and concern in this area is most welcome and greatly appreciated. Please feel free to call upon this office at any time. If we may be of further service, we would be pleased to help.

Sincerely,

ARTHUR C. TOWNSEND, *Director.*

MARYLAND ENVIRONMENTAL TRUST,
Baltimore, Md., October 30, 1973.

Hon. J. GLENN BEALL, Jr.
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR BEALL: I note with great interest and approval your introduction of the Historic Structures Tax Act of 1973. As one of our volunteer Trustees, Mr. K. King Burnett of Salisbury, has noted in his October 24 letter to you, we are keenly interested in this proposal as we are presently seeking to develop a conservation easement program in Maryland.

I have enclosed, for your interest, the draft of a booklet on easements which we hope to publish this fall. Our goal is to encourage gifts of easements to charitable organizations or to governmental instrumentalities as a means to preserve ecologically valuable areas in the State.

We have found that the federal income tax deduction, available to donors of easements, is a powerful incentive encouraging easement gifts. However, the fact that the restriction on the land must be perpetual in order to qualify for the deduction has, to some extent, discouraged otherwise interested persons. Your proposed amendment to § 170(f)(3) of the Internal Revenue Code to provide for the deductibility of the value of the easement where its duration is not less than thirty (30) years is an excellent proposal and would be a meaningful improvement to the existing law. I am quite sure that this change, if enacted, would substantially increase the incentives to donate interests in land to preserve open space.

The Environmental Trust applauds your sponsorship of this bill and we urge you to press for its passage If we can be of any assistance in this regard we would welcome the opportunity to provide it.

Sincerely,

PAUL ALLEN.

HOUSE OF DELEGATES,
January 4, 1974.

Hon. J. GLENN BEALL, Jr.,
U.S. Senate,
Washington, D.C.

DEAR GLENN: I read with interest your letter of December 5, 1973 and statement before the Congress pertaining to Senate Bill 2347, the Historical Structures Tax Act of 1973.

It appears that this proposal has a great deal of merit since it goes a long way in preserving our history, stimulating our communities and providing for more open space.

I certainly hope that you are successful in this endeavor.

Sincerely,

JOHN HANSON BRISCOE.

ANNE ARUNDEL COUNTY,
Annapolis, Md., October 15, 1973.

Hon. J. GLENN BEALL, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BEALL: The Anne Arundel County Department of Recreation and Parks has reviewed Senate Bill 2347 and feels this legislation may have a measurable impact upon our Parks, Open Space and other related areas. We certainly have a very strong interest in the preservation of historical buildings since our County, because of its early settlement, is so richly endowed with these types of structures.

We generally endorse the bill, because of these reasons, for we feel that the positive aspects will more than offset some unattractive features, such as a loss of revenue, etc.

I will confer with the Office of Finance and the Office of Budget concerning any thoughts they may have and possibly may have additional comments in the future.

Sincerely,

JOHN A. MAKELL, Jr., *Director.*

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT,
Baltimore, Md., October 26, 1973.

Subject: Historic Structure Tax Act of 1973, S. 2347.

Senator J. GLENN BEALL, Jr.,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR BEALL: In reference to the subject legislation discussed in your letter of October 5, 1973, I am very pleased to learn that you have introduced a bill designed to encourage the preservation of National Register approved structures and the rehabilitation of older structures through certain tax credits. As you know, one of our primary objectives in many renewal areas in Baltimore is the rehabilitation of existing buildings. Rehabilitation preserves the architectural quality and variety of the City and also preserves community structure, a less tangible but very important aspect of rehabilitation as opposed to large-scale demolition.

S. 2347 is a very positive step to encourage private rehabilitation which is so necessary to the substantial renewal of the City. In view of the current low level of renewal program funding, I believe the tax provisions of the subject bill can provide a significant boost to the rehabilitation efforts of individual property owners. The provisions relative to the write-off of rehabilitation expenses for income-producing structures listed on the National Register is an excellent means of supporting preservation of the City's architectural character as well as promoting private investment in these notable structures.

Section 202 will provide a reasonable deterrent to the demolition of important structures and hopefully suggest the utilization of these structures for practical purposes. Finally, it appears that the provisions of Title IV will offer a more flexible mechanism than currently exists for charitable contributions of property. This is a key preservation

tool which, I believe, would prove very beneficial to the private contributor and the public.

After passage of the legislation, I would urge that the changes in tax regulations enacted by this bill be compiled in a publication which can be made available to affected property owners. Publicity of these changes will encourage a much wider utilization of these benefits.

The use of the country's tax laws as recommended in S. 2347 will serve many taxpayers well. I fully support the objectives and provisions of the bill and wish you success in the passage of this legislation.

Sincerely,

R. C. EMBRY, Jr.,
Commissioner.

CHARLES COUNTY PLANNING COMMISSION,
La Plata, Md., October 23, 1973.

Hon. J. GLENN BEALL, Jr.,
U.S. Senate.
Washington, D.C.

DEAR SENATOR BEALL: This letter is written in reply to your letter of October 5, 1973 concerning legislation relative to historical site preservation.

I believe that the proposed legislation would enable and encourage owners to preserve rather than demolish the heritage of our forefathers. The Counties of Southern Maryland are richly endowed with historic and archeological areas which could very well disappear from our landscape with the pressures as they are today in this twentieth century. Furthermore, I find that your proposed legislation will accomplish not only the objectives of the President and the Congress but the policies and goals of numerous historical societies of Southern Maryland.

With kindest regards, I am,

Respectfully,

JAMES E. REDMOND,
Director of Planning.

FREDERICK COUNTY PLANNING AND ZONING COMMISSION,
Frederick, Md., October 24, 1973.

Hon. J. GLENN BEALL, Jr.,
Russell Building,
Washington, D.C.

DEAR SENATOR BEALL: Thank you for the copy of the Congressional Record giving your presentation and the analysis of S. 2347, the Historic Structures Tax Act of 1973.

This is certainly important and needed legislation that will assist both the public and private sector in implementing local long-range and historic preservation plans. I hope to bring the bill to the attention of fellow professionals and through our newsletter, County people interested in historic preservation and conservation of open space.

In reading the analysis, much mention was made of preserving structures in urban areas. While this is most important, I hope that when the bill is passed and implemented that administrators, etc., will take note that many noteworthy historic structures are located in rural areas and by their remoteness often neglected or forgotten until someone notices that they are gone.

Again, thank you, and if I can be of any assistance please call upon me.

Respectfully yours,

LAWRENCE W. JOHNSON, *Director.*

PRINCE GEORGE'S COUNTY,
Upper Marlboro, Md., October 24, 1973.

Hon. J. GLENN BEALL, Jr.
U.S. Senate,
Washington, D.C.

DEAR SENATOR BEALL: I was pleased to receive your letter of October 5 pertaining to the proposed Historical Structure Tax legislation that you have introduced. It is my personal opinion that constructive use of our tax system to achieve desirable social objectives is essential. Unfortunately, our tax laws too often permit and, in fact, encourage effects that are inconsistent with national goals and objectives. In short, I wholeheartedly endorse the principles and general approach outlined in the bill you have sponsored.

I believe you will be interested in knowing that the Prince George's County Council also has before it legislation that would utilize its taxing authority to preserve historic site and structures, unique natural areas, private open space, flood plains and conservation areas, and proposed parklands. The mechanism under consideration is a tax credit which would be provided by the County to property owners who are willing to grant scenic easements for the preservation of such areas. A copy of the bill is enclosed for your information.

The opportunity to review S. 2347 is appreciated. We shall watch its progress through Congress with great interest.

Sincerely,

JOHN J. GARRITY, *Chairman.*

THE BOARD OF EDUCATION OF SOMERSET COUNTY,
Princess Anne, Md., October 30, 1973.

Hon. J. GLENN BEALL, Jr.
U.S. Senator,
Washington, D.C.

DEAR SENATOR BEALL: I feel sure that many people on the Eastern Shore of Maryland share with me a sense of gratification for your sponsorship of Senate Bill 2347.

We have many historical structures on the Eastern Shore which served as locale for early historical movements. Unfortunately, they are fast disappearing because of the financial sources available to persons and organizations interested in preserving such structures.

I hope that the members of the Finance Committee will share your views and present a favorable report.

Thank you for your continued interest in the affairs of your Maryland constituents.

Sincerely,

GEORGE F. CARRINGTON,
Assistant Superintendent.

ST. MARY'S CITY COMMISSION,
St. Mary's City, Md., October 23, 1973.

Senator J. GLENN BEALL, Jr.
U.S. Senate, Congress of the United States,
Washington, D.C.

DEAR SENATOR BEALL: I want to thank you for your kind letter of 5 October concerning your introduction of S. 2347, The Historical Structures Tax Act of 1973, and enclosing the related and very interesting excerpt from The Congressional Record. We have looked this over and are convinced it can be a very helpful and important piece of legislation for preservation or conservation projects.

For the St. Mary's City Commission, in its efforts to preserve and develop Maryland's original settlement and first capital, this legislation can be of very significant assistance particularly in obtaining scenic easements along the shores of St. Mary's River. The very great scenic qualities of this beautiful river can most likely be saved only through largely charitable grantings of scenic easements.

Your great interest in this matter is greatly appreciated. We send you our thanks. We strongly support this legislation.

With best wishes, I am

Sincerely yours,

ROBERT E. HOGABOOM, *Chairman.*

CITY OF NEW CARROLLTON,
New Carrollton, Md., November 1, 1973.

Hon. J. GLENN BEALL,
Senate Office Building,
Washington, D.C.

DEAR SENATOR BEALL: I apologize for the delay in commenting on your letter of October 5, 1973 regarding S. 2347, the Historical Structures Tax Act of 1973, which you introduced in the Senate in August of this year.

My delay in responding to your letter in no way should be taken as a lack of interest in this very vital piece of legislation. Indeed, I am very concerned with any legislation that can "re-invigorate our communities and make additional open spaces available for the use of our people." The legislation such as you propose is indeed commendable and you have my full support in your objectives. I heartily endorse the recommendations delineated in the Congressional Record of August 3, 1973 and will keep my fingers crossed that the Congress will see fit to enact this needed legislation.

I hope that you will keep me informed of the status of this bill as it moves through committee.

With warm personal regards, I am

Very sincerely yours,

JORDAN L. HARDING, *Mayor.*

STATE AGENCY ALLOCATIONS

Mr. McCLELLAN. Mr. President, the staff members of some Senators have made inquiry concerning the allocation of money to State agencies under my proposed amendment to title I of the Elementary and Secondary Education Act.

I would like to state for the RECORD that my amendment would retain completely the Senate committee's formula for allocation of funds to State agencies under title I.

Those allocations are to aid handicapped children, migrant children, and institutionalized neglected and delinquent children. My amendment will not change any part of the committee's formula for money to those groups.

Under the Senate formula, and in existing law, State agencies receive 50 percent of their average per pupil expenditure in Federal money for title I. My amendment retains this same provision.

The following table, based upon computerized estimates by the Congressional Reference Service, shows the distribution of ESEA Title I formula funds according to S. 1539 and the McClellan amendment. This table aptly illustrates that the significant differences between S. 1539 and the McClellan amendment are in the LEA grant program—part A—and in the repeal by the McClellan amendment of part B—special incentive grants—and part C—high concentration urban-rural grants. State agency grant funds for the handicapped, migrant, and institutionalized neglected and delinquent children are the same under both S. 1539 and the McClellan amendment.

The money used to fund part B and part C grant programs will not be lost. Instead, under the McClellan amendment, it will go back into the money available for LEA grant programs—part A—thereby increasing the amount available for LEA grants.

Mr. President, I ask unanimous consent that the table be printed in the RECORD.

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

DISTRIBUTION OF ESEA TITLE I FORMULA FUNDS ACCORDING TO S. 1539 AND MCCLELLAN AMENDMENT

Total Appropriations Level, $1,885,000,000 under S. 1539[1]; $1,885,000,000 under McClellan Amendment[2]. (President's FY-75 Budget Request).

Set Aside BIA, Trust Territories, and Outlying Areas, 3 percent under S. 1539; 3 percent under McClellan Amendment.

State Agency Grant Programs, $188,200,000 under S. 1539; $188,200,000 under McClellan Amendment.

LEA Grant Program (Part A) $1,554,000,000, $1,620,000,000.

State Administration, $19,000,000 under S. 1539; $19,500,000 under McClellan Amendment. (The greater of either $150,000 or 1% of the sum of each State's LEA and State Agency Grants).

Special Incentive Grants (Part B), $25,700,000. Program terminated thereby increasing the amount available for LEA grants.

High Concentration Urban-Rural Grants (Part C), $73,100,000. Program terminated thereby increasing the amount available for LEA grants.

PRISONER OR TRAINEE?

Mr. PERCY. Mr. President, Mr. Benjamin Ronis, associate editor of the Constructor, a monthly magazine published by the Associated General Contractors of America, has sent me the April issue of that magazine. In that issue, Mr. Ronis has written a very perceptive and timely article outlining the history of prison labor, and the ways prison labor has been used in England and in this country to the benefit of not only the prisoners, but also to the society to which they return.

I am especially interested in this article because I believe it makes a strong case for S. 2161, the "Work Your Way Out of Prison" legislation which I have introduced. I am hopeful that this legislation will enjoy the support of forward-looking labor and business organizations, such as those mentioned in Mr. Ronis' article.

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:

PRISONER OR TRAINEE?

Up to within the last 50 years, prison labor in private enterprises was an accepted phenomenon, both inside and outside the walls. Society and the legal system condoned the various mechanisms that allowed private business to obtain prison labor at little or no cost. Although all kinds of businesses used prison labor, from garment making to dairy farming, probably the one that received the greatest publicity in its use and treatment of prison labor was road building. The tales of abuse connected with the chain gangs building roads became the subject of many a folk-ballad and even a crusading movie of the 1930's. The abuse of prisoners was unconscionable, and many advocated abolition of these practices.

The growth of the union labor movement and more enlightened attitudes toward the care of persons incarcerated for violations of the law combined to hasten the demise of the chain gang system. By the 1930's prison industries were prohibited by law from competing with private enterprise, and the practice of allowing inmate labor to be sold to the highest bidder forbidden. At the Federal level legislation was first enacted which prohibited the hiring or contracting out of the labor of any prisoners in any Federal penal institution. Executive Order 325–A, issued in 1905, requires all Federal government contracts to prohibit the use of prison labor in the fulfillment of these contracts.

Soon most states enacted statutes following the Federal example. Today the revulsion against outside use of prison labor has become so great that prohibitions against its use are routinely inserted in legislation authorizing the construction of public projects. In 1958, Public Law 85–767, authorizing Federal aid to highway construction prohibited the use of offender labor except those on probation or parole on any Federal-aid highway project. Similarly, in 1970, Public Law 91–258, granting Federal assistance to airport development, disallowed the use of convict labor completely on any of the projects under its jurisdiction.

While these worthy prohibitions curbed or abolished the specific abuses rampant at the time of their adoption, today these same restrictions seriously hamper the efforts of the correctional system to provide offenders with training and employment opportunities. In recent years revised public and professional expectations of the penal system have brought about a change in the goals of imprisonment.

Tradition required penal institutions merely to hold prisoners until the completion of their terms of confinement. Now both the public and correctional officials expect some degree of rehabilitation to take place. The prisoner is supposed to be prepared to reenter society with the capability to find his place without further involvement with the law. Tradition required probation and parole to provide merely some form of nominal supervision. Today it is expected that the experience of probation and parole will provide the released offender with positive assistance in making the adjustments to reenter society.

But these new standards for upgrading the behavior of recently released offenders requires that they have skills and training needed to compete for employment opportunities. It is now clear that skills must be taught to offenders either during their incarceration or the period of probation and parole.

In 1970, President Nixon by executive order authorized the Law Enforcement Assistance Administration [LEAA] to formulate for the first time national standards for crime reduction and recidivism. LEAA Administrator Jerris Leonard appointed the National Advisory Commission on National Criminal Justice Standards.

Before delving further into the recommendations of the Commission, a look at the experience of the British building industry in this respect may offer some reassurance of its merits. In the United Kingdom an agreement was reached recently covering official cooperation between the government, trade unions, and private construction contractors for a large scale training effort.

On June 1, 1973, Lord Colville, Minister of State, Home Office, and Sir Kirby Laing, chairman of the National Joint Council for the Building Industry [NJCBI] signed an agreement on prisoner training in the construction trades. The NJCBI is the British equivalent of the AGC. Under the terms of the agreement, training received while in prisons or borstals (juvenile correctional facilities) will be officially recognized by both construction employers and trade unions. The Council has also agreed to recognize the certificate of achievement which each trainee receives while in prison or borstal as counting toward the normal time required to serve an apprenticeship in the building trades. The NJCBI and the British Prison Department have also agreed to set up joint local advisory councils to take an interest in the training of people selected for building courses and their employment in the trade upon their release from prison or borstal. The agreement is an important step forward in the treatment and training of people in custody and their resettlement in the community. At present about 1,300 people trained in courses which cover brickwork, carpentry, painting and decoration, plastering, plumbing, electrical installation and general installation and general building operations.

Syllabuses follow the recommendations of the Construction Industry Training Board and practical work is available on the actual sites where new Prison Department structures are being built.

For some time British building trades unions have recognized these courses of instruction and practical work. They accept as members discharged prisoners and borstal trainees who have reached an appropriate standard of skill, and they help in their resettlement in jobs in the construction industry. More than 700 people have already been accepted for membership in unions and found jobs in this way. But until now there was not any official agreement that involved the contractor groups, the construction labor unions, and the government.

During this same period however, the U.S. construction industry has not been idle. Over the past three years a number of similar voluntary efforts along the same lines have been promoted here.

LEARNING TRADES

One of these training projects is the Gulf Coast Trade Center at New Waverly, Texas. Here in an old Civilian Conservation Corps camp deep in a national forest, 100 young men from age 14 to 19 are learning construction skills. The trades taught are those of electrician, plumber, carpenter, painter, operating engineer, and construction laborer.

The young men are screened out of hundreds of referrals from juvenile courts and County Detention Centers in a 13-county area around Houston, Texas. The camp has facilities for 200, but the program has only enough funding to accommodate 100 trainees. While the training program is an alternate to detention, the judges and court officers do not make it mandatory, according to John Driscoll, the program director at Gulf Coast, Mike Buzbe, is the Trade Center's deputy director, an old hand at apprentice programs, from the AFL-CIO Building Trades Dept. Instructors at the Center are all furnished by the various construction unions, although paid by the center. As a result the entire program is accredited by the construction unions. The whole period of trade training can be applied toward the completion of a full union apprentice program if the trainee desires to do so after leaving the Center.

Gulf Coast Trade Center is funded by three agencies; the Law Enforcement Assistance Administration, (LEAA), the Model Cities program, and the Texas Criminal Justice Council. Mr. Driscoll estimated that about 85% of those enrolled complete courses lasting anywhere from six months to one year. Of those that complete this initial training, the center has been able to place about 80% with local contractors, where they can then complete the full apprentice programs for journeyman classification. These youngsters also receive academic training which is applicable toward a high school diploma so that those desiring to go on to college may acquire the necessary credits.

[1] Computerized total estimate of S. 1539 is accurate within 1.67 percent of total appropriations level.

[2] Computerized total estimate of the McClellan Amendment is accurate within .05 percent of the total appropriations level.

Elsewhere in the U.S. are similar apprentice programs involving juvenile offenders. A joint venture between the Operating Engineers, Carpenters, Painters, Plasterers, and Bricklayers' Unions operates a school for these construction trades called "Operation Outreach." Funded by the Job Corps, these unions are contracting to take a certain number of technically delinquent youngsters from 16–19 years of age and teach them construction skills.

Asked to comment on the oft-mentioned complaint that the construction industry is perhaps being asked to absorb a greater amount of these offenders than the professions, Mr. Driscoll commented, "The construction trades normally require a great deal less academic background than the professions such as law, medicine, and engineering do. However, we have seen young men come out of here and use the money earned on a construction job to pay their way through law and medical school. So in a way construction is helping these professions as well as the youngsters."

FLOYD RIDDICK'S "SENATE PROCEDURE"

Mr. METCALF. Mr. President, recently delivered to our desks on the Senate floor and yesterday delivered to our offices is the latest volume on Senate Procedure. This 1974 revision by the Parliamentarian of the U.S. Senate, Floyd M. Riddick, is the latest compendium of Senate precedents and Senate proceedings compiled by our Parliamentarian. I hope that every Senator will place his office copy in a convenient location for ready reference. This latest revision of Senate Procedures not only contains all the precedents that have been established since the last edition but lucidly sets forth the various and complicated procedures under which we operate.

Floyd M. Riddick, our Senate Parliamentarian is recognized as one of the leading experts on parliamentary procedure in the world today. His experience, his pragmatic knowledge of how to make a legislative body function and his scholarship combine to make this most recent edition of Senate Procedure an indispensable volume for every Senator, for every student of congressional operations and for every researcher into the various Senatorial votes.

The organization of the book is designed for practical use and the index is comprehensive.

I congratulate Dr. Riddick on his contribution to our Senate activities and suggest that the Senate is fortunate to have a man of "Doc" Riddick's erudition and understanding to help us in our parliamentary activities.

THE PRESIDENCY

Mr. HANSEN. Mr. President, the nationally recognized and honored columnist, William S. White, has some comments on the Presidency which deserve wide attention.

I ask unanimous consent that his column from the May 4, 1974, Washington Post, be printed in the RECORD:

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

THE PRESIDENCY HAS BEEN TWICE STAINED

(By William S. White)

To any man not blinded by passion against or for President Nixon these are sad days in Washington.

The disclosure of the White House transcripts may or may not lead to his impeachment (indictment) by the House of Representatives and his trial by the Senate. What is to happen to Richard Nixon personally, however, is not and never was the great and somber issue.

At stake is not a man who happens transitorily to be President but rather the health and vitality of an enduring institution called the presidency of the United States.

No matter what one thinks of the substance of these papers on the question of Mr. Nixon's innocence or guilt of any impeachable offense there can be no doubt that in their publication the institution of the presidency has been twice stained, in unrelated ways.

The nature of many of the conversations recorded is repellent especially to those who have tried to defend an institution from all harm.

The aura—almost one might say the odor—arising from these transcripts at the very least ill serves the dignity of the office and immensely serves all those who so long and so bitterly have sought to belittle all our institutions and our whole political system. The junior-grade cynics, the one-book skeptics are having a field day. This, then, describes the first of these two stains that have been cast upon the presidency.

The second is far more profound and, unlike the first, is one of those damned spots that can never be rubbed out. This is the sheer fact that the President has breached two centuries of tradition that his office has a right and duty to maintain the confidentiality of its files, its papers and its in-house conversations.

Grant that he had been under implacable pressure to "let it all hang out," to use of the charming expressions of our time. Grant that his adversaries had him between a rock and a hard place. Concede all that and the fact yet remains that he should never, never have set the precedent that he has now set.

This precedent is that from now on any President who falls into wide disfavor, justly or not, can be forced to lay open his private papers to any congressional committee, however fairly or however unfairly motivated.

Men say reassuringly that this situation is a unique one and that there is no need to worry that a time will come when another President may be forced to present himself naked to the country. Maybe they are right—but then again maybe they are wrong. This columnist asserts that from this day forward, the central constitutional principle of a wise and right separation of powers as between the Executive Branch and Congress is compromised. And this is tragedy. The presidency has been forever weakened, potentially so beyond rational argument otherwise.

ALL CHANNEL RADIO BILL

Mr. MOSS. Mr. President, recently, the Senate Communications Subcommittee, under the able chairmanship of Senator PASTORE, held particularly fruitful hearings on S. 585 a bill to provide that all radios costing less than $15 be manufactured with equipment to receive both AM and FM stations. The bill was supported by both commercial and noncommercial broadcasters who presented a particularly well coordinated and persuasive case for its passage.

On April 25, the closing day of the hearings, the Los Angeles Times carried an editorial entitled, "Realizing Radio's Potential" which summarizes very well some of the reasons why the bill should be enacted. I ask unanimous consent that the editorial be printed in the RECORD.

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

REALIZING RADIO'S POTENTIAL

Scarcely a decade ago Congress authorized the Federal Communications Commission to impose restrictions on television manufacturers. The result that almost every television set in the United States today is capable of receiving ultra-high-frequency stations as well as the very-high-frequency channels.

Now, a similar proposal is pending in Congress to force radio manufacturers to take steps so that all radios, including car radios but excluding the cheapest sets, will be equipped to receive FM stations as well as the standard-broadcast AM stations.

It is regrettable that such a constructive step cannot be achieved without government intervention. But there appears no alternative.

The point in both cases has been to assure maximum utilization of and maximum competition between the limited number of broadcast channels. Admittedly, the situation was more critical for television because the number of regular VHF channels is so restricted. In radio there is a wider band, with more stations operating. But the full utilization will remain constricted until FM as well as AM is standard on every radio.

A particular target of this new legislation is the car radio. About 90% of home radios costing $15 or more already include FM. But only about 12% of the car radios now in service, and only about 28% of the car radios presently being sold, include FM.

There is no great cost factor in the proposal. The additional manufacturing cost for a car radio including monaural FM is less than $7 a set, according to a study conducted by a reputable research firm.

A special argument in favor of extending the FM audience is the fact that most of the nation's educational and public-service radio stations are FM. There presently are 4,402 AM radio stations, including two dozen noncommercial stations. There are 3,174 FM radio stations, including 655 noncommercial stations, among them a number in the Los Angeles area operated by universities or supported by listeners.

The communications subcommittee of the Senate Commerce Committee will conclude hearings today on this legislation, S. 585. It merits approval. It is the only way to assure prompt and effective use of the communications potential of radio in the nation.

SENATE PRAYER BREAKFAST MESSAGE OF THE HONORABLE HERMAN E. TALMADGE

Mr. PERCY. Mr. President, this morning, at the Senate prayer breakfast, our distinguished colleague Senator HERMAN TALMADGE, presented a very moving message. He discussed very frankly the troubled times that have fallen upon our Nation, a period in which one crisis seems to overlap another, which results in poll after poll revealing "widespread pessimism . . . dismay . . . distrust . . . and even anger and cynicism about the way their Government is being run and the affairs of their country handled."

He discussed the trials and tribulations that beset our Nation at the time of our Founding Fathers and the crucial

role that faith in God and recognition of a Supreme Being has played in governing the affairs of all men, particularly throughout American history.

As we face up to the problems, challenges, and opportunities of our time, let us not forget that as a nation and as a people we have agreed "In God We Trust." HERMAN TALMADGE's inspiring message, as concisely drawn as the Gettysburg Address, will be of interest to our colleagues in both the Senate and the House, and I ask unanimous consent that it be printed in the RECORD.

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

SENATE PRAYER BREAKFAST

(By Herman E. Talmadge)

My friends, we meet this morning at a time when it seems to me that the American people are disconcerted and troubled by the times which have fallen upon our nation.

It is almost as though our country has been cursed by bad fortune in the past decade or so.

The terrible war in Vietnam pitted the people against the government and the government against the people, and neighbor against neighbor.

It has been said, and I believe it is true, that the American people were never so divided since the War Between the States a hundred years ago.

Finally, an end came to our involvement in that war, and the promise of a new day appeared on the horizon.

And yet, even while the American people went about nursing emotional wounds caused by the war, and started trying to pick up the pieces and put things back together again, their hopes for a new day—free of discord and strife and full of progress for all—have been dimmed by economic instability and dissension in our government.

So, instead of rejoicing throughout the land because of the end of the war in Vietnam, we find that we have gone from one crisis to another.

Poll after poll reveals widespread pessimism . . . dismay . . . distrust . . . and even anger and cynicism about the way their government is being run and the affairs of their country handled.

When only about half of the American people say they are satisfied with the way the future looks to them, something is badly wrong.

When people regard government as an object of distrust and even fear, it indicates to me that those of us in positions of leadership—leaders in government at every level—have a great deal of fence mending to do.

This of course is not the first time the United States has faced a crisis in either our fiscal affairs or in government.

Trial and tribulation have been constant companions in the growth and prosperity of the American republic that we now enjoy.

It has been true from the time that the Founding Fathers labored over the organization of a new nation, and on down through history—through wars, depression, and internal strife.

But, we outlasted these crises and finally put them behind us, and went on to bigger and better things.

So long as we adhere to the fundamental principles that inspired our nation in the first place, and which have been handed down and protected through the ages, I am confident that we will continue to survive and, as in the past, move forward to a better life and a stronger country for the benefit of the American people.

Difficult times and travail were no strangers to the Apostle Paul. He knew them well all his life.

In his constant quest for righteousness and perfection in the eye of God, Paul never imagined that he was able to attain these noteworthy goals.

But, as he said in his Epistle to the Philippians:

"This one thing I do, forgetting those things which are behind, and reaching forth unto those things which are before, I press toward the mark . . ." (Philippians 3: 13)

I find reading the 23rd Psalm, so well known to all of us, very appropriate and comforting in this time in which we now live.

This is probably one of the most powerful psalms ever written by David.

In its approach to life, it reflects a positive position—a position of hope and faith.

Henry Ward Beecher said the 23rd psalm is the nightingale of all psalms . . . and nightingales sing sweetest when night is the darkest.

In speaking of the 23rd psalm, recall the first line:

"The Lord is my Shepherd."

We might ask ourselves this question: We all know the psalm, of course, but how many of us know the shepherd?

It is my view that no nation or any other people are more bound to Divine Providence which has guided our affairs since the first permanent colonists settled at Jamestown in 1607, than the United States or the American people.

Faith in God and recognition of a Supreme Being which governs the affairs of all men are as much a part of the history of the American nation as the Boston Tea Party or the signing of the Declaration of Independence.

George Washington put it well in his first inaugural address on April 30, 1789:

"No people can be bound to acknowledge and adore the Invisible Hand which conducts the affairs of man more than those of the United States. Every step by which they have advanced to the character of an independent nation seems to have been distinguished by some token of Providential agency."

And Washington went on to say, "He has been pleased to favor the American people. . . ."

Every President after Washington also recognized God in their inaugural addresses, as well as the need for His guidance.

Thomas Jefferson, the statesman and President, acknowledging and paying tribute to the benefits to be derived from Divine Providence said, "With all these blessings, what more is necessary to make up a happy and prosperous people?"

Lincoln, directing our nation in one of its most trying periods, called for "intelligence, patriotism, Christianity and firm reliance on Him who has never forsaken this favored land."

These Presidents reflected the faith of the Founding Fathers.

During the Constitutional Convention in 1787 in Philadelphia, Benjamin Franklin pleaded with the delegates that each day's session be opened by prayer.

Wise old Dr. Franklin quoted the psalm: "Except the Lord build the house, they labor in vain that build it."

"All of us must have observed frequent instances of a superintending providence in our favor. To that kind providence we owe this happy opportunity of consulting in peace the means of establishing our future national felicity. And, have we now forgotten that powerful friend? Or, do we imagine that we no longer need his assistance?" Franklin told the delegates.

The fact is, the American people have leaned on Divine Providence from the time they first landed on these shores, and the need is no less today . . . and it will not be lessened by tomorrow.

It is often said that out of adversity comes renewed strength and a revitalized spirit.

It is also true, I believe, that patience and humility in bad times are far more desirable and valuable than comfort and devotion when things are going well.

If we follow the teachings of the Gospel according to Saint Matthew, we will take one day at a time, and each day do the very best we know how.

At the same time, we need to recognize and have faith that God's concern for us far exceeds whatever concern we may have for ourselves.

In the words of Martin Luther, "A mighty fortress is our God, a bulwark never failing . . ."

I would like to leave you this morning with this thought expressed in the Sermon on the Mount:

"Therefore I say unto you, Take no thought for your life, what ye shall eat, or what ye shall drink; nor yet for your body, what ye shall put on. Is not the life more than meat, and the body than raiment? . . . .

"Seek ye first the kingdom of God, and His righteousness; and all these things shall be added unto you.

"Take therefore no thought for the morrow: for the morrow shall take thought for the things of itself. Sufficient unto the day is the evil thereof."

A TRIBUTE TO THE VERY REVEREND MICHAEL M. ZEMBRZUSKI

Mr. HUMPHREY. Mr. President, the Very Reverend Michael M. Zembrzuski came to America in 1951 with $36 in his pocket, and a dream.

The dream was to inspire the Polish-American Community of the United States to build an American Jasna Gora—a sister shrine to the Shrine of Jasna Gora, located in the city of Czestochowa, Poland, and which, for centuries, has been the spiritual capital of the Polish people and the Polish nation.

The Shrine of Jasna Gora in Poland has always been an obstacle in the path of complete domination and suppression of the Polish people. Thirty million of the 32 million population of Poland are devout Roman Catholics.

In 1966 an event occurred in the United States that received national and international recognition and acclaim.

A large segment of the Polish-American community in the United States had rallied round the Reverend Michael M. Zembrzuski, with money and support, and on Sunday, October 16, 1966, the American Jasna Gora—the National Shrine of Our Lady of Czestochowa—was dedicated as the Shrine of Poland's Millennium of Christianity (966–1966) and as a monument to Christianity on the free soil of America by John Cardinal Krol, in the presence of the President of the United States and his family, dignitaries, and more than 135,000 people.

This accomplishment astounded the Polish Government, and served notice upon them that the ties that had traditionally linked Poland to the United States since the days of George Washington and the Revolution had been strongly reinforced and reaffirmed.

More than 600,000 people come to the

Shrine annually, to pray and to enjoy or participate in a full calendar of religious, civic, cultural, and ecumenical events.

The shrine is a place for spiritual fulfillment and human renewal; but it is also a repository of Polish culture and tradition that a proud and loyal group of ethnic Americans want to preserve for themselves and their children, and to share with their fellow Americans.

In a country that was founded under God, and looks to God for guidance and inspiration, the National Shrine of Our Lady of Czestochowa is proof that the religious freedoms which our forefathers sought and established are still alive and flourishing today.

The Very Reverend Michael M. Zembrzuski, OSP, who is 65 years old, celebrated his 40th anniversary as a priest and his 40th anniversary of service to people of all faiths on March 30, 1974.

Mr. President, it is most appropriate that in honor of Polish Constitution Day, which is observed each year on May 3, that we recognize Fr. Zembrzuski's great contribution to the great mosaic of American culture and heritage.

INFLATION

Mr. HANSEN. Mr. President, it is rather ominous and disturbing that there is talk of indexing as a means of combating inflation.

Obviously, the trouble with this approach like all the legislative attempts to stay or circumvent laws of supply and demand is that it does not treat everyone fairly. There are always some imbalances in the overall economic situation at any time, and it is impossible to devise a system that covers everyone and everything fairly and equitably.

Painful though it may be, the wisdom of Federal commitment to a balanced budget cannot be denied.

I respectfully direct my colleagues' attention to the article, "Climate for Indexing?" written by Hobart Rowen. In light of the current debate on anti-inflationary measures, those of us on either side of the indexing questions should find Mr. Rowen's article of interest.

Mr. President, I ask unanimous consent that the article, "Climate for Indexing?" be printed in the RECORD.

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

CLIMATE FOR INDEXING?

(By Hobart Rowen)

Milton Friedman, as I wrote a few weeks ago, has stimulated a lively controversy by suggesting that the way to beat inflation is to use a system of wage and price escalators.

This is sometimes called "indexing," and would be modeled on what is said to be a successful, long-time experience in Brazil.

Most economists who have expressed a public opinion on using escalators to compensate for inflation are against the idea, arguing that it will make matters worse.

But the steady upward march of prices creating the worst inflation in this country since the first World War—gives the idea of indexing at least some surface credence.

One uncontestable fact is that some segments of the public right now get the benefit of indexing, while others do not. Thus, some 4 million members whose leaders were far-sighted enough to get cost-of-living clauses written into their contracts get a measure of protection against inflation.

But since such contracts are still the exception rather than the rule, COL escalators simply become part of higher costs that everyone else has to pay. To take one example, auto workers get a COL adjustment under their contract. That leads to higher prices for cars that must be paid by purchasers whose wages were not similarly "indexed."

Critics of the Friedman proposal range in ideology all the way from liberal economists Arthur M. Okun and Robert R. Nathan to conservatives like Chicago banker Gayland Freeman and retiring Treasury Secretary George Shultz.

Nathan says that indexing "could become a real rat race, with everyone carrying around his own portable computer to check the figures to see he gets his fair share."

Shultz not only agrees that all increased costs "would be built in automatically," but protests that the Brazilian experience isn't applicable to this country in the first place.

It is true that there are great differences between their system and ours. One major one—not noted by Friedman—is that the indexing system there is designed to protect the value of capital investment rather than wages.

Thus, the Brazilian government establishes in advance what the upper limit of wage advances can be, and that is all the collective bargaining process is allowed to work out.

Those who are familiar with what has actually taken place in Brazil say the Government will typically establish 15 per cent as the anticipated rate of inflation, and thus assume a major political commitment to do no worse than that.

Having gone that far, according to a U.S. government source, the Brazilian Government has had to establish controls to give the appearance of success. The result has been black markets, with actual rises in prices under the indexing system perhaps double the officially stated increase.

Says Chicago banker Freeman: "The figures that the Minister of Finance puts out are suspect."

It is easy enough to put aside the notion of emulating Brazil, which is a dictatorship under the Army's thumb. The achievement, under indexing, of a GNP increasing by annual rates of 10 per cent for six years in a row (if the figures are believable) is hardly enough to compensate for a non-democratic form of Government.

But the idea of distributing the burden of inflation more equitably doesn't have to be associated with the anti-social character of the Brazilian Government. David R. Shelton, a Washington attorney, who once raised the question of indexing U.S. savings bonds, says in a letter:

"I have always wondered why our Federal government has been so solicitous to grant cost of living pension increases to retired bureaucrats. . . . and so determined to effectually confiscate the life savings of those little people suckered into putting everything they can accumulate into Series E bonds."

Another correspondent, Harold Robinson of the Agency for International Development, points out that escalator adjustments for inflation have been used in Israel, Bolivia, and Colombia, as well as Brazil.

Shultz' basic argument is that acceptance of indexing would be admission that the "extraordinary 10 per cent rate of inflation" that we've had for a year is "something we are willing to live with."

"I think it is more credible to say 'No, we're not going to have that here in this country'" Shultz said in an interview.

It appears to me that there are three alternatives to the indexing idea:

First, we can continue as we're going with the anti-inflation responsibility saddled on the Federal Reserve Board. The hope would be that with a mild recession, high interest rates, and no worse than 6 per cent unemployment, inflation could be checked.

Second, an even tougher kind of austerity could be enforced, with unemployment pushed to 9 or 10 per cent to break the inflationary cycle.

Third, there is Nathan's proposal for "a year or two of tough but flexible and fair controls to break the spiral."

Inasmuch as all signs point to continuing inflation despite the Fed's efforts; and because no one is ready to advocate a depression; and because even Nathan admits that current support is about zero for controls, the demand for escalators—whether the solution is sensible or not—will grow. The climate is right.

THE RICHES OF OUR BEING

Mr. MOSS. Mr. President, recently several energy authorities have indicated that our energy crisis may be a blessing in disguise. It has made each of us more aware that our energy supplies are limited. We have become aware that the wasteful use of the world's natural resources is unacceptable. As a result, conservation measures have been encouraged. Certain aspects of our lifestyles have changed.

To some this has created alarm. However, if we can place our energy situation in proper perspective, we need not panic. In fact, an awareness of the real meaning of life may occur by slowing down a little. The reckless abandon with which Americans have pursued all aspects of life in recent decades certainly has not enhanced the "riches of our being."

On May 15, 1974, the Common Carrier section of Salt Lake Tribune carried an article by Mr. Ted J. Parkinson entitled "New Golden Age for Man—Thanks to Nation's Energy Crisis." Mr. Parkinson teaches conservation and natural history for the Brigham Young University, Salt Lake City Center and is a park naturalist at Yellowstone National Park during the summer.

Common Carrier is an important source of opinion on public issues and appears as a regular column in the Salt Lake Tribune. The Common Carrier board of lay editors represent a cross-section of the Intermountain Area.

Mr. President, because of the appropriateness and thought-provoking nature of Mr. Parkinson's article to our present energy problems 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:

NEW GOLDEN AGE FOR MAN—THANKS TO NATION'S ENERGY CRISIS

(By Ted J. Parkinson)

The present energy crisis is the best thing which could happen for us at this time. Now we can plainly see that our world is finite; our resources are limited; and we have been guilty of extravagant waste for no good reason.

For a long time, most of us have believed that happiness depended on what I call "The Riches Of Having," that happiness is possessing more and more things, that there are not enough things to go round and that we must compete to get everything first, or at least second or third.

Skillful psychologists, "depth researchers," created advertising campaigns which persuaded us that we could gain a sense of identity, purpose, creativity, self-realization, and even sexual pleasure just by the buying of things. As a result, we have been buying billions of dollars worth of things every year, not because we really needed them, but because we were persuaded that was the best way to cope with guilt feelings, fears, hostilities, anxieties, loneliness, inner tensions and worries.

HIGHEST STANDARDS

So, now we have the highest standard of living in the world, the longest roads, the most autos, radios, TVs, stereos, automatic dishwashers, vacuums, and electrical gadgets of all kinds, and millions of American women have closets full of clothes, "and not a thing to wear." Monarchs of past ages would have given half their kingdoms for some of the things which even our poorest people take for granted. In getting our possessions which we quickly throw away, we have used up nearly half of some of the most important resources of the earth. In getting our possessions to soon throw away, we are consuming 50 times as much energy as did our grandparents, but we are still not happy or satisfied.

Half the hospital beds in the United States are for mental problems of one kind or another. We have the highest per-capita consumption of pep pills, tranquilizers, wake-up pills, sleeping pills, and headache pills. Addiction to alcohol and other narcotics is increasing. Crime and vandalism, suicides and runaways are increasing. All these symptoms of a sick society indicated that there is something wrong with our way of life that an even higher standard of living and more and more possessions would not cure.

CAN'T BE MET

We are like a narcotic addict who has to quit but doesn't want to. Our mania for consumption in the United States has put so heavy a drain on our natural resources that our demand for more goods cannot be met within the United States, but must be filled by huge imports from other countries. Our rate of consumption is certainly not for the rest of the world to aim for. Our rate of consumption and waste can only take place when 6 percent of the world's population is allowed to consume nearly 50 percent of the world's production of vital resources.

Allowed is the right word as the Arabs have reminded us. Mania is the right word, too. A while ago one prominent U.S. Senator said we should go over there and teach them a lesson because we have to have that oil. In the first place, it is their oil; it is not ours to take. In the second place we don't have the money to buy a lot more oil because our national balance of trade is in poor shape. In the third place, the Arabs don't have to trade oil for our depreciated dollars faster than they can spend those inflated dollars. In the place, as good businessmen, the Arabs should not sell all their oil at once. They should plan to have oil to sell in 50, or a 100, or 200 years—and so should we.

MUST IMPORT

Oil is just one of many non-renewable resources which we must import in huge quantities if we are to continue present extravagant and criminally wasteful ways. We have used up 40 percent or 50 percent of the world's resources in just a few generations. The rest of the world will be increasingly reluctant to let the U.S. squander the rest of their resources. The non-renewable, resources are limited. Some are almost gone. Some others will be gone in a generation or two at our present rate of waste.

The so-called underdeveloped countries want to follow our example because they do not realize that it is a horrible example. It is time for us to about-face and lead the world in a new direction. We see exhaustion of resources, widespread pollution, and social disintegration because we have been looking for happiness in the wrong direction. Now we are rediscovering the old secrets rediscovered by Confucius, Krishna, Buddha, and Jesus Christ. Happiness does not depend on increasing possession. Happiness is a state of mind which comes from living in harmony with our basic nature. Man's basic nature is to cooperate, that is, to love. How good we feel when we do a favor for someone. We are part of each other. There is only one race of mankind, only one earth, with limited resources, and it belongs to our children, too. There is enough for us and our children, too, if we start using our resources wisely.

A NETWORK

Civilization is a network and an accumulation of knowledge, understanding, honor, honesty, trust, loyalty, courage, cooperation, and goodwill which has been built up through the ages. We are just the bridge between the generations. All the good from the past has been freely given to us. We may find great joy in passing it along, added upon. As a very wise man said in Proverbs 20:7—"The just man walketh in his integrity, and his children are blessed after him." Happiness is a by-product of beneficial human relations from the past, through the present, into the future.

We can make some changes in our way of life and still enjoy all the advantages and opportunities of this marvelous age and pass on a better world for coming generations, whose world we are living in.

For example, we must greatly reduce our consumption of energy. Thanks to the Arabs—and our own major oil companies—we are solving that problem much sooner than we would otherwise have done. By eliminating half the horses under the hoods of our cars, and by driving them more years and more miles, and by developing and using a good system of public transportation, we could eliminate the present energy crisis.

We are reducing air travel and air freight because the jet planes use 60 times as much energy to transport a ton of freight as does a train or a ship. We are wasting so much energy because most of our buildings are not insulated properly. By converting our waste newspapers into fireproof cellulose and putting at least 10 inches of it into our attics and roof, we could save 50 percent on our heating and air conditioning bills.

More and more of us are abolishing physical and psychological obsolescence. Things are to use as long as possible, not just to keep up with the Joneses. If more of us used everything as long as possible, we would eliminate the energy and resources crisis and reduce pollution, too.

MUST REDUCE

We must greatly reduce air and water pollution. Some people, in some places, have solved one or another of the problems of pollution by stopping the use of air and water as a place to dump the pollutant byproducts of our so-called highest standard of living. Poisoned air and poisoned water are poor trade-offs for more possessions to consume which don't really make us happy anyway. But it does take time to build the pollution control equipment, install it, and train the operators. We are developing the collective will to insist that this be done for all pollutants everywhere as it is now being done for some pollutants in some places.

Never has any people consumed and thrown away so much waste, and yet possessed so little. We have been obsessed with all the gadgets and products available. We have been like grown-up children with poorly chosen toys, throwing them away because they gave no real satisfaction and getting some more of the same or later models, to throw away for the same reason. As for solid waste, we will abolish the term, and the waste. Waste is a resource out of place. Solid waste, including garbage and sewage has been found to be so valuable that it should be made a public utility. Salt Lake City and County could reduce taxes by millions of dollars by reclaiming and recycling everything, as some communities are already doing.

LIVE IN MEANS

By making these changes in our way of life, we will be able to live within our reasonable energy and resource means without spoiling any more the heritage of our children. Anthropologists have observed that many many primitive tribes work only a few hours a day to make what for them is a good living. They have much leisure time to enjoy pleasant human relations, conversation, games, dancing, art, and music. Necessity is now forcing us to do the same. Fortunately, not everyone will want to do this at once. But hundreds of people every week are dropping part way out of the old rat-race by working fewer hours to make a living and then taking more hours every week to enjoy pleasant human relations by being the bridge between the generations as well as each other, to read, study, learn and expand awareness all their lives. In the long run this is the only way to solve the coming unemployment problems, and what a pleasant way it is!

This is what I call "The Riches of Our Being." Real joy, real happiness comes from linking in to the great stream of civilization by adding to the good. One great psychiatrist said. "Half the world is dying for lack of love—and the other half is dying because they will not give love." More of us are learning. We have noticed that the Volunteer Service Section of the newspapers is expanding. Membership in service organizations is increasing.

This is expanding awareness. We are not only part of mankind; in a way we are mankind, past, present, and future. Necessity is forcing us to relearn the old lessons faster. The Arabs, and our own major oil companies are helping to initiate the Golden Age for Mankind.

TELEVISION OF AN IMPEACHMENT TRIAL

Mr. HANSEN. Mr. President, as the possibility of the President having to stand trial before the Senate of the United States is debated, the collateral issue of the advisability of televising that proceeding if and when it might occur, arises.

Thus, it seems appropriate to reflect upon the objections to such a televising made by Mr. Paul A. Porter, a Washington attorney and former Chairman of the Federal Communications Commission.

Mr. President, I respectfully request that Mr. Porter's article, "Impeding the Process of Justice," be printed in the RECORD.

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

IMPEDING THE PROCESS OF JUSTICE

(By Paul A. Porter)

I respectfully dissent from the position of the Post that the impeachment trial of the President in the Senate, if the House votes a bill, should be televised. I agree with Professor Barron's conclusion that "televising the national torment of a President's impeachment would be unwise." This in spite of

Dean George Reedy's contention that "the presidency belongs to the people . . . and they have the right to be present at least as spectators.

This writer was present at the creation of national television and Chairman of the F.C.C. when the initial allocation of frequencies was made. Through the succeeding years, I have watched the fantastic development of this media with admiration for its growth and an awe bordering on terror for its impact. As a lawyer interested in the basic elements of due process and the right to a fair trial, it is submitted that televising the Senate proceedings could raise serious impediments to the process whether intended or not. I will not particularize the obvious.

A trial before the Senate presided over by the Chief Justice will indeed be a historic and momentous proceeding as George Reedy described. With the Chief Justice presiding, the managers for the House will have the burden of presenting their case presumably in accordance with evidentiary standards as if in court and counsel for the respondent will hopefully have the right to test that case by cross-examination and then produce probative evidence on the President's behalf as in the traditional adversary proceeding. The hundred members of the Senate will be sitting as jurors in the conventional sense. Hopefully this will be a carefully constructed, orderly procedure devoid of histrionics and sensationalism. The issues are too grave and fundamental to be exposed to such televised techniques of a Perry Mason or a Mr. Distict Attorney which give a superficial image of our processes of justice. In short, it could indeed be a dull event for a national television audience.

This is not a new phenomenon. In the early days of television, the famous Kefauver hearings were covered on live television. This prompted the late Judge Thurman Arnold to write a penetrating and provocative essay in the June, 1951, issue of the Atlantic Monthly entitled "Mob Justice and Television." Some of Judge Arnold's points seem appropriate today. A few of these are summarized:

"Trials in our courts of justice are public but the audience is so limited that the ordinary housewife can't see the show because, as we go to press, cameras are banned. I suggest that if this rule can't be changed, all the judge had to do is to hold a trial like that of Alger Hiss in the Yankee Stadium. . . .

". . . This kind of presentation [television] makes the problems of government simple enough to be understood by readers of comic strips. It eliminates the bores who are unable to discuss a public issue as a matter of black and white. When ex-Mayor O'Dwyer was testifying about the problem of crime from his vast experience as a prosecutor and a mayor, I am informed the stations were flooded with calls to get him off and put Virginia Hill back on. . . .

"The thing which I believe is overlooked by those who argue that television is a legitimate extension of our traditional public hearings is this. The reason that a criminal trial is public is not to obtain the maximum publicity for judges or prosecutors. It was not intended to make a *cause celebre* out of criminal prosecutions. It is for the protection of the accused against star-chamber methods, and for the protection of the public against secret deals and alliances. Finally, Judge Arnold reached this conclusion which seems relevant to the current discussion as to whether the Senate impeachment hearings, if convened, should be televised:

"The vice of this television proceeding is not in the way this particular committee conducted it but in the proceeding itself. Any tribunal which takes on the trappings and aspects of a judicial hearing, particularly where there is compulsory examination of witnesses, must conform to our judicial traditions, or sooner or later it will develop into a monstrosity that demands reform. Those traditions are:—

"1. It must be public and at the same time not a device for publicity.

"2. It must protect the innocent even at the cost of letting the guilty escape.

"Television has no place in such a picture. For witnesses it is an ordeal not unlike the third degree. On those who sit as judges it imposes the demoralizing necessity of also being actors. For the accused it offers no protection whatever. Former Federal Judge Rifkind recently said that our judicial procedure, 'forged through the generations to the single end that issues shall be impartially determined on relevant evidence alone, works fairly well in all cases but one—the celebrated cause. As soon as the *cause celebre* comes in, the judges and lawyers no longer enjoy a monopoly. They have a partner in the enterprise, and that partner is the press.' I would add that when television is utilized in investigations or trials, *causes celebres* will increase like guinea pigs and still another partner will be added—to wit, the mob."

The hidden agenda item in all your deliberations, of course, is the growing concern over the possibilities of impeachment and a Senate trial involving the President. One of America's most respected newspapermen, James Reston, has pronounced that such events of government should be closed to television because it might turn the trial into a nightmare; Senator Buckley and others fear a three-ring circus.

My conviction, Mr. Chairman, is that the public's presence via the television camera will preserve decorum and dignity but certainly if this trial occurs, the American people will require a first-person, unabridged view of so historic an event without having it strained and filtered through the eyes and ears of even the most responsible newspapers. Much of the confusion over the impeachment and subsequent trial of Andrew Johnson exist today because print journalists alone, no matter how skilled cannot preserve the essence and dynamics of such complex procedures. None of us here today can know whether such a trial will take place, but I can assure you that neither history nor the American public will accept surrogate witnesses to so momentous an event . . .

What you need is a plan of action, not just a removal of restrictions. Of all the more than 30 resolutions over the past 30 years from Senator Pepper to Representative Pepper, the most stimulating and potentially productive plan is S.R. 136, proposed by Senator Byrd of West Virginia. Simply stated, it suggests "a full and complete study and investigation with respect to the broadcasting and telecasting (including closed-circuit telecasting) of the proceedings of the Senate." I trust that the Senator will consider it a friendly if unofficial amendment if I add the phrase—and House of Representatives.

The wired Congress, if I may use that as shorthand for putting cameras and microphones in both chambers, and all hearing rooms, and connecting them by coaxial cable to every office, dining room, lobby and a videotape center will be expensive but will cost far less than building a modern destroyer or celebrating the bicentennial. Operating it will be less expensive than running a destroyer or an atomic submarine per year. Senator Byrd's resolution needs to be costed out and studied—now. Such a survey could be accomplished with an economy of time and funds. . . .

Now, Mr. Chairman, you will ask, "But how does wiring the Congress ultimately reach the nation? Live or delayed coverage will still be subject to the gatekeeper function of the commercial networks and even of public broadcasting." That is true, although the performance of public television and radio during the Watergate hearings was a major breakthrough in prime time coverage.

My proposal is not only to make the wired Congress available to all networks, but to leap over all those gatekeepers with their varied values and priorities and deliver the signal direct to 200 American communities. If telephone company long line and microwave distribution is too expensive, synchronous satellites made possible by this nation's maximum, costly effort in the space program will this year and in the next three years make it possible to spray television signals into every time zone simultaneously. . . .

One may ask: Why will these local broadcasters relay them to regional audiences if the networks won't? My response is—for the same series of reasons that cause some 500 different newspapers to send correspondents to Washington. These editors know that political reporting from the nation's Capitol is like regional accents and customs—different for various communities.

Debates on farm subsidies will find their audiences in Kansas, Iowa and Louisiana, while New York and Massachusetts would be more attentive to the hearings on mass transportation and urban blight. . . .

To sum up, take Senator Byrd's proposal of June 1973 seriously, combining it with Senator Pastore's proposal to commemorate our 200th birthday by opening Congress to the nation. A study on costs and feasibility would take less than six months, a decision to go could be possible in time for 1976.

SUPPORT FOR AN ECONOMIC MONITORING AGENCY

Mr. MUSKIE. Mr. President, I would like to bring to the attention of the Senate two recent comments by administration officials, Secretary Shultz and Dr. Dunlop, endorsing the concept of an economic monitoring agency to keep tabs on the inflationary dangers we face in the months ahead.

Legislation implementing this concept will be before the Senate Thursday, in the form of the Cost of Living Act which the Senate has already approved as an amendment to S. 2986. The Cost of Living Act, which I proposed last week with the cosponsorship of Senators STEVENSON, JOHNSTON, and a number of others, originally contained authority to impose standby controls. The standby control provisions were deleted by the Senate in debate last week, but the remainder of the measure—containing economic monitoring authority and provisions to allow enforcement of decontrol commitments—was approved as an amendment to S. 2986.

Secretary Shultz, in a press conference yesterday, gave a clear endorsement to the Cost of Living Act as it was approved by the Senate. According to the Associated Press wire report summary of his remarks, he said:

The Administration supports legislation now before the Senate to turn the Cost of Living Council into an inflation-monitoring agency with power to enforce price restraining commitments given by big business and to watch over wages and prices in the economy.

And in a speech of May 6, Dr. Dunlop gave a detailed justification for the concept embodied in our proposal. He said:

There is need for a central focus—a continuing Cost of Living Council, or similar type of organization—to work within the federal government and in cooperation with private sector institutions to explore, to stimulate and to induce necessary changes.

Mr. President, I ask unanimous con-

sent that the AP wire report of Secretary Shultz's press conference, and a copy of the remarks made by Dr. Dunlop, be printed in the RECORD.

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

SHULTZ

(By R. Gregory Nokes)

WASHINGTON.—Americans cannot expect any relief from record high interest rates until progress is made in the fight against inflation, says outgoing Treasury Secretary George P. Shultz.

But Shultz, whose last day in office will be Wednedsay, says interest rates may just about have reached their peak.

Shultz commented after the interest rate for Government short-term borrowing—in the form of Treasury Bills—hit a record 9.036 per cent Monday.

Shultz said interest rates, especially long-term rates, are being kept high by inflation and will not decline until progress is made in controlling inflation.

He indicated he agrees with policies of the Federal Reserve Board to moderate the growth of the Nation's money supply and keep a tight rein on the supply of credit, actions that are designed to restrain inflation but that also help push interest rates upward.

Meanwhile, Labor Secretary Peter J. Brennan said Monday he does not see "on the horizon any immediate solution" to the inflation problem.

After meeting with President Nixon at the White House, Brennan told newsmen: "I don't think there is any clear program" within the administration to quickly curb inflation.

Shultz, 53, will leave the Nixon administration Wednesday when William E. Simon is sworn in as his successor at a White House ceremony.

The last member of the original Nixon Cabinet still with the administration, he has been Secretary of Labor, Director of the Office of Management and Budget, and, since 1972, Secretary of the Treasury.

He told newsmen at a reception that, after careers in education and government, he expects to make his third—and probably last—career in business.

He said he has not yet made a final decision on what business to enter, but said he has received a number of good offers, job offers have included proposals from oil companies, but Shultz did not say whether these were the ones he was considering.

He said he wants a job that will allow him flexibility to continue some university work. He was Dean of the University of Chicago Graduate School of Business when he joined the administration as Nixon's first Secretary of Labor in 1969.

He also made these other points:

The administration supports legislation now before the Senate to turn the Cost of Living Council into an inflation-monitoring agency with power to enforce price restraining commitments given by big business and to watch over wages and prices in the economy.

Simon is the logical choice to emerge as the administration's top economic adviser, although he acknowledged there was no reason the position had to go to the Deputy Treasury Secretary.

In addition to his other offices, Shultz has held the rank of the Assistant to the President for Economic Affairs, a title that will not go to Simon, at least at the beginning.

TOWARD A LESS INFLATIONARY ECONOMY

(By John T. Dunlop)

Although the economy is performing surprisingly well in real terms, everyone knows inflation is a baffling persistent problem. It appears to be intractable here and abroad. Our CPI was up 10.2 percent in the period March 1973 to March 1974. The GNP deflator was up at a 10.8 percent rate in the first quarter of 1974. Inflation in the CPI in Japan was 26.3 percent in the past year and 13.2 percent in Great Britain.

The tendency of all forecasters has been seriously to underestimate inflation while showing a better record of estimates for output and employment. For instance, early in the year the forecasts for the GNP deflator in the first quarter were in the 7 and 8 percent range; the first quarter was in fact at the annual rate of 10.8 percent. While forecasts for the rest of 1974 typically show a marked reduction in this rate of inflation, it is my view that these estimates, derived from a combination of econometric models and hunch in varying proportions, still have a tendency to underestimate the extent of inflation in the second half of the year. A number of forecasters have again revised these estimates upwards recently.

I wish to propose for our discussion the nagging question of why these inflation rates, and at the same time pose the inescapable enigma of the private and public policies that are appropriate to constrain such inflation over the long term.

As an example of one view of inflation, the April 1974 Monthly Economic Letter of the First National City Bank argued against any Federal concern with monitoring private actions or government influence in particular markets as a means to constrain inflation. It held that "Inflation has little to do with the structure of private markets, which change only slowly. Rather, [inflation] depends on the relation between two growing aggregates, the level of monetary demand and the level of physical supply. When money demands grows faster than real output, the price level ultimately rises."

These views are a mirrored image of the perspective of Milton Friedman: ". . . inflation is made in Washington, in that stately and impressive Grecian temple on Constitution Avenue that houses the Board of Governors of the Federal Reserve System. Prices have been rising at faster and faster rates because William McChesney Martin and the other distinguished men who govern the system have decreed that they shall." (Newsweek, January 20, 1969, p. 78) The names and the inflation rates are different today, but the theory is unchanged.

Let it be clear that I have no doubts that monetary policy is a major tool which can restrain or stimulate the economy; indeed, monetary policy and fiscal policy are generally considered to be the major tools. But I reject the absolutism and exclusivity of this and similar analyses of inflation and its antidote, particularly for the long term.

The experience of recent years, in my view, supports the realistic judgment that monetary and fiscal policies are not sufficient tools by themselves to restrain effectively the types of inflation we have had, or that the authorities in charge of these policies—in the executive or legislative branch of government—are contrained in the extent they can use them. For the present purpose it matters little whether monetary and fiscal tools are inherently inadequate to deal with contemporary inflations or that the users are inhibited by practical considerations in their applications of these classical measures. The simple fact is that monetary and fiscal tools are not enough, and we must get to the task of developing other measures even though their contribution might be less immediate or powerful.

Another school of thought stresses that inflation is derived, or at least made more virulent, by monopoly power of certain business enterprises and labor organizations. The appropriate relief to this alleged cause of inflation is seen to be more vigorous prosecution of the antitrust laws. Organized consumer groups in the past year have often stressed this view to me, urging a greater role for the Federal Trade Commission and the Justice Department. I readily agree that a more competitive economy in some sectors is desirable. But such policies involve endless litigation and uncertainty and, accordingly, are not likely to make much of an impact on inflation. Further, the contributions of collective bargaining are not likely to be set aside by the American community in favor of extension of the antitrust laws to industrial relations. In the present setting, it has been the competitive sectors of the economy that have shown the greatest inflation.

While not neglecting the contribution of other policy tools, I would like to stress the need for a whole series of structural changes in the economy and in their relations to government in order to constrain inflation over the long pull. These structural changes take time to develop; some are major institutional changes, while others are more modest adjustments.

There is need for a central focus—a continuing Cost of Living Council, or similar type of organization—to work within the Federal Government and in cooperation with private sector institutions to explore, to stimulate and to induce necessary changes. These activities are not to be confused with jawboning or preachments. They involve, rather, seeking to get government and private groups to change their internal decision-making processes, their habits of mind and thought patterns, and their responses to their outside worlds. Such changes cannot be achieved by fiat or regulation, but must emerge from persuasion and hard experience as a series of new consensuses, both within the society and within separate economic groups and institutions.

I should like to set forth a number of examples of the type of structural changes that need to be made in government, in the government's relationships with various groups, in labor-management relations, and in business, all with the objective of creating a less inflationary economy.

GOVERNMENT

1. The single most important structural change needed in government to restrain inflation is a reorganization in the Congress to formulate coherent tax and expenditure policies and thereby to work more cooperatively with any administration toward a viable fiscal policy to constrain inflation. Many public spirited members of the Congress of both parties have been working on this matter for many years and some progress has been made, but we have a long way to go. We simply cannot constrain inflation in this country until the Congress gets its fiscal house in order.

2. There is a need for change in outdated, outmoded Federal policies which contribute to inflation in specific industries. We have a golden opportunity now to rid ourselves for the long term of the restrictive agricultural policies of the past 30 years that were engenered particularly by the depression of the 1930's. The Cost of Living Council in 1972 and 1973, somewhat belatedly perhaps, took the leadership in pushing for the elimination of many of these restrictive practices—planting restrictions, import restrictions, some provisions of marketing orders, and the like. The extent to which agriculture has been largely transformed to expansionist policies, in my view, is not fully appreciated. Yet, it is extremely important to maintain these changes in order to constrain inflation for the future, to rebuild stockpiles to provide a degree of cushion from worldwide price and crop fluctuations in the future, and to provide further counters for our foreign policy. Regrettably, there are already signs that the restrictive practices of the

past are returning. Agriculture is but one illustration of areas where government policies to encourage supply, or to stop inhibiting supply, are essential to restrain price increases.

3. The involvement of government in various sectors of our economy also dictates a reevaluation of existing private policies. In the health care area the government has come to be the largest purveyor of funds and now is seriously considering new injections of dollars and demand in the form of national health insurance. Its interventions, including Medicaid and Medicare, essentially have provided for cost passthrough and reimbursement, with the inevitable consequences of unnecessary services, inefficiencies and, consequently, more inflation. It is essential that the government's involvement in the health care field be modified to restrain inflation by requiring that prospective budgeting procedures replace automatic cost reinbursement. That was the purpose and design of our Phase IV health regulations.

GOVERNMENT RELATIONS TO SPECIAL PROBLEMS AREAS

4. The relationship of government to particular problem areas in our society warrants increased attention. For example, despite some commendable innovations in the last half dozen years, the fate of the housing industry and its fluctuations from year to year depend very largely upon general monetary policy and interest rates. There are enormous costs of instability and inefficiencies in home building which grow out of the frequent and unpredictable changes in monetary policies. A significant area for institutional and structural change is to develop ways of providing for less violent fluctuations in housing through variable mortgage and deposit interest rates, as in some other countries, or other devices to provide a flow of funds more stable for housing with consequent greater efficiency and lower costs of housing production.

5. Another of the major problems of the society where the government has a role is the interface between work and school, particularly in the age group 16–21. Reported unemployment rates of 17.0 percent for 16 and 17 year olds and 11.4 percent for 18 and 19 year olds, compared to 4.9 percent for all age groups in 1973, may alternatively be viewed as a failure of the labor market, as it usually is, or as a failure in the educational system. No amount of general economic policy is likely to make much of a contribution to this problem and attempts to do so will likely contribute to inflation. Rather, there is a definite need for considerable restructuring of the local arrangements made to bring young people of this age group into contact with the labor market, and for labor market feedback, in turn, into the educational system.

Incidentally, to include these youth in our national unemployment figures, as we conventionally now compute them, whether or not the person has previously held a job, is also to provide a most unsatisfactory and inflationary indicator for general economic problems.

6. One of the areas of policy most likely to affect long-term inflation prospects has to do with the impact of the rest of the world upon the United States through variations in imports, exports and exchange rates. I am convinced that the major lesson of the inflation of 1973 is the reality that we live in a vastly more interdependent world in primary commodities and manufactured goods than ever before. One needs to be very careful not to promote autarky, by restricting unduly either imports or exports. But, at the same time, the United States can no longer afford to be the market of last resort, as in the case of ferrous scrap—the only country to export ferrous scrap, with the consequence that our steel prices must bear the full impact of the residual decisions of all other countries.

Neither is it realistic for a domestic energy program to be entirely dependent on price policies of other oil producing countries where those policies have been used for political purposes. A world in which primary producing countries decide to raise, in cartel fashion, the prices of many other primary products is a very different one than we have previously experienced. Thus, the time has come to equip ourselves with trade policies to deal with these new conditions.

LABOR-MANAGEMENT RELATIONS

7. Today, an opportunity exists as never before for the development of imaginative machinery for the settlement of disputes over the provisions of new collective bargaining agreements in a number of industries. Basic steel and railroads have reflected this atmosphere. Yet, a good deal of further constructive work can be done in other sectors, such as paper, maritime, retail food, construction, newspapers, and the like. The many industries which conduct local or regional negotiations, with the associated whipsawing and escalation of settlements, is one of the principal ways in which collective bargaining creates inflationary pressures. Dispute settling machineries which deal with these questions, and at the same time direct the attention of the parties to their fundamental long-run problems of technological change, productivity and manpower, can be enormously constructive.

8. Within the labor area, one of the most important structural problems for the future relates to the continued growth in fringe benefits relative to the pay package. There is no doubt that following 1940 it was appropriate to develop a variety of private pension, health and welfare, and other fringe benefit plans. But the question needs to be raised whether these tendencies have not now been excessive as one considers the costs of private pension plans and as one recognizes that the tax system tends to encourage parties to put money into fringes rather than into wages where it might very well better serve the interests of workers and members. Simply stated, when funds put into the pay envelope are taxed at 30 percent or more, while monies placed into certain fringes are tax free, the tax system is biasing the bargaining processes in an inflationary manner.

9. Various structural changes are required in collective bargaining that vary from industry to industry. One illustration may be sufficient. In the construction industry it is imperative that the owners set up a more viable working relationship with the contractors in order to strengthen the management side in collective bargaining. This has never been easy to do, since the contractors feel that the owners will interfere unduly in the bargaining process and seek to eliminate "contracting out." Yet, in the absence of such working relationships, owners often tip the scales in favor of the union side by encouraging particular contractors to work through a strike or to work overtime or by setting completion schedules and volumes of construction in an area which can have only inflationary consequences. In the same way, the jurisdictions of local unions or the group involved at the bargaining table may be inappropriate to represent the best long-run interests of the members in the area. International unions have a more general and long-term perspective than local negotiators and, thereby, should have larger role.

BUSINESS PRACTICES

10. One of the most significant areas of business decision-making has to do with the timing of investment decisions. The present inflationary period has been made very much worse by company decisions not to expand capacity substantially in such industries as steel, fertilizer, paper, cement, oil refining, and the like. The fraction of Gross National Product expended on net new plant and equipment investment has been lower for many years in the United States than among our industrialized competitors. The present purpose is to second guess those decisions. It is essential, rather, to explore ways in various industries to achieve a smoother flow of investment outlays over the future. This is a most difficult matter in the framework of the American legal system. Nonetheless, a more public discussion of these issues, a government-business discussion of the capacity needs of various industries, and an exploration of the means of financing such expansion seem to me necessary in the American economy of the future.

It may very well be that in several industries, such as basic steel, the prices that would be required to attract new capital to the industry may be so high, and the inflationary consequences of such prices may be so high, and the inflationary consequences of such prices may be so great for the economy as a whole, that other means of financing modernization of capacity, such as various forms of tax and accelerated amortization and depreciation arrangements, may be preferred to constrain inflation. These issues require urgent and quantitative review.

11. There are occasions, also, when government and the business community can work cooperatively to solve problems which contribute to inflation. In the economy at most times, and particularly when operations are near capacity, there are various bottlenecks, areas of shortages and problems of efficiency and distribution within and among various sectors. At the present time special problems relating to railroad flat car availability, the production of steel for drag lines, the distribution of fertilizer, the production and distribution of roof bolts for underground coal mines, and the supply of ferrous scrap are illustrative. There is a role for the government in assisting to isolate and eliminate such inflationary bottlenecks by providing data, by bringing together representatives of sectors to make a contribution to the resolution of the problem, and by other nonmandatory means.

Both the Cost of Living Council and the National Commission on Productivity have been active in solving these problems, but both may be eliminated by Congressional inaction. The continued identification of a changing agenda of such problems and work with the sectors on these problems can make a contribution to expansion of output and supply without the imposition of mandatory controls and can reduce pressures which lead to Congressional demands for the reimposition of mandatory controls.

12. In the achievement of public objectives, the energy area is bound to be one that will remain for many years at the center of public concerns. In a whole host of ways it should be possible to encourage the generation of capacity and distribution in the energy field so as to minimize the impact upon price and inflation. In this field as in all stabilization matters, there is involved the delicate balancing of prices high enough to generate adequate supply but not so high that they represent an undue burden to consumers and an unnecessary impetus to inflation.

The Administration has proposed for the post controls period the establishment of a small Cabinet-level agency to work on some of these changes without the authority to impose mandatory wage and price controls in order to develop a less inflationary economy. These illustrations can be multiplied many times. Tomorrow and next year there will be new and different opportunities.

These activities are not to replace fiscal and monetary policy, nor are they to provide an excuse for less diligent macroeconomic policies to restrain inflation. These monitoring activities, designed to promote inflation-

restraining structural changes, are to be supplementary and supportive. In some circumstances, however, they may be decisive. Dr. Arthur Okun has well made this point, although one need not accept his precise numbers: "Let me replay fiscal and monetary policy with perfect hindsight over the last two years and I don't think I could save you more than a couple of points on the rate of inflation. Let me replay agricultural policy and energy policy, however, and I'll give you five points." (New York Times, April 28, 1974, F, p. 24.)

One of the difficulties with the structural change policies here proposed lies in the failure of the discpline of economics itself. Since the 1930's the preoccupation of the core of economics has been with macroeconomic issues and models of the total economy. This area has attracted the best of the younger generation and is the center of attention in the journals and in scholarly writings. Even this body of contemporary theory is not very adequate in analyzing inflation. Abba Lerner stresses this point in the current Economic Literature in discussing Keynesian economics: "A new ball game has been established in which only direct influence on the wage unit by an incomes policy, as a kind of splint on the fractured price mechanism, can restore a free economy working at a satisfactory level of employment."

But this attention to macroeconomics has not helped the making of economic policy very much, in my view, or assisted in the concerns over individual sectors which now require attention. The academic and career field of industrial organization which treats market structures and pricing decisions, or the related fields of labor market analysis, have languished. The result is that, despite a greatly enlarged economics profession, there do not exist many first-rate specialists in microeconomic analysis equal to the challenge before us. There are only a few specialists in the academic world, in business or in government with working knowledge of the institutional structures and the operation of various industries and markets. This intellectual limitation has been a serious impediment in the generation of ideas to deal with sectoral and structural problems that are central to any operating concern with contemporary inflation.

The deficiency is even more serious since economists are not well trained, or adjusted, to pay attention to processes by which institutions change or are changed in this society. They know far too little about the ways in which managements, labor organizations, other producer groups and government agencies in fact operate and respond to various economic and political pressures or opportunities. They specialize in predicting results on the basis of varying inputs with the institutions and market structures unchanged. But a major area for anti-inflation policy concerns the understanding and inducing of such changes.

A new breed of analysts and public policy makers is required, with more emphasis on understanding private decision-making, more emphasis upon detailed data, more concentration on problem sectors, and more resort to persuasion and cooperation. The government is deeply involved in private decision making, like it or not, and the government has many counters to play, apart from any mandatory wage and price controls, and our interest groups are ordinarily sufficiently willing to participate to warrant a major effort to develop less inflationary policies for all.

CONGRESS MUST ACT TO PROTECT THE FREE FLOW OF IDEAS

Mr. HUMPHREY. Mr. President, the Senate will act soon on important legislation, S. 411, to extend postal rate adjustments, which can, in a very real sense, have a bearing on the survival of many publications which provide invaluable educational, cultural, scientific, and informational value to our citizens.

As my colleagues are aware, the U.S. Postal Service last year petitioned the Postal Rate Commission for rate increases in all classes of mail, averaging around 25 percent overall.

The Cost of Living Council approved rate increases, which became effective on March 2 of this year. A valid controversy has arisen over the effects these increases will have, especially on those specialized publications with a limited circulations.

In response to this concern, I joined with Senator NELSON and with Senators KENNEDY and GOLDWATER in sponsoring legislation which would ease the burden on second-class publications, threatened with extinction in the face of rapidly rising costs, of which postal rates are a substantial factor.

However, while these proposals addressed a great need, in my opinion they did not reach far enough in assuring our citizens of access to informational services. Therefore, on March 28, 1973, I introduced S. 1404, the Educational and Cultural Postal Amendments of 1973. My bill also sought to relieve the imminently unhealthy situation faced by libraries and others who benefit from the special or book rate fourth-class rates which apply to books, records, and films, and the fourth-class library rates on educational materials of similar nature.

I am pleased to note that the committee-reported bill S. 411, includes provision for extension of the phasing of these rates, as well as those in other classes.

Specifically, the bill before the Senate would extend to 8 years—from the 5 years authorized under current law—the period for profitmaking publications to adjust to increased rates. The period for nonprofit mailers would be extended from 10 years—the period under current law—to 16 years.

The 8-year phasing would apply specifically to: Second-class regular, special, or book-rate fourth class, and controlled circulation publications.

The longer extension of the phasing-in period would apply to: Preferred second-class, nonprofit third-class, and fourth-class library rates.

The thrust of this legislation is consonant with the provisions of the Postal Reorganization Act of 1970, which provides that the impact of rate increases be phased for those classes of mail which formerly received reduced or preferential rates by law or practice.

Mr. President, on March 20, 1974, I communicated to Senator MCGEE, distinguished chairman of the committee, my view of the necessity for action to ease the impact of these large-scale increases on the educational, scientific, cultural, and political life of the country. Let me at this time reiterate my view that—

> Failure to act on this legislation will have an adverse impact on the accessibility of informational services on which a large percentage of the citizens of Minnesota and the Nation depend. The principle of freedom of speech, cherished as a foundation of our democracy, can only be enhanced and amplified by positive efforts to assure reasonable postage rates which apply to these materials and make their dissemination possible.

I hope that my colleagues on both sides of the aisle will support this important legislation.

SENATOR RANDOLPH COMMENDS KAISER ALUMINUM'S RAVENWOOD, W. VA., FABRICATION PLANT FOR ITS SEVENTH CONSECUTIVE WINNING OF THE KAISER CUP—THE CORPORATION'S TOP SAFETY AWARD

Mr. RANDOLPH. Mr. President, a significant ceremony is taking place in Ravenswood, W. Va. For 7 consecutive years, Kaiser Aluminum's Ravenswood fabrication plant is the recipient of the Kaiser Cup, the corporation's top safety award. The presentation is being made today by Ira Davidson, vice president and general manager of fabricated products for Kaiser.

Kaiser Aluminum & Chemical Corp. employs 26,200 employees at 120 facilities located in 36 States and possessions and in 18 foreign countries.

The Ravenswood award, therefore, is particularly important when viewed in an overall perspective. Competing with all other major domestic plants, Ravenswood fabrication's 2,300 employees completed 1973 with just 4 lost-time accidents while completing 4,726,347 manhours of work. The Ravenswood employees are approximately 8.5 times safer at work than off the job.

Warren L. Cooper, works manager; Jack Hopper, fabrication operations manager; and others in the Kaiser operation are deserving of special commendation for providing the direction whereby such an outstanding safety record could be achieved. But the most credit must go directly to the employees at the Kaiser plant. Without their devotion, commitment, individual effort, and responsibility, this sustained excellence would not have been possible.

I recall so vividly an evening in 1958 in the gymnasium of the high school at Ravenswood when Henry Kaiser, the dynamic founder of the industrial complex bearing his name, was speaking at a dinner honoring the firm for locating a large aluminum plant in that area.

He said:

> We did not come here because of your valley for there are valleys as wide. We did not make the decision to build here because of your (Ohio) river for there are rivers just as deep. We are here because of your people, who have pledged that they will work with us to make this undertaking a success.

How true Mr. Kaiser's words were. The Ravenswood employees are just what Mr. Kaiser had envisioned—dedicated workers with a strong desire to perform well and bring credit upon the corporation for whom they toil.

The Kaiser management is equally proud of their fine and unequalled record. Cornell C. Maier, president and chief executive officer of the corporation, said in announcing the award that it—

Recognizes Ravenswood Fabrication's program and record in 1973 as the most outstanding in the Corporation.

He added that such an event in this very important area of Kaiser operations is rare, indeed, and for that reason is even more noteworthy.

The achievement of an outstanding safety record in such a large plant is indicative of personal desires among employes to help each other. It is this team cooperation and individual excellence that is deserving of special commendation and I am happy to add my congratulations to all of them for another year of unexcelled success.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

STANDBY ENERGY EMERGENCY AUTHORITIES ACT

Mr. MANSFIELD. Mr. President, in accordance with the statement made by the leadership, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 758, S. 3267.

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

The legislative clerk read as follows:

A bill (S. 3267) to provide standby emergency authority to assure that the essential energy needs of the United States are met, and for other purposes, which was reported from the Committee on Interior and Insular Affairs with an amendment.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the bill.

Thereupon, the Senate proceeded to consider the bill, which had been reported by the Committee on Interior and Insular Affairs with an amendment, to strike out all after the enacting clause and insert:

That this Act, including the following table of contents, may be cited as the "Standby Energy Emergency Authorities Act".

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TITLE I—STANDBY ENERGY EMERGENCY AUTHORITIES

SEC. 101. FINDINGS AND PURPOSES.

(a) The Congress hereby determines that—

(1) current energy shortages have the potential to create severe economic dislocations and hardships;

(2) such shortages and dislocations could jeopardize the normal flow of interstate and foreign commerce;

(3) disruptions in the availability of imported energy supplies, particularly petroleum products, pose a serious risk to national security, economic well-being, and the health and welfare of the Americans people;

(4) because of the diversity of conditions, climate, and available fuel mix in different areas of the Nation, governmental responsibility for developing and enforcing energy emergency authorities lies not only with the Federal Government, but with the States and with the local governments;

(5) the protection and fostering of competition and the prevention of anticompetitive practices and effects are vital during periods of energy shortages.

(b) The purposes of this Act are to grant specific temporary standby authority to impose end-use rationing and to reduce demand by regulating public and private consumption of energy, subject to congressional review and right of approval or disapproval, and to authorize certain other specific temporary emergency actions to be exercised, to assure that the essential needs of the United States for fuels will be met in a manner which, to the fullest extent practicable: (1) is consistent with existing national commitments to protect and improve the environment; (2) minimizes any adverse impact on employment; (3) provides for equitable treatment of all sectors of the economy; (4) maintains vital services necessary to health, safety, and public welfare; and (5) insures against anticompetitive practices and effects and preserves, enhances and facilitates competition in the development, production, transportation, distribution, and marketing of energy resources.

(c) Prior to exercising any of the authorities contained in—

Section 103, End-Use Rationing
Section 104, Energy Conservation Plans
Section 106, Materials Allocation
Section 107, Federal Actions to Increase Available Domestic Petroleum Supplies, and
Section 112, Antitrust Provisions

of this Act, the President must first make a finding that national or regional energy shortage conditions exist which constitute an energy emergency and which require the exercise of the standby energy emergency authorities provided for in this Act. The President's finding shall be transmitted to the Congress and shall be limited to the implementation of those authorities, plans or programs which he determines are necessary to balance the Nation's energy demands with available supplies.

SEC. 102. DEFINITIONS.

For purposes of this Act:

(1) The term "State" means a State, the District of Columbia, Puerto Rico, or an territory or possession of the United States.

(2) The term "petroleum product" means crude oil, residual fuel oil, or an refined petroleum product (as defined in the Emergency Petroleum Allocation Act of 1973).

(3) The term "United States" when used in the geographical sense means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(4) The term "Administrator" means the Administrator of the Federal Energy Administration established by H.R. 11793, Ninety-third Congress (popularly known as the Federal Energy Administration Act of 1974) if H.R. 11793 is enacted; except that until such Administrator takes office, such term means an officer of the United States designated by the President.

SEC. 103. END-USE RATIONING.

Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection:

"(h)(1) The President may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with the objectives of subsection (b), for the establishment of a program for the rationing and ordering of priorities among classes of end-users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to end-users of such products of rights, and evidences of such rights, entitling them to obtain such products in precedence to other classes of end-users not similarly entitled.

"(2) The rule under paragraph (1) of this subsection shall take effect only if the President finds that, without such rule, all other practicable and authorized methods to limit energy demand will not achieve the objectives of subsection (b) of this section and of the Standby Energy Emergency Authorities Act.

"(3) The President shall, by order, in furtherance of the rule authorized pursuant to paragraph (1) of this subsection and consistent with the attainment of the objectives in subsection (b) of this section, cause such adjustments in the allocations made pursuant to the regulation under subsection (a) as may be necessary to carry out the purposes of this subsection.

"(4) The President shall provide for procedures by which any end-user of crude oil, residual fuel oil or refined petroleum products for which priorities and entitlements are established under paragraph (1) of this subsection may petition for review and reclassification or modification of any determination made under such paragraph with respect to his rationing priority or entitlement. Such procedures may include procedures with respect to such local boards as may be authorized to carry out functions under this subsection pursuant to section 120 of the Standby Energy Emergency Authorities Act.

"(5) No rule or order under this section may impose any tax or user fee, or provide for a credit or deduction in computing any tax.

"(6) At such time as he finds that it is necessary to put a rule under paragraph (1) of this subsection into effect, the President shall transmit such rule to each House of Congress and such rule shall take effect in the same manner as an energy conservation plan prescribed under section 104 of the Standby Energy Emergency Authorities Act and shall be deemed an energy conservation plan for purposes of section 104(c), notwithstanding the provisions of section 104(a)(1)(B). Such a rule may be amended as provided in section 104(a)(4) of such Act."

SEC. 104. ENERGY CONSERVATION PLANS.

(a)(1)(A) Pursuant to the provisions of this section, the Administrator may promulgate, by regulation, one or more energy con-

servation plans in accord with this section which shall be designed (together with actions taken and proposed to be taken under other authority of this or other Acts) to result in a reduction of energy consumption to a level which can be supplied by available energy resources. For purposes of this section, the term "energy conservation plan" means a plan for transportation controls (including but not limited to highway speed limits) or such other reasonable restrictions on the public or private use of energy (including limitations on energy consumption of businesses) which are necessary to reduce energy consumption.

(B) No energy conservation plan may impose rationing or any tax or user fee, or provide for a credit or deduction in computing any tax.

(2) An energy conservation plan shall become effective as provided in subsection (b). Such a plan shall apply in each State, except as otherwise provided in an exemption granted pursuant to such plan in cases where a comparable State or local program is in effect, or where the Administrator finds special circumstances exist.

(3) An energy conservation plan may not deal with more than one logically consistent subject matter.

(4) An amendment to an energy conservation plan, unless the Administrator determines such an amendment does not have significant substantive effect, shall be transmitted to Congress and shall be effective only in accordance with subsection (b), except that such an amendment may take effect immediately or on a date stated in such an amendment if the Administrator determines that a delay of 15 calendar days of continuous session of the Congress after the date on which such an amendment is transmitted to the Congress would seriously impair the operation of the plan or be inconsistent with the purposes of this Act, but if either House of the Congress, before the end of the first period of 15 calendar days of continuous session after the date of submission of such an amendment, passes a resolution stating in substance that such House does not favor such an amendment, such amendment shall cease to be effective on the date of passage of such resolution. Any amendment which the Administrator determines does not have significant substantive effect and any rescission of a plan may be made effective in accordance with section 553 of title 5, United States Code.

(5) Subject to subsection (b) (3), an energy conservation plan shall remain in effect for a period specified in the plan unless earlier rescinded by the Administrator, but shall terminate in any event no later than 6 months after such plan first takes effect or June 30, 1975, whichever first occurs.

(b) (1) For purposes of this subsection, the term "energy conservation plan" includes an amendment to an energy conservation plan which has significant substantive effect.

(2) The Administrator shall transmit any energy conservation plan (bearing an identification number) to each House of Congress on the date on which it is promulgated.

(3) (A) Except as provided in subparagraph (B), if an energy conservation plan is transmitted to the Congress such plan shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which such plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that such House does not favor such plan.

(ii) Any energy conservation plan described in subparagraph (A) may be implemented prior to the expiration of the 15-calendar-day period after the date on which such plan is transmitted, if each House of Congress approves a resolution affirmatively stating in substance that such House does not object to the implementation of such plan.

(4) For the purpose of paragraph (3) of this subsection—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(3) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 15-day period.

(5) Under provisions contained in an energy conservation plan, a provision of the plan may take effect at a time later than the date on which such plan otherwise takes effect.

(c) (1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2) For purposes of this subsection, the term "resolution" means only a resolution of either House of Congress described in subparagraph (A) or (B).

(A) A resolution the matter after the resolving clause of which is as follows: "That the ——— does not object to the implementation of energy conservation plan numbered ——— submitted to the Congress on ———, 19 .", the first blank space therein being filled with the name of the resolving House and the other blank space being appropriately filled; but does not include a resolution which specified more than one energy conservation plan.

(B) A resolution the matter after the resolving clause of which is as follows: "That the ——— does not favor the energy conservation plan numbered ——— transmitted to Congress on ——— 19 .", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy conservation plan.

(3) A resolution once introduced with respect to an energy conservation plan shall immediately be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4) (B) If the committee to which a resolution with respect to an energy conservation plan has been referred has not reported it at the end of 5 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such energy conservation plan which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highy privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy conservation plan), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same plan.

(5) (A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which the resolution was agreed to or disagreed to; except that it shall be in order to substitute a resolution disapproving a plan for a resolution not to object to such plan, or a resolution not to object to a plan for a resolution disapproving such plan.

(6) (A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of their business, shall be decided without debate.

(B) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(7) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to an energy conservation plan, then it shall not be in order to consider in that House any other resolution with respect to the same plan.

(d) (1) Any energy conservation plan or rationing rule, which the Administrator submits to the Congress pursuant to subsection (b) of this section shall state any findings of fact on which the action is based, and shall contain a specific statement explaining the rationale for such plan or rule.

(2) To the greatest extent practicable, any energy conservation plan or rationing rule which the Administrator submits to the Congress pursuant to subsection (b) of this section shall also be accompanied by an evaluation prepared by the Administrator of the potential economic impacts, if any, of the proposed plan or rule. Such evaluation shall include an analysis of the effect, if any, of such plan or rule on—

(A) the fiscal integrity of State and local government;

(B) vital industrial sectors of the economy;

(C) employment, by industrial and trade sector, as well as on a national, regional, State, and local basis;

(D) the economic vitality of regional, State, and local areas;

(E) the availability and price of consumer goods and services;

(F) the gross national product;

(G) competition in all sectors of industry;

(H) small business; and

(I) the supply and availability of energy resources for use as fuel or as feedstock for industry.

SEC. 105. COAL CONVERSION AND ALLOCATION.

(a) The Administrator shall, to the extent practicable and consistent with the objec-

tives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this Act, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies shall be permitted to continue to use coal or coal byproducts as provided in the Clean Air Act, as amended. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact. A prohibition on use of natural gas and petroleum products under this subsection shall be contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area. The Administrator shall require that fossil-fuel-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal or coal byproducts as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant may be required under this section to be so designed and constructed, if (1) to do so would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether to impose a design and construction requirement under this subsection, the Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the capability of the owner or operator to recover any capital investment made as a result of the conversion requirements of this section.

(b) The Administrator may, by rule, prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in this section.

SEC. 106. MATERIALS ALLOCATION.

(a) Beginning 60 days after the date of enactment of this Act, the Administrator may, by rule or order, require the allocation of, or the performance under contracts or orders (other than contracts of employment) relating to, supplies of materials and equipment if he makes the findings required by subsection (c) of this section.

(b) Not later than 30 days after the date of enactment of this Act the Administrator shall report to the Congress with respect to the manner in which the authorities contained in subsection (a) will be administered. This report shall include but not be limited to the manner in which allocations will be made, the procedure for requests and appeals, the criteria for determining priorities as between competing requests, and the office or agency which will administer such authorities.

(c) The authority granted in this section may not be used to control the general distribution of any supplies of materials and equipment in the marketplace unless the Administrator finds that—

(1) such supplies are scarce, critical, and essential to maintain or further exploration, production, refining, and required transportation of energy supplies and for the construction and maintenance of energy facilities, and

(2) maintenance or furtherance of exploration, production, refining, and required transportation of energy supplies and the construction and maintenance of energy facilities during the agency shortage cannot reasonably be accomplished without exercising the authority specified in subsection (a) of this section.

SEC. 107. FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES.

(a) The Administrator may, by rule or order, until June 30, 1975, require the following measures to supplement domestic energy supplies:

(1) the production of designated existing domestic oilfields, at their maximum efficient rate of production, which is the maximum rate at which production may be sustained without detriment to the ultimate recovery of oil and gas under sound engineering and economic principles. Such fields are to be designated by the Secretary of the Interior, after consultation with the appropriate State regulatory agency. Data to determine the maximum efficient rate of production shall be supplied to the Secretary of the Interior by the State regulatory agency which determines the maximum efficient rate of production and by the operators who have drilled wells in, or are producing oil and gas from such fields;

(2) if necessary to meet defense and national security needs, production of certain designated existing domestic oilfields on Federal lands at rates in excess of their currently assigned maximum efficient rates. Fields to be so designated, by the Secretary of the Interior or the Secretary of the Navy as to the Federal lands or as to Federal interests in lands under their respective jurisdiction, shall be those fields where the types and quality of reservoirs are such as to permit production at rates in excess of the currently assigned sustainable maximum efficient rate for periods of ninety days or more without excessive risk of losses in recovery; and

(3) the adjustment of processing operations of domestic refineries to produce refined products in proportions commensurate with national needs and consistent with the objectives of section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(b) Nothing in this section shall be construed to authorize the production from any naval petroleum reserve now subject to the provisions of chapter 641 of title 10, United States Code.

SEC. 108. OTHER AMENDMENTS TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 (as amended by section 103 of this Act) is further amended by adding at the end of such section the following new subsection:

(i) If any provision of the regulation under subsection (a) provides that any allocation of residual fuel oil or refined petroleum products is to be based on use of such a product or amounts of such product supplied during a historical period, the regulation shall contain provisions designed to assure that the historical period can be adjusted (or other adjustments in allocations can be made) in order to reflect regional disparities in use, population growth or unusual factors influencing use (including unusual changes in climatic conditions), of such oil or product in the historical period. This subsection shall take effect 30 days after the date of enactment of the Standby Energy Emergency Authorities Act. Adjustments for such purposes shall take effect no later than 6 months after the date of enactment of this subsection. Adjustments to reflect population growth shall be based upon the most current figures available from the United States Bureau of the Census.

(b) Section 4(g)(1) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "February 28, 1975" in each case the term appears and inserting in each case "June 30, 1975".

(c) Section 4(b)(1)(G) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of—

"(i) fuels, and

"(ii) minerals essential to the requirements of the United States,

and for required transportation related thereto,".

(d) The Administrator shall, within 30 days from the date of the enactment of this Act, report to the Congress with respect to shortages of petrochemical feedstocks, of steps taken to alleviate any such shortages, the unemployment impact resulting from such shortages, and any legislative recommendations which he deems necessary to alleviate such shortages.

SEC. 19. PROTECTION OF FRANCHISED DEALERS.

(a) As used in this section:

(1) The term "distributor" means a person engaged in the sale, consignment, or distribution of petroleum products to wholesale or retail outlets whether or not it owns, leases, or in any way controls such outlets.

(2) The term "franchise" means any agreement or contract between a refiner or a distributor and a retailer or between a refiner and distributor, under which such retailer or distributor is granted authority to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or distributor, or any agreement or contract between such parties under which such retailer or distributor is granted authority to occupy premises owned, leased, or in any way controlled by a party to such agreement or contract, for the purpose of engaging in the distribution or sale of petroleum products for purposes other than resale.

(3) The term "refiner" means a person engaged in the refining or importing of petroleum products.

(4) The term "retailer" means a person engaged in the sale of any refined petroleum product for purposes other than resale within any State, either under a franchise or independent of any franchise, or who was so engaged at any time after the start of the base period.

(b)(1) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless he furnishes prior notification pursuant to this paragraph to each distributor or retailer affected thereby. Such notification shall be in writing and sent to such distributor or retailer by certified mail not less than 90 days prior to the date on which such franchise will be canceled, not renewed, or otherwise terminated. Such notification shall contain a statement of intention to cancel, not renew, or to terminate together with the reasons therefor, the date on which such action shall take effect, and a statement of the remedy or remedies available to such distributor or retailer under this section together with a summary of the applicable provisions of this section.

(2) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless the retailer or distributor whose franchise is terminated failed to comply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out the terms of such franchise, or unless such refiner or distributor withdraws entirely from the sale of refined petroleum products in commerce for sale other than resale in the United States.

(c)(1) If a refiner or distributor engages in conduct prohibited under subsection (b) of this section, a retailer or a distributor may

maintain a suit against such refiner or distributor. A retailer may maintain such suit against a distributor or a refiner whose actions affect commerce and whose products with respect to conduct prohibited under paragraph (1) or (2) of subsection (b) of this section, he sells or has sold, directly or indirectly, under a franchise. A distributor may maintain such suit against a refiner whose actions affect commerce and whose products he purchases or has purchased or whose products he distributes or has distributed to retailers.

(2) The court shall grant such equitable relief as is necessary to remedy the effects or conduct prohibited under subsection (b) of this section which it finds to exist including declaratory judgment and mandatory or prohibitive injunctive relief. The court may grant interim equitable relief and actual and punitive damages (except for actions for a failure to renew) where indicated, in suits under this section, and may, unless such suit is frivolous, direct that costs, including reasonable attorney and expert witness fees, be paid by the defendant. In this case of actions for a failure to renew, damages shall be limited to actual damages including the value of the dealer's equity.

(3) A suit under this section may be brought in the district court of the United States for any judicial district in which the distributor or the refiner against whom such suit is maintained resides, is found, or is doing business, without regard to the amount in controversy.

(d) The provisions of this section expire at midnight, June 30, 1975, but such expiration shall not affect any pending action or pending proceeding, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, June 30, 1975, except that no suit under this section, which is based upon an act committed prior to midnight, June 30, 1975, shall be maintained unless commenced within 3 years after such act.

SEC. 110. PROHIBITIONS ON UNREASONABLE ACTIONS.

(a) Action taken under authority of this Act, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in the allocation of petroleum products and electrical energy among classes of users or resulting in restrictions on use of petroleum products and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among classes of users, unless the Administrator determines such a policy would be inconsistent with the purposes of this Act and publishes his finding in the Federal Register, allocations shall contain provisions designed to foster reciprocal and nondiscriminatory treatment by foreign countries of United States citizens engaged in commerce.

(b) To the maximum extent practicable, any restriction on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restriction on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific industry, business or commercial enterprise, or on any individual segment thereof and shall give due consideration to the needs of commercial, retail, and service establishments whose normal function is to supply goods and services of an essential convenience nature during times of day other than conventional daytime working hours.

SEC. 111. REGULATED CARRIERS.

(a) The Interstate Commerce Commission shall, by expedited proceedings, adopt appropriate rules under the Interstate Commerce Act which eliminate restrictions on the operating authority of any motor common carrier of property which require excessive travel between points with respect to which such motor common carrier has regularly performed service under authority issued by the Commission. Such rules shall assure continuation of essential service to communities served by any such motor common carrier.

(b) Within 45 days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the period beginning on the date of enactment of this Act and ending on June 30, 1975, while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—

(1) the type of regulatory authority needed;

(2) the reasons why such authority is needed;

(3) the probable impact on fuel conservation of such authority;

(4) the probable effect on the public convenience and necessity of such authority; and

(5) the competitive impact, if any, of such authority.

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to provide for the public convenience and necessity during such period.

SEC. 112. ANTITRUST PROVISIONS.

(a) Except as specifically provided in subsection (i), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil and criminal liability or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust laws" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C., 12 et seq.), as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c)(1) To achieve the purposes of this Act, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App. I), whether or not such Act or any of its provisions expires or terminates during the term of this Act or of such committees, and in all cases shall be chaired by a regular full-time Federal employee and shall include representatives of the public. The meetings of such committees shall be open to the public.

(2) A representative of the Federal Government shall be in attendance at all meetings of any advisory committee established pursuant to this section. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of section 552 (b)(1) and (b)(3) of title 5, United States Code.

(d) The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards, and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil, or any refined petroleum product may develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives stated in section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(1) Such agreements and plans of action shall be developed by meetings of committees, councils, or other interested segments of the petroleum industry and of groups which include representatives of the public, of industrial, municipal, and private consumers, and shall in all cases be chaired by a regular full-time Federal employee;

(2) Meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission and to the public in the affected community;

(3) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views, and arguments at such meetings;

(4) A full and complete verbatim transcript shall be kept of any meeting, conference, or communication held to develop, implement, or carry out a voluntary agreement or a plan of action under this subsection and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be available for public inspection and copying, subject to provisions of sections 552 (b)(1) and (b)(3) of title 5, United States Code.

(f) The Federal Trade Commission may exempt types or classes of meetings, conferences, or communications from the requirements of subsections (c)(3) and (e)(4), provided such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of implementing or carrying out a voluntary agreement or plan of action authorized pursuant to this section. Such ministerial meeting, conference, or communication may take place in accordance with such requirements as the Federal Trade Commission may prescribe by rule. Such persons participating in such meeting, conference, or communication shall cause a record to be made specifying the date such meeting, conference, or communication took place and the persons involved, and summarizing the subject matter discussed. Such record shall be filed with the Federal Trade Commission and the Attorney General, where it shall be made available for public inspection and copying.

(g)(1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation, and carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this Act. Each shall have the right to review, amend, modify, disapprove, or prospectively revoke, on its own motion or upon the request of any interested person, any plan of action or voluntary agree-

ment at any time, and, if revoked, thereby withdraw prospectively the immunity which may be conferred by subsection (i) of this section.

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission twenty days before being implemented, where it shall be made available for public inspection and copying.

(h) (1) The Attorney General and the Federal Trade Commission shall monitor the development, implementation, and carrying out of plans of action and voluntary agreements authorized under this section to assure the protection and fostering of competition and the prevention of anticompetitive practices and effects.

(2) The Attorney General and the Federal Trade Commission shall promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts, and other records related to the development, implementation, or carrying out of plans of action or voluntary agreements authorized pursuant to this Act.

(3) Persons developing, implementing, or carrying out plans of action or voluntary agreements authorized pursuant to this Act shall maintain those records required by such joint regulations. The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Federal Trade Commission and the Attorney General may each prescribe such rules and regulations as may be necessary or appropriate to carry out their responsibilities under this Act. They may both utilize for such purposes and for purposes of enforcement, any and all powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by any other provision of law, including the antitrust laws; and wherever such provision of law refers to "the purposes of this Act" or like terms, the reference shall be understood to be this Act.

(i) There shall be available as a defense to any civil or criminal action brought under the antitrust laws in respect of actions taken in good faith to develop and implement a voluntary agreement or plan of action to carry out a voluntary agreement by persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil, or any refined petroleum product that—

(1) such action was—

(A) authorized and approved pursuant to this section, and

(B) undertaken and carried out solely to achieve the purposes of this section and in compliance with the terms and conditions of this section, and the rules promulgated hereunder; and

(2) such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

(j) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act, (2) outside the scope and purpose or not in compliance with the terms and conditions of this Act and this section, or (3) subsequent to its expiration or repeal.

(k) Effective on the date of enactment of this Act, this section shall apply in lieu of section 6(c) of the Emergency Petroleum Allocation Act of 1973. All actions taken and any authority or immunity granted under such section 6(c) shall be hereafter taken or granted, as the case may be, pursuant to this section.

(l) The provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action authorized to be taken under this Act or the Emergency Petroleum Allocation Act of 1973.

(m) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every 6 months, a report on the impact on competition and on small business of actions authorized by this section.

(n) The authority granted by this section (including any immunity under subsection (i)) shall terminate on June 30, 1975.

(o) The exercise of authority provided in section 111 shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing from the beginning an adequate opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division, who shall propose any alternative which would avoid or overcome, to the greatest extent practicable, any anticompetitive effects while achieving the purposes of this Act.

SEC. 113. EXPORTS.

(a) The Administrator is authorized by rule or order, to restrict exports of coal, natural gas, petroleum products, and petrochemical feedstocks, and of supplies of materials and equipment which he determines to be necessary to maintain or further exploration, production, refining, and required transportation of domestic energy supplies and for the construction and maintenance of energy facilities within the United States, under such terms and conditions as he determines to be appropriate and necessary to carry out the purpose of this Act.

(b) In the administration of the restrictions under subsection (a) of this section, the Administrator may request and, if so, the Secretary of Commerce shall, pursuant to the procedures established by the Export Administration Act of 1969 (but without regard to the phrase "and to reduce the serious inflationary impact of abnormal foreign demand" in section 3(2)(A) of such Act), impose such restrictions on exports of coal, natural gas, petroleum products, and petrochemical feedstocks, and of supplies of materials and equipment which the Administrator determines to be necessary to maintain or further exploration, production, refining, and required transportation of domestic energy supplies and for the construction and maintenance of energy facilities within the United States, as the Administrator determines to be appropriate and necessary to carry out the purposes of this Act.

(c) Rules or orders of the Administrator under subsection (a) of this section and actions by the Secretary of Commerce pursuant to subsection (b) of this section shall take into account the historical trading relations of the United States with Canada and Mexico.

SEC. 114. EMPLOYMENT IMPACT AND UNEMPLOYMENT ASSISTANCE.

(a) The President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of Government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

(b) (1) The Secretary of Labor shall make grants, in accordance with regulations prescribed by him, to States to provide cash benefits to any individual who is unemployed as a result of disruptions, dislocations, or shortages of energy supplies and resources, and who is not eligible for unemployment assistance or who has exhausted his rights to such assistance (within the meaning of paragraph (4)(B)).

(2) Regulations of the Secretary of Labor under paragraph (1) may require that States enter into agreements as a condition of receiving a grant under this subsection, and such regulations—

(A) shall provide that—

(i) a benefit under this subsection shall be available to any individual who is unemployed as a result of disruptions, dislocations, or shortages of energy supplies and resources and who is not eligible for unemployment assistance (without regard to whether such unemployment commenced before or after the date of enactment of this Act).

(ii) a benefit provided to such an individual shall be available to such individual for any week of unemployment which begins after the date on which this Act is enacted and before July 1, 1975, in which such individual is unemployed;

(iii) the amount of a benefit with respect to a week of unemployment shall be equal to—

(I) in the case of an individual who has exhausted his eligibility for unemployment assistance, the amount of the weekly unemployment compensation payment for which he has most recently eligible; or

(II) in the case of any other individual, an amount which shall be set by the State in which the individual was last employed at a level which shall take into account the benefit levels provided by State law for persons covered by the State's unemployment compensation program, but which shall not be less than the minimum weekly amount, nor more than the maximum weekly amount, under the unemployment compensation law of the State; and

(B) may provide that individuals eligible for a benefit under this subsection have been employed for up to 1 month in the 52-week period preceding the filing of a claim for benefits under this subsection.

(3) Unemployment resulting from disruptions, dislocations, or shortages of energy supplies and resources shall be defined in regulations of the Secretary of Labor. Such regulations shall provide that such unemployment includes unemployment clearly attributable to such disruptions, dislocations or shortages, fuel allocations, fuel pricing, consumer buying decisions influenced by such disruptions, dislocations, or shortages, and governmental action associated with such disruptions, dislocations, or shortages. The determination as to whether an individual is unemployed as a result of such disruptions, dislocations, or shortages (within the meaning of such regulations) shall be made by the State in which the individual was last employed in accordance with such industry, business, or employer certification process or such other determination procedure (or combination thereof) as the Secretary of Labor shall, consistent with the purposes of paragraph (1) of this subsection, determine as most appropriate to minimize administrative costs, appeals, or other delay, in paying to individuals the cash allowances provided under this section.

(4) For purposes of this subsection—

(A) an individual shall be considered unemployed in any week if he is—

(i) not working,

(ii) able to work, and

(iii) available for work,

within the meaning of the State unemployment compensation law in effect in the State in which such individual was last employed, and provided that he would not be subject to disqualification under that law for such week, if he were eligible for benefits under such law;

(B) (1) the phrase "not eligible" for unemployment assistance means not eligible for compensation under any State or Federal unemployment compensation law (including the Railroad Unemployment Insurance Act

(45 U.S.C. 351 et seq.)) with respect to such week of unemployment, and is not receiving compensation with respect to such week of unemployment under the unemployment compensation law of Canada; and

(ii) the phrase "exhausted his rights to such assistance" means exhausted all rights to regular, additional, and extended compensation under all State unemployment compensation laws and chapter 85 of title 5, United States Code, and has no further rights to regular, additional, or extended compensation under any State or Federal unemployment compensation law (including the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.)) with respect to such week of unemployment, and is not receiving compensation with respect to such week of unemployment under the unemployment compensation law of Canada.

(c) On or before the sixtieth day following the date of enactment of this Act, the President shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers and shall include legislative recommendations which the President deems appropriate to meet such needs, including revisions in the unemployment insurance laws.

SEC. 115. USE OF CARPOOLS.

(a) The Secretary of Transportation shall encourage the creation and expansion of the use of carpools as a viable component of our nationwide transportation system. It is the intent of this section to maximize the level of carpool participation in the United States.

(b) The Secretary of Transportation is directed to establish within the Department of Transportation an "Office of Carpool Promotion" whose purpose and responsibilities shall include—

(1) responding to any and all requests for information and technical assistance on carpooling and carpooling systems from units of State and local governments and private groups and employees;

(2) promoting greater participation in carpooling through public information and the preparation of such materials for use by State and local governments;

(3) encouraging and promoting private organizations to organize and operate carpool systems for employees;

(4) promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of carpool systems; and

(5) promoting other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

(c) The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll adjustments, and other incentives as may be found beneficial and administratively feasible to the furtherance of carpool ridership, and consistent with the obligations of the State and local agencies which provide transportation services.

(d) The Secretary of Transportation shall allocate the funds appropriated pursuant to the authorization of subsection (f) according to the following distribution between the Federal and State or local units of government:

(1) The initial planning process—up to 100 percent Federal.

(2) The systems design process—up to 100 percent Federal.

(3) The initial startup and operation of a given system—60 percent Federal and 40 percent State or local with the Federal portion not to exceed 1 year.

(e) Within 12 months of the date of enactment of this Act, the Secretary of Transportation shall make a report to Congress of all his activities and expenditures pursuant to this section. Such report shall include any recommendations as to future legislation concerning carpooling.

(f) The sum of $5,000,000 is authorized to be appropriated for the conduct of programs designed to achieve the goals of this section, such authorization to remain available for 2 years.

(g) For purposes of this section, the terms "local governments" and "local units of government" include any metropolitan transportation organization designated as being responsible for carrying out section 134 of title 23, United States Code.

(h) As an example to the rest of our Nation's automobile users, the President of the United States shall take such action as is necessary to require all agencies of Government, where practical, to use economy model vehicles.

(i) (1) The President shall take action to require that no Federal official or employee in the executive branch below the level of Cabinet officer be furnished a limousine for individual use. The provisions of this subsection shall not apply to limousines furnished for use by officers or employees of the Federal Bureau of Investigation, or to those persons whose assignments necessitate transportation by limousines because of diplomatic assignment by the Secretary of State.

(2) For purposes of this subsection, the term "limousine" means a type 6 vehicle as defined in the Interim Federal Specifications issued by the General Services Administration, December 1, 1973.

(3) (A) The President shall take action to insure the enforcement of 31 U.S.C. 638a.

(B) No funds shall be expended under authority of this or any other Act for the purpose of furnishing a chauffeur in a vehicle operated in violation of section 638a of title 31, United States Code, or this Act.

SEC. 116. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.

(a) (1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule, regulation, or order under this title or under section 4(h) of the Emergency Petroleum Allocation Act of 1973; except that this subsection shall not apply to any rule, regulation, or order issued under the Emergency Petroleum Allocation Act of 1973 (as amended by this title) other than section 4(h) thereof, nor to any rule under section 111 of this title.

(2) Notice of all proposed substantive rules and orders of general applicability described in paragraph (1) shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of 10 days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where the President finds that strict compliance would seriously impair the operation of the program to which such rule or order relates and such findings are set out in detail in such rule or order. In addition, public notice of all rules or orders promulgated by officers of a State or political subdivision thereof or to State or local boards pursuant to this Act shall to the maximum extent practicable be achieved by publication of such rules or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(3) In addition to the requirements of paragraph (2), unless the President determines that a rule or order described in paragraph (1) is not likely to have a substantial impact on the Nation's economy or upon a significant segment thereof, an opportunity for oral presentation of views, data, and argument shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the implementation of such rule or order, but in all cases such opportunity shall be afforded no later than 45 days after the implementation of any such rule or order. A transcript shall be kept of any oral presentation.

(4) Any officer or agency authorized to issue rules or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act or the Emergency Petroleum Allocation Act of 1973 (as the case may be), as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) or other applicable law when such denial becomes final. The officer or agency shall in rules prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) (1) Judicial review of administrative rulemaking of general and national applicability done under this title may be obtained only by filing a petition for review in the United States Court of Appeals for the District of Columbia within thirty days from the date of promulgation of any such rule or regulation, and judicial review of administrative rulemaking of general, but less than national, applicability done under this title may be obtained only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within thirty days from the date of promulgation of any such rule or regulation, the appropriate circuit being defined as the circuit which contains the area or the greater part of the area within which the rule or regulation is to have effect.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this title, or under regulations or orders issued thereunder, except any actions taken by the Civil Aeronautics Board, the Interstate Commerce Commission, the Federal Power Commission, or the Federal Maritime Commission, or any actions taken to implement or enforce any rule or order by any officer of a State or political subdivision thereof or State or local board which has been delegated authority under section 120 of this Act except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the constitutionality of this title or the validity of action taken by any agency under this title). If in any such proceeding an issue by way of defense is raised based on the constitutionality of this Act or the validity of agency action under this title, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 39 of title 28, United States Code.

(3) This subsection shall not apply to any rule, regulation, or order issued under the Emergency Petroleum Allocation Act of 1973 or to any rule under section 111 of this title.

(4) The finding required by section 4(h)(2) of the Emergency Petroleum Allocation Act of 1973 shall not be judicially reviewable under this subsection or under any other provision of law.

(c) The Administrator may by rule prescribe procedures for State or local boards which carry out functions under this Act or the Emergency Petroleum Allocation Act of 1973. Such procedures shall apply to such boards in lieu of subsection (a), and shall require that prior to taking any action, such boards shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) at least 10 days before taking the action. Such boards shall be of balanced composition reflecting the makeup of the community as a whole.

(d) In addition to the requirements of section 552 of title 5, United States Code, any agency authorized by this title of the Emergency Petroleum Allocation Act of 1973 to issue rules or orders shall make available to the public all internal rules and guidelines which may form the basis, in whole or in part, for any rule or order with such modifications as are necessary to insure confidentiality protected under such section 552. Such agency shall, upon written request of a petitioner filed after any grant or denial of a request for exception or exemption from rules or orders, furnish the petitioner with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. Such opinions shall be made available to the petitioner and the public within 30 days of such request and with such modifications as are necessary to insure confidentiality of information protected under such section 552.

SEC. 117. PROHIBITED ACTS.

It shall be unlawful for any person to violate any provision of title I of this Act (other than provisions of this Act which make amendments to the Emergency Petroleum Allocation Act of 1973 and section 111) or to violate any rule, regulation (including an energy conservation plan), or order issued pursuant to any such provision.

SEC. 118. ENFORCEMENT.

(a) Whoever violates any provision of section 117 shall be subject to a civil penalty of not more than $2,500 for each violation.

(b) Whoever willfully violates any provision of section 117 shall be fined not more than $5,000 for each violation.

(c) It shall be unlawful for any person to offer for sale or distribute in commerce any product or commodity in violation of an applicable order or regulation issued pursuant to this Act. Any person who knowingly and willfully violates this subsection after having been subjected to a civil penalty for a prior violation of the same provision of any order or regulation issued pursuant to this Act shall be fined not more than $50,000 or imprisoned not more than 6 months, or both.

(d) Whenever it appears to any person authorized by the Administrator to exercise authority under this Act that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of section 117, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any provision, the violation of which is prohibited by section 117.

(e) Any person suffering legal wrong because of any act or practice arising out of any violation of section 117 may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

SEC. 119. SMALL BUSINESS INFORMATION.

In order to achieve the purposes of this Act—

(1) the Small Business Administration (A) shall to the maximum extent possible provide small business enterprises with full information concerning the provisions of the programs provided for in this Act which particularly affect such enterprises, and the activities of the various departments and agencies under such provisions, and (B) shall, as a part of its annual report, provide to the Congress a summary of the actions taken under programs provided for in this Act which have particularly affected such enterprises;

(2) to the extent feasible, Federal and other governmental bodies shall seek the views of small business in connection with adopting rules and regulations under the programs provided for in this Act and in administering such programs; and

(3) in administering the programs provided for in this Act, special provision shall be made for the expeditious handling of all requests, applications, or appeals from small business enterprises.

SEC. 120. DELEGATION OF AUTHORITY AND EFFECT ON STATE LAW.

(a) The Administrator may delegate any of his functions under the Emergency Peroleum Allocation Act of 1973 or this Act to any officer or employee of the agency which he heads as he deems appropriate. The Administrator may delegate any of his functions relative to implementation and enforcement of the Emergency Petroleum Allocation Act of 1973 or this Act to officers of a State or political subdivision thereof or to State or local boards of balanced composition reflecting the makeup of the community as a whole. Such officers or boards shall be designated and established in accordance with regulations which the Administration shall promulgate under this Act. Section 5(b) of the Emergency Petroleum Allocation Act of 1973 is repealed effective on the effective date of the transfer of functions under such Act to the Administrator pursuant to subsection (c) of this section.

(b) No State law or State program in effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of this Act or any regulation, order, or energy conservation plan issued pursuant to this Act except insofar as such State law or State program is inconsistent with the provisions of this Act, or such a regulation, order, or plan.

(c) Effective on the date on which the Administrator of the Federal Energy Administration (established by H.R. 11793, Ninety-third Congress) first takes office, all functions, powers, and duties of the President under the Emergency Petroleum Allocation Act of 1973 (as amended by this Act), and of any officer, department, agency, or State (or officer thereof) under such Act (other than functions vested by section 6 of such Act in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice), are transferred to the Administrator. All personnel, property, records, obligations, and commitments used primarily with respect to functions transferred under the preceding sentence shall be transferred to the Administrator.

SEC. 121. GRANTS TO STATES.

Any funds authorized to be appropriated under section 125(b) shall be available for the purpose of making grants to States to which the Administrator has delegated authority under section 120 of this Act, or for the administration of appropriate State or local energy conservation programs which are the basis of an exemption made pursuant to section 104(a)(2) of this Act from a Federal energy conservation plan which has taken effect under section 104 of this Act. The Administrator shall make such grants upon such terms and conditions as he may prescribe by rule.

SEC. 122. ENERGY INFORMATION REPORTS.

(a) For the purpose of assuring that the Administrator, the Congress, the States, and the public have access to and are able to obtain reliable energy information throughout the duration of this Act, the Administrator, in addition to and not in limitation of any other authority is authorized to request, acquire, and collect such energy information as he determines to be necessary to assist in the formulation of energy policy or to carry out the purposes of this Act or the Emergency Petroleum Allocation Act of 1973.

(b) In carrying out the provisions of subsection (a) the Administrator shall have the power to—

(1) require, by rule, any person who is engaged in the production, processing, refining, transportation by pipeline or distribution (other than at the retail level) of energy resources to submit reports;

(2) sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, records, papers, and other documents;

(3) require of any person, by general or special order, answers in writing to interrogatories, requests for report, or other information; and such answers or submissions shall be made within such reasonable period and under oath or otherwise as the Administrator may determine; and

(4) to administer oaths.

(c) For the purpose of verifying the accuracy of any energy information requested, acquired, or collected by the Administrator, officers or employees duly designated by him upon presenting appropriate credentials and a written notice to the owner, operator, or at reasonable times and in a reasonable manner, any facility or business premises, to inventory and sample any stock of energy resources therein, and to examine and copy records, reports, and documents relating to energy information.

(d)(1) The Administrator shall exercise the authorities granted to him under subsection (b) to develop within 30 days after the date of enactment of this Act, as full and accurate a measure as is reasonably practicable of—

(A) domestic reserves and production;

(B) imports; and

(C) inventories;

of petroleum products, natural gas, and coal.

(2) for Each calendar quarter beginning with the first complete calendar quarter following the date of enactment of this Act, the Administrator shall develop and publish quarterly reports containing the following:

(A) Report of petroleum product, natural gas, and coal imports; relating to country of origin, arrival point, quantity received, geographic distribution within the United States.

(B) Report of crude oil activity; relating capacity of producers' allocations to refiners, and fuels to be made.

(C) Report of inventories, nationally, and by region and State—

(i) for various refined petroleum products, relating refiners, refineries, suppliers to refiners, share of market, and allocation fractions;

(ii) for various refined petroleum products, previous quarter deliveries and anticipated 3-month available supplies;

(iii) for refinery yields of the various refined petroleum products, percent of activity, and type of refinery;

(iv) with respect to the summary of anticipated monthly supply of refined petroleum products, amount of set aside for assignment by the State, anticipated State requirements, excess or shortfall of supply, and allocation fraction of base year; and

(v) with respect to liquefied petroleum gas by State and owner: quantities stored, and existing capacities, and previous priorities on types, inventories of suppliers, and changes in supplier inventories.

(3) In developing the energy information called for in this section, the Administrator may, if he determines that it would not be practicable to do otherwise, use the statistical method of "sampling".

(e) In order to avoid or minimize duplicative reporting, the Administrator may request and acquire energy information from any other department or agency of Federal Government, except that any such department or agency shall refuse to supply such information if its disclosure to the Administrator would otherwise be prohibited by law.

(f) Any person required to submit energy information to the Administrator under this section may at the time he submits such information request the Administrator to declare such information, in whole or in part, to be confidential and to not disclose such information except as permitted under subsection (d)(2). The Administrator shall, within 10 days after receipt of such request, initiate and (except where good cause is stated) complete within 30 days thereafter, an administrative proceeding affording an opportunity for hearing under sections 556 and 557 of title 5, United States Code, to determine whether such information concerns or relates to trade secrets or other matter referred to in section 1905 of title 18, United States Code, within the meaning of such section 1905.

(g)(1) Information determined by the Administrator to concern or relate to trade secrets or other matter referred to in section 1905 of title 18, United States Code, shall be kept confidential and not be disclosed except that disclosure may be made (A) to other officers or employees concerned with carrying out this Act and the Emergency Petroleum Allocation Act of 1973 concerned with the formulation of energy policy, (B) when relevant, in any proceeding under this Act or the Emergency Petroleum Allocation Act of 1973, or (C) to the committees of Congress upon request of the chairman of any such committee.

(2) Such information when disclosed in a proceeding under this Act or the Emergency Petroleum Allocation Act of 1973 shall be disclosed by the Administrator in a manner which preserves confidentiality to the extent practicable without impairing the proceeding and such information when submitted to the committees of Congress upon request shall not be disclosed except by authority of the committee.

(3) Paragraph (2) of this subsection shall govern disclosure of such information by committees of the Congress and is enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such shall be considered as a part of the rules of each House, respectively, or of that House to which it specifically applies, and such rule shall supersede other rules only to the extent that they are inconsistent therewith, and

(B) with full recognition of the constitutional right of either House to change such rule (so far as it relates to the procedure in such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

(h) As used in this section—

(1) the term "Federal agency" shall have the meaning of the term "executive agency" as defined in section 105 of title 5, United States Code;

(2) the term "energy information" includes all information in whatever form on mineral fuel reserves, exploration, extraction, and natural energy resources (to include petrochemical feedstocks) wherever located; production, distribution, and consumption wherever carried on; and includes matters such as corporate structure and proprietary relationships, costs, prices, capital investment and assets and other matters directly related thereto, whenever they exist; and

(3) the term "person" means any natural person, corporation, partnership, association, consortium, or any entity organized for a common business purpose; wherever situated, domiciled or doing business, who directly or through other persons subject to their control do business in any part of the United States, its territories and possessions or the District of Columbia.

(i) Information obtained by the Administrator under authority of this Act shall be available to the public in accordance with the provisions of section 552 of title 5, United States Code.

SEC. 123. INTRASTATE GAS.

Nothing in this Act shall expand the authority of the Federal Power Commission with respect to sales of non-jurisdictional natural gas.

SEC. 124. EXPIRATION.

The authority under this title to prescribe any rule or order to take other action under this title, or to enforce any such rule or order, shall expire at midnight, June 30, 1975, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, June 30, 1975.

SEC. 125. AUTHORIZATIONS OF APPROPRIATIONS.

(a) There are authorized to be appropriated to the Administrator to carry out his functions under this Act and under other laws, and to make grants to States under section 121, $75,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975.

(b) For the purpose of making payments under grants to States under section 121, there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975.

(c) For the purpose of making payments under grants to States under section 114, there is authorized to be appropriated $500,000,000 for the fiscal year ending June 30, 1974.

SEC. 126. SEVERABILITY.

If any provision of this Act, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SEC. 127. CONTINGENCY PLANS.

(a) In order to fully inform the Congress and the public with respect to the exercise of authorities under sections 103 and 104 of this Act, the Administration shall, to the maximum extent practical, develop contingency plans in the nature of descriptive analyses of:

(1) the manner of implementation and operation of any such authority;

(2) the anticipated benefits and impacts of the provision of any plan;

(3) the role of State and local government;

(4) the procedures for appeal and review; and

(5) the Federal officers or employees who will administer any plan.

(b) Any contingency plans which describe the exercise of any authority under section 103 or 104 of this Act shall be transmitted to the Congress not later than the date on which any plan or rule relating to such contingency plan is transmitted to the Congress pursuant to the provisions of such sections.

TITLE II—STUDIES AND REPORTS

SEC. 201. AGENCY STUDIES.

The following studies shall be conducted, with reports on their results submitted to the Congress:

(1) Within 60 days after the date of enactment of this Act:

(A) The Administrator shall conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if such rulings and regulations contributed to or are contributing to the shortage of fuels and of materials associated with the production of energy supplies.

(B) The President shall undertake a comprehensive survey of all Federal departments and agencies to identify and recommend to the Congress specific proposals to significantly increase energy supply or to reduce energy demand through conservation programs.

(C) All independent regulatory commissions shall undertake a survey of all activities over which they have jurisdiction to identify and recommend to the Congress and to the President specific proposals to significantly increase energy supply or to reduce energy demand through conservation programs.

(D) The Secretary of the Treasury and the Director of the Cost of Living Council shall recommend to the Congress specific incentives to increase energy supply, reduce demand, to encourage private industry and individual persons to subscribe to the goals of this Act. This study shall also include an analysis of the price-elasticity of demand for gasoline.

(E) The Administrator shall report to the Congress concerning the present and prospective impact of energy shortage upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers, together with legislative recommendations appropriate to meet such needs, including revisions in the unemployment insurance laws.

(F) The Secretary of the Interior and the Secretary of Commerce are directed to prepare a comprehensive report of (1) United States exports of petroleum products and other energy sources, and (2) foreign investment in production of petroleum products and other energy sources to determine the consistency or lack thereof of the Nation's trade policy and foreign investment policy with domestic energy conservation efforts. Such report shall include recommendations for legislation.

(2) Within 6 months after the date of enactment of this Act:

(A) The Administrator shall develop and submit to the Congress a plan for providing incentives for the increased use of public transportation and Federal subsidies for maintained or reduced fares and additional expenses incurred because of increased service for the duration of the Act.

(B) The Administrator shall recommend to the Congress actions to be taken regard-

ing the problem of the siting of energy producing facilities.

(C) The Administrator shall conduct a study of the further development of the hydroelectric power resources of the Nation, including an assessment of present and proposed projects already authorized by Congress and the potential of other hydroelectric power resources, including tidal power and geothermal steam.

(D) The Administrator shall prepare and submit to Congress a plan for encouraging the conversion of coal to crude oil and other liquid and gaseous hydrocarbons.

(E) The Secretary of the Interior shall study methods for accelerating leases of energy resources on public lands including oil and gas leasing onshore and offshore, and geothermal energy leasing.

SEC. 202. REPORT OF THE PRESIDENT TO CONGRESS.

The President shall report to the Congress every sixty days beginning June 1, 1974, on the implementation and administration of this Act and the Emergency Petroleum Allocation Act of 1973, together with an assessment of the results attained thereby. Each report shall include specific information, nationally and by region and State, concerning staffing and other administrative arrangements taken to carry out programs under these Acts and may include such recommendations as he deems necessary for amending or extending the authorities granted in this Act or in the Emergency Petroleum Allocation Act of 1973.

RECESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 12:10 p.m., and that at that time the distinguished Senator from Washington (Mr. JACKSON) be recognized to explain the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senate will stand in recess until 10 minutes after 12.

Whereupon, at 11:50 a.m., the Senate took a recess until 12:10 p.m., and then reassembled when called to order by the Presiding Officer (Mr. ABOUREZK).

Mr. MANSFIELD. Mr. President, will the Senator yield to me, without losing his right to the floor?

Mr. JACKSON. I yield.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistance legislative clerk proceeded to call the roll.

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

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

Mr. JACKSON. Mr. President, I ask unanimous consent that the following members of the professional staff of the Committee on Interior and Insular Affairs be permitted the privilege of the floor during the consideration of S. 3267: William Van Ness, Grenville Gorside, James Barnes, Lucille Langlois, Arlon Tussing, Steve Quarles, Richard Grundy, and Lorraine Maestas.

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

Mr. FANNIN. Mr. President, I ask unanimous consent that the following members of the staff of the Committee on Interior and Insular Affairs and of my personal staff be permitted the privilege of the floor during the debate and votes on S. 3267: Harrison Loesch, David Stang, Fred Craft, Roma Skeen, Joseph Jenckes, and Margaret Lane.

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

BACKGROUND OF S. 3267

Mr. JACKSON. Mr. President, for the past 2 years, the country has been faced with both chronic and spot fuel shortages. The imposition of the Arab oil embargo in October of 1973 seriously aggravated this energy crunch. As surprising as it may seem, the Federal Government had no contingency plans and very little authority to deal with such conditions. In an attempt to cope with these fuel shortages and their attendant impacts, S. 2589, the National Emergency Petroleum Act, was introduced in the Senate on October 18, 1973, to provide emergency authorities for the President to manage the impending energy crisis. Although urgently needed and requested by the administration, this bill was vetoed by President Nixon on March 4, 1974.

NEED AND PURPOSE

Since that time, the Arab embargo has been lifted, but unconstrained demand for energy so far outstrips supply that we can expect continued fuel shortages for some years to come.

To prepare the country to deal with this problem, S. 3267, the Standby Energy Emergency Authorities Act, was introduced on March 28, 1974. This bill is similar to S. 2589. It differs in that it does not include provisions for petroleum pricing authority or for amendments to the Clean Air Act. The purpose of S. 3267 is to provide standby emergency authorities and contingency plans for minimizing the extent of fuel shortages and their adverse impacts.

Mr. President, we have as a national goal the development of capability for energy self-sufficiency, This does not mean an end to all fuel imports—rather, it means limiting our dependency to levels which will permit us to maintain essential public services, economic growth, and a satisfactory standard of living in the event these imports should not be available to us.

Yet, even with the full implementation of a massive energy R. & D. effort as outlined in S. 1283, passed by the Senate on December 7, 1973, and echoed in Project Independence, we cannot attain the capability for self-sufficiency before 1985. U.S. domestic oil production peaked in 1970 and has been declining ever since. Natural gas reserves reached their peak in 1965 and production is now estimated to have peaked in 1973. Expansion of oil and gas production and our domestic coal industries are severely limited by serious supply constraints. According to the FEO and the trade journals, these industries are plagued by shortages of roofbolts, casing pipe, drilling rigs, and even manpower. Research in the development of synthetic fuels has been woefully neglected and commercial development of such technologies is still a number of years away. Similarly, the development of nuclear power has been fraught with a number of unexpected delays and difficulties.

For some years to come, then, we will necessarily be dependent on foreign imports of oil for at least 17 percent of our national energy and 36 percent of our petroleum requirement needs. Since unconstrained demand for energy is growing at an annual rate of 4 percent, without stringent conservation measures we can expect that percentage to increase significantly.

THE OUTLOOK FOR FUTURE SHORTAGES

We must therefore accept the fact that we will be faced with a chronic shortage of domestically produced energy in the next decade, and we may be subject at times to severe curtailments or disruptions in our energy supplies. Such disruptions could come from a number of sources in addition to the producing nations of the Mideast. Our energy system at this point in time, as we discovered over the past year, has very little safety margin, and any disruption—whatever the source—can be expected to have major repercussions on price, the economy, lifestyles, and our national security.

Indeed there is the very real danger that, even without the curtailment of imports or other supply disruptions, the implementation of one or more of the authorities contained in this bill will be needed and needed soon.

We are faced with the probability of a 4- to 6-percent shortage of gasoline during the coming summer, according to Federal Energy Office estimates. The estimated shortfall according to oil industry representatives will be 5 percent. To avoid this shortage, a continued conservation effort by government, industry, and the public is necessary. However, despite the urging of Dr. John Sawhill, Administrator of FEO, there is no indication that the required effort will be undertaken or achieved. In fact, Americans are abandoning the voluntary conservation measures they adopted during the recent embargo and are started back toward their old habits. Dr. Sawhill has reported that there are as many people on the road now as there were in September.

Not only that but highway speeds are up. According to a recent Associated Press survey, the average speed on most highways is now 65–70 miles per hour, since gasoline has become more available. The use of electricity is increasing. The use of public transportation is done, and the push for carpools appears to be falling.

So bleak is the outlook that Mr. William L. Henry, the executive vice president of Gulf Oil, recently called on the administration to implement its proposed gasoline rationing plan now in order to avert serious shortages at the height of the summer vacation season. To the best of my knowledge, even during the height of the embargo, no industry representative judged it necessary to call for such a rationing program.

ALTERNATIVES TO ACUTE SHORTAGES

But the only alternative to rationing at this point is a vigorous policy of en-

ergy conservation. There is substantial question concerning the adequacy of existing voluntary conservation measures to provide the energy savings which are needed. The President has told Americans that the "crisis is over" and they obviously believe him because they are once again consuming energy at pre-embargo rates. As Mr. Henry said in his call for rationing, the average motorist does not realize that there is a shortage of gasoline right now. "People think it is over."

Mr. President, although in the foreseeable future we will continue to be dependent on foreign sources of energy, we must not allow this dependency to make us vulnerable to foreign political machinations. The Government must be prepared, at a moment's notice, to assess the magnitude of a fuel supply disruption, and act at once to minimize its impact on the economy. Although we did manage to muddle through this last embargo without a major catastrophe, largely due to good fortune and a mild winter, certain sectors of the economy did suffer considerably. The next time, however, we may not be so fortunate. We certainly cannot afford to risk that possibility.

The Nation must, in effect, develop a program of contingency planning and emergency preparedness for the management of our energy system. We can only do so by congressional enactment of a set of standby authorities and by requiring the development of contingency plans that can be implemented without delay should any serious disruption occur in our energy system. S. 3267 provides the statutory authority for the establishment of such measures. The bill also requires contingency plans for rationing and energy conservation, which will remain in the near term our only really effective means to deal with energy shortages. This measure provides authority for the short-term rapid acceleration of domestic production and for the priority allocation of materials to energy suppliers to relieve the numerous supply constraints now being experienced. The bill authorizes emergency unemployment assistance to deal with the massive unemployment now being experienced and which would result from future reduction in available energy.

Mr. President, until we have the capability for energy self-sufficiency, we must have the ready capability to cope with energy shortages. Our energy shortage planning must have the kind of flexibility provided for in S. 3267.

I might add, Mr. President, that the House has already acted on part of this legislation. On Wednesday, May 1, the House passed H.R. 14368, the Energy Supply and Environmental Coordination Act of 1974, which includes the coal conversion, energy information, and clean air provisions which were in S. 2589 and S. 3267 as introduced. Action on the other provisions of the Senate bill, contained in H.R. 13834, is awaiting a rule from the Rules Committee: The bill was reported by the House Interstate and Foreign Commerce Committee in conjunction with H.R. 14368.

I therefore would strongly urge that the Senate also act with all deliberate speed and pass S. 3267.

Mr. President, I ask unanimous consent that various articles from the Washington Post and from trade journals that discuss this matter be inserted in the RECORD here at the end of my remarks.

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

[From the Oil and Gas Journal, Apr. 15, 1974]

BOOM CLIMATE RESTRICTED BY FIELD SHORTAGES

(Shortage of tubular goods is one of the hottest topics of conversation when independent oil operators get together these days. The scarcity of drill pipe, tubing, casing, and other basic producing equipment also is limiting activity of some majors and threatens to slow down drilling. W. T. Slick, Jr., senior vice-president of Exxon Co. U.S.A., told the North Texas Oil & Gas Association that his company is having trouble filling its steel needs for the first half of 1974. *"Unless supplies improve later in the year,"* he declared, *"we expect to fall 20% short of our 1974 drilling target."*)

Independent oilmen operating in North Texas acknowledge that higher crude-oil prices have revived interest in exploration and production that could approach boom proportions if physical restraints didn't persist.

Shortages of drilling rigs, tubular goods, and wellhead equipment are limiting the activity and restricting oil and gas production.

Oilmen attending sessions of the North Texas Oil & Gas Association in Wichita Falls, however, expressed more individual concern over prospects of a compulsory price rollback, new production taxes, or phaseout of percentage depletion than over the shortages. The stimulus for renewed operations in this established oil country, they all agree, is a price of $8.50–10/bbl for "stripper" and "new" oil.

A rollback to $5.25/bbl for all oil, operators insist, would deflate expansion plans almost overnight and force operators to reassess every venture. Oilmen assert the high price is an incentive to work over older producing wells, put in new and more efficient equipment, drill more development wells to increase production and invest in wildcat exploration to establish new reserves.

Wildcatting is featuring drilling for gas on the eastern and southeastern fringes of the region in the Fort Worth basin and also on the southwestern edge of the area. Some interesting wildcats, however, have established oil production in other areas condemned by earlier dry holes which weren't drilled deep enough or for some other reason missed the pay.

Much of the activity involves stimulating established production by new infield wells, workovers, and in some cases modern equipment. Secondary recovery projects have dotted the region for 25–30 years and are continuing. Mobil is the first to announce a tertiary project, a chemical pilot flood on 20 acres in the Clara area of West Burkburnett field launched in November. The area was drilled in 1919–20 with primary production in the Gunsite sand at 1,700 ft holding until 1944 when a low-tension waterflood project was undertaken. Initial recovery was estimated at 15% of oil in place and secondary at 32%. Mobil engineers hope to recover an additional 20% by tertiary methods.

Much of the North Texas developments are being plagued by shortages. Operators report they can usually count on waiting 6 months before getting a rig—the only chance of quicker action is when another operator waives his turn for some reason. Operators wanting to buy complete new rigs face a 2-year backlog at the plants. They also have to wait in-line for some well-head equipment and well services.

Business is excellent in North Texas for the service industry. Supply salesmen report many operators are upgrading with quality equipment to cut maintenance costs and invest for longer life. Since this area features much shallow production, there is a brisk demand for used casing and tubing; and it brings a higher price than new oil-country steel goods.

Costs of everything the operator buys is rising, but most North Texans don't complain about this or the shortage of rigs. They can pay higher costs and believe the shortages will be overcome in time if only politicians won't tamper wtih crude prices or percentage depletion.

Ad valorem tax. The North Texas meeting paid special attention to local ad valorem tax problems which could be rather touchy this year. The various taxing jurisdictions, especially local school districts, are under pressure to raise more revenues. The talk of high oil prices and big operator profits is causing the tax assessors to review oil-property values. This puts the lease operator, who faces rising costs and an uncertain future on price of his crude, in a tight spot.

The association's tax committee devoted a long session discussing ways to present representative economic data on prices and costs so a uniform assessment procedure can be set up for taxing oil leases. Discussions later were held at lunch with officials of taxing jurisdictions from over the region.

Threats of punitive congressional legislation also hung heavy over the 2-day North Texas meeting.

C. John Miller, president of Independent Petroleum Association of America, warned the North Texans that the possibility of continued price controls, higher taxes, and complete federal utility-type regulation of the industry pose the worst threat in oil's history. "The issue is whether our energy producing industries for the next decade or more will remain in private hands or be run by the federal Government," Miller said. "If the private petroleum-producing industry generally, and the independent segment especially, are to survive and prosper, we have our work cut out for us."

A similar stark political and economic outlook was pictured by the banquet speaker, W. T. Slick, Jr., senior vice-president of Exxon Co. U.S.A., Houston. "The threat to petroleum private enterprise," he said, "is sufficiently serious to concern every operator—large or small."

[From the Washington Post, Apr. 27, 1974]

ENERGY CONSERVATION CONTINUATION IS URGED

(By Tim O'Brien)

The Federal Energy Office yesterday called on the nation to renew fuel conservation efforts during the summer months, recommending strategies ranging from less air conditioning to fewer neckties.

John S. Sawhill, the new energy director, said the American people will have to renew their commitment to energy conservation "or face the prospect of spot shortages this summer."

He recommended that air conditioning thermostats be set at 78 to 80 degrees, a temperature range that he described as "reasonably comfortable and energy-efficient." If a homeowner keeps his air conditioning thermostat 6 degrees higher than last year, Sawhill said, cooling costs should drop about 15 per cent.

The new recommendations came after growing reports that the nation is returning

to its pre-embargo wasteful ways. The Associated Press, for example, found in a survey that auto traffic is climbing toward pre-embargo levels, mass transit use is falling off and the rate of electricity conservation is declining.

Sawhill asked Americans to:

Run air conditioners only on "really hot days."

Turn off cooling equipment when rooms will be unoccupied for several hours, and clean air conditioning filters at least once a month.

Use heat-generating dishwashers, clothes dryers and irons in the cooler hours of the early morning.

Wear sports clothes and avoid tight collars and neckties.

In addition, Sawhill urged states to enforce strictly the 55-mile-per-hour speed limit, and he asked motorists to honor it.

Citing the lower speed limit as a major factor, Sawhill said the highway death toll dropped 25 per cent in March compared with the same month last year. March was the first month that all states enforced the speed limit.

He urged drivers to practice other fuel-saving habits—regular engine tune-ups, car pooling, slower acceleration and less driving. At worst, Sawhill, said, the gasoline shortage will be 4 to 6 per cent of anticipated demand this summer, but with proper conservation it could be reduced to almost zero.

A panel of the National Association of Insurance Commissioners concurred yesterday that the 55 m.p.h. limit helped reduce accidents and fatalities, but said the savings to insurance companies have been eaten up by inflation and rising serious accidents involving small cars. As a result, insurance rates will probabaly not go down.

In another announcement, Sawhill said American consumers were gouged of $116 million dollars during the winter energy crisis. In testimony before Congress Thursday he had put the figure at about $100 million.

Sawhill said individual refunds will be made to customers who were overcharged for propane. Those overcharged for other fuels—gasoline, home heating oil and diesel oil—will get no personal refunds, but the offending dealers and companies will be forced to reduce prices to compensate for their illegal profits, he said.

Either through refunds or price decreases, he said, about $22 million has been returned to consumers, while another $34 million of fuel overcharges is under challenge. The overcharges were uncovered in joint FEO and Internal Revenue Service investigations.

[From the Washington Post, Apr. 26, 1974]

AMERICANS SAID TO DROP ENERGY-SAVING MEASURES

(By Craig Ammerman)

Americans are abandoning the strict conservation measures they imposed on themselves at the height of the energy crisis.

A nationwide Associated Press survey finds that automobile traffic in most areas of the country is approaching pre-embargo levels. It also shows that toll road receipts are climbing, mass transit use is slipping and the rate of electricity conservation is falling.

"There are as many people on the road now as there were in September," before the Arab oil embargo brought the winter energy crisis, said federal energy chief John C. Sawhill. The AP survey showed that in recent weeks police in many states have written many more speeding tickets as motorists press down on the gas pedal.

The end of the embargo on March 18 apparently started Americans back toward their old habits.

A spokesman for Florida Power & Light Co., the state's largest utility, said its customers used 6 per cent less electricity than they normally would have between early December and late February.

But that figure fell to 3 per cent in March and a spokesman said "figures the week the Arab oil embargo was lifted indicate customers used noticeably more electricity than any other week in March."

A similar pattern was repeated in many states, Utilities and state agencies noted, however, that Americans still are not using the amount of electricity they would under normal growth patterns.

And in other areas the survey showed that Americans have not returned all the way to pre-embargo days. Here are some examples:

Public transportation revenues in Boston ranged from 1 to 9 per cent above 1973 levels between Jan. 18 and March 8. But in the three succeeding weeks revenue fell 1.5 per cent, 2.3 per cent and 3.3 per cent below last year's. The Atlanta transportation Authority said February use of its system was 7.2 per cent above a year earlier; in March it was up 2 per cent. Seattle officials said bus riders averaged 840,000 a week at the height of the embargo; they now average 740,000, still 100,000 above a year earlier.

A survey last week on the Milwaukee Freeway showed 85 per cent of 295 cars checked were going 63.5 miles per hour or faster. On Jan. 30, 85 per cent were driving 60.7 m.p.h. or faster. In May 1973, before the nationwide speed limit was lowered to 55 m.p.h., 86 per cent were going 73.5 m.p.h. or faster.

The take on Connecticut toll roads was $31,549 on Sunday, Feb. 3, 55 per cent below a year earlier. On Sunday, April 14 it was $82,671, 3 per cent below the comparable date in 1973. A state official said traffic on a typical Monday on the Garden State Parkway had increased from 300,000 cars in mid-February to 500,000 last week.

The New England Power Pool said in December that consumers in the six-state region were using 12 per cent less electricity than projected levels. That fell to 8 per cent by April 11. A spokesman for the public utilities commission in Washington state said voluntary conservation of power has dropped from 7 per cent at the height of the embargo to between 2.5 and 3 per cent now.

The push for car pools appears from the AP survey to have been a miserable failure in most areas. A group of scientists at the Opinion Research Center in Chicago, who have conducted weekly energy surveys for a year, said they found no tendency by consumers to switch away from the single-passenger auto trip.

The higher prices for gasoline do not seem to be keeping people off the roads. But the price rises, coupled with lower speed limits, may be responsible for the continued strong business being done by Amtrak and the airlines.

Amtrak, which reported that its February business was 55 per cent above the previous year, said its March traffic on the busy New York-Washington corridor was at an all-time high, totaling 739,666 persons. Amtrak said that was 11 per cent above February.

Most airports across the country, particularly those served by the smaller, feeder airlines, reported passenger volume up despite a reduction in the number of flights. The Los Angeles International Airport said passenger volume was up 5.3 per cent in March and that the percentage of seats filled on each of its flights had increased from 48.4 per cent in 1973 to 61 per cent in March.

Energy officials in several states said many businessmen who once drove intermediate distances were now flying because of lower auto speed limits and higher gasoline prices.

Citizens contacted at random across the country by the AP were divided on energy conservation. About half said higher prices for gasoline and electricity, and a belief that energy conservation was the right thing, were causing them to continue conserving. The remaining half were divided in two categories: those who felt their conservation wouldn't make a difference and those who said the energy crisis was contrived by the oil companies and the government therefore saw no reason to conserve.

The Chicago scientists said of their weekly surveys: "The general picture that emerges is that while a majority of the public consider the energy shortage an important problem, only about 25 per cent feel it is the most important problem facing the country today.

"Clearly, the public believes that fuel shortages are not inevitable in the future and will most likely be solved within four or five years."

[From the Washington Post, May 7, 1974]

SPEEDOMETERS ARE CREEPING BACK UP

(By Louise Cook)

Two months after the 55 mile-per-hour speed limit went into effect on a nationwide basis, an Associated Press survey shows Americans have slowed down a little but are still driving faster than the law allows.

The AP sent reporters in the 48 contiguous states to drive on the highways on May 1, keeping at the legal limit of 55 m.p.h. to see what other motorists were doing. The AP also checked on the number of speeding tickets issued before and after the limit was lowered, and on traffic accidents.

Among the conclusions:

Americans in all but a handful of states, including Wyoming, Wisconsin, Idaho, Delaware and Oklahoma, are ignoring the 55 m.p.h. limit, whizzing by a driver who travels at the legal speed.

The average speed on most highways is 65 to 70, below the speeds people used to travel at when the legal limit was 70 or 75.

Police are giving out more tickets. Only one AP reporter—in Indiana—saw a patrol car actually pull over a speeding vehicle. But authorities cite statistics to show that they are enforcing the law stringently. The Kansas Highway Patrol said 6,091 arrests for speeding were made during the week ended April 15, up from 2,352 arrests in the same week of 1973.

The highways are safer. The National Safety Council says traffic deaths in March were down 25 per cent from a year earlier; Ohio officials say 107 persons died in traffic accidents on March and April weekends this year, compared to 193 persons last year; North Dakota authorities said there have been only 31 fatalities so far this year, compared to 52 last year.

Speeds are creeping up as gasoline availability increases. Gov. John D. Vanderhoof of Colorado said he sees "more people exceeding the speed limits than there were a couple of months ago. All they have to do is increase gas consumption by 4 or 5 per cent and we're right back in the same jam."

Drivers think the lower speed limit can be enjoyable, but agree that it gets boring over long distances in monotonous country. They also said there was a tendency to let the speedometer creep up to match the flow of traffic.

Congress passed legislation late last year giving states until March 4 to lower the speed limit to 55 m.p.h. as a conservation measure or face the loss of federal funds. All 50 states complied.

[From the Washington Post, Apr. 26, 1974]

OIL LEADER URGES RATIONING NOW

(By William Hines)

A high ranking oil company executive says the Nixon Administration should put its standby gasoline-rationing plan into effect without delay to avert possibly serious shortages at the height of the summer vacation season.

William L. Henry, executive vice president of Gulf Oil Corp., said, "Some form of rationing to keep (gasoline) prices depressed" seems to him to be highly desirable. Henry said a plan, announced late last year but

mothballed to date, appears to be an equitable solution to the problem.

The standby rationing proposal—for which billions of gas coupons already have been printed—would guarantee each licensed motorist a set amount of fuel and would allow the individual driver to sell his coupons for whatever the market would bring if he decided not to use them.

President Nixon has characterized himself as unalterably opposed to rationing and did not allow the Federal Energy Office to institute it during the winter fuel crisis. As far as is known, there is no serious consideration being given to starting rationing now.

But Henry, like many, familiar with the petroleum picture, says there will be a serious pinch this summer unless Americans continue to observe energy conservation measures as they did last winter. Public opinion surveys indicate that most Americans think the crisis is over now that the Arabs have called off their crude-oil embargo.

This is not the case by any means, Henry said. The average motorist will have to use about 5 per cent less gasoline this year than last year in order to avoid a serious pinch. Any resulting shortage from overuse of gasoline, he said, could be made up—if at all—only through purchases from Europe at sky-high prices.

Henry and Gulf's planning chief, Peter Holloway, said any gasoline procured abroad to meet excessive demand here would have an equivalent value close to 80 cents a gallon retail.

If demand can be held to levels not exceeding available supply, Henry and Holloway added, the price of motor fuel at the gas pump this summer should not rise appreciably above the 55–60-cent mark that is common at service stations today.

According, to Henry, the United States, in any event, will experience a severe balance-of-payments drain this year because of increased prices it will have to pay for foreign crude oil. At $10 a barrel at the wellhead, every 1 million barrels a day bought abroad represents an outward flow of $3.5 billion a year.

The total foreign exchange now available to the United States, Henry said, is about $14 billion.

While there probably will be no more "panic buying" of foreign crude at prices of $16 a barrel or more, Henry said, he does not look for any substantial drop in oil prices that would justify a rollback on the amounts charged for gasoline at the pump.

A difference of $1 in the price of a barrel of crude oil represents 2½ cents in the price of a gallon of gasoline at retail, Henry said.

The average motorist does not realize that there is a shortage of gasoline right now, the Gulf executive went on.

"People think it's over," he said, "but the evidence is right there in front of their eyes. Any time you see a sign at a gas station that says, 'Open for Business—$4 maximum' there's got to be a shortage. That dealer is saying to his customers, 'I've got just so much gasoline to sell and I've got to parcel it out this way.' "

Gasoline allocations under the Federal Energy Office are considerably better in hand now than earlier this year when near chaos reigned, Henry indicated. But he emphasized that there is no end in sight of chronic shortages.

One of the big problems is refinery capacity, which Henry said will not be expanded until the refiner can be assured a supply of crude oil. A refinery built at today's price can cost as much as three-quarters of a billion dollars and takes three years to construct, he said.

The North Coast Alaskan oilfields, which will be an assured supply of crude, will not be delivering petroleum to the lower 48 states before about 1978 or '79, Henry added. And even when this new supply is available, it chiefly will benefit the West Coast, he said.

While agreeing with federal energy officials that families can plan vacations this summer, Henry said, "they will have to be different kinds of vacations." Less driving from place to place will be essential, and the owners of big recreational vehicles will feel a special pinch, he added.

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

The PRESIDING OFFICER (Mr. ABOUREZK). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. FANNIN. Mr. President, nearly 2 months ago the Senate was approaching the end of its consideration of S. 2589, the Energy Emergency Act. That bill had been drafted and amended with the goal of alleviating to the greatest possible extent the serious energy shortages which faced the Nation last winter. By the time most of the winter had passed and the crisis had been successfully met by the efforts of both the Federal Energy Office and the American public, the Senate was getting around to voting for the second time on a conference report on S. 2589. It was then that I informed my colleagues in this body that we have reached the final round on the Energy Emergency Act.

I rise today to concede that my assessment of just when the Energy Emergency Act would give up the ghost was a little premature. In spite of failing of agreement in the House before Christmas, being rejected by the Senate in January, and suffering a Presidential veto subsequently sustained by the Senate in March, this legislation refuses to die. The Standby Energy Emergency Authorities Act, S. 3267, is for all practical purposes the reincarnation of S. 2589 without most of the few desirable features of its predecessor. Its provisions constitute a piecemeal approach to the symptoms of our energy problems. Solutions to those problems are neglected. The minority views contained in the Interior Committee report on S. 3267 point out a number of the bill's shortcomings.

Virtually all the authorities in the bill are vested in the Administrator of FEA instead of in the President. Surely by now all of us are aware that energy issues are so broad as to fall within the jurisdiction of numerous agencies and departments; it logically follows that the appropriate seat of responsibility is at the Presidential level. From that point the fullest possible efforts of the entire administration can be directed and coordinated. Further, it is ridiculous to hold the President responsible—as does S. 3267—for implementation of authority which is held by the Administrator of FEA.

The bill contains mandatory congressional review—including veto authority—over every rationing and conservation plan, and limits the life of any such plan to 6 months. These stipulations would not only delay implementation of perhaps critical programs for at least 15 days, but also would invite foot dragging and noncompliance with any unpalatable program in light of expectation that it would expire within 6 months. It is provisions such as these that both limit the flexibility of the administration in meeting our energy problems and demonstrate the unwillingness of the Congress to assume the responsibility of providing means to meet those problems.

Section 105 of the bill provides the authority to direct conversion to coal of powerplants using natural gas and petroleum products. I believe all of us would support the conservation of both oil and natural gas. Such a provision, however, is absolutely useless unless accompanied by authorization of suspension of air quality requirements when conversion to coal is required. This section as written places the Administrator of FEA in the position of requiring an action that is in violation of requirements of the Clean Air Act. Section 105 is so inadequate as to be ineffectual.

In authorizing production beyond maximum efficient rate of production, S. 3267 invites not only energy waste but also an unconstitutional taking of property. Simply because a leaseholder's well is located on Federal lands is no legal justification for requiring him to diminish his property rights by producing beyond MER. I urge that this section be deleted.

The section of S. 3267 dealing with protection of franchised dealers would, in effect, lessen competition and overburden the consumer. By stipulating that no refiner or distributor may terminate the franchise of a retailer or distributor except under very limited circumstances, the bill would lock refiners, retailers, and distributors into their current situations, building inefficiencies into the system at substantial cost to the consumer.

Such a situation could result in a disincentive to accept new franchises, to improve or even maintain the level of services or to lower prices by existing franchises. This is merely another example of how S. 3267 fails to address the issue of finding solutions to our energy problems.

Another warmed-over provision from S. 2589 included in this bill legislates special benefits for those unemployed as a result of energy shortages. It would be nearly impossible to determine just who was out of work specifically because of energy shortages, and efforts to make those determinations undoubtedly would involve inequities and discrimination. It is a dangerous precedent to establish a special cause-effect relationship as the basis of eligibility for any unemployment compensation program. Additionally, congressional jurisdiction over unemployment compensation programs lies within the Finance Committee, not with the Interior Committee which concocted the scheme contained in S. 3267. For all these reasons I recommend adoption of the proposed administration bill, which provides for overall expansion of benefits through the existing systems for unemployed individuals.

Two sections of the bill are completely unnecessary because they duplicate provisions of existing legislation. The Emergency Highway Conservation Act pro-

vides sufficient authority for the Secretary of Transportation to direct a national carpool effort. Second, a much more equitable and workable energy data reporting section has been adopted in H.R. 11793, the Federal Energy Administration Act of 1974. Consequently, both sections 115 and 122 of S. 3267 should be deleted.

I would point out that these convictions regarding the Standby Energy Emergency Authorities Act are not only mine and for the most part those of the other minority members of the Interior Committee, but also represent the opinion of the Administrator of the Federal Energy Office, Mr. John Sawhill. For the RECORD I would like to read his letter to the Chairman outlining FEO's position on this bill:

FEDERAL ENERGY OFFICE,
Washington, D.C., May 4, 1974.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, Washington, D.C.

DEAR SENATOR JACKSON: Last November and December the Administration and Congress worked feverishly to work out a compromise energy bill which would give the President the authority he needed to deal with the then all-encompassing energy crisis. Today, however, the situation has changed—the oil embargo has been lifted, and the American people have once again shown their amazing capacity to withstand adversity. Our present needs necessitate consideration of the several legislative proposals submitted by the Administration focusing on specifically identified problems associated with our longer-range goal of energy self-sufficiency, rather than an omnibus bill which seeks to provide immediate interim remedies.

Now that the "Standby Energy Emergency Authorities Act," S. 3267, has been reported out of the Senate Interior and Insular Affairs Committee, it is necessary to express FEO's opposition. S. 3267, as reported, like its predecessor, aims at the symptoms of the present shortage instead of the solutions, and contains many extraneous provisions which would defeat the declared purposes of the legislation.

First, the Act purportedly attempts to authorize appropriate actions necessary to meet emergency situations. Nevertheless, it contains provisions inconsistent with this goal. Although the FEA will play a key role, by vesting emergency authority in the Administrator of FEA, the bill severely restricts the President's ability to deal with energy problems in a flexible, comprehensive, and effective manner. While an energy emergency might result in a situation requiring an immediate response, the Act delays the implementation of emergency rationing and conservation plans for 15 days.

The automatic termination of all conservation plans, six months after implementation without regard to the current situation is not in the national interest.

Next, S. 3267 is said to provide for the conservation of energy. However, it would permit production of oil fields for defense purposes beyond the rate of production that would insure maximum recovery of oil in accordance with sound engineering and economic principles. The Administration supports utilization of existing petroleum reserves held for defense purposes in lieu of, and certainly prior to, production of other oil in a wasteful manner. While the promotion of carpooling is worthwhile, the Emergency Highway Conservation Act already provides sufficient authority and funding.

Another stated purpose of this Act is to insure competition. Although there well may be a need to protect franchised dealers, this legislation would result in the opposite of that which it seeks to accomplish, "locking in" many individual dealers to their present situations which could result in gross inefficiencies in the marketplace, leading to less competition, a decrease in services and an increase in costs and prices.

This legislation proposes to assist those unemployed by the current energy shortage, but does so in the form of a scheme which would result in a program almost impossible to administer with the end result being gross inequities for the unemployed. This Administration is committed to providing assistance to those who are unemployed. We believe, however, that the proper way to deal with unemployment is not through the inclusion of an energy related unemployment provision in S. 3267, but rather by strengthening and expanding our existing unemployment program through the enactment of the Administration's proposed legislation.

The Committee bill contains authority requested by the Administration to require certain plants to use coal rather than fuels in short supply, but instead of coupling this with provisions which would coordinate such actions with the Clean Air Act as proposed by the Administration, the Clean Air Act provisions have been eliminated from the bill by the Committee so that the Committee bill is patently incomplete in this respect. Obviously, we need early hearings on the package of Clean Air Act Amendments submitted to the Congress by the Administration on March 22, 1974.

We note with approval that the Committee determined that the new mandatory petroleum price provisions of the original bill (Section 128) should be deleted, including the elimination of the stripper well exemptions, but we have also noted "Additional Views" in the Committee Report indicate that an effort may be made to amend the bill on the Senate floor to restore that provision.

I, therefore, wish to reiterate the position enunciated by William Simon in his letter of April 6, 1974, to you that the Administration is opposed to the deleted section of the bill. By repealing the stripper well exemption which was enacted last fall, the bill, with Section 128, would cause the complete closing of many such operations due to unprofitability. Practically all are owned by independent operators, and while no one stripper well produces much, their combined output adds considerably to the nation's total supply.

By adding new pricing provisions to the Emergency Petroleum Allocation Act which was enacted last fall, Section 128 would have acted against our national needs for increased exploration, development and production of petroleum as was previously explained to the Committee on April 4, 1974.

Finally, the information reporting section of S. 3267 (Section 122) is included according to the Committee's explanatory language, in recognition of "the need for adequate energy information in formulating and implementing national energy policy." The Committee Report recites that an alternative to the language of Section 122 is the language for the same purpose in the bill to create the Federal Energy Administration, but that language was not then available to the Committee. At this time, of course, both bodies of the Congress have now approved the Conference Report on the FEA bill.

In view of final Congressional action on the FEA bill, we support deletion of Section 122 in favor of the single energy informaion reporting provision of that bill. This would be consistent with the stated intent of the Committee and would avoid duplication, confusion and conflict between Section 122 and the FEA law.

The Office of Management and Budget advises that there is no objection to the submission of this letter from the standpoint of the President's program.

Sincerely,

JOHN C. SAWHILL,
Administrator.

I certainly agree with what Mr. Sawhill has said. He has thoroughly studied the matter and has the responsibility for carrying the program through.

Mr. President, there remains one major aspect of S. 3267 to be addressed. Section 128, the petroleum price control authority provision, was deleted without prejudice during Interior Committee markup. The chairman, however, indicated he would reintroduce it or a similar provision as a floor amendment, as stated in Mr. Sawhill's letter.

In anticipation of such an amendment, I have these comments to offer.

As contained in S. 3267 as introduced, section 128 would:

Specify "equitable ceiling prices" for all first sales or exchanges of crude oil and crude petroleum produced in or imported into the United States;

Require price adjustment for U.S. income tax savings;

Limit cost passthroughs on imported petroleum to exclude considering transportation costs, posted prices or opportunity costs;

Require proportionate allocation of cost increases among petroleum products;

Require every establishment or change in ceiling prices to be justified by an extensive statement and analysis to be transmitted to Congress; and

Repeal the stripper well exemption.

That provision or any similar provision is completely unnecessary, because ample authority now exists in the Emergency Petroleum Allocation Act of 1973 to control prices for all petroleum products. Legislating such a rigid and detailed system in an attempt to fine-tune the energy economy would be a perilous task which would require an ability to sense the impact of any action on the smallest segment of the marketplace not only today, but for months to come. Who among us can claim to have that ability?

With respect to the repeal of the stripper well exemption in particular, such an action could have grave impact on the U.S. energy balance. The exemption aims to delay the shutdown of marginal oil wells—a majority of which are owned by independent operators—by providing an incentive to the producer to extend the productive life of the well. Stripper production accounts for approximately 13 percent of the Nation's daily crude oil production.

Anything less than an incentive to continue production from these wells would work a hardship on American consumers, the independent oil producers, and small inland refineries which depend upon the maintenance of a nearby supply from stripper wells. William Simon, at the time Administrator of the FEO, wrote on April 6 regarding the necessity of maintaining the stripper well exemption. I ask unanimous consent that the letter be reprinted at this point in the RECORD.

There being no objection, the letter

was ordered to be printed in the RECORD, as follows:

FEDERAL ENERGY OFFICE,
Washington, D.C., Apr. 6, 1974.

Hon. PAUL J. FANNIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FANNIN: The question continues to arise concerning the wisdom of the "stripper well" exemption in the Emergency Petroleum Allocation Act. This communication reflects my present concerns about the future of that provision.

As you know, Congress has approved, on two occasions, legislation containing an exemption from price controls of all crude oil produced from stripper wells. The Alaskan Pipeline bill was the first vehicle for such an exemption, and was closely followed by the enactment of the Emergency Petroleum Allocation Act which contains a similar exclusion.

FEO regulations currently exempt from price controls crude oil produced from a lease whose average daily production for the preceding calendar year does not exceed 10 barrels per well. The aim of this provision is to delay the shutdown of a marginal well by providing an incentive to the producer to extend the productive life of the well. The added revenues to the producer may also help finance additional exploration and development.

It is significant to note that the majority of stripper wells are owned by the independent segment of the domestic petroleum producing industry. This is the same portion of the industry which drills approximately 85 percent of the exploratory crude oil and natural gas wells in the United States. Thus, the exemption is vital in order to generate the additional revenues necessary to ensure a continuation of this high percentage of domestic exploration by the independent producer.

Today, there are an estimated 360,000 stripper wells operating in the United States, producing an average of 3.5 barrels of crude daily. Stripper production accounts for approximately 13 percent of the Nation's daily crude oil production. Approximately 5.1 billion barrels of the Nation's proven recoverable reserves of approximately 33 billion barrels (this includes the North Slope's 10 billion barrels) underlie what are presently stripper wells. Since all producing wells eventually become stripper wells, any step preventing their premature abandonment will significantly contribute to this Nation's proven reserves. For example, the stripper well exemption is enabling continued production from some little known oil producing areas, such as the State of New York which has approximately 5,500 wells currently in production. It should also be noted that the maximization of stripper production has significant economic advantages; the wells are already drilled, the tubular goods in place, and there remains no risk of encountering a dry hole.

Recent reports have indicated that the stripper well exemption is paying additional dividends. Due to the higher prices for stripper oil, remedial work in stripper areas has significantly increased. The results of proper maintenance and, in some cases, complete workovers could add another 200,000 barrels per day or more to U.S. crude supplies. It is imperative that this level of production be maintained. We are also encouraged by reports that drilling rig activity has increased 36 percent over the comparable time period of last year.

In some midwestern states, such as Kansas, production from stripper wells constitutes a very large portion of the state's total crude supply. Anything less than an incentive to continue production from these wells would work a hardship on small inland refineries dependent upon the maintenance of a nearby supply.

Because of the time lag inherent in making available to the consumer alternate sources of energy, it is vital that we extend the production already in existence. For these reasons, I strongly recommend the continuation of the stripper well exemption and oppose elimination of it. We should not put in jeopardy such a significant percentage of U.S. crude supplies because of a failure to recognize the higher costs associated with the production of that oil.

Sincerely yours,

WILLIAM E. SIMON,
Administrator.

Mr. FANNIN. Mr. President, these and other concerns regarding price control measures are reflected in another letter from Mr. Simon after he became Secretary of the Treasury.

In concluding his letter, the Secretary said:

To summarize, a legislatively directed price ceiling on domestic crude oil prices or a repeal of the stripper well exemption could:

(1) cause further export of U.S. capital;
(2) decrease U.S. refinery expansion;
(3) decrease U.S. stripper well production;
(4) decrease U.S. national gas production;
(5) slow down development of synthetic fuels;
(6) reduce current production levels;
(7) increase U.S. balance of trade deficit;
(8) aggravate the world monetary situation; and
(9) deter U.S. efforts to achieve energy self-sufficiency.

For these reasons I respectfully seek your support in avoiding floor amendments which would either impose price controls or repeal the existing stripper well exemption.

These reasons are all-important. I add my request to that of Secretary Simon.

Mr. President, the Senate once again sits in consideration of an energy emergency bill, this time the warmed-over Standby Energy Emergency Authorities Act. Senators have succeeded in defeating the basics of this bill in the form of S. 2589 several times. I would point out that the situation in the United States has changed since S. 2589 was first conceived. We no longer need rigid authorities to see us through a crisis situation. What we need is to allow the administration and the industry the flexibility to meet the long-range energy needs of the American public. Those needs call for consideration of the specific legislative proposals already submitted by the administration, most of which are at this time undergoing committee action. Those needs do not call for extensive and all-encompassing legislation of a punitive nature.

This time I shall not be so optimistic as to predict that this is the final round on the energy emergency bill concept. Should an emergency bill come around again, I would hope that it would be a more reasonable and carefully constructed one than S. 3267.

Since it does not appear that such a constructive effort will be possible, I urge my colleagues to save themselves and the rest of us a lot of time by simply voting to defeat this bill.

Mr. President, I ask unanimous consent that the following staff members have the privilege of the floor during the debate and voting on this legislation: James Nolan McKean, Steven Hickok, Jackee Schafer, Dr. William Schneider, Mike Hathaway, Ed Rochelle, and Ron Frank.

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

Mr. HANSEN. Mr. President, it daily becomes more apparent that S. 3267, instead of a constructive effort to improve our energy outlook, is a concerted effort to continue demagoguing and searching for scapegoats, designed to keep its proponents in full public view.

The opening statements of those Senators participating in the April 4 hearings on S. 3267 shed light on the thrust of the bill. I recommend them to my colleagues as both invaluable and enlightening as we consider this legislation

I ask unanimous consent that their statements be printed in the RECORD.

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

STATEMENT OF SENATOR JACKSON

The purpose of today's hearing is two-fold: first, to receive a report from the Administration on compliance with and enforcement of the oil price control provisions of the Petroleum Allocation Act; second, to determine whether the Administration supports adoption of the new price control authority proposal in Section 128 of S. 3267, the Standby Energy Emergency Authorities Act.

These hearings are being conducted jointly with the Investigations Subcommittee. The Subcommittee is currently conducting an investigation into oil pricing practices which is relevant to the legislation now before the Interior Committee.

There is an increasing number of reports that some brokers, importers and oil companies are engaging in pricing practices which, if not illegal, are clearly not in the best interest of the consumer. Inflated corporate transfer pricing arrangements, repurchase agreements between brokers, and excessive cost pass-throughs are but a few of the practices which have come to our attention.

Earlier this week, the New York Times reported that officials in FEO believe that some foreign affiliates of U.S. oil companies are over-charging their parent companies and passing these over-charges on to American consumers.

This practice enables the companies to receive huge profits from their affiliates—profits which are forbidden under the Petroleum Allocation Act. The story in the Times states that officials of FEO believe that more than $100 million of overcharges may be involved.

The FEO has under way a number of audits and investigations into these practices. This morning we will receive a report on compliance and enforcement from Mr. William Walker, General Counsel of FEO, and Mr. Charles Owens, Deputy Assistant Administrator for Policy, Planning and Regulation.

My letter of April 2 to Mr. Simon indicated the scope of today's hearings. The specific subjects include:

The extent to which domestic oil companies are evading petroleum price controls by taking profits from foreign affiliates and subsidiaries and reporting these profits as "costs";

The use of dummy corporations, sham third-party purchases and fictional brokerage transactions to cover profits and drive up costs;

The use of computerized brokerage transactions which cloak the identity of buyers

and sellers and make the tracing of transactions difficult, if not impossible; and

The need for new legal authority, increased penalties, staffing, and funding to insure compliance.

Later today, testimony will be received on an oil pricing inquiry the Investigations Subcommittee has under way. One facet of the Subcommittee's investigation has dealt with attempts to obtain the costs of product derived from foreign affiliates, subsidiaries and other related corporations. Obviously, if we were able to ascertain costs, we could determine whether the Allocation Act is being violated in such brokerage sales.

In one case, the Subcommittee requested voluntarily, and then by subpoena, the cost records of a brokerage company and its foreign affiliate which sold or traded 79 million gallons of gasoline. That company told Subcommittee staff that it was unable to provide us with such information. I understood that now they may be willing to do so. We hope to obtain all of the facts on this matter today. Specifically, we want to see if there is true arm's-length dealing between affiliates.

STATEMENT OF SENATOR FANNIN

Mr. Chairman, I regret that we once again seem to be headed down that deadend path attempting to punish the energy industry at the very time we most need to work with this industry to solve our problems.

Why is it that we have to keep taking a negative approach? I just cannot understand it.

Why can't we start trying to bring about more production so that we can help consumers and the energy-reliant businesses which have had trouble?

Mr. Chairman, I regret that you have not been more flexible in your negotiations with the Administration regarding the redrafting of the Energy Emergency Act. You say you want to go forward with legislation, and so do I, but because of your inflexibility regarding the unemployment provisions of the bill, the pricing provision, the stripper well provision, the data reporting provision, and the protection of franchised dealers provision, the negotiations were unsuccessfully concluded and we are faced with a bill full of infirmities. It now appears that instead of moving forward with responsible legislation, this committee is off on another exercise of demagoguery and a continued search for scapegoats.

Let me focus briefly on the pricing provision. The Senate sent the precursor of this bill, S. 2589, back to conference because of the absurdity of the price rebate provision. The Senate sustained a presidential veto of a later conference version of the bill because a large number of senators felt that the price rollback provision and many other provisions were totally lacking in merit. Yet the Chairman insists upon beating this dead horse over and over again. He has a psychological aversion to the marketplace and constantly refers to it as an outmoded, nineteenth century institution.

Mr. Chairman, it's the marketplace that has made America great, and to continue to tinker with it in the case of oil price regulation is self-defeating.

I am confident that the Administration witnesses today will verify that existing legal mechanisms provide them all the opportunity they need to regulate prices, that their objective is to return to a free market situation in energy, and that the stripper well exemption passed two times by the Congress is viable and need not be repealed. Additionally, I anticipate that the Administration will highlight many of the other infirmities of the warmed-over Energy Emergency Bill.

The CHAIRMAN. The Chair will just observe that if this is demagoguery, then the FEO is involved in demagoguery, because they are investigating the very thing we are talking about.

Senator FANNIN. They are doing a job which could be done without cluttering up their activities by this legislation.

The CHAIRMAN. So you think that the American people are not entitled to know whether the law is being violated and whether skullduggery is going on? That should be withheld, should it?

Senator FANNIN. I think the FEO is going forward with investigation and you admit they are, and so——

The CHAIRMAN. Is that demagoguery?

Senator FANNIN. It certainly is not because they are going forward with it on an objective basis, to try to help solve the problem.

The CHAIRMAN. Is it demagoguery for the Congress to find out whether the law is being complied with, Senator?

Senator FANNIN. It is demagoguery for us to use this means of——

The CHAIRMAN. What means do you suggest, Senator?

Senator FANNIN. The means I suggest is letting the Administration go forward with what they are doing at the present time. You have stated that they have already started an investigation, it has been publicized that they have information that is being made available to the public, and I feel that they will do their job if we let them do it.

The CHAIRMAN. Well, I will let the public decide whether we are embarked on something that is negative and whether it is demagoguery. I think as the facts come out here, some people might regret that statement.

Senator FANNIN. I do not think that will be.

The CHAIRMAN. Well, I say we have got the Investigating Committee aspect of this. The Senator may not know some of the things that we are looking into. And this is a joint meeting, I just call to the Senator's attention.

STATEMENT OF SENATOR HANSEN

Mr. Chairman, first of all, let me say that I think a closer examination of the record possibly than has been the case for some of us to make will disclose that the profits of the multinational oil companies to which the distinguished Senator from Ohio alluded have come not from a exploitation of a situation in the United States, they have not come out of the pockets of American consumers here, but rather have come from sales of their products abroad.

A very small part, as a matter of fact, of the oil that is produced in the Middle East—I should not say a very small part, but a small part—comes to the United States of America. Most of the profit that has resulted in what some characterize as exorbitant profits of the major oil companies results from their sales to other countries, not to sales in America.

Mr. Chairman, there are all sorts of witnesses who could be heard, whose advice I think we should consider. I want to call to the attention of everyone present here this morning what Dr. Stauffer, Research Associate for the Center for Middle Eastern Studies, Harvard University, had to say earlier this year. I quote from Dr. Stauffer:

"Thus far our equipment for controlling and monitoring prices has been imperfect at best. The more areas we try to become involved in, the more likely we are to create all sorts of complex, hidden costs and disruptions. So precedent of this sort I would regard as ultimately being undesirable and possibly dangerous."

I quote from the Energy Economics Division of the Chase Manhattan Bank. They say: "Clearly in terms of the world's current and future needs for petroleum, the industry's earnings are possibly not excessive. On the contrary, they are still subnormal. Unless they can be improved in the years ahead, the world is faced with the prospect of a devastating shortage of petroleum, so there is no way of avoiding the costs. They must be paid if there is to be enough petroleum."

Because my distinguished colleague, the Senator from Oregon, has just arrived, I will remove these books (indicating) very shortly but I thought it might be helpful for people to know that S. Res. 45, the National Fuels and Energy Study, we have had 75 days of hearings. These are the volumes of the testimony that was part of those 75 days of hearings. And it is part of the reason, I am sure, that the distinguished Senator from Louisiana, the Chairman of the Finance Committee, had this to say recently when he was interviewed downtown.

The question asked by Jim Collins was, "There have been suggestions by some Democratic Senators that a single Senate Committee or a joint committee be established to deal with all facts of energy. Do you favor that approach?"

And Senator Long of Louisiana, the Chairman of the Finance Committee, said: "No, I do not. I do not think there is enough expertise in any one committee to deal with all of the facts of the energy problem. Frankly, without meaning to be personal, the Senate Interior Committee appointed a Subcommittee on Energy over two years ago"—I think the Senator misspoke himself, he should have said three—"and I have not seen one piece of legislation recommended by that committee which would increase domestic production of energy."

"If they have suggestions in the tax area, or on import policy, let them make them and I will drop everything to schedule a Finance Committee hearing right away. What they have showed me on excess profits so far indicates a frightening lack of knowledge and expertise. They did not even want the help of the expert staffs we have on the Finance Committee and Joint Committee on Internal Revenue Taxation."

Mr. Chairman, although I do not agree with your logic, I admire your persistence in the re-introduction of the Energy Emergency Act. I note that Secretary Simon in testifying yesterday said, as he and the President have said before, that they want "only a limited power to deal with emergency shortages and called on Congress to concentrate instead on helping the nation become self-sufficient in energy."

Mr. Chairman, you may have noticed a Wall Street Journal editorial of a few days ago that expressed some views that I heartily endorse and would like to repeat in summary:

To achieve the objectives of Project Independence by 1980 and get this country from over the barrel of dependence on Middle Eastern oil or the high price and blackmail of any foreign source, we need to do only one thing, and the Wall Street Journal said it in a few words, and I quote: "To achieve the objectives of Project Independence the government has to do only one thing—get out of the way."

The editorial observed that the energy industries do not need an economic hand by government, the subsidies, tariffs, or federal corporations, and certainly not price rollbacks or more price ceilings. The Washington Star-News in an editorial last evening also urged Congress to let things alone.

The concluding paragraph of this editorial, which warned that the energy dilemma is not over, said, and I quote: "Congress should resist the political impulse toward hasty price control devices that could imperil the accelerating drive for new domestic oil supplies. What we now have is some mild relief, not a solution."

Mr. Chairman, I plan to support Secretary Simon, the President, and the Washington Star-News in resisting the political impulse toward hasty price control devices that could

and most certainly will imperil the accelerating drive for new domestic oil supplies.

Section 128 of this bill, Petroleum Price Control Authority, not only repeals the stripper well amendment that was enacted in two separate laws, but it goes a long way toward attempting to repeal the law of supply and demand.

One of the major causes of the energy mess we are now in is the well head price control of natural gas. And if anything should be repealed, it should be the Supreme Court decision of 1954, that said that the Natural Gas Act should include Federal regulation of natural gas sold in interstate commerce at the well head.

Another interesting article in the Star-News last evening was about Canadian crude oil and natural gas prices. It said the disputed price of Canadian crude at the well head had been set at $6.50 a barrel. That is about the average, I believe, of the present price of U.S. crude with stripper well oil and new oil which is about 25 percent of our domestic production, added in, selling at a higher price and the old oil at $5.25.

The article also said that the Canadian government was using the revenues from export sales to the United States—they add on, incidentally, the Canadians do, a $6.90 export tax on the $6.50 well head price—to reduce the price of imports in Canada's eastern provinces.

Moreover, the article continued, the Canadian government is committed to pricing natural gas at its commodity value, that is, its true relationship to the new high prices for oil, rather than on the cost of production basis the Federal Power Commission has used to keep natural gas priced at artificially low levels. So we can expect the Canadian natural gas we are using to rise in price proportionately with the oil price rise.

For those who believe that government actions should replace the marketplace, Section 128 of this bill does not go far enough in protecting the American consumer. It should also apply to Canadian oil and perhaps the Committee on Commerce could put Canadian gas under FPC regulation.

I must say the Chairman is persistent and I believe there are those of us who were able to sustain the President's veto have our work cut out for us once more. It may still appear to some that this bill makes good politics; it is becoming increasingly apparent that it is poor economics.

Thank you, Mr. Chairman.

STATEMENT OF SENATOR BUCKLEY

Frankly, I think it is time that the Congress emerged from its economic fairyland and started to deal with the real world. Our experience with wage and price controls and with the regulation of natural gas should have taught us by now that the best way to create shortages and economic havoc is to barge forward in blind disregard of elementary economic laws that experience has proven time and again will not yield to acts of Congress, however well intended. If international oil companies are rigging prices in violation of the law, let them be prosecuted; but let us not react with ill-conceived bills that will prove nonproductive.

Mr. Chairman, I respectfully suggest that we are pursuing a blind alley with the consideration of this latest proposal for arbitrary controls on petroleum prices. If it is nevertheless the decision of the committee to continue with its consideration, I hope that we will not have once again purely perfunctory hearings on a matter of such great importance. I refer specifically to the hearings on the rollback provisions of the vetoed Energy Emergency Bill, in which the unanimous recommendation of the panel of expert economists summoned to testify was totally ignored. Too much is at stake for us to substitute preconception for economic experience and fact.

I hope Section 128 will be allowed to have a most thorough scrutiny by witnesses competent to examine all of its ramifications.

STATEMENT OF SENATOR MCCLURE

Just a very brief comment because two things emerge from the discussions that were preliminary to this hearing, one of which was the understanding that was conveyed by public statements that there would be no attempt to reimpose a price rollback. And then examination of Section 128 of the proposed bill would indicate that it is even more of a price rollback than was in the Conference Report which was vetoed by the President and sustained by the Congress.

Unless you assume the President is going to exercise authority to establish ceilings that are above current levels, in which event Section 128 emerges not as any attempt to regulate price but simply to put the oldest pricing upon the Administration, I think either of those two results is unacceptable excursion into partisan politics at a time when we ought to be addressing ourselves to fundamental problems.

There are some serious charges that have been levied against various segments of the energy industry with respect to pricing policies. On Monday of this week this Committee Print was first made available to us, it was suggested that we have a hearing today with regard to Section 128. At that time, I asked the Chairman what witnesses would be called that might shed light upon those charges. I look forward to the testimony which will be elicited this morning from the Administration and the other witness who is on the witness list with regard to the charges that have been made, and I hope that the charges can be either substantiated or laid to rest, because this hearing could have a constructive effect if indeed it does shed any light upon the charges which have been made.

Mr. Chairman, I do not wish to obstruct this hearing in any way, shape or form, but I do not want anyone to assume that because those of us who are concerned about this matter have taken some time to make an opening statement. But if there has been any waste of the time of this committee, it has been because there are some people who are slow learners. But this Congress is not about to stand still for actions in law that would destroy the efforts to increase supplies to protect the American consumers by the lowest possible prices in the marketplace, by making available the energy that keeps the wheels of industry going so that our men and women have jobs.

I think if there is any message that ought to come, it ought to be let us abandon these efforts to find a scapegoat and let us get on with the job of finding answers to the problems.

Thank you very much, Mr. Chairman.

STATEMENT OF SENATOR BARTLETT

Mr. Chairman, I found the last several months quite frustrating from the point of view of this committee and other committees of the Congress, dealing with the basic problem of shortages. It is very apparent that we have had a short position in energy for a long time. This was foreseeable and it was foreseen and so advised the Congress. This committee has been concerned with the matter for three years plus, but it has not seen fit to either introduce or to recommend approaches or bills to deal with the supply side to increase the supplies other than the long term of research and development which is long in the future, and there has been a position taken on the stripper well amendment which has very definitely opened up a small element of free enterprise which this bill would close and eliminate.

There has been very little progress made in this area. It is discouraging because this bill, would discourage domestic production. The introduction of the rollback provision before reduced the amount of activity taking place at a time when it is most urgent for the industry to increase the activity and the major companies for that matter in this country, and along comes this bill which has a ceiling on the price and requires the ceiling be set.

If the ceiling is so good, then why haven't we seen fit to see the answer to a teacher crisis which we had several years ago with a ceiling on salaries? Would that produce more teachers? I do not believe so. Why is it the Banking Committee has seen fit not to continue the Economic Stabilization Act? Is this, Mr. Chairman, not because the experience has been that ceilings, price controls, have led to additional shortages, have not increased the supply?

This bill, in my opinion, would make us more reliant upon higher foreign prices and would encourage the further exportation of our industrial growing capacity which was exported nearly four years up to the 70's, in order to obtain cheap foreign oil. And to do it again at this time and to encourage the development of foreign production upon which we would have to be more reliant and higher prices, makes no sense to me.

It also seems odd that much of the information contained in this bill includes the energy information, pricing, taxation, unemployment impact, Emergency Allocation Act, oversight, and trust aspects, which are either in other bills or which are the property of other committees. But when it comes to suggestions that we take action in the area of natural gas, which I have made several times, I have been given the answer that it is not the property of this committee, it would not be the proper function.

We have not even seen fit in this committee to make recommendations and yet I would add I am of the opinion that the staff of this committee has more knowledge on natural gas than we do.

It seems in Congress every committee has a subcommittee on energy, but none of them, including this committee, is sufficiently engaged in how we get from here to there, including the shortages, to a period of sufficiency. And until we decide that in addition to investigation of the energy industry that we also need to engage ourselves in how do we increase our supply, and then how do we also intelligently reduce our use.

This bill, Mr. Chairman, as a means of conservation discusses the very wasteful use of energy. I certainly believe in conservation. I have practiced that and I made a number of recommendations, economy car and others, over a year ago. But I certainly am strongly opposed to violating the maximum efficient rate of production of wells for the purpose of increasing production. And then it is particularly notable that we want to wastefully use oil from wells which would cause economic loss and the loss of oil at a time that we do not want to increase the production from Elk Hills, which could be produced at mer's or way below mer's and still increase the production.

So it seems to me we are being quite inconsistent with the commitment that Congress has made to conservation. We do believe in usurping our natural resources.

Mr. Chairman, I have been frustrated and I am hoping that we can change our direction and approach the problem more directly and more for the benefit short term and long term of the American citizen and consumer.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. FANNIN. 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. HANSEN. 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. HANSEN. Mr. President, although I do not agree with the chairman's logic, I admire his persistence in the reintroduction of the Energy Emergency Act.

I note that Secretary Simon in testifying recently said, as he and the President have said before, that they wanted only limited power to deal with emergency shortages and called on Congress to concentrate instead on helping the Nation become self-sufficient in energy.

Some of my colleagues may have noticed a Wall Street Journal editorial a few days ago that expressed some views that I heartily endorse and would like to repeat here in summary.

To achieve the objectives of Project Independence by 1980 and get this country from over the barrel of dependence on Middle East oil or the supply and price blackmail of any foreign source, we need to do only one thing and the Wall Street Journal said it in a few words:

To achieve the objectives of Project Independence, the Government has to do only one thing, get out of the way.

The editorial observed that the energy industries do not need economic activism by Government; the subsidies, tariffs, or Federal corporations and certainly not price rollbacks or more price ceilings.

The Washington Star-News in an editorial also urged Congress to let things alone.

The concluding paragraph of that editorial which warned that the energy dilemma is not over said:

Furthermore, Congress should resist the political impulse toward hasty price control devices that could imperil the accelerating drive for new domestic oil supplies. What we have now is some mild relief not a solution.

Mr. President, I plan to support Secretary Simon, the President and the Washington Star-News in resisting the political impulse toward hasty price control devices that could, and most certainly will, imperil the accelerating drive for new domestic oil supplies.

Section 128 of the original bill was deleted. That section, which will probably be offered as an amendment not only repeals the stripper well amendment that was enacted in two separate laws but it goes a long way toward attempting to repeal the law of supply and demand.

One of the major causes of the energy mess we are in is the wellhead price control of natural gas and if anything should be repealed it should be the Supreme Court decision of 1954 that said the Natural Gas Act should include Federal regulation of natural gas sold in interstate commerce at the wellhead.

Another interesting article in the Star-News recently was about Canadian crude oil and natural gas prices. It said the disputed price of Canadian crude at the wellhead had been set at $6.70 per barrel. That is about the average, I believe, of the present price of U.S. crude with stripper well oil and new oil, about 25 percent of production, selling at a higher price and "old" oil at $5.25.

The article also said that the Canadian Government was using the revenues from export sales to the United States to reduce the price of imports in Canada's Eastern provinces. The Canadians add on a $4 export tax making the price at the U.S. border $10.70, about the same as the OPEC price.

Moreover, the article continued, the Canadian Government is committed to pricing natural gas at its "commodity value," that is, its true relationship to the new, high prices for oil, rather than on the cost of production basis the Federal Power Commission has used to keep U.S. natural gas priced at artificially low levels. So we can expect the Canadian natural gas we are using to rise in price proportionally with the oil price rise. It is already considerably higher than U.S. gas.

For those who believe that Government action should replace the market place, Section 128 of this bill would not go far enough in protecting the American consumer. It should also apply to Canadian oil, and perhaps the Committee on Commerce could put Canadian gas under FPC regulation.

I must say the chairman of the Interior and Insular Affairs Committee is persistent and I believe those of us who succeeded in sustaining the President's veto of the other Energy Emergency Act because of price rollbacks again have our work cut out for us.

It may still appeal to some that this bill makes good politics; it is becoming increasingly apparent that it is poor economics.

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. McCLURE. 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. McCLURE. Mr. President, although the letter from William E. Simon, former Administrator of the Federal Energy Office—and he now has been elevated to a different task—dated May 6, 1974, has been made a part of the RECORD, I think it might be constructive if we would read the letter so that we can emphasize the points he makes in his letter. The letter written by him, dated May 6, 1974, is addressed to the chairman of the committee, the Senator from Washington (Mr. JACKSON). I want to read the letter in its entirety. It states:

It is expected that S. 3267, the Standby Energy Emergency Authorities Act, will soon be debated on the Senate floor. There are several provisions of that bill as reported which are of concern to the administration. John C. Sawhill has written you regarding this bill.

I would, however, like to mention specifically two important matters relating to S. 3267. Your additional views in the committee's report on the bill indicate that you intend to offer an amendment imposing price controls on crude oil. Senator HASKELL's views indicate his intention to support repeal of the stripper well exemption. I urge reconsideration of these proposals, for I feel both of these measures, if enacted, would be detrimental to a new strong U.S. effort to attain self-sufficiency in energy.

Legislatively imposed low prices for crude oil would act as a disincentive for domestic energy companies to invest in U.S. oil exploration and downstream activities, and given the current foreign prices, there would be an incentive for American companies to make investments abroad in order to earn the needed returns on capital investments.

A result would be to hinder the construction of much-needed refinery capacity. As of January 1974, domestic refinery capacity of about 14 million barrels per day lagged behind total demand for defined products of over 17 million barrels per day.

A further result would be to place in immediate jeopardy further recovery of crude oil by operators of stripper wells. In 1973, about 13 percent of domestic crude oil production resulted from stripper wells, which produce 10 barrels per day or less. Economic incentives have contributed to the leveling-off of the decline in domestic crude production and such incentives will continue to provide operators with the impetus to continue to obtain at least 1.1 million barrels per day from stripper wells.

Gas production and the development of synthetic fuels for the future would decline under legislatively-imposed price controls. Further, lower crude oil prices result in a decreased level of exploration and when domestic drilling declines, much needed natural gas found in association with crude oil is unavailable. Moreover, the price of crude oil must be sufficient to stimulate investment in large scale, long-term replacement supplies in the form of synthetics, such as gasified coal.

Attempts to measure the actual relationship between price on the one hand and supply and demand on the other is still a very imprecise science. Domestic oil production does suffer most from low crude oil prices and efforts to continue sound conservation are also hampered. Ultimately, the American consumer pays the price. Increased domestic production employed in conjunction with sound energy conservation will reduce foreign oil imports and the consequent burden on the balance of payments and the nation's security.

Since 1970, U.S. oil imports have grown considerably. In that year, FOB imports of oil were 3.6 million barrels per day and cost $2.9 billion. By 1973, imports had reached 6.7 million barrels per day and cost the nation $8.1 billion. The increased prices for foreign (i.e., OPEC) oil might bring the 1974 FOB U.S. oil import bill, for 6.7 million barrels per day, to $23.2 billion.

Last month, for example, the U.S. balance of trade returned to a deficit position. U.S. exports lagged U.S. imports by $171.3 million, largely due to increased costs of oil imported. The best means of reversing this deficit is to produce more domestic energy. Artificially lowering oil prices will result in an increase of both our oil imports and our balance of trade deficit. Should such imbalances significantly increase, the world monetary impact could become severe. This cycle must be avoided.

American exports of capital goods and farm products will not be able to entirely compensate for the increase in the cost of oil imports. In the long run, the American consumer will suffer more from great increases in the oil import costs than he would under higher domestic prices. If existing oil prices are legislatively rolled back, or ceilings are imposed on oil prices, the absence of a price designed to insure sufficient domestic oil exploration might keep domestic production from staying at the existing level of

production or growing to the necessary level by 1980.

A greater level of domestic production will reduce the nation's level of dependence on oil from foreign sources, and move the U.S. toward Project Independence's goal of self-sufficiency in energy. Reliance on domestic energy can keep the U.S. from being placed in a position where potentially hostile suppliers can endanger our economic security and circumscribe our latitude in foreign policy. Further, increased U.S. imports may strengthen the power of the OPEC cartel. It also potentially places the U.S. directly in competition with the other OECD countries for scarce energy supplies.

To summarize, a legislatively directed price ceiling on domestic crude oil prices or a repeal of the stripper well exemption could:

(1) cause further export of U.S. capital;
(2) decrease U.S. refinery expansion;
(3) decrease U.S. stripper well production;
(4) decrease U.S. natural gas production;
(5) slow down development of synthetic fuels;
(6) reduce current production levels;
(7) increase U.S. balance of trade deficit;
(8) aggravate the world monetary situation; and
(9) deter U.S. efforts to achieve energy self-sufficiency.

For these reasons I respectfully seek your support in avoiding floor amendments which would either impose price controls or repeal the existing stripper well exemption.

With warmest regards,

WILLIAM E. SIMON.

That is the end of the quotation and the end of the letter.

I think Secretary Simon makes a very powerful argument and an unassailable case against the kind of amendments which may be offered on the floor to the pending legislation. I urge my colleagues' attention to the arguments so logically set forth by Secretary Simon.

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

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

Mr. FANNIN. Mr. President, we hear so much today about the excess profits of oil companies, and we are all concerned. I should like to try to determine what has actually happened and what are the facts involved.

An article which recently appeared in Fortune magazine explores the current hullabaloo about oil company profits.

Among the points made by author Carol J. Loomis is that 1972 median oil company profit return was 9.4 percent—and that year is termed "pretty grim." Even after profits began to climb toward a healthy percentage, "a main reason that the oil companies were never prosecuted as an oligopoly may have been the obvious one. They simply never earned what an oligopoly would be expected to." In addition, recent price increases for crude oil are attributed to "one overwhelming circumstance: the great pull exerted on domestic prices by foreign crude."

The article points out that in light of the need for vastly stepped up domestic exploration and development of crude oil, "the arguments for allowing price to work its incentive are very persuasive."

Mr. President, I commend this article to the Senate in its consideration of S. 3267 and 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:

[From Fortune, April 1974]

OIL COMPANY PROFITS

(By Carol J. Loomis)

New York theatergoers settling down nightly to enjoy the much-acclaimed production of Eugene O'Neill's *A Moon for the Misbegotten* probably do not expect to find in that decades-old play a reminder of today's energy crisis. But there it is, opening the second act. "Down with all tyrants!" bellows the character called Phil Hogan. And then: "God damn Standard Oil!"

The audiences love it; invariably there is laughter, and sometimes applause. For Hogan's curses, though aimed at a company that has long since been chopped up by the antitrust laws, catch the mood of a lot of Americans in 1974. Their sudden fury at the oil companies, reflected also in hundreds of editorials and cartoons, and in a whole string of congressional inquiries, is centered on the industry's profits. It seems obvious to many people that those profits are indecently large.

There is at least no question about their largeness. In 1973, the year in which the U.S. began to run short of fuel, the net profits of the twenty-four largest U.S. oil companies showed a median increase of 53 percent over 1972. And the increases are still coming along. This month, with the gas shortage likely to be still critical, the industry will begin to report first-quarter results apt to compare handsomely with those of 1973. Profits will be up even though the industry, for lack of crude oil, is producing smaller quantities of gasoline, heating oil, and other finished products than it did last year. In other words, as one U.S. Senator put it recently, the industry is "selling less but making more."

Which still leaves unanswered the question whether the profits are indecent. How, in fact, should one think about those profits? Do they constitute an impossible, unconscionable windfall—a crime, for which a fitting punishment might be heavy taxation of the oil companies, or their dismemberment, or even nationalization? Or should we view the profits as a rather extraordinary piece of good news—as a sign that the industry will, after all, have the means to help the country move toward self-sufficiency in energy?

There are no definitive answers to these questions—or, rather, each answer has a certain validity to it. To better appreciate this paradoxical state of affairs, it will pay to get a perspective on the trend of oil-industry profits in recent years, and also on the reasons for their recent explosion.

THOSE BORING YEARS

It is worth recalling that not too long ago—indeed, as recently as 1972—the industry's profits were capable of exciting little but boredom. Oil-company executives have talked a lot about those boring years recently, laboring to make the case that today's fancy profits, if they are to be judged fairly, must be considered together with the poor profits that went before. Sometimes, in these descriptions, the industry has come out sounding like a long-run disaster. That would be overstating the case; still, it is clear that, by some critical measures, profits were a bit below par.

That is certainly true so far as the major part of the industry—"Big Oil," as the cartoonists now label it—is concerned. FORTUNE's annual report on the 500 largest industrial corporations always includes figures showing return on stockholders' equity, the most meaningful profit indicator; and these figures show the oil industry to have been typically a just-below-average performer. In seven out of the ten years ending in 1972, the median return for the twenty to twenty-five petroleum-refining companies in the 500 was below the median for the entire 500. In the other three years, the petroleum group was above the average. In most years, the difference between the two medians was not enough to talk about. Even in 1972, a year the industry tends to describe as pretty grim, the median for the whole 500 was 10.3 percent, the median for oil fairly close behind at 9.4 percent. The best return in the industry that year was Ashland Oil's 13.5 percent, the worst, Occidental Petroleum's 1.3 percent.

If these profits figures do not suggest a disaster, they *do* suggest plainly that the industry was at least competitive. It was not extracting anything like monopoly profits from the public in the years through 1972. Competition appears to have forced oil companies to pass along to the consumer, through lower prices, the tax benefits provided by the depletion allowance. Had the industry somehow managed to keep these special benefits for itself, its returns would inevitably have been higher than the industrial average.

A MODEST RETURN OFFSHORE

Some other conspicuous details support the notion of a competitive industry. Gasoline-price wars, which plagued the industry through 1972, and even to a small extent in 1973, were certainly conspicuous and worked to chip away more or less continually at the industry's refining and marketing margins. Another critical detail concerns returns on offshore drilling, which appear to have been very low. For example, Walter J. Mead, professor of economics at the University of California, Santa Barbara, has analyzed the success of oil companies in exploiting the relatively large offshore leases that they obtained in 1954 and 1955, and has concluded that the companies making the winning bids will manage to earn only about 7.5 percent, *before* taxes, on their investment.

Finally, and setting statistics aside for a moment, it is just obvious that one of the fabled figures in the folklore of business, the southwestern oil tycoon, became a good deal less visible in the 1960's. The Clint Murchisons and H. L. Hunts, who had built up great fortunes in the 1950's and before, seemed to have no successors.

Not everyone agrees that the oil business has been competitive. Some who have studied it object that the industry is known to engage regularly and matter-of-factly in a raft of practices that would suggest collusion and might seem to render competition impossible. The oil companies seem at times to have almost a patent on the joint venture; they have combined with each other to form foreign production and marketing companies, to bid at lease sales, and to own pipelines. The major international companies have, of course, collectively bargained with the Arabs, but in this case it would seem to be obvious that getting together is no guarantee of success. "If we are a cartel, as many people claim," says one oil executive, "we are either a noble or a stupid cartel."

There are still other practices that the industry's critics view as anticompetitive, however. The companies swap oil back and forth like bubble-gum cards. And for many years, the companies lobbied successfully for a system of import controls that kept low-priced foreign oil from entering the U.S. Over the years, critics have found in all these practices justification for calling the oil companies—or, sometimes, just the majors among them—an oligopoly. The Federal Trade Commission, in fact, last year charged the industry's eight largest companies with

being just that, launching a major suit to cut them in size.

But the Department of Justice has never attacked the industry on any such grounds. In part, no doubt, the department was inhibited by the fact that the antitrust laws it administers are well suited to the pursuit of monopolies, but much less so of oligopolies. The political clout of the oil industry has long been recognized as formidable, and that, too, may have helped to fend off the Antitrust Division. In addition, the oil companies now seem to have a well-defined foreign-policy role. Recent congressional hearings have made it clear that both Justice and the State Department were consulted before the oil companies began to bargain collectively with the Arabs, and that both supported the companies in this role.

But when all is said and done, a main reason that the oil companies were never prosecuted as an oligopoly may have been the obvious one. They simply never earned what an oligopoly would be expected to.

BUYERS WITH THE JITTERS

The oil industry's negotiations with the Arabs, which led in early 1971 to the Tehran Agreement and to increased tax and royalty payments by the companies, were a dramatic sign of change in the business. But the drama did not at first extend to the companies' operating results; the industry had been for many years in a buyers' market and through 1972 it stayed there. In 1973, however, it made a complete turn, moving into a sellers' market of enormous strength.

Three circumstances, in particular, brought about the shift. First, demand for petroleum products was fortified in 1973 by the great worldwide economic boom. Second, the increased demand impinged on a supply situation that was uncomfortably tight, in part because U.S. production of crude oil had in 1970 stopped climbing and begun to drop. Third, the supply outlook had become further clouded by the posture of the main Arab producing countries. New "participation" agreements, signed with the international oil companies operating in their lands, forcibly conveyed an intention to tighten Arab control over the flow of oil.

The agreements, effective January 1, 1973, in Saudi Arabia, Kuwait, Abu Dhabi, and Qatar, made these countries partners in the production of their own oil. Each country got an initial partnership interest of 25 percent, with this share scheduled to rise to 51 percent by 1982. The companies (or their affiliates, such as Aramco in Saudi Arabia) kept the reciprocal interest—i.e., 75 per cent to begin with, 49 percent eventually. From the countries' new share of output, specified portions of oil were to be sold back to the companies. For this "buy-back" oil, the companies were to pay a relatively high price—a price higher than the cost to them (which is mainly royalties and taxes paid to the countries) of the "equity" oil they were still getting directly.

All this left the internationals aware that they had lost some ground in the Mideast and also apprehensive about future demands the Arabs might make. In addition, a case of the jitters overtook their major customers, who saw in these events a reason to be anxious about their future supply of oil. Among these customers were a good many large crude-short U.S. oil companies. Beginning in May, when the U.S. lifted the oil-import controls that had been around for nearly two decades, these companies joined the great army of buyers who were roaming the world trying to tie up a long-term supply of crude.

All these circumstances—strong demand, tight supply, and anxious buyers—had some predictable effects. First of all, the market price of foreign crude oil began to rise, and up with it went the revenues of the internationals. In some important producing countries—Venezuela, for example—the rising market price was closely matched by increases in the royalties and taxes due the government; there the companies gained very little in profits per barrel. In the Mideast, there was also some escalation of "posted" prices, on which royalties and taxes are calculated, to reflect the devaluation of the U.S. dollar. But this escalation did not keep up with the rise in market prices—at least, it did not for a good while. And so the companies operating in the Mideast began to make more on each barrel of oil sold.

THE BONANZA THAT DIDN'T LAST

Consider, for example, the trend of prices in one major grade of oil, Saudi, Arabian light. At the beginning of 1973, its market price was probably running just under $2 a barrel (the figure must be estimated, for the oil companies do not reveal it); at that price, the companies would have had a profit of about 35 cents per barrel. But by late summer the market price was more like $2.85; and that level implied a profit on equity and buy-back oil combined of about 80 cents a barrel. Had a company like Exxon, which then had a claim on three million barrels per day in the Mideast, managed to make this full difference of 45 cents per barrel, the addition to profits every day it did so would have amounted to $1.35 million!

Although the company could not have made that much for very many days, it almost certainly made a lot. To some extent, however, the additional profits did not show up in the Mideast. That is, much of Exxon's oil was being transferred to its own affiliates at prices that lagged behind the actual rise in market price. This technicality gave the affiliates what was in effect "cheap" crude and thus tended to increase their profits. It is also true that at least some of Exxon's oil would have been going to customers on long-term contracts, and on these the full market price probably could not be realized. Nevertheless, it is clear that in this period Exxon and other oil companies were doing extraordinarily well on Mideast crude.

It was too good to last. By September, each of the four countries that had only recently signed new agreements had told the oil companies of their intention to renegotiate. They also proclaimed their determination to capture a much greater part of the market price for themselves, and their unwillingness to let the oil companies maintain their recent level of profits on Arab oil. In mid-October, with no new agreements yet negotiated and market prices still rising, the countries unilaterally raised their posted prices. The oil companies' royalty and tax costs were thus pushed nearer the market price, and the profits per barrel were reduced.

By how much were they reduced? This turns out to be a question involving some very special and bizarre considerations. Another message from the Arabs in the early fall had concerned that buy-back oil, which was then passing from the host countries to the companies, and from them into the market. The price of this oil, the Arabs said, must be renegotiated upward, to take into account the sizable increase in market prices. Furthermore, said the Arabs, the adjustment of the buy-back prices could not await the conclusion of negotiations; it would have to taks effect immediately.

This Arab demand, on which negotiations soon began, left the oil companies faced with a remarkable situation. Buy-back oil was still coming to them, but at a price that was completely up in the air. What, then, should they do about figuring current profits? If these were to be stated accurately, they must reflect the increased cost of buy-back crude. But what would this cost be?

The five U.S. companies most affected by these problems — Exxon, Mobil, Texaco, Standard of California, and Gulf—do not all seem to have solved them in exactly the same way. Generally, however, they made efforts to judge how the negotiations might eventually turn out, and, sometime in the third quarter, began to assume—and to accrue on their books—higher costs for buy-back oil (trying, meanwhile, to recover these estimated costs in the market). The third- and fourth-quarter reports of these companies, then, reflect a large component of "judgment." Since their judgments may have varied considerably, their reported 1973 earnings gains may not have been at all comparable.

None of these companies is the least bit interested in revealing the assumptions they have made about these costs. To reveal the figures they are accruing would presumably suggest what they might be willing to settle for in the negotiations—which, last month, were still going on. However, a piece of information released by Exxon at a press conference this January indicates that it, at least, was estimating the new costs to be rather high. Seeking to defend the company from charges that it had somehow encouraged price rises in order to profit from them, J. K. Jamieson, the company's chairman, said that average profits per barrel of Mideast crude had declined from 32 cents in 1972 to 25 cents in 1973. Considering the favorable trend in profitability of this oil during the first two-thirds of the year, there is no way to reconcile these numbers unless one assumes that, in the last third, the company took a very bearish view of the buy-back negotiations.

A HAPPY SWIM DOWNSTREAM

Jamieson's figures might also be eyed from another perspective. Exxon reported that its 1973 Eastern Hemisphere profits (which of course included its Mideast-crude results) rose by $454 million, or a sensational 83 percent. How, in the face of that lower profit per barrel of crude, can the company have done so well?

The answer appears to have several parts. First, the devaluation of the dollar last year had the effect, for most companies operating outside the U.S., of increasing the translated value of foreign profits. After some rather complex adjustments, Exxon figured its gain to have been about $150 million, most of that attributable to European operations.

More important to Exxon, as to the other international oil companies, the sellers' market of 1973 gave a large lift to profit margins in the so-called "downstream" operations—i.e., refining and marketing. In Europe these operations had for years made almost no money. In 1973, despite price controls in most countries, a great firming of product prices turned these operations into very decent moneymakers.

A LITTLE HELP FROM ACCOUNTING

Aside from the firming in the marketplace, accounting breaks may also have benefited downstream operations. The integrated oil companies are, of course, constantly, making intracompany transfers of oil and refined products, and they have a considerable ability to shift profits where they want them. Tax considerations have traditionally encouraged the companies to keep profits concentrated in their producing affiliates rather than in their refining and marketing subsidiaries, and that circumstance may help to explain why the profitability of these subsidiaries had in the past run so low.

But, in 1973, with the Arabs increasingly agitated about the profits being made on *their* oil, the companies had an incentive to minimize their showing in the Mideast; and that may explain, to some extent, why the downstream operations suddenly began to do better. As we have seen, some of the crude

that Exxon's downstream subsidiaries were getting came at below-market prices. The impact of these bookkeeping transactions should not be exaggerated, however. The main point about those European refining and marketing operations last year is that a buoyant market propelled them into a very respectable profit position.

A somewhat different process was unfolding in the Western Hemisphere. In the biggest market, the U.S., the output of refined products was up strongly, and this increase naturally helped profits. For some companies, it also helped margins. But others found that the extraordinarily high rates at which their refineries were operating created strains that worked, ultimately, to hold down margins.

Price controls were clearly a restraining influence on profits. Refiners were allowed to pass through their costs on all purchased crude, but toward the end of the year they were allowed to do this only once a month. This created a lag that had a bad effect on profits. On the other hand, both refining and marketing operations were enormously helped by the general absence of price wars, which may be said to have been replaced by wars between citizens trying to get gas.

On balance, it is probably fair to say that 1973 was a good year for downstream operations in the U.S. It was, for example, a great year for Clark Oil & Refining, a Milwaukee company that has almost no crude output of its own, but instead makes—or, in a bad year, doesn't make—its money almost entirely from refining and marketing. Last year its profits rose 266 percent over 1972.

THE CRUDE FACTS OF LIFE

Meanwhile, the prospects of domestic crude producers were being sharply transformed last year. At the beginning of the year, average U.S. crude prices at the wellhead were $3.40 a barrel; at the end of December, they were $6.50. This rise, it should be noted, took place in a price-controlled environment, and under the eyes of government officials desperately anxious to hold down petroleum prices. They were unable to do so because of one overwhelming circumstance: the great pull exerted on domestic prices by foreign crude.

This drama in oil, versions of which were played out in many other industries during 1973, had a certain economic inevitability to it. A two-tier system, in which foreign oil sells at a much higher price than domestic oil, is almost impossible to maintain—or, as Washington's price controllers are fond of saying, it is "destabilizing." For one thing, domestic producers, unless prevented from doing so, tend to export their oil. Or they may simply leave it in the ground, waiting for a better deal.

The problems of 1973 were not very well perceived as the year began. Average prices for crude imports were then only $3.34 a barrel, or a few cents below average U.S. prices. The U.S. was still stubbornly hanging on to its import controls, determined as in the past to hold down supply and keep domestic prices up. But the market equation was at that very moment shifting, from oversupply to undersupply. By May, a shortage of U.S. crude had forced the government to abandon the import controls.

And by August, the Cost of Living Council was looking at a price situation that was rather obviously destabilizing. U.S. crude prices had been allowed to rise to an average of $3.86 a barrel. But import prices had sailed past that. Saudi Arabian light, for example, was coming into the U.S. in sizable amounts at around $4.35.

With a mandate to hold down prices, but recognizing that something would have to give, COLC reacted by creating a two-tier system of its own. First of all, it designated part of U.S. production "new oil" and decontrolled its price. New oil was to mean any output of crude in a given property in excess of the output a year earlier. If, for example, crude production from Property A was 11,000 barrels per day in September, 1973, and this contrasted with 10,000 barrels in September, 1972, the incremental 1,000 barrels were deemed to be "new."

Furthermore, in an effort to sweeten the pot for anyone trying to expand output, an equivalent amount of "old oil" from the property was treated as new. So, in the case of Property A, a total of 2,000 barrels would escape price controls. COLC also allowed certain rises in the ceiling price on old oil, and by November the average U.S. price for old oil had gone up to $4.25. That same month Congress added a wrinkle of its own, decontrolling the production from "stripper" wells—i.e., those producing ten or less barrels a day.

The August changes had their expected and hoped-for effects. The price of new oil jumped to, and began to follow, or even sometimes lead, the level of import prices. Drilling activity also jumped. In short, the COLC's strategy of bringing out new supply seemed to be working.

But unfortunately for another part of that strategy, foreign prices kept right on rising, kicked up in part by the celebrated Arab actions of October: a cutback in production, plus the embargo on shipments to the U.S. By the end of November, the average import price was above $6 but the weighted average of domestic crude was only about $4.70—even though one-quarter of U.S. production was now decontrolled. Once again, the two-tier system looked to be in trouble. So, on December 19, the COLC made the big move: it raised the ceiling price of old oil by a whole dollar, to an average of $5.25.

But even this bonanza for the crude producers failed to restore stability to the U.S. price structure. Foreign crude prices had by now acquired a momentum that seemed unstoppable. By the end of the year, foreign imports were averaging $9.50 a barrel, far above the weighted average of U.S. prices, at $6.50. And so 1973 ended with COLC still in trouble on the oil front.

"IT WASN'T THE AMERICANS WE WERE ROOKING"

It also ended with the oil companies' profit returns looking no longer "just-below-average." The petroleum-refining companies in the Fortune 500 had a median return on equity in 1973 of 13.9 percent, and that result seems likely to place the group in the top third of all industries in this year's 500 (to be published next month).

Behind the industry's 1973 profits are some anatomical details that deserve a little summarizing. For those companies operating mainly in the U.S., the improved downstream results were very important, and crude operations too got more profitable as the year wore on. But the key developments in crude came too late in the year to have a really large impact on 1973 profits. In companies with large foreign operations, the profit growth abroad during 1973 invariably outstripped the growth at home. For example, Exxon's U.S. profit gain was only 16 percent, far below that 83 percent in the Eastern Hemisphere. The devaluation of the dollar was clearly one reason for the general superiority of foreign operations; looser price controls abroad may have been another.

Nevertheless, considering the hostility that the companies have been facing in the U.S., it was a convenient time for them to be making bigger profits abroad than at home. It is possible that the oil companies' accounting departments even contributed some to the outcome. Certainly, the international companies have wasted no opportunity in the last few months to stress the fact that their big gains came from foreign soil. An informal summary of their line would be: "It wasn't the American people we were rooking, it was those guys overseas."

Now that strategy seems about to backfire. For the big story of 1974 is likely to concern the profits coming from U.S. crude. The essential fact about the oil industry today is that it is possessed of a huge inventory of low-cost oil that is now salable at prices that once were beyond the industry's dreams.

This inventory is mainly in the ground, of course, and its size—i.e., the size of the industry's oil reserves—is currently a matter of some dispute. Many critics of the industry believe it has understated those reserves, and thus deliberately added to the crisis atmosphere surrounding the supply of energy. The industry denies following any such strategy. And if there is understatement, some companies say, the Securities and Exchange Commission clearly deserves part of the blame; for the commission has traditionally warned companies not to be overexuberant in stating their reserves (though the commission claims it has also warned against underexuberance).

A $1,000 BILLION INVENTORY GAIN

In any case, there is a lot of oil down there. At the start of 1973, proved reserves, which may be thought of as the oil ready for use, amounted in the U.S. to 36.3 billion barrels. That does not allow for oil lifted since then or for new reserves "proved up." But assuming 36.3 billion barrels of reserves and a continuation of last year's production rate of around 3.3 billion barrels, there is just about an eleven-year inventory in the ground. And much of this—though nobody knows quite how much—is in the hands of major U.S. companies.

Now, as an article in the March FORTUNE ("Profits Aren't As Good As They Look") stressed, inventory profits often give a misleading picture. In appraising them, it is necessary to remember that the inventory which has just been sold at inflated prices must also be replaced at inflated prices, and this may hurt future profits. But inventory profits are still money in the bank, especially so for an industry with an *eleven-year* inventory.

The truth of that statement may be appreciated by an examination of a few economic facts. As recently as last summer, it will be recalled, the industry was pulling some of its domestic oil out of the ground and selling it, presumably at a profit, for an average of $3.86 a barrel. Last month, with the price of new oil at about $10 (and applicable to 29 percent of U.S. production), the weighted average price of domestic oil was $6.63. So figure a gain of about $2.75 a barrel. Applying that to last year's figure of 36.3 billion barrels in the ground gives you—or, rather, gives the U.S. oil industry—just about $100 billion. Not bad.

Furthermore, a lot of that $2.75 per barrel can be brought straight down to profits, for the additional costs that go with the additional revenues are not very large. Clearly, for example, it costs no more to "lift" a $6.63 barrel of oil than it does a $3.86 barrel. Essentially, the only additional cost to the companies is the increased royalty due the landowner from whose property the oil is taken (and from whom the oil company leases the right to drill). Royalties are commonly one-eighth of the wellhead price of oil produced onshore, and one-sixth offshore (where the "landowner" is usually the U.S. government). Thus, for example, a one-sixth royalty on $3.86 oil is about 65 cents; and on $6.63 oil it's $1.10.

Except for income taxes and certain state taxes, the royalty differential is the only part of the $2.75 that isn't pure gravy for the companies. And income taxes are held down by the depletion allowance, which shelters up to 22 percent of gross income from the taxes. (The depletion allowance cannot exceed half the profits on a property; thus the full 22 percent is taken only when the producer has at least a 44 percent margin.) A rise in the wellhead price, therefore, actually increases the benefit provided by the depletion allowance.

Allowing for everything, that added $2.75 in revenue translates into perhaps $1.40 in net profit. Or, to deal in the magnitudes the oil industry does, the added profit would be $140 million for every 100 million barrels.

Exxon, the largest domestic producer, lifted about 325 million barrels of oil in the U.S. last year, and even such non-majors as Sun Oil and Union Oil did between 95 million and 110 million apiece. So it is clear that, if these gains were brought down quickly to earnings, they would have an astounding impact. But, in fact, the speed at which these are realized will be governed by many considerations, among them the companies' policies in accounting for inventory—which are generally conservative in the U.S.

In addition, the profits coming in from domestic crude this year will be offset to some extent by costs the industry will incur to acquire new inventory. These costs are way up—which should not, of course, be surprising because high prices normally imply higher costs. Still, bids on offshore leases have been running very high, hitting a record $37,000 per acre in one recent instance. And a government lease sale of oil-shale lands in January drew bids that left much of the industry gasping.

STILL LEANING ON "JUDGMENT"

There are still other negatives bearing on oil profits in 1974, among them two circumstances that last year worked generally in the industry's favor. In the U.S., refinery operating rates have recently been way down because of the shortage of crude; the effect on earnings is clearly adverse. For the international companies, the strength of the dollar is also an unfavorable factor; if it remains strong, the translated value of foreign profits in the companies' 1974 reports will be reduced accordingly.

Nor should it be forgotten that the internationals are still negotiating with the Arabs, and still do not know the price of buy-back oil. Worse still, the uncertainty has been extended to the *amount* of buy-back oil there is to be. Doubts on this matter have arisen because it is now clear the Arabs are after a much larger "participation" than the 25 percent called for in last year's agreements.

A settlement recently worked out between Kuwait and two companies, Gulf and British Petroleum, calls for that country to get a 60 percent participation, retroactively effective to January 1, 1974. The settlement may set the pattern for others. Then, again, it may not; the Kuwaiti national assembly has not yet ratified the deal, and talk of a 100 percent take-over persists in that country and others, including Saudi Arabia. In any case, the Kuwaiti negotiations did not settle the question of how much buy-back oil Gulf and B.P. were to get, or at what price. Those points were still being debated last month.

In sum, the international companies confront even more uncertainties in 1974 than they did last year. Some of the companies were recently expressing a fervent hope that matters would be settled by the time their first-quarter reports are due. If they are not, look for these reports once again to be floating on "judgment."

AND IF THE ARABS TAKE IT ALL

The questions about Arab intentions make it hard to get a line on 1974 earnings prospects and, for that matter, on long-term prospects. The international oil companies must consider at least the possibility that they will emerge sooner or later with no direct stake in Mideast crude production.

There is a school of thought that says the companies could continue to do just fine in any such situation. The Arabs, so the argument goes, would still need the companies' expertise and would secure it by providing them with oil. Thus supplied with product, but deprived of profits on production, the companies would compensate by forcing up their margins on refining and marketing. Indeed, they have already done this to an extent, and many people seem to think more gains are possible.

An opposing argument holds that there is simply no substitute for direct access to rich resources of crude, and that nothing the companies could do would ever quite make up for this loss. "I have no doubt," says John Lichtblau, a well-known consultant to the petroleum industry, "that the companies can build up their downstream margins, but you have to remember that refining is a business that competitors can enter fairly easily. All it takes is money. The big plus that the internationals have had up to now has been access to huge amounts of low-cost crude. That was something special, and it's going."

Perhaps the thought to be drawn from this argument is that almost anybody could be right; there is just no way to gauge what is going to happen. Support for *that* uncertain conclusion came recently from an Exxon executive who was asked what one word might best describe the company's attitude toward its Mideast problems. Was management scared? Apprehensive? Optimistic? He said he thought twelve different executives might give twelve different answers. His own candidate: "concerned."

Arab intentions are not the only large uncertainty hanging over the oil companies' profits in 1974 and beyond. Congress appears bent on doing something about the industry's profits, but it cannot seem to decide what. Its record thus far includes discarding the idea of an excess-profits tax at the corporate level, failing to override the President's veto of a price roll back on "new" crude, and sitting on the Administration's proposal of a windfall-profits tax on all crude. As of mid-March, the House Ways and Means Committee seemed to have settled on some sort of attack on the depletion allowance; but that proposal, too, may encounter roadblocks.

Given this enormous uncertainty, plus those coming out of the Mideast, most Wall Street analysts are not rushing to make earnings forecasts for the year. For that matter, some oil companies—Mobil is one—say they cannot even begin to make profit plans internally. This leaves very unsettled the question of where the industry will rank at the end of *this* year in the 500 standings. But it may be said with near-certainty that profits will be up, perhaps by a good bit, and that is clearly more than can be said for most other industries. There seems a strong possibility, then, that oil is on its way to a rank near the top in the industry standings.

REVERSING GEORGE MCGOVERN

Which all gets back to the question of whether such profits are indecent. The main argument for saying they are turns on the problem of income redistribution. Every 1-cent rise in the price of a gallon of gasoline costs U.S. consumers close to $1 billion annually, and delivers a corresponding amount to assorted representatives of the petroleum industry—e.g., the Arabs, the U.S. landowner, the service station, the oil companies. This shift in income seems, in general, to be from the poor to the rich. And so it might seem to create a prima facie case for holding down oil prices—and, by extension, for holding down oil profits to "decent" levels.

Economist Arthur Okun, for one, has strenuously protested proposals that oil prices be allowed to seek their natural level—i.e., the "market-clearing" level at which supply and demand would balance and, of course, the oil companies would be cleaning up. To go that route, Okun says, would leave the country stuck with "a reverse McGovern plan." George McGovern proposed during the 1972 presidential campaign to extract $50 billion in additional taxes from the rich and distribute it to the poor. Decontrol of oil prices, Okun says, could shift $50 billion to the rich! (Okun's $50 billion, it should be mentioned, is only his rough estimate of what the additional oil bill for the economy might be this year given free market prices; the figure cannot be known for certain.)

The income-redistribution problem should not be overstated. The ultimate beneficiaries of a rise in the oil companies' profits are their stockholders; and though these include some people named Rockefeller, Getty, and Mellon, they also include a lot of pension funds, educational institutions, and plain, ordinary investors. Still, the redistribution problem is real, and it has been getting a lot of attention from economists lately. Some seem to have concluded that it must ultimately be solved outside the framework of oil prices.

DOES THE INDUSTRY NEED THE G.N.P.?

Arrayed against the critics of the oil industry are those who see its profits as the means by which the country is to be provided with ample new supplies of fuel. The oil industry, of course, has been protesting for months that it needs hefty profits now as never before. These are absolutely essential, the industry says, if it is to play the major role asked of it in carrying the U.S. toward self-sufficiency in energy.

The industry cites a need to generate tremendous amounts of capital, often turning for support to a well-publicized forecast made by the energy-economics division of the Chase Manhattan Bank. Coming up with a number that about equals the size of the U.S. gross national product, the forecast says that by 1985 the free-world oil industry will have to generate, in one way or another, $1.35 *trillion* to meet its financial needs.

The "free-world oil industry," however, turns out to include a lot more than private companies. It includes, for example, the national oil company of Saudi Arabia, whose ability to raise the necessary capital for just about *anything* need not be called into question. The $1.35-trillion figure also includes more than capital expenditures, taking in such items as dividends, debt repayment, and additions to working capital.

The most pertinent line of inquiry would appear to concern the capital expenditures to be needed by the U.S. companies included in Chase's survey. As it happens, Chase has not made a forecast for these companies. However, their capital expenditures during the last ten years totaled around $115 billion, and there is some reason to think that rate of expenditure will be more than doubled, and perhaps tripled in the next decade. Ironically, of course, the enlarged role that the Arabs have been taking in the production of their oil is tending to reduce the capital needs of these companies.

Whatever figures one uses, it is surely clear that the industry will need a large supply of capital and will require some handsome profits to get it. At the moment, the returns are indeed handsome and are doing their considerable bit to build up retained earnings. Eventually, they should also provide the underpinnings for some oil-company trips to the equity market.

Good returns will also facilitate the industry's borrowing, which in the last seven or eight years has been quite heavy. Even so, most of the large oil companies have debt ratios of 20 percent or less, which for a capital-intensive industry is not much. The logic of the situation points to further heavy borrowing, and one might suppose that the oil companies would be out there supporting the view that they are not heavily leveraged. But some oilmen, at least, seem more anxious to portray themselves as all borrowed up and therefore in great need of the equity provided by their rising profits.

Reacting recently to a suggestion that Exxon's debt ratio of under 20 percent was moderate, Chairman Jamieson quickly pro-

tested: "Oh, yes, but don't forget about our off-balance-sheet financing. With that, we go up to 45 percent." That comment, referring to tanker leases, among other items, is notable for having been volunteered. There may never have been another company that so eagerly owned up to its off-balance-sheet financing.

An equally crucial question in the debate about windfall profits concerns the elasticity of short-term supply. If supply does not respond to a rising price in the short term, then William Simon and his colleagues at the Federal Energy Office are better able to argue against a totally freed price. The FEO does in fact assume that, in the short run, i.e., the next two or three years, only the Arabs have a capability to provide the oil Americans want. In effect, then, the Arabs have a lock on our price structure. With prices being set from abroad, Simon believes it is just fanciful to talk as though the classical market mechanism can work.

And yet here again it turns out that the critical details are lacking. The article on page 104 argues that supply can in fact be raised rapidly and substantially if U.S. producers have the price incentives—that, in fact, our domestic supply of oil can be raised by 40 percent within three years (which is more than six times the gain the FEO is projecting). As long as that scenario seems a possibility, the arguments for allowing price to work its incentive are very persuasive.

Mr. FANNIN. Mr. President, I should like to cover a few of the highlights in the article:

It is worth recalling that not too long ago—indeed, as recently as 1972—the industry's profits were capable of exciting little but boredom. Oil-company executives have talked a lot about those boring years recently, laboring to make the case that today's fancy profits, if they are to be judged fairly, must be considered together with the poor profits that went before. Sometimes, in these descriptions, the industry has come out sounding like a long-run disaster. That would be overstating the case; still, it is clear that, by some critical measures, profits were a bit below par.

That is certainly true so far as the major part of the industry—"Big Oil," as the cartoonists now label it—is concerned. FORTUNE's annual report on the 500 largest industrial corporations always includes figures showing return on stockholders' equity, the most meaningful profit indicator; and these figures show the oil industry to have been typically a just-below-average performer. In seven out of the ten years ending in 1972, the median return for the twenty to twenty-five petroleum-refining companies in the 500 was below the median for the entire 500. In the other three years, the petroleum group was above the average. In most years, the difference between the two medians was not enough to talk about. Even in 1972, a year the industry tends to describe as pretty grim, the median for the whole 500 was 10.3 percent, the median for oil fairly close behind at 9.4 percent. The best return in the industry that year was Ashland Oil's 13.5 percent, the worst, Occidental Petroleum's 1.3 percent.

If these profit figures do not suggest a disaster, they *do* suggest plainly that the industry was at least competitive. It was not extracting anything like monopoly profits from the public in the years through 1972. Competition appears to have forced oil companies to pass along to the consumer, through lower prices, the tax benefits provided by the depletion allowance. Had the industry somehow managed to keep these special benefits for itself, its returns would inevitably have been higher than the industrial average.

Mr. President, we all want to solve the energy problem. We know that it is going to take a great incentive to do so. The oil companies are not going to take the risks involved unless there is a chance for a reasonable return.

The Chase Manhattan Bank has issued figures stating that the companies should have up to 18-percent profits if they are going to be able to reinvest the amount needed to produce the energy required to make our country self-sufficient in the 1980's. This is a tremendous profit, as far as some are concerned; but if that money is plowed back into exploration and development, it is a completely different situation.

The Chase Manhattan Bank estimates that it will require about $1.4 trillion to accomplish what is needed. They say that $650 billion of the $1.4 trillion should come from industry profits. Certainly that will not be possible if the profits are taxed away. But the matter that I think is in the minds of many people is whether the consumers of the country are being overcharged.

Behind the industry's 1973 profits are some details that deserve a little summarizing. For those companies operating mainly in the United States, improved downstream activities were very important, and crude operation, too, became more profitable as the year wore on. But many developments in crude came too late in the year to have any really large impact on the 1972 profit figures, and increased profits abroad during 1973 invariably outstripped growth at home. For example, Exxon's domestic gain was only 16 percent, far below the 83 percent in the Eastern Hemisphere. The devaluation of the dollar was a factor, and loosened price controls abroad may have been another.

Mr. President, what I am attempting to illustrate is that there are many factors that must be taken into consideration in arriving at a decision on this legislation. Just what is needed? What will best benefit the people of this Nation? Will we be able to get the incentives for development that are needed, and still satisfy the American people that they are not being charged too much at the service station?

We have to consider that there are great risks in drilling superdeep gas wells, and this is one of the problems that I think must be considered when we are determining whether to cut off the depletion allowance or continue to attack excess profits.

Mr. President, I call to the attention of my colleagues an article entitled "The Risks in Drilling Superdeep Gas Wells," which appeared in the May 4 issue of Business Week. It tells the story of the efforts of one company—Lone Star Producing Co.—to find natural gas in Oklahoma's Anadarko Basin. As the article indicates, this one company spent $6 million and drilled 6 miles down into the earth—in one single well—in an attempt to find natural gas to supply American consumers. And what did they find? A deposit of liquid sulfur under such tremendous pressures that it began eating away at the drill and forced Lone Star to give up its hopes of superdeep gas production.

I suggest to my colleagues that this is just one instance in which the U.S. energy industry is taking extreme investment risks in order to increase the Nation's energy supplies. At this point it would seem patently ridiculous to penalize them for their efforts, as S. 3267 would do. I read from the article:

For oilmen who had just set a record, the people at Lone Star Producing Co. were unusually somber. The company had just drilled 31,441 ft.—a scant 239 ft. short of 6 mi.—into Oklahoma's Anadarko Basin looking for gas. Instead, the bit tapped into liquid sulfur under tremendous pressure, and hydrogen sulfide began eating away at the expensive high-tensile-steel drill string. For nearly three days, the crew fought back, often wearing gas masks to protect themselves from the lethal gas. Then, suddenly, "the steel just fell apart at 15,000 ft.," says one Lone Star man, "and we couldn't control the great pressures below." The crew quickly plugged the hole at 14,000 ft., dashing all hopes of superdeep production and forcing Lone Star to face the bitter truth that record-breaking Bertha Rogers No. 1 was a $6-million flop.

That near disaster last month highlights the hazards of superdeep drilling. Yet, with gas prices at record levels, the number of wells being sunk 20,000 ft. or more in the U.S. is limited only by the steel (Bertha Rogers swallowed enough to erect a 14-story building), rigs, and crews available to drill them. Last year, according to *Petroleum Engineer*, producers completed 74 wells below 20,000 ft., up from 49 in 1972 and 57 in 1971. So far this year, some 30 or more have been drilled.

DRY WELLS

With an average cost of $2-million and a success ratio of less than 46%, these deep wells are often cited by oilmen as glaring examples of the big investments they are making to find more oil and gas. "This is what the politicians and the people need to know—the extreme risks in this industry," says Robert A. Hefner III, an independent from Oklahoma City.

More than anyone else, the 39-year-old Hefner is credited with pioneering superdeep drilling in Western Oklahoma and the Texas Panhandle. In the past 15 years, his company, GHK Corp., and Gasanadarko, Ltd., have been involved in about four dozen deep-hole ventures in the Basin. Most were dry. Sometimes even the successful holes did not pay off, says Hefner, because the price of gas was too low. "Actually, the only real payoff Bob has had is in selling some of his acreage," says one acquaintance.

It was on some of Hefner's 250,000 acres that Lone Star spudded Bertha Rogers in November, 1972, about 80 mi. west of Oklahoma City. The new drilling site was just 19 mi. from the previous record-setting hole, a 30,050-ft. well named Baden No. 1 that cost Lone Star $5.5-million—and was dry.

But the company approached Bertha Rogers hopefully, and until the very end, things looked good.

Mr. President, this illustrates exactly what has happened in many instances. The article goes on to say:

At 27,506 ft., the crew manning Loffland Bros.' towering superdeep rig was 70 days ahead of the Baden schedule. Juggling drilling tools and carefully controlling special drilling fluids, they were getting an impressive 267 ft. per bit.

DISAPPOINTMENT

Then disaster hit. At first, when the company became tight-lipped about what was going on, some observers suspected that Lone Star had hit a bonanza. But the silence actually reflected concern over the safety of the crew. When the hole was finally plugged, Lone Star announced its costly record. Some of the money may be recovered from pro-

duction at lesser depths, but there is little chance that Bertha Rogers will ever pay off, and Lone Star's minor partners—Natural Gas Pipeline Co. of America, Michigan, Wisconsin Pipeline Line Co., and Oklahoma Natural Gas Co.—will have to look elsewhere for gas.

Lone Star, for one, says it will try super-deep drilling again. "Several more wells as deep or deeper than Bertha Rogers No. 1 will be needed before the Anadarko Basin becomes a mature, commercial field, and we'll drill some of them," says one official. But as Hefner notes: "The disappointment is that Bertha Rogers didn't produce at a time when the nation needs new gas."

Mr. President, this is one of the big problems that we have today. Many Members of Congress do not understand the tremendous risk that is involved. They do not understand these people who have been in the business for years, who have drilled about 75 percent of the oil wells that have been drilled in the world.

Mr. President, an article recently published in Barron's pointed out that—

In the "lower 48" states, folks have been fretting in service station queues and business activity was faltering for lack of oil, yet here at Prudhoe Bay there are 9.5 billion barrels of the stuff, waiting to be pumped . . . for five years, while the energy crisis was building, the petroleum industry has been barred from access to North Slope oil. . . .

It was largely concern for the environment that prompted the extended delay of Alaskan development.

There is a parallel here, however. Alaskan oil is finally beginning to be developed. Now S. 3267 and similar pieces of punitive legislation in the Congress are threatening to make it so difficult and expensive to find and produce oil that we may be denied significant amounts of domestic production from all over the United States—not just Alaska. I ask unanimous consent that the article be printed in the RECORD at this point.

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

ALASKA'S NORTH SLOPE: OIL MEN ARE GETTING READY TO TAP ITS RICHES

(By David A. Loehwing)

PRUDHOE BAY, ALASKA.—Life is relatively simple here. The issues are clear-cut. For two months of the year, in summer, mosquitoes are all-important. One must get away from them or go mad, like the caribou, which often are driven to suicidal frenzies. The rest of the time what counts is the cold. Right now, it's 42 degrees below zero outside, which is seasonably mild because there's no wind. When that's blowing, the wind-chill factor sends the effective temperature down to 100–110 below, which is dangerous. Steel shatters like glass at a hammer blow. Human flesh freezes in minutes. A telephone lineman had to be flown to the hospital in Anchorage the other day because he ignored a telltale patch of dead-white skin. The wind also causes whiteouts which swirl the snow around until the horizon disappears and people become disoriented. You lurch about drunkenly, unable to find the ground with your pack-boots.

When the skies are clear, though, they're crystal-clear, and judgments tend to get simplistic. Take the energy crisis, for example. In the "lower 48" states, folks have been fretting in service station queues and business activity was faltering for lack of oil, yet here at Prudhoe Bay there are 9.5 billion barrels of the stuff, waiting to be pumped. And that is only a small fraction of Alaska's presumed reserves—in any case, enough to make the U.S. independent of the Arabs for decades to come. Nevertheless, for five years, while the energy crisis was building, the petroleum industry has been barred from access to North Slope oil by concern for the environment.

HOSTILE AND DESOLATE

To anyone who makes the three-hour flight from Anchorage to Prudhoe Bay, the incongruity of that thought is mind-blowing. What environment? This has got to be the most hostile, desolate, God-forsaken place on earth. The North Slope is a table-flat desert of ice, as vast and as arid as the Sahara, hidden away from the sight of man by a sawtoothed range of mountains so bleak and forbidding that flying over it is a terrifying experience. The jagged peaks are like granite pickets, waiting to impale the tiny plane. Worrying about the ecology here seems akin to demanding a halt to interstellar exploration for fear of littering outer space.

Whatever the merits of their case, the frustrations of the gasoline shortage drove the Friends of the Earth back into their burrows, and the oil companies have won permission to siphon off North Slope crude. The only practical way to do that is to build a pipeline, and work on the TAP (trans-Alaska pipeline) is due to get under way this spring. About 750 men already are here, building an electric generating station and setting up base camps. Heavy construction machinery will be sent by sea; when it arrives, work will start in earnest on construction of a road from the Yukon to Prudhoe Bay. Some 6,000 men are scheduled to be on the job by summer.

The pipeline will wend its way south from Prudhoe Bay, through two seemingly impassable mountain ranges, to the ice-free port of Valdez, whence the oil will be tankered to refineries in Washington and California. According to the present schedule, oil will begin to flow by the third or fourth quarter of 1977, but the line won't achieve full capacity until about 1980. About that time, work should be afoot on a second pipe to carry natural gas. Alaskan Arctic Gas Pipeline Co., a consortium of 27 energy companies, last month filed an application for permission to build such a line through Canada at an estimated cost of $8 billion. It would haul gas from the MacKenzie Delta, as well as from Prudhoe Bay.

COST HAS SOARED

Until that job gets underway TAP will achieve the dubious distinction of being the costliest privately-financed construction project in history. The current official estimate by Alyeska Pipeline Service Co. is $4.5 billion, but a spokesman says the figure "is not set in concrete, by any means," suggesting that it could go higher. In the five years since the line was first planned, there has been a five-fold escalation of the cost estimate; the tab was first placed at $900 million. The figures aren't precisely comparable, however, since the lower one was for a line capable of flowing 600,000 barrels per day, while the $4.5 billion would finance a flow of two million b/d. Boosting output is chiefly a matter of adding pumping stations.

From the viewpoint of the financial community, the TAP is a project of no small significance. One way or the other, Wall Street undoubtedly will be called upon to finance a goodly part of it—mainly through loans to its oil company sponsors, which, if it is successful in transporting the North Slope's huge petroleum resources to market at reasonable cost, stand to make a lot of money. Meanwhile, the many concerns now being tapped to do the job, or to provide services and materials for the pipeline builders, also will hit pay dirt.

Brimming with investment implications though it may be, the pipeline project offers relatively few hand-holds for purchase. The company organized to build and operate the line, Alyeska Pipeline Service Co., is wholly owned by seven oil companies. Moreover, its functions are strictly managerial; it won't share in the profits which its efforts will make possible. The only contractor named so far, Bechtel Corp. of San Francisco, also is privately-held. It will oversee both the laying the pipe and the construction of the highway. Fluor Corp., the Los Angeles-based petroleum engineering firm, expects to be the prime contractor—although no award has been formally announced—on the port installations at Valdez and the pumping stations. The job will add a few hundred millions to Fluor's backlog, currently over $2 billion. Fluor already is selling at a heady 33 times earnings.

SUBMITTED BIDS

"Everyone who is anyone in pipeline construction is angling for a piece of the TAP job," says Dennis Waldock, analyst at the Anchorage member firm of Foster & Marshall. He has compiled a list of publicly-owned companies which reportedly have submitted bids. It includes: Morrison-Knudson, Williams Cos. (in combination with Brown & Root, a Halliburton subsidiary), J. Ray McDermott, Raymond International, Santa Fe International, Sedco, Banister Continental and Reading & Bates.

Mr. Waldock also lists the following concerns expected to be active on the North Slope. Contract drillers: Parker Drilling, Rowan, Reading & Bates. Oil well tools and services: Dresser Industries, Schlumberger, Halliburton, Rucker, Smith International, Borg-Warner, Cameron Iron Works, Baker Oil Tools, Hughes Tool. Geophysical surveys: Texas Instruments, Dresser, Bendix, Viatech, Digicon. Engineering services: Core Laboratories. Oil and gas processing equipment: Combustion Engineering, Alaska Interstate and Ralph M. Parsons (which recently signed a $400 million contract with Arco to build processing facilties in Alaska). Airlines and air freight: Wien Air Alaska, Alaska Airlines, Alaska International Airline.

One of those companies, Alaska Interstate, made the Big Board's most-active list last week, plunging eight points in three sessions to drop 40% of its value. The company reported a 1973 loss of $1.7 million, which put it in non-compliance with bank credit agreements. It said the banks agreed to a waiver until June 29, by which time it hopes to negotiate a new agreement; in the interim the company must limit its borrowings to the $30.1 million now outstanding and pay a higher interest rate on that sum. The earnings deficit came as a surprise to stockholders, since for the nine months through September 30, Alaska Interstate had reported net of $2.9 million, or 87 cents per share. No explanation of the sudden plunge has been forthcoming from management. The firm's chief activity in Alaska is operation of a gas pipeline in the Anchorage area.

LINE-UP MAY CHANGE

Cast in the role of supporting dwarfs to Alyeska's Snow White are the following seven oil companies, with the proportions in which each now contributes to the pipeline's cost: Standard of Ohio, 28.08%; Atlantic Richfield, 28.08%; Exxon, 25.52%; Mobil, 8.68%; Phillips Petroleum, 3.32%; Union Oil, 3.32%; Amerada Hess, 3%. Once the TAP is built, each of the seven will have access to it in the same proportions. In the initial phase, for example, when the line is carrying 600,000 b/d, Mobil will have the right to use 8.68% of that capacity, transporting 52,080 b/d. The firm may, of course, sell any pipeline space it doesn't need to any of the score of other companies that hold North Slope leases.

The line-up is likely to change before the pipe is completed; companies are known to be negotiating among themselves for larger

or smaller shares. Also, it should be noted that British Petroleum, Ltd., is a major participant via its 25% interest in Sohio, a holding which will grow to 54% when the pipeline is flowing 600,000 b/d.

The extent of a company's participation in the pipeline, it should be noted, too, doesn't have much bearing on the benefits it ultimately will derive. The all-important question is: How much oil will be found under the tundra on which each firm holds leases? On that score, Sohio claims to be far out in front. Studies by independent consultants, confirmed by its own experts, show its properties hold "more than half" of all the oil reserves in the Prudhoe Bay pool. (A British Petroleum spokesman says the actual figure is 55%.)

Atlantic Richfield and Exxon share the bulk of the remainder, according to Sohio, while something less than 10% is apt to be allotted to other firms. The latter are in two groups, one consisting of Mobil, Phillips and Standard of California, and the other—known collectively as PLAGHM, comprises Placid, Louisiana Land, Amerada Hess, Getty, Hunt and Marathon.

NATURAL GAS RESERVES

Natural gas reserves are another story. Part of the gas is mixed with the oil, and separation plants are being built at Prudhoe Bay to skim it off. Until a gas pipeline is built, it is to be reinjected into the wells. This procedure virtually guarantees that a gas pipeline will be built, since otherwise the reinjected gas eventually will block the flow of oil. The bulk of the North Slope's 36 trillion cubic feet of natural gas, however, is found in a "cap" overlying portions of the oil pool. Geophysical studies show that Arco and Exxon properties contain the bulk of it; Sohio's share will be much smaller.

The Prudhoe Bay field has been "unitized," which means that it will be exploited systematically, as though owned by one company, rather than compelling every firm with leases to move in its own drilling rigs and set up its own gathering system. British Petroleum-Alaska, as operator for Sohio, is doing all the drilling in the western half of the field, Atlantic Richfield in the eastern half. The unitization agreement has not yet been signed by the 11 companies involved, but BP and Arco are proceeding with development as though it had been; a steering committee decides where wells will be drilled, to what depth, and the like. Eventually, as the oil comes out of the main feed line, it will be split up among the companies on the basis of how much equity each has in the total reservoir, as determined by geologists.

To date, 66 production wells have been drilled in the Prudhoe Bay field, 50 by BP-Alaska and 16 by Arco. By the time the TAP is ready to go into production in 1977, it is estimated that 72 wells will be needed on each side of the field to bring production up to the stipulated 600,000 b/d. To reach the 1.5 million b/d production of which the field (as now delineated) is thought capable, another 200 wells will have to be sunk—perhaps as many as 600 altogether.

ARCO CREWS

BP-Alaska has been working steadily on its drilling program, but Arco halted its crews several years ago; it will start up again this summer. Under the extreme climatic conditions of the North Slope, wells—which go to the depths of 8–10,000 feet—cost up to $4 million each to sink. Hence, Arco officials explain, they have sought to time their drilling program to coincide with the pipeline's progress.

In order for the pipeline to reach its third-stage capacity of two million, b/d wells capable of suppling another 500,000 b/d must be drilled in areas lying beyond the main Prudhoe Bay field. Seven or eight wildcat wells currently are being drilled—or at least permits have been granted for them—and activity is expected to pick up substantially this summer. "Back in 1969, there were at least 25 rigs up here," recalls a Sohio official, "but when the pipeline permit was blocked, most of them moved over into Canada. New ones will be coming in on the barges as soon as the ice breaks up this summer."

Once the pipeline is completed, companies that discover oil outside the Prudhoe Bay field will have to lay their own gathering lines, but they need have no fears about getting the crude to market. The pipeline will operate as a common carrier, and their product will move on an equal basis with that of the line's owners, at rates fixed by the ICC on the basis of a 7% return on investment.

PIPELINE RATES

How high the rates will run depends, of course, on how much the pipeline costs. In 1969, when Alyeska officials were lobbying for TAP and against a plan to link Prudhoe Bay up to the proposed trans-Canada pipeline, they estimated the cost of delivering oil to California ports via TAP and tanker at $1.50 per barrel. That estimate, which included $1 for TAP and 50 cents for tanker transport, compared with one of $2.80 per bbl. for the trans-Canada solution. However, it was based on a pipeline flow of two million b/d and an estimate of $1.5 billion to build the line up to that capacity.

Given the escalation in the estimated cost of the pipeline to $4.5 billion, does it follow that the tab for transporting a barrel of oil from Prudhoe Bay to Valdez will jump to $3? Not necessarily. Officials say they are now going on the assumption of a "ballpark" price of $2 per bbl., plus something over 50 cents for tanker transport to San Pedro. On the assumption that world crude prices remain at the astronomical levels currently being charged in the Persian Gulf, such a rate makes TAP an economically viable project. However, if crude should ever again drop to pre-embargo levels, it would seem dubious at best.

There is a distinct possibility, on the other hand, that the $4.5-billion cost figure is a public relations estimate, designed to impress environmentalists and government officials. The State of Alaska still has not granted an overall construction permit for TAP, and even after it does, Alyeska must apply for over 7,000 other permits and licenses, mostly from the Fish and Game Commission, which will review plans for each stream crossing. Since the state's royalty of 12½% is on the wellhead price of the oil, figured after deduction of the cost of transporting it to market, it will be very much in the state's interest not to push the pipeline's cost higher by unreasonable ecological demands.

"LOT OF DUPLICATION"

Alyeska officials are evasive about the components of the $4.5 billion figure, saying it was not meant to be made public, but was given out only because Arco needed an up-to-date estimate for an SEC filing. "There's a lot of duplication and some contingency amounts in there," says a spokesman. Beyond generalities about inflation, however, the company offers no explanation for the cost escalation. Observers are left to draw the conclusion, as most have, that it is because of the complete re-engineering of the project that has been necessary to overcome the objections of environmentalists.

If the builders do everything they say they will to preserve the North Slope's ecology, there can be no doubt that the cost will be heavy. And to see that they do, the Department of Interior has appointed General Andrew Rollins of the U.S. Army Corps of Engineers as "authorized officer" to perform continuous, on-the-spot inspections. Says the head of one firm that is bidding on part of the highway job: "If I know him—and I do—you won't be able to blow your nose up there unless you've got a certified, government-inspected handkerchief."

What makes the construction of TAP so difficult is that for about half of its 789-mile length, from the Yukon River north, it must traverse permafrost—ground which is permanently frozen, much of it to a depth of 1,000 feet. It is kept from thawing in summer by the tundra, a carpet of moss, grass and lichens about 18 inches thick, which acts as insulation. Heavy trucks and tractors cannot operate in the Arctic without scarring the tundra and causing deep erosion of the permafrost.

MUST BUILD HIGHWAY

Thus, the first task of the pipeline builders is to lay a highway north from the Yukon to Prudhoe Bay, over which men and machines can be moved. (South of the Yukon, the line will follow the route of the present Alaskan Highway.) It will be a virtual dike of travel, five feet thick, to keep the permafrost underneath from thawing. Gravel is plentifully available in Arctic riverbeds. Nor is there any trouble about keeping it snow-free; the 50-odd miles of road at Prudhoe are constantly swept clear by the wind. Nevertheless, the estimated cost of the road is $400,000 per mile, or a total of $150 million.

The next problem is to prevent erosion of the permafrost by the pipeline itself. North Slope oil comes out of the ground (naturally, no need for pumps) at a temperature of about 170° and will go through the pipeline at 140°, its warmth maintained by friction. If it should cool it won't flow, and heating stations will be placed at intervals to get it moving again if the line must be shut down for any length of time.

But, of course, where the pipe is buried, it will melt the surrounding permafrost. If the permafrost happens to be rock or gravel, as it will be for roughly half the distance, that won't matter, but where it is "ice-rich," burying the pipe would result in deep erosion.

The solution is to run the pipe aboveground in such places. It will be mounted on steel pilings, or "bents," to hold it above the tundra. Alyeska officials say more steel will be required for that purpose than for the pipe itself, and in view of the current shortage, they are not sure adequate quantities will be obtainable. The 48-inch pipe, all covered with epoxy, was purchased in Japan in 1969 at a cost of $125 million and is piled up at Prudhoe and at stations along the right-of-way. It has been lying there for nearly five years.

Another hazard is earthquakes, which ecologists fear might rupture the pipeline and spill crude oil all over the landscape. To avoid such an accident, Alyeska will lay the pipe in a zig-zag pattern, allowing it to "stretch" horizontally. Special welding techniques also have been developed, and the pipe itself, with walls ½-inch thick, is made of a ductile steel, capable of bending or wrinkling without cracking. Tests have shown it able to withstand tremors of greater intensity than ever have been recorded in Alaska.

Where Alyeska appears to be going to ridiculous lengths to satisfy the ecologists is in its arrangements to accommodate the caribou. About 400,000 of the beasts migrate north to the Arctic region in summer, using the same passes through which the pipeline will traverse the Brooks Mountains. Where the line is buried, it won't bother them, but fears have been raised that long stretches of raised pipe would prove a barrier. Hence, the pipeline builders will provide caribou crossings by dipping the line under the tundra at intervals. To keep it from thawing the permafrost, refrigeration stations will be set up at those points and the ground around the pipe will be artificially frozen.

Mr. FANNIN. I would like to just cover a few of the highlights, because I think

this is important. We have been talking for a long time about Alaskan North Slope oil. If we had taken action instead of just talking about it 5 or more years ago, at least 2 million additional barrels of oil a day would be coming into this country. Here we are talking about the shortage that may exist, and the Administrator of the FEO has stated that we may have a shortage of 4 to 6 percent this coming summer. That, of course, would have been alleviated if we had 2 million barrels a day coming from Alaska.

What has happened? The delay has been very costly to us, not only from the standpoint of product shortages but also with respect to the cost involved. I should like to read from Barron's article illustrating the tremendous increase in price being paid by the Alaska Pipeline Service Co.:

Until that job gets underway TAP will achieve the dubious distinction of being the costliest privately-financed construction project in history. The current official estimate by Alyeska Pipeline Service Co. is $4.5 billion, but a spokesman says the figure "is not set in concrete, by any means," suggesting that it could go higher. In the five years since the line was first planned, there has been a five-fold escalation of the cost estimate; the tab was first placed at $900 million. The figures aren't precisely comparable, however, since the lower one was for a line capable of flowing 600,000 barrels per day, while the $4.5 billion would finance a flow of two million b/d. Boosting output is chiefly a matter of adding pumping stations.

From the viewpoint of the financial community, the TAP is a project of no small significance. One way or the other, Wall Street undoubtedly will be called upon to finance a goodly part of it—mainly through loans to its oil company sponsors, which, if it is successful in transporting the North Slope's huge petroleum resources to market at reasonable cost, stand to make a lot of money. Meanwhile, the money concerns now being tapped to do the job, or to provide services and materials for the pipeline builders, also will hit pay dirt.

However, many of them have gone bankrupt or gone out of business.

Continuing reading:

Brimming with investment implications though it may be, the pipeline project offers relatively few hand-holds for purchase. The company organized to build and operate the line, Alyeska Pipeline Service Co., is wholly owned by seven oil companies. Moreover, its functions are strictly managerial; it won't share in the profits which its efforts will make possible. The only contractor named so far, Bechtel Corp. of San Francisco, also is privately held. It will oversee both the laying of the pipe and the construction of the highway. Fluor Corp., the Los Angeles-based petroleum engineering firm, expects to be the prime contractor—although no award has been formally announced—on the port installations at Valdez and the pumping stations. The job will add a few hundred millions to Fluor's backlog, currently over $2 billion. Fluor already is selling at a heady 33 times earnings.

This illustrates that this long delay has been tremendously costly both from the standpoint of not having the product and also from the standpoint of not being able to build the line at the original estimated cost.

One of the great problems we have is natural gas. This problem, as has been brought out many times, is due to 1954 court decisions when the Federal Power Commission started regulating the price of natural gas in interstate commerce. It has resulted in a shortage of gas which we never expected to take place. Gas reserves have been greatly affected.

I should like to read further from the article as to just what is in store, so far as natural gas is concerned.

Natural gas reserves are another story. Part of the gas is mixed with the oil, and separation plants are being built at Prudhoe Bay to skim it off. Until a gas pipeline is built, it is to be reinjected into the wells. This procedure virtually guarantees that a gas pipeline will be built, since otherwise the reinjected gas eventually will block the flow of oil. The bulk of the North Slope's 26 trillion cubic feet of natural gas, however, is found in a "cap" overlying portions of the oil pool. Geophysical studies show that Arco and Exxon properties contain the bulk of it; Sohio's share will be much smaller.

The Prudhoe Bay field has been "unitized," which means that it will be exploited systematically, as though owned by one company, rather than compelling every firm with leases to move in its own drilling rigs and set up its own gathering system. British Petroleum-Alaska, as operator for Sohio, is doing all the drilling in the western half of the field, Atlantic Richfield in the eastern half.

Mr. METCALF. Mr. President, will the distinguished Senator from Colorado yield for a brief colloquy?

Mr. HASKELL. I am glad to yield.

Mr. METCALF. Mr. President, the Federal Energy Office mandatory fuel allocation regulations which went into effect in mid-January gave our Nation's schools the place of high importance which they deserve and I am very pleased about that.

The Senator from Colorado knows that a general purpose of the act and the mandatory Petroleum Allocation Act is to protect the public welfare and maintain all essential public services. Both he and the Senator from Washington, Mr. JACKSON, have long been champions of equal educational opportunities for all Americans. In this connection, I ask the Senator about the intent of this measure with regard to education. It is my impression that this bill is not intended to result in a forced closing of schools, and that the educational process and schools will continue with a minimum of disruption and be given the high priority to which they are entitled in the public interest.

It is my understanding also that the Senate record on passage of the Emergency Petroleum Act insures that education will be treated as a vital public service whenever priorities are established under section 4 of the Emergency Petroleum Allocation Act.

Would the able Senator from Colorado, the floor manager of the bill, concur in this analysis?

Mr. HASKELL. I would most certainly concur with the statement of the distinguished Senator from Montana. I concur with his analysis of the intention of the bill before us. It is the intention of the Interior Committee that education be considered a vital public service.

Mr. METCALF. I thank the Senator from Colorado very much.

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

Mr. METCALF. I yield.

Mr. McCLURE. The distinguished Senator from Montana has raised a very good question which needs to be affirmed for the record so that there will be no question about it. As the educators and the parents of this country are concerned about their young people in the schools, it is well for this record to amply and completely affirm the intention of the members of the committee that dealt with this question as to our understanding of the regulations issued by the FEO with respect to priorities for education.

With that in mind, it is well to look at the allocation act which Congress has enacted in which the priorities were established. In section (b) of that section establishing priorities, it says, "maintenance of all public services."

Certainly the schools are a part of public services, for it is consistent with both the regulations issued by the FEO and the allocation act itself that our schools should have whatever fuels are reasonably necessary to conduct their activities. Certainly there are some things that schools, like the rest of us, can do to conserve on the use of energy, and we would expect and hope that they would do that. But, whatever is necessary, I am certain it would be the intention of at least the Senator from Idaho and certain of the Members of the Senate with whom I have discussed this matter, that the schools should have the necessary priority to give them the fuel which they need.

Mr. METCALF. It comes as no surprise to this Senator that the Senator from Idaho has expressed his concern and interest in the continuation of education and educational facilities under any allocation of energy provisions. I am delighted to have his assurances. This means a continuation of public services for education at every level.

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

Mr. METCALF. I yield.

Mr. FANNIN. I concur with my distinguished colleagues who have expressed themselves on this subject, and I commend the distinguished Senator from Montana for bringing this question to the attention of the Senate. I agree with him that this matter should be examined very carefully. We want to make proof positive that it is protected. I feel that it will be protected. I assure him that, I will work toward that end. I am sure that with his support and the support that has been expressed here today, we can accomplish that objective.

Mr. METCALF. I thank the Senator from Arizona.

This has been a most useful colloquy, to assure everybody in America that every Member of the Senate—minority and majority alike—is concerned about the continuation of educational activities in the assignment of fuel allocations, so that the boys and girls of America will have equal opportunity in every State.

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

Mr. METCALF. I yield.

Mr. HASKELL. Mr. President, I join the Senator from Arizona in commending the Senator from Montana for raising this very important point.

I should merely like to stress again that it is the understanding of this Senator that the entire committee that reported this bill to the floor was unanimous in considering education a vital public service which should go on without interruption.

Mr. METCALF. I thank the Senator from Colorado and the Senator from Arizona.

Mr. FANNIN. I again commend the distinguished Senator from Montana for bringing this subject to our attention.

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

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

SENATOR RANDOLPH URGES ENACTMENT OF STANDBY AUTHORITY TO COPE WITH ANTICIPATED NEW ENERGY SUPPLY SHORTAGES

Mr. RANDOLPH. Mr. President, I still am convinced that the United States is faced with a deepening energy crisis and preventive steps are needed to assure that the livelihoods of millions of citizens will not be unreasonably harmed by future shortages.

On November 7, 1973, President Nixon made a major address to the American people on the energy emergency facing our country as a result of the Arab oil embargo. On the next day a special message was sent to the Congress proposing that "the administration and the Congress join forces and together, in a bipartisan spirit, work to enact an emergency energy bill."

In that same message the President pledged the full cooperation of his administration. It was his expressed hope that—

> By pushing forward together, we can have new emergency legislation on the books before the Congress recesses in December.

The events that followed, which ended in a Presidential veto of S. 2589, the Energy Emergency Act, are a matter of public record.

Mr. President, I still believe President Nixon was wrong in vetoing the Energy Emergency Act.

The American consumer has been subjected to energy shortages, to threatened strikes, and in many instances, unemployment.

After being called on to institute a voluntary energy conservation action by lowering thermostats, by driving slower, by carpooling, and by many other self-motivated conservation initiatives, the American people are now being told that they are going to have to pay more and that they also are not going to be assured of the minimum supply that rationing can provide.

Mr. President, the issues addressed in the Standby Energy Emergency Authorities Act have been before the Senate for several months. The legislation has been carefully developed and was, in part, previously debated by this body as S. 2589.

While the earlier measure was not enacted, Members of the Senate have had ample opportunity to examine the issues carefully and consider their effectiveness in coping with the long-term energy crisis facing our country as well as its impact on other programs.

Mr. President, I am satisfied that this measure, S. 3267, achieves its purposes in a practical way. This legislation is needed.

There is no question that the Standby Energy Emergency Authorities Act is complex and that its ramifications are widespread The numerous individual issues addressed in this bill have been reviewed for many months by the various committees of the Senate which have jurisdiction over these matters.

The earlier legislation as well as S. 3267, the Standby Energy Emergency Authorities Act, are responsive, in my judgment, to the needs indicated earlier by the President. There are a few substantive deficiencies but these are overwhelmingly offset by the other vitally needed provisions.

EDUCATIONAL USES

A general purpose of this act and the Mandatory Petroleum Allocation Act is to protect the public welfare and maintain all essential public services. It is not intended that this measure result in a forced closing of schools. Rather, the educational process will be enabled to continue with a minimum of disruption.

The December 13 fuel allocation regulations proposed by the Federal Energy Office give our Nation's schools the place of high importance which they deserve.

It is my understanding that educational uses of petroleum products will continue to be treated as a vital public service whenever priorities are established under section 4 of the Emergency Petroleum Allocation Act, as amended by this bill.

HANDICAPPED CITIZENS

It is my understanding and that of my colleagues that an intent of this legislation is to insure that handicapped Americans be given special consideration in the allocation of energy supplies.

Such special provision for these individuals was made during World War II, and appropriate measures should be taken to provide for their special needs during our present crisis.

It is intended in this legislation that during the promulgation of the regulations by the Federal Energy Administration would give to the handicapped person who needs to drive a specially designed vehicle to and from his place of employment. For such citizens are unable to use public transportation due to their physical disability.

I certainly believe that handicapped citizens in need of medical and therapeutic services likewise should be given a priority.

These are just some of the basic necessities that many of our very young and elderly handicapped need if they are to support themselves by remaining employed.

We intend that careful thought be given to the requirements of this population group so that we not add further to their hardship.

MATERIALS ALLOCATION

Because the United States is faced with a deepening energy crisis, extraordinary steps are going to be needed to assure millions of American citizens of steady energy supplies.

A real constraint today on petroleum supplies is shortages of tubular goods, of drilling rigs, and of the many other materials that are needed by this high technology industry.

The Federal Government has been encouraging electric utilities to convert to the use of coal. Yet this energy industry has been having difficulty securing an adequate supply of mine roof bolts—usually a 90-cent item.

Thus it is appropriate that the pending measure authorize the FEA Administrator to take such action as may be necessary to allocate the limited available supplies of materials to the production of energy supplies. These vital provisions of this legislation will be effective in assuring such material supplies are committed to the development of new energy supplies.

Mr. President, this is a very complex—though carefully developed—measure intended to alleviate the impact of the energy shortage our country is now enduring and is expected to face in the future. This legislation was proposed several months ago at the outset of the emergency stemming from the Middle East oil embargo. I deeply regret that it was not enacted then. Much has already been unnecessarily sacrificed to date and much more will be lost if we equivocate today.

UNEMPLOYMENT COMPENSATION

I call attention to another feature of the legislation—unemployment compensation—which can do much to alleviate personal hardship inflicted on our citizens by energy shortages.

During the recent oil embargo, there were daily news stories of layoffs of workers from our industries. For example, thousands lost their jobs in the automobile industry and others were laid off as stocks of unsold cars continued to mount. Throughout our economy unemployment continued to mount.

This measure provides standby Federal assistance to ease the human side of future energy shortages. It authorizes Federal grants to the States to provide compensation payments to individuals who have become unemployed as a result of the energy crisis. These unemployment funds will be available to many persons who would not otherwise be eligible for such payments or to those persons who may have exhausted their eligibility.

The measure also directs the President to report to the Congress within 60 days on the existing and prospective impact of energy shortages on employment. This report also must assess the adequacy of existing unemployment compensation programs, including such legislative recommendations as the President feels are necessary.

Mr. President, in addressing the future energy problems we must not become so

engrossed in the physical shortages of fuel supplies that we lose sight of the individual needs of our people. This provision will enable many Americans to survive through personal trials imposed on them during difficult periods of energy supply shortages.

STRIPPER WELL PRODUCTION

Mr. President, as reported S. 3267 does not repeal the stripper well price control exemption contained in the Mandatory Petroleum Allocation Act.

This desirable policy which stimulates domestic production is a concern of many of my colleagues in this Chamber—production from the so-called stripper wells as well as secondary and tertiary recovery. There are some 4,000 persons in this category—not all of them are companies.

Many of these citizens are small business people. They account for approximately 75 to 80 percent of domestic drilling activities to explore and find new reserves of oil and natural gas.

Such incentives are needed if these individuals, who play a vital role in U.S. energy supplies, are going to continue their exploration and development activities.

Mr. President, my feelings on the urgency for action on this legislation are well known. I have discussed various aspects of the bill during these Senate remarks. I have explored several topics besides gasoline rationing and other energy-saving features of the bill.

I am aware, Mr. President, that there is some confusion and uncertainty about the extent and possible duration of the energy crisis. There is no doubt, however, that an energy crisis still exists.

Because shortages of our energy supplies still occur we must enact legislation to adjust to these shortages.

This legislation provides standby energy emergency authorities and is so titled. It is intended to furnish us with the vital backup mechanisms needed to accommodate our economy and our way of life to anticipate shortages, in equitable ways and with minimum economic disruption.

The bill has been developed over several months. Further delay on its enactment would ignore the fact that the United States must develop the means to cope with a long-term energy crisis.

The present untenable situation should not be allowed to continue. The necessary backup authority for the Federal Energy Administration is contained in the Standby Energy Emergency Authorities Act.

Mr. President, the several authorizations and mandatory provisions in this vital legislation which I have mentioned, and others, are needed to cope with the continuing energy crisis facing our country and all of our citizenry.

AMENDMENT NO. 1265

Mr. DOLE. Mr. President, I call up my amendment No. 1265.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 118, between lines 21 and 22, insert the following new section:

SEC. 108A. Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end of such section the following new subsection:

"(j)(1) Upon a finding that there are significant shortages and dislocations in the distribution of petrochemical feedstocks and petrochemicals, the Administrator is authorized to compel, by rule or order on a national, regional, or case-by-case basis, consistent with paragraph (2) of this subsection, the allocation of such feedstocks and such petrochemicals in amounts specified in (or determined in a manner prescribed by) such rule or order.

"(2) Any rule or order for allocation of petrochemical feedstocks and petrochemicals promulgated or issued under this act or under any other Federal law shall be consistent with the objectives of subsection (b) and to the maximum extent practicable, shall contribute to the—

"(A) preservation of an economically sound and competitive petrochemical industry and for the preservation of the competitive viability of all processors, distributors, and users of petrochemical feedstocks and petrochemicals; and further the

"(B) equitable distribution of petrochemical feedstocks and petrochemicals among all regions and areas of the United States and among all sectors of the petrochemical industry, including processors, distributors, and users thereof.

"(3) For purposes of this subsection—

"(A) the term 'petrochemical feedstocks' means petroleum oils and natural gas liquids which are processed or otherwise converted into petrochemicals; and

"(B) the term 'petrochemicals' means derivatives of petroleum oils and natural gas liquids used for nonfuel purposes.".

PETROCHEMICAL ALLOCATION PROGRAM

Mr. DOLE. Mr. President, the energy crisis has had an especially severe impact on the firms and industries which use petrochemicals. Of all the actions taken to deal with the energy shortage, we have probably been the least successful in dealing with the problems stemming from the tight supply of petrochemicals. And the crisis still exists for many sectors of the economy which depend on petrochemicals as raw materials.

I offer an amendment to the Standby Energy Emergency Authority Act to authorize the fair allocation of petrochemicals in short supply which I believe would permit the Federal Energy Administration to deal more effectively with the petrochemical shortage.

IMPACT OF ENERGY CRISIS

As we all know, the shortage of petroleum has had widespread repercussions throughout the economy. Almost no sector has escaped the problems arising from the lack of fuel or petroleum products.

The supply of petrochemicals is directly dependent on the availability of crude oil and natural gas and, therefore, the users of petrochemicals have suffered directly from the energy crisis. And they are still having problems, even though the oil embargo has been lifted.

MANY INDUSTRIES AFFECTED

Users of petrochemicals represent a vital part of our economy, both in the type of their products and the size of their revenue and employment. The difficulties they have are felt throughout the entire country. Most of the major petrochemicals are listed under section 23 of the Federal Energy Administration Act and these include organic chemicals, cyclic intermediates, plastics and resins, synthetic fibers, elastomers, organic dyes, organic pigments, detergents, surface active agents, carbon black, and ammonia.

A wide variety of industries are dependent upon these compounds as basic raw materials. Many of these industries have been forced to slow down or curtail production because of an inadequate supply of raw materials and they are continuing to experience shortages in the supply of petrochemicals. These problems can only result in continued and increased unemployment and loss of revenues.

There are many examples. The textile industry, third largest employer in this Nation, is experiencing shortages in raw materials for manmade fibers of approximately 15 percent.

The plastics industry, one of the high-growth industries of recent years, is experiencing material shortages ranging from 15 to 75 percent, with an accompanying unemployment rate of 15 to 20 percent. I can personally speak for the plastic processors in Kansas. Some of them have been forced to lay off more than 50 percent of their employees. From my contacts with them, I know they are continuing to have supply problems.

The independent plastic processors—about 6,500 in number—have been especially hard hit. This is because they are generally low on the list for receiving a supply of materials from the major petrochemical producers when stocks are tight.

On March 4 of this year, I introduced the plastic feedstocks allocation bill, which would require the mandatory allocation of plastic materials in short supply. Since that time, I have received telephone calls, telegrams, and letters from plastics processors all over the country, expressing support for this measure and urging its passage. These contacts indicate that the shortage of petrochemicals still exists and is nationwide.

Similar shortages are being experienced in the pharmaceutical industry, fertilizer industry, and in the production of medical devices, which are heavily dependent on petrochemicals. As you can see from the industries I have named, the users of petrochemicals having trouble today are responsible, either directly or indirectly, for most goods and services enjoyed by this Nation.

MAJOR LOOPHOLE

The amendment I am offering would close what I consider to be a major loophole in the Emergency Petroleum Allocation Act. It would give the Administrator the authority he now lacks to take action where necessary, to alleviate the material supply distortions that are so evident in those industries heavily reliant on petrochemical supplies.

FAILURE OF OTHER APPROACHES

This is not to say that no action has been taken to improve the supply of

petrochemicals. The Federal Energy Office has undertaken the allocation of petrochemical feedstocks. The mandatory allocation program gave the petrochemical industry a high-priority status on feedstocks to help build up dwindling stocks and increase production and sales. However, this action did not include guarantees of increased supplies to those industries that depend upon petrochemicals as raw materials. So, while the production of petrochemicals may have been assured by the high allocation of the feedstocks, no assurance was given that these petrochemicals would become available on a fair and equitable basis to all segments of the economy dependent upon them as a basic raw material.

It was assumed that increasing the supply of feedstocks to the petrochemical industry would result in greater supplies of materials for the users of petrochemicals. Today, nearly 4 months since the mandatory allocation program began, many petrochemical users still do not have adequate supplies and we can see that the original assumption was false.

The Cost of Living Council, when it was in existence, took pricing actions to encourage petrochemical production and requested that the major companies producing petrochemicals provide copies of their own voluntary allocation programs.

The efforts of the FEO and the CLC undoubtedly have had a beneficial effect on easing the shortage. However, the problem continues to exist and informal contacts with the FEO indicate that the shortage situation has not changed appreciably in the last 2 months.

ACTIONS PROPOSED

The efforts undertaken up to now have lacked the positive action necessary to provide meaningful assistance and I believe the authority Congress has provided fails to close the gap of inaction on the petrochemical shortage. The Federal Energy Administration Act requires that the Administrator of FEA will report to the Congress on the impact of the petrochemical shortage. This report is good and necessary. We need better information in order to cope with the problem. However, information in itself does nothing to resolve the inequities in petrochemical distribution that exist. My amendment provides authority to deal directly with the problem.

Mr. President, the Emergency Petroleum Allocation Act provided a clear mandate—no one segment of the economy should be asked to bear an unfair burden during the energy crisis. This amendment would only authorize the fairness and equity that was the original mandate of Congress by providing for the Equitable Allocation of Petrochemicals in short supply.

Mr. President, I ask unanimous consent that the distinguished Senator from Pennsylvania (Mr. SCHWEIKER) be made a cosponsor of the amendment along with the distinguished Senator from Indiana (Mr. BAYH) and the distinguished minority leader (Mr. HUGH SCOTT).

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

Mr. DOLE. Mr. President, it is my understanding that this amendment will be acted upon some time later this week. It has been called to the attention of the distinguished chairman of the committee (Mr. JACKSON) that it is permissive in nature. I think it may be acceptable to the committee.

Mr. President, I ask unanimous consent that further consideration of the amendment be set aside and that I be permitted to call up my amendment No. 1266.

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

AMENDMENT NO. 1266

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

At the end of the bill add the following new section:

SEC. . Section 2 of the Emergency Highway Energy Conservation Act is amended by inserting at the end thereof a new subsection as follows:

"(g) Notwithstanding the provisions of subsection (b), after the sixtieth day after the date of enactment of this subsection, the Secretary of Transportation shall not approve any project under section 106 of title 23 of the United States Code in any State which has (1) a maximum speed limit on any public highway within its jurisdiction in excess of sixty miles per hour, and (2) a speed limit for all types of motor vehicles other than sixty miles per hour on any portion of any public highway within its jurisdiction of four or more traffic lanes, the opposing lanes of which are physically separated by means other than striping, which portion of highway had a speed limit for all types of motor vehicles of sixty miles, or more, per hour on November 1, 1973, and (3) a speed limit on any other portion of a public highway within its jurisdiction which is not uniformly applicable to all types of motor vehicles using such portion of highway, if on November 1, 1973, such portion of highway had a speed limit which was uniformly applicable to all types of motor vehicles using it. A lower speed limit may be established for any vehicle operating under a special permit because of any weight or dimension of such vehicle, including any load thereon. Clauses (2) and (3) of this section shall not apply to any portion of a highway during such time that the condition of the highway, weather, an accident, or other condition creates a temporary hazard to the safety of traffic on such portion of a highway.".

SEC. 2. Subsection (d) of section 2 of the Emergency Highway Energy Conservation Act is amended by striking out "reduction in speed limits to conserve fuel" and inserting in lieu thereof "change in speed limits pursuant to this section".

NATIONAL SPEED LIMIT INCREASE

Mr. DOLE. Mr. President, last fall when the Arab embargo was at its height, a law was passed to set a national speed limit of 55 miles per hour. This action was taken to conserve precious gasoline at a time when we did not really know how long the embargo would last or how serious the situation would become. So the law was passed, and I believe everyone agrees that it has saved fuel, into the growing demand for fuel—and as an additional benefit has saved many lives which might otherwise have been taken in speed-related accidents.

These points are all to the good and should not be ignored or minimized. But there is another side to the coin, and I believe it deserves consideration.

EMBARGO ENDED

In the first place, times and circumstances have changed somewhat. The Arab embargo has been lifted, and most of our supply problems are considerably eased. The prices for this imported oil have not declined significantly, but that is another matter which must be dealt with on a broad front. But the point is that the embargo is ended. We are not in a crisis situation with supplies, and measures—such as the 55-miles-per-hour limit—which were appropriate to that crisis may require reconsideration now.

NEGATIVE IMPACT

In the second place, some of these measures have impacts which are definitely on the negative side. It may be only a matter of inconvenience in some cases, but in others it may amount to real and serious economic damage.

And I think this is a very important concern in Kansas and many other parts of the country. In Washington, D.C., or in New York City, a 55-miles-per-hour limit may mean very little to the average person in terms of his actual highway travel. People in the major urban areas simply do not get out on the highway as often; and when they do, it is usually for relatively short trips, since cities and major urban centers are so close together. And when greater distances have to be covered, there is also a great number of alternative sources of transportation, such as buses, railroads, and airlines available in our major urban areas.

AUTOMOBILES ESSENTIAL IN KANSAS

But in Kansas the automobile is almost indispensable, and the distances are great. It is some 209 miles between Kansas City and Wichita. Almost exactly the same distance from New York City, you will find Boston and Washington, D.C. With Philadelphia, Wilmington, New Haven, and Providence and tens of millions of people in between.

But in Kansas we do not have the choice of traveling by Metroliner or air shuttle. When most Kansans need to go somewhere, they must use their cars. And I believe that under the present circumstances, requiring the Kansas motorist to go only 55 miles per hour is inappropriate and not absolutely essential to the Nation's welfare.

PROBLEM IN TRUCKING INDUSTRY

There is the additional factor that the 55-mile-limit is having an extremely serious impact on the American trucking industry. Time is money to this industry and the new speed limit has cost the Nation's truckers a great deal in lengthened trip times and reduced loads per month, while they have faced even higher fuel prices and reduced fuel mileage.

Truckers are frustrated by this situation, and they have threatened to take out their frustrations by staging another nationwide strike on May 13. I believe such an action would be wrong and would be against their interests and those of the entire country. But the situation is there, and I feel every appropriate effort should be made to provide them some relief.

AMENDMENT TO SET 60 M.P.H. LIMIT

Therefore, I am calling up an amendment to raise the limit to 60. I believe such an increase is justifiable in light of the current fuel supplies. It is consistent with the need to continue some conservation efforts. And it would help make the daily travel requirements of most motorists much more enjoyable and agreeable.

As I have traveled around Kansas visiting with many people, I have come to feel that they consider 60 miles per hour a better and more acceptable speed. It is not that much more costly in terms of fuel use than 55 miles per hour, but it is a limit which people seem better able to live with and abide by than the present one.

I think the American people, whether Kansans, Californians, New Yorkers, or whatever, would come to consider 60 miles an hour a better and more acceptable speed. It is not that much more costly in terms of fuel consumption than a 55-miles-an-hour limit, but it is a rate of speed that people would be able to live with and abide by more readily than the present limit.

As I said, one important factor is that the truckers, in their conversations, and in the hearings, and in discussions with many Members of Congress, have indicated a particular concern about the 55-mile-an-hour speed limit. They indicate that their trucks are geared to operate more efficiently at around 60 miles an hour.

DANGER TO KANSAS BEEF INDUSTRY

As I said, a truck strike would be against the best interests of the entire economy, but of particular concern to me is the Kansas beef industry. Perhaps no other business sector depends on trucks so totally as the beef industry, and it was dealt a devastating blow by the first strike. Many beef processors, feedlots, and cattlemen would be ruined and forced to go out of business by another strike. This prospect is already having a grave impact in Kansas where the billion-dollar beef industry is the largest single component of our economy.

Cattle sales are up, and prices are down. And if the strike should come to pass it will mean increased beef prices at the supermarket and eventually another round of shortages.

But the truckers' problems cannot be dealt with to the exclusion of other travelers' interests. We could not have a higher speed limit for trucks and a lower one for cars. They must be dealt with together, so I am proposing a uniform 60-miles-per-hour limit for everyone.

So Mr. President, I offer this amendment for consideration and will welcome the cosponsorship and support of my colleagues.

I have called the amendment up. I understand there is opposition to it and that those opposed will have the opportunity to speak.

Mr. RANDOLPH. Mr. President, will my colleague yield?

Mr. DOLE. I yield to my distinguished former chairman, the Senator from West Virginia.

Mr. RANDOLPH. The Senator from Kansas was a valued member of the Committee on Public Works. I wish I could agree with him on at least one amendment he is offering during consideration of this measure, but I shall, of course, strongly oppose this amendment.

I was out of the Chamber a while ago, but I wanted to make sure what the thinking was with reference to this amendment, which would raise the uniform 55-mile speed limit to 60 miles an hour. I would like to have him clarify that for me further, for this is a matter of great concern to me as we attempt to conserve our fuel supplies.

Mr. DOLE. I was aware of the Senator from West Virginia's interest in the amendment and, of course, I would protect that interest, as the distinguished Senator knows.

I underscored two areas of concern. First of all, the oil embargo has been lifted. We are not in the same crisis condition as we were some months ago. It is my understanding from the Congressional Research Service that an increase in the speed limit from 55 to 60 miles an hour would increase gas consumption about 3 percent. It would raise consumption about 8⅓ million gallons, or from slightly more than 290 million gallons a day to about 300 million gallons a day.

I also pointed out my very frank and candid visits with people in the State of Kansas who find 55 miles an hour rather difficult to cope with. They think they might be able to accept 60 miles an hour; although, some may be fudging a bit and may be driving 58 or 59 miles an hour.

The Senator from Kansas pointed out that this is one of the main contentions of some of the truckers I have visited in discussions about another truck strike. This is one of the issues they have been raising since last December. They say trucks operate more efficiently and effectively around 60 miles an hour.

I recognize all the good things that have come from the reduced speed limit. It has brought about a saving in fuel. It has reduced the number of deaths and injuries on the highway, and I think for that the public should be commended. At the same time, I think we could maintain that safety record and increase fuel consumption by only a small amount by this very modest increase in the speed limit.

Mr. President, I also ask unanimous consent that the distinguished Senator from Nebraska (Mr. CURTIS) be added as a cosponsor of the amendment.

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

Mr. RANDOLPH. Mr. President, I appreciate the clarification and the information provided by the Senator from Kansas. I hope he will permit the RECORD to show that there are certain occasions which cause a Member of this body to be elsewhere other than in this forum. I shall have one of those on Friday in my native town in West Virginia. Frankly, it is not subject to change except by an emergency which would make it necessary to vacate that commitment. It is a commitment that I wish very much to honor.

I agree with the Senator that there are elements pro and con. What is the time the Senator is thinking about with reference to considering the amendment which would affect me on Friday?

Mr. DOLE. Let me say to my distinguished friend that I would agree to have it taken up Monday or some time next week. I certainly want to protect the rights of my former chairman.

Perhaps the Senator could make it there and back if we raised the speed limit to 60 miles an hour but, in any event, we could take it up Monday or Tuesday of next week. However, I want my interests shown in the RECORD. I think it would be helpful to have the Senator from West Virginia's interests shown in the RECORD. We could take it up at any time we can agree on.

Mr. RANDOLPH. I appreciate the cooperation and understanding of the very knowledgeable Senator in this area. It is a very important bill. Of course, Monday is agreeable to me. Tuesday is agreeable to me. I would, frankly, like to do it today if it were possible, but I understand it cannot be handled at this time.

I hope what I have said indicates that I desire to come to grips, as I know the Senator does, with the subject matter.

Having the Senator's indication that it could be disposed of Monday or Tuesday of next week is most satisfactory to the Senator from West Virginia.

Mr. DOLE. I thank the Senator from West Virginia, and I yield the floor.

The PRESIDING OFFICER. The question is on the amendment.

Mr. DOLE. Mr. President, I ask unanimous consent that any further consideration of the amendment be postponed until Monday next.

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

Mr. JAVITS. Mr. President, I have three amendments. They are not matters that will rock this bill, but they are important to us because they deal with the issue of residual fuel oil, and I had understood that they were acceptable to the majority. The minority is considering them. It would be possible, if the minority has no objection—and I really do not see why they should—to see if they could be acted on today.

I will take only a few minutes—I understand we will be on this bill until 3 p.m.—to describe them. By then we may have heard from the minority. If not, I shall ask that action be deferred.

In the first place, I offer three amendments to the pending bill. Primarily, they deal with a unique and very severe problem which obtains with respect to the entire east coast of the United States, and most heavily impacts on the Northeast. They deal with prices and with the availability of what is called residual fuel, the kind of fuel oil used by utilities and large buildings.

The residual fuel problem is rooted in the fact that our domestic refineries produce a minimum amount of residual fuel, and practically all the residual fuel used in the United States is consumed in the East. For example, of the 187 million barrels used in 1972 for heating purposes, 155 million barrels, or 83 percent, were used in Petroleum Allocation District I—

the east coast. Of these, 148 million barrels, or 79.4 percent of the total national demand, were consumed in New England and the Mid-Atlantic States.

On a national level, more than 86 percent of all the residual fuel used in 1972 was imported, and over 98 percent of that imported product was consumed on the east coast. So we have a unique situation, for the reasons I have stated.

Second, the price of residual fuel oil has increased more than any other petroleum product since the energy crisis began. Prices have gone up an average of 250 to 300 percent. Oil that was selling for 12 to 14 cents a gallon last year is now selling for 30 to 40 cents a gallon.

The economic effects are clear. Utility bills have skyrocketed, with some owners of all-electric homes paying more than $250 a month to heat their homes; apartment owners are faced with the choice of massive rent increases or, where that is impossible, the abandonment of their properties.

Interestingly enough, the domestic refineries could of course, produce this type of oil, and the production could be increased in this particular area by up to 25 percent. But the difficulty is that any increase would naturally result in a decrease of other petroleum products. This is a difficult trade-off. But we cannot let this continue because it is highly discriminatory and unfair, because the Northeast is bearing the heaviest burden.

So I have tried by this series of amendments to see what could be done about it. Something can be done about it, but a legislative impetus is necessary. That is the reason for these amendments.

The amendments are as follows: The first amendment would give to the Federal Energy Administrator the authority to require such increased production of residual fuel oil if national needs demand such action and if the relative benefits would outweigh the disadvantages. It does not mandate increased domestic residual fuel production. So we at least give them the authority to deal with it in whole or in part if the national-interest criteria commend themselves to the Federal Energy Administration.

The next amendment would require a report by the Administrator, within 30 days, on the impact of residual fuel shortages, price disparities, and suggested actions to deal with the impacts.

We may be confronted with a disaster situation next winter both as to price and supply. At least, we ought to have the best facts which the Administrator can get, and also his best thinking on the subject so that he may act quickly.

The third amendment deals with the more general problem of the efficiency and conservation of energy use. The amendment would require, via a rulemaking by the Federal Power Commission, a finding as to what the utilities are doing, especially with respect to conservation practices, and with respect to the rate structures. In other words, are the utilities still continuing their very much expanded uses, which encourage nonconservation as contrasted with other conservation practices? We call for a report in 6 months.

As I have said, this is not entirely what we want, but at least it is an attempt to do something to control a very difficult situation, which, as I say, results in serious discrimination against the Northeast. Many owners of property simply cannot maintain their properties and will abandon them if this condition continues, in addition to making the rest of the country pay for it, which is a very, very tough situation. These amendments are designed to try to do something about it.

Mr. President, may I ask the distinguished majority leader a question in order to know how to proceed? With the majority leader's permission, may I suggest the absence of a quorum for a few minutes, to have a talk with the Senator from Arizona (Mr. FANNIN)?

Mr. MANSFIELD. Yes, indeed. However, I remind the Senator that we have another bill scheduled at 3 o'clock.

Mr. BARTLETT. Mr. President, I should like to advise the distinguished majority leader that I wish to make an opening statement.

Mr. MANSFIELD. Why does not the Senator obtain recognition now and let the question be discussed?

The PRESIDING OFFICE (Mr. WILLIAM L. SCOTT). Does the Senator from New York yield the floor at this time?

Mr. JAVITS. I do not have to do that. I have sent my amendments to the desk.

The PRESIDING OFFICER. The Chair will state that the amendments are not in order at this time. The Dole amendment is the pending amendment.

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

Mr. JAVITS. I yield.

Mr. HASKELL. Mr. President, I ask unanimous consent that it be in order at any time when S. 3267 is before the Senate, between now and next Monday, to call up and act on other amendments, even though the amendment offered by the distinguished Senator from Kansas (Mr. DOLE), amendment No. 1265 is the pending question.

Mr. FANNIN. Mr. President, we have notified several Senators that they may make their opening statements today. I hope that we may abide by that understanding, if the distinguished Senator from New York will permit us to do so.

Mr. JAVITS. Of course; I am through if there is no other problem.

Mr. FANNIN. I have not had a chance to examine the amendments. I understand that they are not objectionable, but I would appreciate it if the Senator from New York would permit the Senator from Oklahoma to make his opening statement; then we will carry the amendments over until another day before they are acted on.

Mr. MANSFIELD. Mr. President, has the Chair acted on the request of the distinguished Senator from Colorado?

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Colorado?

Mr. FANNIN. With the understanding, as I have just said, that the Senator from Oklahoma will be permitted to go forward at this time with his opening statement.

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

Mr. FANNIN. I yield.

Mr. JAVITS. Do I correctly understand that the Senator from Arizona does not want me to submit my amendments at this time?

Mr. FANNIN. I may say to the Senator from New York that I have not had a chance to see them. I have no objection to their being offered. I thought the Senator wanted them to be considered.

Mr. JAVITS. I shall offer them.

The PRESIDING OFFICER. The question is on agreeing to the request of the Senator from Colorado. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I send these amendments to the desk and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is the Senator offering them for consideration at this time?

Mr. JAVITS. I am, yes.

Mr. FANNIN. Mr. President, I object to that.

Mr. MANSFIELD. I thought the Senator was just sending them to the desk.

Mr. JAVITS. Mr. President, I withdraw that, and I ask unanimous consent that they may be printed and because of the time limitations upon us, that my complete remarks, together with a statement of the problem by the National Realty Committee, be printed at this point in the RECORD.

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

JAVITS STATEMENT ON RESIDUAL FUEL AMENDMENTS

Mr. President, I offer three amendments to the pending bill which I believe are critical if this legislation is fully to address itself to all of the emergency energy problems being faced by the Nation in general and the Northeast in particular.

None of these amendments would in any way give any preferential treatment to the Northeast; but they recognize that a severe problem exists along the entire East Coast with regard to the availability and the price of residual fuel. This is a problem that has not been moderated by the end of the Arab oil embargo or the restoration of pre-embargo production levels by some of the Arab countries. It is a problem that plagues utilities and thus all utility customers, apartment owners, school districts and municipal governments. It is an emergency that merits immediate consideration by the federal government but that has thus far been shunted aside and treated as a problem of local concern only.

The residual fuel problem is rooted in the fact that our domestic refineries produce a minimum amount of residual fuel, and that practically all the residual fuel used in the United States is consumed in the Northeast. Out of a total of 187 million barrels used in 1972 for heating purposes, 155 million barrels, or 83% were used in Petroleum Allocation District I (the East Coast). Of these, 148 million barrels, or 79.4% of the total national demand, were consumed in New England and the Mid-Atlantic states.

On a national level, over 86% of all the residual fuel used in 1972 was imported and over 98% of that imported product was consumed on the East Coast. Thus the East Coast, and the Northeast in particular, is uniquely dependent on imported residual fuel. No other area of the country depends so

heavily on this type of fuel, and no other region of the country is thus experiencing the severe adverse effects of this almost total dependence.

The price of residual fuel oil has increased more than any other petroleum product since the crisis began. Prices have gone up an average of 250 to 300%. Oil that was selling for 12 to 14 cents per gallon last year is now selling for 30 to 40 cents per gallon.

The economic effects are clear. Utility bills have skyrocketed, with some owners of all electric homes paying more than $250 per month to heat their homes; apartment owners are faced with the choice of massive rent increases or, where that is impossible, abandonment of their properties.

Of course, domestic refineries could be mandated to increase their residual oil production—it has been estimated that production could be increased on the average from 6% to 8%, which although only a small part of refinery production, is a 25% increase in domestic production—but any increase of domestic residual fuel production requires a corresponding decrease in the domestic production of other fuels.

Because of this unavoidable trade off, my first amendment only gives to the Federal Energy Administration the authority to require such increased production of residual fuel oil if national needs demand such action and the relative benefits would outweigh the disadvantages. It does not mandate increased domestic residual fuel production.

Section 4(b) of the Emergency Petroleum Allocation Act of 1973 already requires equitable distribution of residual fuel oil at equitable prices among all regions and areas of the country. My amendment confers on FEA the power to insure that no one region is bearing the brunt of the energy crisis, either in terms of allocation or price, but it is not mandated to exercise the power.

The second amendment requires a report by the Administrator, within 30 days, on the impact of residual fuel shortages and price disparities and suggested actions to deal with these impacts. Such a study is necessary if we are to avoid disaster next winter in the regions that now depend so heavily on imported residual fuel. We must begin to deal with this problem immediately rather than wait for a crisis again to be upon us, as it surely will next winter if no action is taken. This report will call on the Administrator to make an in depth study of the potential harm that could result if prices continue to escalate or if shortages reappear; and to seek ways to anticipate these adverse effects befor they jeopardize major segments of the economy—and even health—of the Northeast.

The third amendment deals with the more general problem of the efficiency of energy use. The issue of conservation of energy by utilities is inextricably tied to the residual fuel problem in the Northeast, but it also deals with it in a way that avoids any possible disadvantages to other petroleum product users.

The amendment is almost identical to section 10 of the National Fuels and Energy Conservation Act of 1973, which passed the Senate last December 10 but as yet has received no action in the House.

This section is too important to the needs of utility users—practically all citizens—to be left at best to future action this year and at worst to die with the end of this Congress. Moreover, it properly and rightfully belongs in this emergency energy act since it deals with the problem of conservation which urgently needs study and action.

The amendment requires the Federal Power Commission to conduct a rulemaking study into utility and conservation practices and rate structures as they relate to conservation. It would require electric and gas utilities to submit a public report on their efforts, plans and policies. Electricity and gas conservation is essential if we are effectively to deal with both the residual fuel problem and the more general but no less urgent problem of utility fuel consumption generally.

The bill before the Senate calls for reports on several aspects of energy conservation and supply, but it omits any study of energy conservation by utilities. Since the Senate has already voted its approval of this provision, there is no reason not to begin the process now.

The amendment will require only one report. Annual reports are more properly left to the Energy Conservation Act, which hopefully will be enacted this year. But at least the conservation effort will have begun and only by requiring that it begins now is there any chance that the ideas, findings and impetus which are generated by the call for a report can be put into practice this coming Winter.

I submit these three amendments as a package which I hope the Chairman will accept.

STATEMENT BY ALBERT A. WALSH, PRESIDENT, NATIONAL REALTY COMMITTEE

I. THE PROBLEM

A. Introduction

The astronomical rise in the price of imported residual fuel oil has turned an already-existing housing problem into a catastrophe for the Northeast region of the United States.

The drastic and uncontrolled fuel oil price increase has resulted in a fantastic rise in the cost of heating residential and commercial buildings. (It has also greatly increased the cost of electricity for such buildings.) Property owners must either attempt to absorb the increased heating costs or pass the costs along to tenants in the form of higher rents. Neither of these alternatives is satisfactory. It would be financially disastrous for most property owners—particularly owners of multifamily, low or moderate income residential properties, who operate on small returns on their capital investments—to attempt to absorb the cost increases. The cost increases are so substantial that properties that previously generated small profits would now produce significant deficits.

Raising rents is also no answer. Many buildings are owner occupied. Others are leased under long-term leases that do not provide for rent increases because of increased costs. Owners of residential buildings that house low or moderate income tenants are, as a practical matter, unable to raise rents. Such tenants are, for the most part, hard pressed to meet existing rents. The percentage increase in rent for these tenants that would be required to cover the increased heating costs would be substantial. It would be unreasonable to expect that owners would have much success collecting such an increase from the tenants.

It is obvious, then, that the burden of the increased cost of heating oil falls on the property owner. Many owners will have to choose between operating at a loss and simply walking away from the property.

This is precisely where the problem of rampant price increases has led: to property owners walking away from their buildings. Building abandonments have plagued many cities during the past decade, particularly those in the Northeast. This has led to a spreading of slum areas and to serious social problems. To the great misfortune of the cities affected, building abandonments have been accelerated by the phenomenal increase in heating costs. The rise in heating costs will undoubtedly turn thousands of buildings—particularly in the inner cities—into losing propositions. Immediate action is required to stop the wholesale abandonment of buildings.

B. Dependence on imported residual fuel oil

The Northeast is heavily dependent on residual fuel oil for heating its residential and commercial buildings. The most recent data available shows that of the 187,111,000 barrels of residual fuel oil used for heating purposes in the United States in 1972, 155,546,000 barrels, or 83.1 percent, were used in P.A.D. I. Of these, 148,635,000 barrels, or 79.4 percent of the national total, were consumed in New England and the Mid-Atlantic states alone.*

The root of the present problem is not simply the dependence of the Northeast on residual fuel oil in general. It is the dependence of the Northeast on *imported* residual fuel oil in particular. Of the 686,554,000 barrels of residual fuel oil that were consumed for all purposes in P.A.D. I in 1972, over 588,000,000 barrels, or more than 86 percent were imported. Moreover, of all the residual fuel oil imported into the United States in 1972, more than 98.6 percent was consumed in P.A.D. I. This means that all other regions of the country are able to satisfy their needs for residual fuel oil from domestic sources. Only the Northeast is unable to meet its needs from domestic sources (principally because of the lack of refining capacity in this region). Only the Northeast is dependent on imported supplies.

C. Increases in the price

In January 1973, number 6 residual fuel oil sold in the New York City area at prices averaging between 13 cents and 16 cents per gallon. In May 1973, the New York City Housing Authority purchased residual fuel oil at a contract price of 13.6 cents per gallon. In Philadelphia in May 1973 residual fuel oil prices averaged between 12 cents and 14 cents per gallon. As late as August 1973, number 6 oil was selling at prices averaging between 12 cents and 14 cents per gallon in Boston.

By January and February 1974, however, the impact of the drastic price increases in imported residual fuel oil was apparent. On January 16, 1974, the New York City Housing Authority had to pay a contract price of 32.5 cents per gallon for number 6 oil, an increase of 239 percent over the price paid in May 1973. In February, the average of residual fuel oil prices in New York City fluctuated between 27.63 cents and 43.14 cents per gallon, the latter figure representing a 270 percent price increase in just one year. In Philadelphia, the average price had risen above 35.5 cents per gallon in February 1974, a 296 percent increase over the price a year earlier. In Boston, the price on February 1, 1974, was 25.7 cents per gallon, an increase of 209 percent over the price on August 1, 1973, only six month earlier.

These prices illustrate the tremendous jump in the price of imported number 6 oil. This fuel is not subject to United States price controls at either the producer or refiner levels because it is produced and refined abroad. It is in the Northeast, where more than 98 percent of the nation's imported residual fuel oil is consumed, where the impact of these prices has been, and will continue to be, uniquely felt, unless prompt and effective legislative action is taken.

The PRESIDING OFFICER. Without objection, the amendments will be received and printed, and will lie on the table.

Mr. FANNIN. Mr. President, I thank

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*The source for these statistics, and for those in the succeeding paragraph is a report entitled "Mineral Industry Surveys," prepared by the Bureau of Mines, Department of the Interior, dated October 10, 1973. The Bureau of Mines estimates that consumption figures for 1973 will not be available until the summer of 1974.

the Senator from New York. I had not understood what he intended.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Ron Frank, David Russell, and Laverne Phillips of my staff be accorded the privileges of the floor during the debate, voting, and consideration of this measure.

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

Mr. JAVITS. Mr. President, I make the same request on behalf of Gary Klein, that he have the privilege of the floor during my consideration, debate, and voting of this measure.

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

Mr. BARTLETT. Mr. President, I would like to emphasize that this bill will not do one thing to solve our energy supply problems. In fact the bill contains much that would be counterproductive and if the price control amendment is to be offered by the distinguished chairman of the Interior and Insular Affairs Committee is adopted, this bill would further exacerbate our energy problems rather than solve them.

Mr. President, S. 3267 is being considered in an entirely different situation than was its predecessor S. 2589. We no longer have an Arab embargo.

The Senate should take this opportunity to focus its attention on legislation before Congress that would increase the amounts of energy available to the consumers and for the benefit of the citizens, of the United States. Instead we keep voting on measures that are defensive in nature rather than aggressive toward the solution of the problem, the shortage of energy.

Actually, S. 3267 defeats the sponsor's declared purpose of authorizing actions appropriate and necessary in an emergency situation.

In an emergency, the President must be able to act quickly without encumbrance. And there must be direction from a single focal point, the President who has additional authorities that are necessary to cope with a true emergency situation. Unfortunately, most of the authorities in S. 3267 are vested in the FEA Administrator and not the President.

In the critical areas of rationing and conservation measures the requirement for congressional review of the Administrator's plans prior to implementation would unnecessarily delay, possibly critical, initiation of those plans.

The automatic 6-month termination of these plans can only serve to discourage serious participation by all parties including the citizens of our country.

Section 100, which purports to increase competition in the retail market structure, would actually decrease such competition by locking in existing franchise retailers regardless of their inefficiency or inability to compete effectively. New entries into the market would be discouraged and therefore this provision would decrease competition rather than increase competition.

Section 114, which is intended to benefit the unemployed, would be most difficult to administer and would work to the disadvantage of those for whom the benefits are intended. The best way to cope with the unemployment problem is to strengthen, where needed, our existing programs; not to set the precedent of providing for unemployment compensation for a specific cause and effect relationship as a basis for eligibility.

This bill does provide for the much needed authority to direct powerplants to use coal if they can, but the act does not provide for the necessary complimentary relaxation of the Clean Air Act standards to allow these conversions to be implemented within the law.

There are two sections, section 115 and section 122, that are totally unnecessary because they are a duplication of previously adopted legislation. Section 115, which provides for additional involvement in carpooling efforts, is already a part of the Emergency Highway Conservation Act.

I might state that I introduced a resolution to that effect about a year ago.

Section 122, which provides the authority to obtain various energy data, is already a part of the Federal Energy Administration Act of 1974.

Mr. President, Congress and the honorable chairman of the Interior and Insular Affairs Committee have long recognized the value of our natural resources such as air, water, and minerals, to name a few.

This bill, S. 3267, purports to recognize the importance of conservation of our energy resources. However, subsection (A)(2) of section 107 is not consistent with the long recognized principals to which Congress has adhered.

If the authority under this section were implemented, physical losses of oil and gas would be caused. Our natural resources would be wasted needlessly.

Only as a last resort in the interest of our national security after all other nonwasteful alternatives have been exhausted would wasting our resources be justified.

It is interesting to note that the Naval Reserves, which could be produced without waste, are specifically excluded from the provisions designed to provide an increase in the available domestic petroleum supplies to meet critical energy needs. Why should we waste oil and gas by producing domestic fields above their maximum efficient rate when we could produce oil from the Naval Reserves without loss of ultimate recovery?

If the provisions of subsection (A)(2) of section 107 were implemented, economic losses would occur. The reserves of oil and gas that would be lost by producing at rates above the maximum efficient rate are the assets of individual owners and companies. Royalty owners and working interest owners of these minerals would be sacrificing future income. This diminution of property rights would be unconstitutional.

Also, in this subsection the term "excessive risk of losses and recovery" is indeterminable. Losses that are not excessive in today's economic climate might be extremely excessive in a future economic climate and with the benefit of future technology.

For instance, currently we recover about one-third of the oil from a producing reservoir; two-thirds of the oil is not being recovered under the existing economic climate. Virtually 100 percent of the oil in place can be, and hopefully some day will be, recovered as improvements in technology are made and if adequate economic incentives prevail.

We should not jeopardize the possibility of recovering these additional reserves by gutting an existing field for our short-term needs, with the possible exception as a last resort, for national security purposes.

It would be far more reasonable to produce the Naval Reserve fields to meet critical needs before we knowingly waste the petroleum reserves of other domestic oil fields.

The distinguished Senator from Washington (Mr. JACKSON) has said that he will introduce an amendment to require that price controls be exerted over petroleum. Price controls would only further breed shortages. The consumer deserves more of an energy program than just spreading around shortages. The consumer deserves governmental policies that will increase supplies.

The past history of price regulation of interstate gas is being ignored by those who support petroleum price controls. The disaster of the Economic Stabilization Act and the resulting inequities and shortages that it caused are also being ignored. It seems to me that we should learn by your mistakes.

Instead we are ignoring history by saying on one hand that the free market is the best mechanism ultimately to increase supplies and conserve our energy by reducing demand, but then advocating price controls in legislation. All price controls will do is distort the marketplace and further complicate our problems.

I will have much more to say about the proposed amendment on price controls when it is called to the floor for debate.

I might tell my distinguished friend the floor manager of the bill at the present time that I know he will be offering an amendment dealing with the stripper well provisions of the law, and I hope that my argument will be better than my ability on the tennis court in that engagement, but that I look forward to a full discussion of the merits of the stripper well amendment that is presently in the law.

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

Mr. BARTLETT. I yield.

Mr. HASKELL. I would like to observe that if the Senator's arguments are as good as his performance on the tennis court, they will be irresistible.

Mr. BARTLETT. I appreciate the comment of my friend.

It is time, Mr. President, that this body engage itself in a debate on all the issues surrounding the energy crisis.

With such a debate we might—I say might—adopt a commitment to energy self-sufficiency.

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

The PRESIDING OFFICER (Mr. WILLIAM L. SCOTT). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, are the three Javits amendments now pending?

Mr. JAVITS. Mr. President—Mr. President——

Mr. MANSFIELD. I have asked the question.

The PRESIDING OFFICER. No, not at the moment.

Mr. MANSFIELD. They are not pending at the moment?

Mr. JAVITS. I will call them up then, Mr. President.

Mr. President, I call up my amendments and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. MANSFIELD. Ask that they be considered as read.

Mr. JAVITS. Mr. President, I ask unanimous consent that the amendments en bloc be considered as read, and I am ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc of the Senator from New York (Mr. JAVITS).

The amendments en bloc were agreed to.

The texts of the amendments agreed to en bloc are as follows:

On page 118, line 22, insert the following subsection (e): "The Administrator shall, within 30 days of the enactment of this Act, report to the Congress with respect to extraordinary regional shortages or price disparities in residual fuel, steps taken to alleviate such shortages or eliminate the price disparities, the effects of such shortages or price disparities on individual, commercial and individual consumers, on housing, and on the local economy, and any legislative recommendations which he deems necessary to alleviate such shortages or remedy the adverse effects of the price disparities."

On page 163, line 10, insert the following section:

SEC. 202. UTILITY ENERGY CONSERVATION REPORTS

(a) Within six months from the date of enactment of this Act, the Federal Power Commission shall by rule on the record after opportunity for a public hearing promulgate regulations requiring electric and gas public utilities to submit to the Commission a report on energy conservation policies. The Commission shall make such reports readily available for public inspection.

(b) Each such report shall include—

(1) an indication of the problems the utility is encountering in implementing an energy conservation program, such as regulatory or rate restrictions;

(2) a description of the utility's research effort directed toward the conservation of energy;

(3) an evaluation of the role of the utility's wholesale and retail rate structures in achieving conservation of energy;

(4) disclosure of system inefficiencies, including energy loss during transmission; and

(5) such other relevant information as the Commission may require.

(c) Within 60 days after receipt of such reports, the Commission shall develop and submit to the Congress a plan for utility energy conservation together with its recommendations for legislation.

On page 116, line 17, after the word "produce", insert the following: "residual fuel oil and"

On page 116, line 18, after the word "national" insert the following: "and regional".

Mr. JAVITS. Mr. President, I thank my colleagues very much for their courtesy.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 12565) to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, and other weapons and research, development, test, and evaluation for the Armed Forces, and to authorize construction at certain installations, and for other purposes; agreed to the conference requested by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. HÉBERT, Mr. PRICE of Illinois, Mr. FISHER, Mr. BENNETT, Mr. STRATTON, Mr. BRAY, Mr. ARENDS, Mr. BOB WILSON, and Mr. GUBSER were appointed managers of the conference on the part of the House.

EDUCATION BILLS—ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, as long as the individuals whom I wanted to see in the Chamber are here, and for whom the quorum call was made, I ask unanimous consent that the Senate proceed to the consideration of H.R. 69, the education bill, and that all after the enacting clause on the House bill be stricken, and that the text of S. 1539, as reported, be substituted therefor and be considered as original text for the purpose of amendment.

Mr. ALLEN. Mr. President, does this——

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

Mr. ALLEN. Mr. President, reserving the right to object——

Mr. DOMINICK. Mr. President, a parliamentary inquiry——

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, as I understand the request——

Mr. DOMINICK. Mr. President, will the Senator from Alabama yield to me for a parliamentary inquiry?

Mr. ALLEN. Yes, provided I do not lose my right to the floor.

Mr. DOMINICK. Mr. President, I just wanted to know if that was the unanimous-consent request?

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. The Senator from Colorado is correct.

Mr. DOMINICK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. Then, Mr. President, I move that the Senate proceed to the consideration—first, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 735, S. 1539, a bill to amend and extend certain acts relating to elementary and secondary education programs, and for other purposes.

Mr. ALLEN. Mr. President, reserving the right to object, the distinguished be brought up and that certain action be taken beyond that to add the provisions of the Senate bill—substitute them for the provisions of the House bill.

Would not the distinguished majority leader be willing to bring up H.R. 69 without any further agreement beyond the actual bringing it up and putting it before the Senate, rather than bringing up the Senate bill? Would that not be the best course to pursue?

Mr. MANSFIELD. I would ask the advice of the manager of the bill and the ranking Republican leader. If it is acceptable to them, then it would be to me. If it is not, then whatever——

Mr. PELL. Mr. President, my own view would be that it would be best to proceed with the Senate bill so that we could proceed with the text on which your committee worked. But what would be the view of the ranking minority member?

Mr. JAVITS. Mr. President, I must concur that this represents an enormous labor here and for us to run it down the drain with a series of amendments hardly seems fair to the men who labored for weeks under the gifted leadership of the distinguished Senator from Rhode Island (Mr. PELL.).

Mr. ALLEN. The question this Senator is asking is, would it not be possible to bring up the House bill so that when the Senate completed action on that, all that would remain would be a conference rather than to bring up the Senate bill and send it over to the House?

Mr. JAVITS. If the Senator will yield, for myself I would say that if the Senate has the will to pass the Senate bill in whatever way it amends it, that will be its will. We would like to see what the Senate does with it, like everyone else, when it comes to substituting it for the House bill. So if that all that is being done here is a formality, that is one thing, but if it is more a formality than a substance—to wit, a piece of work that we have not worked on, making it the basis for action by the Senate—that would junk everything the committee has done. So, substantially, that would be unfair.

Mr. ALLEN. Would not——

Mr. JAVITS. If I may continue—I do not frankly see what the opponents would gain by this particular tactic because if the Vice President is in the Chair, as he will be, we know that the

administration is more favorable to parts of the House bill and he will undoubtedly break any tie, if there is one, that way. That is the only real advantage except for the fact that the work of the committee will be thrown in the ashcan if we take up the House bill.

So for all these reasons, one, I really think the distinguished majority leader is taking the fair course; and, second, I do not see what the opponents gain by this objection.

Mr. ALLEN. In answer to what the Senator has said, naturally he would like to bring up the bill that is in accordance with his wishes. It has his provisions in it regarding title I funds, impacted aid funds, and anti—or lack of anti-busing provisions; whereas those provisions are in the House bill. So that is the very meat of the bill, as to which bill comes before the Senate at this time. That is the big issue before the Senate. Of course, the Senator from New York would like to have his bill considered, but I think that is something for the Senate itself to decide.

Mr. PELL. Mr. President, it would seem to me that the orderly way, the way we always do it, is when the committee has striven hard. Senators can see the results of its labor in the foot-high volumes of hearings in front of them. So unless we come to some conclusion that the Senate should work its will on this committee's work, we junk those hearings and the work we have done and then go straight to the House bill, which would not seem a very normal or orderly procedure.

Mr. ALLEN. May I inspire of the Senator, were the House bill pending before the Senate, would it not be in order to move to substitute the provisions of the Senate bill and still have a vehicle when the House bill is before the Senate? It would save the time of the House and the Senate as well.

Mr. PELL. Speaking as the chairman of the subcommittee involved, I would still prefer to work from our text, on which we labored. This would be my request to the majority leader.

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

Mr. ALLEN. I yield.

Mr. McCLELLAN. The Senator from Rhode Island said something about working on this. How long has the Senate worked on this particular bill?

Mr. PELL. About a year or a year and a half.

Mr. McCLELLAN. I thank the Senator.

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

Mr. ALLEN. I yield.

Mr. JAVITS. The Senator said this was "his' bill—to wit, my own bill. This is a tipoff on the debate on this bill. It is not my bill. It is the bill that the subcommittee, with the very gifted leadership of Senator PELL, reported. Every member of the minority, on a rollcall vote, voted to report it. The committee report, on page 572, lists minority contributions to the bill.

Mr. President, we are going to let the Senate judge that issue. If that is going to be the issue in this debate, unworthy of the cause, which is an enormous cause for our people, we will let the Senate judge that. But I hope that the Senator will respect my colleagues enough not to make us feel that this is some private foray of mine as ranking minority member, which it distinctly is not.

Mr. ALLEN. The distinguished Senator objected to the reference by the Senator from Alabama to the fact that this was "his" bill. It is a bill that the Senator is espousing. The Senator from Alabama did not indicate that it was written by the distinguished Senator from New York; but it is a bill that the Senator from New York is pushing, that he seeks to get before the Senate at this time, that he advocates. So it seems that it was not unfair for the Senator from Alabama to say that it was the bill of the Senator from New York.

Mr. JAVITS. I thank the Senator.

Mr. ALLEN. I assume that the Senator is not disavowing his interest in the bill.

Mr. JAVITS. I thank the Senator for that explanation. It makes it much clearer.

The PRESIDING OFFICER. The Chair observes that the distinguished majority leader has asked unanimous consent that S. 1539 be the order of business. This has already been set as the order of business.

Mr. MANSIELD. It has already been agreed to.

Mr. ALLEN. I reserve the right to object, Mr. President. That is why I am on my feet.

The PRESIDING OFFICER. The Chair observes that this has already been set as a matter of business—an order from yesterday.

Mr. ALLEN. The order was entered on yesterday?

The PRESIDING OFICER. Yes.

Mr. ALLEN. Very well. The Senator from Alabama, as the Chair knows, was not in the Senate on yesterday, but was in Alabama.

Mr. MANSIELD. Mr. President, I ask unanimous consent that the order be vitiated, and I repeat my unanimous-consent request.

The PRESIDING OFFICER. Without objection, the order will be vitiated.

Mr. ALLEN. Mr. President, I object to the order vitiating the agreement.

The PRESIDING OFFICER. The Chair observes that the distinguished majority leader can call up S. 1539, if he so desires.

Mr. MANSFIELD. I was endeavoring to do that on a unanimous-consent basis.

Mr. ALLEN. I would rather that the bill be called up under the unanimous-consent agreement of yesterday, rather than for that agreemet to be vitiated and a new request made.

Mr. MANSFIELD. I appreciate that.

EDUCATION AMENDMENTS OF 1974

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 1539. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1539) to amend and extend certain acts, relating to elementary and secondary education programs and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

That this Act, with the following table of contents, may be cited as the "Education Amendments of 1974".

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GENERAL PROVISIONS

SEC. 2. (a) As used in this Act—

(1) the term "Secretary" means the Secretary of Health, Education, and Welfare;

(2) the term "Assistant Secretary" means the Assistant Secretary of Health, Education, and Welfare for Education; and

(3) the term "Commissioner" means the Commissioner of Education;

unless the context of such use requires another meaning.

(b) Unless otherwise specified, the redesignation of a title, part, section, subsection, or other designation by any amendment in this Act shall include the redesignation of all references to such title, part, section, subsection, or other designation in any Act or regulation, however styled.

(c) (1) Unless otherwise specified, each provision of this Act and each amendment made by this Act shall be effective on and after the sixtieth day after the enactment of this Act.

(2) In any case where the effective date for an amendment made by this Act is expressly stated to be effective after June 30, 1973, or on July 1, 1973, such amendment shall be deemed to have been enacted on June 30, 1973.

(d) If any provision of, or any amendment made by, this Act is held invalid by reason of being inconsistent with the Constitution, all provisions of this Act and amendments made by this Act which are separable from such invalid provision or amendment shall remain in effect. If any such provision or amendment is held invalid in one or more applications of such provision or amendment, such provision or amendment shall remain in effect in all valid applications which are separable from any such application.

NATIONAL POLICY WITH RESPECT TO EQUAL EDUCATIONAL OPPORTUNITY

SEC. 3. Recognizing that the Nation's economic, political, and social security require a well-educated citizenry, the Congress (1) reaffirms, as a matter of high priority, the Nation's goal of equal educational opportunity, and (2) declares it to be the policy of the United States of America that every citizen is entitled to an education to meet his or her full potential without financial barriers and limited only by the desire to learn and ability to absorb such education.

WHITE HOUSE CONFERENCE ON EDUCATION

SEC. 4. (a) The President is authorized to call and conduct a White House Conference on Education in 1977 (hereafter in this section referred to as the "Conference") in order to stimulate a national assessment of the condition, needs, and goals of education and to obtain from a broadly representative group of citizens a report of findings and recommendations with respect to such assessment.

(b) (1) In carrying out the provisions of this section, participants in conferences and other activities at local, State, and Federal levels are authorized to consider all matters relevant to the purposes of the Conference set forth in subsection (a), but shall give special consideration to the following:

(A) The implementation of the policy set forth in section 3.

(B) The means by which educational systems are financed.

(C) Preschool education (including child care and nutrition programs), with special attention to the needs of disadvantaged children.

(D) The adequacy of primary education in providing all children with the fundamental skills of communication (reading, writing, spelling, and other elements of effective oral and written expression) and mathematics.

(E) The effectiveness of secondary education in preparing students for careers, as well as for postsecondary education.

(F) The place of occupational education (including education in proprietary schools) in the educational structure and the role of vocational and technical education in assuring that the Nation's requirements for skilled manpower are met.

(G) The structure and needs of postsecondary education, including methods of providing adequate levels of student assistance and institutional support.

(H) The adequacy of education at all levels in meeting the special educational needs of such individuals as handicapped persons, economically disadvantaged, racially or culturally isolated children, those who need bilingual instruction, and gifted and talented children.

(2) Participants in conference activities at the State and local levels are authorized to narrow the scope of their deliberations to the educational problems which they consider to be most critical in their respective areas, but shall be encouraged by the National Conference Committee (established pursuant to subsection (c)) to consider such problems in the context of the total educational structure.

(c) (1) There is established a National Conference Committee (hereafter in this section referred to as the "Committee"), composed of not more than thirty-five members (of whom not more than twelve shall be educators) who are broadly representative of the public interest in education. The members of the Committee shall be appointed by the President, who shall, from among such members, designate a Chairman and a Vice Chairman.

(2) (A) The Committee shall provide guidance and planning for the Conference and shall make a final report (and such interim reports as may be desirable) of the results, findings, and recommendations of the Conference to the President and to the Congress not later than December 1, 1977.

(B) The Committee is authorized to provide such assistance as may be necessary for State and local conference activities in preparation for the National Conference.

(3) The Commissioner shall support the activities of the Committee by providing technical assistance, advice, and consultation.

(4) Members of the Committee shall serve without compensation, but may receive travel expenses (including per diem in lieu of subsistence) as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently, while employed in the business of the Committee away from their homes or regular places of business.

(5) The Committee is authorized to appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, a Conference Director and such professional, technical, and clerical personnel as may be necessary to assist in carrying out its functions under this section.

(d) (1) From the sums appropriated pursuant to subsection (e) the Commissioner is authorized to make a grant to each State, upon application of the Governor thereof, in order to assist in meeting the costs of that State's participation in the Conference program (including the conduct of conferences at the State and local levels).

(2) Grants made pursuant to paragraph (1) shall be made only with the approval of the Chairman of the Committee.

(3) Funds appropriated for the purposes of this subsection shall be apportioned among the States by the Commissioner in accordance with their respective needs for assistance under this subsection, except that no State shall be apportioned more than $75,000 nor less than $25,000.

(e) There are authorized to be appropriated, without fiscal year limitations, $10,000,000 to carry out the purposes of this section; and sums so appropriated shall remain available for expenditure until June 30, 1978.

(f) For the purposes of this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

POLICY OF THE UNITED STATES WITH RESPECT TO MUSEUMS AS EDUCATIONAL INSTITUTIONS

SEC. 5. The Congress, recognizing—

(1) that museums serve as sources for schools in providing education for children,

(2) that museums provide educational services of various kinds for educational agencies and institutions and institutions of higher education, and

(3) that the expense of the educational services provided by museums is seldom borne by the educational agencies and institutions taking advantage of the museums' resources, declares that it is the policy of the United States that museums be considered educational institutions and that the cost of their educational services be more frequently borne by educational agencies and institutions benefiting from those services.

TITLE I—AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

AMENDMENTS TO TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965—SPECIAL EDUCATIONAL PROGRAMS AND PROJECTS FOR EDUCATIONALLY DEPRIVED CHILDREN

SEC. 101. (a) (1) Section 102 of title I of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"DURATION OF ASSISTANCE

"SEC. 102. During the period beginning July 1, 1973, and ending June 30, 1978, the Commissioner shall, in accordance with the provisions of this title, make payments to State educational agencies for grants made on the basis of entitlements created under this title.".

(2) (A) Such title I is amended by striking out section 103 and inserting in lieu thereof the following:

"GRANTS TO LOCAL EDUCATIONAL AGENCIES

"SEC. 103. (a) Subject to section 144, the maximum amount to which any local educational agency in any State shall be entitled under this section for any fiscal year in the period set forth in section 102 shall be equal to—

"(1) the number of children determined with respect to such agency in accordance with subsection (b); multiplied by

"(2) the Federal percentage of the average per pupil expenditure determined with respect to such agency pursuant to subsection (c).

"(b) (1) The number of children determined for the purposes of clause (1) of subsection (a) with respect to any local educational agency for any fiscal year shall be the number of children in the school district of such agency who are—

"(A) in families having a low annual income, as defined in paragraph (2); or

"(B) living in institutions for neglected or delinquent children or being supported in foster homes with public funds.

In determining the number of children under clause (B) in the preceding sentence, children in institutions operated by the United States, and children counted for the purpose of a grant to a State agency under this title shall not be included.

"(2) (A) For the purpose of this section, the term 'children in families having a low annual income' means (i) children in families determined pursuant to subparagraph (B) and (ii) children in families determined pursuant to subparagraph (C).

"(B) (i) The Commissioner shall determine with respect to each local educational agency the number of children in families having an annual income which, in 1970, did not exceed the low-income level for 1969 living in the school district of such agency.

"(ii) For the purposes of division (i) the low-income level with respect to a family shall be determined, considering the characteristics of such family (such characteristics being the size of the family, the sex of the head of the family, and whether the residence of the family is on a farm), in accordance with the following table:

"Size of family	Nonfarm		Farm	
	Male head	Female head	Male head	Female head
2 persons	$2,394	$2,320	$2,017	$1,931
Head under 65 years	2,473	2,373	2,100	1,984
Head 65 years and over	2,217	2,202	1,883	1,661
3 persons	2,937	2,830	2,485	2,395
4 persons	3,745	3,725	3,197	3,159
5 persons	4,418	4,377	3,770	3,761
6 persons	4,962	4,917	4,245	4,205
7 or more persons	6,116	5,952	5,185	5,129

"(C) The Commissioner shall determine with respect to each local educational agency for each fiscal year the number of children in families who, during the calendar year ending prior to the beginning of such fiscal year, received payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act.

"(3) (A) In any case where the Commissioner determines that satisfactory data with respect to a local educational agency are not available for the purpose of determining a number of children under paragraph (1), the number of children determined with respect to such agency for the purposes of paragraph (1) shall be determined on the basis of the number of children for all such agencies in the county or counties in which the school district of such agency is located. In which case, the number of children determined with respect to one or more counties shall be allocated, for the purposes of paragraph (1) among the local educational agencies with school districts located in such county or counties upon such equitable basis as may be determined by the State educational agency, in accordance with basic criteria prescribed by the Commissioner.

"(B) In any case where—

"(i) two or more local educational agencies serve in whole or in part, the same geographical area; or

"(ii) a local educational agency provides free public education for a substantial number of children who reside in the school district of another local educational agency,

the State educational agency may allocate the number of children determined under this subsection among such agencies in such a manner as will best achieve the purposes of this subsection.

"(4) No local educational agency shall be entitled to a grant under this section for any fiscal year unless the number of children determined with respect to such agency under this subsection is at least ten.

"(5) (A) (i) For the purposes of this subsection, the Commissioner shall determine the number of children from families having an annual income of less than the low-income level for any county in any State on the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a county are available in the Department of Commerce, such data shall be used in making calculations under this subsection.

"(ii) (I) When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children from families having an annual income of less than the low-income level in each county or school district. The Commissioner is authorized to pay the cost of making any such special estimate.

"(II) The Secretary of Commerce shall give consideration to any request from the chief

executive of any State for the collection of additional census information for the purposes of this subsection.

"(B) For the purposes of this subsection, the Secretary of Health, Education, and Welfare shall determine the number of children from families receiving an annual income in excess of the low-income level for any county from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act and the number of children living in institutions for neglected or delinquent children or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year, or to the extent that such data are not available to him before April 1 of the calendar year in which the determination is made, then on the basis of the most recent data available to him at the time of such determination. For the purposes of this subsection, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

"(c)(1) For the purposes of clause (1) of subsection (b), the Federal percentage of the average per pupil expenditure for a local educational agency shall be, for any fiscal year ending prior to July 1, 1978—

"(A) 50 per centum of the average per pupil expenditure of all the local educational agencies in the State in which the school district of such agency is located; or

"(B) 50 per centum of the average per pupil expenditure of all the local educational agencies in all the States;

whichever is greater.

"(2)(A) For the purposes of paragraph (1), the average per pupil expenditure of a local educational agency shall be (i) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made of such agency, plus any direct current expenditures by the State for the operation of such agency, divided by (ii) the aggregate number of children in average daily membership in the schools of such agency for whom such agency provided free public education during such preceding year. For the purposes of clause (i) in the preceding sentence, all such current expenditures shall be included without regard for the sources of funds from which such expenditures are made.

"(B) If satisfactory data for the purposes of subparagraph (A) are not available for any fiscal year with respect to any local educational agency, then data for the most recent fiscal year for which satisfactory data are available shall be used for the purposes of such subparagraph.

"(d)(1) For the purposes of this section, the term 'State' does not include Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(2) For the purposes of this section, except subsection (c)(2), the term 'children' includes all children aged five through seventeen, inclusive.

"GRANTS TO STATE AGENCIES

"SEC. 104. (a) For each fiscal year in the period during which the Commissioner makes payments pursuant to section 102, the Commissioner shall make payments to State agencies on the basis of entitlements created under this section.

"(b)(1) Each State agency which is directly responsible for providing free public education for handicapped children shall be entitled to receive a grant under this section for each fiscal year in an amount determined in accordance with paragraph (2).

"(2) The amount of the grant to which a State agency shall be entitled under this section shall be equal to—

"(A) the number of children in average daily attendance as determined by the Commissioner, at schools for handicapped children operated or supported by such State agency, including children in school receiving special education for handicapped children under contract (or other arrangement) with such State agency, in the most recent fiscal year for which satisfactory data are available;

multiplied by—

"(B) the Federal percentage of the average per pupil expenditure determined with respect to the local educational agencies in that State under section 103(c).

"(c)(1) Each State educational agency shall be entitled to receive a grant under this section for each fiscal year for the provision of educational programs for migratory children of migratory agricultural workers in accordance with section 141(c). The amount of such grant shall be determined in accordance with paragraph (2).

"(2) The amount of the grant to which a State agency shall be entitled for any fiscal year under this subsection shall be equal to—

"(A) the sum of—

"(i) the estimated number of migratory children of migratory agricultural workers aged five to seventeen, inclusive, who reside in the State full time, and

"(ii) the full-time equivalent of such children who reside in the State part time, as determined by the Commissioner in accordance with regulations;

multiplied by—

"(B) the Federal percentage of the average per pupil expenditure determined with respect to the local educational agencies in that State under section 103(c).

"(d)(1) Each State agency which is directly responsible for providing free public education for children in institutions for neglected and delinquent children or for children in correctional institutions for adults shall be entitled to a grant under this section for each fiscal year. The amount of such grant shall be determined in accordance with paragraph (2).

"(2) The amount of the grant to which a State agency shall be entitled under this subsection for any fiscal year shall be equal to—

"(A) the number of children for whom such agency has direct responsibility for providing free public education and who are in institutions for neglected and delinquent children or in correctional institutions for adults (including children for whom such agency provides free public education under a contract or other arrangement between the agency and another agency or school); multiplied by—

"(B) the Federal percentage of the average per pupil expenditure determined with respect to the local educational agencies in that State under section 103(c).

"(e) Grants made to State agencies under this section shall be used by such agencies only for programs and projects which are designed to meet the special educational needs of the children on behalf of whom such agency is entitled to such grants. Such programs and projects may include, where necessary, the acquisition of equipment and the construction of school facilities.

"ASSISTANCE TO JURISDICTIONS EXCLUDED FROM THE DEFINITION OF 'STATE' UNDER SECTION 103(e)

"SEC. 105. (a) The jurisdictions to which this section applies are the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(b) Each jurisdiction to which this section applies shall, for each fiscal year ending prior to June 30, 1978, be entitled to a grant in an amount equal to the amount determined by the Commissioner, in accordance with criteria established by regulation, needed by that jurisdiction to provide special educational programs and projects for educationally deprived children in that jurisdiction, except that the aggregate of the amounts to which all such jurisdictions are so entitled for any fiscal year shall not exceed an amount equal to 2 per centum of the aggregate of the amounts to which all local educational agencies are entitled under section 103 for that fiscal year. If the aggregate of the amounts, determined by the Commissioner pursuant to the preceding sentence, to be so needed for any fiscal year exceeds an amount equal to such 2 per centum limitation, entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such 2 per centum limitation.

"(c) The provisions of this title, except when expressly provided otherwise, shall be applicable to the jurisdictions to which this section applies.

"CHILDREN ON RESERVATIONS SERVICED BY SCHOOLS OPERATED BY THE DEPARTMENT OF THE INTERIOR

"SEC. 106. (a) The Commissioner is authorized for each fiscal year ending prior to July 1, 1977, to make payments to the Secretary of the Interior for the purposes set forth in subsection (b). Such payments may be made only for the purpose of carrying out an agreement meeting the requirements of subsection (c). The amount of such payment for any fiscal year shall not exceed 1 per centum of the aggregate of the amounts paid to local educational agencies for grants under section 103.

"(b) Payments made to the Secretary of the Interior under this section shall be solely for special programs and projects designed to meet the special educational needs of educationally deprived Indian children—

"(1) on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior; and

"(2) who are in attendance at the schools of local educational agencies under special contracts with the Department of the Interior respecting out-of-State Indian children.

"(c) The agreement between the Commissioner and the Secretary of the Interior, required by subsection (a), shall—

"(1) provide that payments received by the Secretary of the Interior will be used solely for the purposes set forth in subsection (b);

"(2) provide that the Secretary of the Interior will, from funds appropriated to the Department of the Interior, provide such administrative and supervisory services as may be necessary to conduct the programs and projects assisted under this section;

"(3) provide that the Commissioner shall exercise, with respect to such payments, such authority as a State educational agency has with respect to grants under this title to local educational agencies; and

"(4) contain such terms and assurances as the Commissioner determines will best achieve the purposes of this section.".

(B) Section 121(b) of such title I is amended—

(i) by inserting "(1)" after "(b)";

(ii) by striking out "$1" and inserting in lieu thereof "$1.50";

(iii) by striking out "clauses (2), (5), (6), and (7) of section 301(a)" and inserting in lieu thereof "sections 103 and 104"; and

(iv) by inserting at the end thereof the following new paragraph:

"(2)(A) The aggregate of the amounts to which the States are entitled under this part for any fiscal year shall not exceed $75,000,000. If, for any fiscal year, such amounts, without the limitation in the preceding sentence, exceed $75,000,000, each of the entitlements created under this part shall be reduced ratably until such amounts do not exceed such limitation.

"(B) Entitlements created under this part shall be considered only with respect to ap-

propriations for this title in excess of $1,396,975,000 for any fiscal year.".

(C) Section 131 of such title I is amended to read as follows:

"ELIGIBILITY AND MAXIMUM AMOUNT OF SPECIAL GRANTS

"SEC. 131. (a) Each local educational agency in a State which is eligible for a grant under part A for any fiscal year shall be entitled to an additional grant for that fiscal year if it meets the requirements of subsection (b). The amount of such grant shall be determined in accordance with subsection (c).

"(b) (1) A local educational agency shall be entitled to a grant under this part for any fiscal year if the school district of such agency is located in a county in which—

"(A) the number of children described in paragraph (2) in the school district of such agency for such year amounts to at least 200 per centum of the average number of such children in all counties in the State in which such agency is located for that fiscal year; or

"(B) the number of children so described in the such county for such year is 10,000 and amounts to 5 per centum of the total number of children in such county.

"(2) For the purposes of paragraph (1), the children counted with respect to a local educational agency shall be these children in the such county who are—

"(A) in families having an annual income of $3,000 or less; or

"(B) in families receiving an annual income in excess of $3,000 from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; or

"(C) living in institutions for neglected or delinquent children or being supported in foster homes with public funds.

In determining the number of children under clause (C) in the preceding sentence, children in institutions operated by the United States and children counted for the purpose of a grant to a State agency under section 104 shall not be included.

"(3) (A) Determinations with respect to numbers of children in any county under paragraph (2) shall be made by the Commissioner on the basis of the most recent satisfactory data available to him.

"(B) (i) The number of children determined with respect to one or more counties shall be allocated, for the purposes of paragraph (2) among the local educational agencies with school districts located in such county or counties by the Commissioner.

"(ii) In any case where—

"(I) two or more local educational agencies serve, in whole or in part, the same geographical area; or

"(II) a local educational agency provides free public education for a substantial number of children who reside in the school district of another local educational agency.

the Commissioner may allocate the number of children determined under this subsection among such agencies in such a manner as will best achieve the purposes of this subsection.

"(C) (i) For the purposes of paragraph (2), the Commissioner shall determine the number of children from families having an annual income of $3,000 or less on the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a county are available in the Department of Commerce, such data shall be used in making calculations under this subsection.

"(ii) For the purposes of this subsection, the Secretary of Health, Education, and Welfare shall determine the number of children from families receiving an annual income in excess of $3,000 from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act and the number of children living in institutions for neglected or delinquent children or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year, or to the extent that such data are not available to him before April 1 of the calendar year in which the determination is made, then on the basis of the most recent data available to him at the time of such determination. For the purposes of this subsection, the Secretary shall consider all children who are in correctoinal instittuions to be living in institutions for delinquent children.

"(c) (1) The amount of the grant to which a local educational agency shall be entitled for any fiscal year shall be—

"(A) the number of children determined with respect to such agency under subsection (b);

multiplied by—

"(B) 50 per centum of the average per pupil expenditure of all the local educational agencies in the State in which such agency is located.

"(2) The provisions of subsection (d) (2) of section 103 shall apply to this subsection.

"(d) Entitlements created under this part shall be considered only with respect to appropriations for this title in excess of $1,396,975,000 for any fiscal year.

"(e) For the purposes of this section, the term 'State' means the fifty States and the District of Columbia; and the term 'children' includes all children aged five through seventeen, inclusive."

(D) (i) Section 141(a) of such title I is amended by redesignating the second clause (12) thereof as clause (13).

(ii) Section 141(c) (1) (C) of such title I is amended by striking out "(2) through (12)" and inserting in lieu thereof "(2) through (13)".

(iii) Section 141 of such title I is amended by inserting at the end thereof the following new subsection:

"(d) Each State agency desiring to receive a grant under section 104(a) or 104(c) shall make application therefor at such time, containing such information, and in such form as the Commissioner shall prescribe by regulation. Such applications shall provide that programs and projects carried out thereunder will be consistent with the appropriate objectives of clauses (1) (B) and (2) through (13) of subsection (a), and of section 142.".

(iv) Section 142(a) (1) of such title I is amended by striking out "103(a) (5)" and inserting in lieu thereof "104".

(v) Section 143(b) (1) of such title I is amended by striking out "103" and inserting in lieu thereof "103, 104, 105".

(E) Section 144 of such title I is amended to read as follows:

"ALLOCATIONS OF APPROPRIATIONS

"SEC. 144. (a) Sums appropriated for any fiscal year ending prior to July 1, 1978, shall be made available to the States and allocated as follows:

"(1) Each local educational agency shall be allocated, on the basis of its unsatisfied entitlements under section 103, an amount equal to the amount it received from the appropriation for this title for the fiscal year 1974.

"(2) Each State agency shall be allocated, on the basis of its entitlement under section 104, an amount equal to the maximum amount it is entitled as computed under such section.

"(3) Each agency eligible for a grant under sections 105 and 106 shall be allocated such sums as the Commissioner determines appropriate.

"(4) Fifteen per centum of the difference between $1,396,975,000 and the amount appropriated for this title for that year shall be allocated on the basis of entitlements created under section 131, ratably reduced.

"(5) An amount equal to 1 per centum of the amounts allocated under paragraphs (1), (2), and (4) to agencies in each State shall be allocated to the State educational agency of that State for the purposes of section 143(b), except that no State shall be allocated less than the minimum amount provided for in section 143(b) (2).

"(b) Any sums appropriated to carry out this title for any fiscal year which remain after allocations under subsection (a) shall be made to State educational agencies and local educational agencies in accordance with entitlements created under sections 103, 121, and 143(b) (to the extent that such entitlements are unsatisfied) ratably reduced, except that in making such ratable reduction, the amount allocated among local educational agencies on the basis of computations of children determined pursuant to section 103(b) (2) (C) shall not in the aggregate constitute more than 40 per centum of the total amounts allocated on the basis of computations of children determined under section 103.

"(c) In the event that funds become available for making payments under this title for any fiscal year after allocations have been made under subsections (a) and (b) for that year, the amount reduced under subsection (b) shall be increased on the same basis as they were reduced.

"(d) In order to permit the most effective use of all appropriations made to carry out this title, the Commissioner shall set dates by which—

"(1) State educational agencies must certify to him the amounts for which the applications of educational agencies have been or will be approved by the State, and

"(2) State educational agencies referred to in section 104 must file applications.

If the maximum grant a local educational agency or an agency referred to in section 104 would receive (after any ratable reduction which may have been required under subsections (a) and (b)) is more than an amount which the State educational agency determines, in accordance with regulations prescribed by the Commissioner, such agency will use, the excess amount shall be made available first to educational agencies in that State. Determinations of the educational agencies to which such excess amount shall be made available shall be made by the State educational agency in furtherance of the purposes of this title in accordance with criteria prescribed by the Commissioner which are designed to assure that such excess amounts will be made available to other eligible educational agencies with the greatest need, for the purpose of, where appropriate, redressing inequities inherent in, or mitigating hardships caused by, the application of the provisions of section 103 as a result of such factors as population shifts and changing economic circumstances. In the event excess amounts remain after carrying out the preceding two sentences of this section, such excess amounts shall be distributed among the other States as the Commissioner shall prescribe for use by local educational agencies in such States for the purposes of this title in such manner as the respective State educational agencies shall prescribe.".

(3) Section 141 of such title I is amended by adding at the end thereof the following new subsections:

"(e) (1) If local educational agency is prohibited by law from complying with clause (2) of subsection (a), the Commissioner may waive such requirement with respect to such agency and shall arrange for the provision of services to the children to whom such clause applies through arrangements which shall be

subject to the requirements of such clause (2).

"(2) If the Commissioner determines that a local educational agency has substantially failed to comply with clause (2) of subsection (a), he shall arrange for the provision of services to the children to whom such clause applies through arrangements which shall be subject to the requirements of such clause (2).

"(3) When the Commissioner arranges for services pursuant to this subsection, he shall, after consultation with the appropriate public and nonpublic school officials, pay the cost of such services from the appropriate allocation or allocations under this title.

"(f) The Commissioner shall not take action under subsection (e) with respect to any State or local educational agency without first affording such agency and other interested parties notice and an opportunity for a hearing. Such notice shall be given not less than sixty days prior to any final action of the Commissioner under such subsection. If the Commissioner determines that the provisions of subsection (e) apply to a substantial number of children who are in attendance at private schools, he shall proceed as required under such subsection. If the local educational agency or the State educational agency of the State in which such local educational agency is located is dissatisfied with the action of the Commissioner under subsection (e), either such agency or both shall qualify for judicial review of the Commissioner's action. If any State or local educational agency desires judicial review under subsection (e) of this subsection, such State or local educational agency shall, within sixty days after such action, file with the United States Court of Appeals for the circuit in which such State is located a petition for review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.".

(4) Section 141(a)(1)(A) of such title I is amended by adding at the end thereof the following: "(and at the discretion of the local educational agency, in any school of such agency not located in such a school attendance area, at which the proportion of children in actual average daily attendance from low-income families is substantially the same as the proportion of such children in such an area of that agency)".

(b) The amendments made by subsection (a) shall be effective on and after July 1, 1974.

SCHOOL LIBRARY RESOURCES, TEXTBOOKS, AND OTHER INSTRUCTIONAL MATERIALS

SEC. 102. (a)(1) Section 201(b) of the Elementary and Secondary Education Act of 1965 is amended by striking out all that follows "to be appropriated" and inserting in lieu thereof the following "$220,000,000 for the fiscal year ending June 30, 1974, and for each of the succeeding fiscal years ending prior to July 1, 1978.".

(2) The third sentence of section 202(a)(1) of such Act is amended by striking out "July 1, 1973," and inserting in lieu thereof "July 1, 1978,".

(3) Section 204(b) of such Act is amended by striking out "July 1, 1973," and inserting in lieu thereof "July 1, 1978,".

(b) The amendments made by this section shall be effective on and after July 1, 1973.

SUPPLEMENTARY EDUCATIONAL CENTERS AND SERVICES; GUIDANCE, COUNSELING, AND TESTING

SEC. 103. (a)(1) Section 301(b) of the Elementary and Secondary Education Act of 1965 is amended by striking out "the fiscal year ending June 30, 1973" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1978"'.

(2) Section 302(a)(1) of such Act is amended by striking out "July 1, 1973," and inserting in lieu thereof "July 1, 1978,".

(3) Section 305(c) of such Act is amended by striking out "July 1, 1973," and inserting in lieu thereof "July 1, 1978,".

(b) Section 307 of such Act is amended by adding at the end thereof the following new subsection:

"(g) The Commissioner shall not take action under subsection (f) with respect to any State or local educational agency without first affording such agency and other interested parties notice and an opportunity for a hearing. Such notice shall be given not less than sixty days prior to any final action of the Commissioner under such subsection. If the Commissioner determines that the provisions of subsection (f) apply to a substantial number of children who are in attendance at private schools, he shall proceed as required under such subsection. If the local educational agency or the State educational agency of the State in which such local educational agency is located is dissatisfied with the action of the Commissioner under subsection (f), either such agency or both shall qualify for judicial review of the Commissioner's action. If any State or local educational agency desires judicial review under subsection (f) of this subsection, such State or local educational agency shall, within sixty days after such action, file with the United States Court of Appeals for the circuit in which such State is located a petition for review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. The court shall have jurisdiction to affirm the action of the Commissioner or set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.".

(c) The amendments made by this section shall be effective on and after July 1, 1973.

STRENGTHENING STATE AND LOCAL EDUCATIONAL AGENCIES

SEC. 104. (a)(1) Section 501(b) of the Elementary and Secondary Education Act of 1965 is amended by striking out "the fiscal year ending June 30, 1973" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1978".

(2) Section 521(b) of such Act is amended by striking out "the fiscal year ending June 30, 1973" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1978".

(3) Section 531(b) of such Act is amended by striking out "the fiscal year ending June 30, 1973" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1978".

(b) The amendments made by this section shall be effective on and after July 1, 1973.

BILINGUAL EDUCATIONAL PROGRAMS

SEC. 105. (a)(1) Title VII of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"TITLE VII—BILINGUAL EDUCATION

"SHORT TITLE

"SEC. 701. This title may be cited as the 'Bilingual Education Act'.

"POLICY; APPROPRIATIONS

"SEC. 702. (a) Recognizing—

"(1) that there are large numbers of children of limited English-speaking ability;

"(2) that many of such children have a cultural heritage which differs from that of English-speaking persons;

"(3) that a primary means by which a child learns is through the use of such child's language and cultural heritage;

"(4) that, therefore, large numbers of children of limited English-speaking ability have educational needs which can be met by the use of bilingual educational methods and techniques; and

"(5) that, in addition, all children benefit through the fullest utilization of multiple language and cultural resources,

the Congress declares it to be the policy of the United States, in order to establish equal educational opportunity for all children (A) to encourage the establishment and operation, where appropriate, of educational programs using bilingual educational practices, techniques, and methods, and (B) for that purpose, to provide financial assistance to local educational agencies, and to State educational agencies for certain purposes, in order to enable such local educational agencies to develop and carry out such programs in elementary and secondary schools, including activities at the preschool level, which are designed to meet the educational needs of such children; and to demonstrate effective ways of providing, for children of limited English-speaking ability, instruction designed to enable them, while using their native language, to achieve competence in the English language.

"(b) Except as is otherwise provided in this title, for the purpose of carrying out the provisions of this title, there are authorized to be appropriated $135,000,000 for the fiscal year ending June 30, 1974; $145,000,000 for the fiscal year ending June 30, 1975; $155,000,000 for the fiscal year ending June 30, 1976; and $175,000,000 for the fiscal years ending June 30, 1977, and June 30, 1978; and there is further authorized to be appropriated for such purpose for each such fiscal year such additional sums as the Congress may determine. From the sums so appropriated for any fiscal year—

"(1) the Commissioner shall reserve 50 per centum of that part thereof which is in excess of $35,000,000 but does not exceed $60,000,000 for training activities carried out under clauses (1) and (3) of subsection (a) of section 721, and shall reserve for such activities 33⅓ per centum of that part thereof which is in excess of $60,000,000; and

"(2) the Commissioner shall reserve from the amount not reserved pursuant to clause (1) of this subsection such amounts as may be necessary, but not in excess of 10 per centum thereof, for the purposes of sections 732 and 743.

"DEFINITIONS; REGULATIONS

"SEC. 703. (a) The following definitions shall apply to the terms used in this title:

"(1) The term 'limited English-speaking ability', when used with reference to an individual, means—

"(A) individuals who were not born in the United States and whose native language is a language other than English; and

"(B) individuals who come from environments where a language other than English is dominant, as further defined by the Commissioner by regulation;

and, by reason thereof, have difficulty speaking and understanding instruction in the English language.

"(2) The term 'native language', when used with reference to an individual of limited English-speaking ability, means the language normally used by such individuals, or in the case of a child, the language nor-

mally used by the parents of the child or in the environment from which the child comes.

"(3) The term 'low-income' when used with respect to a family means an annual income for such a family which does not exceed the low annual income determined pursuant to section 103 of title I of the Elementary and Secondary Education Act of 1965.

"(4)(A) The term 'program of bilingual education' means a full-time program of instruction, designed for children of limited English-speaking ability in elementary or secondary school, in which, with respect to the years of study to which such program is applicable—

"(i) there is instruction given both in the native language of the children of limited English-speaking ability and in English and given with appreciation for the cultural heritage of such children, and, with respect to elementary school instruction, such instruction shall, to the maximum extent feasible, be in all courses or subjects of study which are required of a child in elementary school by, or pursuant to, the law of the State;

"(ii) both the native language of the child of limited English-speaking ability and English are studied, including speaking, reading, and writing;

"(iii) there is study of the history and culture of the nation, territory, or geographical area with which the native language of the child of limited English-speaking ability is associated and of the history and culture of the United States; and

"(iv) the requirements in subparagraphs (B) through (E) of this paragraph and established pursuant to subsection (b) of this section are met.

"(B) A program of bilingual education shall make provision for the voluntary enrollment to a limited degree therein, on a regular full-time basis, of children whose language is English, in order that they may learn the language and cultural heritage of the children of limited English-speaking ability for whom the particular program of bilingual education is designed. In determining eligibility to participate in such bilingual education programs, priority shall be given to the children whose language is other than English. In no event shall the primary purpose of the program be to teach a foreign language to English-speaking children.

"(C) In such courses or subjects of study as art, music, and physical education, a program of bilingual education shall make provision for the participation of children of limited English-speaking ability in regular classes.

"(D) Children enrolled in a program of bilingual education shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of bilingual education shall seek to insure that each child is provided with instruction which is appropriate for his or her level of educational attainment.

"(E) An application for a program of bilingual education shall be developed (i) in open consultation with parents of children of limited English-speaking ability, teachers, and, where applicable, secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and (ii) with the full participation of a committee composed of, and selected by, such parents and teachers, and in the case of secondary schools, representation of secondary school students. A substantial number of the members of such committee shall be parents of children of limited English-speaking ability.

"(5) The term 'Bureau' means the Bureau of Bilingual Education established under this title.

"(6) The term 'Director' means the Director of the Bureau of Bilingual Education.

"(7) The term 'Council' means the National Advisory Council on Bilingual Education.

"(b) The Commissioner, after receiving recommendations from State and local educational agencies and groups and organizations involved in bilingual education, shall establish and publish, with respect to programs of bilingual education, suggested model guidelines containing recommendations to State and local educational agencies with respect to pupil-teacher ratios, teacher qualifications, and other factors affecting the quality of instruction offered in such programs. In carrying out programs under part A of this title, State and local educational agencies shall consult with the Commissioner in order to achieve maximum voluntary conformity with such guidelines.

"(c) In prescribing regulations under this section, the Commissioner shall consult with State and local educational agencies, appropriate organizations representing parents and children of limited English-speaking ability, and appropriate groups and organizations representing teachers and educators involved in bilingual education.

"PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

"BILINGUAL EDUCATION PROGRAMS

"SEC. 721. (a) Funds available for grants under this part shall be used for—

"(1) the establishment, operation, and improvement programs of bilingual education, including auxiliary and supplementary training programs for personnel preparing to participate in, or personnel participating in, the conduct of such programs;

"(2) auxiliary and supplementary community and educational activities designed to facilitate and expand the implementation of a program described in clause (1), including such activities as (A) adult education programs related to the purposes of this title, particularly for parents of children participating in programs of bilingual education, and carried out, where appropriate, in coordination with programs assisted under the Adult Education Act, and (B) preschool programs preparatory and supplementary to bilingual education programs;

"(3) the establishment, operation, and improvement of training programs for personnel preparing to participate in, or personnel participating in, the conduct of programs of bilingual education; and

"(4) planning, and providing technical assistance for, and taking other steps leading to the development of, such programs.

"(b)(1) A grant may be made under this section only upon application therefor by one or more local educational agencies (or, in the case of a training activity described in clause (3) of subsection (a) of this section, by eligible applicants as defined in section 723). Such application shall—

"(A) include a description of the activities set forth in one or more of the clauses of subsection (a) which the applicant desires to carry out; and

"(B) provide evidence that the activities so described will make substantial progress toward making programs of bilingual education available to the children having need thereof in the area served by the applicant.

"(2) An applicant for a grant under this part may be approved only if—

"(A) the provision of assistance proposed in the application is consistent with criteria established by the Commissioner, after consultation with the State educational agency, for the purpose of achieving an equitable distribution of assistance under this part within the State in which the applicant is located, which criteria shall be developed by him taking into consideration (i) the geographic distribution of children of limited English-speaking ability, (ii) the relative need of persons in different geographic areas within the State for the kinds of services and activities described in subsection (a), (iii) with respect to grants to carry out programs described in clauses (1) and (2) of subsection (a) of section 721, the relative ability of particular local educational agencies within the State to provide such services and activities, and (iv) with respect to such grants, the relative numbers of persons from low-income families;

"(B) in the case of applications from local educational agencies to carry out programs of bilingual education under clause (1) of subsection (a) of section 721, the Commissioner determines that not less than 15 per centum of the amounts paid to the applicant for the purposes of such programs shall be expended for auxiliary and supplementary training programs in accordance with the provisions of such clause and section 723;

"(C) the Commissioner determines (i) that the program will use the most qualified available personnel and the best resources and will substantially increase the educational opportunities for children of limited English-speaking ability in the area to be served by the applicant, and (ii) that, to the extent consistent with the number of children enrolled in nonprofit, nonpublic schools in the area to be served whose educational needs are of the type which the program is intended to meet, provision has been made for participation of such children; and

"(D) the State educational agency has been notified of the application and been given the opportunity to offer recommendations thereon to the applicant and to the Commissioner.

"(3)(A) If for any fiscal year the Commissioner determines with respect to any State that—

"(i) the State educational agency of such State has developed high-quality leadership capabilities for the coordination and provision of, and technical assistance with respect to, programs of bilingual education in operation by local educational agencies in such State, or, with assistance under section 743, will for such fiscal year develop and maintain such capability;

"(ii) there is in effect at the beginning of such fiscal year for such State a statute enacted under the constitution of such State designed to provide, or a decision of the highest court of such State, or of a court of the United States with respect to such State, requiring equal educational opportunity for children of limited English-speaking ability through programs of bilingual education;

"(iii) the local educational agencies in such State operate programs of bilingual education serving a substantial number of children of limited English-speaking ability in such State;

"(iv) the expenditures for such fiscal year from State revenues specifically for programs of bilingual education operated by local educational agencies in such State constitute not less than 15 per centum in the first year for which a State receives payments under this paragraph, 20 per centum in the second such year, and 25 per centum in each succeeding such year, of the total expenditures for such programs in such State; and

"(v) local educational agencies in such State will be paid under this part, in the aggregate, amounts at least equal to the aggregate of the amounts paid to such local educational agencies from appropriations for the fiscal year 1973 pursuant to section 703 of this title as in effect on June 30, 1973;

the Commissioner shall, upon application from the State educational agency of such State, make provision for the submission and approval of a State program for the

coordination by such State educational agency of, and the provision by such State agency of technical assistance to, programs of bilingual education in such State assisted under this part. Such State program shall contain such provisions, agreements, and assurances as the Commissioner shall, by regulation, determine necessary and proper to achieve the purposes of this title. If the law of a State gives the chief State school officer of the State authority to issue and enforce such a regulation, a regulation issued by the chief State school officer of the State which is designed to provide equal educational opportunity for children of limited English-speaking ability through programs of bilingual education shall satisfy the requirements of clause (ii) in the preceding sentence.

"(B) Except as is provided in the second sentence of this subparagraph, the Commissioner shall pay for each fiscal year to each State educational agency which has had a State program submitted and approved under subparagraph (A) such sums as may be necessary for the proper and efficient conduct of such State program. The amount paid by the Commissioner to any State educational agency under the preceding sentence for any fiscal year shall not exceed an amount which, when added to any amount which such State receives pursuant to section 743, equals 5 per centum of the aggregate of the amounts paid under this part to local educational agencies in the State of such State educational agency. For the purpose of this paragraph there are authorized to be appropriated such sums as may be necessary for any fiscal year.

"(c) In funding programs of bilingual education under this part, not more than 10 per centum of the first $35,000,000 obligated from sums appropriated under subsection (b) of section 702, and not more than 15 per centum of amounts obligated in excess of $35,000,000 from sums so appropriated, may be paid, in the aggregate, in any fiscal year to programs at the elementary school level where graded classes are not used and to programs at the secondary school level.

"(d) In determining the distribution of funds under this title, the Commissioner shall provide an equitable distribution of such funds in all areas of the United States while giving priority to States within such areas having the greatest need for programs assisted under this title.

"(e) Notwithstanding any other provision of this title, the Commissioner is authorized to accept and approve applications from the Commonwealth of Puerto Rico for programs and projects for children of Puerto Rican ancestry who—

"(1) live in Puerto Rico; but

"(2) are of limited Spanish-speaking ability;

which are designed to teach such children, using bilingual education methods, practices, and techniques.

"INDIAN CHILDREN IN SCHOOLS

"SEC. 722. (a) For the purpose of carrying out programs under this part for individuals serviced by elementary and secondary schools operated predominantly for Indian children, a nonprofit institution or organization of the Indian tribe concerned which operates any such school and which is approved by the Commissioner for the purposes of this section may be considered to be a local educational agency as such term is used in this title.

"(b) From the sums appropriated pursuant to section 702(b), the Commissioner is authorized to make payments to the Secretary of the Interior to carry out programs of bilingual education for children on reservations serviced by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The terms upon which payments for such purpose may be made to the Secretary of the Inerior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the policy of section 702(a).

"(c) The Secretary of the Interior shall prepare and, not later than November 1 of each year, shall submit to the Congress and the President an annual report detailing a review and evaluation of the use, during the preceding fiscal year, of all funds paid to him by the Commissioner under subsection (b) of this section, including complete fiscal reports, a description of the personnel and information paid for in whole or in part with such funds, the allocation of such funds, and the status of all programs funded from such payments. Nothing in this subsection shall be construed to relieve the Director of any authority or obligation under this part.

"(d) The Secretary of the Interior shall, together with the information required in the preceding subsection, submit to the Congress and the President, an assessment of the needs of Indian children with respect to the purposes of this title in schools operated or funded by the Department of the Interior, including those State educational agencies and local educational agencies receiving assistance under the Johnson-O'Malley Act (25 U.S.C. 452 et seq., as amended) and an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

"TRAINING

"SEC. 723. (a) (1) In carrying out the provisions of clauses (1) and (3) of subsection (a) of section 721, with respect to training, the Commissioner shall, through grants to, and contracts with, eligible applicants, as defined in subsection (b), provide for—

"(A) (i) training, carried out in coordination with any other programs training auxiliary educational personnel, designed (I) to prepare personnel to participate in, or for personnel participating in, the conduct of programs of bilingual education, including programs emphasizing opportunities for career development, advancement, and lateral mobility, (II) to train teachers, administrators, paraprofessionals, teacher aides, and parents, and (III) to train persons to teach and counsel such persons, and (ii) special training programs designed (I) to meet individual needs, and (II) to encourage reform, innovation, and improvement in applicable education curricula in graduate education, in the structure of the academic profession, and in recruitment and retention of higher education and graduate school faculties, as related to bilingual education;

"(B) the operation of short-term training institutes designed to improve the skills of participants in programs of bilingual education in order to facilitate their effectiveness in carrying out responsibilities in connection with such programs; and

"(C) fellowships for study leading to an advanced degree for persons planning to pursue a career in bilingual education with preference in the award of such fellowships to persons whose native language is other than English.

Not less than two hundred fellowships nor more than five hundred fellowships shall be awarded pursuant to clause (C) of this paragraph in any fiscal year, except that the Commissioner may award less than two hundred fellowships in any such year upon a certification by him, published in the Federal Register and submitted to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate, that two hundred fellowships could not properly be awarded because applications from two hundred qualified applicants were not submitted for such fellowships.

"(2) The Commissioner shall include in the terms of any arrangement described in paragraph (1) of subsection (a) of this section provisions for the payment, to persons participating in training programs so described, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as he may determine, which shall be consistent with prevailing practices under comparable federally supported programs.

"(3) In making grants or contracts under this section, the Commissioner shall give priority to eligible applicants with demonstrated competence and experience in the field of bilingual education. Funds provided under grants or contracts for training activities described in this section to or with a State educational agency, separately or jointly, shall in no event exceed in the aggregate in any fiscal year 10 per centum of the total amount of funds obligated for training activities pursuant to clauses (1) and (3) of subsection (a) of section 721 in such year.

"(4) An application for a grant or contract for pre-service or in-service training activities described in division (I) of clause (i) and division (I) of clause (ii) of subparagraph (A) and in subparagraph (B) of paragraph (1) of subsection (a) of this section shall be considered an application for a program of bilingual education for the purposes of subparagraph (E) of paragraph (4) of subsection (a) of section 703.

"(b) For the purposes of this section, the term 'eligible applicants' means—

"(1) institutions of higher education (including junior colleges and community colleges) which apply, after consultation with, or jointly with, one or more local educational agencies;

"(2) local educational agencies; and

"(3) State educational agencies.

"PART B—ADMINISTRATION

"BUREAU OF BILINGUAL EDUCATION

"SEC. 731. (a) There shall be, in the Office of Education, a Bureau of Bilingual Education through which the Commissioner shall carry out his functions relating to bilingual education.

"(b) (1) The Bureau shall be headed by a Director of Bilingual Education, appointed by the Commissioner, to whom the Commissioner shall delegate all of his delegable functions relating to bilingual education. The Director shall be placed in grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code.

"(2) The Bureau shall be divided into such branches, units, and offices as the Director determines to be appropriate in order to enable him to carry out his functions and responsibilities effectively.

"(3) In order to assist the Director in carrying out his functions and responsibilities, there are hereby established in the Division two positions which shall be placed in grade 17 of the General Schedule set forth in section 5332 of title 5, United States Code, and one of which shall be filled by a Deputy Director who shall act as Director in the event of the absence or disability of the Director or of a vacancy in the office of the Director.

"(4) The positions created by this subsection shall be in addition to the number of positions (A) placed in the appropriate grades under section 5108 of title 5, United States Code, or (B) otherwise placed in the Office of Education.

"(c) The Director, in consultation with the Council, shall prepare and, not later than November 1 of each year, shall submit, through the Commissioner, to the Congress and the President an annual report on the condition of bilingual education in the Nation and the administration and operation of this title and of other programs for persons

of limited English-speaking ability. Such report shall include—

"(1) a national assessment of the educational needs of children and other persons with limited English-speaking ability and of the extent to which such needs are being met from Federal, State, and local efforts, including (A) not later than July 1, 1976, the results of a survey of the number of such children and persons in the States, and (B) a plan, to be carried out during the five-year period beginning on such date, for extending programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elementary school children and other persons of limited English-speaking ability, including (i) a phased plan for the training of the necessary teachers and other educational personnel necessary for such purpose, and (ii) detailed cost estimates of the expenditures necessary in each fiscal year for such purpose, and of the share of such cost which may reasonably be expected to be borne by State and local government, private institutions, foundations, and the Federal Government;

"(2) a report on and an evaluation of the activities carried out under this title during the preceding fiscal year and the extent to which each of such activities achieves the policy set forth in section 702(a);

"(3) a statement of the activities intended to be carried out during the succeeding fiscal year, including an estimate of the cost of such activities;

"(4) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under this title and those carried out under other programs for persons of limited English-speaking ability and a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel needed to carry out programs of bilingual education in the States and a statement describing the activities carried out under this title designed to prepare teachers and other educational personnel for such programs; and

"(5) a description of the personnel, the functions of such personnel, and information available at the regional offices of the Department of Health, Education, and Welfare dealing with bilingual programs within that region.

"(d) If any report to be submitted pursuant to subsection (c) of this section, or subsection (c) of section 732, is submitted, prior to submission to the Congress, for review by the Office of Management and Budget or any other Federal department or agency or official thereof and if any such review process delays the submission of such report to the Congress beyond the date established for such submission by this section or section 732(c), the Director shall immediately on such date submit, through the Commissioner, to the Congress the report in exactly the form it was submitted to such review process.

"NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION

"SEC. 732. (a) Subject to part D of the General Education Provisions Act, there shall be a National Advisory Council on Bilingual Education composed of fifteen members appointed by the Secretary, one of whom he shall designate as Chairman. At least eight of the members of the Council shall be persons experienced in dealing with the educational problems of children and other persons who are of limited English-speaking ability, at least one of whom shall be representative of persons serving on boards of education operating programs of bilingual education. At least three members shall be experienced in the training of teachers in programs of bilingual education. At least two members shall be persons with general experience in the field of elementary and secondary education. At least two members shall be classroom teachers of demonstrated teaching abilities using bilingual methods and techniques. The members of the Council shall be appointed in such a way as to be generally representative of the significant segments of the population of persons of limited English-speaking ability and the geographic areas in which they reside.

"(b) The Council shall meet at the call of the Chairman, but, notwithstanding the provisions of section 446(a) of the General Education Provisions Act, not less often than four times in each year.

"(c) The Council shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration and operation of this title, including the development of criteria for approval of applications, and plans under this title, and the administration and operation of other programs for persons of limited English-speaking ability. The Council shall prepare and, not later than November 1 of each year, submit a report to the Congress and the President on the condition of bilingual education in the Nation and on the administration and operation of this title, including those items specified in section 731(c), and the administration and operation of other programs for persons of limited English-speaking ability.

"(d) The Commissioner shall procure temporary and intermittent services of such personnel as are necessary for the conduct of the functions of the Council, in accordance with section 445 of the General Education Provisions Act, and shall make available to the Council such staff information, and other assistance as it may require to carry out its activities effectively.

"PART C—SUPPORTIVE SERVICES AND ACTIVITIES

"ADMINISTRATION

"SEC. 741. (a) The provisions of this part shall be administered by the Assistant Secretary, in consultation with—

"(1) the Commissioner, through the Bureau of Bilingual Education; and

"(2) the Director of the National Institute of Education, notwithstanding the second sentence of section 405(b)(1) of the General Education Provisions Act;

in accordance with regulations.

"(b) The Assistant Secretary shall, in accordance with clauses (1) and (2) of subsection (a), develop and promulgate regulations for this part and then delegate his functions under this part, as may be appropriate under the terms of sections 742 and 743.

"RESEARCH AND DEMONSTRATION PROJECTS

"SEC. 742. (a) The National Institute of Education shall, in accordance with the provisions of section 405 of the General Education Provisions Act, cary out a program of research in the field of bilingual education in order to enhance the effectiveness of bilingual education programs carried out under this title and the authorities set forth in subsection (c) of section 731.

"(b) In order to test the effectiveness of research findings by the National Institute of Education and to demonstrate new or innovative practices, techniques, and methods for use in such bilingual education programs, the Director and the Commissioner are authorized to make contracts with public and private educational agencies, institutions, organizations for such purpose.

"(c) In carrying out their responsibilities under this section, the Commissioner and the Director shall, through contracts with appropriate public and private agencies, institutions, and organizations—

"(1) undertake studies to determine the basic educational needs and language acquisition characteristics of, and the most effective conditions for, educating children of limited English-speaking ability;

"(2) develop models (including model bilingual and bicultural curricula) for such bilingual education programs and for other activities for which funds may be used under subsection (a) of section 721.

"(3) develop a suggested model State statute or statutes designed to promote equal educational opportunity for children of limited English-speaking ability through bilingual education practices, techniques, and methods;

"(4) develop, publish, and disseminate instructional materials and equipment suitable for use in bilingual education programs; and

"(5) establish and operate a Center for Bilingual Education designed to serve as a national clearinghouse of information for bilingual education, which shall collect, analyze, and disseminate information about bilingual education and such bilingual education and related programs.

"(d) In carrying out their responsibilities under this section, the Commissioner and the Director shall provide for periodic consultation with representatives of State and local educational agencies and appropriate groups and organizations involved in bilingual education.

"(e) There is authorized to be appropriated for each fiscal year prior to July 1, 1978, $5,000,000 to carry out the provisions of this section. In any such year in which appropriations made pursuant to the preceding sentence of this subsection do not amount to at least $5,000,000, not to exceed 5 per centum of the funds appropriated for the use of the National Institute of Education, but in no event less than $3,000,000, shall be available to carry out the provisions of this section.

"LEADERSHIP CAPABILITIES FOR STATE EDUCATIONAL AGENCIES

"SEC. 743. The Commissioner and the Director are authorized to make contracts with State educational agencies for the development in such agencies of leadership capabilities in the field of bilingual education, in order that such agencies may be able to assist local educational agencies in providing bilingual educational opportunities for children of limited English-speaking ability.".

(2)(A) The amendment made by this subsection shall be effective upon the date of enactment of this Act, except that the provisions of part A of title VII of the Elementary and Secondary Education Act of 1965 (as amended by subsection (a) of this section) shall become effective on July 1, 1975, and the provisions of title VII of the Elementary and Secondary Education Act of 1965 in effect immediately prior to the date of enactment of this Act shall remain in effect through June 30, 1975, to the extent not inconsistent with the amendment made by this section.

(B) The National Advisory Council on Bilingual Education, for which provision is made in section 732 of such Act, shall be appointed within ninety days after the enactment of this Act.

(b)(1) Section 703(a) of title VII of such Act is amended by adding at the end thereof the following:

"(8) The term 'other programs for persons of limited English-speaking ability' when used in sections 731 and 732 means the program authorized by section 708(c) of the Emergency School Aid Act and the programs carried out in coordination with the provisions of this title pursuant to setcion 122(a)(4)(C) and part J of the Vocational Education Act of 1963, and section 306(a)(11) of the Adult Education Act, and programs and projects serving areas with high concentrations of persons of limited English-speaking ability pursuant to section

6(b)(4) of the Library Services and Construction Act.".

(2) The amendments made by this section shall be effective on and after July 1, 1974.

DROPOUT PREVENTION PROJECTS

SEC. 106. (a) Section 807(c) of the Elementary and Secondary Education Act of 1965 is amended by striking out "the fiscal year ending June 30, 1973" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1978".

(b) The amendments made by this section shall be effective on and after July 1, 1973.

SCHOOL NUTRITION AND HEALTH SERVICES

SEC. 107. (a) Section 808(d) of the Elementary and Secondary Education Act of 1965 is amended by striking out "the fiscal year ending June 30, 1973" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1977".

(b) The amendments made by this section shall be effective on and after July 1, 1973.

CORRECTION EDUCATION SERVICES

SEC 108. (a) Section 809 of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new subsection:

"(c) For the purpose of carrying out this section, there is authorized to be appropriated $500,000 for the fiscal year ending June 30, 1974, and for each of the succeeding fiscal years ending prior to July 1, 1978."

(b) The amendments made by this section shall be effective on and after July 1, 1973.

IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

SEC. 109. (a) Section 810(g) of the Elementary and Secondary Education Act of 1965 is amended by striking out "two succeeding fiscal years" and inserting in lieu thereof "succeeding fiscal years ending prior to July 1, 1978".

(b) The amendments made by this section shall be effective on and after July 1, 1973.

ETHNIC HERITAGE STUDIES CENTERS

SEC. 110. (a)(1) Section 907 of the Elementary and Secondary Education Act of 1965 is amended by striking out "the fiscal year ending June 30, 1973" and inserting in lieu thereof "each of the fiscal years ending prior to July 1, 1978".

(2) The amendments made by this section shall be effective on and after July 1, 1973.

(b) Section 903 of such Act is amended by—

(1) striking out "elementary and secondary schools and institutions of higher education" in clause (1) of such section, and inserting in lieu thereof "elementary or secondary schools or institutions of higher education";

(2) striking out "elementary and secondary schools and institutions of higher education" in clause (2) of such section and inserting in lieu thereof "elementary or secondary schools or institutions of higher education";

(3) inserting the word "or" after clause (1) of such section; and

(4) inserting the word "or" at the end of clause (2) of such section.

TITLE II—AMENDMENTS TO PUBLIC LAWS 815 AND 874 OF THE EIGHTY-FIRST CONGRESS

DURATION OF PAYMENTS UNDER PUBLIC LAW 815, EIGHTY-FIRST CONGRESS

SEC. 201. (a)(1) The first sentence of section 3 of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), is amended by striking out "June 30, 1973" and inserting in lieu thereof "June 30, 1978".

(2) Section 15(15) of such Act is amended by striking out "1968–1969" and inserting in lieu thereof "1973–1974".

(b) Section 16(a) of such Act is amended—

(1) in clause (1)(A) thereof, by striking out "July 1, 1973" and inserting in lieu thereof "July 1, 1978"; and

(2) in clause (1)(B) thereof, by inserting after "seriously damaged" the following ", prior to July 1, 1978".

(c) The amendments made by this section shall be effective on and after July 1, 1973.

DURATION OF PAYMENTS UNDER TITLE I OF PUBLIC LAW 874, EIGHTY-FIRST CONGRESS EXCEPT SECTION 3 THEREOF

SEC. 202. (a)(1) Section 2(a) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by striking out "July 1, 1973" and inserting in lieu thereof "July 1, 1978".

(2) Section 4(a) of such Act is amended, in that part thereof which precedes clause (1), by striking out "July 1, 1973" and inserting in lieu thereof "July 1, 1978".

(3) Section 7(a) of such Act is amended—

(A) in clause (1)(A), by striking out "July 1, 1973," and inserting in lieu thereof "July 1, 1978,"; and

(B) in clause (1)(B), by inserting after "seriously damaged" the following: "prior to July 1, 1978".

(b) The amendments made by this section shall be effective on and after July 1, 1973.

AMENDMENTS TO SECTIONS 3, 5, AND 7 OF PUBLIC LAW 874, EIGHTY-FIRST CONGRESS

SEC. 203. (a)(1) Section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended to read as follows:

"CHILDREN RESIDING ON, OR WHOSE PARENTS ARE EMPLOYED ON, FEDERAL PROPERTY

"Children of Persons Who Reside and Work on Federal Property

"SEC. 3. (a) For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year ending prior to July 1, 1978, the Commissioner shall determine the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools, resided on Federal property and—

"(1) did so with a parent employed on Federal property situated (A) in whole or in part in the county in which the school district of such agency is located, or (B) if not in such county, in whole or in part in the same State as the school district of such agency; or

"(2) had a parent who was on active duty in the uniformed services (as defined in section 101 of title 37, United States Code).

In making a determination under this subsection, the Commissioner shall determine the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such year, and who, while in attendance at such schools, resided on Indian lands, as defined under clause (A) of section 401(1).

"Children of Persons Who Reside or Work on Federal Property

"(b) For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year ending prior to July 1, 1978, the Commissioner shall, in addition to any determination made with respect to such agency under subsection (a), determine the number of children (other than children with respect to whom a determination is made for such fiscal year under subsection (a)) who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools, either—

"(1) resided on Federal property, or

"(2) resided with a parent employed on Federal property situated (A) in whole or in part in the county in which the school district of such agency is located, or (B) if not in such county, in whole or in part in the same State as the school district of such agency, or

"(3) had a parent who was on active duty in the uniformed services (as defined in section 101 of title 37, United States Code).

For such purpose, with respect to a local educational agency, in the case of any fiscal year ending prior to July 1, 1978, the Commissioner shall also determine the number of children (other than children to whom subsection (a) or the preceding sentence applies) who were in average daily attendance at the schools of such agency and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools resided with a parent who was, at any time during the three-year period immediately preceding the beginning of the fiscal year for which the determination is made, a refugee who meets the requirements of clauses (A) and (B) of section 2(b)(3) of the Migration and Refugee Assistance Act of 1962, except that the Commissioner shall not include in his determination under this sentence for any fiscal year any child with respect to whose education a payment was made under section 2(b)(4) of such Act.

"Eligibility for Payments

"(c)(1) Except as is provided in paragraph (2), no local educational agency shall be entitled to receive a payment for any fiscal year with respect to a number of children determined under subsection (a) and subsection (b), unless the number of children so determined with respect to such agency amounts to—

"(A) at least four hundred such children; or

"(B) a number of such children which equals at least 3 per centum of the total number of children who were in average daily attendance, during such year, at the schools of such agency and for whom such agency provided free public education;

whichever is the lesser.

"(2)(A)(i) Clause (B) of paragraph (1) shall not operate to make any local educational agency eligible for a payment under this section for any fiscal year unless the number of children with respect to whom determination was made under subsections (a) and (b) respecting such agency for that fiscal year is at least ten.

"(ii) If a local educational agency is eligible for a payment for any fiscal year by the operation of clause (B) of paragraph (1), it shall continue to be so eligible for the two succeeding fiscal years even if such agency fails to meet the requirement of such clause (B) during such succeeding fiscal years, except that the number of children determined for the second such succeeding fiscal year with respect to such agency for the purpose of any clause in paragraph (1) of subsection (d) shall not exceed 50 per centum of the number of children determined with respect to such agency for the purpose of that clause for the last fiscal year during which such agency was so eligible.

"(iii) If the Commissioner determines with respect to any local educational agency for any fiscal year that—

"(I) such agency does not meet the requirement of clause (B) of paragraph (1); and

"(II) the application of such requirement, because of exceptional circumstances, would defeat the purposes of this title;

the Commissioner is authorized to waive such requirement with respect to such agency.

"(B) No local educational agency shall be entitled to receive a payment for any fiscal year with respect to a number of children determined under the second sentence of subsection (b) unless the number of children so determined constitutes at least 20 per centum of the total number of children who were in average daily attendance at the schools of such agency and for whom such agency, during such fiscal year, provided free public education.

"Amount of Payments

"(d)(1) Except as is provided in paragraph (2), the amount to which a local educational agency shall be entitled under this section for any fiscal year shall be—

"(A) in the case of any local educational agency with respect to which the number of children determined for such fiscal year under subsection (a) amounts to at least 25 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, an amount equal to 100 per centum of the local contribution rate multiplied by the number of children determined under such subsection plus the sum of the products obtained with respect to such agency under such clauses (B)(iii), (B)(iv), and (B)(v); and

"(B) in any other case, an amount equal to the sum of—

"(i) the product obtained by multiplying 100 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (2) of subsection (a),

"(ii) the product obtained by multiplying 90 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (1) of subsection (a),

"(iii) the product obtained by multiplying 50 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (3) of subsection (b),

"(iv) the product obtained by multiplying 45 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clauses (1) and (2)(A) of subsection (b), and

"(v) the product obtained by multiplying 30 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (2)(B) of subsection (b).

"(2)(A) Not later than December 1 during each fiscal year beginning after June 30, 1977, the Commissioner shall, except as is provided in clause (iii) in the third sentence of this subparagraph, determine the total number of children with respect to whom determinations are made under subsection (b) for all local educational agencies making application for payments under this section which meet the eligibility requirements set forth in subsection (c). The Commissioner shall determine the percentage which such number constitutes of the total number of children who were in average daily attendance at the schools of such agencies during such fiscal year and for whom such agencies provided free public education. In calculating the products under clauses (B)(iii), (B)(iv), and (B)(v) of paragraph (1), with respect to any local educational agency for any fiscal year, the Commissioner shall reduce the number of children with respect to whom a determination is made under subsection (b) by a number of equal to one-half of the number which the percentage determined under the preceding sentence constitutes of the total number of children with respect to whom such a determination is made and who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, except that—

"(i) such percentage shall not exceed 4 per centum;

"(ii) the number reduced shall not exceed three hundred; and

"(iii) this subparagraph shall not apply to any local educational agency (I) with respect to which the number of children determined under subsection (b) for any fiscal year amounts to at least 10 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, or (II) during any fiscal year in which such agency receives more than 25 per centum of the funds for its current expenditures from payments under this section.

In determining the total number of children who were in average daily attendance at the schools of an agency during any fiscal year under clause (iii)(I) in the preceding sentence, the number of children in such schools with respect to whom a determination is made under subsection (a) for such year shall not be considered.

"(B) If the Commissioner determines that—

"(i) the amount computed under paragraph (1), as is otherwise provided in this subsection with respect to any local educational agency for any fiscal year, together with the funds available to such agency from State and local sources and from other sections of this title, is less than the amount necessary to enable such agency to provide a level of education equivalent to that maintained in the school districts of the State which are generally comparable to the school district of such agency;

"(ii) such agency is making a reasonable tax effort and exercising due diligence in availing itself of State and other financial assistance;

"(iii) not less than 50 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education were, during such fiscal year, determined under either subsections (a) or clause (1) of subsection (b), or both; and

"(iv) the eligibility of such agency under State law for State aid with respect to free public education of children residing on Federal property, and the amount of such aid, are determined on a basis no less favorable to such agency than the basis used in determining the eligibility of local educational agencies for State aid, and the amount thereof, with respect to the free public education of other children in the State;

the Commissioner is authorized, to increase the amount computed under paragraph (1) with respect to such agency for such fiscal year to the extent necessary to enable such agency to provide a level of education equivalent to that maintained in such comparable school districts. The Commissioner shall not, under the preceding sentence, increase the amount computed under paragraph (1) with respect to any local educational agency for any fiscal year to an amount which exceeds the product of—

"(I) the amount the Commissioner determines to be the cost per pupil of providing a level of education maintained in such comparable school districts during such fiscal year,

multiplied by—

"(II) the number of children determined with respect to such agency for such year under either subsection (a) or clause (1) of subsection (b), or both,

minus the amount of State aid which the Commissioner determines to be available with respect to such children for the fiscal year for which the computation is being made.

"(3)(A) Except as is provided in subparagraph (B), in order to compute the local contribution rate for a local educational agency for any fiscal year, the Commissioner, after consulting with the State educational agency of the State in which the local educational agency is located and with the local educational agency, shall determine which school districts within such State are generally comparable to the school district of the local educational agency for which the computation is being made. The local contribution rate for such agency shall be the quotient of—

"(i) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, which the local educational agencies of such comparable school districts derived from local sources,

divided by—

"(ii) the aggregate number of children in average daily attendance for whom such agency provided free public education during such second preceding fiscal year.

"(B)(i) The local contribution rate for a local educational agency in any State shall not be less than—

"(I) 50 per centum of the average per pupil expenditures in such State, or

"(II) 50 per centum of such expenditures in all the States,

whichever is greater, except that clause (II) shall not operate in such a manner as to make the local contribution rate for any local educational agency exceed an amount equal to the average per pupil expenditure in such State.

"(ii) If the current expenditures in those school districts which the Commissioner has determined to be generally comparable to the school district of the local educational agency for which a computation is made under subparagraph (A) are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain, in the school district of such agency, a level of education equivalent to that maintained in such other school districts, the Commissioner is authorized to increase the local contribution rate for such agency by such an amount which he determines will compensate such agency for the increase in current expenditures necessitated by such unusual geographical factors.

"(iii) The local contribution rate for any local educational agency in—

"(I) Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands, or

"(II) any State in which a substantial proportion of the land is in unorganized territory, or

"(III) any State in which there is only one local education agency.

shall be determined for any fiscal year by the Commissioner in accordance with policies and principles which will best achieve the purposes of this section and which are consistent with the policies and principles provided in this paragraph for determining local contribution rates in States where it is possible to determine generally comparable school districts.

"(C) For the purposes of this paragraph—

"(i) the term 'State' does not include Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands; and

"(ii) the 'average per pupil expenditure' in a State shall be (I) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the com-

putation is made of all local educational agencies in the State, divided by (II) the aggregate number of children in average daily attendance for whom such agencies provide free public education during such second preceding fiscal year.

"Adjustments for Decreases in Federal Activities

"(e) Whenever the Commissioner determines that—

"(1) for any fiscal year, the number of children determined with respect to any local educational agency under subsections (a) and (b) is less than 90 per centum of the number so determined with respect to such agency during the preceding fiscal year;

"(2) there has been a decrease or cessation of Federal activities within the State in which such agency is located; and

"(3) such decrease or cessation has resulted in a substantial decrease in the number of children determined under subsections (a) and (b) with respect to such agency for such fiscal year;

the amount to which such agency is entitled for such fiscal year and for any of the three succeeding fiscal years shall not be less than 90 per centum of the amount to which such agency was so entitled for the preceding fiscal year. That part of any entitlement of any local educational agency which is in excess of the amount which such entitlement would be without the operation of the preceding sentence shall be deemed to be attributable to determinations of children with respect to such agency under subsection (b)(2)(A).

"Determinations on the Basis of Estimates

"(f) Determinations with respect to a number of children by the Commissioner under this section for any fiscal year shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate, because of an underestimate, to deprive any local educational agency of its entitlement to any payment (or the amount thereof) under this section to which such agency would be entitled had such determination been made on the basis of accurate data.".

(2) Section 5 of such Act is amended to read as follows:

"PAYMENTS

"Applications

"SEC. 5. (a)(1) Any local educational agency desiring to receive the payments to which it is entitled for any fiscal year under section 2, 3, or 4 shall submit an application therefor through the State educational agency of the State in which such agency is located to the Commissioner. Such applications shall be submitted at such time, in such form, and containing such information as the Commissioner may reasonably require to enable him to carry out his functions under this title and shall give adequate assurance that the applicant will submit such reports as the Commissioner may reasonably require to determine whether such agency is entitled to a payment under any of such sections and the amount of such payment.

"(2)(A) Applications submitted under paragraph (1) for payments on the basis of children determined under section 3(a) or 3(b) who reside, or reside with a parent employed, on Indian lands shall set forth adequate assurance that Indian children will participate on an equitable basis in the school program of the local educational agency.

"(B) For the purposes of this paragraph, the term 'Indian lands' means that property included within the definition of Federal property under clause (A) of section 401(1).

"Payments by the Commissioner

"(b) The Commissioner shall pay to each local educational agency, making application pursuant to subsection (a), the amount to which it is entitled under section 2, 3, or 4. Sums appropriated, for any fiscal year, to enable the Commissioner to make payments pursuant to this title shall, notwithstanding any other provision of law unless enacted in express limitation of this subsection, remain available for obligation and payments with respect to amounts due local educational agencies under this title for such fiscal year, until the end of the fiscal year succeeding the fiscal year for which such sums are appropriated.

"Adjustments Where Necessitated by Appropriations

"(c) If the sums appropriated for any fiscal year for making payments on the basis of entitlements established under sections 2, 3, and 4 for that year are not sufficient to pay in full the total amounts which the Commissioner estimates all local educational agencies are entitled to receive under such sections for such year, the Commissioner shall allocate such sums among local educational agencies and make payments to such agencies as follows:

"(1) He shall first allocate to each local educational agency which is entitled to a payment under section 2 and section 3 an amount equal to 25 per centum of the amount to which it is entitled as computed under section 2 or section 3(d), as the case may be, for such fiscal year.

"(2) From that part of such sums which remains after the allocation required by paragraph (1) for any fiscal year, he shall allocate an additional amount—

"(A) to each local educational agency described in clause (A) of section 3(d)(1) which equals 60 per centum of the amount to which such agency is entitled, as computed under section 3(d), for such fiscal year;

"(B) to each local educational agency with respect to which a number of children is determined under clause (2) of section 3(a) which equals 60 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year;

"(C) to each local educational agency with respect to which a number of children is determined under clause (1) of section 3(a) which equals 54 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year;

"(D) to each local educational agency with respect to which a number of children is determined under clause (3) of section 3(b) which equals 30 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year;

"(E) to each local educational agency with respect to which a number of children determined under clause (2)(A) of section 3(b) which equals 27 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d) for such fiscal year;

"(F) to each local educational agency with respect to which a number of children is determined under clause (2)(B) of section 3(b) which equals 18 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year; and

"(G) to each local educational agency with respect to the amount to which such agency is entitled under section 2 that proportion of its entitlement, unsatisfied after allocations under paragraph (1), which bears the same ratio to the total of the unsatisfied entitlements under sections 2 and 3, remaining after allocations under paragraph (1), as the sums appropriated for payments under this section, remaining after allocations under paragraph (1), bears to the amount necessary to satisfy the total of such unsatisfied entitlements.

"(3) Any sums remaining after allocations are made pursuant to paragraph (2) for any fiscal year shall be allocated by the Commissioner among local educational agencies which have unsatisfied entitlements established under sections 2, 3, and 4 in proportion to the degree to which such entitlements are unsatisfied for that fiscal year, after allocations are made pursuant to paragraphs (1) and (2).

No allocation may be made pursuant to paragraph (2) or (3) and no payment may be paid on the basis of any such allocation unless allocations are made pursuant to paragraph (1) and payments are made on the basis of such allocations. No allocation may be made pursuant to any clause of paragraph (2) and no payment may be made on the basis of any such allocation unless allocations are made pursuant to all of the clauses of such paragraph and payments are made on the basis of such allocations.

"Treatment of Payments by the States in Determining Eligibility for, and the Amount of, State Aid

"(d)(1) No payments may be made under this title for any fiscal year to any local educational agency in any State (A) if that State has taken into consideration payments under this title in determining—

"(i) the eligibility of any local educational agency in that State for State aid for free public education of children; or

"(ii) the amount of such aid with respect to any such agency;

during that fiscal year or the preceding fiscal year, or (B) if such State makes such aid available to local educational agencies in such a manner as to result in less State aid to any local educational agency which is eligible for payments under this title than such agency would receive if such agency were not so eligible.

"(2) Notwithstanding clauses (A)(ii) and (B) of paragraph (1), if a State has in effect a program of State aid for free public education for any fiscal year, which program was adopted after June 30, 1972, and is designed to equalize expenditures for free public education among the local educational agencies of that State, payments under this title for any fiscal year may be taken into consideration by such State in determining th relative—

"(A) financial resources available to local educational agencies in that State; and

"(B) financial need of such agencies for the provision of free public education for children served by such agency.

The term 'equalize expenditures' shall not be construed in any manner adverse to a program of State aid for free public education which provides for taking into consideration the additional cost of providing free public education for particular groups of categories of pupils in meeting the special educational needs of such children as handicapped children, economically disadvantaged, those who need bilingual education, and gifted and talented children.

"(3) The term 'State aid' and 'equalize expenditures' as used in this subsection shall be defined by the Commissioner by regulation.".

(3) Section 7(c) of such Act is amended by striking out the second sentence thereof and inserting in lieu thereof the following: "Pending such appropriation, the Commissioner is authorized to expand (without regard for subsections (a) and (e) of section 3679 of the Revised Statutes (31 U.S.C. 665)) from any funds appropriated to the Office of Education and at that time available to the Commissioner, such sums as may be necessary for providing immediate assistance under this section. Expenditures pursuant to the preceding sentence shall—

"(1) be reported by the Commissioner to

the Committees on Appropriations and Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Public Welfare of the Senate within thirty days of the expenditure;

"(2) be reimbursed from the appropriations authorized by the first sentence of this subsection.

The report required to the Committees on Appropriations by clause (1) in the preceding sentence shall constitute a budget estimate within the meaning of section 201(a)(5) of the Act of June 10, 1921 (31 U.S.C. 11(a)(5)).".

(b)(1) The amendments made by subsection (a) shall be effective on, and with respect to, appropriations for fiscal years beginning on and after, July 1, 1974.

(2)(A)(i) Notwithstanding any other provision of law unless enacted in express limitation of this subparagraph—

(I) in the case of any local educational agency which is entitled to a payment under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) for the fiscal year ending June 30, 1973, which constituted an amount equal to not less than 10 per centum of the current expenditures of such agency for such fiscal year, the amount paid to such agency pursuant to such Act of September 30, 1950, for any fiscal year ending prior to July 1, 1978, on the basis of the entitlement of that agency under such section 3, shall not be less than 90 per centum of the amount paid to such agency on the basis of such entitlement for the preceding fiscal year; and

(II) in the case of any other local educational agency, the amount so paid during any fiscal year ending prior to July 1, 1978, shall not be less than 80 per centum of the amount so paid for the preceding fiscal year.

In the case of any local educational agency which is eligible prior to July 1, 1975, for a payment under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) by reason of the 3 per centum requirement in clause (B) of section 3(c)(2) of such Act, as in effect prior to the effective date of the amendment made by paragraph (1) of subsection (a), but which fails to meet such requirement in any fiscal year ending prior to July 1, 1977, such agency shall continue to be eligible for a payment under such section 3 as then in effect for the two succeeding fiscal years, but the payment under such section during the second of such succeeding fiscal years shall not exceed 50 per centum of the amount of the payment such agency was entitled to receive during the most recent fiscal year in which it was so eligible by reason of such clause (B).

(ii) Funds appropriated for any fiscal year for making payments to local educational agencies pursuant to the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), which are increased by reason of the provisions of division (i) shall, to the extent of any such increase, be separate from funds appropriated for such fiscal year for payments pursuant to title I of such Act which are not so increased. If, for any fiscal year, a law making appropriations for payments pursuant to such title I is enacted and such law makes no express provision for payments increased by division (i)—

(I) all funds so appropriated shall be allocated and paid in accordance with section 5 of such Act of September 30, 1950, and without regard for the provisions of division (i); and

(II) not later than fifteen days after the enactment of such law, the Commissioner shall submit a report to the Committees on Appropriations and on Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Public Welfare of the Senate, which report shall contain a statement detailing the dollar amounts necessary to satisfy the requirements of division (i) and constitute a budget estimate within the meaning of section 201(a)(5) of the Act of June 10, 1921 (31 U.S.C. 11(a)(5)).

(B) In the case of any local educational agency which experiences a decrease in the number of children determined by the Commissioner of Education under section 3 of the Act of September 1950 (Public Law 874, Eighty-first Congress) of 10 per centum or more of such number—

(i) during the fiscal year ending June 30, 1974, or the fiscal year ending June 30, 1975; or

(ii) during the period beginning July 1, 1973, and ending June 30, 1975;

as the result of a decrease in, or cessation of, Federal activities affecting military installations in the United States announced after April 16, 1973, the amount of the payment to which such agency shall be entitled under title I of such Act, as computed under section 3 of such Act, for any fiscal year ending prior to July 1, 1978, shall not be less than 90 per centum of the amount to which the agency was so entitled during the preceding fiscal year. The provisions of this subparagraph shall be effective on and after July 1, 1973, and with respect to appropriations for the fiscal year ending June 30, 1974, and succeeding fiscal years, and such provisions shall be deemed to have been enacted before the beginning of the fiscal year ending June 30, 1974. Nothing in this subparagraph shall be construed to decrease the amount of the payment to which any local educational agency is entitled for any fiscal year on the basis of entitlements created under section 3 of such Act of September 30, 1950.

DURATION OF PAYMENTS UNDER PUBLIC LAW 874, EIGHTY-FIRST CONGRESS, FOR THE EDUCATION OF INDIAN CHILDREN

SEC. 204. (a) Section 303(a)(1) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by the Indian Education Act, is amended by striking out "July 1, 1975" and inserting in lieu thereof "July 1, 1978,".

(b) The amendments made by this section shall be effective on and after July 1, 1973.

TITLE III—ADULT EDUCATION

DEFINITION OF "COMMUNITY SCHOOL PROGRAM"

SEC. 301. Section 303 of the Adult Education Act is amended by (1) redesignating subsections (e), (f), (g), (h), and (i), and all references thereto, as subsections (f), (g), (h), (i), and (j), respectively, and (2) inserting after subsection (d) the following new subsection:

"(e) The term 'community school program' is a program in which a public building, including but not limited to public elementary or secondary school, is used as a community center operated in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, cultural, and other community services for the community that center serves in accordance with the needs, interests, and concerns of that community.".

DECREASE IN MAXIMUM AMOUNT TO BE RESERVED FOR SPECIAL PROJECTS

SEC. 302. Section 304 of the Adult Education Act is amended by striking out "20 per centum" and inserting in lieu thereof "15 per centum".

NEW STATE PLAN REQUIREMENTS

SEC. 303. (a) Section 306 of the Adult Education Act is amended by redesignating clauses (6), (7), (8), and (9), and all references thereto, as clauses (8), (9), (10), and (11), respectively, and by inserting after clause (5) of such section the following new clauses:

"(6) provide for cooperation with manpower development and training programs and occupational education programs;

"(7) provide that such agency will make available not to exceed 25 per centum of the State's allotment for programs of equivalency for a certificate of graduation from a secondary school;".

(b) Section 306(a)(1) of the Adult Education Act is amended by inserting after "adult population" the following: ", including institutionalized persons".

SPECIAL PROJECTS

SEC. 304. Section 309(b) of the Adult Education Act is amended by

(1) inserting immediately before "local" the following: "State educational agencies,";

(2) adding at the end thereof the following new sentence: "Whenever the Commissioner makes grants to local educational agencies or other public and private nonprofit agencies, he shall establish procedures under which the appropriate State educational agencies will be given reasonable opportunity to offer recommendations to the grant recipient and to submit comments to the Commissioner."; and

(3) inserting after the words "television stations" the following: "and agencies conducting community school programs".

NATIONAL CLEARINGHOUSE ON ADULT EDUCATION

SEC. 305. The Adult Education Act is amended by inserting immediately after section 309 thereof the following new subsection:

"NATIONAL CLEARINGHOUSE ON ADULT EDUCATION

"SEC. 309A. The Commissioner shall establish or designate an existing agency as a National Clearinghouse on Adult Education, which shall obtain and disseminate to the public information pertaining to the education of adults and adult education programs, together with ways of coordinating adult education programs with manpower and other education programs. The Commissioner is authorized to enter into contracts with public agencies or private organizations to operate the clearinghouse established or designated under this section.".

STATE ADVISORY COUNCILS

SEC. 306. The Adult Education Act is amended by inserting immediately after section 310 thereof the following new section:

"STATE ADVISORY COUNCILS

"SEC. 310A. (a) Any State which receives assistance under this title may establish and maintain a State advisory council which shall be appointed by the Governor or, in the case of a State in which members of the State board which governs the State education agencies are elected (including election by the State legislature), by such board.

"(b)(1) Such a State advisory council shall include as members persons who, by reason of experience or training, are knowledgeable in the field of adult education or who are officials of the State educational agency or local educational agencies of that State persons who are or have received adult educational services, and persons who are representative of the general public.

"(2) Such a State advisory council, in accordance with regulations prescribed by the Commissioner, shall—

"(A) advise the State educational agency on the development of, and policy matters arising in, the administration of the State plan approved pursuant to section 306;

"(B) advise with respect to long-range planning and studies to evaluate adult education programs, services, and activities assisted under this Act; and

"(C) prepare and submit to the State educational agency, and to the National Advisory Council for Adult Education established pursuant to section 310, an annual report of its recommendations, accompanied

by such additional comments of the State educational agency as that agency deems appropriate.

"(c) Upon the appointment of any such advisory council the appointing authority under subsection (a) of this section shall inform the Commissioner of the establishment of, and membership of, its State advisory council. The Commissioner shall, upon receiving such information, certify that each such council is in compliance with the membership requirements set forth in subsection (b)(1) of this section.

"(d) Each such State advisory council shall meet within thirty days after certification has been accepted by the Commissioner under subsection (c) of this section and select from among its membership a chairman. The time, place, and manner of subsequent meetings shall be provided by the rules of the State advisory council, except that such rules shall provide that each such council meet at least four times each year, including at least one meeting at which the public is given the opportunity to express views concerning adult education.

"(e) Each such State advisory council is authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions under this section.".

EXTENSION OF AUTHORIZATIONS OF APPROPRIATIONS; TECHNICAL AMENDMENTS

SEC. 307. (a) Section 313(a) of the Adult Education Act is amended by—

(1) striking out "section 310" and inserting in lieu thereof "sections 310 and 314";

(2) by striking out the word "and" after "June 30, 1971,"; and

(3) by inserting after "June 30, 1973," the following: "$150,000,000 for each of the fiscal years ending June 30, 1974, and June 30, 1975, $175,000,000 for the fiscal year ending June 30, 1976, and $200,000,000 for each of the fiscal years ending June 30, 1977, and June 30, 1978,".

(b) Section 314(d) of such Act, as added by section 431 of Public Law 92-318, is amended by striking out "two" and inserting after "years" the following: "ending prior to July 1, 1978".

AMENDMENTS RELATING TO BILINGUAL EDUCATION

SEC. 308. (a) Section 306(a) of the Adult Education Act is amended by striking out "and" at the end of clause (10) of such section, by redesignating clause (11), and all references thereto, as clause (12), and by adding after clause (10) the following new clause:

"(11) provide that special emphasis be given to the needs of persons of limited English-speaking ability (as defined in section 703(a) of title VII of the Elementary and Secondary Education Act of 1965), by providing bilingual adult education programs in which instruction is given in both the native language of such person and in English, carried out in coordination with programs of bilingual education assisted under such title VII and bilingual vocational education programs under the Vocational Education Act of 1963; and"

(b)(1) Section 309(b)(1) of such Act is amended by inserting a comma and "including methods for educating persons of limited English-speaking ability" immediately after "methods".

(2) Section 309(b)(2) of such Act is amended by inserting a comma and "including education for persons of limited English-speaking ability" immediately after "education".

(3) Section 311(b) of such Act is amended by inserting a comma and "including education for persons of limited English-speaking ability in which instruction is given in both the native language of such person and in English" immediately after "adult education".

EFFECTIVE DATES

SEC. 309. The amendments made by this title shall be effective on the date of enactment of this Act, except that—

(1) the amendments made by section 307 shall be effective on and after July 1, 1973; and

(2) the amendments made by sections 302, 303, and 308 shall be effective on, and with respect to appropriations for fiscal years beginning after, June 30, 1974.

TITLE IV—CONSOLIDATION, SIMPLIFICATION, AND IMPROVEMENT OF THE ADMINISTRATION OF EDUCATION PROGRAMS

SIMPLIFIED STATE APPLICATION

SEC. 401. (a)(1) Section 421 of the General Education Provisions Act, and all references thereto, is redesignated as section 421A; and such Act is amended by inserting after the heading of part C of such Act the following new section:

"APPLICABILITY

"SEC. 421. The provisions of this part shall apply to any program for which the Commissioner has administrative responsibility, as specified by law or by delegation of authority pursuant to law.".

(2) Section 434 of such Act is amended by striking out subsection (b) thereof and inserting in lieu thereof the following:

"(b)(1)(A) In the case of any State which applies, contracts, or submits a plan, for participation in any applicable program in which Federal funds are made available for assistance to local educational agencies through, or under the supervision of, the State educational agency of that State, such State shall submit to, and maintain on file with, the Commissioner a general application meeting the requirements of this subsection. Such general application shall be in the form of a contractual agreement which (i) provides for the submission by the State and approval by the Commissioner of an annual program plan with respect to the particular programs in which the State desires to participate and (ii) provides assurances—

"(I) that the State will, through its State educational agency, provide for such methods of administration as are necessary for the proper and efficient administration of the programs to which the general application applies;

"(II) that the State will make provision for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State under any applicable program;

"(III) that the State will make provision for making such reports as the Commissioner may require to carry out his functions;

"(IV) that the State will follow such policies and use such methods and practices of administration as will insure that non-Federal funds will not be supplanted by Federal funds; and

"(V) that the State will submit to, and have approved by, the Commissioner an annual program plan in accordance with subparagraph (A).

"(B) The annual program plan submitted by any State for any fiscal year with respect to any program to which this paragraph applies shall—

"(i) be prepared and administered in a manner consistent with specific State plan requirements of the appropriate applicable statutes affecting the program for which the annual program plan is applicable;

"(ii) set forth a long-range program plan for the use of Federal funds under such program;

"(iii) set forth a statement describing the purposes for which Federal funds will be expended during the fiscal year for which the annual program plan is submitted; and

"(iv) comply in all other respects with the specific requirements of the appropriate applicable statutes.

"(C) In carrying out the Commissioner's functions under clauses (ii)(III) and (ii)(V) of subparagraph (A), the Commissioner shall require, as part of each State's annual program plan submitted under subparagraph (B), that each State make a report on the uses of Federal funds in that State under the programs to which this subsection applies. Such report shall—

"(i) describe the manner in which, and the purpose for which, such Federal funds were expended in that State during the preceding two fiscal years;

"(ii) describe the policies and procedures used, during such fiscal years, by the State educational agency in making such Federal funds available to local educational agencies;

"(iii) include a statistical report on the children served or affected by programs, projects, or activities assisted with such Federal funds, during such second preceding fiscal year, and the manner in which such children were served or affected;

"(iv) with respect to such second preceding fiscal year, include a compilation of reports from the local educational agencies in that State which—

"(I) sets forth the amount of such Federal funds received by each such agency and the purposes for which such funds were expended, and

"(II) includes such data as may be necessary to make the report described in clause (iii); and

"(v) be made reasonably available to the public.

"(2) In accordance with determinations and regulations of the Commissioner, the requirements of paragraph (1) shall be in lieu of comparable requirements for State plans in applicable statutes authorizing appropriations for programs to which paragraph (1) applies.

"(3) In the case of any application for assistance under any applicable program to which paragraph (1) does not apply and with respect to which the Commissioner determines that this section would simplify the administration of an applicable program, each such application shall be submitted to the Commissioner at such time, in such manner, and containing such information as the Commissioner shall prescribe by regulation and, as a precondition for approval, shall—

"(A) provide for such methods of administration as are necessary for the proper and efficient administration of the program or project for which application is made;

"(B) make provision for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under the application; and

"(C) provide for making such reports as the Commissioner may require to carry out his functions.

"(c)(1) Whenever the Commissioner, after reasonable notice and an opportunity for hearing, finds that there has been a failure, by any recipient of funds under any applicable program, to comply substantially with the terms to which such recipient has agreed in order to receive such funds, the Commissioner shall notify such recipient that further payments will not be made to such recipient under that program until he is satisfied that such recipient no longer fails to comply with such terms. Until the Commissioner is so satisfied, no further payments shall be made to such recipient.

"(2) The terms of any application for funds under any applicable program shall constitute a contractual agreement between the Commissioner and the applicant. Such agreement shall be specifically enforceable by the Commissioner in any court of the United States. Nothing in this paragraph

shall be construed (A) to deprive either the Commissioner or any applicant of any remedy otherwise available to the Commissioner or to an applicant, or (B) to enlarge the authority of the Commissioner to make or enforce requirements or conditions for which provision is not otherwise made by law.

"(3) If the Commissioner finds that the enforcement of paragraph (1) would defeat the purposes of the program involved and that enforcement of the terms to which the applicant agreed under paragraph (2) would more nearly accomplish such purposes, he shall use the enforcement procedure in paragraph (2) in lieu of withholding payments under paragraph (1).

"(d)(1)(A) If any State has submitted an application for funds under any applicable program under which appropriations for such program are, by the applicable statute, allotted or apportioned among the States or under which the State (or local educational agencies in that State) is entitled to a portion of an appropriation therefor and the Commissioner disapproves such application, or if the Commissioner withholds payments to a State under paragraph (1) of subsection (c), that State shall be entitled to judicial review of the actions of the Commissioner in accordance with the provisions of this paragraph.

"(B)(i) If any State, under circumstances qualifying for judicial review under this paragraph, desires judicial review of the Commissioner's action, such State may, within sixty days of such action, file with the United States Court of Appeals for the circuit in which such State is located a petition for review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based the action brought under this division, as provided in section 2112 of title 28, United States Code.

"(ii) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(iii) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(2)(A) In the case of any applicable program under which local educational agencies receive Federal funds through State educational agencies, actions of such State agencies with respect to the approval of applications of local educational agencies and with respect to State administration of such program shall be subject to administrative review by the Commissioner. The Commissioner shall, by regulation, establish procedures for administrative review of State educational agency actions to which the preceding sentence applies.

"(B) Any local educational agency which is dissatisfied with an administrative review under subparagraph (A) shall qualify for, and be entitled to, judicial review under subparagraph (B) of paragraph (1) in the same manner as if such agency were a State.

"(3) Any person or agency who is aggrieved by any action or failure of action by the Commissioner (or by any person or agency acting for the Commissioner) under any applicable program shall be entitled to an administrative review by the Commissioner of such action or failure of action. The Commissioner shall, by regulation, establish procedures for administrative review in order to carry out the terms of the preceding sentence.

"(e) For the purposes of this section, the term 'application' includes—

"(1) an application for a grant;

"(2) an offer to make a contract;

"(3) a State plan for the administration of an applicable program;

"(4) State assurances with respect to the administration of such a program; and

"(5) any other methods for seeking Federal funds from the Commissioner of Education;

under which an agency, institution, organization, or other organized entity may become the recipient of Federal funds."

(b)(1) The amendments made by subsection (a) shall be effective on and after July 1, 1974.

(2) Nothing in the amendment made by subsection (a) shall be construed to affect the applicability of chapter 5 of title 5, United States Code, to the Office of Education or actions by the Commissioner.

CONSOLIDATION AND SIMPLICATION OF STATE-ADMINISTERED EDUCATION PROGRAMS

SEC. 402. (a)(1) It is the purpose of this section to consolidate and simplify the administration of the programs authorized by—

(A) title II of the Elementary and Secondary Education Act of 1965;

(B) title III of such Act, except section 306 thereof;

(C) title V of such Act;

(D) title III of the National Defense Education Act of 1958;

(E) title V of such Act; and

(F) subpart 2 of part B of the Education Professions Development Act.

(2) The Elementary and Secondary Education Act of 1965 is amended by inserting after title V of the following new title:

"TITLE VI—ASSISTANCE TO THE STATES FOR SUPPLEMENTAL, AUXILIARY, AND SUPPORTIVE EDUCATIONAL SERVICES

"STATEMENT OF PURPOSE

"SEC. 601. (a) It is the purpose of this title to make financial assistance available to the States in order to enable them with such assistance and with other resources available to the States to provide supplemental, auxiliary, and supportive educational services for children who are in attendance at the elementary and secondary schools in the States.

"(b) In order to achieve the purpose set forth in subsection (a), the Commissioner shall, during the period beginning July 1, 1974, and ending June 30, 1978, carry out a program of financial assistance to the States in accordance with the provisions of this title.

"GRANTS TO STATES

"SEC. 602. (a)(1) Each State shall be entitled, under this title for any fiscal year ending prior to July 1, 1978, to the sum of—

"(A) an amount which equals the amount expended in that State from appropriations for the fiscal year 1972 for title II of this Act;

"(B) an amount which equals the amount expended in that State from appropriations for the fiscal year 1969 for title III of this Act;

"(C) an amount which equals the amount expended in that State from appropriations for the fiscal year 1969 for title V of the National Defense Education Act of 1958; and

"(D) an amount which equals the amount expended in that State from appropriations for the fiscal year 1972 for part A of title III of the National Defense Education Act of 1958.

"(2)(A) In addition to the entitlements created under paragraph (1) and except as is provided otherwise in this title, the amount to which a State shall be entitled under this title and the General Education Provisions Act for any fiscal year shall, subject to subparagraph (C), be equal to the sum of amounts determined under the following divisions:

"(i) The Commissioner shall determine with respect to that State the product of $20 multiplied by the number of children who are in attendance at elementary and secondary schools in the State.

"(ii) The Commissioner shall determine with respect to that State the product of—

"(I) 10 per centum of the average per pupil expenditure in that State,

multiplied by—

"(II) the number of children in that State who are aged five to seventeen, inclusive, and are in families having an annual income which does not exceed $3,000.

"(iii) The Commissioner shall determine with respect to that State an amount which bears the same ratio to $200,000,000 as the product of—

"(I) the number of children counted in that State under division (i),

multiplied by—

"(II) that State's allotment ratio,

bears to the corresponding products for all the States, which allotment ratio shall be 100 per centum less the product of—

"(α) 50 per centum,

multiplied by—

"(β) the quotient obtained by dividing the income per child in such State by the income per child for all the States,

except that the allotment ratio shall, in no case, be less than 40 per centum nor more than 60 per centum.

"(B)(i) The Commissioner shall make determinations under division (i) subparagraph (A) on basis of the most recent satisfactory data available to him.

"(ii) The Commissioner shall make determinations under division (ii) of subparagraph (A), relating to the number of children from families having an annual income of less than $3,000, on the basis of the most recent satisfactory data available to him from the Department of Commerce.

"(iii)(I) For the purposes of division (iii) of subparagraph (A), the Commissioner shall promulgate allotment ratios between July 1 and August 31 of each even-numbered year beginning with calendar year 1974 on the basis of the average of the incomes per child for the States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Each such promulgation shall be conclusive for each of the two fiscal years beginning after such promulgation.

"(II) For the purposes of division (iii) of subparagraph (A) and subdivision (I) of this division, the term 'income per child' for any State means the total personal income for the State divided by the number of children counted under division (i) of subparagraph (A).

"(C) If the aggregate of the products determined with respect to all States for any fiscal year under either division (i) or (ii) of subparagraph (A) of paragraph (2) is in excess of $200,000,000 the products of all of the States determined under such division shall be reduced ratably until such aggregate does not exceed such amount.

"(b) In addition to the amount of the grant to which each State is entitled under subsection (a) for any fiscal year, each State shall be entitled to a grant for the purposes of section 604 for that fiscal year. The amount of such grant shall be equal to 10 per centum of the amount to which such State is entitled under subsection (a) or $1,000,000, whichever is greater.

"(c)(1) For the purposes of subsections (a) and (b), the term 'State' means the fifty States and the District of Columbia.

"(2) The Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands

shall each be entitled for any fiscal year to a grant for the purposes of this title, the amount of which grant for any fiscal year shall be the amount which the Commissioner determines to be needed by the children and State educational agencies in such jurisdiction for that fiscal year. The aggregate of the amounts to which the jurisdictions subject to this subsection shall be entitled for any fiscal year shall not exceed 3 per centum of the aggregate of the amounts to which the States are entitled under subsections (a) and (b) for that fiscal year. Ninety per centum of the amount granted to each jurisdiction under this paragraph shall be deemed to be available to such jurisdiction on the basis of an entitlement established by subsection (a); and 10 per centum thereof shall be deemed to be available thereto on the basis of an entitlement created under subsection (b).

"USES OF FEDERAL FUNDS BY LOCAL EDUCATIONAL AGENCIES

"SEC. 603. (a) Funds appropriated for the purposes of this title for any fiscal year on the basis of entitlements established by section 602(a) shall be available to the States for grants to local educational agencies for the purposes set forth in subsection (b), and in the amounts for which provision is made in subsection (c), in accordance with agreements between the States and the Commissioner meeting the requirements of section 605 and of section 434 of the General Education Provisions Act.

"(b) Except as is provided in section 604, the purposes for which funds appropriated for the purposes of this title may be used are as follows:

"(1) The provision of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in elementary and secondary schools.

"(2) The development, establishment, and operation of exemplary elementary and secondary school educational programs.

"(3) The establishment and maintenance of programs of testing, guidance, and counseling for children in elementary and secondary schools.

"(4) The provision of instructional equipment (including laboratory and other special equipment, including audiovisual materials and equipment suitable for use in providing education in academic subjects) for use by children and teachers in elementary and secondary schools.

"(5) Programs conducted by local educational agencies to provide in-service training for persons for teaching in elementary and secondary schools.

"(c)(1) Funds available to a State under this title based upon entitlements established under section 602(a)(1) shall be expended by that State in any fiscal year ending prior to July 1, 1978, so that—

"(A) each State shall make available for expenditure for the purpose of clause (1) of subsection (b) an amount which at least equals the amount expended in that State from appropriations for the fiscal year 1972 for title II of this Act;

"(B) each State shall make available for expenditure for the purpose of clause (2) of subsection (b) an amount which at least equals the amount expended in that State from appropriations for the fiscal year 1969 for title III of this Act, of which amount not less than 15 per centum shall be expended for special projects for handicapped children;

"(C) each State shall make available for expenditure for the purpose of clause (3) of subsection (b) an amount which at least equals the amount expended in that State from appropriations for the fiscal year 1969 for title V of the National Defense Education Act of 1958; and

"(D) each State shall make available for expenditure to pay not more than 50 per centum of the cost of projects for the purpose of clause (4) of subsection (b) an amount which at least equals the amount expended in that State from appropriations for the fiscal year 1972 for part A of title III (other than expenditures for section 303(a)(5)) of the National Defense Education Act of 1958.

"(2) Fifty per centum of the funds available to a State under this title, in excess of the amounts required for entitlements under section 602(a)(1), shall be expended by that State in any such year for the purposes set forth in subsection (b) in such amounts, determined by the State educational agency of that State, as will best meet the needs of the children of that State with respect to such purposes. The remainder of the funds available to a State under this title in excess of the amounts required for entitlements under section 602(a)(1) shall be expended by that State in any such year for the purposes set forth in subsection (b) for each such purpose in an amount which bears the same ratio to such remainder as the amount described for each purpose in section 602(a)(1) bears to the aggregate of the amounts to which reference is made in such section 602(a)(1).

"USES OF FUNDS BY STATE EDUCATIONAL AGENCIES

"SEC. 604. (a) Funds appropriated for the purposes of this title for any fiscal year on the basis of entitlement established by section 602(b) shall be available to the States, in accordance with agreements between the States and the Commissioner meeting the requirements of section 605 and of section 434 of the General Education Provisions Act, for the following purposes:

"(1) Strengthening the leadership resources of State and local educational agencies and the establishment and improvement of programs and projects designed to identify the educational needs of children in elementary and secondary schools and to devise educational programs to meet those needs.

"(2) The expansion and improvement of supervisory and related services in academic subjects in elementary and secondary schools.

"(3) The proper and efficient administration of the activities conducted with such funds as may be available under this title for the purposes set forth in section 603.

"(b) Funds available to a State for the purposes set forth in subsection (a) shall be used by such State for such purposes in such amounts, determined by the State educational agency of such State, as will best achieve the purposes of this section, except that no State shall use an amount for the purpose set forth in clause (3) of subsection (a) which exceeds 5 per centum of the amount expended by that State from the funds available to that State under this title for the purposes set forth in section 603.

"AGREEMENTS WITH STATES

"SEC. 605. (a) Any State, having in effect for any fiscal year an application under section 434 of the General Education Provisions Act, which desires to receive a grant under this title shall come into an agreement with the Commissioner respecting the participation of that State in the program authorized by this title. Each such agreement shall provide that—

"(1) the State will insure that all children in the elementary and secondary schools in the State receive the materials and services described in clauses (1) through (5) of section 603(b) to the extent that such children have a need for such materials and services; and

"(2) the Commissioner will receive and review an annual program plan developed by the State which will carry out the provision to which the State has agreed pursuant to clause (1).

"(b) If, for any fiscal year, a State submits to the Commissioner an offer of an agreement meeting the appropriate requirements for such fiscal year of subsection (a), the Commissioner shall accept such offer and adhere to, and comply with, such Federal obligations as may arise out of such agreement, including obligations imposed by, or under the provisions of, this title and the General Education Provisions Act relevant to such agreement.

"(c)(1) The Commissioner shall make available and pay to each State with which he has come into an agreement under this section for each fiscal year an amount equal to the amount expended by that State in carrying out such an agreement except that, with respect to the requirement of clause (1) of subsection (a), such amount shall not exceed the amount to which that State is entitled, as determined under section 602(a).

"(2) The Commissioner shall pay to each such State the amount to which such State is entitled as determined under section 602(b).".

"PARTICIPATION OF CHILDREN IN NONPUBLIC SCHOOLS

"SEC. 606. (a) Each local educational agency which receive funds under this title for the purposes set forth in section 603(a) shall insure that, to the extent consistent with the number of children in the school district of such agency who (1) are enrolled in private nonprofit elementary and secondary schools, which are free from discrimination on the basis of race, color, or national origin, and (2) are in need of the materials, equipment, or services for which such funds are expended, such agency will, after consultation with the appropriate private school officials, provide, on an equitable basis, for the benefit of such children, such materials, equipment, or services.

"(b) The control and supervision of, and title to, all materials, equipment, or services made available for the benefit of children in private nonprofit schools under this section shall be, and remain in, a public agency.

"(c)(1) In any State which has an agreement with the Commissioner under this title and in which no State agency is authorized by law to provide, or in which there is a substantial failure to provide, such materials, equipment, and services as are authorized by this title for children enrolled in any one or more private nonprofit elementary or secondary schools, described in clause (1) of subsection (a), of such State in the area or areas served pursuant to such agreement, the Commissioner shall arrange for the provision, on an equitable basis, of such materials, equipment, and services and shall pay the costs thereof for any fiscal year out of that State's entitlement. The Commissioner may arrange for making such materials, equipment, and services available through contracts with institutions of higher education, or other competent nonprofit institutions or organizations.

"(d) The Commissioner shall not take action under subsection (c) with respect to any State educational agency without first affording such agency and other interested parties notice and an opportunity for a hearing. Such notice shall be given not less than sixty days prior to any final action of the Commissioner under such subsection. If the Commissioner determines that the provisions of subsection (c) apply to a substantial number of children who are in attendance at private schools, he shall proceed as required under such subsection. If the State educational agency is dissatisfied with the action of the Commissioner under subsection (c), such agency shall qualify for judicial review of the Commissioner's action. If any State educational agency desires

judicial review under subsection (c) or this subsection, such agency shall, within sixty days after such action, file with the United States Court of Appeals for the circuit in which such State is located a petition for review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.".

(3)(A) Unless the sums appropriated for title VI of the Elementary and Secondary Education Act of 1965 for any fiscal year ending after June 30, 1974, are made available for expenditure prior to the beginning of such fiscal year and exceed the aggregate of the amounts for which provision is made in subparagraph (B), the aggregate of the amounts appropriated under any authority for the purposes set forth in sections 603 and 604 of such Act for any such fiscal year shall be allotted among and used by the States as provided in subparagraph (B).

(B)(i)(I) Of the sums appropriated for any fiscal year to which subparagraph (A) applies, the following amounts shall be allotted among the States and used by the States in accordance with title II of the Elementary and Secondary Education Act of 1965:

State	Amount in dollars
Alabama	$1,559,868
Alaska	146,845
Arizona	811,810
Arkansas	831,315
California	8,352,777
Colorado	983,010
Connecticut	1,284,204
Delaware	248,627
Florida	2,689,633
Georgia	2,045,131
Hawaii	340,947
Idaho	333,536
Illinois	4,781,990
Indiana	2,316,188
Iowa	1,240,758
Kansas	955,697
Kentucky	1,410,076
Louisiana	1,738,766
Maine	433,632
Maryland	1,735,071
Massachusetts	2,351,453
Michigan	4,093,188
Minnesota	1,755,966
Mississippi	1,060,825
Missouri	1,976,916
Montana	327,988
Nebraska	647,824
Nevada	211,283
New Hampshire	315,917
New Jersey	3,003,713
New Mexico	517,827
New York	7,284,263
North Carolina	2,211,270
North Dakota	209,760
Ohio	4,712,726
Oklahoma	1,069,711
Oregon	892,645
Pennsylvania	4,887,781
Rhode Island	374,697
South Carolina	1,203,411
South Dakota	312,248
Tennessee	1,674,463
Texas	5,017,276
Utah	522,001
Vermont	195,898
Virginia	2,002,655
Washington	1,470,947
West Virginia	739,358
Wisconsin	2,009,729
Wyoming	153,316
District of Columbia	274,960

(II) In addition to the sums allocated pursuant to subdivision (I), the Commissioner shall allot an amount equal to 3 per centum of the amount allotted under such subdivision to the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands in accordance with their respective needs for assistance under such title II.

(ii)(I) Of the sums appropriated for any fiscal year to which subparagraph (A) applies, the following amounts shall be allotted among the States and used by the States in accordance with title III of the Elementary and Secondary Education Act of 1965:

State	Amount in dollars
Alabama	$2,450,833
Alaska	539,280
Arizona	1,426,527
Arkansas	1,484,304
California	12,666,220
Colorado	1,671,536
Connecticut	2,120,290
Delaware	681,242
Florida	4,339,859
Georgia	3,169,830
Hawaii	809,635
Idaho	787,801
Illinois	7,245,331
Indiana	3,560,128
Iowa	2,029,559
Kansas	1,665,216
Kentucky	2,269,689
Louisiana	2,645,135
Maine	938,850
Maryland	2,730,929
Massachusetts	3,743,053
Michigan	6,030,437
Minnesota	2,709,065
Mississippi	1,727,477
Missouri	3,147,632
Montana	778,530
Nebraska	1,229,514
Nevada	638,257
New Hampshire	783,053
New Jersey	4,690,277
New Mexico	1,002,884
New York	11,323,850
North Carolina	3,447,794
North Dakota	731,894
Ohio	7,048,099
Oklahoma	1,834,481
Oregon	1,575,712
Pennsylvania	7,538,447
Rhode Island	885,682
South Carolina	1,934,924
South Dakota	759,490
Tennessee	2,687,034
Texas	7,444,141
Utah	1,018,491
Vermont	614,785
Virginia	3,157,350
Washington	2,374,519
West Virginia	1,368,764
Wisconsin	3,089,459
Wyoming	552,612
District of Columbia	760,659

(II) In addition to the sums allocated pursuant to subdivision (I) the Commissioner shall allot an amount equal to 3 per centum of the amount allotted under such subdivision to the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands in accordance with their respective needs for assistance under such title III.

(iii)(I) Of the sums appropriated for any fiscal year to which subparagraph (A) applies, the following amounts shall be allotted among the States and used by the States in accordance with part A of title V of the Elementary and Secondary Education Act of 1965:

State	Amount in dollars
Alabama	$568,444
Alaska	271,973
Arizona	411,396
Arkansas	415,491
California	1,994,554
Colorado	$447,338
Connecticut	510,571
Delaware	293,161
Florida	805,628
Georgia	670,321
Hawaii	312,543
Idaho	310,987
Illinois	1,244,899
Indiana	727,227
Iowa	501,450
Kansas	441,600
Kentucky	536,997
Louisiana	606,002
Maine	332,001
Maryland	605,226
Massachusetts	734,630
Michigan	1,100,292
Minnesota	609,613
Mississippi	463,675
Missouri	656,000
Montana	309,822
Nebraska	376,969
Nevada	285,321
New Hampshire	307,288
New Jersey	871,566
New Mexico	349,677
New York	1,770,229
North Carolina	705,200
North Dakota	302,426
Ohio	1,230,358
Oklahoma	465,540
Oregon	428,367
Pennsylvania	1,267,109
Rhode Island	319,628
South Carolina	493,609
South Dakota	306,518
Tennessee	592,502
Texas	1,294,296
Utah	350,553
Vermont	282,091
Virginia	661,403
Washington	549,776
West Virginia	396,185
Wisconsin	662,888
Wyoming	273,151
District of Columbia	298,689

(II) in addition to the sums allocated pursuant to subdivision (I), the Commissioner shall allot an amount equal to 3 per centum of the amount allotted under such subdivision to the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands in accordance with their respective needs for assistance under such title V.

(iv)(I) Of the sums appropriated for any fiscal year to which subparagraph (A) applies, the following amounts shall be allotted among the States and used by the States in accordance with part A of title III of the National Defense Education Act of 1958:

State	Amount in dollars
Alabama	$1,101,809
Alaska	79,031
Arizona	502,557
Arkansas	580,253
California	3,685,803
Colorado	556,321
Connecticut	495,980
Delaware	123,984
Florida	1,440,346
Georgia	1,306,359
Hawaii	179,881
Idaho	223,805
Illinois	2,143,425
Indiana	1,283,029
Iowa	701,525
Kansas	527,751
Kentucky	928,648
Louisiana	1,213,089
Maine	273,553
Maryland	860,960
Massachusetts	1,034,596
Michigan	2,147,259
Minnesota	1,015,956
Mississippi	757,492
Missouri	1,090,434
Montana	211,545
Nebraska	364,475

Nevada	95,336
New Hampshire	177,672
New Jersey	1,268,818
New Mexico	369,760
New York	2,707,972
North Carolina	1,439,956
North Dakota	199,767
Ohio	2,538,891
Oklahoma	646,748
Oregon	487,492
Pennsylvania	2,484,003
Rhode Island	178,224
South Carolina	859,307
South Dakota	208,617
Tennessee	1,094,698
Texas	3,087,180
Utah	362,341
Vermont	117,957
Virginia	1,171,767
Washington	750,381
West Virginia	491,519
Wisconsin	1,154,598
Wyoming	93,351
District of Columbia	98,154

(II) In addition to the sums allocated pursuant to subdivision (I), the Commissioner shall allot an amount equal to 3 per centum of the amount allotted under such subdivision to the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands in accordance with their respective needs for assistance under such title III.

(C) If the sums appropriated for title VI of the Elementary and Secondary Education Act of 1965 for any fiscal year exceed the aggregate of the amounts for which provision is made in subparagraph (B) and are available for expenditure prior to the beginning of any fiscal year no funds may be appropriated under any authority listed in paragraph (1) for that fiscal year.

(4) The allotment ratios promulgated pursuant to section 602(a)(2)(B)(iii) of the Elementary and Secondary Education Act of 1965 for the year 1974 shall apply to section 602(a)(2)(A)(iii) of such Act for the fiscal year ending June 30, 1974.

(b) The amendments made by, and the provisions of, subsection (a) shall be effective on and after the date of the enactment of this Act.

CONSOLIDATION OF CERTAIN FEDERALLY OPERATED EDUCATION PROGRAMS

SEC. 403. (a)(1) The Act of July 26, 1954 (Public Law 531, Eighty-third Congress) is amended by striking out all after the enacting clause and inserting in lieu thereof the following: "That this Act may be cited as the 'Special Projects Act'.

"PURPOSE

"SEC. 2. It is the purpose of this Act to authorize the Commissioner of Education (hereinafter referred to as the 'Commissioner') to carry out special projects—

"(1) to experiment with new educational and administrative methods, techniques, and practices;

"(2) to meet special or unique education needs or problems; and

"(3) to place special emphasis on national education priorities.

"CONTRACTING AUTHORITY

"SEC. 3. (a) The Commissioner is authorized, during the period beginning July 1, 1975, and ending June 30, 1978, to make contracts with public and private agencies, organizations, associations, institutions, and with individuals in order to carry out the purposes of this Act as set forth in section 2.

"(b) In exercising his authority under this section, the Commissioner shall comply with such priorities and preferences as may be expressly provided by law, with respect to this section.

"APPROPRIATIONS

"SEC. 4. (a)(1) In order to enable the Commissioner to make contracts under section 3, there is authorized, subject to subsection (b), to be appropriated to the Office of Education $200,000,000 for the fiscal year ending June 30, 1976, and each of the two succeeding fiscal years.

"(2) Sums appropriated pursuant to paragraph (1) shall, notwithstanding any other provisions of law, unless enacted in express limitation of this paragraph, remain available until expended.

"(b)(1) Not later than February 1 of each year, the Commissioner shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate a plan in accordance with which the Commissioner has determined to expend funds to be appropriated for the fiscal year beginning July 1, of that year. Such plan shall be accompanied by a report describing each contract made or intended to be made during the current fiscal year under the authority of this Act involving an expenditure in excess of $100,000.

"(2)(A) The funds appropriated pursuant to subsection (a) for any fiscal year shall be expended in accordance with the plan submitted for that year pursuant to paragraph (1), unless prior to sixty days after the submission of such plan, either the Committee on Education and Labor of the House of Representatives or the Committee on Labor and Public Welfare of the Senate adopts a resolution disapproving such plan.

"(B) If either or both such committees adopts a resolution of disapproval as provided in subparagraph (A), the Commissioner shall, not later than fifteen days after the adoption of any such resolution, submit a new plan in accordance with paragraph (1) and subparagraph (A).".

(2) The title of such Act of July 24, 1954, is amended to read as follows: "An Act to authorize special projects, surveys, and studies by the Office of Education.".

(b)(1) In carrying out his functions under section 3 of the Special Projects Act, the Commissioner shall—

(A) give priority to applications proposing projects meeting the requirements of the provisions of law repealed by paragraph (3) of subsection (c); and

(B) reserve not less than 50 per centum of the sums appropriated pursuant to section 4 of such Act for the purposes preferred in paragraph (3) of this subsection and apportioned in accordance with paragraph (2) of this subsection.

With respect to the funds to which this paragraph applies, the Commissioner's authority under such section 3 shall include authority to make grants as well as contracts.

(2) Except as is otherwise provided with respect to section 410, the Commissioner shall apportion an amount for each of the purposes set forth in paragrapph (3) which bears the same ratio to the sums reserved pursuant to clause (B) of paragraph (1) as the amount permitted to be expended for each such purpose bears to the aggregate of the amounts permitted to be expended for all such purposes.

(3) The sums reserved pursuant to clause (B) of paragraph (1) shall be expended for programs otherwise authorized by an applicable statute and described in the following subparagraphs:

Education for the Use of the Metric System of Measurement

(A) A program to encourage educational agencies and institutions to prepare students to use the metric system of measurement, as provided in section 404.

Gifted and Talented Children

(B) A program for the education of gifted and talented children through grants to the States for such purpose, as provided in section 405 (except subsection (f) thereof).

Community Schools

(C) A program of grants to local educational agencies to assist them in planning, establishing, expanding, and operating community education programs, as provided in section 406.

Career Education

(D) A program to assess, and to encourage establishment and operation of, career education programs, as provided in section 407.

Consumers' Education

(E) A program of grants and contracts designed to provide consumer education to the public, as provided in section 811 of the Elementary and Secondary Education Act of 1965.

Women's Equity in Education

(F) A program of grants and contracts designed to provide educational equity for women in the United States, as provided in section 409.

Arts in Education Programs

(G) A program of grants and contracts designed to assist and encourage the use of the arts in elementary and secondary school programs as provided in section 410.

(4) No appropriation may be made for any fiscal year for the purposes of section 811 of the Elementary and Secondary Education Act of 1965 or sections 404, 405, 406, 407, and 409 of this Act during which funds are available for the purposes of such sections under the provision of this subsection.

(c)(1) The amendments made by subsection (a) and the provisions of subsection (b) shall be effective on and after July 1, 1975.

(2) Effective July 1, 1975, title III of the Elementary and Secondary Education Act of 1965 is amended—

(i) by striking out section 305(d);

(ii) by striking out section 306;

(iii) by striking out section 307(c); and

(iv) in the first sentence of section 301 (b), by adding before the period at the end thereof the following: "and $508,250,000 for each of the succeeding fiscal years ending prior to July 1, 1978".

(3)(A) Effective July 1, 1975, the Higher Education Act of 1965 is amended by striking out all of title V except subpart 1 of part B and subsection (b) of section 501; and such subsection (b) is amended to read as follows:

"(b) For the purpose of carrying out subpart 1 of part B, there is authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1975.".

(B) Effective July 1, 1975, sections 807, 808, and 809, of the Elementary and Secondary Education Action Act of 1965, are repealed.

(4) If the Commissioner determines that a priority required by clause (A) of paragraph (1) would not be appropriate for any fiscal year, he shall submit a certification of such determination to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate. If, within ninety days after the submission of such a certification neither of such committees adopts a resolution disapproving of such determination, the provisions of such clause (A) shall not apply to the extent such determination is evidenced by such certification.

EDUCATION FOR THE USE OF THE METRIC SYSTEM OF MEASUREMENT

SEC. 404. (a)(1) The Congress hereby finds that—

(A) the metric system of measurement is in general use in industrially developed nations and its use is increasing;

(B) increased use of such metric system in the United States is inevitable, and such a metric system will become the dominant system of weights and measures in the United States; and

(C) there is no existing program designed to teach children to use such metric system and such a program is necessary if the American people are to adapt to the use of the metric system of weights and measures.

(2) It is the policy of the United States to encourage educational agencies and institutions to prepare students to use the metric system of measurement with ease and facility as a part of the regular education program.

(3) For the purposes of this title, the term "metric system of measurement" means the International System of Units as established by the General Conference of Weights and Measures in 1960 and interpreted or modified for the United States by the Secretary of Commerce.

(b)(1) The Commissioner shall carry out a program of grants and contracts in order to encourage educational agencies and institutions to prepare students to use the metric system of measurement.

(2) The Commissioner is authorized to make grants to, and contracts with, institutions of higher education. State and local education agencies, and other public and private nonprofit agencies, organizations, and institutions to develop and carry out the policy set forth in subsection (a).

(c)(1) Financial assistance under this title may be made available only upon application to the Commission. Any such application shall be submitted at such time, in such form, and containing such information as the Commissioner shall prescribe by regulation and shall be approved only if it—

(A) provides that the activities and services for which assistance is sought will be administered by, or under the suspension of, the applicant;

(B) describes a program which holds promise of making a substantial contribution toward attaining the purposes of this section;

(C) sets forth such policies and procedures as will insure adequate evaluation of the activities intended to be carried out under the application; and

(D) contains such other provisions as the Commissioner determines necessary in order to accomplish the purposes of this title.

(2) An application from a local educational agency under this section may be approved only if the State educational agency of the State in which such local agency is located has been notified of the application and has been given a reasonable opportunity to offer recommendations with respect to the approval thereof.

(d) For the purpose of carrying out this section, the Commissioner is authorized to expend $10,000,000 for each of the fiscal years ending prior to July 1, 1978.

GIFTED AND TALENTED CHILDREN

SEC. 405. (a) The Commissioner shall designate an administrative unit within the Office of Education to adiminster the programs and projects authorized by this section and to coordinate all programs for gifted and talented children and youth administered by the Office.

(b) The Commissioner shall establish or designate a National Clearinghouse on Gifted and Talented Children and Youth (hereafter in this section referred to as the "clearinghouse"). The clearinghouse shall obtain and disseminate to the public information pertaining to the education of gifted and talented children and youth. The Commissioner is authorized to contract with public or private agencies or organzations to establish and operate the clearinghouse.

(c)(1) The Commissioner shall make grants to State educational agencies and local educational agencies, in accordance with the provisions of this subsection, in order to assist them in the planning, development, operation, and improvement of programs and projects designed to meet the special educational needs of gifted and talented children at the preschool and elementary and secondary schools levels.

(2)(A) Any State educational agency or local educational agency desiring to receive a grant under this subsection shall submit an application therefor to the Commissioner at such time, in such manner, and containing such information as the Commissioner determines to be necessary to carry out his functions under this section. Such application shall—

(i) provide satisfactory assurance that funds paid to the applicant will be expended solely to plan, establish, and operate programs and projects which—

(I) are designed to identify and to meet the special educational and related needs of gifted and talented children, and

(II) are of sufficient size, scope, and quality as to hold reasonable promise of making substantial progress toward meeting those needs;

(ii) set forth such policies and procedures as are necessary for (I) acquiring and disseminating information derived from educational research, demonstration and pilot projects, new educational practices and techniques, and (II) the evaluation of the effectiveness of the program or project in achieving its purpose; and

(iii) provide satisfactory assurance that, to the extent consistent with the number of gifted and talented children in the area to be served by the applicant who are enrolled in nonpublic elementary and secondary schools, provision will be made for the participation of such children.

(B) The Commissioner shall not approve an application under this subsection from a local educational agency unless such application has been submitted to the State educational agency of the State in which the applicant is located and such State agency has had an opportunity to make recommendations with respect to approval thereof.

(3) Funds available under an application under this subsection may be used for the acquisition of instructional equipment to the extent such equipment is necessary to enhance the quality or the effectiveness of the program or project for which application is made.

(4) A State educational agency receiving assistance may carry out its functions under an approved application under this subsection directly or through local educational agencies.

(d) The Commissioner is authorized to make grants to State educational agencies to assist them in establishing and maintaining, directly or through grants to institutions of higher education, a program for training personnel engaged or preparing to engage in educating gifted and talented children or as supervisors of such personnel.

(e) The Commissioner is authorized to make grants to institutions of higher education and other appropriate non-profit institutions or agencies to provide training to leadership personnel for the education of gifted and talented children and youth. Such leadership personnel may include, but are not limited to, teacher trainers, school administrators, supervisors, researchers, and State consultants. Grants under this section may be used for internships, with local, State, or Federal agencies or other public or private agencies or institutions.

(f) Notwithstanding the second sentence of section 405(b)(1) of the General Education Provisions Act, the National Institute of Education shall, in accordance with the terms and conditions of section 405 of such Act, carry out a program of research and related activities relating to the education of gifted and talented children. As used in the preceding sentence the term "research and related activities" means research, research training, surveys, or demonstrations in the field of education of gifted and talented children and youth, or the dissemination of information derived therefrom, or all of such activities, including (but without limitation) experimental and model schools.

(g) In addition to the other authority of the Commissioner under this section, the Commissioner is authorized to make contracts with public and private agencies and organizations for the establishment and operation of model projects for the identification and education of gifted and talented children, including such activities as career education, bilingual education, and programs of education for handicapped children and for educationally disadvantaged children. The total of the amounts expended for projects authorized under this subsection shall not exceed 15 per centum of the total of the amounts expended under this section for any fiscal year.

(h) For the purpose of carrying out the provisions of this section (except subsection (f)), the Commissioner is authorized to expend not to exceed $12,250,000 for each fiscal year ending prior to July 1, 1978.

COMMUNITY SCHOOLS

Sec. 406. (a) This section may be cited as the "Community Schools Act".

(b) In recognition of the fact that the school, as the prime educational institution of the community, is most effective when the school involves the people of that community in a program designed to fulfill their education needs, and that community education promotes a more efficient use of school facilities through an extension of school buildings and equipment, it is the purpose of this section to provide educational, recreational, cultural, and other community services, in accordance with the needs, interests, and concerns of the community, through the establishment of the community education program as a center for such activities in cooperation with other community groups.

(c) For purposes of this section and subparagraph (C) of section 403(b)(3), a "community education program" is a program in which a public elementary or secondary school or other appropriate public building is used as a community center operated in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, cultural, and other community services for the community that center serves in accordance with the needs, interests, and concerns of that community. Nothing in this section shall be construed to prohibit any applicant under this section from carrying out any activity with funds derived from other sources than those from this section.

(d)(1) In order to carry out the purposes and provisions of this section, the Commissioner is authorized to make grants to local educational agencies to assist them in planning, establishing, expanding, and operating community education programs.

(2) Any local educational agency desiring to receive a grant under this section for any fiscal year shall make application therefor to the Commissioner at such times, in such manner, and in such form as the Commissioner shall prescribe by regulation. The Commissioner shall not approve any such application unless the State educational agency of the State in which the applicant is located has been given an opportunity to

review, and make comment on, such application.

(e) The Commissioner is authorized to make grants to institutions of higher education to develop and establish, or to expand, programs which will train persons to plan and operate community education programs.

(f)(1) The Commissioner shall establish or designate a National Clearinghouse on Community Education Programs (hereinafter in this section referred to as the "clearinghouse"). The purpose of the clearinghouse shall be the gathering and dissemination of information received from community education programs, including but not limited to information regarding new programs, methods to encourage community participation, and ways of coordinating community education programs with other community services. The Commissioner is authorized to contract with public or private agencies or organizations to establish and operate the clearinghouse.

(2) The Commissioner shall make available to each community education program such technical assistance and information as the program may require, and such technical assistance shall be coordinated with the national clearinghouse.

(g)(1) There is established, subject to part D of the General Education Provisions Act, in the Office of the Commissioner, a Community Education Advisory Council (referred to in this section as the "Advisory Council") to be composed of eleven members. The members of the Advisory Council shall be appointed by the Secretary.

(2) A substantial number of the members of the Advisory Council shall be persons experienced in the operation of community education programs and the training of such persons. Further, the Council shall include representatives from various disciplines in providing services in community school programs.

(3) Appointments to the Advisory Council shall be completed within three months after enactment of this section.

(4) The Commissioner shall make available to the Advisory Council such staff, information, and other assistance as it may require to carry out its activities.

(5) The Advisory Council shall advise the Commissioner on policy matters relating to the interests of community schools.

(6) In the fiscal year ending June 30, 1975, the Advisory Council shall be responsible for advising the Commissioner regarding the establishment of policy guidelines and regulations for the operation and administration of this section. In addition, the Council shall create a system for evaluation of the programs. The Council shall present to Congress a complete and thorough evaluation of the programs and operation of this section for each fiscal year ending after June 30, 1975.

(h) In approving applications under this section the Commissioner shall insure that there is an equitable geographical distribution of community education programs throughout the United States in both urban and rural areas.

(i) The Commissioner is authorized to expend (1) for the purpose of subsection (d), $15,000,000 for each fiscal year ending prior to July 1, 1978; and (2) for the purposes of subsection (1), $2,000,000 for each fiscal year ending prior to July 1, 1978.

CAREER EDUCATION

SEC. 407. (a) It is the sense of Congress that—

(1) every child should, by the time he has completed secondary school, be prepared for gainful or maximum employment and for full participation in our society according to his or her ability;

(2) it is the obligation of each local educational agency to provide that preparation for all children (including its handicapped children and all other children who are educationally disadvantaged) within its school district; and

(3) each State and local educational agency should carry out a program of career education which provides every child the widest variety of career education options which are designed to prepare each child for maximum employment and participation in our society according to his or her ability.

(b) It is the purpose of this section to assist in achieving the policies set forth in subsection (a) by—

(1) developing information on the needs for career education for all children;

(2) promoting a national dialogue on career education designed to encourage each State and local educational agency to determine and adopt the approach to career education best suited to the needs of the children served by them;

(3) assessing the status of career education programs and practices;

(4) providing for the demonstration of the best of the current career education programs and practices by the development and testing of exemplary programs and practices using various theories, concepts, and approaches with respect to career education;

(5) providing for the training and retraining of persons for conducting career education programs; and

(6) developing State and local plans for implementing career education programs designed to insure that every child has the opportunity to gain the knowledge and skills necessary for gainful or maximum employment and for full participation in our society according to his or her ability.

(c)(1) In order to carry out the policies, purposes, and provisions of this section, there is established in the Office of Education an Office of Career Education (hereafter in this section referred to as the "Office"). The Office shall be headed by a Director who shall be placed in, and compensated at the rate prescribed for, grade 16 of the General Schedule set forth in section 5332 of title 5, United States Code. The position created by this paragraph shall be in addition (A) to the number of positions placed in grade 16 under section 5108 of title 5, United States Code or (B) otherwise placed in the Office of Education.

(2) The Commissioner shall delegate his functions under this section to the Director of the Office.

(d) For the purposes of this section, the term "career education" means an education process designed—

(1) to increase the relationship between schools and society as a whole;

(2) to provide opportunities for counseling, guidance and career development for all children;

(3) to relate the subject matter of the curricula of schools to the needs of persons to functions in society;

(4) to extend the concept of the education process beyond the school into the area of employment and the community;

(5) to foster flexibility in attitudes, skills, and knowledge in order to enable persons to cope with accelerating change and obsolescence;

(6) to make education more relevant to employment and functioning in society; and

(7) to eliminate any distinction between education for vocational purposes and general or academic education.

(e) The Commissioner shall conduct a survey and assessment of the current status of career education programs, projects, curriculums, and materials in the United States and submit to the Congress, not later than November 1, 1975, a report on such survey and assessment. Such report shall include recommendations of the advisory council created under subsection (g) for new legislation designed to accomplish the policies and purposes set forth in subsections (a) and (b). In exercising his authority under clauses (ii)(III) and (ii)(V) of section 434 (b)(1)(A) of the General Education Provisions Act, for any fiscal year, the Commissioner shall require State educational agencies and local educational agencies to report on their efforts to prepare students for gainful or maximum employment.

(f)(1) During the period beginning with the enactment of this section and ending June 30, 1978, the Commissioner is authorized to make grants to State and local educational agencies, institutions of higher education, and other nonprofit agencies and organizations to support projects to demonstrate the most effective methods and techniques in career education and to develop exemplary career education models (including models in which handicapped children receive appropriate career education either by participation in regular or modified programs with nonhandicapped children or where necessary in specially designed programs for handicapped children whose handicaps are of such severity that they cannot benefit from regular or modified programs). Grants made under this subsection shall be consistent with the policies set forth in subsection (a) of this subsection.

(2) During the period beginning one year after the enactment of this section and ending June 30, 1977, the Commissioner is authorized to make grants to State educational agencies to enable them to develop State plans for the development and implementation of career education programs in the local educational agencies of the States. Such plans shall be designed to carry out the policies and purposes set forth in subsections (a) and (b).

(g)(1) Subject to part D of the General Education Provisions Act and within ninety days after the enactment of this section, there is established a National Advisory Council for Career Education which shall be composed of—

(A) the Assistant Secretary of Education, the Commissioner of Education, the Director of the Office of Career Education, the Director of the National Institute of Education, the Director of the National Center for Education Statistics, the Director of the National Science Foundation, the Chairman of the National Foundation for the Arts, the Chairman of the National Foundation for the Humanities, the Chairman of the National Advisory Council for Vocational Education, all of whom shall serve in a nonvoting ex officio capacity; and

(B) not less than twelve public members broadly representative of the fields of education, the arts, the humanities, the sciences, community services, business and industry, and the general public, a majority of whom shall be engaged in education or education-related professions.

(2) The public members shall be appointed by the Secretary. The Secretary shall select the Chairman from among the public members. The members shall serve for terms of three years with not more than four seats rotating in any one year. The Commissioner shall provide such staff and funds for the Council as deemed necessary and such staff and funds shall be in addition to those provided elsewhere in this title.

(3) The duties of the Council shall be to advise the Commissioner on the implementation of this section and carry out such advisory functions as it deems appropriate, including reviewing the operation of this section and all other programs of the Division of Education pertaining to the development and implementation of career education, evaluating their effectiveness in meeting the needs of career education throughout the United States, and in determining the need for further legislative remedy in order that all citizens may benefit from the purposes of career education as prescribed in this section.

(4) The Council with the assistance of the Commissioner shall conduct a survey and assessment of the current status of career education programs, projects, curricula, and materials in the United States and submit to Congress, not later than November 1, 1975, a report on such survey and assessment. Such report shall include recommendations of the advisory council for new legislation designed to accomplish the policies and purposes set forth in subsections (a) and (b).

(h) For the purpose of carrying out the provisions of this section, the Commissioner is authorized to expend not to exceed $15,000,000 for each fiscal year ending prior to July 1, 1978.

CONSUMERS' EDUCATION

SEC. 408. (a)(1) Section 811(a) of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"SEC. 811. (a)(1) There shall be within the Office of Education an Office of Consumers' Education (hereafter in this section referred to as the 'Office') which shall be headed by a Director of Consumers' Education (hereafter in this section referred to as the 'Director') who, subject to the management of the Commissioner, shall have responsibility for carrying out the provisions of this section.

"(2) The Director shall be placed in, and compensated at, the rate provided for grade 17 of the General Schedule set forth in section 5332 of title 5, United States Code, and shall be in addition to the number of positions assigned to grade 17 under section 5108 of such title 5.

"(3) The Director shall be appointed by the Commissioner in accordance with the provisions of title 5 of the United States Code relating to appointments to the competitive service.".

(2) Such section 811(b) of such Act is amended, in clause (ii) in the second sentence of paragraph (1)(C), by striking out "paragraph (2)" and inserting in lieu thereof "subparagraph (B)".

(3) Section 811(d) of such Act is amended to read as follows:

"(d) For the purpose of carrying out this section, the Commissioner is authorized to expend not to exceed $15,000,000 for each fiscal year ending prior to July 1, 1978.".

(b) The amendments made by this section shall be effective on and after July 1, 1973.

WOMEN'S EDUCATIONAL EQUITY

SEC. 409. (a) This section may be cited as the "Women's Educational Equity Act of 1974".

(b)(1) The Congress hereby finds and declares that educational programs in the United States (including its possessions), as presently conducted, are frequently inequitable as such programs relate to women and limit the full participation of all individuals in American society.

(2) It is the purpose of this section to provide educational equity for women in the United States.

(c) As used in this section, the term "Council" means the Advisory Council on Women's Educational Programs.

(d)(1) The Commissioner is authorized to make grants to, and enter into contracts with, public agencies and private nonprofit organizations and with individuals for activities designed to carry out the purposes of this section at all levels of education, including preschool, elementary and secondary education, higher education, and adult education. These activities shall include—

(A) the development, evaluation, and dissemination of curricula, textbooks, and other educational materials related to educational equity;

(B) preservice and inservice training for educational personnel with special emphasis on programs and activities designated to provide educational equity;

(C) research, development, and educational activities designed to advance educational equity;

(D) guidance and counseling activities, including the development of nondiscriminatory tests, designed to assure educational equity;

(E) educational activities to increase opportunities for adult women, including continuing educational activities and programs for underemployed and unemployed women;

(F) the expansion and improvement of educational programs and activities for women in vocational education, career education, physical education and educational administration.

(2) A grant may be made and a contract may be entered into under this section only upon application to the Commissioner, at such time, in such form, and containing or accompanied by such information as the Commissioner may prescribe. Each such application shall—

(A) provide that the program or activity for which assistance is sought will be administered by or under the supervision of the applicant;

(B) describe a program for carrying out one of the purposes set forth in subsection (a) which holds promise of making a substantial contribution toward attaining such purposes; and

(C) set forth policies and procedures which insure adequate evaluation of the activities intended to be carried out under the application.

(3) The Commissioner shall approve applicants and amendments thereto which meet the requirements of paragraph (2).

(4) Nothing in this section shall be construed as prohibiting men from participating in any programs or activities assisted under this section.

(e) In addition to the authority of the Commissioner under subsection (d), the Commissioner shall carry out a program of small grants, not to exceed $15,000 each, in order to support innovative approaches to achieving the purpose of this section; and for that purpose the Commissioner is authorized to make grants to public and private nonprofit agencies and to individuals.

(f)(1) There is established in the Office of Education an Advisory Council on Women's Educational Programs. The Council shall be composed of—

(A) seventeen individuals, some of whom shall be students, who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals broadly representative of the general public who, by virtue of their knowledge or experience, are versed in the role and status of women in American society;

(B) the Chairman of the Civil Rights Commission;

(C) the Director of the Women's Bureau of the Department of Labor;

(D) the Director of the Women's Action Program of the Department of Health, Education, and Welfare; and

(E) the Chairman of the National Citizens Advisory Council on the Status of Women.

The Council shall elect its own Chairman.

(2) The term of office of each member of the Council appointed under clause (A) of paragraph (1) shall be three years, except that—

(A) the members first appointed under such clause shall serve as designated by the President, six for a term of one year, five for a term of two years, and six for a term of three years; and

(B) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(3) The Council shall—

(A) advise the Commissioner with respect to general policy matters relating to the administration of this section;

(B) advise and make recommendations to the Assistant Secretary concerning the improvement of educational equity for women;

(C) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to this section, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation; and

(D) develop criteria for the establishment of program priorities.

(4) From the sums available for the purposes of this section, the Commissioner is authorized and directed to conduct a national, comprehensive review of sex discrimination in education, to be submitted to the Council not later than a year after the date of enactment of this section. The Council shall review the report of the Commissioner and shall make such recommendations, including recommendations for additional legislation, as it deems advisable.

(5) The provisions of part D of the General Education Provisions Act shall apply with respect to the Council established under this subsection.

(f) The Commissioner is directed, at the end of each fiscal year, to submit to the President and the Congress and to the Council a report setting forth the programs and activities assisted under this section, and to provide for the distribution of this report to all interested groups and individuals, including the Congress, from funds authorized under this section. After receiving the report from the Commissioner, the Council shall evaluate the programs and projects assisted under this section and include such evaluation in its annual report.

(h) For the purpose of carrying out this section, the Commissioner is authorized to expend not to exceed $30,000,000 for each fiscal year prior to July 1, 1978.

ELEMENTARY AND SECONDARY SCHOOL EDUCATION IN THE ARTS

SEC. 410. The Commissioner shall, during the period beginning on June 30, 1974 and ending on June 30, 1978, through arrangements made with the John F. Kennedy Center for the Performing Arts, carrying out a program of grants and contracts to encourage and assist State and local educational agencies to establish and conduct programs in which the arts are an integral part of elementary and secondary school programs. Not less than $750,000 shall be available for the purposes of this section during any fiscal year during the period for which provision is made in the preceding sentence.

EFFECTIVE DATE

SEC. 411. Except where otherwise specified in this title, the amendments made by, and the provisions of, this title shall be effective on and after the date of enactment of this Act.

TITLE V—MISCELLANEOUS

PART A—MISCELLANEOUS AMENDMENTS RELATING TO THE IMPROVEMENT OF THE ADMINISTRATION OF EDUCATION PROGRAMS

NATIONAL CENTER FOR EDUCATION STATISTICS

SEC. 501. (a)(1) Part A of the General Education Provisions Act is amended by adding at the end thereof the following new section:

"NATIONAL CENTER FOR EDUCATION STATISTICS

"SEC. 406. (a) There is established a National Center for Education Statistics (hereafter in this section referred to as the 'Center') which shall consist of a National Board for Education Statistics (hereafter in this section referred to as the 'Board') and a Director of the Center.

"(b) The purpose of the Center shall be to collect and disseminate statistics and other data related to education in the United States and in other nations. The Center shall—

"(1) collect, collate, and, from time to time, report full and complete statistics on

the conditions of education in the United States;

"(2) conduct and publish reports on specialized analyses of the meaning and significance of such statistics;

"(3) assist State and local educational agencies in improving and automating their statistical and data collection activities; and

"(4) review and report on educational activities in foreign countries.

"(c)(1)(A) The National Board for Education Statistics shall be composed of six members appointed by the President, by and with the advice and consent of the Senate, and such ex officio members as are listed in subparagraph (B). Not more than three of the appointed members may be members of the same political party.

"(B) The ex officio members of the Board shall be the following officials, or their delegates:

"(i) The Assistant Secretary, as provided in subparagraph (D).

"(ii) The Director of the National Center for Educational Statistics.

"(iii) The Commissioner of Education.

"(iv) The Director of the National Institute of Education.

"(v) The Librarian of Congress.

"(vi) The Comptroller General of the United States.

"(vii) The Director of the Census.

"(viii) The Commissioner of Labor Statistics.

"(ix) The Director of the National Science Foundation.

"(x) The Chairman of the National Foundation on the Humanities.

"(xi) The Chairman of the National Foundation on the Arts.

"(C) Appointed members of the Board shall serve for terms of three years, as determined by the President, except that in the case of the initial appointed members of the Board, they shall serve for shorter terms to the extent necessary that the terms of office of no more than two members expire in the same calendar year.

"(D) The Assistant Secretary shall serve as the nonvoting presiding officer of the Board.

"(2)(A) The Board shall meet at the call of the presiding officer, except that it shall meet—

"(i) at least four times during each calendar year; and

"(ii) in addition, whenever three voting members request in writing that the presiding officer call a meeting.

"(B) Nine voting members of the Board shall constitute a quorum of the Board.

"(3)(A) The Board shall establish general policies for the operation of the Center and shall be responsible for establishing standards to insure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence.

"(B) The Board shall, not later than November 1 of each year, submit to the Congress an annual report which—

"(i) contains a description of the activities of the Center during the then current fiscal year and a projection of its activities during the succeeding fiscal year;

"(ii) sets forth estimates of the cost of the projected activities for such succeeding fiscal year; and

"(iii) includes a statistical report on the condition of education in the United States during the two preceding fiscal years and a projection, for the three succeeding fiscal years, of estimated statistics related to education in the United States.

"(C) The Board shall develop and enforce standards designed to protect the confidentiality of persons in the collection, reporting, and publication of data under this section. This subparagraph shall not be construed to protect the confidentiality of information about institutions, organizations, and agencies receiving grants from or having contracts with the Federal Government.

"(d)(1) The Director of the Center shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code. The Director shall perform such duties and exercise such powers and authorities as the Board may prescribe.

"(2) There shall be a Deputy Director of the Center who shall be appointed by the Director of the Center in accordance with the provisions of title 5, United States Code, relating to appointments in the competitive service. The Deputy Director shall be placed in, and compensated at the rate specified for, grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code. The Deputy Director shall act for the Director during the absence or disability of the Director and exercise such powers and authorities as the Director may prescribe. The position created by this paragraph shall be in addition to the number of positions placed in grade 18 of such General Schedule under section 5108 of the United States Code.

"(e) In order to carry out the objectives of the Center, the Director, subject to policies established by the Board, is authorized, either directly or by grant or contract, to carry out the purposes set forth in subsection (b); and for that purpose the Director is authorized to make grants to, and contracts with public and private institutions, agencies, organizations and individuals, except that no grant may be made to an institution agency or organization other than a non-profit institution agency or organization.

"(f)(1)(A) The Center is authorized transcripts or copies of tables and other records of the Office of Education, the Center, and the National Institute of Education, and to make special statistical compilations and surveys for, State or local officials, public and private organizations, or individuals. The Center shall furnish such special statistical compilations and surveys as the Committees on Labor and Public Welfare and on Appropriations of the Senate and the Committees on Education and Labor and on Appropriations of the House of Representatives may request. Such statistical compilations and surveys, other than those carried out pursuant to the preceding sentence, shall be made subject to the payment of the actual or estimated cost of such work. In the case of nonprofit organizations or agencies, the Director may engage in joint statistical projects, the cost of which shall be shared equitably as determined by the Director, provided that the purposes are otherwise authorized by law.

"(B) All moneys received in payment for work or services enumerated under subparagraph (A) shall be deposited in a separate account which may be used to pay directly the costs of such work or services, to repay appropriations which initially bore all or part of such costs, or to refund excess sums when necessary.

"(2)(A) The Center shall, in accordance with regulations published for the purposes of this paragraph, conduct, at least one time every three years, a survey of school-aged children of the United States. Such survey shall be designed—

"(i) to determine the number of children of such ages in the States and the status of their education;

"(ii) to determine the general characteristics of such children which affect their educational achievement and their educational needs; and

"(iii) to provide information to the Congress to enable the Congress to assess the financial needs of elementary and secondary school systems.

"(B) The Center shall publish, at least annually, a report on the survey conducted pursuant to subparagraph (A). Such report shall be submitted to the Congress not later than July 1 of each year, and shall contain those statistics necessary to determine impact and effectiveness of Federal education programs for purposes of program and legislative planning.

"(C) The Center shall participate with other Federal agencies having a need for educational data in forming a consortium for the purpose of providing direct joint access with such agencies to all educational data received by the Center through automated data processing. The Library of Congress, General Accounting Office, and the Committees on Labor and Public Welfare and Appropriations of the Senate and the Committees on Education and Labor and Appropriations of the House of Representatives shall, for the purposes of this subparagraph be considered Federal agencies.

"(D) The Center shall, in accordance with regulations published for the purpose of this paragraph, provide all interested parties, including public and private agencies and individuals direct access to data collected by the Center for purposes of research and acquiring statistical information.

"(3) The Commissioner and the National Institute of Education are directed to cooperate with the Center and make such records and data available to the Center as may be necessary to enable the Center to carry out its functions under this subsection.

"(g)(1) The amount available for grants and contracts by the Director under subsection (e) shall not exceed $20,000,000 for the fiscal year ending June 30, 1974, $31,600,000 for the fiscal year ending June 30, 1975, $44,600,000 for the fiscal year ending June 30, 1976, and $71,800,000 for the fiscal year ending June 30, 1977.

"(2) Sums appropriated for activities and expenses of the Center which are not limited by paragraph (1) of this subsection shall be appropriated apart from appropriations which are not so limited, as separate line items.".

(2) Section 401 of the General Education Provisions Act is amended to read as follows:

"THE EDUCATION DIVISION

"SEC. 401. (a) There shall be, within the Department of Health, Education, and Welfare, an Education Division, composed of the agencies listed in subsection (b), which shall be headed by the Assistant Secretary.

"(b) The Education Division shall be composed of the following agencies:

"(1) The Office of Education.

"(2) The National Institute of Education.

"(3) The National Center for Education Statistics.".

(3) Subsection (a) of section 403 of the General Education Provisions Act is amended to read as follows:

"SEC. 403. (a) There shall be an Office of Education (hereinafter in this section referred to as the 'Office') which shall be the primary agency of the Federal Government responsible for the administration of programs of financial assistance to educational agencies, institutions, and organizations. The Office shall have such responsibilities and authorities as may be vested in the Commissioner by law or delegated to the Commissioner in accordance with law.".

(4) The General Education Provisions Act is amended by striking out section 427.

(5) The National Center for Education Statistics shall conduct the survey required by section 731(c)(1)(A) of title VII of the Elementary and Secondary Education Act of 1965.

(b)(1) The amendments made by subsec-

tion (a) shall be effective on the tenth day after the enactment of this Act.

(2) (A) All functions and authority vested in the Commissioner of Education which, immediately prior to the date upon which the amendments made by subsection (a) become effective, are related to the collection, analysis, and dissemination of statistics about, and reports on the conditions of, education in the Nation as determined by the Assistant Secretary are transferred, on such date to the National Center for Education Statistics established under section 406 of the General Education Provisions Act.

(B) The functions and authority of the Commissioner of Education under section 427 prior to the date upon which the amendments made by subsection (a) become effective, together with all funds deposited in any account under such section, are transferred, on such date to the National Center for Education Statistics.

(c) The National Center for Education Statistics is authorized and directed to furnish not later than one year after the date of enactment of this Act to the Committee on Labor and Public Welfare of the Senate and to the Committee on Education and Labor of the House of Representatives the following data:

(1) the kind of Federal property for which the Commissioner makes determinations under sections 3(a) and 3(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress);

(2) the location of such property and the residence for school purposes of children who are counted under such sections 3(a) and 3(b);

(3) the number of parents who are counted under such sections 3(a) and 3(b) who are civilians and the number of such parents who are on active duty in the uniformed services;

(4) the number of children who reside on, or reside with parents on property which is part of a low-rent housing project assisted under the United States Housing Act of 1937, section 516 of the Housing Act of 1949, or part B of title III of the Economic Opportunity Act of 1964; and

(5) an estimate of the economic impact to the area served by the local educational agency by the presence of Federal property the basis of which is an entitlement for financial assistance under such sections 3(a) and 3(b). Each category of data required under this section shall be prepared for each school district of a local educational agency which received payments under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) for the fiscal year ending June 30, 1973.

(d) (1) The National Center for Education Statistics is authorized and directed to conduct a thorough study of the manner in which the relative measure of poverty for use in the financial assistance program authorized by title I of the Elementary and Secondary Education Act of 1965 may be more accurately and currently developed. The study of the relative measure of poverty required by this subsection shall be adjusted for regional, climatic, metropolitan, urban, suburban, and rural differences and for family size and head of household differences. The study required by this subsection shall consider—

(A) the availability of data more current than the decennial census including data collected by any agency of the Federal Government which are relevant except that data so collected shall not disclose the name of any individual or any other information customarily held confidential by that agency, but shall include aggregate information to the extent possible;

(B) the availability and usefulness of cost of living data;

(C) the availability and usefulness of cost of housing data;

(D) the availability and usefulness of labor market and job availability data;

(E) the availability and usefulness of data with respect to prevailing wage rates, unemployment rates, and income distribution; and

(F) the availability of data with respect to eligibility criteria for aid to families with dependent children under a State plan approved under title IV of the Social Security Act.

(2) The National Center for Education Statistics as authorized and directed to prepare and submit to the Congress not later than one year after the effective date of this Act a report of the study conducted under this subsection including recommendations with respect to the availability of data designed to improve the relative measure of poverty for the program of financial assistance authorized by title I of the Elementary and Secondary Education Act of 1965. Whenever the Center determines that data specified in paragraph (1) of this subsection are not available or that it is impractical to obtain data for each relevant area or category, the report shall contain an explanation of the reasons therefor.

(e) Section 731(c)(1)(A) of title VII of the Elementary and Secondary Education Act of 1965, as amended by section 105 of this Act, is amended by inserting "conducted by the National Center for Education Statistics" after "a survey".

AMENDMENTS TO PART B OF THE GENERAL EDUCATION PROVISIONS ACT, RELATING TO APPROPRIATIONS AND EVALUATIONS

SEC. 502. (a) (1) Part B of the General Education Provisions Act is amended—

(A) by striking out sections 411 and 413;

(B) by redesignating sections 412, 414, and 415, and all references thereto, as sections 411, 412, and 413, respectively;

(C) by redesignating section 417 as section 419;

(D) by inserting after the heading thereof the following:

"Subpart 1—Appropriations"; and

(E) by inserting after section 413, as so redesignated in clause (B), the following:

"CONTINGENT EXTENSION OF PROGRAMS

"SEC. 414. (a) Unless the Congress in the regular session which ends prior to the beginning of the terminal fiscal year—

"(1) of the authorization of appropriations for an applicable program; or

"(2) of the duration of an applicable program; either—

"(A) has passed or has formally rejected legislation which would have the effect of extending the authorization or duration (as the case may be) of that program; or

"(B) by action of either the House of Representatives or the Senate, approves a resolution stating that the provisions of this section shall no longer apply to such program; such authorization or duration is hereby automatically extended for one additional fiscal year. The amount appropriated for such additional year shall not exceed the amount which the Congress could, under the terms of the law for which the appropriation is made, have appropriated for such program during such terminal year.

"(b) (1) For the purposes of clause (A) of subsection (a), the Congress shall not have been deemed to have passed legislation unless such legislation becomes law.

"(2) In any case where the Commissioner is required under an applicable statute to carry out certain acts or make certain determinations which are necessary for the continuation of an applicable program, if such acts or determinations are required during the terminal year of such program, such acts and determinations shall be required during any fiscal year in which that part of subsection (a) which follows clause (B) thereof is in operation.

"Subpart 2—Planning and Evaluation of Federal Education Activities

"PROGRAM PLANNING AND EVALUATIONS BY THE ASSISTANT SECRETARY

"SEC. 416. The Assistant Secretary is authorized, by grant or contract or directly—

"(1) to carry out planning activities for, and evaluations of applicable programs; and

"(2) with funds appropriated expressly for such purpose, to conduct analyses of related educational issues.

The amount appropriated for the purposes of this subsection for any fiscal year shall not exceed $25,000,000.

"ANNUAL EVALUATION REPORTS

"SEC. 417. (a) (1) Not later than November 1 of each year, the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate an annual evaluation report which evaluates the effectiveness of applicable programs in achieving their legislated purposes together with recommendations relating to such programs for the improvement of such programs which will result in greater effectiveness in achieving such purposes.

"In the case of any evaluation report evaluating specific programs and projects, such report shall—

"(1) set forth goals and specific objectives in qualitative and quantitative terms for all programs and projects assisted under the applicable program concerned and relate those goals and objectives to the purposes of such program;

"(2) contain information on the progress being made during the previous fiscal year toward the achievement of such goals and objectives;

"(3) describe the cost and benefits of the applicable program being evaluated during the previous fiscal year and identify which sectors of the public receive the benefits of such program and bear the costs of such program;

"(4) contain plans for implementing corrective action and recommendations for new or amended legislation where warranted;

"(5) contains a listing identifying the principal analyses and studies supporting the major conclusions and recommendations in the report; and

"(6) be prepared in concise summary form with necessary detailed data and appendices.

"(b) Each evaluation report submitted pursuant to subsection (a) shall contain: (1) a brief description of each contract or grant for evaluation of any program conducted under section 416, any part of the performance of which occurred during the preceding year, (2) the name of the firm or individual who is to carry out the evaluation, and (3) the amount to be paid under the contract or grant.

"RENEWAL EVALUATION REPORTS

"SEC. 418. (a) In the case of any applicable program for which—

"(1) the authorization of appropriations expires; or

"(2) the time during which payments or grants are to be made expires;

not later than one year prior to the date of such expiration, the Assistant Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate a comprehensive evaluation report on such program.

"(b) Any comprehensive evaluation report submitted pursuant to subsection (a) shall contain—

"(1) a history of the program concerned including—

"(A) a history of authorizations of appropriations, budget requests, appropriations, and expenditures for such programs;

"(B) a history of legislative recommendations with respect to such program made by the President and the disposition of such recommendations, and

"(C) a history of legislative changes made in applicable statutes with respect to such program;

"(2) assuming a continuation of such program, recommendations for improvements (including legislative changes and funding levels) in such program with a view toward achieving the legislative purposes of such program;

"(3) a compilation and summary of all evaluations of such program; and

"(4) a recommendation with respect to whether such program should be continued, and the date of its expiration, and the reasons for such recommendation.".

(2) Any reference in any law, regulation, guideline, or other document, however styled, to sections 411, 413, and 417 of the General Education Provisions Act on the date of the enactment of this Act shall be deemed to be a reference to the appropriate section of subpart 2 of part B of the General Education Provisions Act which contains the comparable provision.

(b) The amendments made by, and provisions of, subsection (a) shall be effective on the date of the enactment of this Act.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

SEC. 503. (a)(1) The General Education Provisions Act is amended by adding after section 406 the following new section:

"FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

"SEC. 407. (a) There shall be, in the Education Division, a Federal Interagency Committee on Education (hereafter in this section referred to as the 'Committee') which shall be composed of—

"(1) the Assistant Secretary, who shall be Chairman of the Committee;

"(2) the Commissioner;

"(3) the Director of the National Institute of Education;

"(4) the Director of the National Center for Education Statistics;

"(5) such other officers of the Department of Health, Education, and Welfare as the Secretary may designate; and

"(6) one representative of each of the following departments and agencies:

"(A) the Department of State,

"(B) the Department of Defense,

"(C) the Department of Agriculture,

"(D) the Department of Labor,

"(E) the Department of Housing and Urban Development,

"(F) the Department of Commerce,

"(G) the Department of the Interior,

"(H) the Department of Justice,

"(I) the National Science Foundation,

"(J) the Atomic Energy Commission,

"(K) the National Endowment for the Arts,

"(L) the National Endowment for the Humanities,

"(M) the National Aeronautics and Space Administration.

In addition, the President may, by Executive order, appoint or designate the heads of such other departments or agencies as he deems appropriate to be members of the Committee.

"(b) The Director of the Office of Management and Budget and the Chairman of the Council of Economic Advisors to the President are authorized to appoint nonparticipating observers to the Committee.

"(c)(1) The Committee shall advise the heads of departments and agencies with respect to their functions which relate to, or affect, education and encourage them to coordinate such functions.

"(2) The Committee shall collect education-related data and other information from the departments and agencies of the Federal Government and make such data and other information available to the National Center for Education Statistics.

"(c) The Assistant Secretary shall provide the Committee with such professional, technical, and clerical staff as may be necessary to enable the Committee to carry out its functions under this section.".

(2) Executive Orders Numbered 1118 (October 16, 1964, 29 F.R. 14399) and 11761 (January 17, 1974) relating to the coordination of Federal education activities and all orders amendatory thereto, having been superseded by section 407 of the General Educational Provisions Act, shall have no effect after the enactment of this Act.

(b) Except as otherwise provided in this section, the amendments made by subsection (a) shall be effective on the tenth day after the enactment of this Act.

GENERAL PROVISIONS TO OFFICERS IN THE EDUCATION DIVISION

SEC. 504. (a)(1) The General Education Provisions Act is amended by adding after section 407 the following new sections:

"RULES FOR EDUCATION OFFICERS OF THE UNITED STATES

"SEC. 408. (a) For the purposes of this section, the term 'education officer of the United States' means any person appointed by the President pursuant to this part, except members of commissions, councils, and boards.

"(b) Each education officer of the United States shall serve at the pleasure of the President.

"(c) No education officer of the United States shall engage in any other business, vocation, or employment while serving in the position to which he is appointed; nor may he, except with the express approval of the President in writing, hold any office in, or act in any capacity for, or have any financial interest in, any organization, agency, or institution to which an agency in the Education Division makes a grant or with any such agency makes a contract or any other financial arrangement.

"(d) No person shall hold, or act for, more than one position as an education officer of the United States at any one time.

"GENERAL AUTHORITY OF ADMINISTRATIVE HEADS OF EDUCATION AGENCIES

"SEC. 409. (a) Each administrative head of an education agency, in order to carry out functions otherwise vested in him by law, is, subject to limitations as may otherwise be imposed by law, authorized—

"(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of the agency of which he is head;

"(2) in accordance with those provisions of title 5, United States Code, relating to the appointment and compensation of personnel and subject to such limitations as are imposed in this part, to appoint and compensate such personnel as may be necessary to enable such agency to carry out its functions;

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

"(4) without regard for section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary for the conduct of such agency;

"(5) with funds expressly appropriated for such purpose, to construct such facilities as may be necessary to carry out functions vested in him or in the agency of which he is head, and to acquire and dispose of propery; and

"(6) to use the services of other Federal agencies and reimburse such agencies for such services.

"(b) Any administrative head of an education agency is, subject to any other limitations on delegations of authority provided by law, authorized to delegate any of his functions under this section to an officer or employee of that agency.

"(c) For the purposes of this section, the term 'administrative head of an education agency' means the Commissioner, the Director of the National Institute of Education, and the Director of the National Center for Education Statistics. To the extent that the Assistant Secretary is directly responsible for the administration of a program, he shall, for such purposes be considered within the meaning of such term."

(2)(A) The General Education Provision Act is amended—

(i) in section 402(b), by striking out the second sentence thereof;

(ii) in section 403, by striking out subsection (b) and inserting in lieu thereof the following:

"(b) The Office shall be headed by the Commisioner of Education who shall be appointed by the President, by and with the advice and consent of the Senate.

"(c)(1) There shall be in the Office an Executive Deputy Commissioner of Education (in this subsection referred to as the 'Executive Deputy Commissioner') who shall be appointed by the President and shall, subject to the direction of the Commissioner, be responsible for broad delegated responsibility to act for the Commissioner on major aspects of the Office. The Executive Deputy Commissioner shall act for the Commissioner during the absence or disability of the Commissioner.

"(2) The Executive Deputy Commissioner shall be placed in, and compensated at the rate specified for, grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code."; and

(iii) in section 405—

(I) by striking out that part of the first sentence of subsection (d)(1) which follows "Senate" and inserting in lieu thereof a period, and

(II) by striking out subsection (f).

(B) Section 416 of such Act, as enacted by section 502 of this Act, is amended by inserting "(a)" after "SEC. 416." and by adding at the end thereof the following:

"(b) In order to enable the Assistant Secretary to carry out his functions under subsection (a), the Assistant Secretary shall for such purpose be deemed to be an administrative head of an education agency with respect to the authority vested therein by clauses (1), (2), (4), and (6) of section 409.".

(b) The amendments made by this section shall be effective on the tenth day after the date of enactment of this Act.

REGIONAL OFFICES; ORGANIZATION; DELEGATIONS OF AUTHORITY

SEC. 505. (a)(1) Section 403 of the General Education Provisions Act is amended by adding at the end thereof the following:

"(d)(1) The Office shall, consistent with such organization thereof which is provided in law, be divided into bureaus, and such bureaus shall be divided into divisions, as the Commissioner determines appropriate.

"(2) Except as is otherwise provided by law, bureaus of the Office shall be headed by Deputy Commissioners, and divisions of such bureaus shall be headed by Directors. Deputy Commissioners, subject to this subsection, shall be placed in, and compensated at the rate specified for, grade 18 of the General Schedule as set forth in section 5332 of title 5, United States Code, and Directors, subject to this subsection, shall be placed in, and compensated at the rate specified for, grade 17 of such General Schedule.

"(A) There shall be regional offices of the Office of Education established in such places as the Commissioner, after consultation with

the Assistant Secretary, shall determine. Such regional offices shall carry out such functions as are specified in subparagraph (B).

"(B) The regional offices shall serve as centers for the dissemination of information about the activities of the agencies in the Education Division and provide technical assistance to State and local educational agencies, institutions of higher education, and other educational agencies, institutions, and organizations and to individuals and other groups having an interest in Federal education activities.

"(C) The Commissioner shall not delegate to any employee in any regional office any function which was not carried out, in accordance with regulations effective prior to June 1, 1973, by employees in such offices unless the delegation of such function to employees in regional offices is expressly authorized by law enacted after the enactment of the Education Amendments of 1974.

"(3) The Commissioner shall submit to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives not later than November 1 of each year a report on the personnel needs and assignments of the Office. Such report shall include a description (A) of the manner in which the Office is organized and the personnel of the Office are assigned to the various functions of that agency and (B) of personnel needs of that agency in order to enable it to carry out its functions, as authorized by law.".

(2) The Secretary of Health, Education, and Welfare shall delegate his functions respecting the administration of programs administered in the Office of Education to the Assistant Secretary of Health, Education, and Welfare for Education.

(b) The provisions of the amendments made by subsection (a) shall be effective on the tenth day after the date of enactment of this Act, except that the provisions of limitation set forth in section 403(d)(2)(C) of such Act shall have effect on the date of such enactment, and shall be retroactive to June 1, 1973.

AMENDMENTS TO SECTION 431 OF THE GENERAL EDUCATION PROVISIONS ACT RELATING TO RULES, REGULATIONS, AND OTHER REQUIREMENTS OF GENERAL APPLICABILITY

SEC. 506. Section 431(b) of the General Education Provisions Act is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following:

"(2)(A) During the thirty-day period prior to the date upon which such standard, rule, regulation, or general requirement is to be effective, the Commissioner shall offer any interested party an opportunity to make comment upon, and take exception to, such standard, rule, regulation, or general requirement and shall reconsider any such standard, rule, regulation, or general requirement upon which comment is made or to which exception is taken.

"(B) If the Commissioner determines that the thirty-day requirement in paragraph (1) will cause undue delay in the implementation of a regulation, thereby causing extreme hardship for the intended beneficiaries of an applicable program, he shall notify the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate. If both such committees agree with the determination of the Commissioner, the Commissioner may waive such requirement with respect to such regulation.".

AMENDMENTS TO SECTION 400 OF THE GENERAL EDUCATION PROVISIONS ACT: CONFORMING AND CLARIFYING AMENDMENTS; UNIFORM DEFINITIONS; LIMITATIONS ON AUTHORIZATIONS OF APPROPRIATIONS

SEC. 507. (a)(1) Section 400 of the General Education Provisions Act is amended to read as follows:

"GENERAL PROVISIONS

"SEC. 400. (a) This title may be cited as the 'General Education Provisions Act'.

"(b) Unless otherwise specified, the following definitions shall apply to the terms used in any applicable statute:

"(1) The term 'Secretary' means the Secretary of Health, Education, and Welfare.

"(2) The term 'Assistant Secretary' means the Assistant Secretary of Health, Education, and Welfare created under section 402.

"(3) The term 'Commissioner' means the Commissioner of Education for which provision is made under section 403.

"(4) The term 'Education Division' means the Education Division established under section 401.

"(5) The term 'Office of Education' means the agency established under section 403.

"(6) The term 'National Institute of Education' means the agency established under section 405.

"(7) The term 'National Center for Education Statistics' means the agency established under section 406.

"(8) The term 'construction' means (A) erection of new or expansion of existing structures and the acquisition and installation of necessary equipment therefor; or (B) acquisition of existing structures; or (C) remodeling or alteration of existing structures; or (D) any combination of any two or more of the activities described in clauses (A), (B), and (C).

"(9) The term 'elementary school' means a day or residential school which provides elementary education, as determined under State law.

"(10) The term 'equipment' includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility, as a facility for the provision of educational service, including such items as instructional equipment and necessary furniture; printed, published, and audiovisual instructional materials; and books, periodicals, documents; and other related materials.

"(11) The term 'free public education' means education which is provided at public expense, under public supervision, direction, and control, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State.

"(12) The term 'gifted and talented children' means children who, in accordance with objective criteria established by the Commissioner by regulation, have outstanding intellectual ability, or creative talent, the development of which requires special educational activities or services not ordinarily provided by local educational agencies.

"(13) The term 'handicapped' when applied to a person means a person who is mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, or crippled; and the term 'handicapped children' means children who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or have other health impairments, who by reason thereof require special education and services.

"(14) The term 'institution of higher education' means an educational institution in a State which—

"(A) admits, as regular students, only individuals having a certificate of graduation (or the recognized equivalent thereof) from a secondary school;

"(B) is legally authorized within such State to provide a program of postsecondary education;

"(C) provides an educational program for which it awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree;

"(D) is a public or other nonprofit institution; and

"(E) is accredited by a nationally recognized accrediting agency or association, as determined by the Commissioner.

For the purposes of clause (E), the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authorities as to the quality of education or training offered in institutions of higher education.

"(15) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction, or to perform a service function for free public education in elementary or secondary schools in a school district or other local political subdivision of a State, or such combination of school districts or other local political subdivisions of a State as are recognized in a State as an administrative agency for the provision of free public education in elementary or secondary schools.

"(16) The term 'nonprofit' as applied to a school, agency, organization, or institution means an educational school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(17) The term 'parent' includes a legal guardian of, or other person standing in loco parentis with, a child.

"(18) The term 'school or department of divinity' means an institution or department or a branch of an institution, the educational program of which is designed or intended for the education of students—

"(A) to prepare them to become ministers of religion or to enter upon some other religious vocation (or to provide continuing training for any such vocation); or

"(B) to prepare them to teach theological subjects.

"(19) The term 'secondary school' means a school which provides secondary education as determined under State law, except that such term shall not include instruction beyond grade 12.

"(20) The term 'State' includes the several States of the Union, and the District of Columbia.

"(21) The term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of free public education in elementary and secondary schools, or, if there is no such officer or agency, an office or agency designated by the Governor or by State law.

"(c)(1) Except where otherwise specified, the provisions of this title shall apply to any program for which an administrative head of an education agency (as defined in section 409) has administrative responsibility, as provided by law or by delegation of authority, pursuant to law.

"(2)(A) For the purposes of this title—

"(i) the term 'applicable program' means any program to which this title is, under the terms of paragraph (1) applicable; and

"(ii) the term 'applicable statute' means (I) the Act, or the title, part, or section of an Act, as the case may be which authorizes the appropriation for an applicable program, (II) this title, and (III) any other statute

which, under its terms, expressly controls the administration of an applicable program.

"(B) The Civil Rights Act of 1964 (A) shall not be considered, for the purposes of this title, an applicable statute, but (B) shall have full force and effect on the basis of the terms of that Act with respect to the administration of any applicable program.

"(C) No Act making appropriations to carry out an applicable program shall be considered an applicable statute.

"(D) Nothing in this Act shall be construed to affect the applicability of section 3679 of the Revised Statutes or the Budget and Accounting Act, 1921, unless a provision of that section or Act is inconsistent with this Act.

"(3) In the case of any provision in this title which limits the applicability of other provisions of law to the contrary unless such other provision of law is enacted in express and specific limitation thereof, the form of an enactment expressly and specifically limiting any such provision shall be as follows: 'This ——— is enacted as a limitation on ——— of the General Education Provisions Act'; the first blank is to be filed with the section, part, title, or Act, as the case may be, which creates the limitation; and the second blank is to be filled with the section number on which the limitation is imposed.

"(d) No authority vested in the Assistant Secretary or in any agency or officer, council, commission, or board in the Education Division shall be transferred to any other agency or any official in any other agency except by a statute which expressly limits the effect of this section.

"(e)(1) Subject to paragraph (2) of this subsection and subsection (f), there are authorized to be appropriated for any fiscal year ending prior to July 1, 1977, such sums as may be necessary to carry out the provisions of this title. Except as may be otherwise authorized in this title, there shall be no expenditure of funds for any activity authorized by this title except from appropriations pursuant to the preceding sentence.

"(2) Of the sums appropriated pursuant to paragraph (1)—

"(i) not to exceed $1,500,000 for the fiscal year ending June 30, 1974, $3,600,000 for the fiscal year ending June 30, 1975, $4,500,000 for the fiscal year ending June 30, 1976, and $5,500,000 for the fiscal year ending June 30, 1977, shall be for salaries and expenses for the operation of the office of the Assistant Secretary;

"(ii) not to exceed $90,000,000 for the fiscal year ending June 30, 1974, $127,300,000 for the fiscal year ending June 30, 1975, $156,400,000 for the fiscal year ending June 30, 1976, and $195,500,000 for the fiscal year ending June 30, 1977, shall be for salaries and expenses for the administration of the Office of Education;

"(iii) not to exceed $7,500,000 for the fiscal year ending June 30, 1974, $13,000,000 for the fiscal year ending June 30, 1975, $16,000,000 for the fiscal year ending June 30, 1976, and $21,000,000 for the fiscal year ending June 30, 1977, shall be for salaries and expenses for the National Institute of Education; and

"(iv) not to exceed $5,000,000 for the fiscal year ending June 30, 1974, $10,000,000 for the fiscal year ending June 30, 1975, and $14,000,000 for the fiscal year ending June 30, 1976 and for the succeeding fiscal year, shall be for salaries and expenses for the National Center for Education Statistics.

"(f)(1)(A) The aggregate of the appropriations to the agencies in the Education Division and to the office of the Assistant Secretary for any fiscal year shall not exceed the limitations set forth for that fiscal year in subparagraph (B).

"(B)(i) Except as is provided in division (ii), the appropriations to which subparagraph (A) applies—

"(I) shall not exceed $7,500,000,000 for the fiscal year ending June 30, 1975, $8,000,000,000 for the fiscal year ending June 30, 1976, and $9,000,000,000 for the fiscal year ending June 30, 1977; and

"(II) except as is provided in division (iii), shall not exceed such amount as may be authorized by the law and limited by this division.

"(ii) The limitations set forth in division (i) shall not apply—

"(I) to uncontrollable expenditures under obligations created under part B of title IV of the Higher Education Act of 1965, parts C and D of title VII of such Act, and the Emergency Insured Student Loan Act of 1969;

"(II) to any other expenditure under an obligation determined by the Commissioner pursuant to, or in accordance with, law to be an uncontrollable expenditure of the Office of Education.

"(iii) For the purpose of section 414, the limitations set forth in clause (I) of division (i) and in paragraph (2) shall, with respect to the fiscal year ending June 30, 1977, be deemed to be authorizations of appropriations.

"(2)(A) The sums appropriated to which paragraph (1) applies for any fiscal year ending prior to July 1, 1978, shall be subject to the following limitations:

"(i) In the case of the title I of the Elementary and Secondary Education Act of 1965, the limitation shall be $2,500,000,000 for the fiscal year ending June 30, 1974 and for the succeeding fiscal year, $3,000,000,000 for the fiscal year ending June 30, 1976, $3,500,000,000 for the fiscal year ending June 30, 1977, and $4,000,000,000 for the fiscal year ending June 30, 1978.

"(ii) In the case of title VI of such Act, the limitation shall be $400,000,000 for the fiscal year ending June 30, 1975, $500,000,000 for the fiscal year ending June 30, 1976, $750,000,000 for the fiscal year ending June 30, 1977, and $1,000,000,000 for the fiscal year ending June 30, 1978; but in no event shall the appropriation for such title VI be less than the aggregate of—

"(I) the amounts to which each State is entitled under the provisions of paragraph (3) of section 402(a) of the Education Amendments of 1974; or

"(II) the amounts to which each State is entitled under section 602(a)(1) and section 602(b) of the Elementary and Secondary Education Act of 1965:

whichever is greater, when determined with respect to each State.

"(iii) In the case of title I of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), the limitation shall be $750,000,000 for the fiscal year ending June 30, 1974, and for the succeeding fiscal year, $800,000,000 for the fiscal year ending June 30, 1976, $900,000,000 for the fiscal year ending June 30, 1977, and $1,000,000,000 for the fiscal year ending June 30, 1978.

"(B) If the aggregate of the entitlements created under title VI of the Elementary and Secondary Education Act of 1965 exceeds the appropriation for such title VI for any fiscal year ending prior to July 1, 1978, each of the entitlements created thereunder shall be reduced ratably until such aggregate does not exceed such appropriation, except that the amount to which the entitlement of any State for any such fiscal year is reduced—

"(i) with respect to entitlements created under section 602(a), shall not be less than $1,000,000;

"(ii) with respect to entitlements created under section 602(b), shall not be less than—

"(I) $1,000,000, or

"(II) 10 per centum of the amount to which such State is entitled under section 602(a) (after any reductions necessitated by operation of this paragraph),

whichever is greater; and

"(iii) with respect to entitlements created under both sections 602(a) and 602(b) shall not be less than the minimum amount for which provision is made for such State in clause (ii) of subparagraph (A).".

(2) The limitation set forth in clause (iii) of section 400(f)(2)(A) of the General Education Provisions Act shall not apply for any fiscal year to entitlements created under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) which are increased by reason of section 203(b)(2)(A)(i) of this Act, to the extent of such increases.

(3) Section 605(c)(1) of the Elementary and Secondary Education Act of 1965, as added by section 402(a)(2) of this Act, is amended in clause (A) thereof by striking out "section 602(a)," and inserting in lieu thereof the following: "section 602(a), but shall not be less than the minimum amounts for which provision is made with respect to such State in section 400(f)(2)(B) of the General Education Provisions Act".

(4) Section 406(g) of the Act as added by section 501 of this Act is amended by striking out "paragraph (1)" and inserting in lieu thereof "section 400(e)(2) or paragraph (1)".

(b) The amendment made by subsection (a) and the provisions thereof shall be effective on and after the tenth day after the enactment of this Act.

BUREAU OF LIBRARIES AND LEARNING RESOURCES

SEC. 508. (a) There is established, in the Office of Education, a Bureau of Libraries and Learning Resources (hereafter in this section referred to as the "Bureau"), through which the Commissioner administers all programs in the Office of Education related to assistance for, and encouragement of, libraries and information centers and education technology.

(b)(1) The Bureau shall be headed by a Deputy Commissioner, to whom the Commissioner shall delegate his delegable functions with respect to the programs administered through the Bureau, and who shall be placed in, and compensated at the rate provided for grade 17 of the General Schedule set forth in section 5332 of title 5, United States Code.

(2) In addition to the position created in paragraph (1), there shall be two positions in the Bureau which shall be placed in, and compensated at the rate provided for, grade 16 of such General Schedule.

(3) The positions created by paragraphs (1) and (2) shall be in addition to the number of positions placed in such grades of the General Schedule under section 5108 of title 5, United States Code, and shall be without prejudice against the Office of Education with respect to the number of positions, subject to such section 5108 assigned to the Office of Education.

(4) The number of positions placed in grades 15 and below of such General Schedule assigned to the Bureau and solely under the direction and supervision of the person holding the position created by paragraph (1) shall not be less than sixty.

AUDITS AND RECORDKEEPING

SEC. 509. (a) Section 434(a) of the General Education Provisions Act is amended to read as follows:

"SEC. 434. (a)(1) Each recipient of Federal funds under any applicable program through any grant, subgrant, contract, subcontract, loan, or other arrangement entered into (other than by formal advertising) shall keep such records as the Assistant Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project

or undertaking in connection with which such funds are given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Assistant Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after the completion of the project or undertaking to which reference is made in paragraph (1), have access, for the purpose of audit and examination, to any books, documents, papers, and records of such recipients which, in the opinion of the Comptroller General, after consultation with the Assistant Secretary, may be related, or pertinent to, the grants, subgrants, contracts, subcontracts, loans, or other arrangements to which reference is made in paragraph (1)."

AMENDMENTS RELATING TO ADVISORY COUNCILS

SEC. 510. (a) (1) Section 447(b) of the General Education Provisions Act is amended by striking out "each statutory advisory council" and inserting in lieu thereof "each advisory council which is subject to the operation of this part".

(b) Section 445 of such Act is amended by adding at the end thereof the following new subsection:

"(d) No employee of an advisory council, appointed and compensated pursuant to this section, shall be compensated at a rate in excess of that which such employee would receive if such employee were appointed subject to the appropriate provisions of title 5, United States Code, regarding appointments to, and compensation with respect to, the competitive service, except that—

"(1) executive directors of Presidential advisory councils shall be compensated at the rate specified for employees placed in grade 18 of the General Schedule set forth in section 5332 of such title 5;

"(2) executive directors of all other statutory advisory councils shall be compensated at the rate provided for employees in grade 15 of such General Schedule; and

"(3) in accordance with regulations promulgated by the Assistant Secretary, other employees of advisory councils shall be compensated at such rates as may be necessary to enable such advisory councils to accomplish their purposes.".

(2) Such section 445 is amended by striking out "Commissioner" where it appears and inserting in lieu thereof "Assistant Secretary."

(3) No provision of any law establishing, authorizing the establishment of, or controlling the operation of, an advisory council which is not consistent with the provisions of part D of the General Education Provisions Act shall apply to any advisory council to which such part D applies.

AVAILABILITY AND APPORTIONMENTS OF APPROPRIATIONS

SEC. 511. (a) Section 412(b) of the General Education Provisions Act, as redesignated by section 502 of this Act, is amended by striking out "July 1, 1973" and inserting in lieu thereof "July 1, 1978".

(b) Section 412 of such Act is amended by adding at the end thereof the following new subsections:

"(c) The Commissioner shall, not later than fifteen days after the enactment of any law making an appropriation for any applicable program, submit, in accordance with section 3679(d)(2) of the Revised Statutes, such information as is required pursuant to the second sentence of such section 3679(d)(2), including a spending plan which apportions such appropriation as provided therein. If after the period allowed for action by the Director of the Office of Management and Budget under the fourth sentence of such section 3679(d)(2), the Commissioner has not received notice of the apportionment required under such fourth sentence, the Commissioner shall consider such appropriation apportioned in the manner provided in such spending plan and proceed to obligate such appropriation as so apportioned. Not later than thirty days after the enactment of a law to which reference is made in the first sentence of this subsection, the Commissioner shall submit to the Committees on Education and Labor and Appropriations of the House of Representatives and the Committees on Labor and Public Welfare and Appropriations of the Senate copies of the spending plan in effect with respect to such law.

"(d) If any funds appropriated to carry out any applicable program are not obligated pursuant to a spending plan submitted as provided in subsection (c) and become available for obligation after the institution of a judicial proceeding seeking the release of such funds, then such funds shall be available for obligation and expenditure until the end of the fiscal year which begins after the termination of such judicial proceeding."

SCHEDULE FOR PROMULGATION OF REGULATIONS

SEC. 512. (a) Section 431 of the General Education Provisions Act is amended by adding at the end thereof the following new subsection:

"(d) Not later than thirty days after the enactment of any Act affecting the administration of any applicable program, the Commissioner shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate a schedule in accordance with which the Commissioner has planned to promulgate rules, regulations, and guidelines implementing such Act. Such schedule shall provide that all such rules, regulations, and guidelines shall be promulgated within one hundred and eighty days after the submission of such schedule to such committees. Except as is provided in the following sentence, all such rules, regulations, and guidelines shall be promulgated in accordance with such schedule. If the Commissioner finds that, due to circumstances unforseen at the time of the submission of any such schedule, he cannot comply with a schedule submitted pursuant to this subsection, he shall notify such committees of such finding and submit a new schedule. If both such committees notify the Commissioner of their approval of such new schedule, such rules, regulations, and guidelines shall be promulgated in accordance with such new schedule.".

(b) The amendment made by subsection (a) shall be effective on the date of enactment of this Act and shall be effective with respect to the provisions of this Act.

PART B—AMENDMENTS TO THE HIGHER EDUCATION ACT OF 1965

COMMUNITY SERVICE AND CONTINUING EDUCATION AMENDMENTS

SEC. 521. (a) Section 101 of the Higher Education Act of 1965 is amended by adding after the word "health" a comma and the following: "labor management relations".

(b) Section 111 of such Act is amended by adding at the end thereof the following new sentence: "Subject to section 448(b) of the General Education Provisions Act, the Advisory Council shall continue to exist through June 1975.".

DEVELOPING INSTITUTIONS AMENDMENT

SEC. 522. Section 302(a)(2) of the Higher Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Commissioner is authorized to waive three years of the requirements set forth in clause (C) of paragraph (1) in the case of applications for grants under this title by institutions located in or near communities with large numbers of Spanish-speaking people if the Commissioner determines such action will increase higher education for Spanish-speaking people.".

BILINGUAL EDUCATION AMENDMENTS

SEC. 523. (a)(1) Clause (B) of section 417B(b)(3) of the Higher Education Act of 1965 is amended by inserting "(i)" after the word "who" and by inserting before the semicolon at the end thereof a comma and the following: "or (ii) by reason of limited English-speaking ability, are in need of bilingual educational teaching, guidance, and counseling in order to enable them to pursue a post-secondary education".

(2) Section 417B of such Act is amended by adding at the end thereof the following new subsection:

"(d) Funds appropriated for the purposes of clause (3) of subsection (b) shall be available for training persons to provide the services described in clause (3)(ii) of such subsection.".

(b) The amendments made by this section shall be effective upon the enactment of this Act.

VETERANS COST OF INSTRUCTION PAYMENTS AMENDMENTS

SEC. 524. (a)(1) Paragraph (1) of section 420(a) of the Higher Education Act of 1965 is amended to read as follows:

"(1) During the period beginning July 1, 1972, and ending June 30, 1975, each institution of higher education shall be entitled to a payment under, and in accordance with, this section during any fiscal year if—

"(A) the number of persons who are veterans receiving vocational rehabilitation under chapter 31 of title 38, United States Code, or veterans receiving educational assistance under chapter 34 of such title, and who are in attendance as undergraduate students at such institution during any academic year, equals at least—

"(i) 110 per centum of the number of such recipients who were in attendance at such institution during the preceding academic year, or

"(ii) 10 per centum of the total number of undergraduate students in attendance at such institution during such academic year; and

"(B) the number of such persons is at least 25.".

(2) Section 420(d) of such Act is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following new paragraph:

"(2) The maximum amount of payments to any institution of higher education, or any branch thereof which is located in a community which is different from that in which the parent institution thereof is located, in any fiscal year, shall be $135,000. In making payments under this section for any fiscal year, the Commissioner shall apportion the appropriation for making such payments, from funds which become available as a result of the limitation on payments set forth in the preceding sentence, in such a manner as will result in the receipt by each institution which is eligible for a payment under this section of first $9,000 (or the amount of its entitlement for that fiscal year, whichever is less) and then additional amounts up to the limitation set forth in the preceding sentence.".

(3) Section 420(e) of such Act is amended by striking out the matter preceding the word "except" and inserting in lieu thereof the following: "No less than 75 per centum of the amounts paid to any institution under subsection (d) in any fiscal year shall be used to implement the requirement of clause (B)(i) of paragraph (1) of subsection (c), and, to the extent that such funds remain after implementing such requirement, funds limited by such 75 per centum requirement shall

be used for implementing the requirements of clauses (B) (ii), (iii), and (iv) of such paragraph (1),".

TEACHERS CORPS AMENDMENTS

SEC. 525. (a) (1) Section 511 of the Higher Education Act of 1965 is amended—

(A) by inserting after "teacher preparation" in the matter preceding paragraph (1) the following: "and to encourage institutions of higher education and local educational agencies to improve programs of training and retraining for educational personnel";

(B) by striking out the word "and" at the end of paragraph (3);

(C) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a comma and the word "and";

(D) by inserting after paragraph (4) the following new paragraph:

"(5) supporting demonstration projects for retraining experienced educational personnel serving in local educational agencies.".

(2) Section 513(a) of such Act is amended—

(A) by striking out the word "two" the first time it appears in paragraph (1) of such section and by inserting in lieu thereof "five";

(B) by inserting in paragraph (1) after "experienced teachers" a comma and the following: "supportive and auxiliary personnel including non-professional personnel";

(C) by inserting in paragraph (3) the word "primarily" before "in areas";

(D) by striking out "teaching teams, each of which shall consist of an experienced teacher and a number of teacher-interns who, in addition to teaching duties, shall be afforded time by the local educational agency for a teacher-intern training program carried out under the guidance of an experienced teacher" and inserting in lieu thereof the following: "Teacher Corps programs each of which shall include teacher-intern teams led by experienced teachers and may include other school personnel including non-professional personnel, who shall be afforded time by the local educational agency for a training program carried out";

(E) by striking out in paragraph (7) the words "clause (1)" and inserting in lieu thereof the following: "this subpart".

(3) Section 513(b) of such Act is amended by striking out "for teacher-interns while teaching" and inserting in lieu thereof "for Teacher Corps members while serving".

(4) Section 513(c) of such Act is amended—

(A) by striking out "3 per centum" in paragraph (2) and inserting in lieu thereof "5 per centum";

(B) by inserting in paragraph (2) "the Virgin Islands and" the following: "Guam, American Samoa, and the Trust Territory of the Pacific Islands".

(5) Section 513 of such Act is amended by adding at the end thereof the following new subsections:

"(e) The Commissioner is authorized to expend a sum not in excess of 10 per centum of the amount appropriated pursuant to the provisions of section 511(b) of this subpart in any fiscal year, for the purpose of planning the Teacher Corps program, monitoring, and evaluating Teacher Corps projects, disseminating information relating to Teacher Corps projects, and furnishing technical assistance to Teacher Corps projects. Such purposes may be carried out directly by personnel of the Teacher Corps, or through contracts or other arrangements with qualified persons or organizations.

"(f) Notwithstanding any other provision of law, the Commissioner shall develop and promulgate specific funding criteria based on the provisions of this subpart to assist potential grantees and contractors in developing proposals for Teacher Corps projects, and to assist the Commissioner in selecting proposals to be supported under this subpart.".

(6) Section 514(a)(2) of such Act is amended to read as follows:

"(2) Teacher-interns, experienced teachers, administrators, and other school personnel including non-professional personnel shall be compensated at such rates as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported programs or local projects.".

(b) The amendments made by subsection (a) shall be effective on and after July 1, 1974.

COMMUNITY COLLEGE AND OCCUPATIONAL EDUCATION AMENDMENT

SEC. 526. Section 1001(a)(1) is amended by striking out "1974" and inserting in lieu thereof "1975".

(b) The amendments made by subsection (a) shall be effective with respect to payments made after September 1, 1973.

PART C—OTHER MISCELLANEOUS PROVISIONS

AMENDMENTS TO THE LIBRARY SERVICES AND CONSTRUCTION ACT AND THE VOCATIONAL EDUCATION ACT OF 1963 RELATING TO BILINGUAL EDUCATION AND VOCATIONAL TRAINING

SEC. 531. (a) (1) Section 102 of the Vocational Education Act of 1963 is amended by redesignating subsection (c), and all references thereto, as subsection (d), and by adding after subsection (b) thereof the following new subsection:

"(c) There are authorized to be appropriated $40,000,000 each for the fiscal years ending June 30, 1975, and June 30, 1976, for the purpose of carrying out section 122(a)(4)(C). Nothing in this subsection shall be construed to affect the availability for such purpose of appropriations made pursuant to subsection (a).".

(2) Clause (D) of section 104(a)(1) of such Act is amended by inserting before the comma at the end thereof the following: "and of persons of limited English-speaking ability (as defined in section 703(a) of title VII of the Elementary and Secondary Education Act of 1965)".

(3) Clause (A)(vii) of section 104(b)(1) of such Act is amended by inserting before the comma at the end thereof the following: "(including students who are persons of limited English-speaking ability (as defined in section 703(a) of title VII of the Elementary and Secondary Education Act of 1965))".

(4) Section 120 of such Act is amended by adding at the end thereof the following new paragraphs:

"(14) The term 'vocational training' means training or retraining which is conducted as part of a program designed to prepare individuals for gainful employment as semiskilled 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; instruction related to the occupation or occupations to which the students are in training or instruction necessary for students to benefit from such training; the training of persons engaged as, or preparing to become, instructors in a vocational training program; travel of students and vocational training personnel while engaged in a training program; and the acquisition, maintenance, and repair of instructional supplies, aids, and equipment, but such term does not include the construction, acquisition, or initial equipment of buildings or the acquisition or rental of land.

"(15) The term 'postsecondary educational institution' means an institution legally authorized to provide postsecondary education within a State for persons sixteen years of age or older, who have graduated from or left elementary or secondary school.".

(5) (A) Clause (4) of section 122(a) of such Act is amended by adding at the end thereof the following:

"(C) vocational education for students of limited English-speaking ability (as defined in section 703(a) of title VII of the Elementary and Secondary Education Act of 1965) carried out in coordination with bilingual education programs under such title VII and bilingual adult education programs under section 306(a)(11) of the Adult Education Act;".

(b) Section 122(c) of such Act is amended, in paragraph (3), by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) At least 5 per centum of the allotment of funds appropriated under section 102(a) for any fiscal year beginning after June 30, 1974, to each State which the Commissioner finds has areas of high concentration of persons of limited English-speaking ability shall be used only for the purpose set forth in paragraph (4)(C) of subsection (a).".

(6) Section 123(a) of such Act is amended by redesignating clauses (17) and (18) thereof, and all references thereto, as clauses (18) and (19), respectively, and by inserting after clause (16) thereof the following new clause:

"(17) provides that grants made from sums appropriated under section 102(c) shall be allocated within the State among local educational agencies serving areas with high concentrations of persons of limited English-speaking ability (as defined in section 703(a) of title VII of the Elementary and Secondary Education Act of 1965);".

(7) Section 191 of such Act, and all references thereto, is redesignated as section 189.

(8) Title I of such Act is amended by adding at the end thereof the following new part:

"PART J—BILINGUAL VOCATIONAL TRAINING

"Subpart 1—General Provisions

"STATEMENT OF FINDINGS

"SEC. 191. The Congress hereby finds that one of the most acute problems in the United States is that which involves millions of citizens, both children and adults, whose efforts to profit from vocational training is severely restricted by their limited English-speaking ability because they come from environments where the dominant language is other than English; that such persons are therefore unable to help to fill the critical need for more and better trained personnel in vital occupational categories; and that such persons are unable to make their maximum contribution to the Nation's economy and must, in fact, suffer the hardships of unemployment or underemployment. The Congress further finds that there is a critical shortage of instructors possessing both the job knowledge and skills and the dual language capabilities required for adequate vocational instruction of such language-handicapped persons, and a corresponding shortage of instructional materials and of instructional methods and techniques suitable for such instruction.

"GENERAL RESPONSIBILITIES OF THE COMMISSIONER

"SEC. 192. (a) The Commissioner and the Secretary of Labor together shall—

"(1) develop and disseminate accurate information on the status of bilingual vocational training in all parts of the United States;

"(2) evaluate the impact of such bilingual vocational training on the shortages of well-trained personnel, the unemployment or underemployment of persons with limited English-speaking ability, and the ability of such persons to contribute fully to the economy of the United States; and

"(3) report their findings annually to the President and the Congress.

"(b) The Commissioner shall consult with the Secretary of Labor with respect to the administration of this part. Regulations and guidelines promulgated by the Commissioner to carry out subpart 2 of this part shall be consistent with those promulgated by the Secretary of Labor pursuant to section 301 (b) of the Comprehensive Employment and Training Act of 1973 and shall be approved by the Secretary of Labor before issuance.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 193. There are authorized to be appropriated $40,000,000 for the fiscal year ending June 30, 1975; $60,000,000 for the fiscal year ending June 30, 1976; and $80,000,000 for the fiscal year ending June 30, 1977, to carry out the provisions of subparts 2, 3, and 4, of this part, except that 65 per centum of such amounts shall be available only for grants and contracts under subpart 2 of this part, 25 per centum shall be available only for grants and contracts under subpart 3 of this part, and 10 per centum shall be available only for grants and contracts under subpart 4 of this part.

"Subpart 2—Bilingual Vocational Training Programs

"AUTHORIZATION OF GRANTS

"SEC. 194. (a) From the sums made available for grants under this part pursuant to section 193, the Commissioner is authorized to make grants to and enter into contracts with appropriate State agencies, local educational agencies, postsecondary educational institutions, private nonprofit vocational training institutions, and to other nonprofit organizations especially created to serve a group whose language as normally used is other than English in supplying training in recognized occupations and new and emerging occupations, and to enter into contracts with private for-profit agencies and organizations, to assist them in conducting bilingual vocational training programs for persons of all ages in all communities of the United States which are designed to insure that vocational training programs are available to all individuals who desire and need such bilingual vocational training.

"(b) The Secretary shall pay to each applicant which has an application approved under this part an amount equal to the total sums expanded by the applicant for the purposes set forth in that application.

"USE OF FEDERAL FUNDS

"SEC. 195. Grants and contracts under this part may be used, in accordance with applications approved under section 199B, for—

"(1) bilingual vocational training programs for persons who have completed or left elementary or secondary school and who are available for training by a postsecondary educational institution;

"(2) bilingual vocational training programs for persons who have already entered the labor market and who desire or need training or retraining to achieve year-round employment, adjust to changing manpower needs, expand their range of skills, or advance in employment; and

"(3) training allowances for participants in bilingual vocational training programs subject to the same conditions and limitations as are set forth in section 111 of the Comprehensive Employment and Training Act of 1973.

"Subpart 3—Instructor Training Programs

"AUTHORIZATION OF GRANTS

"SEC. 196. (a) From the sums made available for grants and conrtcats under this part pursuant to section 193, the Commissioner is authorized to make grants to and enter into contracts with States, or educational institutions, either public or private, to assist them in conducting training for instructors of bilingual vocational training programs, and whenever the Commission determines that it will contribute to carrying out the purposes of this part, to make grants to, and enter into contracts with, States or educational institutions, either public or private, to assist them in conducting training for instructors in bilingual vocational training programs.

"(b) The Commissioner shall pay to each applicant which has an application approved under this part an amount equal to the total sums expended by the applicant for purposes set forth in that application.

"USE OF FEDERAL FUNDS

"SEC. 197. Grants and contracts under this subpart may be used, in accordance with applications approved under section 199B, for—

"(1) providing preservice training designed to prepare persons to participate in bilingual vocational training or vocational education programs as instructors, aides, or other ancillary personnel such as counselors, and in-service and development programs designed to enable such personnel to continue to improve their qualifications while participating in such programs; and

"(2) fellowships or traineeships for persons engaged in such preservice or inservice training.

"Subpart 4—Development of Instructional Materials, Methods, and Techniques

"AUTHORIZATION OF GRANTS

"SEC. 198. (a) From the sums made available for grants and contracts under this part pursuant to section 193, the Commissioner is authorized to make grants and enter into contracts with States, public and private educational institutions, and to other appropriate non-profit organizations, and to enter into contracts with private for-profit individuals and organizations, to assist them in developing instructional material, methods, or techniques for bilingual vocational training.

"(b) The Commissioner shall pay to each applicant which has an application approved under this part an amount equal to the total sums expended by the applicant for the purposes set forth in that application.

"USE OF FEDERAL FUNDS

"SEC. 199. Grants and contracts under this part may be used, in accordance with applications approved under section 199B, for—

"(1) research in blingual vocational training;

"(2) training programs designed to familiarize State agencies and training institutions with research findings and successful pilot and demonstration projects in bilingual vocational training;

"(3) experimental, development, and pilot programs and projects designed to test the effectiveness of research findings; and

"(4) other demonstration and dissemination projects.

"Subpart 5—Applications for Assistance

"APPLICATIONS

"SEC. 199A. (a) A grant or contract for assistance under this part may be made only upon application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary. Each such application shall—

"(1) provide that the activities and services for which assistance under this part is sought will be administered by or under the supervision of the applicant;

"(2)(A) in the case of assistance under subpart 2, set forth a program for carrying out the purposes described in section 195,

"(B) in the case of assistance under subpart 3, set forth a program for carrying out the purposes described in section 197, and

"(C) in the case of assistance under subpart 4, set forth a program for carrying out the purposes described in section 199;

"(3)(A) in the case of assistance under subpart 2, set forth a program of such size, scope, and design as will make a substantial contribution toward carrying out the purposes of this part;

"(4) in the case of assistance under subpart 3—

"(A) describe the capabilities of the applicant institution, including a listing of the vocational training or vocational education courses offered by that institution, together with appropriate accreditation by regional or national associations, if any, and approval by appropriate State agencies of the courses offered,

"(B) set forth the qualifications of the principal staff who will be responsible for the training program, and

"(C) contain a statement of the minimum qualifications of the persons to be enrolled in the training program, a description of the selection process for such persons, and the amounts of the fellowships or traineeships, if any, to be granted to persons so enrolled; and

"(5) in the case of assistance under subpart 4, set forth the qualifications of the staff who will be responsible for the program for which assistance is sought.

"(b) No grant or contract may be made under subpart 2 directly to a local educational agency or a postsecondary educational institution or a private vocational training institution or any other eligible agency or organization unless that agency, institution, or organization has submitted the application to the State board established under part B of this title, or in the case of a State that does not have such a board, the similar State agency, for comment and includes the comment of that board or agency with the application.

"APPLICATION APPROVAL BY THE COMMISSIONER

"SEC. 199B. (a) The Commissioner may approve an application for assistance under this part only if—

"(1) the application meets the requirements set forth in subsection (a) of the previous section;

"(2) in the case of an application submitted for assistance under subpart 2 to an agency, institution, or organization other than the State board established under part B of this title, the requirement of subsection (b) of the previous section is met;

"(3) in the case of an application submitted for assistance under subpart 3—

"(A) the Commissioner determines that bilingual vocational training or vocational education programs requiring the services of the persons to be trained have been or will be actually conducted in any State being served and that enrollees will be selected from or for such programs;

"(B) the Commissioner determines that the applicant institution actually has an ongoing vocational training program in the field for which persons are being trained; and that the applicant institution can provide instructors with adequate language capabilities in the language other than English to be used in the bilingual vocational training program for which the persons are being trained; and

"(4) in the case of an application submitted for assistance under subpart 2 or subpart 3, the Commissioner determines that the program is consistent with criteria established by him, where feasible, after consultation with the State board established under part B of this title, for achieving equitable distribution of assistance under the appropriate subpart within that State.

"(b) An amendment to an application shall, except as the Secretary may otherwise provide, be subject to approval in the same manner as the original application.".

(b) Clause (4) of section 6(b) of the Library Services and Construction Act is amended by inserting before the period at the end thereof a comma and the following: "and to programs and projects which serve areas with high concentrations of persons of limited English-speaking ability (as defined in section 703(a) of title VII of the Elementary and Secondary Education Act of 1965, as amended)".

(c) The amendments made by this section shall be effective on and after July 1, 1974.

AMENDMENTS TO THE EMERGENCY SCHOOL AID ACT

SEC. 532. (a)(1) Section 704(a) of the Emergency School Aid Act (title VII of Public Law 92-318) is amended by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "for the period ending June 30, 1976".

(2) With respect to the fiscal year ending June 30, 1976, the authorization level for the Emergency School Aid Act shall, for the purposes of section 414 of the General Education Provisions Act, be equal to the amount appropriated for the purposes of the Emergency School Aid Act for the fiscal year ending June 30, 1976.

(b)(1)(A) Section 704(b)(1) of the Emergency School Aid Act is amended by striking out "5 per centum" and inserting in lieu thereof "4 per centum".

(B) Section 704(b)(2) of such Act is amended by striking out "13 per centum" and inserting in lieu thereof "15 per centum".

(C) Section 705(a)(3) of such Act is amended by striking out "8 per centum" and inserting in lieu thereof "10 per centum".

(D) Section 713 of such Act is amended by striking out "1 per centum" and inserting in lieu thereof "2 per centum".

(2) The amendments made by this section shall be effective with respect to appropriations made for the purpose of the Emergency School Aid Act for fiscal years beginning after the enactment of this Act.

(c) Section 708(b) of the Emergency School Aid Act is amended by striking out "706(a)" both times it appears and inserting in lieu thereof "706" in each instance.

(d) Section 709(a)(3) of the Emergency School Aid Act is repealed.

AMENDMENTS RELATING TO INDIAN EDUCATION

SEC. 533. (a) Section 810(f) of the Elementary and Secondary Education Act of 1965 is amended by inserting after the third sentence the following new sentence: "The Commissioner shall not approve an application for a grant under subsection (b), (c), or (d) unless he is satisfied that such an application, to the extent consistent with the number of eligible children in the area to be served who are enrolled or employed in private nonprofit elementary and secondary schools whose needs are of the type which the program is intended to meet, makes provision for the participation of such children on an equitable basis.".

(b) Section 303(b) of the Act of September 30, 1950 (Public Law 874, Eighty first Congress), is amended by striking out "5 per centum" and inserting in lieu thereof "10 per centum".

(c) Part B of the Indian Education Act is amended by adding at the end thereof the following new sections:

"SPECIAL EDUCATIONAL TRAINING PROGRAMS FOR TEACHERS OF INDIAN CHILDREN

"SEC. 422. (a) The Commissioner is authorized to make grants to and enter into contracts with institutions of higher education for the purpose of preparing individuals for teaching or administering special programs and projects designed to meet the special educational needs of Indian children and to provide in-service training for persons teaching in such programs. In carrying out his responsibilities under this section, the Commissioner is authorized to award fellowships and traineeships to individuals and to make grants to and to enter into contracts with institutions of higher education for cost of education allowances. In awarding fellowships and traineeships under this section, the Commissioner shall give preference to Indians.

"(b) In the case of traineeships and fellowships, the Commissioner is authorized to grant stipends to, and allowances for dependents of, persons receiving traineeships and fellowships.

"(c) There is authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1975, and for each of the three succeeding fiscal years to carry out the provisions of this section.

"FELLOWSHIPS FOR INDIAN STUDENTS

"SEC. 423. (a) During the fiscal year ending June 30, 1975, and each of the four succeeding fiscal years, the Commissioner is authorized to award not to exceed two hundred fellowships to be used for study in graduate and professional programs at institutions of higher learning. Such fellowships shall be awarded to Indian students in order to enable them to pursue a course of study of not less than three, nor more than four, academic years leading toward a professional or graduate degree in engineering, medicine, law, business, forestry and related fields. In addition to the fellowships authorized to be awarded in the first sentence of this subsection, the Commissioner is authorized to award a number of fellowships equal to the number previously awarded during any fiscal year under this subsection but vacated prior to the end of the period during which they were awarded, except that each fellowship so awarded shall be only for a period of study not in excess of the remainder of the period of time for which the fellowship it replaces was awarded, as the Commissioner may determine.

"(b) The Commissioner shall pay to persons awarded fellowships under this subsection such stipends (including such allowances for subsistence of such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(c) The Commissioner shall pay to the institution of higher education at which the holder of a fellowship under this subsection is pursuing a course of study, in lieu of tuition charged such holder, such amounts as the Commissioner may determine to cover the cost of education for the holder of such a fellowship.".

(d) The amendments made by this section shall be effective on and after July 1, 1974.

ASSISTANCE TO STATES FOR STATE EQUALIZATION PLANS

SEC. 534. (a)(1) Any State desiring to develop a plan for a program of financial assistance to local educational agencies in that State to assist such agencies in the provision of free public education may, upon application therefor, be reimbursed for the development of such a plan in accordance with the provisions of this section. Each plan developed pursuant to this section shall be submitted to the Commissioner not later than July 1, 1977, and shall, subject to the provisions of this section, be consistent with the guidelines developed pursuant to paragraph (3). Such plan shall be designed to implement a program of State aid for free public education—

(A) which is consistent with such standards as may be required by the fourteenth article of amendment to the Constitution;

(B) which takes into consideration the extent to which local educational agencies serve areas of high concentrations of children from low-income families and heavily urbanized areas; and

(C) the primary purpose of which is to achieve equality of educational opportunity for all children in attendance at the schools of the local educational agencies of the State.

(2) The Commissioner shall develop guidelines defining the principles set forth in clauses (A), (B), and (C) of paragraph (1). Not later than April 1, 1975, the Commissioner shall publish such guidelines in the Federal Register and submit such guidelines to the President of the Senate and Speaker of the House of Representatives.

(3) During the sixty-day period following such publication, the Commissioner shall provide interested parties with an opportunity to present views and make recommendations with respect to such guidelines. Not later than July 1, 1975, the Commissioner shall (A) republish such guidelines in the Federal Register, together with any amendments thereto as may be merited and (B) publish in the Federal Register a summary of the views and recommendations presented by interested parties under the preceding sentence, together with the comments of the Commissioner respecting such views and recommendations.

(4)(A) The guidelines published in accordance with paragraph (3), together with any amendments, shall, not later than July 1, 1975, be submitted to the President of the Senate and the Speaker of the House of Representatives. If either the Senate or the House of Representatives adopts, prior to December 1, 1975, a resolution of disapproval of such guidelines, the Commissioner shall, within fifteen days after the adoption of such resolution, publish new guidelines. Such new guidelines shall take into consideration such views and policies as may be made in connection with such resolution and shall become effective on December 1, 1975.

(B) A resolution of disapproval under this paragraph may be in the form of a resolution of either the Senate or the House of Representatives or such resolution may be in the form of a concurrent resolution of both Houses. If such a resolution of disapproval is in the form of a concurrent resolution, the new guidelines published in accordance with the second sentence of subparagraph (A) of this paragraph shall be consistent with such policies as may be established by such concurrent resolution.

(C) If each of the Houses adopts a separate resolution with respect to guidelines submitted in accordance with this paragraph for any year and in connection therewith makes policy statements which differ substantially, then such differences may be resolved by the adoption of a concurrent resolution by both Houses. Any such concurrent resolution shall be deemed to be adopted in accordance with subparagraph (B).

(b) Any State developing a plan pursuant to this section may reject any guidelines developed and published under subsection (a) of this section if such State, as a provision of its plan, states the reasons for each such rejection.

(c)(1) Each State that develops a plan under this section shall be reimbursed for the reasonable amounts expended by the State in the development of such a plan based upon the ratio of the population of that State to the population of all States except that no State shall receive less than $100,000 and no State shall receive more than $1,000,000.

(2) For the purposes of this section the term "State" means the fifty States.

STUDY OF ATHLETIC INJURIES

SEC. 535. (a) The Secretary of Health, Education, and Welfare (hereinafter referred to

as the "Secretary') shall make a full and complete investigation and study to determine—

(1) the number of athletic injuries to, and deaths of, male and female students occurring in athletic competition between schools, in any practice session for such competition, and in any other school-related athletic activities for the twelve-month period beginning sixty days after the date of enactment of this Act;

(2) the number of athletic injuries and deaths occurring (for the twelve-month period under clause (1)) at each school with an athletic trainer or other medical or health professional personnel trained to prevent or treat such injuries and at each school without such personnel.

(b) Within fifty days after the date of enactment of this Act, the Secretary shall request each school to maintain appropriate records to enable it to compile information under subsection (a) and shall request such school to submit such information to the Secretary immediately after the twelve-month period beginning sixty days after the date of enactment of this Act. Not later than eighteen months after the date of enactment of this Act, the Secretary shall make a report to the Congress on the study required by subsection (a), together with such recommendations as he may deem appropriate. In such report, all information required under each paragraph of subsection (a) shall be stated separately for the two groups of schools under clauses (1) and (2) of subsection (c), except that the information shall also be stated separately (and shall be excluded from the group under clause (2)) for institutions of higher education which provide either of the two-year programs described in section 801(E)(3) of the Elementary and Secondary Education Act of 1965.

(c) For the purposes of this section, the term "school" means (1) any secondary school or (2) any institution of higher education, as defined in section 801 of the Elementary and Secondary Education Act of 1965.

(d) There is authorized to be appropriated the sum of $75,000 to carry out the provisions of this section.

TITLE VI—EDUCATION OF THE HANDICAPPED

SHORT TITLE

SEC. 601. This title may be cited as the "Education of the Handicapped Amendments of 1973".

BUREAU FOR THE EDUCATION AND TRAINING OF THE HANDICAPPED

SEC. 602. (a) Section 603 of the Education of the Handicapped Act is amended by inserting "(a)" after "SEC. 603." and by adding at the end thereof the following new subsection:

"(b)(1) The Bureau established under subsection (a) shall be headed by a Deputy Commissioner of Education who shall be appointed by the Commissioner in the competitive service and who shall report directly to the Commissioner, be compensated at the rate specified for, and placed in, grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code.

"(2) In addition to such Deputy Commissioner, there shall be placed in such Bureau five positions for persons to assist the Deputy Commissioner in carrying out his duties, and such positions shall be placed in grade 16 of the General Schedule set forth in section 5332 of title 5, United States Code."

(b)(1) The positions created by subsection (b) of section 603 of the Education of the Handicapped Act shall be in addition to the number of positions placed in the appropriate grades under section 5108 of title 5, United States Code, and such positions shall be in addition to, and without prejudice against, the number of positions otherwise placed in the Office of Education under such section 5108 or under other law.

(2) The amendments made by subsection (a) shall become effective upon the enactment of this Act.

ADVISORY COMMITTEE

SEC. 603. (a) Section 604(b) of the Education of the Handicapped Act is amended by adding at the end thereof the following new sentence: "The Advisory Committee shall continue to exist until July 1, 1978.".

(b) Section 604 of such Act is amended by adding at the end thereof the following new subsection:

"(c) There are authorized to be appropriated for the purposes of this section $100,000 for the fiscal year ending June 30, 1974, and for each of the four succeeding fiscal years.".

GRANTS TO THE STATES

SEC. 604. (a) Section 611(a) of the Education of the Handicapped Act is amended by inserting before the period the following: "in order to provide full educational opportunity to all handicapped children".

(b) Subsection (b) of section 611 of the Education of the Handicapped Act is amended to read as follows:

"(b) For the purpose of making grants under this part, there are authorized to be appropriated $65,000,000 for the fiscal year ending June 30, 1974, $80,000,000 for the fiscal year ending June 30, 1975, $100,000,000 for the fiscal year ending June 30, 1976, $110,000,000 for the fiscal year ending June 30, 1977, and $120,000,000 for the fiscal year ending June 30, 1978.".

(c) The amendment made by subsection (b) shall become effective and shall be deemed to have been enacted on July 1, 1973.

ADDITIONAL STATE PLAN REQUIREMENT

SEC. 605. (a)(1) Section 612(a)(2) of the Education of the Handicapped Act is amended by striking out "$200,000" and inserting in lieu thereof "$300,000".

(2) Section 612(a) of such Act is amended by inserting at the end thereof the following new paragraph:

"(3) Effective after June 30, 1973, no State shall, in any fiscal year, be required to expend amounts allotted pursuant to this section to carry out the provisions of paragraph (1) of section 613(b) unless that State receives an amount greater than the amount allotted to that State for the fiscal year ending June 30, 1973.".

(b) Section 613(a)(1) of such Act is amended by striking out "$100,000" and inserting in lieu thereof "$200,000".

(c)(1) Section 613 of such Act is amended by redesignating subsections (b), (c), and (d) of such section, and all references thereto, as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following:

"(b)(1) Any State which desires to receive a grant under this part for any fiscal year beginning after June 30, 1975, shall submit to the Commissioner for approval by December 31, 1974, through its State educational agency an amendment to the State plan required under subsection (a), setting forth in detail the policies and procedures which the State will undertake in order to assure that—

"(A) all children residing in the State who are handicapped regardless of the severity of their handicap and who are in need of special education and related services are identified, located, and evaluated, including a practical method of determining which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services;

"(B) the policies and procedures will be established in accordance with detailed criteria prescribed by the Commissioner to protect the confidentiality of such data and information by the State;

"(C) there is established (i) a goal of providing full educational opportunity to all handicapped children, (ii) a detailed timetable for accomplishing such a goal, and (iii) a description of the kind and number of facilities, personnel, and services necessary throughout the State to meet such a goal; and

"(D) the amendment submitted by the State pursuant to this subsection shall be available to parents and other members of the general public at least thirty days prior to the date of submission of the amendment to the Commissioner.

For the purpose of this part, any amendment to the State plan required by this subsection and approved by the Commissioner shall be considered, after June 30, 1975, as a required portion of the State plan.

"(2) The requirement of paragraph (1) of this subsection shall not be effective with respect to any fiscal year in which the aggregate of the amounts allotted to the States for this part for that fiscal year is less than $45,000,000.".

(2) Section 613(e)(1) of such Act (as redesignated by this section) is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (d)".

(d) The amendment made by subsections (a)(1) and (b) of this section shall be effective in any fiscal year for which the aggregate of the amounts allotted to the States for that fiscal year for carrying out part B of the Education of the Handicapped Act is $45,000,000 or more.

CENTERS AND SERVICES

SEC. 606. (a) Section 626 of the Education of the Handicapped Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 626. For the purpose of carrying out this part, there are authorized to be appropriated $37,000,000 for the fiscal year ending June 30, 1974, $53,000,000 for the fiscal year ending June 30, 1975, $70,000,000 for the fiscal year ending June 30, 1976, $77,000,000 for the fiscal year ending June 30, 1977, and $85,000,000 for the fiscal year ending June 30, 1978.".

(b) The amendment made by subsection (a) shall become effective and shall be deemed to have been enacted on July 1, 1973.

PERSONNEL TRAINING

SEC. 607. (a) Section 636 of the Education of the Handicapped Act is amended by striking out that part thereof which follows "this part", and inserting in lieu thereof "$40,500,000 for the fiscal year ending June 30, 1974, $45,500,000 for the fiscal year ending June 30, 1975, $50,500,000 for the fiscal year ending June 30, 1976, $55,000,000 for the fiscal year ending June 30, 1977, and $60,000,000 for the fiscal year ending June 30, 1978.".

(b) The amendment made by subsection (a) shall become effective, and shall be deemed to have been enacted July 1, 1973.

RESEARCH

SEC. 608. (a) Section 644 of the Education of the Handicapped Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 644. For the purpose of carrying out this part, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1974, $14,000,000 for the fiscal year ending June 30, 1975, $18,000,000 for the fiscal year ending June 3, 1976, $20,000,000 for the fiscal year ending June 30, 1977, and $25,000,000 for the fiscal year ending June 30, 1978.".

(b) The amendment made by subsection (a) shall become effective, and shall be deemed to have been enacted on July 1, 1973.

INSTRUCTIONAL MEDIA

SEC. 609. (a) (1) That part of section 652 (b) of the Education of the Handicapped Act which precedes clause (1) is amended by inserting "(either directly or by grants or contracts)" after "authorized".

(2) Section 654 of such Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 654. For the purposes of carrying out this part there are hereby authorized to be appropriated not to exceed $15,000,000 for the fiscal year ending June 30, 1974, $18,000,000 for the fiscal year ending June 30, 1975, and $22,000,000 for the fiscal year ending June 30, 1976, and for each succeeding fiscal year thereafter.".

(b) The amendments made by subsection (a) shall become effective, and shall be deemed to have been enacted on July 1, 1973.

SPECIFIC LEARNING DISABILITIES

SEC. 610. (a) Section 661(c) of the Education of the Handicapped Act is amended by striking out $12,000,000" and all that follows down to but not including the period at the end of such section and inserting in lieu thereof the following: "$5,000,000 for the fiscal year ending June 30, 1974, $7,500,000 for the fiscal year ending June 30, 1975, $15,000,000 for the fiscal year ending June 30, 1976, $20,000,000 for the fiscal year ending June 30, 1977, and $25,000,000 for the fiscal year ending June 30, 1978.".

(b) The amendments made by section (a) shall become effective, and shall be deemed to have been enacted on July 1, 1973.

TITLE VII—NATIONAL READING IMPROVEMENT PROGRAM

STATEMENT OF PURPOSE

SEC. 701. It is the purpose of this title—

(1) to provide financial assistance to encourage State and local educational agencies to undertake demonstration projects to strengthen reading instruction programs in the elementary grades;

(2) to provide financial assistance for the development and enhancement of necessary skills of instructional and other educational staff for reading demonstration programs; and

(3) to develop a means by which measurable objectives for reading demonstration programs can be established and progress toward such objectives assessed.

READING IMPROVEMENT DEMONSTRATION PROJECTS

SEC. 702. (a) The Commissioner is authorized to contract with either State educational agencies or local educational agencies, or both, for the carrying out by such agencies, in schools having large numbers or a high percentage of children with reading deficiencies, of demonstration projects involving the use of innovative methods, systems, materials, or programs which show promise of overcoming such reading deficiencies.

(b) No contract may be entered into under this section, unless upon an application made to the Commissioner at such time, in such manner, and including or accompanied by such information as he may reasonably require. Each such application shall set forth a reading program which provides for—

(1) diagnostic testing designed to identify elementary schoolchildren with reading deficiencies, including the identification of conditions which, without appropriate other treatment, can be expected to impede or prevent children from learning to read;

(2) planning for and establishing comprehensive reading programs;

(3) reading instruction for pupils whose reading achievement is less than that which would normally be expected for pupils of comparable ages and in comparable grades of school;

(4) preservice training programs for teaching personnel including teacher-aides and other ancillary educational personnel, and inservice training and development programs, where feasible, designed to enable such personnel to improve their ability to teach students to read;

(5) participation of the school faculty, school board members, administration, and student body in reading-related activities which stimulate an interest in reading and are conducive to the improvement of reading skills;

(6) parent participation in development and implementation of the program for which assistance is sought;

(7) school board participation in the development of State programs;

(8) periodic testing on a sufficiently frequent basis to measure accurately reading achievement;

(9) publication of test results on reading achievement by grade level, and where appropriate, by school, without identification of achievement of individual children;

(10) availability of test results on reading achievement on an individual basis to parents or guardians of any child being so tested;

(11) participation on an equitable basis by children enrolled in nonprofit private elementary schools in the area to be served (after consultation with the appropriate private school officials) to an extent consistent with the number of such children whose educational needs are of the kind the program is intended to meet;

(12) the use of bilingual education methods and techniques to the extent consistent with the number of elementary school-age children in the area served by a reading program who are of limited English-speaking ability; and

(13) appropriate involvement of leaders of the cultural and educational resources of the area to be served, including institutions of higher education, nonprofit private schools, public and private nonprofit agencies such as libraries, museums, educational radio and television, and other cultural and education resources of the community.

(c) Each such applicant, in addition to meeting the requirements of subsection (b), shall provide assurances that—

(1) appropriate measures have been taken by the agency to analyze the reasons why elementary school children are not reading at the appropriate grade level; and

(2) the agency will develop a plan setting forth specific objectives which shall include the goals of having the children in project schools reading at the appropriate grade level at the end of grade three.

(d) An application from a local educational agency under this section may be approved only if the State educational agency of the State in which such local agency is located has been notified of the application and has been given a reasonable opportunity to offer recommendations with respect to the approval thereof.

(e) The Commissioner, in selecting projects under this section shall, to the extent feasible, attempt to secure an equitable distribution among urban and rural areas.

(f) (1) The Commissioner shall reserve not to exceed 3 per centum of the sums appropriated pursuant to section 712(a) for carrying out the provisions of this section for each fiscal year. From the sums reserved pursuant to this subsection, the Commissioner is authorized to make grants, on such terms and conditions as he deems necessary (exclusive of the requirement of subsection (d)), to State and local educational agencies to pay the Federal share of the cost of establishing and maintaining programs for the purchase of inexpensive books for distribution to individual elementary schoolchildren by gift, loan, or sale at a nominal price.

(2) For the purpose of this subsection the Federal share shall not exceed 50 per centum in any fiscal year except that, whenever the Commissioner determines that a State or local educational agency desiring to participate in the program under this subsection has insufficient resources and is unlikely to obtain sufficient resources to participate in such a program he may increase such Federal share to not to exceed 90 per centum of the cost of any such program.

SPECIAL EMPHASIS PROJECTS

SEC. 703. (a) The Commissioner is authorized to contract with local educational agencies for special emphasis projects to determine the effectiveness of intensive instruction by reading specialists and reading teachers. Each such project should provide for—

(1) the teaching of reading by a reading specialist for all children in the first and second grades of an elementary school and the teaching of reading by a reading specialist for elementary school children in grades three through six who have reading problems; and

(2) an intensive vacation reading program for elementary school children who are found to be reading below the appropriate grade level or who are experiencing problems in learning to read.

(b) No contract may be entered into under this section unless upon an application made to the Commissioner at such time, in such manner, and including or accompanied by such information as he may reasonably require. Each such application shall provide assurances that—

(1) the provisions of section 702(b) are met; and

(2) the State educational agency has certified that individuals employed as reading specialists and reading teachers meet the requirements of section 703 (e) and (f).

(c) No contract may be entered into under this section unless the project has been approved by the State educational agency.

(d) The Commissioner is authorized to enter into at least one arrangement with a local educational agency for a districtwide project conducted in all schools of such agencies. In selecting the districtwide project, the Commissioner shall give the priority to an application from a local educational agency if the Commissioner finds that—

(1) the local educational agency will give credit for any course to be developed for reading teachers or reading specialists under section 704 and will encourage participation by the teachers of such agency in the training;

(2) the local public educational television station will present any course to be developed under this section at an hour convenient for the viewing by elementary school teachers and, if possible, at a time convenient for such teachers to take the course, as a group, at the elementary school where they teach; and

(3) the local educational agency will make arrangements with the appropriate officials of institutions of higher education to obtain academic credit for the completion of such a course.

(e) In any project assisted under this section a reading teacher may be used in lieu of a reading specialist, if the Commissioner finds that the local educational agency participating in a reading emphasis project is unable to secure individuals who meet the requirements of a reading specialist and if such reading teacher is enrolled or will enroll in a program to become a reading specialist. A regular elementary teacher may be used in lieu of a reading teacher if the Commissioner finds that the local educational agency participating in a reading emphasis project is unable to secure individuals who meet the requirements of the reading teacher, and if such regular elementary teacher is enrolled or will enroll in a program to become a reading teacher.

(f) For the purpose of this section and section 604 the term—

(1) "reading specialist" means an individual who has a master's degree, with a major or specialty in reading, from an accredited institution of higher education and has successfully completed three years of teaching experience, which includes reading instruction, and

(2) "reading teacher" means an individual, with a bachelor's degree, who has successfully completed a minimum of twelve credit hours, or its equivalent, in courses of the teaching of reading at an accredited institution of higher education, and has successfully completed two years of teaching experience, which includes reading instruction.

READING TRAINING ON PUBLIC TELEVISION

SEC. 704. (a) The Commissioner is authorized, through grants or contracts, to enter into contractual arrangements with institutions of higher education, public or private agencies or organizations, and individuals for—

(1) the preparation, production, and distribution for use on public educational television stations of courses for elementary school teachers who are or intend to become reading teachers or reading specialists; and

(2) the preparation and distribution of study course material to be used in conjunction with any such course.

(b) In carrying out the provisions of this section the Commissioner shall consult with recognized authorities in the field of reading, specialists in the utilization of the communications media for educational purposes, and with the State and local educational agencies participating in demonstration projects under this title.

GRANTS FOR INSTITUTIONS OF HIGHER EDUCATION

SEC. 705. The Commissioner is authorized to make grants to institutions of higher education, or combinations of such institutions, upon application therefor, to assist such institution or institutions—

(1) in planning and implementing programs to strengthen and improve graduate and undergraduate instruction in the teaching of reading, including inservice training programs; and

(2) in planning, developing, and implementing cooperative programs with State and local educational agencies which show promise as effective measures for solving reading problems.

ESTABLISHMENT OF THE OFFICE FOR THE IMPROVEMENT OF READING PROGRAMS

SEC. 706. (a) There is established, in the Office of Education, an Office for the Improvement of Reading Programs which shall be responsible for—

(1) the administration of the programs authorized by this title;

(2) those programs presently administered under other provisions of law as the Commission determines to be appropriate; and

(3) the coordination of education programs as provided in the following subsection.

(b) The Commissioner is authorized in accordance with the criteria and procedures established by regulation, to facilitate, at the State and local levels, coordination of the furnishing of services under—

(1) titles, I, II, III, V, and VI of the Elementary and Secondary Education Act of 1965;

(2) section 222(a)(1) and (2) of the Economic Opportunity Act of 1964;

(3) the Adult Education Act;

(4) the Emergency School Aid Act;

(5) the Higher Education Act of 1965; and

(6) section 405 of the General Education Provisions Act.

which are related to the purposes of this title.

ESTABLISHMENT OF THE READING IMPROVEMENT LABORATORY

SEC. 707. (a) Notwithstanding the second sentence of section 405(b)(1) of the General Education Provisions Act, the Director of the National Institute of Education is authorized and directed to designate an existing facility or establish a new facility to be known as the Reading Improvement Laboratory.

(b) The Director of the National Institute of Education, through the Institute and the Laboratory shall conduct or support research, demonstrations, and pilot projects in the field of reading and language development, including, but not limited to, the following—

(1) basic research in the reading, language, and communication process;

(2) the most effective methods for the teaching of reading;

(3) methods for the measuring of reading ability and achievement;

(4) the development of model undergraduate and graduate courses in reading for personnel preparing to engage in elementary teaching or for elementary teachers who are or intend to become reading teachers or reading specialists;

(5) the development of techniques for the diagnosis and correction of reading disabilities;

(6) the development of model reading programs for elementary school children generally and special model reading programs for elementary school children who are educationally disadvantaged or handicapped;

(7) the use and evaluation of educational technology in reading; and

(8) the evaluation of educational materials prepared for the teaching of reading.

STATE CERTIFICATION AGENCIES

SEC. 708. (a) The Commissioner shall carry out a program for making grants to State agencies responsible for certifying elementary and secondary education teachers to institute or upgrade reading certification requirements in the State to assure better preparation of teachers in the field of reading instruction.

(b) For the purpose of carrying out the provisions of this section more effectively, the Commissioner is authorized, upon request, to provide advice, counsel, and technical assistance to State accrediting agencies.

EVALUATION

SEC. 709. The Commissioner shall submit an evaluation report to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives not later than March 31, in each fiscal year ending prior to July 1, 1978. Each such report shall—

(1) contain a statement of specific and detailed objectives for the program assisted under the provisions of this title, and relate such objectives to the objectives of the Elementary and Secondary Education Act of 1965;

(2) include a statement of the effectiveness of the program in meeting the stated objectives, measured through the end of the preceding fiscal year;

(3) make recommendations with respect to any changes or additional legislation deemed necessary or desirable in carrying out the program;

(4) contain a list identifying the principal analyses and studies supporting the major conclusions and recommendations contained in the report; and

(5) contain an annual evaluation plan for the program through the ensuing fiscal year for which the budget was transmitted to Congress by the President, in accordance with section 201(a) of the Budget and Accounting Act, 1921.

ESTABLISHMENT OF THE PRESIDENTIAL AWARD FOR READING ACHIEVEMENT

SEC. 710. (a) In order to motivate and encourage elementary school children to improve their reading skills and to foster competence for excellence in reading among elementary schools, there is hereby established the Presidential Reading Achievement Award. Each such award shall consist of—

(1) an emblem to be presented to elementary school children for achievement in reading as determined pursuant to regulations established by the Commissioner, and

(2) a pennant, flag, or other appropriate recognition for elementary schools achieving reading excellence as determined pursuant to regulations established by the Commissioner.

(b) The reading awards authorized by this section shall be of such design and material and bear such description as the President may prescribe.

DEFINITIONS

SEC. 711. As used in this title—

(1) "Laboratory" means the Reading Improvement Laboratory established under this title; and

(2) "Institute" means the National Institute of Education.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 712. (a) There are authorized to be appropriated to carry out the provisions of section 702, relating to reading improvement demonstration projects, $75,000,000 for the fiscal year ending June 30, 1975, $80,000,000 for the fiscal year ending June 30, 1976, and $85,000,000 each for the fiscal years ending June 30, 1977, and June 30, 1978.

(b) There are authorized to be appropriated to carry out the provisions of section 703, relating to reading special emphasis projects, $25,000,000 for the fiscal year ending June 30, 1975, $30,000,000 for the fiscal year ending June 30, 1976, and $40,000,000 each for the fiscal years ending June 30, 1977, and June 30, 1978.

(c) There are authorized to be appropriated for the purpose of carrying out section 704, relating to reading training on public television, $1,500,000 for the fiscal year ending June 30, 1975, sums appropriated pursuant to this section shall remain available for obligation and expenditure through the succeeding fiscal year.

(d) There are authorized to be appropriated to carry out the provisions of section 705, relating to grants for institutions of higher education, $35,000,000 for the fiscal year ending June 30, 1975, $40,000,000 for the fiscal year ending June 30, 1976, and $45,000,000 each for the fiscal years ending June 30, 1977, and June 30, 1978.

(e) There are authorized to be appropriated to carry out the provisions of section 707, relating to the Reading Improvement Laboratory, $10,000,000. Notwithstanding any other provision of law unless enacted in express limitation of this section, sums appropriated pursuant to this subsection shall remain available until expended.

(f) There are authorized to be appropriated to carry out the provisions of section 708, relating to State certification in the field of reading instruction, $2,500,000 for each of the fiscal years ending prior to July 1, 1978.

(g) There are authorized to be appropriated to carry out the provisions of section 710, relating to reading achievement awards, $10,000 for administrative expenses for each of the fiscal years ending prior to July 1, 1978.

TITLE VIII—GENERAL PROVISIONS RELATING TO THE ASSIGNMENT OR TRANSPORTATION OF STUDENTS

PROHIBITION AGAINST ASSIGNMENT OR TRANSPORTATION OF STUDENTS TO OVERCOME RACIAL IMBALANCE

SEC. 801. No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

SEC. 802. (a) No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except on the express written voluntary request of appropriate local school officials. No such funds shall be made available for transportation when the time or distance is so great as to risk the health of the children or significantly impinge on the educational process of such children, or where the educational opportunities available at the school to which it is proposed that any such student be transported will be substantially inferior to those opportunities offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

(b) No officer, agent, or employee of the Department of Health, Education, and Welfare (including the Office of Education), the Department of Justice, or any other Federal agency shall, by rule, regulation, order, guideline, or otherwise, (1) urge, persuade, induce, or require any local education agency, or any private nonprofit agency, institution, or organization to use any funds derived from any State or local sources for any purpose, unless constitutionally required, for which Federal funds appropriated to carry out any applicable program may not be used, as provided in this section, or (2) condition the receipt of Federal funds under any Federal program upon any action by any State or local public officer or employee which would be prohibited by clause (1) on the part of a Federal officer or employee. No officer, agent, or employee of the Department of Health, Education, and Welfare (including the Office of Education) or any other Federal agency shall urge, persuade, induce, or require any local education agency to undertake transportation of any student where the time or distance of travel is so great as to risk the health of the child or significantly impinge on his or her educational process; or where the educational opportunities available at the school to which it is proposed that such student be transported will be substantially inferior to those offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

(c) An applicable program means a program to which the General Education Provisions Act applies.

PROVISION RELATING TO COURT APPEALS

SEC. 803. Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired. This section shall expire at midnight on June 30, 1978.

PROVISION AUTHORIZING INTERVENTION IN COURT ORDERS

SEC. 804. A parent or guardian of a child, or parents or guardians of children similarly situated, transported to a public school in accordance with a court order, may seek to reopen or intervene in the further implementation of such court order, currently in effect, if the time or distance of travel is so great as to risk the health of the student or significantly impinge on his or her educational process.

PROVISION REQUIRING THAT RULES OF EVIDENCE BE UNIFORM

SEC. 805. The rules of evidence required to prove that State or local authorities are practicing racial discrimination in assigning students to public schools shall be uniform throughout the United States.

APPLICATION OF PROVISO OF SECTION 407(a) OF THE CIVIL RIGHTS ACT OF 1964 TO THE ENTIRE UNITED STATES

SEC. 806. The proviso of section 407(a) of the Civil Rights Act of 1964 providing in substance that no court or official seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards shall apply to all public school pupils and to every public school system, public school and public school board, as defined by title IV, under all circumstances and conditions and at all times in every State, district, territory, Commonwealth, or possession of the United States, regardless of whether the residence of such public school pupils or the principal offices of such public school system, public school or public school board is situated in the northern, eastern, western, or southern part of the United States.

Mr. PELL addressed the Chair.

Mr. JAVITS. Mr. President, before the Senator starts, can we get some assistants on the floor? Perhaps the Senator wishes some, also.

Mr. PELL. I was about to do that.

Mr. President, I ask unanimous consent that during the consideration of this bill, the following members of the staff be allowed unlimited access to the floor: Stephen J. Wexler, Richard D. Smith, Jean S. Frohlicher, Roy Millenson, David Dunn, Nik Edes, Lisa Walker, John Adair, Nick Maravell, Patria Forsythe, George Lawless, A. Sidney Johnson III, Ms. Ellen Hoffman, Bertram Carp, Kay Millerson, Pat Shakow, and Charles Warren.

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

Mr. McCLELLAN. Mr. President, I ask unanimous consent that during the consideration of this bill, the following staff members have the privilege of the floor: Emon Mahoney, Michael Gaffney, Eve Chesbro, and Doug Seidman.

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

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. PELL. I yield.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that during the consideration of this bill, John I. Brooks and Joanne O'Neal have the privilege of the floor.

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

Mr. PELL. Mr. President, the pending measure is the result of a year and a half of work by the Subcommittee on Education of the Senate Committee on Labor and Public Welfare, and by the full committee as well. During those months, we conducted 18 days of hearings, coupled with executive sessions, staff studies, and consultation with the administration, seeking to bring before the Senate a comprehensive, omnibus education bill.

While most people speak of this proposed legislation as an elementary and secondary education bill, only title I of the bill's eight titles deals with extension and amendment of the existing Elementary and Secondary Education Act. Title II of S. 1539 extends and amends Public Laws 815 and 874, commonly known as the impact aid program. Title III extends and revises the adult education program. Title IV proposes three consolidations of existing programs—an administrative consolidation, designed to eliminate much unnecessary paperwork from applications for Federal education programs; a consolidation of State formula grant programs; and a consolidation of a number of narrow, categorical discretionary authorities into a single program. Title V contains administrative, "housekeeping" amendments and establishes a National Center for Education Statistics to provide a nonpartisan source of education data. Title VI extends programs for education of the handicapped. Title VII establishes a new national reading improvement program. Title VIII reaffirms the language concerning student assignment and transportation adopted by the Congress in the Education Amendments of 1972.

I would now like to turn to some of the more important points in the bill now before the Senate, points that will probably occupy us while we debate the measure.

Title I of the Elementary and Secondary Education Act is the largest single program of aid to our schools. The availability of new 1970 census data required the committee to rewrite the formula for distribution of funds under this title.

The proposed new title I formula consists of two parts. We have provided for a base year of 1974 for each local educational agency. Under this base year concept, no school district would receive less in future years than it did under the 1974 Appropriations Act. This base year will provide some continuity for local school officials. With passage of S. 1539, they will have a basic amount they can expect to receive, and will therefore be able to plan programs and hire teachers without substantial fluctuations in title I funds from year to year.

Funds appropriated above the base year would be distributed on a new formula. In fiscal year 1975, based on the President's budget request, such "new money" would amount to more than $158 million.

The census data used in the new formula would be the 1970 "poverty" level, often called the "Orshansky" level. This definition takes into account the size of the family, the sex of the family head,

and farm/nonfarm residence. Thus, an urban family of seven could be counted under title I even though the father earned more than $6,000 in 1969. This flexibility is more reflective of actual poverty than the arbitrary $2,000 cut-off contained in existing law.

In addition, the formula would count all children in families receiving aid to families with dependent children, regardless of the level. These are the children most likely to have been missed by the census; they are also most likely found in urban areas, so their inclusion in the title I count would provide additional benefits to financially overburdened cities.

On the amounts available from appropriations for local educational agency grants, 60 percent would be paid on the basis of a district's relative number of census children and 40 percent on the basis of its children on AFDC. This would assure a constant ratio between the two formula factors, and would guarantee that in the future AFDC will not overwhelm the formula, as occurred under existing law when the shift to the 1970 census took place.

The Federal payment level remains at 50 percent of the State or national average per pupil expenditure. whichever is higher. This factor recognizes the higher costs of education in States like Alaska and New York, and provides higher Federal payments to reflect those costs. At the same time, it raises low-expenditure States to the national average expenditure, thereby providing a measure of equalization.

Another education issue which has been the subject of much discussion in the past has been the question of consolidation of existing categorical grant programs. I often think that when an administration can think of nothing new to propose in education, it falls back on reorganizing and consolidating existing programs. All too often this consolidation has been set before the Congress as a partisan issue. The committee does not view it as such. Indeed, we first consolidated programs in 1970.

The committee recognizes that certain programs which were necessary at the time of their establishment may have outlived their usefulness. Therefore, we have included in the bill consolidations affecting approximately 20 programs. I ask unanimous consent to have printed in the RECORD at this point a table which clearly sets forth what the consolidation language of the bill proposes to do.

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

THREE CONSOLIDATIONS

I. ADMINISTRATIVE

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

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 Educational 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"

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

[Dollar amounts in millions]

Section and subject	Fiscal year 1974 amount	Fiscal years 1975 through 1978 Amount	Percent
404: Metric education		$10	5
405: Gifted and talented		12.25	6.125
406: Community schools:			
LEA		15	7.5
Higher education		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

Mr. PELL. Mr. President, for good reason, however, we rejected the administration's blanket consolidation proposal. Bitter experience has taught us that when this administration talks about consolidation, it is really talking about cutting out programs and cutting services to people.

We saw this happen in the important area of high school guidance and counseling and in the President's so-called Better Schools Act, which, when read in conjunction with the budget proposal, showed consolidated programs receiving less than they would have if left alone.

I think we must remember that each of these separate education programs was created and exists to meet a need that our local school systems could not meet because of costs. That is why, for example, Congress established programs specifically for innovation, for guidance and counseling, and for modern textbooks and laboratory equipment.

To throw all of the Federal funds for these programs into one big pot, as proposed by the President, would mean that the weakest—those who need help the most—would be crowded out or pushed to the end of the line—would get nothing out of the pot. We in Congress must not let this happen.

In considering the legislation, the committee believed that a number of areas not now receiving Federal assistance deserved such support on a pilot and demonstration basis. Such programs included education for the metric system of measurements; gifted and talented; community schools; career education; consumers' education and women's educational equity. These new programs were included in the consolidation of discretionary programs. However, since they are new programs, they are provided guaranteed support for the period of the bill, to act as an "incubator" for these programs in their beginning years of operation. Once they are established, ongoing programs, they will be folded into the discretionary consolidation with the other programs already included in it.

When the legislation was being drafted, it was the clear intention of the committee that we would no longer authorize legislation which could be summarily ignored by the administration. Therefore, we have attempted to insure that established programs will be carried out by the administration. This has been done by the creation of various offices, so that the newly established programs will not be given short shrift. They will each have an entity responsible for carrying out this program.

For example, we have established an Office of the Gifted and Talented, a Bureau of Bilingual Education, a Bureau of Libraries and Learning Resources, and Offices on Reading Improvement and on Career Education within the Office of Education. Therefore, what the President has termed a "bureaucratic nightmare" is really the congressional means of insuring that the programs it enacts are carried out.

In addition to the new programs established as part of the discretionary consolidation, the bill authorizes an extensive bilingual education program and a national reading improvement program. These are programs which are not funded on a State formula basis. They grow out of our recognition of need for Federal support and our understanding

that a massive program on a State-by-State basis might be counterproductive. Under all of these programs, local educational agencies will deal directly with the Federal Government, with a requirement that the Commissioner distribute funds equitably among applicants. There is no State-by-State allocation, and, therefore, no requirement that these applications be funded through State departments of education.

This does not reflect a committee bias against these State departments. They provide a meaningful input into the administration of many Federal education programs. However, demonstration projects have always been funded directly from the Office of Education to the local school district. The committee bill, departing from past practice, does, however, give State departments the right to comment on pending applications, a role they have not previously had.

Many of the programs included in the bill are funded on an open-ended formula basis. For example, under the committee's title I formula, nearly 16 million children are counted in establishing school districts' entitlements under part A. The total authorization for the title has been calculated to exceed $9 billion, substantially in excess of existing appropriations levels of approximately $1.8 billion. Obviously, some sort of limitation on title I appropriations is necessary to avoid vastly overpromising the assistance available.

In addition, the administration was unable to estimate precisely the effects of the committee's impact aid reforms. The committee's extrapolation from existing data indicates that entitlements would exceed $1.2 billion annually, far above existing appropriations levels for impact aid.

Therefore, the committee adopted limitations on appropriations for programs whose authorization levels are otherwise uncontrollable. For title I ESEA, a limitation of $2.5 billion was imposed for fiscal year 1975, rising to $3 billion in 1976, $3.5 billion in 1977, and $4 billion in 1978. These levels should give the program ample room to grow within realistic ceilings.

For Public Law 874, the impact aid program for school operations, the committee set limitations of $750 million for fiscal year 1975, $800 million for 1976, $900 million in 1977, and $1 billion for 1978. Since the appropriation for this program in fiscal year 1974 was only $574.4 million, these levels will allow increases due to inflation or other factors, without creating false hopes in the minds of potential recipients of impact aid funds.

Mr. President, my opening statement has been a short précis of what the Education Amendments of 1974 seek to accomplish. There is an in-depth explanation in the report which we hope will answer whatever questions may arise as to the effect of the bill.

I believe that this proposed legislation deserves the full support of the Senate. We on the subcommittee recognize that there are certain portions of the bill which do not please everyone. What we have sought to do is strike a balance between urban and rural, North and South, advantaged and disadvantaged. It is my hope that this bill can be enacted as reported so that we will have the widest possible latitude during the conference between the House and the Senate.

Mr. President, I ask unanimous consent that various letters received in support of the bill be printed in the RECORD.

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

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURE IMPLEMENT WORKERS OF AMERICA—UAW,
Washington, D.C. May 7, 1974.

DEAR SENATOR: On behalf of the UAW, I urge most strongly that you support S. 1539, the legislation to extend and amend the Elementary and Secondary Education Act, as reported by the Labor and Public Welfare Committee.

S. 1539 is the product of careful consideration by the Committee. In our judgment, it is a good bill which deserves your enthusiastic support.

We are particularly pleased with the Committee's revisions in the formula for distribution of funds under Title I of ESEA—a formula which seems to us to be fair for school systems generally. The S. 1539 formula would assure continued funding for existing Title I activities and still take into consideration population shifts which have taken place since the current formula was developed.

The UAW urges that you support S. 1539, as reported, to extend the vitally important programs authorized under the Elementary and Secondary Education Act. We hope you will oppose all weakening amendments, including any attempt to write into the bill language which would restrict the courts in dealing with unconstitutional segregation and discrimination.

Sincerely,

JACK BEIDLER,
Legislative Director.

AMERICAN FEDERATION OF TEACHERS,
Washington, D.C., April 30, 1974.

DEAR SENATOR: The American Federation of Teachers, AFL–CIO, strongly supports S–1539, the extension of the Elementary and Secondary Education Act, Impact Aid programs, Adult Education and other education programs, as unanimously reported by the Labor and Public Welfare Committee. This bill represents a major step toward meeting the Federal Government's responsibility in the area of education.

We especially urge your support for the Committee Title I distribution formula. The problem of drafting a new Title I formula is a difficult and complex matter. We have seen many tables purporting to represent state allotments under various new formulas. All of them, save the committee version, are based upon estimates of data that do not presently exist.

In addition, the committee formula is the only proposal that both guarantees continued funding for existing Title I programs and allows the population changes that have occurred since the Title I program was first enacted to be reflected in Title I aid.

We also strongly support the committee provision on grant consolidation. We recognize the need for a consolidation that will allow states and local education agencies to receive federal grants with a minimum of red tape. We are concerned, however, that administrative consolidation not be used as a budget-cutting device. The committee provision assures that consolidation will not result in the loss of vitally needed funds for our nation's schools.

Finally, it is our understanding that amendments will be offered to restrict the ability of the courts to order school desegregation and to allow the reopening of school desegregation cases long since settled. We hope you will vote against these amendments. The committee bill contains a provision that allows transportation of students only to improve the quality of education. The provision forbids busing to achieve a numerical racial balance, busing that endangers the health and safety of children, and prohibits busing to sub-standard schools. We feel these are reasonable limitations on pupil transportation. Further amendments would effectively prevent any remedy for segregated schools. We urge your support for the committee provision.

S–1539 is a good bill. It will extend and update many of the Federal programs that are so vital to our nation's elementary and secondary schools. We urge your support for this vital piece of legislation.

Respectfully yours,

CARL J. MEGEL,
Director of Legislation.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., May 1, 1974.

Hon. CLAIBORNE PELL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PELL: The AFL–CIO strongly supports S. 1539, amending and extending the nation's elementary and secondary education programs. As reported by the Senate Labor and Public Welfare Committee, this bill is vital to the operations of our country's school system.

The AFL–CIO fully supports the committee's action revising and updating the ESEA Title I formula. The committee has dealt with a difficult and complex problem in an equitable fashion. This new formula represents the only approach we have seen that both guarantees the funding of ongoing Title I programs and makes provision for the shifts in population that have taken place since the program was originally enacted.

We also strongly support the committee's action on grant consolidation. Needed administrative program consolidation must not be used as a budget-cutting device. The committee's action insures that consolidation will not result in a net loss of education funds for local school districts.

The AFL–CIO also supports the provisions in S. 1539 dealing with the controversial issue of busing. The bill limits the transportation and assignment of students and teachers without violating the Constitution or illegally restricting the jurisdiction of the courts. It seeks to permit transportation to improve the quality of educational opportunity without requiring such transportation to overcome racial imbalance.

We urge you to oppose Senate adoption of the Esch amendment. This amendment raises serious Constitutional questions by restricting the courts to transportation remedies limited to the closest or next closest school to the student's place of residence. In addition, it permits the reopening of school desegregation cases long since resolved.

Twenty years have passed since the historic Brown decision. The AFL–CIO calls upon the Senate to resist unconstitutional amendments severely limiting the remedies required by that widely-hailed court decision.

The AFL–CIO, in summary, urges you to support S. 1539 as reported by the committee and without crippling amendments.

Sincerely,

ANDREW J. BIEMILLER,
Director.

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

The PRESIDING OFFICER (Mr. HELMS). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOMINICK. 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. DOMINICK. Mr. President, today we begin consideration of S. 1539, the Elementary and Secondary Education Amendments of 1974. This bill would modify and extend the Elementary and Secondary Education Act of 1965.

This is by far the most comprehensive education bill the Senate has ever considered, and as the ranking minority member of the Education Subcommittee, I am extremely gratified to have played a major role in formulating this although there are a number of provisions which I do not think wise.

Of course, any bill which addresses the needs of some 50 million school children enrolled in elementary and secondary schools cannot totally satisfy everyone. I will speak to what I feel are some positive points in this bill, but I will also comment on those parts which in good conscience I cannot wholeheartedly endorse.

THE NATIONAL READING IMPROVEMENT PROGRAM

One of my deepest concerns in my 12 years in the Senate has been the reading problem which affects so many of our young school children. I have always felt that reading is the key to a good education.

In March of 1973, Senator BEALL and I introduced S. 1318, the Elementary School Reading Emphasis Act of 1973, to improve the instruction of reading in the elementary grades and to make reading a major priority in our schools.

Listening to the facts during the hearings on that bill, I became thoroughly convinced that some action had to be taken to insure that every schoolchild in America suffering from a reading deficiency should be given the help necessary to make him a good reader. The facts were simply overwhelming. For instance, 90 percent of the annual 700,000 elementary and secondary school dropouts are classified as poor readers. A Harris poll reports that 11 million Americans cannot read well enough to obtain a driver's license. Studies have shown that currently 7 to 10 million schoolchildren are severely deficient in reading and require special reading assistance. In large urban areas, witnesses before the committee testified, it is not unusual to find 40 to 50 percent of the schoolchildren reading below grade level.

It is obvious that reading is fundamental to a proper education. If our children cannot read, how can they be expected to learn geography, math, or any other subject? Therefore, I was very pleased when many of the provisions of S. 1318 were incorporated into S. 1539 in title VII, the national reading improvement program. The program is authorized to receive over $170 million by fiscal year 1978 to help the States and local educational agencies to eliminate reading deficiencies.

Funds would be available to the Commissioner of Education to contract for reading demonstration projects which would utilize trained reading specialists to supplement normal classroom instruction in schools having large numbers or a high concentration of children with reading difficulties. These projects would stress local initiative by involving parents, teachers, students, and administrators in the planning stages. No single approach to reading instruction is mandated to the localities, and bilingual methods are encouraged where appropriate.

Special emphasis projects would be started to provide schoolwide instruction by reading specialists and to provide vacation reading programs to prevent the loss over the summer of any reading progress made during the academic year.

Grants would be made to institutions of higher learning for improved graduate and undergraduate training of reading instructors. The use of television will be encouraged as a means of training needed reading specialists.

In order to coordinate all Federal reading efforts, title VII would create the Office for the improvement of reading programs in the Office of Education. In addition, $10 million is authorized for the establishment of a Reading Improvement Laboratory under the direction of the National Institute of Education to conduct the research necessary to improve reading instruction. In addition, States would be given funds in order to upgrade their standards for reading certification requirements.

I cannot stress enough the importance of this reading program to the education of our youth and to their eventual success in adult life.

I would interpolate here, Mr. President, by saying I was told, and I hope it is not true, that one of Colorado's high schools graduated a class in which 80 percent of its students could not read or write, at the national average level. I cannot believe that is true, and I have not been able to verify it, but assuming it is true, even to the extent of 30 percent, it is just ridiculous for anybody to be graduating from high school who was incapable of reading and inadequate in writing.

SPECIAL INCENTIVE GRANTS TO THE STATES

Some States consistently contribute a relatively large part of their tax effort to financing education, and I have always felt that the Federal Government should recognize the burden which the citizens of those States carry by providing extra grants to those areas. This is why I originally sponsored part B of title I, special incentive grants to the States.

Due to rises in the cost of living since 1967 when part B became effective, and due to the increasing costs of education, I felt that it was necessary to include in the committee bill an increase in the amount given to the States in order to preserve the original intent of the incentive grants.

Since 1967, the consumer price index has risen over 34 percent, and thus the States are effectively receiving less incentive now to finance their education than they did in the past. The Office of Education reports that total public expenditures on elementary and secondary education have risen over 57 percent since 1967, and the national average per-pupil expenditure has risen 54 percent. This means that the costs of education have increased more than 50 percent while the buying power of a 1967 dollar has decreased about 30 percent.

I have included a measure in the current bill which will increase the basis for awarding incentive grants to compensate for the increasing costs that all States are facing.

I want to express my thanks to Roy Millenson, our counsel, who brought this to my attention. With his aid and effort, we got the committee to agree to it.

At present, grants are given to those States who exceed the national effort index in their financing of elementary and secondary education. For each one-hundredth of a percent by which a State surpasses the national effort index, it may receive a maximum of $1 per eligible title I student, but no State may receive more than 15 percent of the funds available. Last year, approximately $18 million were appropriated to part B.

Under S. 1539, the basis for the grant would be increased from $1 to $1.50 for each eligible title I child. This 50 percent increase should offset the rising costs and restore an adequate incentive to States.

BILINGUAL EDUCATION

Mr. President, my commitment to providing a quality education to all children regardless of their national origin has always led me to work for educational programs which would serve the special needs of those children of limited English-speaking ability. No child should be denied a proper education due to his cultural background, and that is why I have continued to work during this session of Congress on the many aspects of bilingual education contained in S. 1539.

Bilingual education fosters an equal facility for a child to use English as well as his native language. It also encourages self-esteem and pride in his cultural origin. In addition, the Supreme Court has found that programs, such as bilingual education are necessary to insure equal educational opportunity to students whose native language is other than English.

In Lau against Nichols, the Court found that "where inability to speak and understand the English language excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students."

This can be done, obviously, either by special training in the language which is being taught or by bilingual education, which is far more readily accessible to most people.

The provisions of S. 1539 certainly represent a major Federal effort to help State and local educational agencies meet the special educational needs of the millions of bilingual students who might otherwise be deprived of the opportunity to benefit adequately from their schooling. Many approaches to providing bilingual education are set forth in this bill.

Federal coordination of bilingual education will be increased with the establishment of the Bureau of Bilingual Education, and demonstration projects will provide a comprehensive range of

support activities. An expanded program for the training of bilingual counselors, paraprofessors, teachers and administrators has been formulated, and the National Institute of Education has been mandated to conduct relevant bilingual and bicultural research.

While most of these activities are concentrated on the elementary grades, there are also special provisions for preschool, secondary and post-secondary students. For example, I introduced into the committee bill an amendment which would add a new part J, entitled "Bilingual Vocational Training," to the Vocational Education Act.

This bilingual vocational training is designed to give necessary vocational skills to persons of limited English-speaking ability who have left school. It is envisioned that the participants in these programs will be encouraged to make full use of their cultural experiences rather than suppress them.

The problem of inadequate vocational training for groups of limited English-speaking ability is highlighted by low income, high dropout rates, and high unemployment rates. In the Southwest, for example, the median income of Spanish-speaking families is nearly $3,000 below the national average. The dropout rate in the Southwest is 40 percent for Spanish-speaking youths, and this situation has resulted in a high rate of unemployment. Similar conditions exist in other parts of the country for other groups hampered by their limitations in speaking English.

My amendment applies specifically to dropouts and secondary school graduates who are unemployed or underemployed. The authorizations would increase from $40 million in fiscal year 1975 to $80 million over a 3-year period.

Sixty-five percent of the funding is allotted for grants and contracts to State and local educational agencies, post-secondary and private vocational training institutions, and other nonprofit agencies to provide bilingual vocational training. One quarter of the funds are reserved for the training of teachers and ancillary personnel, such as counselors, and 10 percent will be devoted to the development of instructional materials and methods.

Mr. President, I am confident that with the passage of these various bilingual programs many Americans will receive the type of education that will benefit them the most and greatly increase their contributions to society in general.

Mr. President, insofar as bilingual training and education refers to Spanish-speaking people, I have consulted with the people in SER and have asked them what they think about it. SER has spent a great deal of time and effort, and has been very successful in training Spanish-speaking people for jobs. SER is highly enthusiastic about this project. SER has done outstanding work itself, and is considered expert in this area.

Although I have been speaking about programs in the bill that I think are quite good, I must express some reservations, as I mentioned earlier, about certain sections of the bill.

THE PROPOSED CONSOLIDATION

As I have stated in my additional views to the committee report, and as is also stated in the supplemental views of the minority members, the so-called State program consolidation contained in section 402 is virtually no consolidation at all. The intent of consolidation is to allow the local educational agencies more flexibility in allocating Federal funds in order to suit the particular needs of their school district.

Currently, many districts are forced to spend the money for which they are eligible in areas which do not represent their greatest need, while they are not able to obtain additional money in their areas of greatest priority. By consolidating several categorical programs, a school district could determine its own spending priorities.

Section 402 of the current bill, however, would allow only 50 percent of the dollars above 100 percent of the dollars appropriated in specified prior years for each of the programs to be consolidated. At a minimum, it would seem preferable to consolidate all of the dollars above the 100 percent appropriation level so as to achieve a more adequate consolidation plan and to avoid further complications in the grantmaking process.

MORE BUREAUCRACIES

A letter from Secretary Weinberger to the chairman of the Labor and Public Welfare Committee has protested the creation of at least 14 new bureaucracies within the Government. I feel that the Secretary has made a valid observation.

At a time when the Federal Government is already cumbersome, it is difficult for many people to comprehend the need for more administrative structures. I would have to support the Secretary's contention that we should be attempting to streamline the education bureaucracy rather than expand it. The Federal bureaucracy is already exerting what I believe to be too great a control over the activities of local schools, and increasing the size of the bureaucracy is only inviting more Federal control at the expense of local initiative. The key to improving our educational system does not rest in the heart of a highly centralized Washington office, but rather in the dedicated and hard-working initiative of thousands of local school districts across the country.

THE BUSING OF SCHOOLCHILDREN

Mr. President, the last title of this bill, title VIII, addresses itself to the problems faced by many communities who are implementing plans to achieve racial desegregation. A large component of these plans involve the busing of schoolchildren considerable distances from their homes and certainly far from their neighborhood school. Title VIII, for the most part, is simply a restatement of law that has already been enacted. It will provide no relief to any school district whose entire educational process is being disrupted by forced busing. I believe it is time for the Senate to take some action in specifying the guidelines that should be used to bring about integrated school systems.

I have always taken a strong public position against forced busing of schoolchildren to achieve desegregation. I believe that education should take place in neighborhood schools where family and community involvement can be emphasized. After all, education has always been, both traditionally and constitutionally, a matter of local concern. Assigning children to schools on the basis of race, whether to achieve segregation or integration, seems equally discriminatory to the fundamental rights of all Americans.

Court-ordered busing is a poor substitute for confronting the problem of equal education for American youth. A recent Gallup poll shows the intensity with which the American people oppose the transportation of their children. Of a list of possible remedies to achieve economic and racial integration in public schools, only 5 percent of those polled selected busing as an appropriate way to bring about integration. Given this finding that 95 percent of the American people do not support busing, it is not surprising that Supreme Court Justice Lewis Powell has termed busing "the single most disruptive element in education today."

Mr. President, I believe that forced busing takes away from the American people the basic right to control the education of their children. Parents no longer dictate policy but the courts. The real issue should be upgrading the quality of education. Studies indicate that the academic achievement of students involved in forced busing has not increased as a result of their attending schools outside of their neighborhood. In fact, there are definite indications that busing has strained racial tensions by creating bitterness and polarization in many communities. Only by encouraging local school districts to chart their own course can the American Government hope to develop the kind of grassroots initiative that is necessary for improving the quality of our Nation's schools.

Mr. President, departing from my prepared speech, I want to add one more thing, and that is on the title I formula. We have been, for a period of years, trying to determine how we are going to allocate the money under title I between the States. I am concerned that under the title I formula in S. 1539, the States which are growing rapidly like my own are being penalized, and those States which are losing title I children from their school districts are, in effect, being held harmless from any decrease in the amount of money they will receive in future years.

This does not make sense to me. I have not proposed any particular program by way of a printed amendment, but I understand that the Senator from Arkansas (Mr. McCLELLAN) is thinking of one, and I am sure that we will have a very solid discussion, which may become heated at times, over this particular issue as well as on the busing issue, which I am sure will also be heated.

I want to state at this time the admiration I have for the chairman of the committee. This has been a very difficult bill. He has been very cooperative with all Members, and I sincerely appreciate it.

Mr. PELL. Mr. President, I thank my colleague very much.

Mr. JAVITS. Mr. President, I rise in support of the pending bill, Education Amendments of 1974, S. 1539. The Committee on Labor and Public Welfare, worked diligently over many months to produce this measure whose eight titles cover the spectrum of elementary and secondary education programs as well as adult education, administration and organization of the Federal education establishment, and some miscellaneous programs in other education fields.

This bill enjoyed the support of all the minority members of the committee, as is indicated in the Supplemental Views signed by these members commencing on page 571 of the report. This is also a bipartisan measure composed of provisions contributed by minority members as well as those of the majority; these minority contributions are spelled out in the Supplemental Views on page 572 of the report.

I would be remiss if I did not point out that much credit for this measure must go to our Education Subcommittee chairman, Mr. PELL, without whose patience and diligence this legislation would not have been developed; the chairman of the full committee, Mr. WILLIAMS, who in addition to furnishing leadership also was responsible for key provisions in the bill; and my colleague, the ranking minority member of the Education Subcommittee, Mr. DOMINICK, who has contributed much to the bill now before us.

Mr. President, as the report discusses the bill in detail it serves no constructive purpose for me to reiterate here what is so well described throughout the report. However, there are several particular provisions to which I should like to make special reference.

TITLE I, ESEA

The principal program of Federal support for elementary and secondary education is title I of the Elementary and Secondary Education Act—ESEA—for which $1.8 billion was appropriated for the current fiscal year. Title I contains three parts. Part A, the basic grant program, provides funds for State educational agency facilities for handicapped, delinquent and migratory labor children and for State administration. But this is only a very minor part of part A. Close to 85 percent of title I–A funds go to local educational agencies—LEA's—channeled through the States, for programs for disadvantaged children.

Last year there were in effect four formulas for title I–A, as follows: First, the formula prescribed by the authorizing legislation which stipulates that no locality will receive less than it received in 1967. This 100-percent, hold-harmless provision was added to the authorizing law in 1967. Second, the first continuing resolution, Public Law 93–52, adopted July 1, provided a 100-percent State hold-harmless based on fiscal year 1972 allocations. Third, the second continuing resolution, Public Law 93–124, adopted October 16, 1973, provided for a 90-percent, State hold-harmless against fiscal year 1972 and added a 90- to 115-percent local hold-harmless against fiscal year 1973. Finally, the Labor-HEW appropriation bill, adopted December 18, 1973, provided a 100- to 120-percent, State hold-harmless against fiscal year 1973 and a 90-percent, local hold-harmless against fiscal yar 1973.

Clearly, it was deemed incumbent upon the Congress to adopt a new formula in the authorizing legislation which would not be subject to a round of changes each year and which would stand up against shifting statistics of population and AFDC coverage, statistics which alter allocations because they are not always accurate or up to date. The principal example of this is the shift from the 1960 to the 1970 census. School districts must have some basis on which to make plans, by which they may let contracts for teachers, for equipment, and for services, and an unstable title I allocation, subject to late funding since its inception in 1965, makes this impossible.

Hence, the committee, by a unanimous rollcall vote and, after much debate, adopted the formula at hand.

Like most hotly debated propositions a compromise resulted. And, like most compromises, the final result was not entirely to my liking. But, I believe it is a fair and equitable compromise under the circumstances and therefore, I support it. I should like to have retained the present law in terms of the benefits to my own State of New York, for New York State will receive 18.6 percent less funds under the S. 1539 title I–A formula than it would under present law without floors or ceilings. Of course, on the other hand, other States benefit by the S. 1539 formula. Arkansas, for example, gets 94.7 percent more than it would under present law. But that is the nature of a compromise and I hope that it will not only be sustained here in the Senate, but also in conference.

Naturally, I should like to see a bigger share of these funds for New York State, which ranks 38th in the country in the percent of revenue for public elementary and secondary schools from the Federal Government. As a matter of fact, 15 States receive more than twice the Federal share received by New York. I say this not to stimulate any State rivalry, but rather to clarify the position of New York and other industrial States relative to Federal education funds. I ask unanimous consent that there be included in my remarks at this point a chart from the National Education Association publication, Ranking of the States, 1973, of "Estimated Percent of Federal Revenue for Public Elementary and Secondary Schools from the Federal Government."

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

G–10—Estimated percent of revenue for public elementary and secondary schools from the Federal Government, 1972–73

1.	Mississippi	26.9
2.	New Mexico	18.2
3.	Alabama	17.6
4.	South Carolina	17.3
5.	Alaska	15.9
6.	Kentucky	15.8
7.	North Carolina	15.6
8.	Arkansas	15.3
9.	Louisiana	14.7
10.	Tennessee	13.1
11.	Idaho	12.7
12.	South Dakota	12.7
13.	West Virginia	12.4
14.	Georgia	12.3
15.	North Dakota	11.7
16.	Florida	10.8
17.	Texas	10.7
18.	Oklahoma	10.4
19.	Virginia	10.4
20.	Maine	9.3
21.	Utah	9.1
22.	Rhode Island	8.9
23.	Washington	8.7
24.	Montana	8.5
25.	Missouri	8.3
26.	Hawaii	8.0
27.	Kansas	8.0
28.	Wyoming	7.9
29.	Colorado	7.7
30.	Arizona	7.4
31.	Delaware	7.3
32.	Maryland	6.9
33.	California	6.8
34.	Nebraska	6.7
35.	Pennsylvania	6.3
36.	Illinois	6.2
37.	Vermont	6.1
38.	New York	6.0
39.	Nevada	5.9
40.	Ohio	5.7
41.	Massachusetts	5.2
42.	Indiana	5.0
43.	New Jersey	4.7
44.	Minnesota	4.5
45.	Oregon	4.5
46.	New Hampshire	4.1
47.	Michigan	3.8
48.	Wisconsin	3.8
49.	Iowa	3.7
50.	Connecticut	3.1
	United States	7.7

Mr. JAVITS. Mr. President, the fact that the formula for part A of title I occupies center stage in terms of order of magnitude should not be permitted to overshadow the changes made to parts B and C of title I, both of which are continued. Part B, known as the State incentive grant program, provides funds—with an appropriation limit of $75 million—to States based on their education effort. It benefits those States where the ratio of educational expenditures to total income exceeds the national effort ratio. This part, which is known in our committee as the Dominick amendment after the senior Senator from Colorado who sponsored its original inclusion in the law, has been updated in recognition of inflation. It benefits low-income as well as high-income States. For example, major beneficiaries, it is estimated, for fiscal year 1975 will include Louisiana, the highest concentrations of poverty children—has also been strengthened Maine, Michigan, New Jersey, Oregon, Washington, Wisconsin, and Wyoming.

Part C—special grants for areas with and I invite the attention of my colleagues to the detailed description of this

provision—complete with charts—by our subcommittee chairman, Mr. PELL, on April 25, found on pages 11848–50 of the CONGRESSIONAL RECORD of that day. This provision benefits all types of communities throughout all parts of the Nation.

I stress these two latter parts, B and C, not only because they had their origins in law through amendments by my colleagues of the minority, but because the House bill seeks to delete them and it is my understanding that an effort may be undertaken in the Senate to do likewise. I hope my colleagues will examine these provisions most carefully before considering such a move.

ADULT EDUCATION

As the author of the Adult Education Act, now law, I am particularly pleased that this statute is being both extended and expanded. Among the new provisions are those stipulating that up to 25 percent of the funds appropriated may be used for high school equivalency programs, providing new emphasis for programs for adults in institutions and to adult programs in community schools, and establishing a National Clearinghouse on Adult Education.

There are some 57 million adult Americans over 16, not enrolled in school, who have not completed their secondary education. These adults are the forgotten millions of American education. We can be no less concerned with their education than we are with the education of our children. As we seek to make available broader and better educational programs for our youth, we cannot falter in our responsibility toward those adults who, through no fault of their own, were unable to obtain the minimum of a high school education. The completion of a secondary education is the minimum level of educational attainment deemed acceptable in today's complex and demanding society.

NEW PROGRAMS

Title IV of S. 1539 contains three broad consolidations—administrative, State formula programs, and discretionary programs. I should like to refer now specifically to the latter of these consolidations, that of programs administered by the Commissioner of Education wherein funds are distributed at his discretion under the statute rather than by a fixed statutory allocation formula. These programs do not individually involve enough funds to warrant the traditional State allocation formula or do not lend themselves to that design.

This consolidation of discretionary programs, authorized at $200 million and found in section 403 of the bill, is known as the Special Project Act. It contains a unique provision for the following seven new categorical programs; metric education (section 404); gifted and talented children (section 405); community schools (section 406); career education (section 407); consumers education (section 408); women's educational equity (section 409); and arts education (section 410). A 50-percent set-aside is provided for these programs which, for an incubator period of 4 years, would remain inside the shelter of this set-aside. After this period, when the programs will have had an opportunity to become established and prove their worth, they would be moved from the set-aside incubator shelter to the consolidated area with the other established programs consolidated into the Special Projects Act. This device gives the Congress an opportunity to establish new areas of priority from time to time and also assures that the advantages of consolidation will not be eroded by the continuing establishment and perpetuation of additional new and separate categorical programs.

GIFTED AND TALENTED CHILDREN

Among the new programs to which I have referred is that one contained in section 405 for gifted and talented children who, it has been observed, are perhaps the most neglected minority in American education today. This untapped reservoir of talent is not confined to one group in our country or any one type of neighborhood but includes youngsters from every variety of background.

Systematic efforts must be made to identify, nurture, and cultivate the demonstrated and potential talent existing in every walk of American life. In addition to society's obligation to provide every individual with access to self-fulfillment, a society has a very real obligation to itself to assure its own health and survival and the continuing development of its greatest resource—the capabilities of its people. This is the object of the programs contained in section 405 for grants for education programs for the gifted and talented, for training of personnel for their education, and for a National Clearinghouse on the Gifted and Talented as well as for additional needed research in the area of education of gifted and talented children.

BUSING

The Education Amendments of 1972—Public Law 92–318—has been described as the most significant higher education law since the Morrill Act, the land-grant college law enacted in the last century during the administration of President Lincoln. Yet, newspapers, all throughout the country headlined its passage in the Senate with announcements that "Busing Bill Passes Senate" because that measure included as one of its nine titles a title dealing with the busing of schoolchildren. I hope that this will not be the fate of the well-crafted education bill now before us.

Some 40 percent of our schoolchildren travel by schoolbus every day. Less than 5 percent of this 40 percent travel in buses for purposes of integration or racial balance. That means that less than 3 percent of all schoolchildren are so involved. Yet, the Senate once again may involve itself on this issue in days of debate, more than any other section of the bill.

I hope that we can preserve some perspective on this subject and that in seeking to resolve the busing issue the Constitution will not be under assault or amendments offered which would be counter to its provisions. In the essay by Charles Lamb, "Recipe for Roast Pig," we are told of a primitive tribe which burned down a hut to roast a pig. Let us not risk putting the torch to this bill to resolve the busing question.

I shall discuss this issue later as we consider the amendments.

CONCLUSION

The committee bill is a good bill. It merits passage. I support it, as did my minority colleagues in the committee, and urge its passage.

Mr. WILLIAMS. Mr. President, one of the great and most important principles upon which this Nation was founded is the need to advance the education of the American people. Every one of our leaders since the establishment of the United States has stressed education as a vital national priority. Today, we are beginning Senate debate on S. 1539, the Education Amendments of 1974, a bill which is specifically tailored to continue and strengthen the Federal commitment to this country's educational system.

S. 1539 relates primarily to elementary and secondary education programs operated through the Education Division of the Department of Health, Education, and Welfare. These provisions have been written based upon 18 days of hearings held by the Labor and Public Welfare Committee on this and related bills before it. It is the product of more than a year of hard work by every member of the committee after having considered the concerns and views of innumerable individuals, agencies, and organizations who expressed an interest in these programs.

Mr. President, I believe the committee has developed a bill which approaches Federal educational assistance in various different ways combining specificity, flexibility, and responsiveness to the Nation's needs. Thus, let me briefly take some time to summarize major features of S. 1539 for my colleagues.

The bill extends and revises title I of the existing Elementary and Secondary Education Act. Since its inception in 1965, this program has grown to become the major program of Federal aid for elementary and secondary schools. The largest share of funds under this program is provided to local school districts for planning and operating special programs for educationally deprived children. While most of these local efforts have been directed at improving basic reading, writing, and math skills, the title I funds have also been successfully and flexibly used for social science programs to meet health, psychological, and cultural activities as well as for and nutritional needs of children to help them in educational attaiment.

The important change in title I made by the committee relates to the formula for distribution of funds to local education agencies. We have revised this formula to assure that no LEA will receive less for programs for the educationally deprived than it received for that purpose in fiscal year 1974. Of the amounts appropriated above that level, 60 percent will be distributed to LEA's on the basis of their relative number of Orshansky poverty-level children—according to the 1970 census—and 40 percent on their relative share of the total number of children from families receiving AFDC payments.

The purpose of this formula is several-fold. First, the "base year" concept is

adopted to assure a measure of stability for local educators in planning title I programs. The use of the 60-percent Orshansky poverty count and 40-percent AFDC count has been adopted to reflect the most flexible and fair poverty standard which is currently available combined with an updating mechanism to reflect shifts in the population of educationally deprived children. It is my view, therefore, that this important formula change should meet the many problems which have surrounded the title I formula in the past year and will meet the needs of children in every State of this Nation.

In addition to this formula change the committee has also increased the rate of payment for part B of title I which provides special incentive grants to States which exceed the national expenditure effort for education. Also, we have revised the payment formula for part C of title I—special grants to schools serving areas with the highest concentration of children from low-income families—to assure that funds will be more effectively distributed by requiring higher concentration levels.

Finally, with respect to title I, the committee has continued full support of the provisions which provide support for State educational programs for handicapped children, neglected and delinquent children, and migrant children. These programs in present law are required to be fully funded before local school district allocations are made.

I believe that the importance of this program for these target groups has been demonstrated over and over since its inception. These programs have provided impetus to the development of educational programs in institutions for the retarded and emotionally disturbed where none had been available and have shown that even the most severely handicapped child can learn—even if only simple skills such as feeding himself, or other care. In all cases, the State agency programs for the handicapped have affirmed the fact that the individuals receiving these services have the capacity to grow, learn, and develop.

For neglected and delinquent children in State-operated institutions, a wide variety of approaches have been used such as group therapy, reward techniques, and early release. And for migrant children, special services are provided to make up for frequently interrupted schooling, to stress bilingual instruction for those with limited English-speaking ability, and to give vocational and prevocational training so that migrant children will be exposed to other occupational pursuits. Thus, without these important initiatives, hundreds of thousands of our young people with special problems would not be receiving these special services.

Mr. President, another important feature of S. 1539 is the extension of the impact aid program. While we have been told that this Federal assistance is excessive and in some instances unnecessary, I think that we can all attest to the fact of the true impact of the "Federal presence" in various areas of our States. Thus, the committee has chosen to continue this program although we have decided to revise the eligibility rates to more accurately reflect congressionally established payment levels in previously passed appropriations acts. These appropriations levels—and thus the levels set in the bill—have realistically differentiated among the extent of the impact of various types of federally connected children. In addition to this reform, the committee continues to count "public housing children" as federally connected, but alters the current requirement for separate funding by providing that such children would be treated the same as other "B" category students in this program.

Mr. President, there has been a good deal of discussion in the last few years about the need to consolidate and simplify some of our Federal educational programs. There can be no question that we all wish to eliminate as much Federal redtape as possible while at the same time assuring that Federal education dollars are spent for the particular and vital purposes for which they are intended. To respond to this problem, the committee has adopted three separate and significant consolidations in certain program areas.

The first consolidation involves certain administrative requirements and provides for a simplified single State application for Federal funds administered through the State educational agency. Programs covered by this general application would include title I—Education of the Disadvantaged—title II—Textbooks and Library Resources—title III—Innovation—title III of the National Defense Education Act—Equipment—the Adult Education Act, and the Vocational Education Act. When a State wants to participate in a particular program, it submits a single annual program plan which specifies the manner in which Federal funds will be expended for that program in accordance with the authorizing language as well as make a report on the manner in which Federal funds have been expended during the preceding 2 fiscal years.

The second consolidation includes title II—Textbooks and Library Resources—the State share of title III—Innovation—title III of NDEA—Equipment—and title V-B-2 of EPDA—Attracting and Qualifying Teachers. Under the bill, these programs are merged into a single program to assist States in providing supplemental, auxiliary, and supportive services for schoolchildren. This new consolidated program would not go into effect until the appropriations level reaches at least the fiscal year 1972 amount for each of the individual programs being consolidated, and until they have been forward funded. At that time, 50 percent of additional appropriations would be available to States to be spent in their discretion for any of the purposes for which the consolidated program permits.

The third consolidation in the bill is called the Special Projects Act and involves discretionary programs now administered by the Commissioner of Education. These include the Cooperative Research Act, dropout prevention, health and nutrition, correction education, the 15-percent, Commissioner's set-aside from the title III—Innovation—program, and teacher training—other than Teacher's Corps—programs under EPDA.

Under this consolidated program, the Commissioner would be authorized to make contracts for almost any area of educational demonstration and innovation. Limitations on this authority are that authorizing committees would be given the opportunity to disapprove the Commissioner's plans for spending the discretionary funds before appropriations for the consolidated program could be made. And 50 percent of appropriated amounts would be required to be spent on new categorical programs authorized in the bill. These programs include education for the use of the metric system, education of gifted and talented children, consumer's education, career education, and women's educational equity. In addition, included in these new categorical programs is the important initiative providing support for the development of community schools which Senator CHURCH and I have sponsored in the Senate.

Community school programs and community education expands the concept of the traditional school—a learning center primarily for young people in kindergarten through 12th grade, operating 6 hours a day, 5 days a week—into a community development center providing opportunities to all segments of the population. These schools work in partnership with other groups in the community to offer recreational, educational, social, cultural, and a variety of other services. This is a concept which began in Flint, Mich., in the 1930's with the support of the C. S. Mott Foundation and since that time some 3,600 community schools have been developed in 600 school districts across the country. Unfortunately, many of these programs have struggled because of inadequate funding and numerous communities have not launched community education programs because there have been no sources of funds to sustain such an operation. Thus, the creation of this federally supported effort would encourage continued expansion and development of these exciting endeavors.

Mr. President, these are only some of the important features of S. 1539. In addition, the bill includes a strengthening of the National Center for Education Statistics and authorization for the President to convene a White House Conference on Education in 1977. Also included is the incorporation of the extension of the Education for the Handicapped Act which passed the Senate in the last session as S. 896. The extension is being incorporated into this bill because similar provisions were added to the House version of the Elementary and Secondary Act amendments. Of special note in these provisions, are further State planning requirements which are designed to move the States closer to fulfilling their obligations to seek out, identify, and serve the educational needs of handicapped children. Specifically, these sections mandate that each State establish a goal for providing full edu-

cational opportunity for all handicapped children and that they set forth detailed plans of the policies and procedures which will be undertaken to assure that all handicapped children residing in the State are identified, located, and evaluated. Additionally, it is required that the States provide assurances that they have established a goal for providing full training and educational opportunities for all handicapped children together with a timetable for accomplishing this goal and a description of additional facilities, personnel, and services necessary to meet such goal on a statewide basis.

I should point out, also, that the legislation incorporates major new thrusts to improve bilingual education placing greater emphasis on teacher training and the training of other educational personnel participating in bilingual programs. And the bill authorizes a national reading program which includes reading improvement demonstration projects, special emphasis projects, reading training on public television, and grants for institutions of higher education related to reading programs.

Finally, the bill addresses itself forthrightly and sensibly to the problem of school desegregation. It extends through fiscal year 1976, the period during which the existing authorization of $1 billion may be fully appropriated under the Emergency School Aid Act. This proposed extension is because it was the committee's feeling that the purpose of the legislation has not yet been fulfilled despite the administration's sudden announcement that the "emergency" is now over. I am convinced that many of the efforts undertaken through this nationwide program have been successful in dealing with the human problems arising from desegregation or reduction of racial isolation and should be continued for the near future.

In addition to this program, the committee also felt it wise to continue the operation of the provisions in existing law relating to the assignment or transportation of students to overcome racial imbalance. All of these existing provisions are left unchanged with the exception of the so-called Broomfield amendment relating to courts appeals. The expiration of this section has been changed from January 1, 1974, to June 30, 1978.

It is my hope that all of these provisions relating to school desegregation will be adopted as they have been reported from the committee—without change. To do otherwise will, I think, reopen some painful wounds which have been well on the way to being healed and which have worked for the past 2 years.

Much of this success has been due to the patience, understanding, and sense of justice of the American people and we should permit that spirit of basic unity to continue.

Mr. President, during the past weeks, there has been some criticism of the Senate bill by the President and members of his administration. Indeed, after a meeting with the President in February, of Health, Education, and Welfare quoted him as accusing the Labor and Public Welfare Committee of acting "irresponsibly" on education legislation. I would have been surprised by this unwarranted attack, but unfortunately, it is the kind of rhetoric—having little relationship to reality—that has characterized this administration for the past 5 years.

I have no hesitation in saying that the measure before us now represents an amalgam of the best thinking in the country on education matters. It builds upon the experience gained in a decade of Federal aid to education by retaining those features which have proved their value, changing those requiring change, and incorporating new ideas where they are needed. The legislation is an excellent effort which has the enthusiastic bipartisan support of all the members of the Labor Committee.

As the President said in his state of the Union message:

> One goal on which all Americans agree is that our children should have the very best education this great Nation can provide.

That, Mr. President, is the goal which S. 1539 seeks to achieve.

Mr. BEALL. Mr. President, at this time I want to address myself to title VII, the national reading improvement program.

This title combines S. 1318, which I introduced and S. 2069, which was introduced by Senator EAGLETON and would authorize a 4-year, $469 million accelerated attack on what I have labeled the "Achilles' Heel" of American education—the large number or high concentration of children in some schools with severe reading difficulties.

The education-limiting and career-crippling handicap of the inability to read is so big and its solution so important that it demands a concentrated attack, and I believe that the reading improvement program can and will make a substantial difference.

The reading effort authorizes two types of demonstration projects, the reading improvement demonstration projects and the special emphasis projects. Under the former, Federal assistance would be available for projects conceived by States or local education agencies. Under the special emphasis projects, Federal assistance would be available for school districts to carry out a specific demonstration designed to determine the effectiveness of intensive instruction by reading specialists and the reading teachers—the regular classroom teacher with upgraded skills.

Reading emphasis projects must provide for:

First, instruction for all students in grades one and two by a reading specialist for one period daily and similar instruction for students in grades three through six who are experiencing reading difficulties; and

Second, an intensive vacation reading program for elementary children who are having reading problems.

Other provisions of the reading program would:

First, authorize the development of a course and a study guide in reading to be shown over public television for use by teachers and parents;

Second, provide grants to institutes of higher education to strengthen and improve undergraduate and graduate instruction in the teaching of reading;

Third, direct the National Institute of Education to accelerate research in reading and to establish a reading improvement laboratory.

Fourth, provide grants to States for the review and upgrading of State certification requirements;

Fifth, create a Presidential Award for Reading Achievement to motivate elementary pupils to develop better reading skills, and

Sixth, establish an Office for Improvement of Reading in the Office of Education.

Cosponsoring S. 1318 with me were Senators DOMINICK, DOMENICI, MONTOYA, and PASTORE. I am grateful for their help and support on this measure.

The alarming statistics reveal the magnitude of the reading problem. It is estimated:

That some 18½ million adults are functional illiterates;

That some 7 million elementary and secondary children are in severe need of special reading assistance;

That in large urban areas, 40 to 50 percent of its children are reading below grade level;

That 90 percent of the 700,000 students who drop out of school annually are classified as poor readers; and

That massive reading difficulties revealed in those statistics have been confirmed by surveys of teachers and principals alike.

The Office of Education in 1969 surveyed 33,000 title I elementary schools in over 9,200 school districts across the country. Two hundred and sixteen thousand teachers were asked to supply data on approximately 6 million pupils in grades 2, 4, and 6. These teachers judged reading the greatest area of need and they estimated that approximately 2.5 million pupils, or 48 percent of the enrollment in these grades, showed evidence of a critical need for compensatory programs in reading. This data indicated that 22 percent of the urban schools had 70 to 100 percent of their pupils reading 1 year below grade level.

Similarly, a survey of principals representing elementary school populations of approximately 20 million and a secondary school population of 17.8 million was taken seeking their estimate of the reading problem. These responses were analyzed by Carol Ann Dwyer of the Education Testing Services, Berkeley, Calif., and she found that the principals identified some 4.7 million pupils with reading problems in the elementary grades, and 2.7 million in the secondary grades.

Alarmingly, 37 percent of the elementary pupils and 46 percent of the secondary pupils with reading problems were reported to be receiving no special assistance in the instruction of reading.

The Department of Education in my State last year released the results of its survey of 11,000 citizens on the most important goal for Maryland schools. The survey found that "the people of Maryland believe that the mastering of reading skills is the most important education goal for the schools of the State."

Over and over again, parents, the gen-

eral public, and the press across the Nation have expressed concern with poor student performance in the fundamental reading areas.

After I introduced this measure, an individual from Texas sent me a copy of the Dallas Morning News of June 24, 1973, which did a story on "Illiterate Graduates Face Literate World." I want to read into the RECORD the first two paragraphs from this article:

At commencement exercises throughout the city recently, anywhere from 500 to 1,000 of Dallas' 9,000 graduating seniors, according to official estimates, walked across stages to be handed diplomas they could not read.

Barely able to read, many will wind up with poor jobs or no jobs at all.

Still in school, youngsters who are either unable to read at all or read only at the most elementary level can be found in almost every one of Dallas' 43 secondary schools.

Dallas School Superintendent Nolan Estes has estimated more than 20,000 of the public school system's 70,000 secondary students read at least two or more years below grade level.

On May 4 the Washington Post headline read "Reading Tests Show Widespread Illiteracy." The Post was reporting on a new Government report showing that about 1 million American youths between the ages of 12 and 17 are unable to read as well as the average fourth grader and can thus be called illiterate. Dr. Holloway, director of the right to read program, called this report "alarming and discouraging." I ask unanimous consent that this article be printed at the end of my remarks.

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

READING TESTS SHOW WIDESPREAD ILLITERACY

(By Eric Wentworth)

About one million American youths 12 to 17 cannot read as well as the average fourth grader and can thus be called illiterate, according to a new government report.

Reading test scores were worse among blacks than whites, boys than girls, and youngsters from low-income families with less-educated parents than those from more fortunate backgrounds, the report showed.

The report, released by the National Center for Health Statistics, provided new evidence that the United States has a serious literacy problem despite the more than $40 billion spent yearly on public school operations.

The report's findings were based on brief literacy tests administered to a selected sample of 6,768 youths from 1966 through 1970.

The tests were part of the national center's health examination survey, a major quest for data on Americans' physical and mental health. Later reports will explore links between illiteracy and health problems.

The sampled pupils were asked to read seven short paragraphs of 40 to 50 words and answer three multiple-choice questions on each. They were considered literate if they could give correct answers for four of the paragraphs.

One paragraph read: "It was spring. The young boy breathed the warm air, threw off his shoes, and began to run. His arms swung. His feet hit sharply and evenly against the ground. At last he felt free." The questions concerned the season of the year, what the boy was doing, and how he felt.

The 12-to-17-year-olds whose scores fell below what could be expected from the average child beginning fourth grade were considered illiterate. Fourth-graders are normally 9 years old.

After analyzing the test results, survey officials estimated that 4.8 per cent of the nation's nearly 23 million youths in the 12–17 age bracket, extending all the way through high school grade levels, can be termed illiterate. That would amount to about 1 million young Americans.

More specifically, the report showed:

Among black youths as a whole, the illiteracy rate is 15 per cent. For white youths, it is 3.2 per cent.

For males of both races, the rate is 6.7 per cent, while for females it is 2.8 per cent.

For black males alone, the rate is a dramatic 20.5 per cent, or one in five. On the other hand for white females alone, it is 1.7 per cent, or less than one in 50.

The report also showed, as might be expected, that illiteracy rates are highest among youths whose families rank at the poverty level, and decline as income levels rise, still, at least some youths from families with $15,000-plus income flunk the literacy test.

Similarly, young people are most often illiterate when their parents have had little education, according to the report's findings. Among black youths from families headed by someone who had no formal education at all, for example, more than 50 per cent are illiterate.

On the other hand, some illiteracy is also found among the offspring of white college-educated parents.

"Alarming and discouraging" was how Ruth Love Holloway, director of the U.S. Office of Education's "right to read" program, viewed the report.

OE's "Right to read" program, first announced in 1969 by the late James E. Allen, Jr. who was then U.S. education commissioner, has been sponsoring a number of innovative reading programs and disseminates information about those that prove successful.

Mr. BEALL. Mr. President, this kind of frustration, as I pointed out when I introduced the bill last March, resulted in a lawsuit by a teenager in California who is suing the San Francisco school district and the State of California for $1 million for graduating him from high school without learning to read. I ask unanimous consent that articles on this case be printed at the end of my remarks.

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

(See exhibit 1.)

Mr. BEALL. This concern is evidenced by the suggestion of Dr. Kenneth Clark that all subjects be suspended in the ghetto school for a year and that all such time be spent on bringing the children's reading up to grade level.

Mr. President, I am convinced that the disenchantment in our schools, to a large degree, has to do with the inadequate performance in the reading area. This is not to say that schools do not do a good job with the large majority of our young people. They do, but a technological society like ours where only 5 percent of the jobs are unskilled cannot tolerate massive reading problems such as I have just described. Welfare rolls, to mention one social cost, will increase unless we do a better pob of teaching such youngsters to read.

The President has recognized the importance of reading by establishing the "right-to-read" program, which is charged with the responsibility of eliminating functional illiteracy by 1980. Under the able direction of Dr. Ruth Holloway, the right-to-read program is doing some extremely interesting and constructive work.

I will now proceed to discuss the special emphasis projects in some detail.

READING PROBLEMS—A PREVENTIVE APPROACH

The primary focus of the entire bill, as well as the special emphasis projects, is preventive. I believe that it is essential that we not only focus on reading problems, but also that we zero-in on the elementary years. I believe that prevention is more effective both in terms of education results and cost effectiveness than subsequent remedial efforts.

The special emphasis projects thus call for the teaching of reading to all elementary children in grades 1 through 2 by reading specialists. This is the real preventive aspect of the program and it is aimed at preventing reading problems from developing. It is designed to get all children off to a good start in reading.

In title I schools we know that reading retardation becomes greater with each successive year. I have talked with many teachers about the reading problem and, almost without exception, they advise me that it becomes increasingly more difficult, some say almost impossible, to remedy reading difficulties the longer we wait.

For grades 3 and above, the reading specialist would only be utilized for those children who are not reading at grade level or who are experiencing reading problems.

Also, an important responsibility of a reading specialist would be to administer or supervise the administering of the necessary diagnostic and screening tests to identify pupils who, for whatever reason, are having problems in reading.

VACATION READING OPTION

At the first sign that a child is falling behind in reading, there would be made available the option of attending a summer or vacation intensified reading program, again employing reading specialists.

Mr. President, the Nation through the Elementary and Secondary Education Act and other programs, has attempted to improve the education of disadvantaged youngsters.

Certainly that act has helped to identify and spotlight the massive education deficiencies of some of our schools. Unfortunately, we have not achieved the results to date that we have hoped for, although we have learned a great deal from our experiences. For example, we have found that we cannot spread the money among all of our schools and expect results; instead, we have found that better results are achieved when we concentrate such resources.

Also, districts that have emphasized academic programs have in general had better results. As a recent title I evaluation noted:

Apparently there has been an over-allocation of supporting services and an under-allocation of academic services in Title I since the program's inception.

Headstart is another program which I strongly support. Interestingly enough, both in title I and the Headstart program "gains" that were produced often

disappear. A study by Mr. Donald Hayes, of Cornell University, and Judith Grether, of the Urban Institute, indicated that the reading deficiency of disadvantaged children may be traced in part to the adverse impact of the summer vacation period.

These researchers found:

Much of the difference between white and nonwhite can be traced to differential progress in reading and word knowledge during nonschool periods . . . put another way, the four summers between second and sixth grades produce a reading differential almost equal to the effects of five academic years. Month for month in 1965–66 the ghetto students were progressing at a rate 16 times as great during school as out of school. The upper-middle class student progressed at 3.5—4 times the rate *in* school as *out*. Students in all sets appear to learn while in school—it is when they are out of school that the important differentials appear. While *in* school the relatively rich white school children do barely better than the ghetto schoolchildren (1.3 times as much progress per month in 1965–66) but during the summer the relatively rich whites progress 6 times the rate of nonwhites.

This study, while certainly not conclusive, does add support to the summer school component of my proposal. Perhaps the study may help to explain the "loss" during summer vacation periods of "gains" realized in some of our compensatory education programs.

In the last Congress during hearings on equal educational opportunities, in a response to a question about my reading proposal, Mr. James F. O'Neil, of the State Board of Education for the State of Michigan responded:

I particularly believe that the proposal to provide summer reading programs would be important, for this reason. Again, this latest study indicates that in the opinion of the report, that many children in the low socioeconomic areas, lose more than others during the summer months, because of the social and economic advantages and the motivation in the homes. Therefore, it would seem that having funds for the summer program would be particularly important to overcome such a slippage as that and to determine, if this is occurring, whether such programs would prevent it. That particular aspect is something I would wholeheartedly support.

For elementary grades 3 and above, reading would be taught by a specialist only for those children who are not performing at grade level. Also, these children would continue to have available the summer school program.

The special emphasis projects then seek to prevent reading problems from developing, to identify them immediately when they do, and to provide for prompt remediation once such problems are identified.

At this point, I want to strongly emphasize that this proposal is not meant to, nor will it, minimize or downgrade the role of the regular elementary classroom teachers in reading. The reading specialists employed in this program will serve to introduce specialization and intensification of reading instruction to all children in project schools, but the classroom teacher will continue to carry out his or her reading responsibilities, although obviously there would be coordination between the classroom teacher and the reading specialist.

SPECIALIZATION IN READING

Admittedly, specialization in reading for all children at the elementary grade level is new, but specialization itself at the elementary level is not new. At the elementary level, specialists are often employed to teach music, art, and physical education. Unlike in some of these other areas utilizing specialists, the reading specialist will not supplant the classroom teachers' reading role.

All reading instruction would not be the responsibility of the specialist. The regular classroom teacher will continue his or her important responsibilities, but the reading specialist will supplement and intensify that effort.

Indeed, this proposal envisions substantial upgrading of elementary teachers in reading, particularly in grades 1 through 3. That is why I have included the training program to make this possible.

Mr. President, schools in a number of States, such as California, Michigan, Wisconsin, and Missouri have been utilizing reading specialists with considerable success. Dr. Kiesling, of the Urban Institute, writing in the November 1972 issue of "Education and Urban Society," examines various hypotheses for effective programs for disadvantaged children. He found that—

Minutes of instruction, especially those by the trained reading specialists, were constructively related to reading gains.

Continuing, he argues that in situations where the present system is failing, such as in many of our core cities:

It might be efficient to substitute specialist's instruction for relatively large amounts of self-contained classroom instruction.

In his concluding comments, Dr. Kiesling says:

It is widely believed, mostly on the basis of the reports of large national surveys, that compensatory education has failed. The findings of this study, which demonstrated modest average success and the possibility of very respectable gains in reading if diagnostic reading specialists are used for instruction, stand in partial contradiction to this.

Dr. Kiesling also cited what he called increasing evidence from research in compensatory education tending to support his findings. In discussing this literature Dr. Kiesling states:

Guszak (1970) discusses research which he feels gives rise to a reasonable hunch that instruction by diagnostic reading teachers is effective for disadvantaged pupils. Bissell (1970) has shown convincingly, in a careful analysis of the findings of many well-designed compensatory education research projects, that better learning rates are associated with the degree of external organization and sequencing of the child's learning experiences, hierarchical organization of objectives, directive teacher role and the nature and amount of program supervision and personnel training. These attributes are precisely those that are present with instruction by trained specialists especially so when the program is planned such that the regular classroom teacher and paraprofessionals are well coordinated to the specialists' activity.

From the discussion it is clear that the reading specialist's ability and leadership is critical to the success of this program. The reading specialist's role will be both challenging and difficult.

The reading specialist will be introducing specialization in the reading area for all elementary students as he or she provides instruction to all children in grades 1 and 2, and to all children who are reading below the appropriate grade level in grades 3 through 6.

In addition, reading specialists will be teaching those children who participate in the summer intensive reading program.

But, the reading specialist's responsibilities extend beyond the teaching function, as important as this is. The reading specialist, as envisioned in this proposal, is expected to provide strong leadership for and coordination of the reading program at his or her school. The reading specialist will also administer or supervise the administering of diagnostic testing and screening.

Further, the reading specialist will be a resource person, helping the elementary classroom teachers grow and improve their instruction of reading in the regular class and will help develop additional reading specialists. For those schools who will participate in the public television reading courses for teachers, authorized by the reading title, the reading specialist is expected to lead followup discussions after the media presentation of the course within the school. Finally, the reading specialist is expected to, in effect, be a salesman for reading, helping to instill in the faculty and students the overriding importance of this subject and a burning desire on the part of the teacher and student alike to improve the reading performance of that school.

I have included a definition of "reading specialist" and "reading teacher" in the bill. Experts with whom I consulted cautioned me that the intent of the program could be frustrated if qualified individuals were not attracted, particularly in view of the importance of the specialist in this program. On the other hand, if I made the requirements too strict, there may not be adequate numbers of reading specialists.

A "reading specialist" is defined as an individual who has a master's degree, with a major or speciality in reading, from an accredited institution of higher education and has successfully completed 3 years of teaching experience which includes reading instruction.

This is essentially the definition of the International Reading Association, a professional organization active in the upgrading of reading instruction.

The term "reading teacher" means an individual with a bachelor degree, who has successfully completed a minimum of 12 credit hours, or its equivalent, in courses of the teaching of reading at an accredited institution of higher education and has successfully completed 2 years of teaching experience, which includes reading instruction.

Realizing that there may not be adequate reading teachers or specialists, I have provided sufficient flexibility in the definitions so as to allow a reading teacher to be utilized in lieu of a reading specialist and a regular teacher for a

reading teacher, provided such teacher is enrolled or will enroll in classes to meet the higher requirements. I would emphasize, however, that these definitions are only for the purposes of this program.

It is clear that the legislation envisions a major upgrading of professional qualifications in the reading area, particularly in project schools. The bill also will encourage institutions of higher education to give greater emphasis to reading in the preparation of elementary teachers and reading specialists. The goal is to have all elementary teachers in project schools become reading teachers. To accomplish such a goal, it is obvious that a massive retraining effort will be necessary. Some school systems are recognizing this need and an effort is already underway.

For example, the Baltimore city school system found it necessary to give all 8,000 teachers some additional training in the reading area.

As unbelievable as it sounds, it was possible until very recently for teachers to teach reading without a single college course in reading or reading methods. For example, in my State of Maryland, prior to 1972, the only requirement was one single course in language arts. This in general seems to have been the case in most States in the country, for as a study, "The Information Base for Reading" by the Educational Testing Service of Berkeley, Calif., observed:

In 1960, as in 1970, the most frequent requirement for certification as a regular elementary teacher or secondary teacher was one course in reading and/or language arts.

The Library of Congress at my request, completed a survey of the 50 States to determine their requirements for the regular elementary teacher and the reading specialist. I ask unanimous consent that this chart be included at the end of my remarks.

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

50 STATE SURVEY BY THE LIBRARY OF CONGRESS AT THE REQUEST OF SENATOR J. GLENN BEALL, JR. (R-MD.) ON THE CERTIFICATION REQUIREMENTS IN THE METHODS OF READING INSTRUCTION FOR PUBLIC SCHOOL TEACHERS IN SELECTED STATES

	Regular elementary school teachers				Reading specialists at the elementary school level			
State	Number of course hours (credit)	Type(s) of course(s)	Percent meeting present requirements	Changes in requirements in the past 5 years	Number of course hours (credit)[1]	Type(s) of course(s)	Percent meeting present requirements	Changes in requirements in the past 5 years
Alabama	0	NA[2]	NA	None		NA	NA	None.
Alaska	"3 courses"	Techniques, diagnosis, prescription.	50	1971–no specific requirement in the methods of reading instruction previously.	M.A	Techniques, diagnosis, prescription, materials.	[1] NS	None.
Arizona	3 s.h	Methods	100	None	15 s.h	Methods, remedial, practicum or internship.	100	1971—Course sequence mandated.
Arkansas	3 s.h	NS[3]	NS	1972—none before	M.A	Methods, remedial, laboratory practice.	NS	None.
California	"1 course"	Methods to include phonics.	100	1971—Inclusion of phonics not previously specified.	NS	Sertification based upon recommendation by local educational agency and passage of examination; or observation by a panel appointed by the State educational agency.	100	None.
Colorado	0	NA	NA	None	NS	NA	NA	None.
Connecticut	6 s.h	Methods (3) children's literature (3).	NS	1972—None before	M.A	Methods, remedial, practicum, children's literature.	NS	None.
Delaware	3 s.h	Methods	100	None	15 s.h (grad)	Methods, remedial, practucum	100	None.
Florida	2 s.h	Methods	NS	None	21–33 s.h	Foundations, methods, remedial, children's literature.	NS	None.
Georgia	5 q.h.[4]	Methods	90	None	25 q.h	Methods, remedial	100	None.
Hawaii	0	NA	NA	None		NA	NA	None.
Idaho	0	NA	NA	None		NA	NA	None.
Illinois	2 s.h	Methods	90	None	32 s.h	NS	100	None.
Indiana	6 s.h	Developmental and corrective reading.	NS	1970—none before	30 s.h	Foundations, diagnosis, laboratory practicum.	100	None.
Iowa	3 s.h	Methods	80	None	M.A. plus 4 years of experience.	Approved program basis	100	1970.
Kansas	0	NA	NA	None	12 s.h. (graduate).	Foundations, remedial, practicum.	80	1971—requirements specified.
Kentucky	6 s.h	NS	NS	1972—none before	12 s.h graduate).	do	NS	Do.
Louisiana	3 s.h	NS	25	1971—none before		NA	NA	None.
Maine	0	NA[5]	NA	None	12 s.h	Remedial	100	Do.
Maryland	3 s.h	Methods	8–85	1972—none before	12 s.h	Foundations, remedial, practicum.	85	Do.
Massachusetts	0	NA	NA	None	18 s.h	NS	"Most"	Do.
Michigan	0	NA	NA	do	12 s.h.[7] plus 4 years of experience.	Methods, diagnosis, treatment of difficulties.	87	Do.
Minnesota	0	NA	NA	do	"6 courses"	Developmental reading, remedial, practicum.	NS	Do.
Mississippi	6 s.h	Methods	99	do	15 s.h	Developmental reading	99	Do.
Missouri	4–5 s.h	Methods	20	None	NS	Methods, remedial, psychological testing, practicum.	90	1970—Psychologica testing requirement added.
Montana	0	NA	NA	None		NA	NA	None.
Nebraska	0	NA	NA	None		NA	NA	None.
Nevada	2 s.h	Methods	100	None	M.A	NS	100	None.
New Hampshire	0	NA	NA	1970—from specific requirements to approved program basis.	M.A	NS	95	1970—from specific requirements to approved program basis.
New Jersey	"1 course"	Methods	100	None	24 X.h	Methods, practicum psychological testing.	NS	1971—requirement raised from 19 to 24 s.h.
New Mexcio	3 s.h	Methods, remedial.	85	None	10 s.h. (for elementary-reading teachers).	Foundations, remedial, practicum.	70	None.
New York	6 s.h	NS	70	1972—none before		NA	NA	None.
North Carolina	0	NA	NA	None	18–30 s.h	Methods, remedial, practicum	NS	None.
North Dakota	0	NA	NA	None	"8 courses" (graduate).	Foundations, remedial, practicum.	100	None.
Ohio	3 q.h	Methods	100	None	18 q.h	Foundations, developmental, remedical, practicum.	100	1972—none before
Oklahoma	3 s.h	Methods and materials.	100	None	12 s.h	Foundations, remedial, practicum.	100	None.
Oregon	6 q.h	Methods	75	1972—minimum specified	15 q.h	Methods, remedial, practicum	90	1972—minimum specified.

50 STATE SURVEY BY THE LIBRARY OF CONGRESS AT THE REQUEST OF SENATOR J. GLENN BEALL, JR. (R-MD.) ON THE CERTIFICATION REQUIREMENTS IN THE METHODS OF READING INSTRUCTION FOR PUBLIC SCHOOL TEACHERS IN SELECTED STATES

	Regular elementary school teachers				Reading specialists at the elementary school level			
State	Number of course hours (credit)	Type(s) of course(s)	Percent meeting present requirements	Changes in requirements in the past 5 years	Number of course hours (credit)[1]	Type(s) of course(s)	Percent meeting present requirements	Changes in requirements in the past 5 years
Pennsylvania	NS	NA	NA	1969—3 s.h. required previously.	NS	NS	NS	1969—general guidelines outlined.
Rhode Island	3 s.h.	Methods	NS	None		NA	NA	None.
South Carolina	3 s.h.	Methods	NS	None	12 s.h.	Methods, remedial, practicum	NS	None.
South Dakota	0	NA	NA	None		NA	NA	None.
Tennessee	3 s.h.	Methods	NS	None		NA	NA	None.
Texas	"1 course"	Methods	100	None	6 s.h.	Methods, diagnosis	100	None.
Utah	0	NA	NA	None		NA	NA	None.
Vermont[6]	NA	NA	NA	NA	NA	NA	NA	NA.
Virginia	3 s.h.	Methods	NS	None	M.A	Foundations, remedial, practicum.	NS	1972—none before.
Washington	"1 course"	Methods	100	None	20 q.h.	NS	100	None.
West Virginia	2–3 s.h.	Methods	33	None	27 s.h.	Foundations, remedial, clinical experience.	100	None.
Wisconsin	"1 course"	Methods	60	1973—requirement made mandatory.	M.A. or 30 s.h.	Advanced methods, measurement, remedial, supervision, intership.	100	1972—none before.
Wyoming	8 s.h.[5]	Methods	95	None	6 s.h. (additional to standard requirement).	Remedial	95	None.

[1] Where this space is left blank (—), no separate certification for specialized reading teachers at the elementary school level exists.
[2] NA—Not applicable.
[3] NS—Not specified (if in a "Number of course Hours" column, a requirement exists but the number of hours is not specific; in other columns, NS indicates that the data is unavailable).
[4] s.h.—semester (credit) hours; q.h.—quarter (credit) hours.
[5] 8 s.h. of courses in the methods of teaching elementary skills, including reading.
[6] Due to staff limitations, the State of Vermont has declined to answer all inquiries related to this study (see attached note).

Mr. BEALL. Mr. President, Professors Roeder, Eller, and Beal of State University College, Fredonia, N.Y., had the following to say with respect to the preparation of teachers to teach reading:

To the already voluminous number of reasons suggested for Johnny's inability to learn to read, the authors would like to suggest one more—perhaps Johnny is experiencing difficulty in learning to read because many of his teachers have not been adequately prepared to teach reading. In fact, the majority of Johnny's teachers have no doubt spent more time in college gymnasiums learning to play volleyball and similar games than they have spent in college classes learning how to teach reading. . . . Unfortunately, when a neophyte teacher is graduated from an accredited institution and awarded state certification, it is often assumed that he possesses at least a minimal undertanding of how to teach reading. Nothing could be more remote from reality! . . . As a matter of fact, one of the authors received his baccalaureate degree in elementary education from an institution which required such courses as: Industrial Arts (3 hrs.), Music Methods (6 hrs.), Arts and Crafts for Classroom Teachers (6 hrs.), Physical Edution (2 hrs.), and Marriage and Family Relations (3 hrs.). Consequently, when he embarked upon his professional career, he was prepared to teach his fifth graders how to swim, sing, make puppets, build birdhouses, play volleyball, settle family arguments, and weave baskets. Unfortunately, he was not prepared to teach his students how to analyze words, comprehend printed materials or critically evaluate textbook selections. Somehow, his alma matter had let him down; it had disregarded the most important R—Reading. Although he had fulfilled all the requirements for graduation and state certification, he—and his contemporaries—were never required to complete a course in the teaching of reading.

Mr. President, there are three sections of the reading title designed to improve and upgrade the teaching of reading in the country.

First, section 705, "Grants for institutions of higher education." This section authorizes grants to institutions of higher education for the purpose of planning and implementing programs to strengthen and improve graduate and undergraduate instruction in the teaching of reading and the cooperative programs with State and local educational agencies.

Second, section 708 authorizes grants to States to strengthen existing certification requirements. Hopefully, this will result in an increase in the course requirements in reading for future elementary teachers so that such graduates will meet the requirements of a reading teacher.

TELEVISION TEACHER TRAINING

Section 704 authorizes the Commissioner of Education to make arrangements for the preparation and production for viewing on public television of reading courses for elementary teachers and reading specialists. In addition, a study course guide would be prepared for use in conjunction with the television instruction.

The great potential of television for educational purposes has been demonstrated by such shows as Sesame Street and Electric Co. Also, college courses have been successfully offered over television. My State of Maryland is doing some imaginative and innovative work in this area.

One frequent difficulty with many of the television courses is the times at which such courses are offered. Sunrise is obviously not the best hour for our citizens. I have tried to draft this bill, not only to tap the best available talent to produce the courses, but equally important to encourage the offering of such courses at hours that are convenient to the teachers.

This provision envisions the outstanding reading experts in the country combining their talents with experts in the utilization of the communication media for educational purposes to produce first-rate courses that may be used by any interested school system.

While I want to see the courses available to all reading emphasis projects and schools and school systems everywhere, the legislation requires that the Commissioner give priority in selecting the urban districtwide project to applicants which can show—

First, that the State and local educational agencies will give credit for the television courses and encourage participation by the district's teachers;

Second, that the local television station will offer such courses at hours convenient to the teachers. It is hoped that the time of the viewing will enable all the elementary teachers to view the program as a group so as to enable follow-up discussion led by the reading specialists; and

Third, that the local educational agency will make arrangements with the colleges and universities so that academic credit will be given for the completion of such courses.

CENTER FOR READING IMPROVEMENT

Despite the importance of reading, this importance has not been adequately reflected in educational research and development. Accordingly, this part of my proposal would require the Director of the new National Institute of Education to establish a Center for Reading Improvement. $10 million would be authorized for the purposes of this section and these sums would remain available until expended.

The educational centers and labs previously funded under the Cooperative Research Act have been transferred to the National Institute of Education.

The Institute has been evaluating the present educational laboratories and center programs. I have examined some of the programs of the centers and labs and I must say that none of their work, in my judgment, compares with the importance of reading for our society. I believe that reading certainly should at least have one center or lab that is devoting full time to this problem.

Thus, under section 705 of my proposal, the Director of the National Institute of Education, through the Institute and the Center for Reading Im-

provement, would conduct or support research and demonstration in the field of reading, including, but not limited to the following areas:

First. Basic research in the reading process. The case for accelerated research and development efforts in the reading area is made by the massive reading problems facing the country. We certainly need to learn more about the reading process and how children learn to read. This is an exceedingly complex and difficult area, but its difficulty is exceeded only by its importance. So, I hope that basic research in the reading process will be pursued.

Second. The most effective method or methods for the teaching of reading. The debate on how to teach reading in the country has been going on for over a century with the proponents of the phonetic and look-see approach enjoying popularity at different times. Until educational research resolves this question, it would seem prudent that we make certain that our teachers know the main alternatives and techniques and when and how to employ special techniques of instruction.

Third. Improved methods for the testing of reading ability and achievement. There is a need to improve our techniques for testing reading ability and achievement. There is already some interesting work going on as evidenced by the Education Commission on the States' national assessment of educational processes, and also the work in my State on criterion-reference tests.

Fourth. Development of model college courses in reading for personnel preparing to engage in elementary teaching or for elementary teachers who are or intend to become reading teachers or reading specialists.

Fifth. The development of techniques for the diagnosis and correction of reading disabilities. Throughout the last decade surveys both among those training to become teachers and those in teaching, have indicated that both groups believe that inadequate preparation was given in diagnosing and correcting reading problems of pupils.

The educational literature during this same period also emphasized the need for this approach. But as the Education Testing Service observed:

> In spite of such widespread exhortations, the requirement for teachers' education and certification have shown no subsequent change according to the surveys in 1960 and 1970.

Sixth. The development of model reading programs for elementary schoolchildren generally, and special model reading programs for elementary schoolchildren who are educationally disadvantaged, or handicapped.

During the 1950's there was considerable concern with respect to teaching of science in high schools. As a result, a study was undertaken by the National Science Foundation and a model textbook for physics was developed. It is my understanding that this was very well accepted and has been credited with substantial upgrading of the instruction of physics in the United States. I believe we should attempt a similar effort with respect to the development of a reading curriculum for pupils in the early elementary grades.

Seventh. The use and evaluation of education technology in reading, and

Eighth. The evaluation of educational materials in reading. P. Kenneth Komoski, president of the Education Product Information Exchange Institute, indicated a conservative estimate of the education material being marketed to the schools is over 200,000 items and that this production has increased twenty-fold in the last two decades. There are also numerous materials specifically on the teaching of reading, providing teachers with many options and alternatives in the selection of teaching materials. Mr. Komoski points out that less than 10 percent of the education materials have been field tested and only approximately 1 percent have been subjected to learner-verification techniques.

PRESIDENTIAL READING AWARDS

Finally, my proposal would establish Presidential awards for reading achievement. There will be two types of awards, one for elementary students and one for elementary schools.

The student award would consist of an emblem to be presented to elementary students for achievement in reading, as defined by the Commissioner of Education.

The school award would be a pennant, or other appropriate recognition, for schools achieving reading excellence, as defined by the Commissioner, The student and school awards will be of such design and material as the President prescribes.

I would hope that the President, before deciding on the design and material for the award, would consult with the education community and provide both the education community and the public with an opportunity to make suggestions for the award. Perhaps, it would be worth considering a national competition for the design of such awards, but I have not specified this in the statute itself.

Mr. President, in 1955 President Eisenhower was presented with evidence regarding the physical fitness of American youth. The President was told that 58 percent of the American children failed on one or more of six basic tests for muscular strength and flexibility as compared to only 9 percent of the Western European children.

As a result, President Eisenhower established what is now the President's Council on Youth Fitness and Sports. School fitness programs were developed for our youth, including a screening test for young children to identify those most in need of help. A seven-part test was devised and standards were set for each item for each age group. The program was adopted by schools all over the country.

The President's Council on Physical Fitness has said that physical fitness of our youth has improved substantially. Since 1961, there has been a 33-percent gain in the proportion of children passing the physical fitness test from 60 to 80 percent.

In general, after 5 years of using the test, the performance of our youth has improved in all fitness areas.

Similarly, competition among schools in athletics fosters competition and excellence in sports. In addition, it tends to elevate the importance of athletics in the minds of students. I believe that the Presidential student awards envisioned will encourage interest and motivate elementary students in reading. Also, the school competition would underscore the importance of academic excellence in this the most important subject area at the elementary level.

This program will follow the successful physical fitness program and the only costs involved are some administrative expenses.

CONCLUSION

Mr. President, the reading proposals recommended to the Senate are the result of considerable study and good hearings. It addresses what I regard as the Achilles' heel of education, the massive reading problem of schools having large numbers or high concentrations of children reading below grade level.

It places a priority on the early elementary years through the use of reading specialists to intensify and supplement the regular classroom reading instruction. In effect, it gives the students a double dose of reading to prevent the educational-limiting and career-crippling handicap of the inability to read.

Mr. William Raspberry, in his column in the February 19 Washington Post, commented on the suggestion that subjects be suspended in ghetto schools for a year to concentrate on raising reading performance, as follows:

> Since you can only play at teaching history to children who can't read, why not stop playing and teach them to read?

Mr. President, I can assure you that this bill aims at preventing such playing and contemplates a serious and concentrated attack on the reading problem. Its goal is "to teach them to read." In fact, it adopts the ambitious goal of having all children in reading emphasis project schools reading at grade level by the end of the third grade.

While this proposal will not be a panacea for all of the reading problems, I believe there is considerable evidence that this approach can and will make a substantial difference. The reading problem is so big and its solution is so important that I hope my colleagues will join me in enacting the reading improvement title of the pending measure. Its enactment will be a giant step toward preventing or reducing reading problems. A society where technology and education are so important and where only approximately 5 percent of the jobs are unskilled cannot allow the dangerous conditions to continue where massive numbers of children lack the ability to read which affects both their capacity to learn and to earn.

I had the pleasure of serving on the National Commission on the Financing of Postsecondary Education. This Commission has issued its report and recommendations, which, in general were well received. This commission studied the

ways and means to provide the opportunity for the financing of higher and technical education for all students. But, it will do us little good to guarantee that financial barriers will not prevent students from postsecondary education and training if the students are not capable because of educational deficiencies, the most important of which is reading, to take advantage of these opportunities.

For, Mr. President, equal opportunities begin early. The reading title's significance may be more important than the report of the Postsecondary Education Commission, as important as that is. This comment is not meant to detract from that report which I believe will be most important in determining future higher education policies in the country; but this proposal, after all, seeks to make the opportunity for higher education or technical education possible by not only reaffirming that children have the right to read, but also helping to assure that they will, in fact, be able to read.

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

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

TITLE VII—NATIONAL READING IMPROVEMENT PROGRAM

STATEMENT OF PURPOSE

SEC. 701. It is the purpose of this title—

(1) to provide financial assistance to encourage State and local educational agencies to undertake demonstration projects to strengthen reading instruction programs in the elementary grades;

(2) to provide financial assistance for the development and enhancement of necessary skills of instructional and other educational staff for reading demonstration programs; and

(3) to develop a means by which measureable objectives for reading demonstration programs can be established and progress toward such objectives assessed.

READING IMPROVEMENT DEMONSTRATION PROJECTS

SEC. 702. (a) The Commissioner is authorized to contract with either State educational agencies or local educational agencies, or both, for the carrying out by such agencies, in schools having large numbers or a high percentage of children with reading deficiencies, of demonstration projects involving the use of innovative methods, systems, materials, or programs which show promise of overcoming such reading deficiencies.

(b) No contract may be entered into under this section, unless upon an application made to the Commissioner at such time, in such manner, and including or accompanied by such information as he may reasonably require. Each such application shall set forth a reading program which provides for—

(1) diagnostic testing designed to identify elementary school children with reading deficiencies, including the identification of conditions which, without appropriate other treatment, can be expected to impede or prevent children from learning to read;

(2) planning for and establishing comprehensive reading programs;

(3) reading instruction for pupils whose reading achievement is less than that which would normally be expected for pupils of comparable ages and in comparable grades of school;

(4) preservice training programs for teaching personnel including teacher-aides and other ancillary educational personnel, and inservice training and development programs, where feasible, designed to enable such personnel to improve their ability to teach students to read;

(5) participation of the school faculty, school board members, administration, and student body in reading-related activities which stimulate an interest in reading and are conducive to the improvement of reading skills;

(6) parent participation in development and implementation of the program for which assistance is sought;

(7) school board participation in the development of State programs;

(8) periodic testing on a sufficiently frequent basis to measure accurately reading achievement;

(9) publication of test results on reading achievement by grade level, and where appropriate, by school, without identification of achievement of individual children;

(10) availability of test results on reading achievement on an individual basis to parents or guardians of any children being so tested;

(11) participation on an equitable basis by children enrolled in nonprofit private elementary schools in the area to be served (after consultation with the appropriate private school officials) to an extent consistent with the number of such children whose educational needs are of the kind the program is intended to meet;

(12) the use of bilingual education methods and techniques to the extent consistent with the number of elementary school-age children in the area served by a reading program who are of limited English-speaking ability; and

(13) appropriate involvement of leaders of the cultural and educational resources of the area to be served, including institutions of higher education, nonprofit private schools, public and private nonprofit agencies such as libraries, museums, educational radio and television, and other cultural and education resources of the community.

(c) Each such applicant, in addition to meeting the requirements of subsection (b), shall provide assurances that—

(1) appropriate measures have been taken by the agency to analyze the reasons why elementary school children are not reading at the appropriate grade level; and

(2) the agency will develop a plan setting forth specific objectives which shall include the goals of having the children in project schools reading at the appropriate grade level at the end of grade three.

(d) An application from a local educational agency under this section may be approved only if the State educational agency of the State in which such local agency is located has been notified of the application and has been given a reasonable opportunity to offer recommendations with respect to the approval thereof.

(e) The Commissioner, in selecting projects under this section shall, to the extent feasible, attempt to secure an equitable distribution among urban and rural areas.

(f) (1) The Commissioner shall reserve not to exceed 3 per centum of the sums appropriated pursuant to section 712(a) for carrying out the provisions of this section for each fiscal year. From the sums reserved pursuant to this subsection, the Commissioner is authorized to make grants, on such terms and conditions as he deems necessary (exclusive of the requirement of subsection (d)), to State and local educational agencies to pay the Federal share of the cost of establishing and maintaining programs for the purchase of inexpensive books for distribution to individual elementary school children by gift, loan, or sale at a nominal price.

(2) For the purpose of this subsection the Federal share shall not exceed 50 per centum in any fiscal year except that, whenever the Commissioner determines that a State or local educational agency desiring to participate in the program under this subsection has insufficient resources and is unlikely to obtain sufficient resources to participate in such a program he may increase such Federal share to not to exceed 90 per centum of the cost of any such program.

SPECIAL EMPHASIS PROJECTS

SEC. 703. (a) The Commissioner is authorized to contract with local educational agencies for special emphasis projects to determine the effectiveness of intensive instruction by reading specialists and reading teachers. Each such project should provide for—

(1) the teaching of reading by a reading specialist for all children in the first and second grades of an elementary school and the teaching of reading by a reading specialist for elementary school children in grades three through six who have reading problems; and

(2) an intensive vacation reading program for elementary school children who are found to be reading below the appropriate grade level or who are experiencing problems in learning to read.

(b) No contract may be entered into under this section unless upon an application made to the Commissioner at such time, in such manner, and including or accompanied by such information as he may reasonably require. Each such application shall provide assurances that—

(1) the provisions of section 702(b) are met; and

(2) the State educational agency has certified that individuals employed as reading specialists and reading teachers meet the requirements of section 703 (e) and (f).

(c) No contract may be entered into under this section unless the project has been approved by the State educational agency.

(d) The Commissioner is authorized to enter into at least one arrangement with a local educational agency for a districtwide project conducted in all schools of such agencies. In selecting the districtwide project, the Commissioner shall give priority to an application from a local educational agency if the Commissioner finds that—

(1) the local educational agency will give credit for any course to be developed for reading teachers or reading specialists under section 704 and will encourage participation by the teachers of such agency in the training;

(2) the local public educational television station will present any course to be developed under this section at an hour convenient for the viewing by elementary school teachers and, if possible, at a time convenient for such teachers to take the course, as a group, at the elementary school where they teach; and

(3) the local educational agency will make arrangements with the appropriate officials of institutions of higher education to obtain academic credit for the completion of such a course.

(e) In any project assisted under this section a reading teacher may be used in lieu of a reading specialist, if the Commissioner finds that the local educational agency participating in a reading emphasis project is unable to secure individuals who meet the requirements of a reading specialist and if such reading teacher is enrolled or will enroll in a program to become a reading specialist. A regular elementary teacher may be used in lieu of a reading teacher if the Commissioner finds that the local educational agency participating in a reading emphasis project is unable to secure individuals who meet the requirements of the reading teacher, and if such regular elementary teacher is enrolled or will enroll in a program to become a reading teacher.

(f) For the purpose of this section and section 604 the term—

(1) "reading specialist" means an individual who has a master's degree, with a major or speciality in reading, from an accredited institution of higher education and has successfully completed three years of teaching experience, which includes reading instruction, and

(2) "reading teacher" means an individual, with a bachelor's degree, who has successfully completed a minimum of twelve credit hours, or its equivalent, in courses of the teaching of reading at an accredited institution of higher education, and has successfully completed two years of teaching experience, which includes reading instruction.

READING TRAINING ON PUBLIC TELEVISION

SEC. 704. (a) The Commissioner is authorized, through grants or contracts, to enter into contractual arrangements with institutions of higher education, public or private agencies or organizations, and individuals for—

(1) the preparation, production, and distribution, for use on public educational television stations of courses for elementary school teachers who are or intend to become reading teachers or reading specialists; and

(2) the preparation and distribution of study course material to be used in conjunction with any such course.

(b) In carrying out the provisions of this section the Commissioner shall consult with recognized authorities in the field of reading, specialists in the utilization of the communications media for educational purposes, and with the State and local educational agencies participating in demonstration projects under this title.

GRANTS FOR INSTITUTIONS OF HIGHER EDUCATION

SEC. 705. The Commissioner is authorized to make grants to institutions of higher education, or combinations of such institutions, upon application therefor, to assist such institution or institutions—

(1) in planning and implementing programs to strengthen and improve graduate and undergraduate instruction in the teaching of reading, including inservice training programs; and

(2) in planning, developing, and implementing cooperative programs with State and local educational agencies which show promise as effective measures for solving reading problems.

ESTABLISHMENT OF THE OFFICE FOR THE IMPROVEMENT OF READING PROGRAMS

SEC. 706. (a) There is established, in the Office of Education, an Office for the Improvement of Reading Programs which shall be responsible for—

(1) the administration of the programs authorized by this title;

(2) those programs presently administered under other provisions of law as the Commission determines to be appropriate; and

(3) the coordination of education programs as provided in the following subsection.

(b) The Commissioner is authorized in accordance with the criteria and procedures established by regulation, to facilitate, at the State and local levels, coordination of the furnishing of services under—

(1) titles I, II, III, V, and VI of the Elementary and Secondary Education Act of 1965;

(2) section 222(a) (1) and (2) of the Economic Opportunity Act of 1964;

(3) the Adult Education Act;

(4) the Emergency School Aid Act;

(5) the Higher Education Act of 1965; and

(6) section 405 of the General Education Provisions Act.

which are related to the purposes of this title.

ESTABLISHMENT OF THE READING IMPROVEMENT LABORATORY

SEC. 707. (a) Notwithstanding the second sentence of section 405(b) (1) of the General Education Provisions Act, the Director of the National Institute of Education is authorized and directed to designate an existing facility or establish a new facility to be known as the Reading Improvement Laboratory.

(b) The Director of the National Institute of Education, through the Institute and the Laboratory shall conduct or support research, demonstrations, and pilot projects in the field of reading and language development, including, but not limited to, the following—

(1) basic research in the reading, language, and communication process;

(2) the most effective methods for the teaching of reading;

(3) methods for the measuring of reading ability and achievement;

(4) the development of model undergraduate courses in reading for personnel preparing to engage in elementary teaching or for elementary teachers who are or intend to become reading teachers or reading specialists;

(5) the development of techniques for the diagnosis and correction of reading disabilities;

(6) the development of model reading programs for elementary school children generally and special model reading programs for elementary school children who are educationally disadvantaged or handicapped;

(7) the use and evaluation of educational technology in reading; and

(8) the evaluation of educational materials prepared for the teaching of reading.

STATE CERTIFICATION AGENCIES

SEC. 708. (a) The Commissioner shall carry out a program for making grants to State agencies responsible for certifying elementary and secondary education teachers to institute or upgrade reading certification requirements in the State to assure better preparation of teachers in the field of reading instruction.

(b) For the purpose of carrying out the provisions of this section more effectively, the Commissioner is authorized, upon request, to provide advice, counsel, and technical assistance to State accrediting agencies.

EVALUATION

SEC. 709. The Commissioner shall submit an evaluation report to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives not later than March 31, in each fiscal year ending prior to July 1, 1978. Each such report shall—

(1) contain a statement of specific and detailed objectives for the program assisted under the provisions of this title, and relate such objectives to the objectives of the Elementary and Secondary Education Act of 1965;

(2) include a statement of the effectiveness of the program in meeting the stated objectives, measured through the end of the preceding fiscal year;

(3) make recommendations with respect to any changes or additional legislation deemed necessary or desirable in carrying out the program;

(4) contain a list identifying the principal analyses and studies supporting the major conclusions and recommendations contained in the report; and

(5) contain an annual evaluation plan for the program through the ensuing fiscal year for which the budget was transmitted to Congress by the President, in accordance with section 201(d) of the Budget and Accounting Act, 1921.

ESTABLISHMENT OF THE PRESIDENTIAL AWARD FOR READING ACHIEVEMENT

SEC. 710. (a) In order to motivate and encourage elementary school children to improve their reading skills and to foster competence for excellence in reading among elementary schools, there is hereby established the Presidential Reading Achievement Award. Each such award shall consist of—

(1) an emblem to be presented to elementary school children for achievement in reading as determined pursuant to regulations established by the Commissioner, and

(2) a pennant, flag, or other appropriate recognition for elementary schools achieving reading excellence as determined pursuant to regulations established by the Commissioner.

(b) The reading awards authorized by this section shall be of such design and material and bear such description as the President may prescribe.

DEFINITIONS

SEC. 711. As used in this title—

(1) "Laboratory" means the Reading Improvement Laboratory established under this title; and

(2) "Institute" means the National Institute of Education.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 712. (a) There are authorized to be appropriated to carry out the provisions of section 702, relating to reading improvement demonstration projects, $75,000,000 for the fiscal year ending June 30, 1975, $80,000,000 for the fiscal year ending June 30, 1976, and $85,000,000 each for the fiscal years ending June 30, 1977, and June 30, 1978.

(b) There are authorized to be appropriated to carry out the provisions of section 703, relating to reading special emphasis projects, $25,000,000 for the fiscal year ending June 30, 1975, $30,000,000 for the fiscal year ending June 30, 1976, and $40,000,000 each for the fiscal years ending June 30, 1977, and June 30, 1978.

(c) There are authorized to be appropriated for the purpose of carrying out section 704, relating to reading training on public television, $1,500,000 for the fiscal year ending June 30, 1975, sums appropriated pursuant to this section shall remain available for obligation and expenditure through the succeeding fiscal year.

(d) There are authorized to be appropriated to carry out the provisions of section 705, relating to grants for institutions of higher education, $35,000,000 for the fiscal year ending June 30, 1975, $40,000,000 for the fiscal year ending June 30, 1976, and $45,000,000 each for the fiscal years ending June 30, 1977, and June 30, 1978.

(e) There are authorized to be appropriated to carry out the provisions of section 707, relating to the Reading Improvement Laboratory, $10,000,000. Notwithstanding any other provision of law unless enacted in express limitation of this section, sums appropriated pursuant to this subsection shall remain available until expended.

(f) There are authorized to be appropriated to carry out the provisions of section 708, relating to State certification in the field of reading instruction, $2,500,000 for each of the fiscal years ending prior to July 1, 1978.

(g) There are authorized to be appropriated to carry out the provisions of section 710, relating to reading achievement awards, $10,000 for administrative expenses for each of the fiscal years ending prior to July 1, 1978.

EXHIBIT 1

PETER DOE SEEN AS FORERUNNER OF MORE SCHOOL FRAUD SUITS

The case of Peter Doe, the 18-year-old who is suing the San Francisco public schools for a million dollars for graduating him from high school with only fifth-grade reading ability, won't blaze new trails in the annals of constitutional law, his attorney told a

recent conference in Washington on *Fraud in the Schools.*

Unlike most recent educational reform cases which have been based upon broad constitutional principles, the Peter Doe case hinges on "very traditional, very conventional legal theories of negligence, tort liability," explained the plaintiff's lawyer, Susanne Martinez of the Youth Law Center in San Francisco.

"What I think is different about the kind of case we are talking about today . . . is that this kind of case offers a unique opportunity to focus on not merely the outside kind of elements which make up the educational system, but the very process of education itself," Martinez told the conference of legal experts, educators and government officials.

"It is not a First Amendment case. It is not an access to education case. It is not a civil rights action. It is an action which looks to the product of education and says that the system has somehow failed and that the system should be held accountable for it."

PETER DOE'S STORY

In a brief summary of *Peter Doe* v. *San Francisco Unified School District*, Martinez explained that the case involves an 18-year-old, white, middle-income young man who graduated from high school in San Francisco in 1972. He attended elementary school, junior and senior high school in San Francisco, was never held back a grade, and his grade point average upon graduation was slightly higher than C. He was never a discipline problem and had a regular attendance record. He was given periodic state required tests, and test scores were placed in his records which in almost every case indicated his performance was in the bottom quartile of the school. When his mother—a college graduate—made specific inquiry about the boy's progress in reading, she was assured on several occasions that his performance was average. After graduation, Peter Doe was tested by two reading specialists who concluded independently that he had a fifth-grade reading ability. Thereafter he was placed under a private reading tutor, and gained an estimated two grade levels in reading ability within about seven or eight months.

WHAT IS THE COMPLAINT?

The complaint filed on behalf of Peter Doe boils down to four major counts, Martinez explained. The first is a count of common law negligence, contending that the school district by "various acts and omissions" failed to carry out the duty it owed to the plaintiff, that reasonable care was not exercised and that the plaintiff was damaged as a result.

The second count is a common law action based upon misrepresentation, contending that the school district misrepresented the young man's abilities and progress to his parents, and that they were thus unable to seek help for him.

Other causes of action are lumped under statutory claims. In California, a state agency can be held liable for its failure to carry out a statutory duty. In this case, for example, state law imposes certain duties on the school district to give parents information and to establish certain standards of basic skills to be met before students are given a diploma.

The last cause of action is based upon a constitutional claim that the young man has a constitutional right to education (since struck down by the U.S. Supreme Court in the *Rodriguez* decision) and that he was denied these rights.

THE FIRST OF MANY FOR MANY PETER DOES?

"I think it's very important to look at this case and consider the facts involved . . . (it is) perhaps the first of what would be undoubtedly a series of cases of this type brought on different factual allegations, sometimes brought on different legal theories, sometimes brought for different kinds of relief," Martinez said. "Peter Doe is simply a forerunner of an effort on the part of parents and citizens to bring to focus through the judicial system attention upon the fact that the schools . . . have failed in some way to provide the Peter Does of this country with the kind of education to which they are entitled.

"I think that we all have to recognize that Peter Doe is certainly not an exceptional case. He is one of thousands and probably hundreds of thousands of children who are in schools in this country who are passed through the school systems from year to year and to whom the state has never provided that kind of education (for) which we would hope. . ."

THE LOYAL OPPOSITION

Probate Judge Haskell J. Freedman of Middlesex County, Mass., assumed the conference role of "loyal opposition" to the theory behind the pending suit. Freedman, former general counsel to the Massachusetts Teacher Association, complimented Miss Martinez and her associates for their "imaginative and creative thinking in drafting a bill of complaint," and conceded that the suit and questions involved are "provocative." On the whole, though, Freedman predicted little chance of success and added "If asked, I would advise against bringing the suit."

NO PENALTY FOR VIOLATIONS?

"I do not question that the references to the California Education Code in the complaint are correct. Obviously, they are. But I did note that the complaint does not allege any pertinent sections of the California Education Code that provide any penalty for violations of the sections quoted," Freedman observed.

POSSIBLE DEFENSE

Freedman suggested several legal defenses which might be used. One is the defense of laches, "a legal doctrine by which one who might otherwise be entitled to relief may be denied relief because the person waited too long before bringing the action." Another defense would be that the charge is vague, Freedman said. "Does the California Constitution or its Educational Code define education? Does either set forth educational standards of performance by pupils in precise terms that a teacher knows in advance his or her legal responsibility and the penalty for failure?" Another defense would be that the schools alone do not educate. "The parents, the child's playmates, his environment, all bear upon his learning ability and capacity to absorb . . ."

Another defense would be to raise the question about whether or not the schools make a difference, said Freedman, pointing to the writings of Jencks, Coleman, Pettigrew and Armor summarized by Geoffrey Hodgson in a recent issue of *Atlantic Monthly*. Contributory negligence might also be one defense since Peter Doe or his parents might themselves have contributed to the fact that he cannot read adequately. The doctrines of sovereign immunity and separation of powers were also cited by Freedman as possible defenses against the charge.

"The answer to Peter Doe's situation, in my opinion, is not to be found in the courts, but in the several legislatures of the states," Freedman concluded.

LEGAL ACCOUNTABILITY IS DIFFERENT

"There is always agitation and ferment in the educational world and that is good, and now the principle of accountability is a topic on everyone's tongue, but the discussion has all taken place in the educational world and they are talking about educational accountability, which I suggest is a different concept from legal accountability. I know of no comparable discussion of the legal accountability of the teaching profession in current legal literature . . ."

BUT WHAT WOULD HAPPEN IF—

"Assuming the plaintiffs prevail, then I would anticipate, first, a plethora of similar suits across the nation. If there are about 40 million students that attend the public schools of America and if we conservatively estimate that probably five percent are having an unsatisfactory—which is a euphemistic word—experience, then one might anticipate two million parents bringing suits claiming damages.

"It would require a political revolution in the field of public school education . . . It would cost potentially billions of dollars. It would open Pandora's box and once opened it would not be closed, and it would substantially—very substantially—improve the economic status of the American lawyer."

FINAL RESOLUTION YEARS AWAY

The final outcome of the Peter Doe case, which has roused considerable interest among educational lawyers throughout the country, could be more than two years away, Martinez told one participant. An amended complaint is being prepared, and when that is served the defendants will have 30 days to answer.

"They will probably file what is called a demurrer in California, which challenges our right to bring the action, and I expect that the case will go up on appeal and the outcome of the case, given the time lag in California cases, could be two years away or even more," she said.

HOW TO GET IT

The man who arranged the conference was Stuart A. Sandow of Syracuse University's Educational Policy Research Center, who accurately forecast a case of fraud against the schools as early as November, 1970. Co-sponsors with EPRC were George Washington University's Institute for Educational Leadership and the Lawyers Committee for Civil Rights Under Law. Copies of the 130 page publication, *Suing the Schools for Fraud: Issues and Legal Strategies*, including the conference transcript, may be ordered for $2.50 each from EPRC Publications, Educational Policy Research Center, 1206 Harrison Street, Syracuse, New York 13210.

USC OFFERS WORKSHOPS ON EXCEPTIONAL PRESCHOOLERS

The University of Southern California is offering a special two-week workshop for school psychologists and special education consultants June 4–15 on assessment and program planning for prechool handicapped children. For information, write Dr. Elizabeth Neumann, University Affiliated Project, Children's Hospital, 4560 Sunset Boulevard, Los Angeles, California 90027.

"PETER DOE" CANNOT READ—SCHOOL SUED

(By David Holmstrom)

SAN FRANCISCO.—"Peter N. Doe" graduated from a San Francisco high school last year with a B-minus average—but could only read at a fifth-grade level.

When his mother discovered his plight, despite assurances by school officials that he was attaining the proper reading level, she decided to sue the school district for $1 million.

Her unique decision has sent a shock wave of questions across the United States, about educational quality and how much legal responsibility schools and teachers have for instilling in students a skill as basic as reading.

Suzanne Martinez, the San Francisco attorney for "Peter N. Doe" said the national attention on the suit has "led to a lot of different strategies being developed in other states including possible class-action suits and challenges to teacher certification and other procedures of state educational systems."

LEGAL BASIS EXPLAINED

"The case in San Francisco," said Mrs. Martinez, "derives its legal basis from questions of negligence, misrepresentation, and

several statutory claims." Since the suit was filed late last year but not yet served on the San Francisco school district, the school district has voluntarily said it will set goals for students and possibly would not issue diplomas if a student is unable to read at the proper level.

Stephen D. Sugarman, a University of California law professor, said teachers should not take lightly such suits by "individual consumers who have already bought the product and are not happy about it."

Responding to Professor Sugarman at the National Education Association (NEA) conference in Portland, Ore., Judge Haskell C. Freedman from Middlesex, Mass., said such malpractice suits attempt to make "scapegoats" out of teachers and school boards. "Teachers have little voice in financing equipping, or organizing schools," he said, "there is no constitutional right of literacy, and the child himself might be guilty of contributory negligence."

But in the case of "Peter N. Doe" from a white, middle-class family there was no disciplinary problem, and the young man had a normal attendance record. According to Mrs. Martinez, the young man's college-educated mother has placed the boy under a tutor and within six months his reading ability had jumped nearly two years. His response to tutoring also establishes his ability to learn.

"With the age of accountability," said Mrs. Charleselta Alston, director of the San Francisco Adult Literacy Center, Inc., "teachers can no longer blame parents, the environment, or the socioeconomic status of the family for nonteaching."

FICTITIOUS NAME USED

"Thousands of persons leave school nonreading," she said, "and the schools no longer can afford to take fresh minds, turn them off, and ultimately destroy them, and then become angry and defensive at the public who criticizes them."

The lawsuit was filed under the fictitious name of "Peter N. Doe" to spare the litigant "public stigma and humiliation." Mrs. Martinez said the young man is not working now and that within four to six months, the case will reach the courts.

Assessing the possible outcome and the educational ramifications, Mrs. Martinez said, "naturally many parents are thinking if this famiy can do it [sue] then so can we, and such litigation possibly could bankrupt whole schools systems. We are in the process now of scaling down the damages to around $5,000 and asking for recovery of at least the cost of tutoring."

The suit contends that "Peter N. Doe" graduated "unqualified for employment other than the most demeaning unskilled, low-paid, manual labor" and that the law required the educational system to insure that he met certain requirements before receiving a diploma.

Earlier, in May of 1972, the family of "Peter N. Doe" had first filed a claim against the school district which the district denied.

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

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

PROGRAM

Mr. MANSFIELD. Mr. President, is it correct to state, that an order has been entered into and agreed to by the Senate that when it adjourns tonight, it will adjourn until 9:30 a.m. tomorrow?

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. Mr. President, is it correct to state, based on the statements made by the acting majority leader, that at 10 a.m. tomorrow, the Senator will proceed to the consideration of S. 411, a bill relating to the Postal Service?

The PRESIDING OFFICER. That is correct.

Mr. MANSFIELD. Mr. President, there is a time agreement on that bill. Yea-and-nay votes may be expected.

Following disposition of S. 411 tomorrow, the Senate will then resume consideration of S. 2986, a bill to authorize appropriations for carrying out the provisions under the International Policy Act.

Those two bills will probably consume most of tomorrow.

Yea-and-nay votes will occur on both bills.

I would, therefore, urge the Senate to be prepared for action tomorrow on the basis of what was said yesterday and what has been said today.

ADJOURNMENT TO 9:30 A.M.

Mr. MANSFIELD. 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 9:30 a.m. tomorrow.

The motion was agreed to; and, at 4:01 p.m., the Senate adjourned until tomorrow, Thursday, May 9, 1974, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 8, 1974:

THE JUDICIARY

H. Curtis Meanor, of New Jersey, to be U.S. district judge for the district of New Jersey vice John J. Kitchen, deceased.

DEPARTMENT OF JUSTICE

Robert E. Hauberg, of Mississippi, to be U.S. attorney for the southern district of Mississippi for the term of 4 years. (Reappointment)

Norwood Carlton Tilley, Jr., of North Carolina, to be U.S. attorney for the middle district of North Carolina for the term of 4 years vice William L. Osteen, resigned.

IN THE MARINE CORPS

The following-named (Navy enlisted scientific education program) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Clements, Francis B.
Jelken, Jurden J.

The following-named (Naval Reserve Officer Trainaing Corps) graduate for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Mauch, Samuel, Jr.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 8, 1974:

IN THE AIR FORCE

The following officers for temporary appointment in the U.S. Air Force under the provisions of chapter 839, title 10, of the United States Code:

To be brigadier general

Col. Robinson Risner, [redacted] FR, Regular Air Force.

Col. Garth B. Dettinger, [redacted] FR, Regular Air Force, medical.

Col. Thomas M. Groome, Jr., [redacted] FR, Regular Air Force, chaplain.

Col. Norman C. Gaddis, [redacted] FR, Regular Air Force.

Col. Howard R. Unger, [redacted] FR, Regular Air Force, medical.

Col. William J. Holton, [redacted] FR, Regular Air Force.

Col. George W. Rutter, [redacted] FR, Regular Air Force.

Col. Charles F. G. Kuyk, Jr., [redacted] FR, Regular Air Force.

Col. Donald R. Klang, [redacted] FR, Regular Air Force.

Col. Howard M. Estes, Jr., [redacted] FR, Regular Air Force.

Col. Howard W. Leaf, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Bruce K. Brown, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Robert A. Foster, [redacted] FR (major, Regular Air Force), U.S. Air Force.

Col. Stuart H. Sherman, Jr., [redacted] FR (major, Regular Air Force), U.S. Air Force.

Col. Richard B. Collins, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Kermit Q. Vandenbos, [redacted] FR Regular Air Force, medical.

Col. William R. Coleman, [redacted] FR, Regular Air Force.

Col. Alonzo J. Walter, Jr., [redacted] FR, Regular Air Force.

Col. Don H. Payne, [redacted] FR, Regular Air Force.

Col. Edwin A. Coy, [redacted] FR, Regular Air Force.

Col. James B. Currie, [redacted] FR, Regular Air Force.

Col. William L. Nicholson III, [redacted] FR, Regular Air Force.

Col. Hans H. Driessnack, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Paul A. Kauttu, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. William B. Maxson, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Robert B. Tanguy, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Harold E. Gross, [redacted] FR (major, Regular Air Force), U.S. Air Force.

Col. Thomas G. Bee, [redacted] FR, Regular Air Force.

Col. Francis A. Humphreys, Jr., [redacted] FR, Regular Air Force.

Col. Albert L. Melton, [redacted] FR, Regular Air Force.

Col. William W. Dunn, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. John E. Ralph, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. George A. Edwards, Jr., [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. John H. Jacobsmeyer, Jr., [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. William G. MacLaren, Jr., [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Gerald E. Cooke, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Frank M. Drew, [redacted] FR (major, Regular Air Force), U.S. Air Force.

Col. Jerome F. O'Malley, [redacted] FR (major, Regular Air Force), U.S. Air Force.
Col. Fred A. Haeffner, [redacted] FR (major, Regular Air Force), U.S. Air Force.
Col. Harry A. Morris, [redacted] FR (major, Regular Air Force), U.S. Air Force.
Col. Robert T. Herres, [redacted] FR (major, Regular Air Force), U.S. Air Force.
Col. Melvin G. Bowling, [redacted] FR (major, Regular Air Force), U.S. Air Force.
Col. William R. Usher, [redacted] FR (major, Regular Air Force), U.S. Air Force.
Col. Sidney L. Davis, [redacted] FR, Regular Air Force.
Col. John W. Collens III, [redacted] FR, Regular Air Force.
Col. Charles B. Knudson, [redacted] FR, Regular Air Force.
Col. Jack W. Waters, [redacted] FR, Regular Air Force.
Col. William C. Branan, [redacted] FR, Regular Air Force.
Col. Elwood A. Kees, Jr., [redacted] FR, Regular Air Force.
Col. Doyle E. Larson, [redacted] FR (major, Regular Air Force), U.S. Air Force.
Col. Michael E. DeArmond, [redacted] FR, Regular Air Force.
Col. David L. Gray, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.
Col. John W. Hepfer, [redacted] FR, Regular Air Force.
Col. Warren C. Moore, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.
Col. Dewey K. K. Lowe, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.
Col. Martin C. Fulcher, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.
Col. James H. Ahmann, [redacted] FR (major, Regular Air Force), U.S. Air Force.
Col. Claire M. Garrecht, [redacted] FR, Regular Air Force nurse.
Col. Robert W. Bazley, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.
Col. James W. Wold, [redacted] FR (major Regular Air Force), U.S. Air Force.
Col. Len C. Russell, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.
Col. George D. Miller, [redacted] FR (major, Regular Air Force), U.S. Air Force.
Col. James A. Abrahamson, [redacted] FR (major, Regular Air Force), U.S. Air Force.
Col. Dan A. Brooksher, [redacted] FR, Regular Air Force.
Col. Van C. Doubleday, [redacted] FR (major, Regular Air Force), U.S. Air Force.
Col. Bobby W. Presley, [redacted] FR (major, Regular Air Force), U.S. Air Force.
Maj. Gen. Walter T. Galligan, [redacted] (brigadier general, Regular Air Force), U.S. Air Force, for appointment in the Regular Air Force to the grade of major general, under the provisions of chapter 835, title 10 of the United States Code.

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Walter T. Galligan, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

The following officer for temporary appointment in the U.S. Air Force under the provisions of chapter 839, title 10 of the United States Code:

To be brigadier general

Col. John T. Guice, [redacted] FG, Air National Guard.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. George Edward Pickett, [redacted], Army of the United States (major general, U.S. Army).

The following-named officers to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Phillip Buford Davidson, Jr., [redacted], Army of the United States (major general, U.S. Army).

Lt. Gen. George Marion Seignious II, [redacted], Army of the United States (major general, U.S. Army).

Lt. Gen. Robert Clinton Taber, [redacted], Army of the United States (major general, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. John Daniel McLaughlin, [redacted], Army of the United States (major general, U.S. Army).

IN THE NAVY

Adm. Worth H. Bagley, U.S. Navy, for appointment as Vice Chief of Naval Operations pursuant to title 10, United States Code, section 5085, in the grade of admiral.

Vice Adm. Damon W. Cooper, U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

Rear Adm. Harry D. Train II, U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

IN THE MARINE CORPS

The following-named officers of the Marine Corps for temporary appointment to the grade of brigadier general:

John R. DeBarr	John H. Miller
Herbert J. Blaha	Harold A. Hatch
Philip D. Shutler	Edward J. Bronars
Richard E. Carey	Warren R. Johnson
George W. Smith	Paul X. Kelley

In the Air Force

Air Force nominations beginning Bobby M. Jones, to be first lieutenant, and ending George D. MacDonald, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on April 9, 1974.

Air Force nominations beginning Robert A. Ain, Jr., to be second lieutenant, and ending Charles M. Westenhoff, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on April 11, 1974.

In the Army

The nomination of Sally Ann McCandless for appointment in the Regular Army of the United States in the grade of captain, which nomination was received by the Senate and appeared in the Congressional Record on April 22, 1974.

In the Navy

Navy nominations beginning Alfredo Lionel Abeyta, to be commander, and ending Charles William Zimmerman, to be commander, which nominations were received by the Senate and appeared in the Congressional Record on April 9, 1974.

In the Marine Corps

Marine Corps nominations beginning Michael Capoot, to be second lieutenant, and ending Frederick L. Thielke, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on April 2, 1974.

Marine Corps nominations beginning George K. VanNess, to be second lieutenant, and ending William T. Motley, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on April 9, 1974.

Marine Corps nominations beginning Kenneth D. Dunn, to be second lieutenant, and ending Emmett T. Washington, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on April 22, 1974.

HOUSE OF REPRESENTATIVES—*Wednesday, May 8, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The Lord is in His holy temple; let all the Earth keep silence before Him.—Habakkuk 2:20.

On this high hill of our Nation's life and before this high altar of our Nation's faith we pause in reverence before Thee—the God of the universe and the Father of all men. As we face the searching challenge of another day may the thoughts in our minds, the words on our lips, and the work of our hands be acceptable unto Thee, O Lord, our strength and our redeemer.

We commend our Nation to Thee. May the walls which separate man from man and group from group be done away and may the common vision of a life together in peace be the dream of every citizen and the desire of every individual. Free us from private and public corruption and so guide us in the exercise of our responsibilities that we may ever be true to Thee, true to our country, and true to ourselves.

With courage and in faith we offer this our morning prayer in the spirit of Him who is the pioneer of life. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 12565. An act to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, and other weapons and research, development, test and evaluation for the Armed Forces, and to authorize construction at certain installations, and for other purposes; and