Mr. MARTIN of North Carolina, Mr. HUNT, Mrs. HECKLER of Massachusetts, Mr. SARASIN, Mr. MCDADE, Mr. HEINZ, Mr. ZION, Mr. SNYDER, Mr. HAMMERSCHMIDT, Mr. LANDGREBE, Mr. GUBSER, Mr. BOB WILSON, Mr. BREAUX, Mr. DOWNING, Mr. BRADEMAS, Mr. OWENS, Mr. HICKS, and Mr. JOHNSON of Pennsylvania):

H. Con. Res. 511. Concurrent resolution for negotiations on the Turkish opium ban; to the Committee on Foreign Affairs.

By Mr. CULVER (for himself, Mr. ANDERSON of Illinois, Mr. ANDREWS of North Dakota, Mr. BERGLAND, Mr. BINGHAM, Mr. BUCHANAN, Mr. FASCELL, Mr. FOLEY, Mr. FRASER, Mr. FRELINGHUYSEN, Mr. GILMAN, Mr. HAMILTON, Mr. MELCHER, Mr. MEZVINSKY, Mr. SEIBERLING, Mr. WHALEN, and Mr. ZABLOCKI):

H. Res. 1155. Resolution expressing the sense of the House of Representatives with respect to the participation of the United States in an international effort to reduce the risk of famine and to lessen human suffering; to the Committee on Foreign Affairs.

By Mr. O'NEILL (for himself, Mr. RHODES, and Mr. SANDMAN):

H. Res. 1156. Resolution to condemn terrorist killings of schoolchildren in Israel; to the Committee on Foreign Affairs.

By Mr. YATES (for himself, Mr. ADAMS, Mr. BURGENER, Mr. BRASCO, Mr. DELLUMS, Mr. ESCH, Mr. HAWKINS, Mr. HOSMER, Mr. KETCHUM, Mr. LUKEN, Mr. MCKINNEY, Mr. MADIGAN, Mr. MOLLOHAN, and Mr. STARK):

H. Res. 1157. Resolution providing for television and radio coverage of proceedings in the Chamber of the House of Representatives on any resolution to impeach the President of the United States; to the Committee on Rules.

By Mr. YOUNG of Alaska:

H. Res. 1158. Resolution on the Hawaii triangle coach fares; Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. BURTON:

H.R. 15144. A bill for the relief of Kai Hung Pun aka Wah Poon; to the Committee on the Judiciary.

By Mr. CRONIN:

H.R. 15145. A bill for the relief of Katsura Fukui; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII,

488. The SPEAKER presented a memorial of the Legislature of the State of South Carolina, relative to Federal appropriations exceeding anticipated annual revenues; to the Committee on Government Operations.

SENATE—*Thursday, May 30, 1974*

The Senate met at 12 o'clock noon and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

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

"O God of love, O King of peace,
Make wars throughout the world to cease;
The wrath of sinful men restrain:
Give peace, O God, give peace again!

"Whom shall we trust but Thee, O Lord?
Where rest but on Thy faithful word?
None ever called on Thee in vain:
Give peace, O God, give peace again!"
—HENRY W. BAKER (1821–77).

We thank Thee, our Father for the measure of peace amid warring peoples and for the prospect of peace in the land of the Prince of Peace. Help us here to live and work in the spirit of His kingdom. Hasten the day when only evil will be fought and all men live in Thy kingdom.

We pray in His name who said, "Blessed are the peacemakers: for they shall be called the children of God." Amen.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed a bill (H.R. 10337) to authorize the partition of the surface rights in the joint use area of the 1882 Executive order Hopi Reservation and the surface and subsurface rights in the 1934 Navajo Reservation between the Hopi and Navajo Tribes, to provide for allotments to certain Paiute Indians, and for other purposes, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills:

S. 2662. An act to authorize appropriations for U.S. participation in the International Ocean Exposition '75; and

H.R. 12466. An act to amend the Department of State Appropriations Authorization Act of 1973 to authorize additional appropriations for the fiscal year 1974, and for other purposes.

The PRESIDENT pro tempore subsequently signed the enrolled bills.

HOUSE BILL REFERRED

The bill (H.R. 10337) to authorize the partition of the surface rights in the joint use area of the 1882 Executive order Hopi Reservation and the surface and subsurface rights in the 1934 Navajo Reservation between the Hopi and Navajo Tribes, to provide for allotments to certain Paiute Indians, and for other purposes, was read twice by its title and referred to the Committee on Interior and Insular Affairs.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, May 29, 1974, be dispensed with.

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

CONSIDERATION OF CERTAIN ITEMS ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendars Nos. 853, 854, 855, and 856.

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

AMENDMENT OF PUBLIC LAW 92–578

The bill (S. 3301) to amend the act of October 27, 1972 (Public Law 92–578), was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3301

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of October 27, 1972 (86 Stat. 1266), is hereby amended as follows:

(1) By designating subsection 4(b) to be subsection 4(c), and by adding a new subsection 4(b) to read as follows:

"SEC. 4. (b) The Board of Directors is authorized to procure the temporary (not in excess of one year) or intermittent services of city planners, architects, engineers, appraisers, and other experts or consultants or organizations thereof in accordance with section 3109 of title 5, United States Code, but at rates for individuals not in excess of the rate in effect for grade GS–18 of the General Schedule.".

(2) By deleting subsection 7(b) and inserting in lieu thereof the following:

"SEC. 7. (b) After the date of the enactment of the Act to amend the Act of October 27, 1972 (Public Law 92–578), no new construction (including substantial remodeling, conversion, rebuilding, enlargement, extension, or major structural improvement of existing building, but not including ordinary maintenance or remodeling or changes necessary to continue occupancy) shall be authorized or conducted within the

development area except upon prior certification by the Corporation that the construction is, or may reasonably be expected to be, consistent with the carrying out of the development plan for the area: *Provided*, That if the development plan for the area does not become effective under the provisions of section 5 by December 31, 1974, this subsection shall be of no further force and effect until such time as the development plan does become effective under that section.".

(3) By deleting section 17 and inserting in lieu thereof the following:

"SEC. 17. There are hereby authorized to be appropriated not to exceed $1,750,000 for the preparation and presentation of the development plan pursuant to section 5 of this Act and for operating and administrative expenses of the Corporation for the fiscal year ending June 30, 1975; and for operating and administrative expenses of the Corporation for succeeding fiscal years such sums as may be necessary.".

DEVELOPMENT OF INDOOR RECREATION FACILITIES

The Senate proceeded to consider the bill (S. 2661) to amend the Land and Water Conservation Fund Act of 1965 so as to authorize the development of indoor recreation facilities in certain areas, which had been reported from the Committee on Interior and Insular Affairs with amendments on page 1, line 5, after the word "following", strike out "new subsection:" and insert "sentence:"; at the beginning of line 6, strike out "(h) Notwithstanding" and insert "Notwithstanding"; and, on page 2, line 1, after the word "and", strike out "development of indoor recreation facilities" and insert "development of sheltered facilities for recreation activities normally pursued outdoors"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6(e)(2) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897) is amended by adding at the end thereof the following sentence:

"Notwithstanding any other provisions of this Act, not more than 25 per centum of the total amount allocated to a State in any one year under this Act for recreation purposes may be approved by the Secretary for the planning and development of sheltered facilities for recreation activities normally pursued outdoors within areas where the Secretary determines that (1) the unavailability of land or climatic conditions provide no feasible or prudent alternative to serve identified unmet demands for recreation resources; and (2) the increased public use thereby made possible justifies the construction of such facilities.".

The amendments were agreed to.

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

EXCHANGE OF VESSELS

The bill (H.R. 11223), to authorize amendment of contracts relating to the exchange of certain vessels for conversion and operation in unsubsidized service between the west coast of the United States and the territory of Guam, was considered, ordered to a third reading, read the third time, and passed.

AMENDMENT OF AUTHORIZATIONS FOR CERTAIN MARITIME PROGRAMS, 1974

The bill (H.R. 12925) to authorize appropriations for the fiscal year 1974 for certain maritime programs of the Department of Commerce was considered, ordered to a third reading, read the third time, and passed.

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 the consideration of executive business.

The PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

ACTION AGENCY

The second assistant legislative clerk read the nomination of John L. Ganley, of New Jersey, to be Deputy Director of the ACTION agency.

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

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The second assistant legislative clerk read the nomination of Virginia Y. Trotter, of Nebraska, to be Assistant Secretary for Education.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

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

INFLATION

Mr. MANSFIELD. Mr. President, inflation is the No. 1 economic problem confronting this Nation and the world today.

Inflation was not caused by Watergate; it is worldwide.

Offhand, the inflation figures for the United Kingdom, as I recall them, is around 15 percent; France, 18 percent; Denmark, 25 to 30 percent; Japan, around 25 percent, and so forth.

In the United States:

Inflation is around 12 percent;

Production is declining around 6 percent;

Wages are lagging behind prices for the 13th consecutive month;

Workers' families have approximately 6 percent less to spend than a year ago;

The stock market is down;

Prime interest rates are up to 11¾ percent.

If present trends continue, we will have to make twice as much in 1980 as we are making today, just to keep even.

What are we doing about the situation? The answer is nothing.

That applies to Congress and the executive branch of the Government.

What is the answer? I do not know definitively but I believe consideration should be given to a proposal known as indexing. It would provide for annual adjustments to reflect increases in the cost of living. The basis for adjustments would be the cost of living index.

It has been estimated that, taking all social security payments into consideration, about 50 million Americans have incomes directly tied to the Consumer Price Index, and the increases are automatic as the cost of living goes up.

Add wage escalator agreements in union contracts now in being and they cover, as I understand it, around 5 million workers. Furthermore, almost every new wage agreement covers this particular escalator clause at the present time. Add Government pensioners, both civilian and military, and that must include several million more who are "indexed."

Will it stop inflation? I do not know, but it will at least allow millions to keep even. If we cannot stop or reduce inflation—and the Government, the administration and the Congress, are unwilling to do so—then let us try this proposal and at least endeavor to keep even.

It is my intention, Mr. President, some time next week, to introduce legislation seeking to establish an index on wages and salaries so that something at least can be attempted to bring about a halt or at least an alleviation to the high cost of living which is rampant throughout the Nation and throughout the world today.

Mr. ALLEN. Mr. President, will the Senator yield to me after the distinguished minority leader has spoken?

Mr. MANSFIELD. I will be glad to yield now, on my time.

Mr. ALLEN. I thank the Senator very much.

I should like to ask the distinguished majority leader if it would not also be helpful in the battle against inflation to balance the Federal budget?

Mr. MANSFIELD. It certainly would.

Mr. ALLEN. Are any efforts being made in that regard by the Congress?

Mr. MANSFIELD. By neither the Congress nor the administration. We are both to blame, I think, in large part, for the fix in which we find ourselves today.

The only stabilizing element is, in my opinion, the Federal Reserve Bank where Arthur Burns is trying to do a job and has been a Cassandra for months trying to warn us that something must be done before the economic condition of the country breaks down and becomes more horrible than it is now.

Mr. ALLEN. Does the Senator think

there is any possibility of balancing the Federal budget for the next fiscal year, starting in July?

Mr. MANSFIELD. I would not say. That would be up to Congress and the administration.

I would point out, so far as Congress is concerned, in the first 4 years of the present administration, if my memory serves me correctly, that we reduced the requests of the President by about $22 billion to $23 billion. During that period, the deficit was increasing, conservatively speaking, by $100 billion. The House, just the other day, by a one-vote margin, passed a substantial increase in the debt limit, which is now approaching the $500 billion mark.

Mr. ALLEN. I thank the distinguished Senator.

Mr. CURTIS. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. I yield.

Mr. CURTIS. On Monday, the junior Senator from Nebraska expects to speak, under a special order, at which time I have a proposal to discuss that will assure a balanced budget. I think it is workable. I hope that all Senators will be present and listen or will read the statement.

Mr. MANSFIELD. If the Senator is successful, he will be as good domestically as Secretary of State Henry Kissinger has been in the foreign policy area.

Mr. HUGH SCOTT. Mr. President, in commenting on the most frequently discussed subject before the Senate—namely; "Who Done It"—I should like to agree with the distinguished majority leader that, of course, inflation results from spending by the administration and from the authorization and appropriation by Congress.

The distinguished Senator from Alabama (Mr. ALLEN), as he often does, has made a highly sensible suggestion—that it is not really a question of "Who Done It" but who means to do it. Who really wants to keep down the cost of living? Who really wants to reduce the budget? The proof of that pudding is found in how we vote. We are all sinners under the same sky here, I suppose.

However, if the distinguished majority leader does not mind my saying it, it is not enough to say that Congress has cut by x billions of dollars various budgets of the President, because that refers only to the controllables. The budget is $305 billion. The distinguished Senator from Nebraska can give me the right figures, but I think the controllables are only about $118 billion. So whatever cuts we make are usually a few billion dollars right off the $118 billion, and the remainder of the budget is accounted for by what we did before, in other years and on other dates.

We have built into this budget an enormous spending for an enormous country and for usually highly proper purposes. But we are living beyond our income as we do it. When the President cuts some of the budgets for the popular programs and when they come up here, the test is whether we vote to sustain the veto, if he vetoes it. If we do not vote for the veto, we are voting for inflation. We ought to know it.

Wherever we spend more than the budget permits, wherever we engage in this fantasy of a full employment budget—which is a favorite of economists, but which is really, in a way, an excuse for deficit financing—we are increasing the inflationary impact on the American people.

So I do not know that we can undo much of what we have done; because, after all, the American people have gone out and spent it. If we talk of giving them a tax refund now, there are certain kinds of tax refunds that would only add to inflation. It is going to take courage to resist some of the demands for automatic reaction of Congress to tax refunds in an election year. Certain kinds of tax reduction will run inflation up 20 percent. So I think we ought to have some discipline and more restraint.

The courts have decided pretty much against the President's right to impound in various cases. That would have saved money; that would have cut inflation. But it did not work.

The only thing that will cut inflation now is restraint on the part of Congress, restraint on the part of the Executive, as the distinguished majority leader has said. I do not have too much hope for it. What I think will probably happen will be that everybody will continue to blame everybody else, and the fingers will point in a complete circle; so that the outside voter, wondering why he has to pay more for meat and rent and services, will find it increasingly difficult to know whom to blame. He is, therefore, likely to turn on everybody in office and say, "Throw them all out." I hope that is not the case. That is not the exercise of the best possible judgment. But unless we can fix our several responsibilities and live up to it, everybody is in the soup.

TRIUMPH OF DIPLOMACY—AND OF A DIPLOMAT

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent to have printed in the RECORD the lead editorial of the New York Times of today, entitled "Triumph of Diplomacy—And of a Diplomat," in deserved tribute to the splendid achievements of the Secretary of State, Dr. Kissinger.

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

TRIUMPH OF DIPLOMACY—AND OF A DIPLOMAT

These past 32 days have changed the face of the Middle East. In a mood swinging repeatedly from enthusiasm to near-despair, Secretary of State Kissinger has completed a mission of peace and mediation without parallel in the long history of the Arab-Israeli dispute. When the details of this complex negotiation can be made known, it will doubtless rank as a classic example of diplomatic technique.

What has been achieved—it cannot be said too often—is not yet peace. It is not the long-sought comprehensive solution of the conflict. A military disengagement pact between Israel and Syria is confined in space, limited in scope, subject always to violation and reversal. Some of the most deep-rooted issues in the quarter-century Middle Eastern struggle have not yet even been addressed: the political status of the dispossessed Palestinian peoples; the governance and accessibility of the Holy City of Jerusalem; the definitive frontiers of the State of Israel in the midst of the Arab nation.

But to indicate problems yet to be solved is in no way to minimize the importance of the first step now successfully completed. As one of Israel's leading political commentators said on the news of yesterday's agreement: "Something has now started that cannot be stopped; a process has begun, and all sides will either have to get aboard or lose their influence over the future."

The process is nothing less than the recognition, finally, that Israel and her Arab neighbors can meet as sovereign states, not as victor and vanquished. There is now a shared recognition that both sides have special interests, that peace will come—if at all—through give and take, that bargaining rather than bellicosity is the safer and wiser course for leaders genuinely concerned with their people's well-being.

If the signing of an accord is the first step, the more subtle second step will be the successful implementation of the negotiated provisions in such a way that the mutual confidence implied in writing can be justified and enhanced in fact. This second step is now well under way between Israel and Egypt, following their trail-blazing agreement of last January. The Governments in Jerusalem and Damascus now must take particular care to insure that neither words nor deeds shatter the tenuous faith that each has tacitly and tentatively placed in the other.

Given the maintenance and further strengthening of this new attitude among the Middle Eastern belligerents, future generations will have cause to be grateful for the statesmanship of Syrian President Assad, who perceived his country's true interests beyond the inflammatory dogma of his predecessors, and of retiring Premier Golda Meir, whose long and courageous career in Israeli politics is climaxed in its final hours by an accord that none would have thought possible just a few months ago.

Last October this newspaper raised one of many voices critical of the award of the Nobel Peace Prize to Henry A. Kissinger for his part in the Vietnam negotiations. The dubious effectiveness of that "peace" accord, and the cynical bargaining and bombing tactics that led up to it did not seem at the time to justify his inclusion in the ranks of such men of peace as Dag Hammarskjold, Ralph Bunche or Albert Schweitzer.

If Mr. Kissinger's achievements in the Middle East these past months have not yet brought peace, they have surely set the nations of the region squarely onto the path to peace if they are ready to follow it. Considering the failures of all who went before him, this may be achievement enough for one man. By his tireless diligence and unswerving devotion to the cause of peace, Secretary Kissinger has without question earned the honor now.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. HUDDLESTON). 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 each.

THE SINNERS ARE USING UP ALL THE STONES

Mr. CURTIS. Mr. President, those who sin are throwing so many stones that we are going to run out of stones in this country. The sinners are using up all the stones.

I hold in my hand a very interesting article relating to Otto Otepka. One of the worst cases of burglarizing an office, entering files, and wiretapping occurred in the State Department during the Kennedy administration.

The article I refer to was written by the distinguished investigator and writer, Clark R. Mollenhoff. It is dated May 26, 1974. I read from it:

Former Secretary of State Dean Rusk either has an exceedingly bad memory or is engaged in an intentional misrepresentation to the Congress on the question of electronic eavesdropping and wiretapping when he headed the State Department.

Rusk has testified to a Senate subcommittee that he knows of no eavesdropping or wiretapping of State Department employes during the Kennedy or Johnson administrations.

And, in a burst of self-righteousness totally out of character with his active role in the cover-up in a case involving security evaluator Otto Otepka, Rusk suggested that he would have quit as secretary had such taps been placed on his staff members without his knowledge.

"There would have been someone else in my office the next day," Rusk told the joint foreign relations and judiciary subcommittees. He said he had strong feeling against some of the tactics engaged in by the Nixon administration in recent years.

Rusk may have had no role in the decisions to "get Otepka" by burglarizing his office safes, putting a tap on his telephone and installing a "bug" in his office.

But thousands of pages of testimony before congressional committees on the infamous ordeal of Otepka demonstrate that the secretary of state knew of the controversy over the illegal wiretappings and night entry of Otepka's safe. Rusk also took an active part in covering up for the individuals engaged in the shameful efforts to frame Otepka, who was branded "an enemy" of the Kennedy administration.

Mr. President, I believe that Senators and the country at large will be interested in reading about the rock throwing by Senators. I ask unanimous consent to have printed in the RECORD the article by Mr. Mollenhoff, which is entitled "Rusk 'Forgot' His Own Wiretapping Scandal."

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

[From the Richmond Times-Dispatch, May 26, 1974]

RUSK "FORGOT" HIS OWN WIRETAPPING SCANDAL

(By Clark R. Mollenhoff)

WASHINGTON.—Former Secretary of State Dean Rusk either has an exceedingly bad memory or is engaged in an intentional misrepresentation to the Congress on the question of electronic eavesdropping and wiretapping when he headed the State Department.

Rusk has testified to a Senate subcommittee that he knows of no eavesdropping or wiretapping of State Department employes during the Kennedy or Johnson administrations.

And, in a burst of self-righteousness totally out of character with his active role in the cover-up in a case involving security evaluator Otto Otepka, Rusk suggested that he would have quit as secretary had such taps been placed on his staff members without his knowledge.

"There would have been someone else in my office the next day," Rusk told the joint foreign relations and judiciary subcommittees. He said he had strong feeling against some of the tactics engaged in by the Nixon administration in recent years.

Rusk, now a teacher of international law at the University of Georgia, may have had no role in the decisions to "get Otepka" by burglarizing his office safes, putting a tap on his telephone and installing a "bug" in his office.

But thousands of pages of testimony before congressional committees on the infamous ordeal of Otepka demonstrate that the secretary of state knew of the controversy over the illegal wiretapping and night entry of Otepka's safe. Rusk also took an active part in covering up for the individuals engaged in the shameful efforts to frame Otepka, who was branded "an enemy" of the Kennedy administration.

What won Otepka a priority position on the Kennedy administration's enemy list was his truthful testimony before the Senate Internal Security Committee on certain laxities in the administration of the State Department employe security program.

Otepka, a long-time civil servant and expert security evaluator, gave his frank opinion on a Kennedy appointee and refused to change his report.

When Otepka was called before the Senate committee, his testimony was in direct contradiction of that of one of his superiors, John F. Reilly, then the deputy assistant secretary of state.

In proving that he was telling the truth and that Reilly's testimony was inaccurate, Otepka produced three documents from his files that conclusively corroborated his testimony.

According to unchallenged testimony before the Senate internal security subcommittee, Reilly and two other State Department officials—Elmer Dewey Hills and David Belisle—embarked on the "get Otepka" effort complete with burglary, eavesdropping, wiretapping, and personal surveillance. It was done with a fervor worthy of a Charles Colson, John Ehrlichman or H. R. Haldeman of the Nixon administration.

That subcommittee engaged in direct correspondence with Secretary Rusk on the eavesdropping and wiretapping after Reilly, Hill and Belisle under oath made broad categorical denials of any knowledge of eavesdropping or wiretapping.

Rusk and the State Department legal office took part in approval of letters written by Reilly, Hill and Belisle in which they admitted that they had tapped Otepka's telephone and bugged his office. But they insisted that their denials under oath were justified because "static" on the wire made the effort "ineffective."

Even this ludicrous explanation was false, for Hill later admitted that there were "a dozen" recordings made of Otepka's conversations, that he had told Reilly and Belisle about these recordings and that they had in fact listened to them with comments indicating some of it would be helpful in the "get Otepka" effort.

Hill testified that on Reilly's instructions he gave the recordings to an unidentified man who met him in a State Department corridor. Reilly later testified that he had no recollection of any recordings, conversations with Hill or instructions to Hill.

This took place under Secretary of State Dean Rusk, whose response was to force the resignation of Hill, who played much the same role as John Wesley Dean in the current Watergate controversy.

Belisle's conduct was condoned by the State Department where he remained and was promoted under the Rusk regime. Reilly was permitted to resign from the State Department with no derogatory report in his personnel record, and the Kennedy administration found a proper place for this wiretapping as a hearing examiner at the Federal Communications Commission.

Otepka has noted recently that in a June 1967 hearing, he was informed by Irving Jaffe, a Justice Department lawyer, that the taped conversations could not be produced because they had been destroyed.

The action has similarities to the Nixon administration's effort to install L. Patrick Gray as permanent director of the FBI after learning of his role in the illegal destruction of papers from the White House safe of convicted Watergate burglar E. Howard Hunt.

Repetition of the documented story of Rusk's responsibility in the Otepka matter isn't intended to minimize crimes of Nixon administration officials. Rather, it demonstrates that lack of integrity in high places is not a characteristic unique to this administration.

Incidentally, it also points up that important segments of the press and television were considerably less aggressive in dealing with such evidence of abuse of executive power when it was done by officials of the Kennedy and Johnson administrations.

ORDER OF BUSINESS

The PRESIDING OFFICER. Is there further morning business?

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

FREEDOM OF INFORMATION BILL

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that during the consideration and votes on S. 2543, the freedom of information bill, a staff member, Mr. Douglas Marvin of the staff of the Senator from Nebraska (Mr. HRUSKA), who will be the manager of the debate on this side, be permitted to remain on the floor.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that, on May 29, 1974, he presented to the President of the United States the following enrolled bills:

S. 3072. An act 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; and

S. 3398. An act to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and other persons; to make improvements in the educational assistance programs; and for other purposes.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following communication and letters, which were referred as indicated:

PROPOSED AMENDMENTS TO BUDGET, 1975 (S. Doc. No. 93-83)

A communication from the President of the United States, transmitting proposed amendments to the budget, 1975, in the amount of $38,790,000 for the Department of the Treasury (with an accompanying paper). Referred to the Committee on Appropriations and ordered to be printed.

PROPOSED LEGISLATION FROM DEPARTMENT OF AGRICULTURE

A letter from the Acting Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Food Stamp Act of 1964, as amended, and for other purposes (with accompanying papers). Referred to the Committee on Agriculture and Forestry.

REPORT ON SALE OF LUMBER AND TIMBER PRODUCTS

A letter from the Assistant Secretary of Defense, reporting, pursuant to law, on surplus, salvage and scrap sales and from the sale of lumber and timber products, for the first 6 months of fiscal year 1974. Referred to the Committee on Appropriations.

REPORT ON SUPPORT FURNISHED FROM MILITARY FUNCTIONS APPROPRIATIONS

A lettter from the Assistant Secretary of Defense, transmitting, pursuant to law, a report of the estimated value, by country, of support furnished from military functions appropriations, during third quarters and the cumulative fiscal year 1974 through March 31, 1974 (with an accompanying report). Referred to the Committee on Appropriations.

REPORT ON LOAN TO SOUTHERN MARYLAND ELECTRIC COOPERATIVE

A letter from the Administrator, Rural Electrification Administration, Department of Agriculture, reporting, pursuant to law, on the approval of a loan to Southern Maryland Electric Cooperative of Hughesville, Md., in the amount of $5,451,000 (with accompanying papers). Referred to the Committee on Appropriations.

REPORT ON TRANSFER OF AMOUNTS APPROPRIATED TO THE DEPARTMENT OF DEFENSE

A letter from the Assistant Secretary of Defense, reporting, pursuant to law, on the transfer of amounts appropriated to that Department. Referred to the Committee on Appropriations.

REPORT ON CONTRACT AWARD DATES

A letter from the Assistant Secretary of Defense, transmitting, pursuant to law, a list of contract award dates, for the period May 15 to August 15, 1974 (with an accompanying report). Referred to the Committee on Armed Services.

REPORT OF DIRECTOR OF SELECTIVE SERVICE

A letter from the Director of Selective Service, transmitting, pursuant to law, a report of that Service, for the period July 1–December 31, 1973 (with an accompanying report). Referred to the Committee on Armed Services.

PROPOSED LEGISLATION FROM SECRETARY OF DEFENSE

A letter from the Secretary of Defense, transmitting a draft of proposed legislation to authorize certain construction at military installations, and for other purposes (with accompanying papers). Referred to the Committee on Armed Services.

REPORT OF FEDERAL DEPOSIT INSURANCE CORPORATION

A letter from the Chairman, Federal Deposit Insurance Corporation, reporting, pursuant to law, on the operations of that Corporation for the year 1973. Referred to the Committee on Banking, Housing and Urban Affairs.

REPORT ON OPERATIONS OF THE EXCHANGE STABILIZATION FUND

A letter from the Secretary of the Treasury, transmitting, pursuant to law, a report on operations of the Exchange Stabilization Fund, for fiscal year 1973 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

REPORT ON EXPORT ADMINISTRATION

A letter from the Secretary of Commerce, transmitting, pursuant to law, a report on Export Administration, for the fourth quarter of 1973 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

PUBLICATION OF FEDERAL POWER COMMISSION

A letter from the Chairman, Federal Power Commission, transmitting, for the information of the Senate, a publication entitled "Statistics of Publicly Owned Electric Utilities in the United States, 1972" (with an accompanying document). Referred to the Committee on Commerce.

PROGRESS REPORT ON NATIONAL TRANSPORTATION POLICY

A letter from the Secretary of Transportation, transmitting, pursuant to law, a progress report on national transportation policy, dated May, 1974 (with an accompanying report). Referred to the Committee on Commerce.

PROPOSED LEGISLATION FROM DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Social Security Act to provide for automatic cost-of-living increases in supplemental security income benefits (with accompanying papers). Referred to the Committee on Finance.

REPORT ON ACTIVITIES RELATING TO CLEARANCE OF THE SUEZ CANAL

A letter from the Assistant Secretary for Congressional Relations, reporting, pursuant to law, that the President has now signed a determination authorizing the use of an additional $730,000 for activities relating to clearance of the Suez Canal (with accompanying papers). Referred to the Committee on Foreign Relations.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Problems in Managing the Development of Aircraft Engines," Department of Defense, dated May 28, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Audit of Federal Deposit Insurance Corporation for the year ended June 30, 1973, Limited by Agency Restriction on Access to Bank Examination Records," dated May 23, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Pesticides: Actions Needed to Protect the Consumer From Defective Products," Environmental Protection Agency, dated May 23, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Congressional Objectives of Federal Loans and Scholarships to Health Professions Students Not Being Met," National Institutes of Health, Health Resources Administration, Department of Health, Education, and Welfare, dated May 24, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

CLARIFICATION OF REPORT ON CONCESSION CONTRACT IN GRAND TETON NATIONAL PARK

A letter from the Acting Associate Director, Department of the Interior, National Park Service, clarifying a report on a concession contract in Grand Teton National Park. Referred to the Committee on Interior and Insular Affairs.

PROPOSED GRANT AGREEMENT WITH UNIVERSITY OF MINNESOTA

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed grant agreement with the University of Minnesota for a research project entitled "Mineral Beneficiation Studies on Minnesota Copper-Nickel Deposits from the Duluth Gabbro" (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

PROPOSED CONTRACT WITH PHYSICS INTERNATIONAL CO., SAN LEANDRO, CALIF.

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with Physics International Company, San Leandro, Calif., for a research project entitled "Open Pit Mine Tests of High Velocity Projectiles" (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

REPORT OF INTERDEPARTMENTAL COUNCIL TO COORDINATE ALL FEDERAL JUVENILE DELINQUENCY PROGRAMS

A letter from the Chairman, Interdepartmental Council to Coordinate All Federal Juvenile Delinquency Programs, Department of Justice, transmitting, pursuant to law, a report of that Council, for fiscal year 1973 (with an accompanying report). Referred to the Committee on the Judiciary.

REPORT ON HEAD START SERVICE TO HANDICAPPED CHILDREN

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on Head Start Services to Handicapped Children (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

PROPOSED LEGISLATION FROM DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to amend the Education of the Handicapped Act by consolidating the discretionary authorities for projects for handicapped children, and for other purposes (with accompanying papers). Referred to the Committee on Labor and Public Welfare.

PROPOSED LEGISLATION FROM ENVIRONMENTAL PROTECTION AGENCY

A letter from the Administrator, Environmental Protection Agency, transmitting two drafts of proposed legislation (1) to extend the Solid Waste Disposal Act, as amended, for one year; and (2) to extend provisions of the Federal Water Pollution Control Act, as amended, for 2 years. Referred to the Committee on Public Works; and (3) a draft of proposed legislation to extend the Marine Protection, Research, and Sanctuaries Act for 2 years. Referred to the Committee on Commerce.

PROSPECTUS FOR ALTERATION TO FEDERAL CENTER IN FORT WORTH, TEX.

A letter from the Administrator, General Services Administration transmitting pur-

suant to law a prospectus which revises the previously approved prospectus for alterations to the Federal Center in Fort Worth, Tex. (with accompanying papers). Referred to the Committee on Public Works.

PROSPECTUS PROPOSING ALTERATION TO GSA DEPOT, DAYTON, OHIO

A letter from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes alterations to building 4 at the GSA Depot in Dayton, Ohio (with accompanying papers). Referred to the Committee on Public Works.

PROSPECTUS FOR ALTERATIONS TO CUSTOMHOUSE AT CHICAGO, ILL.

A letter from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which revises the previously approved prospectus for alterations to the U.S. Customhouse at 610 Canal Street, Chicago, Ill. (with accompanying papers). Referred to the Committee on Public Works.

REPORT ENTITLED "THE EFFECTS OF POLLUTION ABATEMENT ON INTERNATIONAL TRADE"

A letter from the Secretary of Commerce, transmitting, pursuant to law, a report entitled "The Effects of Pollution Abatement on International Trade" (with an accompanying report). Referred to the Committee on Public Works.

PROPOSED LEGISLATION FROM U.S. ATOMIC ENERGY COMMISSION

A letter from the Chairman, U.S. Atomic Energy Commission, transmitting a draft of proposed legislation to amend the Atomic Energy Act of 1954, as amended, to extend the compulsory patent licensing authority (with accompanying papers). Referred to the Joint Committee on Atomic Energy.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. WILLIAM L. SCOTT, from the Committee on Armed Services, without amendment:

S.J. Res. 206. Joint resolution authorizing the Secretary of the Army to receive for instruction at the United States Military Academy one citizen of the Kingdom of Laos (Rept. No. 93-887).

By Mr. LONG, from the Committee on Finance, with amendments:

H.R. 8215. An act to provide for the suspension of duty on certain copying shoe lathes until the close of June 30, 1976 (Rept. No. 93-888).

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION—CONFERENCE REPORT—REPORT OF A COMMITTEE (S. REPT. NO. 93-886)

(Ordered to be printed.)

Mr. MOSS, from the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13998) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, submitted a report thereon.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session.

The following favorable reports of nominations were submitted:

By Mr. TOWER, from the Committee on Armed Services:

Robert Ellsworth, of New York, to be an Assistant Secretary of Defense.

J. William Middendorf II, of Connecticut, to be Secretary of the Navy.

(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.)

Adm. James L. Holloway III, U.S. Navy, for appointment as Chief of Naval Operations.

By Mr. Harry F. Byrd, Jr., from the Committee on Armed Services:

David P. Taylor, of Virginia, to be an Assistant Secretary of the Air Force.

(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.)

Mr. CANNON. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nominations of Major General Kjellstrom, USA, Major General Elder, USA, and Major General Foster, USA, to the grade of lieutenant general; in the Air Force, Major General Hughes to be lieutenant general, Lieutenant General Clark to be placed on the retired list in that grade and Colonel Aderholt to the temporary appointment of brigadier general. Also, Colonel Mead for appointment to the position of permanent professor at the U.S. Military Academy. I ask that these names be placed on the Executive Calendar.

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

Mr. CANNON. Mr. President, in addition, there are three permanent appointments in the Marine Corps in the grade of 2d lieutenant. Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that these names be placed on the secretary's desk for the information of any Senator.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. SYMINGTON (for himself and Mr. ABOUREZK, Mr. BAYH, Mr. BEALL, Mr. BENTSEN, Mr. BURDICK, Mr. ROBERT C. BYRD, Mr. HARRY F. BYRD, JR., Mr. CANNON, Mr. EASTLAND, Mr. ERVIN, Mr. GOLDWATER, Mr. HANSEN, Mr. HART, Mr. HASKELL, Mr. HOLLINGS, Mr. HUMPHREY, Mr. KENNEDY, Mr. JACKSON, Mr. MAGNUSON, Mr. MANSFIELD, Mr. MATHIAS, Mr. MCGEE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. METCALF, Mr. METZENBAUM, Mr. MOSS, Mr. NELSON, Mr. PASTORE, Mr. PELL, Mr. RANDOLPH, Mr. RIBICOFF, Mr. SPARKMAN, Mr. STAFFORD, Mr. STENNIS, Mr. STEVENSON, Mr. TOWER, Mr. WILLIAMS, Mr. COTTON, Mr. BROOKE, Mr. HATFIELD, Mr. CLARK, Mr. CHILES, Mr. NUNN, Mr. TUNNEY, Mr. COOK, Mr. MUSKIE, Mr. DOMENICI, Mr. BAKER, Mr. CRANSTON, Mr. HATHAWAY, Mr. PEARSON, Mr. JAVITS, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. HUGH SCOTT, Mr. MONDALE, and Mr. BIDEN):

S. 3548. A bill to establish the Harry S. Truman Memorial Scholarships and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. MUSKIE:

S. 3549. A bill to amend the Solid Waste Disposal Act as amended by the Resource Recovery Act of 1970. Referred to the Committee on Public Works.

By Mr. FONG:

S. 3550. A bill to amend subchapter 11 of chapter 53 of title 5, United States Code, with respect to the rates of pay for levels III, IV and V of the Executive Schedule, and for certain other positions being paid at rates equal to the rates for such levels; and

S. 3551. A bill to amend subchapter 10 of chapter 53 of title 5, United States Code, with respect to the rates of pay for levels II, IV and V of the Executive Schedule. Referred to the Committee on Post Office and Civil Service.

By Mr. ABOUREZK (for himself and Mr. HATFIELD):

S. 3552. A bill providing for the reaquisition of jurisdiction by Indian tribes and by the United States over criminal offenses and civil matters in Indian country. Referred to the Committee on Interior and Insular Affairs.

By Mr. ABOUREZK:

S. 3553. A bill to provide that all crude oil and other energy sources, and all products refined or derived therefrom, imported from any country in which such oil or other energy source, or such refined product is sold by the government of such country shall be imported by the Government of the United States; to establish a United States Energy Import Administration; and for other purposes. Referred to the Committee on Finance.

By Mr. DOMENICI:

S. 3554. A bill to establish the Public Lands Withdrawal Review and Evaluation Commission and to impose on such Commission a duty to undertake an immediate review of public lands withdrawn by executive action from exploration, development, and production of energy and other mineral resources with a view to determining and recommending the extent to which, if any, such lands should be made available for the exploration, development, and production of energy and other mineral resources, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. BELLMON:

S. 3555. A bill to establish a Fiscal Stabilization Board as an independent agency of the Government, and to authorize the President, upon recommendation of the Board but subject to disapproval of either House of the Congress, to increase or decrease Federal income taxes in order to stabilize economy. Referred to the Committee on Finance.

By Mr. PERCY (for himself, Mr. RANDOLPH, Mr. STAFFORD, and Mr. WEICKER):

S. 3556. A bill to conserve energy and save lives by extending indefinitely the 55 miles per hour speed limit on the Nation's highways. Referred to the Committee on Public Works.

By Mr. MOSS:

S. 3557. A bill to allow the use of certain funds authorized to be appropriated for expenditure from the Highway Trust Fund and apportioned to the States pursuant to Title 23, United States Code, without matching state or local funds. Referred to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SYMINGTON (for himself and Mr. ABOUREZK, Mr. BAYH, Mr. BEALL, Mr. BENTSEN, Mr. BURDICK, Mr. ROBERT C. BYRD, Mr. HARRY F. BYRD, JR., Mr. CANNON, Mr. EASTLAND, Mr. ERVIN, Mr. GOLDWATER, Mr. HANSEN, Mr. HART, Mr. HASKELL, Mr. HOLLINGS, Mr. HUMPHREY, Mr. KENNEDY, Mr. JACKSON, Mr. MAGNUSON, Mr. MANSFIELD, Mr. MATHIAS, Mr. MCGEE, Mr. COTTON, Mr. BROOKE, Mr. HATFIELD, Mr. CLARK, Mr. CHILES, Mr. NUNN, Mr. TUNNEY, Mr. MCGOVERN, Mr. MCINTYRE, Mr. METCALF, Mr. METZENBAUM, Mr. MOSS, Mr. NELSON, Mr. PASTORE, Mr. PELL, Mr. RANDOLPH, Mr. RIBICOFF, Mr. SPARKMAN, Mr. STAFFORD, Mr. STENNIS, Mr. STEVENSON, Mr. TOWER, Mr. WILLIAMS, Mr. COOK, Mr. MUSKIE, Mr. DOMENICI, Mr. BAKER, Mr. CRANSTON, Mr. HATHAWAY, Mr. PEARSON, Mr. JAVITS, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. HUGH SCOTT, Mr. MONDALE, and Mr. BIDEN.

S. 3548, to establish the Harry S. Truman Memorial Scholarships and for other purposes. Referred to the Committee on Labor and Public Welfare.

PRESIDENT HARRY S. TRUMAN SCHOLARSHIP MEMORIAL

Mr. SYMINGTON. Mr. President, on behalf of my distinguished colleague from Missouri (Mr. EAGLETON) and myself, as well as some 45 of our colleagues, I introduce today for appropriate reference legislation to honor the memory of former President Harry S. Truman. This unique idea of commemorating a former President has the hearty approval of the Senate Republican leadership as well as the Democratic leadership.

This measure would provide for the annual award to 51 young Americans—one from each State and one from the District of Columbia—of a 4-year scholarship to prepare for a career in government. The cost would be far less than that of a typical modern public building—a one-time investment of $30,000,000 in treasury funds, the interest on which would carry the program permanently. It is intended that this be the sole federally financed memorial for President Truman.

The students would be known as Truman scholars and would be selected on the basis of statewide competitive examination. They would attend the colleges or universities of their choice so long as the chosen institution met the criteria established by the Board of Trustees of the Harry S. Truman Foundation with respect to courses of study offered and activities designed to prepare an individual for a career in public service.

Such studies would include training in the history and traditions and practice of American politics, as well as recent operation of the political process itself.

President Truman was noted as a widely read student of American history. His individual effort in this area gave him perspective in the direction of our country during the vital years of his service.

At the same time, this President held a firm belief in the value of formal education; and he took every opportunity to encourage young people to pursue their knowledge of these subjects that are now becoming so important to our Nation and the world.

Mrs. Truman endorses wholeheartedly this scholar program as a particularly appropriate memorial to her late husband.

Many Senators have already joined us in introducing this legislature, and we would hope that it be unanimous.

In the House, a companion bill is being introduced by Congressman WILLIAM RANDALL who represents the district of the former President. He is being joined by all of the Members of the Missouri delegation.

I ask unanimous consent that the bill be held at the desk for the remainder of the day so that Senators desiring to do so can cosponsor this bill.

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

Mr. SYMINGTON. We would hope for prompt approval of this legislation; and I ask unanimous consent to insert at this point in the RECORD a summary of its details as well as the text itself.

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

SUMMARY OF TRUMAN MEMORIAL BILL

The proposed Harry S. Truman Memorial Scholarship Act provides for the funding and award of four year undergraduate scholarships each year to 51 young Americans in each of the 50 states and the District of Columbia.

The purpose of the undergraduate scholarship program is to provide a major educational program of preparation for public service with special emphasis on the positive political aspects of government at all levels throughout the United States.

There is a growing need in the United States for educated young people to enter public service with some knowledge of how to blend technical skills with the give and take of politices (or as it was once described, people who know how to make a "mesh" of things). Because this kind of talent is one which Mr. Truman possessed and appreciated, it is especially appropriate to honor the memory of Mr. Truman in this manner.

To achieve this objective, the bill establishes the Harry S. Truman Scholarship Foundation as an independent establishment of the executive branch of government. A Board of Trustees, composed of 15 members appointed by the President by and with the advice and consent of the Senate, would supervise and direct the Foundation through an Executive Director. Appointees to the Board would include a Senator, a Representative, a Governor, a Mayor, Federal and State Judges as well as a representative of the Truman family, and a citizen representative of the public.

The Foundation would supervise the scholarship program and under arrangements with the Governors of each State would make provisions for the selection of the scholarship winner annually on a statewide competitive basis. Each recipient of an award is to be known as a Truman Scholar and could attend the college or university of his choice provided it met Foundation criteria. Any institution of higher education offering courses of study leading to a bachelor or equivalent degree would quality so long as the institution offered courses which would prepare persons for a career in public service as determined pursuant to criteria established by the Foundation.

Qualifying institutions would also agree to provide a scholarship student with an opportunity to study no more than one of the four academic years at a college or consortium of colleges and universities in or near Washington, D.C. The purpose of the academic year in Washington is to provide specialized training in American government and politics and a laboratory where all scholars might study together.

A trust fund mechanism is employed to finance the scholarship program through an authorization for a one-time $30,000,000 appropriation. The trust fund, created in the Department of Treasury, would be invested in interest-bearing obligations of the United States or in obligations guaranteed by the United States.

It is anticipated that the $30 million appropriation would provide an annual return sufficient to provide for administrative expenses and for 51 scholarships with no individual grant to exceed an annual payment of more than $5,000.00.

S. 3548

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 "Harry S. Truman Memorial Scholarship Act".

STATEMENT OF FINDINGS

SEC. 2. The Congress finds that—

because a high regard for the public trust and a lively exercise of political talents were outstanding characteristics of the thirty-third President of the United States;

because a special interest of the man from Independence in American history and a broad knowledge and understanding of the American political and economic system gained by study and experience in county and national government culminated in the leadership of America remembered for the quality of his character, courage, and commonsense;

because of the desirability of encouraging young people to recognize and provide service in the highest and best traditions of the American political system at all levels of government, it is especially appropriate to honor former President Harry S. Truman through the creation of perpetual educational scholarship program to develop increased opportunities for young Americans to prepare and pursue careers in public service.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Board" means the Board of Trustees of the Harry S. Truman Scholarship Foundation;

(2) "Foundation means the Harry S. Truman Scholarship Foundation;

(3) "Fund" means the Harry S. Truman Memorial Scholarship Fund;

(4) "institution of higher education" means any such institution as defined by section 1201(a) of the Higher Education Act of 1965; and

(5) "State" means each of the several States of the United States and the District of Columbia.

ESTABLISHMENT OF THE HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

SEC. 4. (a) There is established, as an independent establishment of the executive branch of the United States Government, the Harry E. Truman Scholarship Foundation.

(b) The Foundation shall be subject to the supervision and direction of a Board of Trustees. The Board shall be composed of fifteen members, appointed by the President, by and with the advice and consent of the Senate, one of whom shall be selected annually by the Board to serve as Chairman.

Members of the Board shall be appointed as follows:

(1) one member from among the Members of the Senate;

(2) one member from among Members of the House of Representatives;

(3) one member who is a representative of the Truman family;

(4) four members from among individuals who are educators or scholars;

(5) one member from among the chief executives of the States;

(6) one member from among individuals who are mayors;

(7) one member from among individuals who are in the field of finance;

(8) one member from among individuals who are in the field of foreign policy;

(9) three members from among individuals who are members of the bar of the highest court of a State, of whom one shall be a Federal judge and one shall be a State judge; and

(10) one member to be a citizen representative of the public.

(c) The term of office of each member of the Board shall be six years; except that (1) the members first taking office shall serve as designated by the President, five for terms of two years, five for terms of four years, and five for terms of six years, and (2) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed, and shall be appointed in the same manner as the original appointment for that vacancy was made.

(d) Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

SCHOLARSHIPS AUTHORIZED

SEC. 5. (a) The Foundation is authorized to award, in accordance with the provisions of this Act, not to exceed fifty-one scholarships in any fiscal year beginning after June 30, 1973, for undergraduate study for persons who plan to pursue a career in public service. Each such award recipient shall be known as a Truman scholar.

(b) Scholarships awarded under the provisions of this Act shall be for undergraduate study leading to a bachelor's or equivalent degree at any institution of higher education approved by the Foundation in accordance with section 6(a) as an institution offering courses of study, training, research, and other educational activities designed to prepare persons for a career in public service, including the history, tradition, and practice of American politics, the development of any skills useful to the solution of problems customarily associated with public service, and practical field experience in the operation of the American political process.

(c) Scholarships under this Act shall be awarded for such periods as the Foundation may prescribe but not to exceed four academic years.

(d) In addition to the number of scholarships authorized to be awarded by subsection (a) of this section, the Foundation is authorized to award scholarships equal to the number previously awarded during any fiscal year under this Act but vacated prior to the end of the period for which they were awarded; except that each scholarship awarded under this subsection shall be for such period of study, not in excess of the remainder of the period for which the scholarship which it replaces was awarded, as the Foundation may determine.

SCHOLARSHIP REQUIREMENTS

SEC. 6. (a) A student awarded a scholarship under this Act may attend any institution of higher education if that institution—

(1) offers courses of study, training, research, and other educational activities designed to prepare persons for a career in public service as determined pursuant to criteria established by the Foundation; and

(2) agrees to provide such a scholarship student the opportunity to study for a period not to exceed one academic year at an institution of higher education or a consortium of such institutions, located in or near Washington, the District of Columbia.

(b) Each student awarded a scholarship under this Act shall sign an agreement, in such terms as the Foundation may prescribe, stating that he has a serious intent to enter the public service upon the completion of the educational program. Each institution of higher education at which such a student is in attendance will make reasonable continuing efforts to encourage such a student to enter the public service upon completing his educational program. For the purpose of this section, educational program is not limited to the academic program for which a scholarship is awarded under this Act.

SELECTION OF TRUMAN SCHOLARS

SEC. 7. (a) The Foundation is authorized to enter into arrangements with the chief executive of each State under which a State selection committee for Truman scholars is established in that State in order to conduct a statewide competitive examination and to select each year the Truman scholar for that State.

(b) The Foundation is authorized under limitations prescribed by the Board to reimburse each State for necessary and reasonable expenses incident to the selection of a Truman scholar pursuant to this section.

(c) If no Truman scholar is selected from a particular State for any year pursuant to an arrangement under this section, the Foundation may select an outstanding student from that State.

(d) No person may be selected as a Truman scholar for any State who, at the time of his selection, is not a resident of that State.

STIPENDS AND INSTITUTIONAL ALLOWANCES

SEC. 8. Each student awarded a scholarship under this Act shall receive a stipend which shall not exceed the cost to such student for tuition, fees, books, room and board or $5,000 whichever is less for each academic year of study.

SCHOLARSHIP CONDITIONS

SEC. 9. (a) A student awarded a scholarship under the provisions of this Act shall continue to receive the payments provided in this Act only during such periods as the Foundation finds that he or she is maintaining satisfactory proficiency and devoting full time to study or research in the field in which such scholarship was awarded in an institution of higher education, and is not engaging in gainful employment other than employment approved by the Foundation by or pursuant to regulation.

(b) The Foundation is authorized to require reports containing such information in such form and to be filed at such times as the Foundation determines to be necessary from any student awarded a scholarship under the provisions of this Act. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such student is making satisfactory progress in, and is devoting essentially full time to, the program for which the scholarship was awarded.

(c) No scholarship shall be awarded under this Act for study at a school or department of divinity.

TRUMAN MEMORIAL SCHOLARSHIP FUND

SEC. 10. (a) There is established in the Treasury of the United States a trust fund to be known as the Harry S. Truman Memorial Scholarship Trust Fund. The fund shall consist of amounts appropriated to it by section 13(a) of this Act.

(b) It shall be the duty of the Secretary to invest in full the amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one eighth of 1 per centum next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

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

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

EXPENDITURES FROM THE FUND

SEC. 11. The Secretary is authorized to pay to the Foundation from the interest and earnings of the fund such sums as are necessary to enable the Foundation to pay stipends to the Truman scholars and allowances to institutions of higher education which Truman scholars are attending.

EXECUTIVE SECRETARY

SEC. 12. (a) There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Secretary shall carry out such other functions consistent with the provisions of this Act as the Board shall delegate.

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(132) Executive Secretary of the Harry S. Truman Scholarship Foundation.".

ADMINISTRATIVE PROVISIONS

SEC. 13. In order to carry out the provisions of this Act, the Fountain is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act;

(2) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, at rates for individuals not to exceed $125 per diem;

(3) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than that it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

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

(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this Act, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

(7) make advances, progress, and other payments which the Board deems necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529);

(8) rent office space in the District of Columbia; and

(9) make other necessary expenditures.

(b) The Foundation shall submit to the President and to the Congress an annual report of its operations under this Act.

APPROPRIATIONS AUTHORIZED

SEC. 14. (a) There are authorized to be appropriated $30,000,000 to the fund.

(b) There are authorized to be appropriated such sums as may be necessary for administrative expenses incident to carrying out the provisions of this Act.

Mr. SYMINGTON. I also ask unanimous consent to have printed in the RECORD, Mr. President, the names of those Senators who have already cosponsored the bill, a total of 58 Senators.

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

Cosponsors of bill introduced by Senator Symington, joined by Senator Eagleton, to provide for a Harry S. Truman Memorial:

Mr. Abourezk, Mr. Bayh, Mr. Beall, Mr. Bentsen, Mr. Burdick, Mr. Robert C., Mr. Harry F. Byrd, Jr., Mr. Cannon, Mr. Eastland, Mr. Ervin, Mr. Goldwater, Mr. Hansen, Mr. Hart, Mr. Haskell, Mr. Hollings, Mr. Humphrey, Mr. Kennedy, and Mr. Jackson.

Mr. Magnuson, Mr. Mansfield, Mr. Mathias, Mr. McGee, Mr. McGovern, Mr. McIntyre, Mr. Metcalf, Mr. Metzenbaum, Mr. Moss, Mr. Nelson, Mr. Pastore, Mr. Pell, Mr. Randolph, Mr. Ribicoff, Mr. Sparkman, Mr. Stafford, Mr. Stennis, Mr. Stevenson, Mr. Tower, and Mr. Williams.

Mr. Cotton, Mr. Brooke, Mr. Hatfield, Mr. Clark, Mr. Chiles, Mr. Nunn, Mr. Tunney, Mr. Cook, Mr. Muskie, Mr. Domenici, Mr. Baker, Mr. Cranston, Mr. Hathaway, Mr. Pearson, Mr. Javits, Mr. Johnston, Mr. Huddleston, and Mr. Hugh Scott.

Mr. GRIFFIN. Mr. President, reserving the right to object, and I shall not object, the request of the distinguished Senator from Missouri was that the bill be held at the desk only during the remainder of this day; is that correct?

Mr. SYMINGTON. That is correct.

Mr. GRIFFIN. I shall not object, but I take note of the fact that we have had a practice in the Senate of not holding a bill at the desk for additional cosponsors, and I would object if it were longer than just for the remainder of this day. But I certainly think that request is not out of line with the general effort that we are trying to make here to keep the legislative program moving.

Mr. SYMINGTON. Mr. President, may I say that my staff informs me that the agreement was that it could be held for a day. That was the reason that I just asked for a day.

Mr. GRIFFIN. I wanted to be sure that was it.

Mr. SYMINGTON. I appreciate the courtesy of the assistant minority leader.

Mr. President, I thank the able Senator from Massachusetts for his courtesy.

By Mr. MUSKIE:

S. 3549. A bill to amend the Solid Waste Disposal Act as amended by the Resource Recovery Act of 1970. Referred to the Committee on Public Works.

SOLID WASTE AND RESOURCE RECOVERY

Mr. MUSKIE. Mr. President, I am pleased today to introduce legislation designed to further our efforts to control solid waste disposal problems and recapture energy and material resources that are now being discarded as waste by our society.

Solid waste has grown tremendously in the last few decades. It has become a substantial aggravation for the public officials who must deal with this problem locally. Solid waste disposal problems rank at the very top of the concerns of municipal officials in a recent poll by the National League of Cities/U.S. Conference of Mayors.

Eighty percent of America's cities still use open dumps to dispose of wastes. By throwing away products after their use, we are wasting energy as well as materials. An aluminum ingot made from scrap uses one-tenth the energy required to make the same ingot from bauxite. Copper made from ore available today requires 15 times the energy required for copper produced from scrap. The reduction of energy waste and the reduction of materials waste go hand in hand.

A recent report by EPA indicates that up to 60 percent of municipal waste is combustible. There are 136 million tons of urban refuse available to process for the recovery of energy. If this energy were used to produce electricity, an amount equal to 11 percent of the electricity produced from conventional steam plants in 1970 could be generated.

An added advantage of using waste as fuel is its low pollution characteristic. For example, municipal waste has one-tenth the sulfur content of ordinary coal. And energy from solid waste does not strip the land for coal or pollute the sea with oil.

The way we live has taken a great toll on the environment. Most of the nondegradable products now threatening to turn our cities into garbage dumps were developed and have been marketed since World War II.

Since World War II, our population has increased a little more than a third, but the amount of pollution per person has grown sevenfold.

Our capacity for technological innovation in creating new products has far out stripped our ability to deal with the environmental stress created by those innovations.

And I am convinced that this gap is the result of failure to try—not lack of genius. Until we alter our no deposit-no return attitude toward resources, our policies will not match the realities that face us.

Land, air, and water are all scarce resources. When we dump solid waste into any of these, we discard needed materials and damage environmental resources.

Today I am introducing a bill that will help expand Federal efforts to deal with solid waste/resource recovery problems. The bill will assist in solving these problems by: stimulating State and local plans that lead to the adoption of resource recovery techniques, second, providing loans and grants to carry out those plans third, encouraging resource conservation by firmly expanding the Federal procurement of recycled products, and fourth, stimulating standards to regulate items in the solid waste stream where such regulations would have substantial benefit.

This proposed legislation builds on the Solid Waste Disposal Act of 1965 and the Resource Recovery Act of 1970. The grants provided for demonstration projects for resource recovery techniques under the 1970 law were very useful in moving technology along. These projects provide examples of technological innovation, and are spreading to other cities.

Progress was stalled in 1973, however, when the Administration attempted to kill the solid waste program in its fiscal year 1974 budget. Congress reinstated the program, and this year the solid waste activities in the President's fiscal year 1975 budget request are at the same figure as expenditures for fiscal year 1974.

The energy problems facing the country require that we recover as many resources as possible and reduce the amount of energy used in producing materials. Our energy shortage has made us even further conscious of the need to conserve resources and recover those that we use.

The bill proposes a continuation of the Federal steps to help solve the problems of solid waste disposal and resource shortages. States are encouraged to take a larger role than ever before, but local planning and local implementation of State plans is required.

As the Congress continues to shape legislation in this area, the ideas I have put forward will undoubtedly be modified. I look forward to joining in that process and in fashioning the most useful legislative approach possible to solve this problem.

I ask that a section-by-section analysis of the bill be included in the RECORD, followed by the text of the bill.

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

SECTION-BY-SECTION ANALYSIS: DRAFT ENERGY RECOVERY AND RESOURCE CONSERVATION ACT OF 1974

Section 102—Findings and Purpose:

This section establishes the findings and purposes of the Act. It is similar to the present law with modifications to recognize a greater emphasis towards energy recovery, resource recovery, the particular problems of inner city areas, the need to adopt policies to support the resource recovery effort, and the necessity of standards in limited areas of packaging, products, and other major items of solid waste.

Section 103—Definitions:

Section 104—Research, Training, Technical Assistance and Other Activities:

This section authorizes support for various

research, demonstration and training activities. It revises existing law to specify that funds may be used to support development of regulations to reduce the volume of solid waste reaching the disposal system and programs for clean up of places with severe waste accumulation problems. It adds a new subsection (d) to prohibit the current EPA practice of imposing service charges on state and local employees participating in EPA sponsored training programs.

Section 105—Special Study and Demonstration Projects on Recovery of Useful Energy and Materials:

This section is essentially the same as section 205 of the existing Act directing EPA studies of various matters relating to resource recovery.

Section 106—Grants for State Programs and State, Interstate and Local Planning:

This section is revised from the existing law to provide support not only for planning for various specific purposes, but also for the establishment of statewide solid waste management and resource recovery programs.

Subsection (a), as in the existing law, allows support for planning in a number of areas related to solid waste management with the Federal share not to exceed 66⅔ where a particular planning activity would apply to only one municipality or 75% in case of an application for more than one municipality. A number of purposes for which these planning funds can be used are listed under subsection (a).

Subsection (b) is an entirely new section and provides grants for up to 75% of the cost for establishing statewide solid waste management and resource recovery programs in fiscal years 1975 through 1977 with the Federal share dropped to 60% in the next three fiscal years.

Eligibility for a grant under this section is a condition for grants under section 107 or loans under section 108 being made in a state after January 1, 1977.

After January 1, 1977, grants under subsection (b) are preconditioned on a number of factors listed in subsection (c). These factors include (1) the establishment of a single state agency to be responsible for statewide programs, (2) state action to establish sufficient legal authority to implement its programs, and (3) a statewide solid waste management and resource recovery plan approved by EPA which includes (A) a land use plan identifying areas to be used as present and future disposal sites, (B) a program for issuing permits to all disposal sites, (C) provision to coordinate the activity of the state and municipal governments to limit the costs of collection and disposal of solid waste and assure recovery at the greatest percentage possible of recyclable or reuseable materials, (D) adequate controls on collection, recycling and disposal of hazardous wastes, (E) programs to identify methods and procedures used in the collection and transportation of materials available for recycling, (F) a provision to assure that solid waste management practices within the state are consistent with the requirement of the Clean Air Act and the Federal Water Pollution Control Act, (G) a program to close dumps in major urban areas within 2 years, (H) plans for the establishment of transfer facilities to aid rural areas in joining in larger projects, and (I) a technical assistance program for small communities.

Subsections (d) and (e) contain controls on the grant making process similar to Section 207 (b) and (c) of existing law. $50 million is authorized for this program for fiscal year 1975, $75 million for 1976 and $100 million for 1977, with annual distribution in any one state limited to 10% of the total authorization.

Section 107—Grants for Energy and Resource Recovery System and Improved Solid Waste Disposal Facilities:

This section is essentially the same as section 208 of the existing Act. It provides grants for up to 75% of the cost for demonstrating resources recovery systems with adequate assurance that the system has a plan for areawide implications. Also, it provides grants for construction of new solid waste disposal facilities if these projects are covered by adequate areawide planning and if they advance the state of the art with funding limited to a maximum 50% Federal share for projects in one municipality or 75% for more than one municipality. No more than 15% of funds appropriated under this section can be spent in any one state. Funding for this program is $75 million in fiscal year 1975, $50 million in fiscal year 1976, and $25 million in fiscal year 1977.

Section 108—Loans for Implementation of Resource Recovery Systems:

This section authorizes EPA to make loans to state and local governments for up to 75% of the cost of implementing resource recovery systems. The loans are to be for periods not to exceed twenty years. EPA may reduce the annual repayment of principle and interest by an amount equal to half of the funds received by the loan recipient from the sale of solid waste derived from the resource recovery system.

Section 109—Training Projects:

This section is essentially the same as section 210 of the existing Act providing grants for training projects. The only difference is that subsection (c) of the existing law, calling for a study of training needs, is deleted because the study should have been completed by the time the new law is enacted.

Section 110—Federal Agency Activities:

This section is intended to provide a comprehensive set of regulations to make Federal government actions more consistent with good solid waste management practices. To do this, EPA is required to publish regulations which:

(1) establish guidelines for purchasing practices which, to the maximum extent feasible, assure purchase of materials which are recycled, or which may be recycled or reused when discarded;

(2) encourage minimization of the volume of solid waste through limiting the amount of materials used and discarded; and

(3) establish procedures for the collection of solid waste which can be recycled or reused and assure that such material is available for reuse or recycling.

In addition, EPA, in cooperation with the General Services Administration and the Government Printing Office, is to develop special regulations for use of paper by the Federal government and Federal contractors.

Once the regulations for Federal activities have been developed by EPA, the President is required to publish regulations to insure their implementation by all Federal agencies. The President may exempt any single activity of facility from compliance with any regulations recommended under this section for a period of up to one year if he determines it to be in the paramount interest of the United States to do so. The one year exemptions are renewable.

Section 111—Packaging, Products, and Containers:

EPA is required to publish criteria to be used in classifying packaging, products, and containers according to the disposal problems they create, energy and resources they consume and potential for reuse or recycling. Then a list is published, followed by regulations that may specify recycled materials to be used and other component materials.

Section 112—*Major Items of Solid Waste:*

Within one year, EPA must classify major items according to disposal problems, resources consumed and potential for increasing useful life, along with regulations proposing minimum life for items classified as the worst offenders with substantial potential for improvement. Final regulations are published four months later, and take effect two years later.

All major items of solid waste produced after standards for them have been promulgated must include a label specifying the conditions for its reuse, recycling or disposal and providing information as to any reimbursable fees payable to the holder of that major item of solid waste.

Section 113—*Imports:*

Imported products for which a standard has become effective under sections 111 and 112 must have a certificate of compliance with that standard.

Section 114—*Prohibited Acts:*

(1) At any time later than one year after publication of final regulations prescribing recycling criteria, the manufacture, distribution, sale or offering for sale of any product in a container without a certification of that container which has been accepted by EPA;

(2) The manufacture, distribution, sale or offering for sale of any product in violation of any standard relating to major items of solid waste;

(3) The removal prior to sale of any label required to be affixed to a major item of solid waste, or sale of that item with the label removed;

(4) The importation into the United States of any product in violation of import regulations;

(5) Failure to comply with orders issued by EPA.

Section 115—*Enforcement:*

Willful violators are to be punished by a fine of not more than $5,000 for each violation, or by imprisonment for not more than one year, or both. If the conviction is for a violation committed after a first conviction, the punishment can be a fine of not more than $10,000 for each violation, or imprisonment for not more than two years, or both. Any violators may be subject to a civil penalty of up to $5,000.

Whenever any person commits a prohibited act, the Administrator must issue an order specifying such relief as he determines is necessary to protect the public health and welfare. The relief may include an order requiring a person to cease his violation, and may also include the seizure of any products which may be involved.

Section 116—Citizen Suits:

The citizen suit provision is essentially the same as in the air, water and noise laws, except that the waiting period to file a suit after notifying EPA is dropped from 60 days to 30 days.

Section 117—Judicial Review:

The provision relating to judicial review of administrative actions is also similar to existing laws.

Section 118—Records, Reports and Information:

Provisions relating to recordkeeping, availability of records for inspection, and providing required information are also similar to existing laws. However, one new provision prohibits use of records which are required to be shown to EPA in any subsequent criminal proceeding. Another new provision requires that any communication to EPA concerning a matter under consideration in a rulemaking or adjudicatory proceeding in the agency must be made a part of the public file of that proceeding and must be available for inspection unless it is a communication entitled to protection as a trade secret.

Section 119—Public Rulemaking:

The public is allowed to participate through a public hearing in all EPA rulemaking relating to solid waste.

Section 120—Annual Report:

EPA is required to submit to Congress an annual report on the progress of the various solid waste management programs and the impact of policies affecting resource recovery. The report must be submitted to Congress at the same time it is submitted to the Office of Management and Budget or some other agency.

Section 121—Labor Standards:

Labor protection provisions relating to wages paid on Federally-aided projects are similar to those in the Clean Air Act.

Section 122—Employee Protection:

The discharge or discrimination against any employee for taking part in any proceeding related to the Act is prohibited. The Secretary of Labor is to investigate reports of violations of this provision and where violations are found, issue orders to correct the problem and protect the employee. Employee actions in direct violation of the specific prohibitions of the Act are exempted from the prohibition in this section.

EPA is also directed to study, on a continuing basis, employment shifts due to the enforcement of the Act and investigate, where requested by any employee, where persons have been discharged or otherwise harmed in their jobs or threatened with same because of enforcement actions.

Section 123—State and Local Authority—Preemption:

Nothing in the Act is to preclude any state or local government from adopting and enforcing controls relating to solid waste management or reuse, recycling, or disposal of solid waste which are more stringent than the Federal controls.

Section 124—General Provisions:

For general program purposes, EPA is appropriated $50,000,000 for fiscal year 1975, $60,000,000 for fiscal year 1976, and $70,000,000 for fiscal year 1977.

The Secretary of the Interior is to receive $25,000,000 for fiscal year 1975, $25,000,000 for fiscal year 1976, and $25,000,000 for fiscal year 1977.

All documents submitted to the Congress, the Office of Management and Budget, or any other Federal agency with respect to a proposed budget to implement any of the provisions of this Act must be available for public inspection.

Section 125—Separability:

This section provides that if any part of this Act is held invalid, the remainder shall continue to apply.

Section 126—Water Pollution from Sanitary Landfills:

This section adds sanitary landfills to the non-point sources designated in the Federal Water Pollution Control Act for which EPA must develop regulations.

S. 3549

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

SECTION 1. This Act may be cited as the "Energy Recovery and Resource Conservation Act of 1974."

SEC. 2. The Solid Waste Disposal Act, as amended by the Resource Recovery Act of 1970, is amended to read as follows:

"TITLE I

"FINDINGS AND PURPOSES

"SEC. 102. (a) The Congress finds that

"(1) the energy recovery potential from materials now being discarded in solid waste could substantially contribute to needed energy production;

"(2) the continuing technological developments in methods of manufacture, packaging, and marketing of consumer products have resulted in an evermounting increase, and in a change in the characteristics, of the mass of material discarded by the purchasers of such products;

"(3) the economic and population growth of our Nation, and the improvements in the standard of living enjoyed by our population, have required increased industrial production to meet our needs, and have made necessary the demolition of old buildings, the construction of new buildings, and the provision of highways and other avenues of transportation, which, together with related industrial, commercial, and agricultural operations, have resulted in a rising tide of scrap, discarded, and waste materials;

"(4) the continuing shifts in our population have presented many communities with serious financial, management, intergovernmental, and technical problems in the recovery and disposal of solid wastes, resulting from industrial, commercial, domestic, recreational, and other activities;

"(5) and present proliferation of solid wastes and inefficient and improper methods of recovery and disposal of solid wastes are creating increasingly serious hazards to the public health and welfare, including pollution of air and water resources, accident hazards, increases in rodent and insect vectors of disease, and scenic blights that have an adverse effect on land values, create public nuisances, and otherwise interfere with community life and development;

"(6) the failure or inability to salvage, recover, and reuse such materials and the energy from such materials economically results in the unnecessary waste and depletion of our increasingly scarce natural resources; and

"(7) while the collection and disposal of solid wastes should continue to be primarily the function of State, regional, and local agencies; the problems of waste recovery and disposal as set forth above have become a matter national in scope and concern and necessitate Federal action through changes in policies and programs, development of regulations, and provision of financial and technical assistance to provide leadership in the development, demonstration, and application of new and improved methods, processes, and policies to reduce the amount of waste and unsalvageable materials and to provide for proper and economical solid waste recovery and disposal practices.

"(b) The purposes of this Act therefore are—

"(1) to promote the demonstration, construction, and application of energy recovery and solid waste management and resource recovery systems which conserve natural resources and preserve and enhance the quality of air, water, and land resources;

"(2) to provide technical and financial assistance to States and local governments and interstate agencies in the planning and development of solid waste management and resource recovery systems;

"(3) to promote a national research and development program for improvement management techniques, more effective organizational arrangements, and new and improved methods of collection, separation, recovery, and recycling of solid wastes, and the environmentally safe disposal of nonrecoverable residues;

"(4) to provide for training grants in occupations involving the design, operation, and maintenance of resource recovery and solid waste disposal systems;

"(5) to encourage cooperative activities by the States and local governments in the development and implementation of solid waste disposal and resource recovery systems; and encourage the enactment of improved and, so far as practicable, uniform State and local laws governing solid waste disposal and resource recovery;

"(6) to aid the cleanup of inner city areas and other places which have encountered particularly severe health problems and other environmental dangers because of the proliferation of solid waste;

"(7) to protect the public health and welfare through establishment of regulations for packaging practices and other manufacturing processes and products which contribute to solid waste management problems; and

"(8) to establish and expand programs and policies in the interest of public health and welfare to emphasize recycling and recovery of resources, rather than waste disposal and excessive use of raw materials.

"DEFINITIONS

"SEC. 103. When used in this Act:

"(1) The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(2) The term 'construction', with respect to any project of construction under this Act, means (A) the erection or, building of new structures and acquisition of lands or interests therein, or the acquisition, replacement, expansion, remodeling, alteration, modernization, or extension of existing structures, and (B) the acquisition and installation of initial equipment of, or required in connection with, new or newly acquired structures or the expanded, remodeled, altered, modernized, or extended part of existing structures (including trucks and other motor vehicles, and tractors, cranes, and other machinery) necessary for the proper utilization and operation of the facility after completion of the project; and includes preliminary planning to determine the economic and engineering feasibility and the public health and safety aspects of the project, the engineering, architectural, legal, fiscal, and economic investigations and studies, and any surveys, designs, plans, working drawings, specifications, and other action necessary for the carrying out of the project, and (C) the inspection and supervision of the process of carrying out the projects to completion.

"(3) The term 'consumer product' means those products which are not normally disposed of in solid or liquid waste disposal systems including any food or beverage and including those products intended for consumption by animals, and any other object intended for or capable of retail sale and residential, commercial, industrial, or recreational use, except where such object is intended to become part of a product of a commercial or industrial process.

"(4) The term 'container' means any container, package, or wrapping material which is sold with a consumer product or shipped with such product from the facility at which such product is created but which was not part of such product in its raw agricultural or virgin material state and is not intended to be used with such product at the time of sale to its ultimate purchaser.

"(5) The term 'intermunicipal agency' means an agency established by two or more municipalities within one State, with responsibility for planning or administration of solid waste disposal and resource recovery systems.

"(6) The term 'interstate agency' means an agency of two or more municipalities in different States, or an agency established by two or more States, with authority to provide for solid waste disposal and resource recovery systems serving two or more municipalities located in different States.

"(7) The term 'major item of solid waste' means any object or part of an object regularly utilized for commercial, industrial, residential or recreational purposes or transportation which has (A) a gross weight of more than ten pounds, (B) a liquid carrying capacity or more than five gallons or (C) a total volume of more than five cubic feet, and is designated by the Administrator as a major item of solid waste.

"(8) The term 'municipality' means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law with responsibility for the planning or administration of solid waste disposal or an Indian tribe.

"(9) The term 'recovered resources' means usable materials or energy recovered from solid wastes.

"(10) The term 'recycle' means to (A) reuse for the same purpose as originally sold, (B) convert into a raw material from which

the original product or another tangible object for which there is a viable market can be created or (C) convert into another tangible object for which there is a viable market.

"(11) The term 'resource recovery system' means a solid waste management system which provides for collection, separation, recycling, reuse, and recovery of solid wastes, including disposal or nonrecoverable waste residues.

"(12) The term 'solid waste' means garbage, refuse, construction debris, and other discarded solid materials, including solid waste materials, waste oil and other liquid materials in containers or originating in containers, and residual byproducts resulting from industrial, commercial, mining, and agricultural operations (including pollution control); and from community activities.

"(13) The term 'solid waste disposal' means the collection, storage, treatment, utilization, processing, or final disposal of solid waste.

"(14) The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"RESEARCH, TRAINING, TECHNICAL ASSISTANCE, AND OTHER ACTIVITIES

"SEC. 104. (a) The Administrator shall conduct, and encourage, cooperate with, and render financial, technical, and other assistance to appropriate public (whether Federal, State, interstate, or local) authorities, agencies, and institutions, private agencies and institutions, and individuals in the conduct of, and promote the coordination of, research, investigations, experiments, training, demonstrations, surveys, and studies relating to—

"(1) any adverse health and welfare effects of the release into the environment of material present in solid waste, and methods to eliminate such effects;

"(2) the operation and financing of solid waste disposal programs;

"(3) measures necessary to aid the cleanup of inner city areas and other places which face particularly severe public health problems or other dangers because of accumulations of solid waste;

"(4) the reduction of the amount of solid waste and unsalvageable waste materials and procedures to encourage the separation and preparation of waste for recovery;

"(5) the development and application of new and improved methods of collecting and disposing of solid waste and processing and recovering materials and energy from solid wastes;

"(6) the identification of solid waste components and potential materials and energy recoverable from such waste components; and

"(7) the development and implementation of standards and regulations to control and reduce the volume of solid waste reaching the disposal system; and

"(8) any other matter which may be included in the annual reports required by section 119 of this Act.

"(b) In carrying out the provisions of the preceding subsection, the Administrator is authorized to—

"(1) collect and make available, through publications and other appropriate means, the results of, and other information pertaining to, such research and other activities, including appropriate recommendations in connection therewith;

"(2) cooperate with public and private agencies, institutions, and organizations, and with any industries involved, in the preparation and the conduct of such research and other activities;

"(3) recommend model codes, ordinances, and statutes which are designed to implement the purposes of this Act;

"(4) issue to appropriate Federal, interstate, regional, and local agencies information on and guidelines for technically feasible solid waste collection, separation, disposal, recycling, reuse, and recovery methods which are consistent with the policies and purposes of this Act, including data on the cost of construction, operation, and maintenance of such methods; and

"(5) make grants-in-aid to public or private agencies, and institutions and to individuals for research, training projects, surveys, and demonstrations (including construction of facilities), and provide for the conduct of research, training, surveys, and demonstrations by contract with public or private agencies and institutions and with individuals; and such contracts for research or demonstrations or both (including contracts for construction) may be made in accordance with and subject to the limitations provided with respect to research contracts of the military departments in title 10, United States Code, section 2353, except that the determination, approval, and certification required thereby shall be made by the Administrator.

"(c) Any grant, agreement, or contract made or entered into under this section shall contain provisions to insure that all information, uses, processes, patents, and other developments resulting from any activity undertaken pursuant to such grant, agreement, or contract will be made readily available on fair and equitable terms of industries and public agencies which might utilize processes to reduce the volume of solid wastes, employ methods of resource recovery, recycling, or solid waste disposal, or engage in furnishing devices, facilities, equipment, and supplies to be used in connection with reducing the volume of solid waste, disposing of solid waste or recovery and recycling of resources. In carrying out the provisions of this section, the Administrator and each department, agency, and officer of the Federal Government having functions or duties under this Act shall make use of and adhere to the Statement of Government Patent Policy which was promulgated by the President in his memorandum of October 10, 1963. (3 CFR, 1963 Supplemental, page 238.)

"(d) No service charge or other cost requirement shall be imposed as a condition of participation by any employee of a State or municipal government agency in any training program authorized by this Act.

"SPECIAL STUDY AND DEMONSTRATION PROJECTS ON RECOVERY OF USEFUL ENERGY AND MATERIALS

"SEC. 105. (a) The Administrator shall carry out an investigation and study to determine—

"(1) means to recovering energy and materials from solid waste, recommended uses of such materials and energy for national or international welfare, including identification of potential markets for such recovered resources, and the impact of distribution of such resources on existing markets.

"(b) The Administrator is authorized to carry out demonstration projects to test and demonstrate methods and techniques developed pursuant to subsection (a).

"GRANTS FOR STATE PROGRAMS AND STATE, INTERSTATE, AND LOCAL PLANNING

"SEC. 106. (a) The Administrator may from time to time, upon such terms and conditions consistent with this section as he deems appropriate to carry out the purposes of this Act, make grants to States, interstate, municipal, and intermunicipal agencies, and organizations composed of public officials which are eligible for assistance under section 701(g) of the Housing Act of 1954, of not to exceed 66⅔ per centum of the cost of an application with respect to an area including only one municipality, and not to exceed 75 per centum of the cost in any other case, of—

"(1) making surveys of resource recovery (including energy recovery) and solid waste disposal practices and problems within the jurisdictional areas of such agencies;

"(2) developing and revising resource recovery and solid waste disposal plans as part of regional environmental protection systems for such areas, providing for recycling or recovery of materials from wastes whenever possible and including planning for the reuse of solid waste disposal areas and studies of the effect and relationship of solid waste disposal practices on areas adjacent to waste disposal sites;

"(3) developing proposals for projects to be carried out pursuant to sections 106 and 107 of this Act;

"(4) planning programs for the removal and processing of abandoned motor vehicle hulks and other major items of solid waste;

"(5) developing State laws and local ordinances to improve solid waste management and resource recovery and recycling systems; or

"(6) planning programs to achieve rapid cleanup of areas with severe health problems because of large amounts of uncollected solid waste.

"(b) The Administrator may, from time to time, upon such terms and conditions consistent with this section as he deems appppropriate, make grants to States for the purpose of establishing statewide solid waste management and resource recovery programs, which grant shall not exceed 75 per centum of the cost of establishing a statewide solid waste management and resource recovery program if such grant is made during fiscal year 1975, 1976, or 1977, and shall not exceed 60 per centum of the costs of such program in each of the three succeeding fiscal years.

"(c) After January 1, 1977, no state shall be eligible for a grant under subsection (b) of this section unless that State has—

"(1) established a single State agency to be responsible for maintaining the statewide solid waste management and resource recovery program, which State agency may also have other functions in areas relating to the environment;

"(2) established such legal authority as necessary to implement a statewide solid waste management and resource recovery plan; and

"(3) developed a statewide solid waste management and resource recovery plan submitted to and approved by the Administrator consistent with the intent and requirements of this Act, which plan shall—

"(A) include a land-use plan specifying those areas which are presently used and may be used in the future as solid waste disposal sites;

"(B) include a program for issuing permits for all publicly owned solid waste disposal sites within all Standard Metropolitan Areas with population greater than 200,000 as defined in the 1970 Census of the U.S. Commerce Department and a program for issuing such permits in the remainder of the state by 1980;

"(C) provide for coordination of the activities of the State and municipal governments relating to solid waste management and resource recovery to assure most efficient methods for (i) limiting the costs and improving the efficiency of collection and disposal and (ii) recovering the greatest percentage of recyclable or reusable materials;

"(D) assure safe and sanitary collection and recycling of materials determined by the Administrator to be toxic or hazardous, and assure disposal of toxic or hazardous materials that cannot be recycled in a manner which will not result in violation of effluent or emission limitations, standards or other requirements of the Clean Air Act or the Federal Water Pollution Control Act;

"(E) identify methods and procedures to be used in the collection and transportation

of materials which are available for reuse or recycling;

"(F) assure that State, municipal, and private resource recovery and solid waste management and disposal practices will not result in a violation of effluent or emission limitations, standards or other requirements of the Clean Air Act or the Federal Water Pollution Control Act.

"(G) include (i) program prohibiting within two years of the approval of such plan the operation of any open dump within or receiving solid waste from any Standard Metropolitan Statistical Area with a population greater than 200,000 as defined in the 1970 Census of the U.S. Department of Commerce, (ii) a program prohibiting within seven years of the approval of such plan the operation of other open dumps in the remainder of the state that are deemed by the state to be environmentally unsound to a significant degree.

"(H) include plans for the establishment of transfer facilities to facilitate the inclusion of solid waste from rural areas in resource recovery systems serving areas of the state having higher population density, except where the state determines that the projected economic feasibility of such system (including projected growth of the area involved) does not justify inclusion of the rural areas in such a resource recovery system.

"(I) include a program of technical assistance for small and medium-sized communities to aid in the adoption of up-to-date resource recovery systems and solid waste disposal practices.

"(d) Upon receipt of a statewide solid waste management and resource recovery plan submitted under subsection (a) of this section, the Administrator shall, within four months after the date of receipt, approve or disapprove such plan, or any portion thereof. The Administrator shall approve such plan, or any portion thereof, if he determines that it was adopted after reasonable notice and hearings and that

(1) it complies with the requirements of paragraph (3) subsection (c); and

(2) it was developed through a process closely coordinated with the planning processes of Section 208 of the Federal Water Pollution Control Act and Section 110 of the Clean Air Act; and

(3) the State assigned primary responsibility and authority for plan development and implementation to general purpose units of government, and includes plans developed by such units of local government, unless the State (1) determined that any such plan, or its implementation, (A) failed to meet any requirement of this Act or State standards or criteria intended to effectuate such requirement; (B) was inconsistent with any other such plan or with any areawide waste management and resource recovery plan which met all applicable requirements, standards and criteria; or (C) was inconsistent with any State land use, air pollution, water pollution, noise pollution, or other environmental plan or requirement and (2) provided an adequate opportunity for administrative or judicial appeal of such determination.

(4) it assures, except in any proceedings of the State legislature, the participation of officials or representatives of general units of local government and the public in the development of subsequent revisions in the implementation of and the formulation of guidelines, rules and regulations concerning the waste management and resource recovery program.

"(e) The Administrator shall after consideration of any State hearing record, promptly prepare and publish regulations setting forth suggested revisions in a statewide solid waste management and resource recovery plan if he determines that the plan, or any portion thereof, submitted for such State is determined not to be in accordance with the requirements of this section. The State may then resubmit a plan revised to take into account the suggestions of the Administrator.

"(f) In the event that a state does not submit a plan by January 1, 1977, the Administrator may receive areawide solid waste management and resource recovery plans for multijurisdictional organizations representing general units of local government. Approval of such plans shall be conditioned upon the criteria governing statewide plans, and approval shall allow the units of government within the area covered to become eligible for financial assistance under this Act to the same extent that approval of a statewide plan would fulfill such eligibility requirements.

"(g) Grants pursuant to this section may be made upon application therefor which—

"(1) designates or establishes a single agency (which may be an interdepartmental agency) as the sole agency for carrying out the purposes of this section for the area involved;

"(2) indicates the manner in which provision will be made to assure full consideration of all aspects of planning essential to areawide planning for proper and effective resource recovery and solid waste disposal consistent with the protection of the public health and welfare, including such factors as population growth, urban and metropolitan development, land-use planning, water pollution control, air pollution control, and the feasibility of regional disposal and resource recovery program;

"(3) sets forth plans for expenditures of such grant, which plans provide reasonable assurance of carrying out the purposes for which the grant is intended;

"(4) provides for submission of such reports of the activities of the agency in carrying out the purposes of this section, in such form and containing such information, as the Administrator may from time to time find necessary for carrying out the purposes of this section and for keeping such records and affording such access thereto as he may find necessary; and

"(5) provides for such fiscal-control and fund-accounting procedures as may be necessary to assure proper disbursement of and accounting for funds paid to the agency under this section.

"(h) The Administrator shall make a grant under this section only if he finds that there is satisfactory assurance that any planning for resource recovery and solid waste management will be coordinated, so far as practicable, with and not duplicate other related State, interstate, regional and local land use and related planning activities, including any international planning activities and agreements; and including planning activities maintained in accordance with the Clean Air Act and the Federal Water Pollution Control Act and those financed in part with funds pursuant to section 701 of the Housing Act of 1954.

"(i) Not more than 10 per centum of the total of funds authorized to be appropriated under this section for any fiscal year shall be granted under this section for projects in any one State.

"(j) There are authorized to be appropriated to the Administrator of the Environmental Protection Agency to carry out the provisions of this section, not to exceed $50,000,000 for the fiscal year ending June 30, 1975, not to exceed $75,000,000 for the fiscal year ending June 30, 1976, and not to exceed $100,000,000 for the fiscal year ending June 30, 1977.

"GRANTS FOR ENERGY AND RESOURCE RECOVERY SYSTEMS AND IMPROVED SOLID WASTE DISPOSAL FACILITIES"

"SEC. 107. (a) The Administrator is authorized to make grants pursuant to this section to any State, municipal, or interstate or intermunicipal agency for the demonstration of energy resource recovery systems or for the construction of new or improved solid waste disposal facilities.

"(b) (1) A grant under this section for the demonstration of a resource recovery system may be made only if it (A) is consistent with any plans which meet the requirements of section 106(d) (2) of this Act; (B) is consistent with any guidelines recommended pursuant to section 104(b) (4) of this Act; (C) is designed to provide areawide resource recovery systems consistent with the purposes of this Act, as determined by the Administrator, pursuant to regulations promulgated under subsection (d) of this section; and (D) provides an equitable system for distributing the costs associated with construction, operation, and maintenance of any resource recovery system among the users of such system.

"(2) The Federal share for any project to which paragraph (1) applies shall not be more than 75 per centum.

"(c) (1) A grant under this section for the construction of a new or improved solid waste disposal facility may be made only if—

"(A) a State or interstate plan for solid waste disposal has been adopted which applies to the area involved, and the facility to be constructed (i) is consistent with such plan, (ii) is included in a comprehensive plan for the area involved which is satisfactory to the Administrator for the purposes of this Act, and (iii) is consistent with any guidelines recommended under section 104 (b) (4), and

"(B) the project advances the state of the art by applying new and improved techniques in reducing the environmental impact of solid waste disposal, in achieving recovery of energy or resources, or in recycling useful materials.

"(2) The Federal share for any project to which paragraph (1) applies shall be not more than 50 per centum in the case of a project serving an area which includes only one municipality, and not more than 75 per centum in any other case.

"(d) In taking action on applications for grants under this section, consideration shall be given by the Administrator (A) to the public benefits to be derived by the construction and operation and the propriety of Federal aid in making such grant; (B) to the extent applicable, to the economic and commercial viability of the project (including contractual arrangements with the private sector to market any resources recovered); and (C) to the use by the applicant of comprehensive regional or metropolitan area planning.

"(e) A grant under this section—

"(1) may be made only in the amount of the Federal share of (A) the estimated total design and construction costs, plus (B) in the case of a grant to which subsection (b) (1) applies, the first-year operation and maintenance costs;

"(2) may not be provided for land acquisition or (except as otherwise provided in paragraph (1) (B) for operating or maintenance costs;

"(3) may not be made until the applicant has made provision satisfactory to the Administrator for proper and efficient operation and maintenance of the project (subject to paragraph (1) (B)); and

"(4) may be made subject to such conditions and requirements, in addition to those provided in this section, as the Administrator may require to properly carry out his functions pursuant to this Act. For purposes of paragraph (1) of this subsection, the non-Federal share may be in any form, including, but not limited to, lands or interests therein needed for the project or personal property or services, the value of which shall be determined by the Administrator.

"(f) No grant shall be made under this section for any project in a State which on or

after July 1, 1976, is not eligible for a grant under subsection (b) of section 106 of this Act.

"(g)(1) Not more than 15 per centum of the total of funds authorized to be appropriated under this section for any fiscal year shall be granted under this section for projects in any one State.

"(2) The Administrator shall prescribe by regulation the manner in which this subsection shall apply to a grant under this section for a project in an area which includes all or part of more than one State.

"(h) There are authorized to be appropriated to the Administrator of the Environmental Protection Agency to carry out the provisions of this section, not to exceed $75,000,000 for the fiscal year ending June 30, 1975, and not to exceed $50,000,000 for the fiscal year ending June 30, 1976, and not to exceed $25,000,000 for the fiscal year ending June 30, 1977.

"LOANS FOR IMPLEMENTATION OF RESOURCE RECOVERY SYSTEMS

"SEC. 108. (a) The Administrator is authorized to make loans pursuant to this section to any State, municipal, or intermunicipal agency for the implementation of resource recovery systems in those areas where resource recovery systems in private industry are unable to assure the energy and materials recovery or disposal of all materials generated in collection activities.

"(b)(1) A loan under this section for the implementation of a resource recovery system may be made only if the proposed system (A) is consistent with any plans which meet the requirements of section 105(d)(2) of this Act; (B) is consistent with any guidelines recommended pursuant to section 104(b)(4) of this Act; (C) is designed to provide area-wide resource recovery systems consistent with the purposes of this Act, as determined by the Administrator, pursuant to regulations promulgated under subsection (c) of this section; and (D) provides an equitable system for distributing the costs associated with construction, operation, and maintenance of any resource recovery system among the users of such system.

"(2) The amount of the loan for any project to which paragraph (1) applies shall be not more than 75 per centum of the project costs as determined under subsection (e) of section 106 of this Act, and such amounts shall be available at an interest rate not to exceed 3 per centum per annum, as determined by the Administrator.

"(3) A loan for any project under this section shall be granted by the Administrator on condition that it be repaid within a period of not more than twenty years from the date of the loan, except that, on an annual basis, the Administrator shall reduce such payment of principal and interest due for that year by an amount equal to one-half of any funds received by the loan recipient from the sale of solid waste, or material derived therefrom, which has been recovered from operation of the resource recovery system during the previous year.

"(c)(1) The Administrator, within one hundred eighty days after the date of enactment of this section, shall promulgate regulations establishing procedures for awarding loans under this section which shall include deadlines for submission, and action on, loan requests.

"(2) In taking action on applications for loans under this section, consideration shall be given by the Administrator (A) to the public benefits to be derived by the construction and operation and the propriety of Federal aid in making such loans; (B) to the extent applicable, to the economic and commercial viability of the project (including contractual arrangements with the private sector to market any resources recovered); and (C) to the use by the applicant of comprehensive regional or metropolitan area planning.

"(d) No loan shall be made under this section for any project in a State which on or after July 1, 1976, is not eligible for a grant under subsection (b) of section 106 of this Act.

"(e) There are authorized to be appropriated to the Administrator, for repayment of loans to carry out the provisions of this section, such sums as may be necessary.

"GRANTS OR CONTRACTS FOR TRAINING PROJECTS

"SEC. 109. (a) The Administrator is authorized to make grants to, and contracts with, any eligible organization. For purposes of this section the term "eligible organization" means a State or interstate agency, a municipality, educational institution, and any other organization which is capable of effectively carrying out a project which may be funded by grant under subsection (b) of this section.

"(b)(1) Subject to the provisions of paragraph (2), grants or contracts may be made to pay all or a part of the costs, as may be determined by the Administrator, of any project operated or to be operated by an eligible organization, which is designed—

"(A) to develop, expand, or carry out a program (which may combine training, education, and employment) for training persons for occupations involving the management, supervision, design, operation, or maintenance of solid waste disposal and resource recovery equipment and facilities; and

"(B) to train instructors and supervisory personnel to train or supervise persons in occupations involving the design, operation, and maintenance of solid waste disposal and resource recovery equipment and facilities.

"(2) A grant or contract authorized by paragraph (1) of this subsection may be made only upon application to the Administrator at such time or times and containing such information as he may prescribe, except that no such application shall be approved unless it provides for the same procedures and reports (and access to such reports and to other records) as is required by section 105(d)(4) and (5) with respect to applications made under such section.

FEDERAL AGENCY ACTIVITIES

"SEC. 110. (a) Not later than one hundred twenty days after the date of enactment of this Act, the Administrator shall, after consultation with other appropriate Federal agencies, publish in the Federal Register proposed regulations recommending effective resource recovery and solid waste management practices for use by Federal agencies. These regulations shall—

"(1) establish guidelines that, to the maximum extent feasible, assure the purchase by Federal agencies of materials and products which have been recycled and may be recycled or reused when discarded;

"(2) encourage all Federal agencies to minimize the accumulation of solid waste by limiting, to the greatest extent practicable, the volume of materials and products used and discarded, and

"(3) encourage each agency to establish systems for the collection of materials for recycling (or energy recovery), reuse and provide asurance that such material and products, once collected, will be made available, whenever possible, to an appropriate public agency or private industry for reuse or recycling;

"(b)(1) Not later than one hundred and twenty days after the date of enactment of this Act, the Administrator, in cooperation with the Administrator of the General Services Administration and the Public Printer, shall publish in the Federal Register proposed regulations establishing guidelines for use of recycled paper and paper products by all agencies of the Federal Government as well as public and private agencies, individuals, and organizations who contract with the Federal Government.

"(2) Such regulations shall designate categories of paper and paper products with the greatest potential and feasibility of being composed of recycled paper and materials and shall specify the nature and percentage of such recycled materials to be contained in such products. Such regulations shall require that all Federal agencies and all Federal contractors, in the performance of their contract work, shall use recycled paper and paper products meeting the specifications of regulations promulgated pursuant to this paragraph in all purchases or acquisitions of any property having a fair market value of $5,000 or more and with respect to any purchase or acquisition on a recurring or continuing basis of the same or a functionally equivalent material, product, or item where the fair market value of the quantity thereof purchased or acquired in the course of the preceding fiscal year was $5,000 or more.

"(b) The requirements of paragraphs (1) and (2) of this section shall not apply to any procurement by a procuring agency if the procurement item which meets such requirements and regulations (A) is not reasonably available within a reasonable period of time; (B) does not meet reasonable performance standards set by such agency; (C) is only available at a price which unreasonably exceeds the current market price for competing items; or (D) cannot be purchased consistent with any other Federal law.

"(c) The Administrator shall publish final regulations to implement subsection (a) and subsection (b) respectively within one hundred and twenty days after publication of the proposed regulations, and such regulations shall become effective not more than one hundred eighty days thereafter.

"(d) The President shall prescribe regulations to carry out this section which shall insure that—

"(1) each executive agency (as defined in section 105 of title 5, United States Code) shall insure compliance of its own activities with the regulations recommended under this section and the purposes of this Act;

"(2) each executive agency which enters into a contract with any person for the operation by such person of any Federal property or facility or the performance by such person of any function of that agency, shall insure compliance with the regulations recommended under this section and the purposes of this Act in the operation or administration of such property or facility, or the performance of such contract, as the case may be;

"(3) each executive agency which permits the use of Federal property for purposes of disposal of solid waste shall insure compliance with the regulations recommended under this section and the purposes of this Act in the disposal of such waste; and

"(4) each executive agency which issues any license or permit for disposal of solid waste shall, prior to the issuance of such license or permit, consult with the Administrator to insure compliance with regulations recommended under this section and the purposes of this Act.

"(e) The President may exempt any single activity or facility of any department, agency, or instrumentality in the executive branch from compliance with any regulations recommended under this section if he determines it to be in the paramount interest of the United States to do so; except that no exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted

during the preceding calendar year, together with his reason for granting such exemption.

PACKAGING, PRODUCTS, AND CONTAINERS

SEC. 111. (a) The administrator, after consultation with appropriate Federal, state, interstate and municipal agencies and other interested persons, shall within six months after the date of enactment of this Act (and from time to time thereafter revise) publish criteria to be used in classifying products, containers, and packaging based upon (1) the solid waste disposal, resource consumption, and energy consumption problems caused by the items. (2) The potential for significant reuse of such items, and (3) the potential for resource recovery or recyclability of such items.

(b) Within 90 days after the date of publication of the criteria under subsection (a) of this section, the Administrator shall publish (and from time to time thereafter revise) publish a list of items for which regulations will be published under this section. Such list shall be based on a balancing of the factors considered in the criteria published under subsection (a) of this section.

(c) Within 180 days after the date of publication of the list under subsection (b) of this section, the Administrator, in accordance with section 553 of title 5 of the U.S. Code, shall publish proposed regulations for the manufacture, distribution, reuse, and recycling of products, containers, or packaging. Such standards may include minimum percentages of recycled materials which shall be contained in such items, maximum permissable quantities of component materials and may prescribe methods of distribution for certain items and prohibitions against the manufacture and sale of specific items. The Administrator shall publish a notice for a public hearing on such proposed regulations to be held with in sixty (60) days. As soon as possible after such hearing, but not later than six months after publication of the proposed regulations, unless the Administrator finds, on the record, that a modification of such proposed standard is justified based upon a preponderance of evidence adduced at such hearings, such standard shall be promulgated.

If after a public hearing the Administrator finds that a modification of such proposed standard is justified, revised regulations shall be promulgated immediately. Such regulations shall be reviewed and, if appropriate, revised at least every three years.

SEC. 112(a). Not later than one year after enactment of this Act the Administrator, after a public hearing, shall publish—

(1) a classification system of major items of solid waste based upon—

(A) the solid waste and resource consumption problems caused by the item,

(B) the potential for increasing the useful life of the item, and

(C) such other factors, as deemed appropriate; and

(2) proposed regulations establishing the minimum life for major items classified as contributing significantly to solid waste or resource consumption problems and having substantial potential for increased useful life.

(b) The Administrator may establish a system of fees or some other mechanism or system to encourage reconditioning, reuse, recycling, or disposal without harm to the environment or violation of any applicable air or water quality requirements of major items.

(c) Not later than 120 days after publication of the proposed regulations the Administrator after public hearings shall publish final regulations governing major items of solid waste which regulations shall become effective 24 months after publication.

"(d) The Administrator shall require that any major item of solid waste for which standards have been promulgated pursuant to this section and which is manufactured after the date or which such standards become effective shall include a label which specifies the conditions set out in the standard for that major item of solid waste for its reuse, recycling, or disposal and shall include information as to any reimbursable fees payable to the holder of that major item of solid waste at such time as the item is returned for reuse, recycling, or disposal as indicated on the label.

"IMPORTS

SEC. 113. Any product offered for entry into the United States for which a standard has become effective pursuant to section 111 or 112 of this Act, which is not accompanied by a certificate of compliance in the form prescribed by the Administrator, shall be refused entry into the United States. If a product is refused entry, the Secretary of the Treasury shall refuse delivery to the consignee and shall require storage of any product refused delivery which has not been exported by the consignee within three months from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe, except that the Secretary of the Treasury may deliver to the consignee such product pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such product, together with the duty thereon, and on refusal to return such product for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding it from the country, or for any purpose, said consignee shall forfeit the full amount of said bond. All charges for storage, cartage, and labor on products which are refused admission or delivery under this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

"PROHIBITED ACTS

"SEC. 114 (a) Except as otherwise provided in subsection (b) of this section, the following acts or the causing thereof are prohibited:

"(1) At any time later than one year after publication of final regulations for products, packaging, and containers under section 111 of this Act, the manufacture, distribution, sale, or offerng for sale of any product packaging, or container not in compliance with such regulations;

"(2) the manufacture, distribution, sale, or offering for sale of any major item of solid waste in violation of conditions or procedures established by standards promulgated and in effect for such major items of solid waste in accordance with section 112 of this Act;

"(3) the removal by any person of any label affixed to a major item of solid waste pursuant to regulations promulgated under section 112(d) of this Act prior to sale of such item to the ultimate purchaser, or the sale of a major item of solid waste from which such label has been removed;

"(4) the importation into the United States for resale by any person of any consumer product or major item of solid waste in violation of regulations promulgated under section 113 of this Act that are applicable to such product;

"(5) the failure of any person to comply with any order isued under section 115 (d) of this Act.

"(b) The Administrator may, after public hearings exempt for a specified period of time not to exceed one year, any major item of solid waste or class thereof, from paragraphs (1) and (3) of subsection (a) of this section upon such terms and conditions as he may find necessary to protect the public health or welfare, for the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security.

"ENFORCEMENT

SEC. 115. (a) Any person who willfully violates paragraph (1), (2), (3), or (4) of subsection (a) of section 114 of this Act shall be punished by a fine of not more than $5,000 for each violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $10,000 for each violation, or by imprisonment for not more than two years, or by both.

"(b) Any person who violates paragraph (1), (2), (3), or (4) of subsection (a) of section 113 of this Act shall be subject to a civil penalty of not more than $5,000 for each violation.

"(c) The district courts of the United States shall have jurisdiction of actions brought by and in the name of the United States to restrain any violation of section 114 of this Act.

"(d) Whenever any person is in violation of section 114(a) of this Act, the Administrator shall issue an order specifying such relief as he determines is necessary to protect the public health and welfare. Such relief may include an order requiring such person to cease such violation, and may also include the seizure of any such products by the Administrator.

"(2) Any order under this subsection shall be issued only after notice and opportunity for a hearing in accordance with section 554 of title 5 of the United States Code.

"CITIZEN SUITS

"SEC. 116. (a) Except as provided in subsection (b) of this section, any person may commence a civil action on his own behalf.

"(1) against any person (including (A) the United States, and (B) any other governmental instumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any certification, standard or regulation which has become effective pursuant to this Act; and

"(2) against the Administrator of the Environmental Protection Agency where there is alleged a failure of such Administrator to perform any act or duty under this Act which is not discretionary with such Administrator.

The district courts of the United States shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such standard or requirement or to order such Administrator to perform such act or duty, as the case may be.

"(b) No action may be commenced—

"(1) under subsection (a)(1) of this section—

"(A) prior to thirty days after the plaintiff has given notice of the violation (i) to the administrator of the Environmental Protection Agency and (ii) to any alleged violator of such certification, standard or regulation, or

"(B) if the Administrator has commenced and is diligently prosecuting a civil action to require compliance with such certification, standard or regulation, but in any such action in a court of the United States any person may intervene as a matter of right; or

"(2) under subsection (a)(2) of this section prior to thirty days after the plaintiff has given notice to the defendant that he will commence such action.

Notice under this subsection shall be given in such manner as the Administrator of the Environmental Protection Agency shall prescribe by regulation.

"(c) In an action under this section, the Administrator of the Environmental Protec-

tion Agency may intervene as a matter of right.

"(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

"(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or requirement relating to solid waste management or to seek any other relief (including relief against the Administrator).

"JUDICIAL REVIEW

"SEC. 117. Any judicial review of final regulations promulgated under this Act shall be in accordance with sections 701–706 of title 5 of the United States Code, except that—

"(a) a petition for review of action of the Administrator in promulgating any standard, regulation, or labeling requirements under this Act may be filed only in the United States Court of Appeals for the District of Columbia. Any such petition shall be filed within sixty days from the date of such promulgation, or after such date if such petition is based solely on grounds arising after such sixtieth day. Action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil proceedings for enforcement except as to whether the administrative and judicial procedures of this Act have been observed;

"(b) if a party seeking review under this Act applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the information is material and was not available at the time of the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, and to be adduced upon the hearing, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence;

"(c) with respect to relief pending review of an action by the Administrator, no stay of an agency action may be granted unless the reviewing court determines that the party seeking such stay is (1) likely to prevail on the merits in the review proceeding and (2) will suffer irreparable harm pending such proceeding.

"RECORDS, REPORTS, AND INFORMATION

SEC. 118(a) Any manufacturer, distributor, or other seller of a product, package, or container of any major item of solid waste for which any certification, standard, or regulation has been promulgated pursuant to this Act shall (1) establish and maintain such records, make such reports, and provide such information as the Administrator may reasonably require to enable him to determine whether such manufacturer, distributor, or other seller has acted or is acting in compliance with this Act, and (2) upon request of an officer or employee duly designated by the Administrator, permit such officer or employee at reasonable times to have access to such information, *Provided, however,* That such records, reports or other materials as are required by this subsection to be shown to the Administrator shall not be used as evidence in any action under subsection (a) of section 114 of this Act.

"(b) For the purpose of obtaining information to carry out this Act, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In cases of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents, before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(c) Any records, reports, or information obtained under this section shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information or particular part thereof to which the Administrator has access under this section if made public, would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 19.05 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act. Nothing in this section shall authorize the withholding of information by the Administrator or any officer or employee under his control, from the duly authorized committees of the Congress.

"(d) Any communication from a person or any Federal agency to the Administrator or any other employee of the Agency concerning a matter under consideration in a rulemaking or adjudicatory proceeding in the Agency shall be made a part of the public file of that proceeding and shall be available for inspection during regular business hours unless it is a communication entitled to protection under subsection (c) of this section.

"(e) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act shall upon conviction be punished by a fine of not more than $10,000 or by imprisonment for not more than six months, or by both.

"PUBLIC RULEMAKING

"SEC. 119. After publication of any proposed standards or regulations under this Act, the Administrator shall, after adequate notice, hold a public hearing on the proposed standards or regulations and shall also allow the public an opportunity to participate in rulemaking in accordance with section 553 of title 5, United States Code.

"ANNUAL REPORT

"SEC. 120. (a) The Administrator shall compile and publish annually a report to the Congress—

"(1) the status and progress of activities relating to reduction of solid waste and the reuse, recycling, and disposal of solid waste;

"(2) the impact of Federal procurement, regulatory, and tax and economic policies on resource recovery and recycling;

"(3) the development of markets for recycled materials;

"(4) the adequacy of disposal sites for hazardous wastes and other disposal items;

"(5) efforts of state and local governments and private industry in improved solid waste management;

"(6) new technological developments and other processes and systems to improve solid waste management and resource recovery efforts;

"(7) the need for training and recruiting personnel for solid waste management programs;

"(8) the status of any enforcement actions taken by the Administrator;

"(b) No report required in accordance with the provisions of this section, nor any draft or portion thereof, shall be submitted to the Office of Management and Budget or any other Federal agency on a date any earlier than that on which such report, or draft or portion thereof, is submitted to the Congress.

"LABOR STANDARDS

"SEC. 121. No grant for a project of construction under this Act shall be made unless the Administrator finds that the application contains or is supported by reasonable assurance that all laborers and mechanics employed by contractors or subcontractors on projects of the type covered by the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5), will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with that Act; and the Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

"EMPLOYEE PROTECTION

"SEC. 122. (a) No person shall fire, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted, any proceeding under this Act, or has testified or is about to testify in any proceedings related to or resulting from the administration or enforcement of the provisions of this Act.

"(b) Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary of Labor for a review of such firing or alleged discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to such alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 544 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein and his findings, requiring the party committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subparagraph shall be subject to judicial review in the same manner as orders and decisions of the Administrator are subject to judicial review under this Act.

"(c) Whenever an order is issued under this section to abate such violation, at the request of the applicant, a sum equal to the

aggregate amount of all costs and expenses (including the attorney's fees), as determined by the Secretary of Labor to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

"(d) This section shall have no application to any employee who, acting without direction from his employer (or his agent) deliberately violates or causes to be violated any prohibition or limitation established under this Act or who commits any act prohibited by this Act.

"(e) The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the issuance of any standard, regulation or order under this Act, including, where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such standard, regulation or order. Any employee who is discharged or laid-off, threatened with discharge or lay-off, or otherwise, discriminated against by any person because of the alleged results of any standard, regulation or order issued under this Act, or any representative of such employee, may request the Administrator to conduct a full investigation of the matter. The Administrator shall thereupon investigate the matter and, at the request of any party, shall hold public hearings on not less than five days notice, and shall at such hearings require the parties, including the employer involved, to present information relating to the actual or potential effect of such standard, regulation or order on employment and on any alleged discharge, lay-off, or other discrimination and the detailed reasons or justification therefor. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Administrator shall make findings of fact as to the effect of such standard, regulation or order on employment and on the alleged discharge, lay-off, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the Administrator to modify or withdraw any standard, regulation or order issued under this Act."

"STATE AND LOCAL AUTHORITY

SEC. 123. Nothing in this Act shall be interpreted as precluding or denying the right of any State or political subdivision thereof to adopt or enforce any standard or regulation regulating to solid waste management or reuse, recycling, or disposal of solid waste which is more stringent than standards or regulations imposed under this Act.

"GENERAL PROVISIONS

SEC. 124. (4) Payments of grants under this Act may be made (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Administrator may determine.

"(b) No grant may be made under this Act to private profitmaking organization.

"(c) There are authorized to be appropriated to the Administrator of the Environmental Protection Agency to carry out the provisions of this Act, other than section 106 and section 107 not to exceed $50,000,000 for the fiscal year ending June 30, 1975, not to exceed $60,000,000 for the fiscal year ending June 30, 1976, and not to exceed $70,000,000 for the fiscal year ending June 30, 1977.

"(d) There are authorized to be appropriated to the Secretary of the Interior to carry out this Act not to exceed $25,000,000 for the fiscal year ending June 30, 1975, not to exceed $25,000,000 for the fiscal year ending June 30, 1976, and not to exceed $25,000,000 for the fiscal year ending June 30, 1977. Prior to expanding any funds authorized to be appropriated by this subsection, the Secretary of the Interior shall consult with the Administrator of the Environmental Protection Agency to assure that the expenditure of such funds will be consistent with the purposes of this Act.

"(e) Such portion as the Administrator may determine but not more than 1 per centum, of any appropriation for grants, contracts, or other payments under any provision of this Act for any fiscal year beginning after June 30, 1970, shall be available for evaluation (directly, or by grants or contracts) of any program authorized by this Act.

"(f) Sums appropriated under this Act shall remain available until expended.

"(g) Any and all documents submitted to the Congress, the Office of Management and Budget, or any other Federal agency with respect to a proposed budget to implement any of the provisions of this Act shall be made available for public inspection during regular business hours at a place to be designated by the Administrator.

"SEPARABILITY

"SEC. 125. If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby."

"WATER POLLUTION FROM SANITARY LANDFILLS

"SEC. 126. Subsection 304 (e) (2) of the Federal Water Pollution Control Act is amended by striking "and" at the end of subparagraph (E), inserting "and" at the end of subparagraph (F) and adding a new subparagraph to read as follows:

"(G) sanitary landfills sites and other solid waste disposal activities."

By Mr. ABOUREZK:

S. 3553. A bill to provide that all crude oil and other energy sources, and all products refined or derived therefrom, imported from any country in which such oil or other energy source, or such refined product is sold by the government of such country shall be imported by the Government of the United States; to establish a United States Energy Import Administration; and for other purposes. Referred to the Committee on Finance.

Mr. ABOUREZK. Mr. President, this bill would create a Federal agency to import crude oil and petroleum products sold by foreign governments. The intent of this amendment is to increase the level of competition in the petroleum industry by setting up an agency which would provide large amounts of crude oil and petroleum products to the independent sector of our domestic petroleum industry.

At present, most of the crude oil and petroleum products imported into the United States is owned and controlled by the major multinational oil companies. One need only look at the shipping manifests to see that it is Exxon, Mobil, Texaco, Gulf, Standard Oil of California, and a few others who import over 90 percent of the crude oil and products consumed in this country. Independent refiners and marketers who do not produce oil in foreign countries or who are easily outbid for foreign crude oil by the major multinationals are at a competitive disadvantage with respect to the majors.

Thus, if there were a Federal agency which would be designated as the sole importer of that portion of oil sold by foreign governments or their agencies on the world market, then independent, small refiners and marketers would have a chance to compete. This bill would not prohibit major companies from importing their own oil which they produce in foreign countries. For example, the Saudi Arabian Government currently controls 25 percent of the oil sold by Aramco. This oil is called participation oil.

It is this oil which a Federal agency could negotiate for. The Federal agency would then bid against other foreign consuming governments along with the multinational companies.

This bill then is an attempt to loosen the stranglehold of the major multinational oil companies over the oil that is imported into the United States. It is these companies more so than foreign producing countries which threaten our Nation's national security. These multinational companies are only concerned with maximizing their profits, something which they have been able to do exceedingly well and at the expense of both the producing and the consuming nations. The list of countries who have complaints against the "Seven Sisters" as they are affectionately called, is both long and formidable—Germany, England, Belgium, Japan, Iran, Iraq, and Libya.

Senator CHURCH in his hearings on the multinational oil companies has demonstrated clearly how they have penetrated the highest levels of our Government to insure themselves of a foreign policy which will insure their control over foreign sources of crude oil—not to benefit American consumers, but only to increase their profits. A Federal agency which would import foreign government sold oil and which would distribute this oil to independent refiners and marketers would go a long way to increasing competition in the oil industry with the resulting benefits of lower prices and a continued supply passed on to consumers.

By Mr. DOMENICI:

S. 3554. A bill to establish the Public Lands Withdrawal Review and Evaluation Commission and to impose on such Commission a duty to undertake an immediate review of public lands withdrawn by executive action from exploration, development, and production of energy and other mineral resources with a view to determining and recommending the extent to which, if any, such lands should be made available for the exploration, development, and production of energy and other mineral resources, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. DOMENICI. Mr. President, it has long been recognized that the Congress has plenary constitutional authority over the retention, management, and disposition of the public lands. By Public Law 88–606 enacted on September 19, 1964, the Congress declared as its policy that public lands of the United States shall be managed in a manner to provide the maximum benefit for the general public.

By that same law the Congress an-

nounced that it had become necessary to undertake a comprehensive review of laws and regulations relating to administration of the public lands. Such a review had become necessary because those laws and regulations had developed over such a long period of time and in such an uncoordinated manner that they had become inadequate to meet the current and future needs of the American people.

In order to carry out the policy declared in that act and accomplish such a review of public lands administration, the act created the Public Land Law Review Commission. Section 4 of the act set forth the specific duties of the Commission which primarily entailed the comprehensive review of public lands administration I have refered to and a detailed report to the President and Congress regarding the entire process of public lands administration.

After a meticulous and extensive study as required by the act, the Commission submitted its report in June of 1970 in a volume entitled "One-Third of the Nation's Lands." That report, contained specific recommendations for policy guidelines pertaining to the retention and management or disposition of the Federal lands that equal one-third of the area of the entire Nation.

The report contained many specific recommendations for the improvement of public lands administration. One of the most fundamental of the Commission's recommendations was as follows:

An immediate review should be undertaken of all (public) lands not previously designated for any specific use, and of all existing withdrawals, set asides, and classifications of public domain lands that were effected by Executive action to determine the type of use that would provide maximum benefit for the general public.

In view of this Nation's critical need for increased production from its mineral resources, particularly its energy minerals, there can be no doubt that energy and other mineral exploration, development, and production must be designated as among those uses which most directly contribute to the maximum public benefit. It is a difficult proposition to establish priorities when there are conflicting use possibilities for public lands. The Commission recognized this difficulty in its report by stating that there had been no attempt to define the maximum benefit for the general public. What I am suggesting is no more than should be obvious to everyone—regardless of how defined, maximum public benefit from the public lands must include orderly and effective utilization of energy and other mineral resources contained in those lands.

The Congress has often recognized this fact as illustrated by the Mining and Minerals Policy Act of 1970—Public Law 91–631—in which the Congress declared it to be—

The continuing policy of the Federal Government in the National Interest to foster and encourage private enterprise in . . . the orderly and economic development of domestic mineral resources, reserves, and reclamation of metals and minerals to help assure satisfaction of industrial, security, and economic needs.

Recent events have made that simple policy declaration even more applicable now than it was in 1970, especially in view of our current domestic energy shortage and our growing dependence on foreign nations for sufficient mineral supplies, both fuel and non-fuel.

The Public Land Law Review Commission recognized the importance of domestic mineral activity by stating that—

Public land mineral policy should encourage exploration, development and production of minerals on the public lands.

The Commission also concluded that—

A decision to exclude mineral activity should never be made casually or without adequate information concerning the mineral potential.

From the foregoing it seems clear to me, Mr. President, that the constitutional authority of the Congress to manage the public lands for the maximum public benefit carries with it the obligation to review and modify as necessary those governmental actions which preclude mineral activities without an evaluation of potential uses of competing needs. This conclusion is in complete agreement with the major recommendation of the Public Land Review Commission I mentioned at the outset.

There are two types of governmental action by which mineral activity on the public lands may be limited or prohibited. Those are, of course, direct legislative action by the Congress and administrative action by the executive agencies acting under delegations from the Congress.

As to the majority of congressional actions relating to use designation, there is usually careful scrutiny of relevant possible uses based on full and accurate information relating to potential for different purposes, including mineral activities. Consequently, I agree with the conclusion of the Public Land Law Review Commission that, as to such legislative withdrawals and reservations, those actions for the most part were properly considered from the standpoint of energy and other mineral potential.

The same cannot be said, however, for most administrative withdrawals and reservations. In the commentary supporting its recommendations for an immediate review of such executive actions, the Public Land Law Review Commission observed that Congress had not provided sufficient statutory guidance nor established standards, gidelines, or criteria for most such withdrawals and reservations. In several places in the report the Commission indicated its strong opinion that an essential first step in implementing a more comprehensive system of public lands administration is the review of administrative withdrawals which may not be for the maximum public benefit. Typical of such emphasis on this point was the Commission's specific recommendation—No. 6—in which the Commission stated that as—

An essential first step . . . Congress should provide for a careful review of . . . all Executive withdrawals and reservations.

The bill I introduce today, Mr. President, would provide that essential first step for energy and other mineral uses. This is, in my opinion, a tremendously important undertaking because of the precarious position we now find ourselves in for short term energy supplies, particularly oil and natural gas.

I am concerned that continuing to restrict or prohibit energy activities on these public lands without evaluating their energy potential could prove to be a most improvident land use where substantial energy potential exists. I say this because I am convinced that without such an evaluation we may, if we are ever confronted with an energy crisis of truly emergency proportions, lack the information necessary to increase our energy production by devoting lands to that purpose which have energy resources but which in normal times have a more beneficial use.

I am advised that of the approximately 775 million acres controlled by various Federal agencies, about 100 million acres have been withdrawn or reserved by Executive action. That is a significant amount of land from which, Mr. President, there is no possibility under present circumstances of that land producing 1 drop of oil or 1 cubic foot of natural gas or 1 pound of any of the minerals this Nation needs so desperately. This is true, Mr. President, regardless of whether there is energy or other mineral potential on that land or whether the use for which the land was reserved is still valid and reasonable and under current conditions still the best use for such lands.

I have no doubt, Mr. President, that these withdrawals and reservations were made in good faith by the various controlling agencies, acting frequently to fill the vacuum created by lack of congressional standards, guidelines, or meaningful policy determinations. I have no quarrel with these agencies or their administrative policies. I am simply concerned that so much of the public's resources have been removed from consideration for use as energy and mineral sources without adequate knowledge of the potential and under circumstances of national need much different than exists today and will exist for the next several years.

My bill would create a public commission patterned after the Public Land Law Review Commission. The name I have suggested is the Energy and Other Mineral Resources Evaluation Commission, but the name, of course, is unimportant. In fact, I would have no problem in accepting any other mechanism that the proper committee, after due consideration, might determine to be more likely to accomplish the tasks I will now describe.

I think it essential that the review include all the public lands which have been set aside or reserved from energy or other mineral purposes by Executive action. This scope would automatically exclude such legislative withdrawals as the national park systems, the national wildlife system, the wild and scenic rivers, the national wilderness system, and the primitive and roadless areas in the national forests now under review for inclusion in the wilderness system. Also excluded would be Indian lands. I have not excluded those lands set aside for the Naval Petroleum Reserves; but I do feel that this issue would deserve careful consideration during the legislative process.

The Commission would be charged with the following specific duties as to the lands withdrawn from energy and other mineral purposes by Executive action:

First, identify the use or uses presently designated for all such reserved lands;

Second, determine whether such use or uses are still valid and whether such reservations are reasonable in scope and area for all such lands;

Third, determine the extent of energy and other resource potential in all such lands;

Fourth, determine the extent, if any, to which energy and other mineral production exploration, development, and production can be carried out without interference with valid and reasonable use or uses for which reserved; and

Fifth, recommend which of such lands should be made available for energy and other mineral purposes in accordance with the policy of Congress to manage the public lands to provide the maximum benefit to the general public with due regard for environmental protection and conservation of the Nation's natural resources.

Under this bill, the Commission would issue a report to the President and the Congress not later than 2 years after this bill becomes law. The report would cover all aspects of its assigned activities and focus on the recommendations relating to terminations of executive reservations and withdrawals from energy and mineral purposes.

Because of the extremely critical nature of domestic energy resources my bill would require the Commission to also submit a report to the President and the Congress identifying all public lands which have been reserved by executive action that contain readily available petroleum or other energy purposes. This report will help the Congress decide whether the withdrawal of some of these lands, those on which there are known to be petroleum or other energy resources which could be developed right away, should be terminated.

Mr. President, I fully realize that this bill is not perfect in all respects. I have no particular pride of authorship and welcome any suggestions or comments, particularly those motivated by a desire to improve this bill as the legislative vehicle to make more effective use of our public lands—a responsibility of the Congress under our Constitution.

The establishment of yet another commission will be questioned by many, I am sure. I am not overly enamored of commissions but I do know that the task I have outlined requires an independence that simply does not exist in the present Federal Government structure. The Public Land Law Review Commission addressed this point, when, in its report, it concluded that:

The authority of the Secretary of the Interior to effect modifications or revocations of withdrawals of lands administered by an agency outside the Department of the Interior is limited. Existing procedures give the administering agency a veto power over any modifications or changes in a withdrawal made for its benefit. Thus, the effectiveness of any agency review is dubious.

This appears to me to be a valid expression of the kind of inherent problem the Department of the Interior would have if it were given the duties specified in this bill. I can imagine the response an Interior task force would receive if it attempted to discharge these duties in regard to lands controlled by the Department of Defense. That unsatisfactory prospect surely is enough said on that subject.

So, Mr. President, I offer this bill because the American public, which has been magnificent in its sacrifices for the sake of energy conservation, deserves to know if land withdrawn from energy uses could not be better devoted for the production of energy. The same applies, though not to the same extent, to many other minerals which are being produced in this country in ever decreasing amounts.

This is a tremendously important matter affecting as it does approximately one-eighth of the public lands. I urge immediate consideration by the appropriate committee or committees and swift enactment of a final bill which will achieve the policies and purposes set forth in this bill.

Mr. President, I request unanimous consent that the text of this bill be printed at this point in the RECORD.

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

S. 3554

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

DECLARATION OF POLICY

SECTION 1. (a) It is hereby declared to be the policy of Congress that the natural resources and the public lands of the United States shall be managed in a manner to provide the maximum benefit to the general public; and that, particularly in view of the critical energy and mineral needs of the United States, such maximum benefit for the general public includes maximum utilization of the natural resources and public lands of the United States for the production of energy and for mineral development when such uses are not inconsistent with other specific uses or national policies.

(b) As used in this Act, the term "public lands" includes acquired lands, but does not include Indian lands, lands in the National Park System, the National Wildlife System, the Wild and Scenic Rivers System, the National Wilderness System, and primitive and roadless areas in the national forests now under review for inclusion in the Wilderness System in accordance with the provisions of the Wilderness Act of 1964.

DECLARATION OF PURPOSES

SEC. 2. In view of the fact that the executive agencies have withdrawn and reserved substantial areas of public lands from use for energy and other mineral exploration, development, and production without adequate guidelines, and because many such reservations and withdrawals are inconsistent with the policy of Congress as declared in section 1 of this Act and other provisions of Federal law, the Congress hereby declares that it is the purpose of this Act to effect an immediate review of all public lands withdrawn or reserved from energy and other mineral resource exploration, development, and production by executive action to determine which of those withdrawals and reservations should be terminated or otherwise modified to meet the total energy and mineral needs of the Nation, including but not limited to the national defense.

COMMISSION ON ENERGY AND OTHER MINERAL RESOURCES EVALUATION

SEC. 3. (a) In order to carry out the policy and purpose set forth in sections 1 and 2 of this Act, there is hereby established a Commission to be known as the Public Lands Withdrawal Review and Evaluation Commission (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of nine members, as follows:

(1) one majority and one minority members of the Senate Committee on Interior and Insular Affairs, to be appointed by the President of the Senate;

(2) one majority and one minority members of the House Committee on Interior and Insular Affairs, to be appointed by the Speaker of the House of Representatives;

(3) four persons to be appointed by the President of the United States from among persons who at the time appointment is to be made hereunder are not, and within a period of one year immediately preceding that time, have not been, officers or employees of the United States; but, the foregoing or any other provision of law notwithstanding, there may be appointed, under this paragraph, any person who is retained, designated, appointed, or employed by any instrumentality of the executive branch of the Government or by any independent agency of the United States to perform, with or without compensation, temporary duties on either a full-time or intermittent basis for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days; and

(4) one person, appointed by majority vote of the other eight members, who shall be the Chairman of the Commission.

(c) Any vacancy which may occur on the Commission shall not affect its powers or functions but shall be filled in the same manner in which the original appointment was nade.

(d) The organizational meeting of the Commission shall be held at such time and place as may be specified in a call issued jointly by the senior member appointed by the President of the Senate and the senior member appointed by the Speaker of the House of Representatives.

(e) Five members of the Commission shall constitute a quorum, but a smaller number, as determined by the Commission, may conduct hearings.

(f) Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(g) The members appointed by the President shall each receive $125 per diem when engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

DUTIES OF THE CONSUMER

SEC. 4. (a) The Commission shall undertake an immediate review of all existing withdrawals, reservations, set-asides, and classifications of public lands of the United States that were effected by executive action to—

(1) identify the use or uses presently designated for all such reserved lands;

(2) determine whether such use or uses are still valid and whether such reservations are reasonable in scope and area for all such reserved lands;

(3) determine the extent of energy and other mineral resource potential in all such lands;

(4) determine the extent, if any, to which energy and other mineral exploration, development, and production can be carried out without interference with valid use or uses for which reserved; and

(5) recommend which of such lands should be made available for energy and other mineral purposes in accordance with the policy of Congress declared in section 1 of this Act and other policies of Congress relating to the administration of the public lands.

(b) The Commission shall, not later than

two years from the date of enactment of this Act, submit to the President and the Congress its final report. It shall cease to exist six months after submission of said report or on June 30, 1977, whichever is earlier. All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the Archives of the United States.

(c) The Commission shall, not later than six months from the date of enactment of this Act, submit to the President and the Congress an interim report identifying, to the extent practical, all public lands withdrawn, reserved, set-aside, or classified from energy and other mineral purposes by executive action, that contain readily available petroleum or other energy resources.

(d) The Commission shall, from time to time, recommend such modifications in existing laws, regulations, policies, and practices, as will in the judgment of the Commission serve to carry out the policy and purpose set forth in sections 1 and 2 of this Act.

DEPARTMENT LIAISON OFFICER

SEC. 5. The Chairman of the Commission shall request the head of each Federal department or independent agency which has an interest in or responsibility with respect to the retention, management, or disposition of any such public lands to appoint, and the head of such department or agency shall appoint, a liaison officer who shall work closely with the Commission and its staff in matters pertaining to this Act.

ADVISORY COUNCIL

SEC. 6. (a) The Commission is authorized to establish an advisory council consisting of the liaison officers appointed under section 5 of this Act, together with additional members, not to exceed fifteen, appointed by the Commission who shall be representative of the various major citizens' groups interested in problems relating to the duties of the Commission, including the following: Organizations representative of State and local government, private organizations working in the field of public land management and outdoor recreation resources and opportunities, landowners, forestry interests, livestock interests, mining interests, oil and gas interests, commercial and sport fishing interests, commercial outdoor recreation interests, industry, education, labor and public utilities, and environmental and conservation groups. Any vacancy occurring on any such advisory council shall be filled in the same manner as the original appointment.

(b) Members of any such advisory council so established shall serve without compensation, but shall be entitled to reimbursement for actual travel and subsistence expenses incurred in attending meetings of the council called or approved by the Chairman of the Commission or in carrying out duties assigned by the Chairman.

GOVERNORS' REPRESENTATIVES

SEC. 7. The Chairman of the Commission shall invite the Governor of each State to designate a representative to work closely with the Commission and its staff and with the advisory council, if established, in matters pertaining to this Act.

POWERS OF THE COMMISSION

SEC. 8. (a) The Commission or, on authorization of the Commission, any committee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and places as the Commission or such authorized committee may deem advisable. Subpoenas for the attendance and testimony of witnesses or the production of written or other matter may be issued only on the authority of the Commission and shall be served by anyone designated by the Chairman of the Commission.

(b) The Commission shall not issue any subpoena for the attendance and testimony of witnesses or for the production of written or other matters which would require the presence of the parties subpoenaed at a hearing to be held outside of the State wherein the witness is found or resides or transacts business.

(c) A witness may submit material on a confidential basis for the use of the Commission and, if so submitted, the Commission shall not make the material public. The provisions of sections 102–104, inclusive, of the Revised Statutes (2 U.S.C. 192–194) shall apply in case of any failure of any witness to comply with any subpoena or testimony when summoned under this section.

(d) The Commission is authorized to secure from any department, agency, or independent instrumentality of the executive branch of the Government any information such Commission deems necessary to carry out its functions under this Act and each such department, agency, and instrumentality is authorized and directed to furnish such information to the Commission upon request made by the Chairman or the Vice Chairman when acting as Chairman.

(e) If the Commission requires of any witness or of any governmental entity production of any materials which have heretofore been submitted to a Government agency on a confidential basis, and the confidentiality of those materials is protected by law, the material so produced shall be held confidential by the Commission.

APPROPRIATIONS

SEC. 9. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act and such moneys as may be appropriated shall be available to the Commission until expended.

(b) The Commission is authorized, without regard to the provisions of title 5, United States Code, governing appointments in competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53, title 5, United States Code, relating to classification and General Schedule pay rates, to appoint and fix the compensation of a staff director, and such additional personnel as may be necessary to enable it to carry out its functions, except that any Federal employees subject to the competitive service laws and regulations who may be employed by the Commission shall retain their status without interruption or loss of status or privilege.

(c) The Commission is authorized to enter into contracts or agreements for studies and surveys with public and private organizations and, if necessary, to transfer funds to Federal agencies from sums appropriated pursuant to this Act to carry out such aspects of the review as the Commission determines can best be carried out in that manner.

By Mr. BELLMON:

S. 3555. A bill to establish a Fiscal Stabilization Board as an independent agency of the Government, and to authorize the President, upon recommendation of the Board but subject to disapproval of either House of the Congress, to increase or decrease Federal income taxes in order to stabilize the economy. Referred to the Committee on Finance.

Mr. BELLMON. Mr. President, today this Nation faces a period of great economic uncertainty and unrest. American citizens are faced with rapid increases in their costs of living due to a 12-percent annual rate of inflation. Interest rates are at record highs. Investors are hesitant to make long-term commitments because of the future uncertainties. Industrialists are slow to improve their plants because of high costs of money. American families are finding it difficult to purchase homes because of tight money. Government officials in charge of stabilizing our economy are concerned that the strain upon our monetary system may be more than it can bear.

These conditions are causing many to be concerned that, in spite of the good intentions of this Government to produce economic stabilization, it simply has failed to provide itself with the tools adequate to do the job.

There can be little doubt that the present chaotic conditions are at least partially due to irresponsible fiscal policies of the past. These policies go back to the early days of the Vietnam war and even though the Federal budget is presently close to being balanced, the country is paying the price of our earlier indiscretions.

When it accepted the responsibility for economic stabilization and full employment in the passage of the Full Employment Act of 1944, Congress assumed that the tools it had made available to accomplish these objectives were adequate; 30 years' experience has shown that this is simply not true.

Theoretically, when inflation threatens, Congress should act to reduce Government expenditures and help cool off the economy. As a practical matter, it is legislatively impossible for Congress to react as quickly as required to deal with changes in the Nation's economic condition.

In addition, political realities make it practically impossible for Congress to take the stern measures which are sometimes called for during an election period. This leaves the full burden of combating inflation upon the Nation's monetary managers and places unfair and impossible strain upon the few industries which are most directly affected by changes in monetary policy.

Mr. President, in order to help provide a better tool for the use of this Government in establishing a stable economy, I am today introducing a bill to create a Fiscal Stabilization Board and to authorize certain actions by the President which should help to bring inflation under control. Briefly, this bill does the following.

It creates a Fiscal Stabilization Board made up of members from major sections of the economy. The Board is authorized to keep careful check on the condition of the Nation's economic health and to issue such reports and publications as it deems necessary to carry out its functions and duties.

The bill provides authorization for the Fiscal Stabilization Board to recommend to the President when adjustments in the Nation's income taxes are needed in order to stabilize the economy. The President is given authority to submit to both Houses of Congress a message recommending an income tax adjustment plan. This plan shall take effect at the end of 30 calendar days of continuous sessions of Congress unless, between the date of transmittal and the end of such 30-day period, one House passes a resolution disapproving the plan.

The bill limits the amount of tax ad-

justment to 10 percent. Funds collected may be used by the Secretary of the Treasury to retire part of the Federal debt.

Mr. President, in my opinion, inflation is the most serious internal problem that this country faces. Having served as Governor of a State which operates under a constitutional requirement for a balanced budget, I have been appalled at the irresponsible methods Congress uses in managing our Federal expenditures. I am convinced that we can and must do better. Otherwise, inflation may soon become the destructive force in this country that it has become in other nations around the world.

On Wednesday, May 29, 1974, the Wall Street Journal published an article by Paul W. McCracken entitled "Catching the Inflation Rabbit." This article contains many suggestions which I believe will be helpful to members of the Senate in understanding and dealing with the problem of inflation.

I ask unanimous consent that this article be printed in the RECORD.

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

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

S. 3555

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 "Fiscal Stabilization Act of 1974.

TITLE I—FISCAL STABILIZATION BOARD

SEC. 101. ESTABLISHMENT OF THE BOARD.

(a) There is hereby established as an independent agency of the Government a Fiscal Stabilization Board (hereinafter referred to as the "Board").

(b) The Board shall consist of seven members appointed by the President, by and with the advice and consent of the Senate. Not more than four members may be affiliated with the same political party. Two members shall have had experience in management, two shall have had experience in the field of labor, one shall have had experience in government, and one shall have had experience in academic affairs.

(c) Each member shall be appointed for a term of seven years, except that the terms of the members first appointed shall expire, as designated by the President at the time of appointment, at the end of one, two, three, four, five, six, and seven years, respectively, from the date of the appointment of the first member. The term of each member thereafter appointed shall commence upon the expiration of the term for which his predecessor was appointed. A member appointed to fill a vacancy in the membership of the Board occurring before the end of a term of office shall serve under such appointment only for the remainder of that term.

(d) Four members of the Board shall constitute a quorum. A vacancy in the Board shall not affect its powers. No member shall, during his term of office, engage in any vocation or employment other than the work of the Board.

(e) A member of the Board may be removed from office by the President only for inefficiency, neglect of duty, or malfeasance in office.

SEC. 102. CHAIRMAN; SALARIES.

(a) The President shall, from time to time, designate one of the members of the Board to serve as Chairman. No member may serve as Chairman for a total period of more than two years during each term of his office as a member of the Board.

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

"(20) Chairman, Fiscal Stabilization Board."

(c) Section 5314 of title 5, United States Code (relating to positions at level III of the Executive Schedule), is amended by adding at the end thereof the following:

"(55) Members, Fiscal Stabilization Board."

SEC. 103. FUNCTIONS AND DUTIES.

(a) It shall be the function and duty of the Board—

(1) to monitor the fiscal and monetary conditions of the United States and to advise the President with respect thereto, and

(2) to recommend to the President action to be taken by him to stabilize the national economy pursuant to the authority conferred by part VII of subchapter A of chapter 1 of the Internal Revenue Code of 1954. A recommendation to the President under paragraph (2) may be made only upon the affirmative vote of at least four Members of the Board.

(b) The Board shall, on or before January 31 of each year, submit to the Senate and the House of Representatives a full and complete report setting forth—

(1) its activities during the preceding year,

(2) its judgment with respect to the fiscal and monetary conditions of the United States during the preceding year, and

(3) its judgment with respect to the anticipated fiscal and monetary conditions of the United States for the year in which such report is submitted.

SEC. 104. POWERS.

(a) The Board is authorized to appoint and fix the compensation of such officers and employees, and prescribe their functions and duties, as may be necessary to assist it in carrying out its functions and duties.

(b) The Board is authorized to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(c) The Board is authorized to procure information, data, and statistics from any department or agency of the Government, and the head of each such department or agency is authorized, upon request of the Chairman of the Board, to furnish such information, data, and statistics to the Board.

(d) The Board is authorized to issue such publications as it determines necessary or desirable in carrying out its functions and duties.

(e) The Board is authorized to adopt, alter, and use a seal and to prescribe such rules and regulations as it determines necessary or desirable in carrying out its functions and duties.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this title.

TITLE II—ADJUSTMENT OF INCOME TAXES FOR ECONOMIC STABILIZATION

SEC. 201. TAX ADJUSTMENT PLANS.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VII—TAX ADJUSTMENT PLANS

"Sec. 59a. Findings and policy.
"Sec. 59b. Tax adjustment plans.
"Sec. 59c. Contents and duration of tax adjustment plans.
"Sec. 59d. Miscellaneous provisions.

"SEC. 59a. FINDINGS AND POLICY.

"(a) FINDINGS.—The Congress finds that the achievement of reasonable economic stability and optimal levels of employment requires a flexible fiscal policy responsive to changing conditions. The Congress further finds that, within the limitations and for the purposes set forth in this part, such a policy requires an improved procedure to make timely adjustments in the amounts of income taxes imposed by this chapter.

"(b) POLICY.—The President shall exercise the authority conferred by this part solely for the purpose of stabilizing the national economy in order (1) to achieve the policy set forth in section 2 of the Employment Act of 1946, (2) to maintain the purchasing power of the dollar, (3) to maintain the stability of the monetary system, or (4) to insure an orderly and healthy rate of economic growth.

"SEC. 59b. TAX ADJUSTMENT PLANS.

"(a) PREPARATION AND SUBMISSION TO CONGRESS.—

"(1) IN GENERAL.—When the President determines that an adjustment in the taxes imposed by this chapter is necessary to accomplish one or more of the purposes stated in section 59a, he shall prepare a tax adjustment plan and transmit the plan (bearing an identification number) to the Congress.

"(2) LIMITATIONS.—A tax adjustment plan—

"(A) may be submitted by the President only if, within 90 days prior thereto, the Fiscal Stabilization Board has recommended to the President that he exercise the authority conferred by this part,

"(B) may not propose a plus or minus tax adjustment percentage greater than that recommended to the President by the Stabilization Board, and

"(C) may not propose a longer effective period for tax adjustment than that recommended to the President by the Fiscal Stabilization Board.

Only one tax adjustment plan may be in effect at any one time.

"(b) HOW SUBMITTED.—The President shall have a tax adjustment plan delivered to both Houses on the same day and to each House while it is in session. In his message transmitting a tax adjustment plan, the President shall specify the reasons for submitting the plan to the Congress.

"(c) DISAPPROVAL BY CONGRESS.—

"(1) IN GENERAL.—A tax adjustment plan shall take effect at the end of the first period of 30 calendar days of continuous session of the Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the 30-day period, either House of the Congress passes a resolution stating in substance that such House disapproves of the tax adjustment plan.

"(2) CONTINUITY OF SESSION.—For purposes of paragraph (1)

"(A) the continuity of a session shall be broken only by an adjournment of the Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 30-day period.

"(d) PUBLICATION.—Any proposed tax adjustment plan shall be printed in the Federal Register, and any tax adjustment plan which takes effect shall be printed in the Statutes at Large in the same volume as the public laws.

"SEC. 59c. CONTENTS AND DURATION OF TAX ADJUSTMENT PLANS.

"(a) IN GENERAL.—A tax adjustment plan submitted to the Congress under section 59b shall—

"(1) specify a plus or minus tax adjustment percentage,

"(2) specify its effective date (which may be on or after the date on which the plan is submitted to the Congress),

"(3) specify the termination date for the change in taxes or provide that the change made by the plan shall remain in effect

until a termination date is provided by law or by a later tax adjustment plan,

"(4) prescribe tables which shall apply, in lieu of the taxes contained in section 3402 (relating to income tax collected at source), with respect to wages paid during the period specified in the plan, and

"(5) contain such other provisions as the President determines are necessary to carry out the purposes of this part and the plan.

"(b) SPECIAL PROVISIONS.—A tax adjustment plan may—

"(1) provide tables specifying the amount of additional tax or reduction in tax within specified adjusted tax brackets,

"(2) exempt taxpayers whose adjusted tax does not exceed the amount specified in the plan from any increase in tax provided by the plan,

"(3) provide that any decrease in tax provided by the plan shall not apply in the case of taxpayers whose adjusted tax exceeds the amount specified in the plan, and

"(4) specify different tax adjustment percentages (plus or minus) for different taxable years or other periods specified in the plan.

"(c) DURATION.—A tax adjustment plan which has taken effect shall continue in effect until:

"(1) The date (if any) specified in the plan for its termination;

"(2) The date specified in a new tax adjustment plan which takes effect as provided by section 59b; or

"(3) The date provided by law enacted after the date on which the plan was submitted to the Congress.

"(d) DEFINITIONS.—For purposes of this section—

"(1) TAX ADJUSTMENT PERCENTAGE.—The term 'tax adjustment percentage' means the percentage, not greater than 10 percent, specified in a tax adjustment plan as the percentage by which the adjusted tax for any taxable year is to be increased or decreased under the plan.

"(2) ADJUSTED TAX.—The term 'adjusted tax' means, with respect to any taxable year, the tax imposed by this chapter for such taxable year, determined without regard to—

"(A) the taxes imposed by this part, section 56 (relating to minimum tax), section 871(a) (relating to tax on nonresident alien individuals), and section 881 (relating to tax on income of foreign corporations not connected with United States business); and

"(B) any increase in tax under section 47(a) (relating to certain dispositions, etc., of section 38 property) or section 614(c)(4)(C) (relating to increase in tax for deductions under section 615(a) prior to aggregation), and reduced by an amount equal to the amount of any credit which would be allowable under section 37 (relating to retirement income) if no tax were imposed by this section for such taxable year.

SEC. 59d. MISCELLANEOUS PROVISIONS.

"(a) SPECIAL RULE.—For purposes of this title, to the extent the tax imposed by this section is attributable (under regulations prescribed by the Secretary or his delegate) to a tax imposed by another section of this chapter, such tax shall be deemed to be imposed by such other section.

"(b) WESTERN HEMISPHERE TRADE CORPORATIONS AND DIVIDENDS ON CERTAIN PREFERRED STOCK.—In computing, for a taxable year of a corporation, the fraction described in

"(1) section 244(a)(2), relating to deduction with respect to dividends received on the preferred stock of a public utility,

"(2) section 247(a)(2), relating to deduction with respect to certain dividends paid by a public utility, or

"(3) section 922(2), relating to special deduction for Western Hemisphere trade corporations,

the denominator shall, under regulations prescribed by the Secretary or his delegate, be increased or decreased to reflect the tax adjustment percentage.

"(c) SHAREHOLDERS OF REGULATED INVESTMENT COMPANIES.—In computing the amount of tax deemed paid under section 852(b)(3)(D)(ii) and the adjustment to basis described in section 852(b)(3)(D)(iii), the percentages set forth therein shall be adjusted under regulations prescribed by the Secretary or his delegate to reflect the tax adjustment percentage."

(b) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) Section 21(a) of the Internal Revnue Code of 1954 (relating to effect of changes in tax rates during taxable year) is amended by adding immediately below paragraph (2) thereof the following new sentence: "If the amount of a tax imposed by this chapter is increased or decreased under part VII (relating to tax adjustment plans) such increase or decrease shall be deemed a change in the rate of tax of such tax for purposes of this subsection."

(2) The table of parts for subchapter A of chapter 1 of such Code is amended by adding below the last item thereof the following:

"Part VII. Tax adjustment plans."

SEC. 202. EFFECTIVE DATE.

The amendments made by section 201 shall apply to taxable years ending after the date of the enactment of this Act.

TITLE III—RULES FOR CONGRESSIONAL ACTION ON TAX ADJUSTMENT PLANS.

SEC. 301. EXERCISE OF RULEMAKING POWER.

(a) The following subsections of this section are enacted by the Congress:

(1) As an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in such House in the case of resolutions (as defined in subsection (b)); and such rules shaft supersede other rules only to the extent that they are consistent therewith; and

(2) With full recognition of the constitutional right of either House to change such rules (so far as relating 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.

(b) As used in this section, the term "resolution" means only a resolution of either of the two Houses of Congress, the matter after the resolving clause of which is as follows: "That the — disapproves the Tax Adjustment Plan transmitted to the Congress by the President 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.

(c) All resolutions with respect to a tax adjustment plan introduced in the Senate shall be referred by the President of the Senate to the Committee on Finance, and all resolutions with respect to a tax adjustment plan introduced in the House of Representatives shall be referred by the Speaker of the House to the Committee on Ways and Means.

(d)(1) If the committee to which has been referred a resolution with respect to a tax adjustment plan has not reported it before the expiration of ten calendar days after its introduction, it shall then (but not before) be in order to move either to discharge the committee from further consideration of such resolution, or to discharge the committees from further consideration of any other resolution with respect to such tax adjustment plan which has been referred to the committee.

(2) Such motion may be made only by a person favoring the resolution, shall be highly privileges (except that it may not be made after the committee has reported a resolution with respect to the same tax adjustment plan), and debate thereon shall be limited to not to exceed one hour, to be equally divided between those favoring and those opposing the resolution. No amendment to such motion shall be in order, and it shall not be in order to move to reconsider the vote by which such motion is agreed or disagreed to.

(3) If the motion to discharge is agreed to or disagreed to, such 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 tax adjustment plan.

(e)(1) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a tax adjustment plan, it shall at any time thereafter be in order (even though a previous motion to the same effect was disagreed to) to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. No amendment to such motion shall be in order and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(2) Debate on the resolution shall be limited to not to exceed ten hours, which shall be equally divided between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order, and it shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(f)(1) All motions to postpone, made with respect to the discharge from committee or the consideration of a resolution with respect to a tax adjustment plan, and all motions to proceed to the consideration of other business, shall be decided without debate.

(2) All appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a tax adjustment plan shall be decided without debate.

TITLE IV—FISCAL STABILIZATION DEBT RETIREMENT FUND

SEC. 401. ESTABLISHMENT.

There is hereby established in the Treasury of the United States a Debt Retirement fund to be known as the "Fiscal Stabilization Debt Retirement Fund" (hereinafter referred to as the "Debt Retirement Fund"). The fund shall consist of amounts appropriated to it as provided in section 402.

SEC. 402. TRANSFERS TO DEBT RETIREMENT FUND OF AMOUNTS EQUAL TO TAX INCREASES UNDER TAX ADJUSTMENT PLANS.

(a) There is hereby appropriated to the Debt Retirement fund amounts equivalent to the taxes received in the Treasury which are attributable to tax adjustment plans in effect under part VII of subchapter A of chapter 1 of the Internal Revenue Code of 1954.

(b) Whenever a tax adjustment plan specifying a plus tax adjustment percentage is in effect, the Secretary of the Treasury shall, from time to time, transfer the amounts appropriated by section (a) from the general fund of the Treasury to the Debt Retirement fund on the basis of estimates made by him. Proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than amounts required to be transferred.

SEC. 403. TRANSFERS TO GENERAL FUND OF AMOUNTS EQUAL TO TAX REDUCTIONS UNDER TAX ADJUSTMENT PLANS.

(a) There is hereby appropriated to the general fund of the Treasury amounts equivalent to the reduction in taxes (wheth-

er by way of credit or otherwise) attributable to tax adjustment plans in effect under part VII of subchapter A of chapter 1 of the Internal Revenue Code of 1954.

(b) Whenever a tax adjustment plan specifying a minus tax adjustment percentage is in effect, the Secretary of the Treasury shall, from time to time, transfer the amounts appropriated by subsection (a) from the Debt Retirement fund to the general fund of the Treasury on the basis of estimates made by him. Proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than amounts required to be transferred.

SEC. 404. MANAGEMENT OF THE DEBT RETIREMENT FUND

(a) (1) It shall be the duty of the Secretary of the Treasury to utilize those moneys in the Debt Retirement Fund not required to meet withdrawals to reduce the Federal debt.

[From the Wall Street Journal, May 29, 1974]

CATCHING THE INFLATION RABBIT

(By Paul W. McCracken)

"But how do you catch the rabbit?" The question came at the conference on worldwide inflation sponsored jointly by the American Enterprise Institute for Public Policy Research and the Hoover Institution. It was asked by Professor John H. Young of the University of British Columbia and formerly chairman of the Prices and Incomes Commission of Canada.

With his usual characteristic for getting at the heart of the policy problem, Professor Young asked the key question. The tools of economic analysis are adequate to prescribe a way for cooling the inflation. Tough fiscal and monetary policies pursued long enough would make the price level quiet down.

Would such action, however, produce tensions and strains beyond the boundaries of what the political process could tolerate? Would these strains produce such high rates of interest that some of our intermediating financial institutions, such as savings and loan associations, might experience lethally large outflows of funds? What is a strategy, in short, for working down the rate of inflation that takes into account the realities of the political process? These policies must be implemented through government. Advice to governments that they could not possibly take may be useful for long-run public education, but it is not apt to launch the progress which we need now down from the stratosphere of 12%–14% rates of inflation.

Even the fundamental measures themselves are apt to be more acceptable if the public believes that there is a coherent strategy or program for dealing with this many-sided problem. Otherwise policy either looks ad hoc or wedded to such things as high interest rates and hard budgets, and the inability of the citizenry to see a coordinated program can itself be a source of unease.

What would be some elements of such a program? The first point to make is that while the strategy requires more than fiscal and monetary restraint, such fiscal and monetary restraint is essential. And it does work. It was used in 1956–57 and by mid-1958 a price-level stability emerged on which the expansion of the early 1960s could be built. It was used in 1968–69, and by early 1970 the accelerating inflation crested at about a 7% rate, receding then to the 3½%-4% zone by the first half of 1971.

The orthodoxy of a bygone era, in fact, prescribed a sufficiently severe credit crunch to break the inflation and the inflation-mindedness, with the credit authorities then reversing their policies in order to minimize damage to bona fide business activity. It was the strategy in 1929 (if mention of that ill-fated year is not regarded as such a financial expletive as to require deletion), and it worked. The unfortunate 1931 tightening of monetary policy not only gave us a leading candidate for the most inept episode of central banking history, with two further and unnecessary years of financial and economic collapse, but it also forever obscured a good job of puncturing the 1929 speculative boom with a subsequent quick reversal to an easier policy.

NECESSARY RESTRAINTS

Any disinflationary program, in fact, must recognize that no stabilization of the price level has ever occurred without fiscal and monetary restraint. Much as we intellectuals recoil at the thought of subscribing to a straight-forward idea, the need for this restraint is an inescapable lesson from history. (We are more comfortable arguing that down is really up, or that the way to halt inflation is really to pursue yet more inflationary policies.)

With the federal budget on a national accounts basis already in the black, our fiscal position is not far off target if we resist the temptation of a tax reduction that would force more Treasury borrowing in credit markets that are already floundering from heavy demands. A more difficult question is whether the Federal Reserve can bring the rate of monetary expansion down to the 5%–6% zone required for progress against inflation without pushing interest rates so high as to risk financial disorder.

A credible stabilization program must also recognize candidly that no inflation can be cooled without some rise in unemployment. Only a knave or a fool would hold otherwise. To counter this inflation the rate of unemployment might well rise one or two percentage points for a period. That is in itself unfortunate, but so is the trauma and social divisiveness of continued inflation. And accepting for a time a labor force 94% or so employed, rather than 95%, puts this trade-off in better perspective. In any case government and economists both had better be blunt and candid about this trade-off rather than to hold out the hope of some painless therapy that does not exist.

If the employment rate must be expected to edge downward by a percentage point or two for a time, an integral part of any rounded program for disinflation must be attention to the maintenance of incomes. It is, of course, a pity that this country cannot jettison its polyglot array of welfare programs, programs that have caused cumulative pauperization of cosmic proportions, in favor of a systematic and generalized income maintenance program. Here again, however, the groups with their vested interest in the management of present programs clearly have enough political clout to prevent such sensible action.

What we do need, therefore, is a further strengthening of the unemployment compensation program in terms of benefits, duration of payments, and coverage. Approximately 60% of the unemployed are now covered by unemployment compensation, and a high proportion of those unemployed in any month will be back at work the next month. It is a rapidly changing group. Even so, a strengthening of existing income maintenance programs must be a part of any well-rounded approach to economic stabilization.

A coordinated stabilization program must also recognize that some prices need to be raised. With the explosion of the general price level since the end of 1972, some prices have lagged so seriously as to put in serious jeopardy the financial integrity of these institutions. There is raw material in the electric utility industry, for example, for a series of Penn Centrals during the year or two ahead if their rates are not realigned with the higher prices these companies must pay for the coal and oil that they convert into electricity. While these decisions must be made by state regulatory authorities, it is the federal government that manages the monetary, economic and environmental policies that have put the state regulatory authorities in a political box and many of these companies on the ropes. It is significant that the government of Japan, in its own stabilization program, grasped this nettle.

Finally, a rounded strategy for disinflation must include actions that would minimize the duration and magnitude of slack in the economy required to get the rate of inflation down to more acceptable levels. While generalized indexation is neither feasible nor desirable, it has a role to play. At this transitional juncture it would be better for unions and managements to bargain out the real wage increase, with a cost of living escalator to keep the increase real, than to freeze an assumed high future rate of inflation into wage contracts.

INFLATION ALERTS

While little could realistically be expected from it, a government procedure for periodic reports on wage and price developments, including citations of specific cases that would seem to indicate failure of market competition to discipline price or wage increases, might be useful. This would be along the lines of the inflation alerts of 1970–71, and judging by responses from those cited (e.g., the 40% 1970 taxi fare increase in New York) these alerts in a few selected cases might induce some slight diffidence in pricing decisions. Unlike the old alerts, however, this effort should be at arms length from the President's Executive Office, rather than as four years ago in the Council of Economic Advisers, or the President would quickly be drawn more deeply into direct wage-price action than would be desirable. The great danger is that because scolding businesses is politically popular, the attention given to such an activity would overly emphasize it relative to its inevitably quite limited significance, and "the President's program" would be judged a failure.

More could be done by a concerted effort to deal with monopoly-like situations that make for high prices, and the real opportunities here are arrangements that the government itself fosters. It is government that has arranged matters so that in many cases taxis must operate at 50% efficiency on airport runs (being forced to return empty to the airport or to the city). It is the federal government that promotes wage inflation through such programs as the Davis Bacon Act or excessively rapid escalation of the minimum wage. It is government that applauds the virtues of competition for others but doggedly insists on monopoly in many of its enterprise-like activities.

There can be litle doubt, for example, that removal of the Postal Service monopoly on first class mail would result in better postal service for customers and better jobs for those in the business. Unfortunately the great effort at postal reform took the direction of slightly privatizing an organization that retained its monopoly. The disappointing results were inevitable. Whether the Postmaster General remains in the Cabinet or not could be expected to make little difference in service, but giving the customer the right to use alternatives would have made a great deal of difference.

It is, of course, true that logically monopolies explain high prices but not rising prices. Once the monopoly position is exploited, it presumably no longer exerts continuing upward pressure on prices. The process of unwinding some of these monopoly situations, however, could exert some downward pressures when we are trying to restablished the price level.

Fiscal and monetary restraint, in short, is essential to achieving a new price-level stability. It could even do the job itself. There is a better chance to keep the transition

pains within politically acceptable tolerances, however, if the stabilization program has a more rounded character that reflects the many dimensions of this problem.

By Mr. PERCY (for himself, Mr. RANDOLPH, Mr. STAFFORD, and Mr. WEICKER):

S. 3556. A bill to conserve energy and save lives by extending indefinitely the 55 miles per hour speed limit on the Nation's highways. Referred to the Committee on Public Works.

Mr. PERCY. Mr. President, today I am pleased to be joined by my colleagues Senator RANDOLPH and Senator STAFFORD in introducing a bill to extend indefinitely the present national speed limit of 55 miles per hour.

The current law sets the national speed limit at 55 miles per hour only until June 30, 1975, or until the President declares there is no longer a fuel shortage requiring such a limit, whichever date occurs first. The bill we are introducing today would simply eliminate the language in the current law that allows for termination of the 55 miles per hour limit.

I believe that responsible citizens in this country will agree that our Nation should continue to have a restricted speed limit. As automobiles and roads have become better engineered year after year, the gradual rise in highway speed limits has gone relatively unchecked. We would all have been wise to recognize the senselessness of this trend long ago, but it has taken the energy crisis to show us how foolish we have been.

My faith in American technology convinces me that we can learn to build cars and roads that will eventually allow us to travel comfortably at 90 or 100 miles per hour, or even faster. But I sincerely doubt that encouraging such progress would serve our country well.

One rule of thumb for lawmakers is that the best legislation affirms social tradition, and it is true that a permanently restricted speed limit for the Nation's highways would run counter to that rule. But if we take a look at our increasingly hectic and fast-paced life style, our resulting physical and mental problems, and the energy situation we now face, I believe that Congress and the public will agree that it is time to alter through legislation social tradition in the area of our national driving habits.

One primary reason we should retain a lowered speed limit is to conserve our country's fuel resources. Although the gasoline shortage has eased in recent months, energy conservation must become a permanent priority for all Americans. John C. Sawhill, Director of the Federal Energy Office, has called on the public to continue or renew their conservation efforts or face periodic critical shortages in the future.

If the energy crisis has taught us anything, it is that we as a Nation can no longer be complacent about our abundant natural resources. The energy industries and the Federal Government have at last taken time to look carefully at our current and future energy needs and resources. What we have seen is sobering; not now and not in the foreseeable future can our Nation afford to return to its gluttonous energy devouring habits of the last few decades. If we are to be even partially assured of a steady flow of resources to meet our basic energy needs, we must significantly alter our way of life to reflect the finite nature of our energy supply. It is imperative that we all learn to conserve energy as a mater of daily routine.

There are many drastic measures we could take to assure continued fuel conservation. Hopefully, they will not be necessary. The basic fact that we should consider is that limiting speeds on the Nation's highways is one of the most painless sacrifices Americans can make in the name of energy conservation. Gas rationing, odd-even allocation, prohibition of driving on Sundays—these and other fuel conservation programs would yield serious inconvenience, aggravation, and cost to the public. Limiting speeds, however, requires only a minor alteration of our motoring habits.

One of the most difficult problems the Federal Government now faces with regard to the energy crisis is to convince the public that the crisis is not over and that stringent conservation measures are just as necessary now as they were a few months ago. It is becoming more and more apparent that Americans are returning to their old energy consumption habits. A nationwide Associated Press survey has found that automobile traffic in most areas of the country is approaching pre-crisis levels. It is imperative that this trend be reversed. I believe that retaining and enforcing a reduced speed limit on the Nation's highways will not only serve to save gasoline but will also serve as a regular reminder to Americans that the need to conserve all types of energy continues.

Convinced of the desirability of a reduced speed limit, I firmly believe that the speed limit we set should be 55 miles per hour rather than any higher limit.

Fuel economy studies carried out by the Environmental Protection Agency show that the highest automobile fuel economy is obtained at 30 to 40 miles per hour. No one would suggest that American motorists be required to observe a 30- or 40-mile-per-hour speed limit. But we can reasonably retain a 55-mile-per-hour limit and still realize substantial energy savings. A Federal Highway Administration study indicates that at 70 miles per hour, 30.5 percent more fuel is required than at 50 miles per hour. At 60 miles per hour, 11.3 percent more gas is used than at 50 miles per hour.

Although fuel savings would be greater if the uniform speed limit were 50 miles per hour rather than 55 miles per hour, arguments have already been successfully waged against the lower limit. I am compelled by the interests of our trucking industry not to recommend any speed limit lower than 55 miles per hour.

Of primary importance in this issue is the fact that the livelihood of thousands of independent truckers in this country depends on the number of miles they travel in a given time and, therefore, on the speed they drive.

Second, unlike passenger cars, large trucks do not get optimum mileage at lower speeds. Large commercial vehicles actually realize better fuel economy at 55 miles per hour or higher. A higher limit for trucks than for cars has already been wisely ruled out as an unacceptable hazard to motorists. The compromise on 55 miles per hour reached in December with the enactment of the Emergency Highway Energy Conservation Act is, in my view, still a valid one.

Since the 55-mile-per-hour speed limit went into effect a few months ago, first indications are that it has proved workable and effective and that there are substantial benefits to be obtained from retaining that limit.

Mr. Sawhill of the FEO has estimated that if every automobile observed the 55-mile-per-hour speed limit, 125,000 barrels of oil might be saved every day. If all vehicles, including trucks and buses, followed the 55-mile-per-hour limit, a total of 200,000 barrels of fuel would be saved each day—73 million barrels a year.

To put these statistics in more concrete terms, it would require 146 million tons of oil-shale rock to produce the amount of oil saved in 1 year by observing the 55-mile-per-hour limit. At the current minimum production cost of domestic crude oil of $5.25 per barrel, the fuel saved in 1 year by maintaining a 55-mile-per-hour speed limit would mean a saving of $383 million. Certainly such a saving in fuel resources and costs is a significant one.

The 55-mile-per-hour limit has resulted not only in important fuel savings, but in impressive saving of human life as well. The National Safety Council reports that from November 1973 through April 1974 U.S. traffic deaths dropped by some 25 percent over the same period a year earlier. While this percentage figure is impressive in itself, when one realizes that the statistic means that by the end of April we had already saved some 5,000 lives, the importance in human terms is apparent. About 5,000 wives, children, parents, husbands are alive today, and to a very great extent, they are alive only because of the 55-mile-per-hour speed limit.

This past Memorial Day weekend is a good indicator of the tremendous saving of human life we are witnessing. Over last year's 3-day Memorial Day weekend, 539 Americans died in traffic accidents. This year, 390 people died on the highways, a decrease of 27 percent. Memorial Day 1974 suffered the lowest highway death toll for a similar holiday period in 14 years.

Certainly lowered speeds cannot be given full credit for this saving of human life. The fact that the gas shortage lowered traffic volume must also be considered. But statistics indicate that although traffic volume was down, it was not the most significant factor in the decline in traffic deaths. While U.S. traffic deaths were down some 25 percent in the first quarter of 1974, the National Safety Council estimates that traffic volume was down only about 8 percent.

In California, traffic fatalities have dropped far more than gasoline sales, which are one of the best indicators of traffic volume. In January 1974, California traffic deaths decreased 20 percent from the level of January 1973. But Californians purchased only 6.6 percent

less gasoline than the previous January, and the California Division of Highways estimated only a 3.4-percent reduction in traffic volume.

The National Highway Traffic Safety Administration, an arm of the U.S. Department of Transportation, reports that an analysis from 16 States that voluntarily reduced highway speed limits in November showed a decline in deaths of 15 to 20 percent below November 1972. The remaining States, whose drivers were not legally bound to lower speeds in November, showed a decrease in fatalities of only 2 percent. Lowered speed limit States similarly reduced traffic fatalities by more than 30 percent in February, while in States with higher limits, fatalities declined only 2.7 percent. Clearly, reduced speed limits are an overwhelming factor in the decline in traffic fatalities.

The reason for the impressive saving of lives is an easily understandable one: the National Safety Council shows that a driver involved in a crash at 50 miles per hour has a chance for survival 4 times greater than a driver who crashes at 70 miles per hour. After considering all of the factors involved in traffic deaths, the Council estimates that if 55 miles per hour speed limits are observed, 8,000 to 10,000 lives could be saved this year alone, attributable purely to the lower speed limit.

We think with horror and sorrow of the Americans who died in Southeast Asia, and 56,000 of our citizens gave their lives there in the 12 years from 1961 to 1972. I cannot believe that we would knowingly sacrifice that same number of lives on our highways in half as many years simply because we doggedly demand the right to drive faster.

Lower speeds logically reduce the severity of injuries in the same manner they reduce the number of fatalities. From January through April of this year, the National Safety Council reports that disabling injuries were down 23 percent, and the cost of traffic deaths and injuries to the national economy was down nearly 11 percent—a saving of $500 million in 4 months alone.

There is a further consideration to which we should give serious thought. Small, economy size cars are more vulnerable in collisions than are standard size cars. With gas prices climbing and millions of Americans switching to small car models for money- and fuel-saving reasons, more and more drivers on the highway will be more vulnerable to death and injury. A return to higher speed limits would without doubt mean a return to a level of traffic deaths and injuries even higher than the tragic tolls we have previously suffered.

To be realistic, we must face up to a fact about Americans' driving habits with which we are all familiar. When the speed limits on the highways were set at 70 miles per hour, vast numbers of motorists traveled regularly at 75 miles per hour or faster. We as a nation have a tradition of worshiping fast cars and of driving as fast or faster than the law will allow. I believe the majority of motorists will continue to drive slightly over the posted speed limit, despite the law and despite the need to conserve fuel. Driving as fast as we can safely get away with—and sometimes faster—seems almost to be a fact of human nature. And it is doubtful that law enforcement officials could ever hope to enforce speed limits precisely.

If the speed limit is 70, many of us will drive 75; if the limit is 60, many will drive 65; if 55, we will drive 60. If we are to be realistic, we must anticipate that a 55 miles per hour speed limit will yield an effective 60 miles per hour cruising speed for millions of Americans. I certainly do not mean that motorists should not be urged continuously to adhere strictly to the 55 miles per hour speed limit, and I do not mean that law officers should disregard those who exceed the posted limit. I do think, however, that we should face up to a characteristic of the driving public that we cannot hope to change.

After adding up the various reasons I have discussed for extending indefinitely the reduced speed limit of 55 miles per hour, I cannot see the justification for returning to previous limits or setting some other limit. And if, as the experts have estimated, 8,000 to 10,000 lives and 73 million barrels of fuel can be saved each year simply by retaining and enforcing a 55 miles per hour speed limit, I feel that we would be irresponsible in not doing so. I find the life- and fuel-saving aspects of the current speed limit to be overwhelming reasons for retaining that limit.

Making the 55 miles per hour speed limit a continuing feature of American life is by no means an extreme measure; driving slower is a habit most Americans have readily acquired within the past few months. I think we can and should all learn to live with it.

SENATOR RANDOLPH JOINS IN EFFORT TO ESTABLISH PERMANENT 55-MILE-PER-HOUR SPEED LIMIT

Mr. RANDOLPH. Mr. President, I am gratified to join as a cosponsor of the bill introduced with the able Senators from Illinois (Mr. PERCY) and Vermont (Mr. STAFFORD). I add my endorsement to this proposal with enthusiasm for I believe that the 55-mile-per-hour speed limit has proven itself and should be made permanent.

In the 5 months since the 55-mile-per-hour maximum was adopted as a fuel conservation measure, there has been a dramatic decrease in the number of highway deaths compared with a year ago. There has also been a significant saving in the fuel consumed by motor vehicles.

Two weeks ago the Senate rejected a proposal to raise the maximum speed limit to 60 miles per hour. We affirmed to the American people that the U.S. Senate continues to be concerned about the energy supply situation. To have done otherwise would have amounted to an admission that Members of this body no longer consider it important to make the most efficient use of the fuel supplies available to us. I spoke against the amendment.

It is known that in recent months the number of people killed on our highways has declined sharply. This has been the trend over the past 5 months with traffic deaths 25 percent below those of a year ago. At the present rate, more than 10,000 lives will be saved this year.

The reduction in death tolls is an added benefit from a measure whose adoption was stimulated by a severe shortage of motor fuels. Although fuels are more readily available than they were a few months ago, the long-range outlook remains clouded and uncertain. The energy shortage most certainly is not over. I doubt, in fact, that we will ever again reach the point where gasoline will be as readily available as in the past and at the low prices that have helped stimulate the national dependence on personal motor vehicles.

Petroleum does not exist in unlimited quantities. If we desire to continue to enjoy the benefits it can provide we must make wise use of existing supplies. This can be done with no detriment to our economy or to our society. A national speed limit of 55 miles per hour is not an unreasonable measure, particularly when we consider that it provides a saving of 130,000 to 160,000 barrels of fuel each day.

Mr. President, I am not unmindful that many of our fellow citizens are opposed to a 55-mile-per-hour speed limit under any conditions. I have received letters urging that even the existing temporary measure be repealed. I must add, however, that I have also received numerous expressions of support for the uniform 55-mile-per-hour speed limit.

Over the years we have allowed ourselves to become excessively speed oriented. We use our cars to continually strive to move from place to place in ever decreasing periods of time. Even if there were no fuel shortage, this is a trend that should be laid to rest.

In addition to the measurable savings in both fuel and lives resulting from a 55-mile-per-hour speed limit, there is another, less tangible, benefit which I personally have enjoyed. To me, and I am sure to many millions of Americans, slower driving means more relaxed driving. We can now travel at a less hectic pace with less tension.

Mr. President, I am a realist and I have had enough personal experience recently to know that the existing 55-mile-per-hour speed limit is not universally observed. We cannot expect law-abiding motorists to be endangered by those who decide for themselves what speed they will drive and ignore the law. Speed limits, whatever they may be, should be strictly enforced. It is imperative that law enforcement agencies take seriously their responsibility to enforce speed limits and we in the Congress must make it abundantly clear that we expect such enforcement.

Mr. STAFFORD. Mr. President, it seems almost unnecessary to go over the reasons that compel me to join as a sponsor of the bill that would provide a permanent national speed limit of 55 miles an hour.

Is not it enough to note that all projections indicate that 10,000 lives will be saved annually by a 55 miles-per-hour limit on our Nation's highways?

Is not it enough to note that, in our

original effort to save gasoline we have found a simple and dramatic way to save lives?

We all know the numbers by now. Our Nation's highway death toll has declined by more than 23 percent since the 55 miles per hour went into effect. More than 4,700 lives have been saved in 6 months, and the lower speed limit was not in full effect across the Nation for all of that period.

We are told that the motoring public has become impatient with the reduced speed limit now that there seems to be more gasoline available and that motorists are beginning to substantially exceed the 55 miles-per-hour limit that became effective across the Nation on March 4.

But, the National Highway Traffic Safety Administration tells us that, even though motorists may be driving faster than 55 miles per hour in many places, highway speeds have not returned to the levels of the days before the gasoline shortage struck.

In addition, I am among those who suspect that most of the violations of the 55-mile-per-hour speed limit, at least in a proportionate sense, are being committed by over-the-road trucks and other commercial vehicles.

Perhaps enactment of a permanent national speed limit of 55 miles per hour would inspire greater enforcement at the State level and that, in turn, would encourage American motorists to resist the temptation to keep up with the trucks.

Indeed, I am convinced the average American motorist has already, by his discipline on the highways, told the Congress and the rest of the Federal Government that he is prepared to slow down—and to keep slowing down—to save lives and fuel.

Others have spoken of the substantial savings in gasoline that result from reduced driving speeds, but it is my view that the dramatic savings in lives that has been the demonstrated result of the reduced highway speed limit compels us to enact this legislation, even if there were no other benefits to the Nation.

With a single, simple, reasonable act, we have it within our power to save the lives of 10,000 Americans and to prevent injuries.

I am pleased to join with the distinguished Senator from Illinois (Mr. PERCY) and the distinguished Senator from West Virginia (Mr. RANDOLPH) in introducing this bill.

Thank you, Mr. President.

By Mr. MOSS:

S. 3557. A bill to allow the use of certain funds authorized to be appropriated for expenditure from the highway trust fund and apportioned to the States pursuant to title 23, United States Code, without matching State or local funds. Referred to the Committee on Finance.

NATIONAL TRANSPORTATION FINANCE EMERGENCY ACT OF 1974

Mr. MOSS. Mr. President, I am introducing for appropriate referral a bill which would amend the Highway Trust Fund Act, to allow the use of certain funds apportioned to the States from the highway trust fund, without matching State or local funds.

Many States are currently unable to use highway trust fund moneys apportioned to them because of an inability to raise the necessary matching funds. This dilemma is an outgrowth of the recent gasoline shortages, which decreased the amount of motor gasoline tax revenues States could raise—the source of most State matching money for Federal aid highway projects.

Because the administration impounded highway trust funds when the States could have matched them more easily, and thus prevented States from using this Federal aid the Congress directed be available to them, it is now only equitable that the Federal Government make such funds available without any matching requirement in view of the current pinch on State matching revenues.

This amendment will not provide a windfall to the States. The bill provides that the 100 percent Federal funding provision automatically expire in a State when the amount of State and local funds saved pursuant to this provision equals the sum impounded or withheld from such State by the Federal Government.

ADDITIONAL COSPONSORS OF BILLS

S. 1566

At the request of Mr. MONDALE, for Mr. INOUYE, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Rhode Island (Mr. PASTORE), the Senator from Utah (Mr. BENNETT), and the Senator from Arizona (Mr. FANNIN) were added as cosponsors of S. 1566, to provide for the normal flow of ocean commerce between Hawaii, Guam, American Samoa, or the Trust Territory of the Pacific Islands and the west coast, and to prevent certain interruptions thereof.

S. 2022

At the request of Mr. TUNNEY, the Senator from Iowa (Mr. CLARK), the Senator from New Mexico (Mr. MONTOYA), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Florida (Mr. GURNEY), the Senator from Illinois (Mr. PERCY), the Senator from Nevada (Mr. CANNON), the Senator from Washington (Mr. MAGNUSON), and the Senator from Kansas (Mr. DOLE) were added as cosponsors of S. 2022, the Flexible Hours Employment Act.

S. 3311

At the request of Mr. CHILES, the Senator from Georgia (Mr. TALMADGE) and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 3311, to provide for the use of simplified procedures in the procurement of property and services by the Government where the amount involved does not exceed $10,000.

S. 3436

At the request of Mr. BROOKE, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 3436, to increase the availability of mortgage credit for residential housing.

S. 3443

At the request of Mr. MONDALE, the Senator from Utah (Mr. Moss), the Senator from Indiana (Mr. BAYH) and the Senator from Colorado (Mr. HASKELL) were added as cosponsors of S. 3443, the Petroleum Moratorium Act of 1974.

S. 3512

Mr. MONDALE. Mr. President, in the RECORD of May 16, 1974, the name of the distinguished Senator from Michigan (Mr. HART) was inadvertently omitted as a cosponsor of S. 3512. I ask unanimous consent that the next printing of the bill reflect the Senator from Michigan (Mr. HART) as a principal cosponsor of that legislation.

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

S. 3438—REMOVAL OF COSPONSOR OF BILL

Mr. MONDALE. Mr. President, I ask unanimous consent that the Senator from South Carolina (Mr. THURMOND), whose name was accidentally added as a cosponsor of the Rural Rail Preservation Act, be removed as a cosponsor of this bill, S. 3438.

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

S. 3546—RE-REFERRAL OF BILL TO COMMITTEE ON PUBLIC WORKS

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from the consideration of S. 3546, the bill I introduced to amend the Water Resources Development Act of 1974, and that the bill be referred to the Committee on Public Works, which reported the act I propose to amend.

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

SENATE RESOLUTION 333—SUBMISSION OF A RESOLUTION AUTHORIZING PRINTING OF ADDITIONAL COPIES OF COMMITTEE PRINT

(Referred to the Committee on Rules and Administration.)

Mr. MOSS (for himself and Mr. GOLDWATER) submitted the following resolution:

S. RES. 333

Resolved, That there be printed for the use of the Committee on Aeronautical and Space Sciences 2,100 additional copies of its committee print of the current session entitled "Energy-Related Research and Development."

TEMPORARY INCREASE IN PUBLIC DEBT LIMIT—AMENDMENTS

AMENDMENT NO. 1362

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

TAX RELIEF AMENDMENT TO THE DEBT CEILING ACT

Mr. KENNEDY. Mr. President, on behalf of Senators MONDALE and myself, together with Senators CRANSTON, BAYH, CLARK, FULBRIGHT, HART, HUMPHREY, INOUYE, JOHNSTON, MOSS, MUSKIE, and RIBICOFF, I send to the desk an amendment to H.R. 14832, the Debt Ceiling Act. The current amendment is identical to the tax relief amendment, amendment

No. 1349, already introduced to H.R. 8217, the vessel repair tariff bill. It contains three principal provisions:

First, it will raise the personal exemption for individuals under the Federal income tax laws, from its current level of $750 to a new level of $825.

Second, it will provide an optional tax credit of $190 in lieu of the exemption.

Third, it will provide a refund of a portion of the social security payroll taxes paid by low-income workers with children, through a tax credit "work bonus" equal to 10 percent of wages up to $4,000 in income. For incomes over $4,000, the credit is phased out at the rate of 25 cents per dollar, so that the credit disappears when income reaches $5,600. The credit is refundable—that is, it is paid as an income tax refund, even if the recipient has no income tax liability.

The purpose of the amendment is twofold: to provide an urgently needed fiscal stimulus to keep the economy from sinking deeper into the current recession; and, to provide significant across-the-board relief to millions of taxpayers suffering under the sustained severe inflation that has now reached the double-digit level and that has sharply contracted consumer purchasing power in every section of the country.

The amendment we are introducing combines the principles of separate measures that Senator MONDALE, Senator LONG, and I have introduced in the past—an increase in the existing personal income tax exemption in order to provide across-the-board relief to all taxpayers; the use of an optional tax credit in lieu of the exemption, in order to target substantial relief on low- and middle-income taxpayers hardest hit by inflation; and the use of a refundable tax credit to provide relief to those at the bottom of the income scale from the crushing burden of the payroll tax.

Taken together, these three forms of tax relief will pump an immediate and urgently needed $6.5 billion in antirecession tax relief into the economy.

Equally important, taken in conjunction with the tax reform amendment which Senator BAYH is introducing today for a group of Senators of which I am pleased to be a part, the net result of our two amendments will produce no long-term revenue loss to the Treasury, since the tax relief we grant this year will be offset—partially this year and completely in future years—by four revenue-raising tax reforms. There reforms will end the oil depletion allowance, end accelerated depreciation for spending on plant and equipment, repeal the DISC provision for export subsidies, and strengthen the minimum tax to insure that wealthy individuals and corporations pay their fair share of the income tax.

My hope is that Congress will act quickly to adopt the tax relief proposal we are offering. My own view is that the health of the American economy for the remainder of 1974 and well into 1975 may hang on the outcome of our action.

AMENDMENT NO. 1363

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

THE SENATE MUST ACT ON TAX REFORM

Mr. BAYH. Mr. President, on May 21, 1974, I introduced for myself and Senators CLARK, HART, HUMPHREY, KENNEDY, MONDALE, and MUSKIE, a tax reform package designed to close four of the most egregious loopholes in our present tax laws—the percentage depletion allowance, the asset depreciation range system, the Domestic International Sales Corporation provisions, and the exclusion and deductions now allowed under the minimum tax provisions. This proposal was introduced as an amendment to H.R. 8217, the vessel repair tariff bill. When I introduced this amendment it was my understanding that this legislation would be the pending business before the Senate this week. The leadership has now decided, however, to postpone action on this bill.

Because of the fact that I believe strongly that the Senate should have an opportunity to act on these important reform proposals, I am today reintroducing them as an amendment to H.R. 14832, the debt ceiling bill on which the Senate must act prior to June 30.

DESIGNATION OF CERTAIN LANDS FOR INCLUSION IN THE NATIONAL WILDERNESS PRESERVATION SYSTEM—AMENDMENTS

AMENDMENT NO. 1364

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

Mr. NELSON submitted amendments, intended to be proposed by him, to the bill (S. 3433) to further the purposes of the Wilderness Act by designating certain acquired lands for inclusion in the national wilderness preservation system, to provide for study of certain additional lands for such inclusion, and for other purposes.

Mr. NELSON. Mr. President, I send to the desk an amendment to S. 3433, the Eastern Wilderness Areas Act of 1974, a bill which will shortly come before the Senate. This amendment will strengthen section 7, the management provisions section of the bill. The amendment will substitute language which was unanimously approved by the Senate Interior Committee and is contained in S. 316, the Eastern Wilderness Areas Act, as reported by the committee with 33 cosponsors.

The amendment does two things: First, section (a) mandates that the 39 wilderness study areas be managed exactly the same as the 19 "instant wilderness areas" that will be designated pursuant to the enactment of this legislation. Second, section (b) mandates that the Congress have an unlimited time to consider, review, study, and determine whether and when specific wilderness study areas should or should not be added to the national wilderness preservation system.

S. 3433, as reported by the Senate Agriculture Committee, mandates that the wilderness study areas be managed "by the Secretary of Agriculture so as to maintain their potential for inclusion in the national wilderness preservation system." The Agriculture Committee language only provides 3 years of interim protection for the study areas during which the Congress must either approve of including the areas as instant wilderness or the land would immediately revert to multiple use and sustained yields management.

This amendment will be offered in addition to a compromise package that has been carefully worked out between the two committees. This package amendment will refine the language of the bill dealing with mining, grazing, condemnation, and the existence of a citizen's advisory committee on wilderness I support these aspects of the package but I believe that this one amendment is needed to bring S. 3433 closer to the type of management envisioned by the original Wilderness Act that became law in 1964.

The question on the management of the study areas and the length of time available to the Congress for the review and ultimate disposition is not a question of intent; rather, it is a question of use and extent.

Both committees agree and their respective committee reports reflect the fact that nothing should be done to the wilderness study areas that would harm their wilderness characteristics. The question is how to protect these characteristics while the studies are being performed.

The language of S. 3433 would permit the operation of all terrain vehicles, dune buggies, jeeps, snowmobiles, and other off-the-road vehicles within the wilderness study areas unless according to chief of U.S. Forest Service, John McQuire, the machines were causing "significant damage to such things as vegetative cover, or soil or water resources." They would be permitted to operate in these areas, according to McQuire "if such effects—of their operation—were transitory * * *."

What is significant damage? What is transitory damage? Can the Forest Service give the Congress a guarantee that they will be able to police and monitor the effects of off-the-road vehicles on such a grant scale? Can we be assured that they will be able to spot all the possible degradation of the wilderness characteristics in time? I think not.

In my view the committees are also in agreement that the 3-year limit for congressional review is not appropriate. Again the question is of extent. I believe the Wilderness Act of 1964 sets a clear precedent that should be stringently followed. Under this act the Forest Service was required to review all primitive areas. These primitive areas are analogous to the wilderness study areas we are now considering. The Forest Service was also mandated to make recommendations to the Congress concerning the suitability of certain areas for inclusion in the national system. In the meantime, these areas received protection for an unlimited time until Congress disposes of them. This system has worked well and deserves to be applied to the eastern wilderness study areas.

These recreational uses are inconsistent management goals for wilderness study areas. They are certainly appropriate for other sections of the national forest in designated sections and along

special trails. They are consistent with the policy established by the Wilderness Act of 1964—the Congress and only the Congress should have the power to render a definitive judgment on any and all of the proposed study areas.

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 No. 1364

On page 17, line 21, immediately after the words "the wilderness areas" insert the following: "and, until Congress has determined otherwise, wilderness study areas".

On page 17, line 24 strike the entire sentence beginning "The wilderness study areas" thereafter through page 18, line 7.

EXEMPTION FROM DUTY OF CERTAIN EQUIPMENT AND REPAIRS FOR CERTAIN VESSELS—AMENDMENT

AMENDMENT NO. 1365

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

Mr. CHILES submitted an amendment, intended to be proposed by him, to the bill (H.R. 8217) to exempt from duty certain equipment and repairs for vessels operated by or for any agency of the United States where the entries were made in connection with vessels arriving before January 5, 1971.

ENERGY REORGANIZATION ACT OF 1973—AMENDMENT

AMENDMENT NO. 1366

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

Mr. KENNEDY. Mr. President, I submitted legislation yesterday to reform the nuclear powerplant licensing process and to insure more adequate public participation in that process.

The legislation was to be submitted in the form of an Energy Research and Development Administration Act legislation reported yesterday by the Government Operations Committee.

As I stated yesterday, I am hopeful that the amendment I am submitting, particularly the sections on promoting public participation through the payment of the costs of technical expert and legal fees, will be acceptable to the managers.

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

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

AMENDMENT No. 1366

At the end of the bill, add the following:

TITLE IV—LICENSING PROCEDURE

DEFINITIONS

SEC. 401. As used in this title—

(1) the term "regulatory review process" means the process by which the Commission reviews and acts upon applications for licenses to site, construct, manuufacture, or operate production or utilization facilities, including any hearings thereon, beginning with the first filing by any person requesting or leading to a request for action and ending when the Commission denies the request or ceases supervision of the activity;

(2) the term "party" means any participant in the regulatory review process, including the applicant and the Commission staff;

(3) the term "license" means the combination of authorizations which enable a person to operate a nuclear facility or in the case of a person not intending to operate a facility, authorization for a site for a nuclear facility or to manufacture one or more nuclear facilities; and

(4) the term "Commission" means the Nuclear Safety and Licensing Commission.

APPLICATION

SEC. 402. (a) Any person seeking a license to site, manufacture, construct, or operate a utilization or production facility, as defined in section 11 of the Atomic Energy Act of 1954, shall file an application for such license at least 3 years prior to the time construction of the facility is contemplated to begin. Any such application shall include information sufficient to identify the site, size, and type of the proposed facility.

(b) Upon receipt of a license application, the Commission shall—

(1) publish a notice in the Federal Register indicating the receipt thereof and affording 30 days in which persons or organizations may request an opportunity to participate in the regulatory review process with respect to the license; and

(2) appoint an Atomic Safety and Licensing Board for such application.

(c) The Commission shall approve for participation in the regulatory review process any person or organization which has an interest which may be adversely affected by the construction or operation of the facility. An untimely petition to participate may be granted only after consideration of whether there was good cause for late filing, the likelihood of delay of the regulatory review process as a result of participation, and the extent to which the interests to be affected are represented by other parties.

PARTICIPATION IN REGULATORY REVIEW PROCESS

SEC. 403. All parties to the regulatory review process shall receive simultaneous service of all documents and written communications relating to the application received by the Commission or from any person or party or received from the Commission or by any person or party. All parties to the regulatory review process shall be given due notice and the apportunity to attend any meeting related to the application between the Commission or its staff and additional person or party, and minutes of such meetings shall be distributed to all parties to the regulatory review process. To the extent any document or other communication required to be distributed contains information which is subject to disclosure limitations under any provision of law, it shall be distributed only to parties who sign agreements to limit disclosure of the information to the extent required by law.

DISCOVERY

SEC. 404. Any party shall have the right to discover information from any other party or the Commission to the extent permitted by rules adopted by the Commission which shall be substantially the same as Rules 26 through 37 of the Federal Rules of Civil Procedure.

REQUEST FOR AUTHORIZATION

SEC. 405. (a) Within one year after the filing of the application, the applicant shall file a request for authorization for at least one of the following actions:

(1) site selection and preparation;

(2) limited construction activities;

(3) construction or manufacturing of the facility;

(4) amendments to the construction or manufacturing authorization;

(5) fuel loading and subcritical testing;

(6) low power testing and power ascension testing;

(7) limited operation up to two years;

(8) full-power, full-term operation;

(9) amendments to any operation authorization.

If no such request for authorization is filed within one year, the application shall be dismissed without prejudice to a subsequent filing.

(b) No limited construction or construction authorization may be granted unless a prior or simultaneous authorization for the site selection and preparation has been granted for the same facility. No operating authority may be granted unless a prior or simultaneous authorization for construction has been granted for the same facility.

(c) An applicant may request an authorization under subsection (a) at any time, and may request one or more authorizations at one time. When a request for authorization is filed with the Commission, it shall publish in the Federal Register a notice of receipt of such request and notice of the provisions of section 402.

HEARINGS

SEC. 406. (a) Within 30 days after receipt of a request for authorization, any party may file a notice of intent to request a hearing with respect to the proposed action.

(b) Within 30 days after receipt of all of the material upon which the Commission and the applicant rely for their respective positions on the proposed authorization, including any reports or testimony, any party who previously filed a notice of intent under subsection (a) shall file a specific statement of the issues relevant to the proposed authorization, identifying those issued on which he seeks a hearing, the factual basis for each issue including any direct testimony to be offered, and the areas of any proposed cross-examination including an identification by name or expertise of the witness to be cross-examined. Within 15 days thereafter, every other party shall file a detailed statement of his position with respect to the issues raised by the party and the factual basis for such positon including any additional direct testimony to be offered and the areas of proposed cross-examination including an identification of the name of the witness to be cross-examined.

(c) If the applicant opposes the position of the Commission, then he shall, within 30 days of receipt of the Commission position, comply with the requirements of subsection (b) of this section applicable to any party requesting a hearing.

(d) Any party opposing a hearing with respect to any or all issues may file a motion for summary disposition as to any such issue which motion shall be governed by a procedure substantially similar to Rule 56 of the Federal Rules of Civil Procedure. Such motion shall be filed within 15 days of following the filing of a specific statement of issues by a party seeking a hearing.

FINALITY OF DETERMINATIONS

SEC. 407. A motion under section 406(d) shall be granted with respect to the determination of any issue which could have been raised in connection with prior proceedings under the same application on the basis of information then available unless the party opposing the motion has established the likelihood that substantial additional protection for the public health and safety, for the common defense or security, or for the environment could result if its position were upheld and, in addition, demonstrates—

(1) a change in circumstances (including the issuance of rules and regulations subsequent to the prior proceedings); or

(2) the existence of other special circumstances or public interest factors.

SUFFICIENCY OF EVIDENCE

SEC. 408. (a) An authorization for site selection and preparation shall not be granted unless information regarding the final design, method of construction, and proposed operation of the facility is sufficient to permit a full analysis of the factors required by the National Environmental Policy Act of 1969 and the completion of the cost-benefit analysis.

(b) Any action taken after the requirements of the National Environmental Policy Act of 1969 with respect to an application are satisfied shall not require further compliance with the National Environmental Policy Act unless the requirements of section 407, relating to finality, are met with respect to the issues sought to be raised under the National Environmental Policy Act of 1969.

RELATION TO OTHER LAWS

SEC. 409. With respect to any authorization under section 405(a), the requirements of the Atomic Energy Act of 1954 and the rules and regulations of the Commission relevant to each action shall be met before the action is authorized.

ADMINISTRATION

SEC. 410. After an application has been filed, all legal and factual issues relating to the application shall be determined by an Atomic Safety and Licensing Board assigned to the application to the extent such issues are contested by any party. Decisions of the Atomic Safety and Licensing Board shall be subject to review by an Atomic Safety and Licensing Appeal Board upon the filing of a request for review by any party. Final decisions shall be subject to judicial review in the same manner as prescribed in section 189 of the Atomic Energy Act of 1954.

JOINDERS

SEC. 411. The Commission may, upon the request of any person or on its own motion, order commencement of a regulatory review process on any issues common to several nuclear facilities. The hearings shall be governed by the same rules applicable to hearings on individual nuclear plants except that the Commission shall—

(1) include notice of the hearing in publications widely read by the general population;

(2) allow 60 days for any party to file a request to be part of the regulatory review process; and

(3) permit any party to participate in the regulatory review process if its request to participate discloses that its interest could be affected by resolution of the issues if a nuclear facility to which the issues raised are relevant were built near the area with which such party is concerned.

The provisions of sections 402(a) and 406 shall not apply to a proceeding under this section unless such proceedings were commenced either directly or indirectly by the Commission, by parties seeking authorizations under section 405, or by parties reasonably expected to be seeking such authorizations.

COSTS

SEC. 412. (a) With respect to any regulatory review process or any hearing held for the purpose of adopting any rule or regulation, whether governed by section 553 or 554 of title 5, United States Code, the Commission shall, upon request, pay for the cost of participation, including attorneys' fees, in any hearing or the regulatory review process of any party, except that the amount paid, if any, shall be determined with due consideration to the following factors:

(1) The extent to which the participation of the party helped to develop facts, issues and arguments relevant to the regulatory review process or hearing.

(2) The ability of the party to pay its own expenses.

(b) The Commission shall establish a maximum amount to be allocated to each hearing or other proceeding which amount shall be apportioned among the parties seeking reimbursement of costs based upon the factors enumerated in subsection (a). The maximum amount established pursuant to this subsection shall be established and adjusted from time to time by the Commission with due regard to the following factors:

(1) actual costs of public participation in hearings based upon a non-duplicative presentation of opposing viewpoints on all relevant issues.

(2) The cost of participation in the proceeding of the Commission's staff and the applicants seeking authorizations under section 405.

(c) Payment of costs under this section shall be made within 3 months of the date on which a final decision or order disposing of essentially all of the matters involved in the hearing is issued by the Commission, except that if a party establishes that—

(1) its ability to participate in the proceeding will be severely hampered by the failure to receive funds prior to conclusion of the proceeding; and

(2) there is reasonable likelihood that its participation will help develop facts, issues and arguments relevant to the regulatory review process or hearing,

then the Commission shall make from time to time such advance payments as it deems essential to permit the party to participate or to continue to participate meaningfully in the proceeding with due regard to the maximum amount payable for costs of this hearing and the possible requests for reimbursement of costs of other parties.

(d) In the case of any judicial proceedings arising out of an appeal of a decision reached in a regulatory review process or other proceedings before the Commission, the Court may order the Commission to reimburse all costs of such proceedings, including attorneys' fees, to any party which meets the requirements of subsection (a) of this section.

(e) The provisions of this section shall become effective upon the adoption by the Commission of regulations implementing them or upon the expiration of 90 days after the enactment of this section, whichever first occurs. This section shall apply to all regulatory review processes, hearings, and court proceedings in which final decisions or orders disposing of essentially all of the issues involved in the regulatory review process or hearing or final orders of court have not been issued by the Commission or court when this section is enacted and to all regulatory review processes, hearings and court proceedings subsequently commenced. In the case of court proceedings in progress when this section is enacted, the reimbursement of costs provided for in this paragraph shall apply only to the costs referred to in subsection (d) and not to costs of the regulatory review process or hearing being reviewed.

(f) Nothing in this section shall diminish any right which any party may have to collect any costs, including attorneys fees, under any other provision of law.

(g) The authorization to make such payments shall not apply to any regulatory review processes, hearings for the purpose of adopting any rule or regulation, or court reviews arising out of such processes or hearings, if the regulatory review processes or hearings for the purpose of adopting any rule or regulation commenced later than the three years after the date of enactment of this Act.

(h) Any decision made pursuant to this section shall be reviewable in Court to the same extent as any other Commission decision, except that no stay may be issued based upon any alleged violation of this section and no court order determining that the provisions of this section have been violated shall, solely as a result of that determination, require a reversal of the Commission's decision with respect to any other issue.

(i) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

EFFECTIVE DATE

SEC. 413. The provisions of this title shall be applicable to all ongoing proceedings for issuance, revocation, modification, amendment, or revision of construction permits and operating licenses and to all construction permits and operating licenses already issued to the maximum extent practicable consistent with the public interest and the avoidance of unnecessary delay.

EMERGENCY CHLORINE ALLOCATION ACT OF 1973—AMENDMENT

AMENDMENT NO. 1367

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

Mr. COTTON submitted an amendment intended to be proposed by him to the bill (S. 2846) to protect the flow of interstate commerce from unreasonable damage to the environmental health by assuring an adequate supply of chlorine and other chemicals and substances which are necessary for safe drinking water and for waste water treatment.

ADDITIONAL COSPONSOR OF AN AMENDMENT TO H.R. 8217

Mr. TUNNEY. Mr. President, today, I am pleased to have the opportunity to cosponsor an amendment to H.R. 8217 intended to repeal immediately the oil and gas depletion allowance.

This amendment would generate $2 billion in tax revenues for 1974 and an additional $18 billion between now and 1979. A Treasury study has shown that the top oil companies pay less than 10 percent in taxes on profits which amount to billions and billions of dollars. The depletion allowance is an unnecessary tax preference which makes it possible for the very wealthy and the financially powerful to escape their fair share of the cost of government. Because of the special treatment now given to oil companies, low and moderate income people must pay substantially more than their fair share in order to make good the tax loss.

For example, Californians paid an estimated $12.9 billion in Federal personal income taxes in 1973. Had there been no oil depletion allowance, Californians might have saved as much as $206–$207 million.

The recent explosion of oil company profits is mainly attributable to the increased cost of foreign and domestic crude oil. These huge windfall profits are not needed to encourage oil and gas expansion. The Joint Committee on Internal Revenue Taxation estimates that the industry is not likely to reinvest more than 50 percent of recent profit increases. Repeal of depletion will still leave $1.50/barrel increased profits as a powerful incentive for expanded exploration and development. I am confident that the closing of this loophole will not decrease employment nor hinder our efforts to become energy self-sufficient.

Repeal of the oil depletion allowance will make the tax system more equitable.

In addition, the additional revenues collected from the oil companies will help to balance the Federal budget and restore reasonable price stability.

Mr. President, tax justice and fiscal responsibility must go hand in hand. I strongly urge that the Senate adopt this amendment.

ANNOUNCEMENT OF A HEARING ON A NOMINATION

Mr. JACKSON. Mr. President, I wish to announce to the Members of the Senate and other interested parties that the Committee on Interior and Insular Affairs has scheduled an open hearing for June 7, 1974, on the nomination by President Nixon of Dr. John C. Sawhill to be Administrator of the Federal Energy Administration.

The hearing will begin at 10 a.m. and will be held in room 3110 of the Dirksen Senate Office Building.

Persons wishing to testify or submit statements for the hearing record should so advise the staff of the Interior Committee.

Mr. President, I ask unanimous consent that a brief biographical sketch of Dr. Sawhill be included in the RECORD at this point in my remarks.

THE WHITE HOUSE

The President today announced that he would appoint John C. Sawhill to be Administrator of the Federal Energy Administration.

Mr. Sawhill has been Deputy Administrator of the Federal Energy Office since December 4, 1973. From April 15, 1973, until then he was Associate Director for Natural Resources, Energy and Science at the Office of Management and Budget. At the time of his appointment to the OMB post, he was Senior Vice President for the Business Services Group at Commercial Credit Company, a diversified financial and leasing company.

He was born on June 12, 1936, in Baltimore, Maryland. Mr. Sawhill received his A.B. from the Woodrow Wilson School of Public and International Affairs at Princeton University and his Ph.D. in economics, finance and management from New York University's Graduate School of Business Administration. He began his career in 1958 with Merrill Lynch, Pierce, Fenner and Smith in the underwriting and research departments. In 1960 he became Assistant Dean and Assistant Professor of Finance at New York University's Graduate School of Business Administration, and he concurrently served as Senior Staff Economist to the House Committee on Banking and Currency.

Mr. Sawhill joined Commercial Credit Company in 1963 as Director of Credit Research and Planning. In 1965, he joined the management consulting firm of McKinsey and Company as a Senior Associate. He rejoined Commercial Credit Company in 1968 as Vice President for Planning. Mr. Sawhill is a Vice President and Director of Baltimore Neighborhoods, Inc., a Director of the Baltimore Area Council on Alcoholism and is a member of the Board of Trustees for the College of Art at the Maryland Institute.

He is married to the former Isabel Vandevanter and they have one child. Mr. Sawhill and his family live in Washington, D.C.

OVERSIGHT HEARINGS ON PUBLIC LAW 92–195—THE WILD FREE-ROAMING HORSE AND BURRO ACT

Mr. JACKSON. Mr. President, as I have previously announced, the Senate Interior and Insular Affairs Committee has scheduled oversight hearings on the interpretation and administration of Public Law 92–195, the Wild Free-Roaming Horse and Burro Act for June 26. For those who may have missed it, I would like to have reprinted in the RECORD an article by George C. Wilson which appeared in the Sunday, May 12, edition of the Washington Post regarding a horse roundup which occurred in Idaho. Although the hearing before the Interior Committee will not specifically focus on the roundup, the committee is concerned about the interpretation of Public Law 92–195 by the administering agencies as it relates to such occurrences.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

THE BLOODY ROUNDUP: WILD HORSE SLAUGHTER DETAILED

(By George C. Wilson)

Ranchers slit the throats of some of the wild horses they drove to the edge of a cliff near Howe, Idaho, last year and cut their legs off with a chain saw, according to an official government report not yet made public.

The ranchers, according to government sources familiar with the report, also used a helicopter and snowmobiles to drive the horses toward an enclosure—roundup methods that violate the law.

The horses, despite such methods, eluded the ranchers time after time in the series of roundup attempts. But several of them met their deaths at the cliff, including the ones whose throats were slit and legs cut off because in their panic they had jammed their hooves irretrievably in the cliff's crevices.

Sources said those and other grisly details are contained in the official government report on the roundup written by officials of the U.S. Forest Service and Interior Department's Bureau of Land Management.

Unbranded horses and burros which roam free on public lands in the West are supposed to be protected from such roundups by the 1971 Wild and Free-Roaming Horses Act.

Sen. Henry M. Jackson (D.-Wash.), chairman of the Senate Interior Committee, is expected to ask Interior and Forest Service officials about their roles in approving the bloody roundup at a special hearing June 26 on the Wild Horse Law.

The roundup was conducted near Howe, Idaho, in January and February 1973. Government investigators have reported that the Bureau of Land Management field office gave its full blessing to the roundup.

The U.S. Justice Dept. has decided against criminally prosecuting the ranchers or anybody else involved in the case for lack of sufficient evidence.

Congressional sources familiar with what was turned up during the government's own investigation expressed incredulity at that decision by Justice.

U.S. District Court Judge Thomas A. Flannery, noting that no criminal prosecution was planned, ordered Justice on April 25 to turn the government's investigation over to the American Horse Protection Association and Humane Society of the United States.

Those two private groups are suing Federal officials for $10 million for allegedly letting the roundup take place in violation of the Wild and Free-Roaming Horses and Burros Act in 1971.

Flannery, in ordering the investigatory report released to the two groups, said "the court is guided by the fundamental notion that in a free society justice is usually promoted by disclosure rather than secrecy . . ."

However, the government report on the roundup has not yet been made part of the public record of the trial. It is in the hands of the government and the two associations who brought the civil suit.

A clerk in Flannery's office said the report probably will not be added to the regular public record until there is a formal motion to do so. Robert C. McCandless, attorney for the horse association and human society, declined to release the report when asked to do so by The Washington Post.

The report, government sources said, includes not only the findings of the Forest Service and Bureau of Land Management investigators, but, taped interviews with ranchers and others involved in the roundups.

The stated purpose of rounding up the horses and removing them from public lands in Idaho was reportedly to leave more grass for ranchers' cattle there and to sell the captured horses for dog food.

Most of the horses rounded up, according to the government's investigation, were free-roaming and unbranded—thus supposedly protected by the Wild Horse law.

Between 50 to 60 horses were captured. At least a dozen horses and one colt were killed or died during the roundup before the ranchers could ship them to the stock yard where they were to be held for slaughter. Others have died since.

The suit brought by the horse association and Humane Society stopped the intended slaughter for dog food, but the fate of the 17 surviving horses and one colt is still undecided.

ANNOUNCEMENT OF PUBLIC HEARINGS BEFORE THE WATER AND POWER RESOURCES SUBCOMMITTEE OF THE SENATE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. CHURCH. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Water and Power Resources Subcommittee of the Senate Interior and Insular Affairs Committee.

The hearing is scheduled for June 18, beginning at 10 a.m., in room 3110 of the Dirksen Senate Office Building. Testimony is invited regarding three bills which are presently before the subcommittee. The measures are: S. 1119, a bill to authorize the Secretary of the Interior to make water available for a minimum recreation pool in Elephant Butte Reservoir from the San Juan-Chama unit of the Colorado River storage project; S. 2779, a bill to authorize the Secretary of the Interior to construct drainage works for the vernal unit of the central Utah project and the Emery County project, participating projects, Colorado River storage project; and S. 3529, a bill to authorize the Secretary of the Interior to construct necessary interim anadromous fish passage facilities at Savage Rapids Dam, Oreg.

For further information regarding the hearings you may wish to contact Mr. Dan Dreyfus of the subcommittee staff on extension 51076. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Water and Power Resources Subcommittee, room 3106, Dirksen Sen-

ate Office Building, Washington, D.C. 20510.

ADDITIONAL STATEMENTS

POLITICAL FREEDOM IS A REALITY IN SOUTH VIETNAM

Mr. CURTIS. Mr. President, an integral part of the anti-Saigon propaganda floating around Washington these days is the charge that there is no political freedom in South Vietnam. Those who would see the United States abandon our support of South Vietnam for whatever reason constantly claim that the Thieu government is an oppressive one which is running roughshod over the political freedoms of the people of that war-torn country.

A recent factsheet from the U.S. State Department says that such allegations just are not true, pointing out that:

Numerous non-Communist political groups, ranging from far-right to far-left, continue to function openly in South Vietnam, and are in many cases strongly opposed to President Thieu and his Administration.

Not only are there viable opposition political parties; even further, there are opposition members of the Thieu administration in both houses of South Vietnam's Government:

In the lower house, 58 of 158 members are active oppositionists, 7 are independents, and 93 are pro-Administration. In the upper house, there are 29 oppositionists and 41 pro-Administration members.

Another strong sign of political freedom is an active and vocal press. The factsheet points out that there are 15 daily newspapers, only three of which are proadministration.

To me, however, the strongest evidence of political freedom in South Vietnam is the fact that 500,000 South Vietnamese have been armed by the government to serve as local militia, with another 1,000,000 citizens serving as armed members of the part-time peoples' self-defense force.

Mr. President, this factsheet contains information that, to my knowledge, has not appeared in any of the national news media. It points out facts which are vitally important to our understanding of the true situation in South Vietnam, especially as we consider whether or not we will continue military aid to this country—aid which is essential to the survival of the very political freedoms which I have alluded to here and which are outlined in more detail in the factsheet.

So that we may have the benefit of the information contained in this factsheet as we consider future aid to South Vietnam, I ask unanimous consent at this time that it be printed in the RECORD at the conclusion of my remarks.

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

EVIDENCE OF POLITICAL FREEDOM IN SOUTH VIETNAM

1. *Parliamenary opposition.* In the Lower House, 58 of the 158 members are active oppositionists, 7 are independents, and 93 are pro-Administration. In the Upper House, there are 29 oppositionists and 41 pro-Administration members. These opposition members of the parliament, while outnumbered, are usually vigorous and sometimes successful in their efforts to block or amend Administration proposals. They enjoy parliamentary immunity and are frequently strongly critical of President Thieu.

2. *Opposition political group.* Numerous non-Communist political groups, ranging from far-right to far-left, continue to function openly in South Viet-Nam, and are in many cases strongly opposed to President Thieu and his Administration. Examples are:

The Social Democratic Alliance, the largest opposition political party;

The Revolutionary Dai Viet Party and other groups currently working for the return of former Emperor Bao Dai;

The An Quang Buddhists, who were instrumental in the overthrow of former President Diem and now oppose President Thieu; and

Various small splinter groups, some radically leftist.

3. *Opposition political personalities.* The most famous non-Communist opposition political figure in Saigon is Lt. Gen. (ret.) Duong Van "Big" Minh, who led the 1963 coup against Ngo Dinh Diem. He is politically active and issues periodic statements denouncing the present Government. Other well-known personalities currently active in Saigon oppositionist circles are Madame Ngo Ba Thanh, a radical lawyer who is one of many claimants to leadership of the so-called "third force"; and Father Chan Tin, an anti-Government activist who is currently campaigning for the release of alleged "political prisoners." Both operate openly and meet frequently with journalists and other opposition figures.

4. *Press.* There are 15 daily newspapers published in Saigon. Three are pro-Administration, three are oppositionist, five are generally independent, three are strictly sensationalist, and one is a semi-official organ of the Catholic Church. While they are subject to some wartime censorship and other restrictions, they retain considerable freedom, often criticize the Government, report Government scandals and other unfavorable news, and publish news about opposition political activities.

5. *Elections.* As specified in the 1967 Constitution, the Government has held regular elections at every level from the national to the village. Outside observers have confirmed that these elections have been generally honest and have achieved a reasonably accurate reflection of the popular will. Pro-Administration candidates have been more successful than oppositionists recently, largely because the opposition is highly fragmented and consequently not very effective at the polls. The most recent election was in August 1973, when half of the Upper House was chosen. Provincial and Municipal Council elections are scheduled for this summer.

6. *An armed citizenry.* Probably the most striking evidence that the South Vietnamese Government is not a hated, repressive dictatorship as the Communist claim, is that it has armed half a million full-time local militiamen and a million members of the part-time People's Self-Defense Force, in addition to the 500,000-man regular army. Since the total South Vietnamese population is only 19 million, most of whom are children, women, and old people, this means that the Government has armed the vast majority of its able-bodied manpower. No widely unpopular regime, facing a strong military and political threat within its own borders, would dare to pass out so many guns which might readily be turned against it.

SENATOR HATHAWAY SPEAKS OUT ON THE MIDEAST

Mr. CLARK. Mr. President, the new disengagement agreement between Israel and Syria raises our hopes for a lasting peace in the Middle East. We owe a great deal of gratitude to the efforts of Secretary of State, Dr. Henry Kissinger. At the same time the governments of Israel and Syria deserve our congratulations for making the concessions that peace always demands.

My good friend and colleague, Senator WILLIAM D. HATHAWAY, recently wrote a very perceptive article on the complex Middle East situation. This article appeared in "The Jewish Advocate" for May 23, 1974. I believe Senator HATHAWAY's comments will make very worthwhile reading for the members of this body, particularly at this very significant point in the history of Arab-Israeli relations.

I ask unanimous consent that Senator HATHAWAY's article be printed in the RECORD.

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

MAINE SENATOR SPEAKS OUT ON MIDEAST

(By William D. Hathaway)

The United States and the entire world face no more complex problems than the Middle East situation. There are no easy solutions and there are no shortcuts to an acceptable permanent peace. Short range pressures conflict with long range goals. Moral arguments, practical considerations and the lessons of history must all be taken into account.

Let me make my position clear at the outset.

1. I believe in the existence of the State of Israel and a National Jewish State.

2. I believe that Israel and its neighbors should have safe, secure and defensible boundaries.

3. I believe that Israel and its neighbors should have reasonable—international, if necessary—assurances against aggression and attack. War, economic blockades and the blockading of international waterways should be eliminated as elements of national policy between civilized states.

4. I believe that these objectives can only be achieved through bilateral and multilateral negotiations and agreements and through compromise and settlement in normal diplomatic processes.

These beliefs do not require me to rigidly adhere to the specific positions of the Israelis or the Arabs on each issue. Rather, I feel that the United States must be flexible and must enjoy freedom of action as it determines its role in accomplishing these objectives. The role of Henry Kissinger in the recent Israeli-Egyptian negotiations is an excellent example of the kind of careful negotiation and diplomacy that is needed in certain situations. Other negotiations will have to be carried out on a multilateral basis or through the United Nations.

The U.S. has traditionally supported Israel. This is highly understandable, given that the two countries have a great deal in common. Both are democracies with free political parties in the government and in the opposition and with free elections. Both are countries built by highly motivated pioneers. Both are countries open to and built by large immigrant groups. Americans have vivid memories of the Nazi Holocaust, the concentration camps, the loss of six million Jews and the saving role played by the Jewish community which became the State of Israel. The United States and Israel share the common heritage of Western civilization. The close ties of American Jews to the State of Israel are a fact of American life. Americans have followed the history of Israel over the past 25 years—its struggle to survive in the face of Arab opposition.

The United States also needs to have an understanding of the problems of the Arab world. There is great diversity among the Arab countries. They range from socialist states to military dictatorships to feudal absolute monarchies. They are torn by their own instability, their need for peace, their pride and by their role and power in the politics of the area and in the economics of oil. A vitriolic hatred of Israel has in the past quarter-century been the sole unifying force within the diverse Arab world. It has often served as a means of distracting the Arab states from confronting their own very real economic and social problems.

The dilemmas involved in the Middle East situation are very real and very acute. There is a clash between two highly disparate cultures, a clash with its roots in thousands of years of history. There is the contrast between levels of economic development and social welfare. Above all, there is the constant political and military confrontation which can—as we have so recently seen—explode at any moment into open warfare. Given the power alignments in the region, there is always the added threat of a Middle East war escalating into a global conflict pitting the United States against the Soviet Union.

There are a number of specific issues involved in the Arab-Israeli conflict—issues which must be negotiated and resolved in some way before there can be any stability in the Middle East.

The territorial issue is the first concern. The Arab position is that Israel must return the territory taken in the 1967 war. The Israelis insist that they must keep some or all of that territory—in order to defend themselves against the ever-present threat of attack from Arab forces. They are very conscious of their vulnerability, which was revealed sharply in the surprise Arab attack precipating the "Yom Kippur War".

There is general agreement on the need to reach some settlement on the territorial question and thereby to establish secure international boundaries. Achieving such a settlement will require complex negotiations and skillful diplomacy.

A number of separate issues are involved here.

—The Golan Heights. These have provided a strong natural fortress for the Syrians and an ideal position from which to launch attacks on Israel's Northern plain. Thus the Israelis feel it is vital to maintain the stronghold which they now have on the Golan Heights.

—The Sinai Peninsula. This desert area east of the Suez Canal has been a battleground in all the Arab-Israeli wars, in 1948 and 1956 and 1967 and once again in 1973. To the Israelis, that forbidding desert represents an essential buffer between the Egyptian forces and the developed areas of Israel.

—The Suez Canal, the Gulf of Aqaba, the Straits of Tiran. Under international law and under particular international agreements, freedom of navigation through these waterways is supposed to be assured to all nations. In practice, they have become pawns in the struggle of the Arab states for supremacy. The closing of the Straits of Tiran and the Gulf of Aqaba to shipping bound for the Israeli port of Eilat was a major cause of the 1967 war; this likewise provides the major reason for Israel's determination to hold onto the Sinai. And the Suez canal has for many years been a battleground and a de facto boundary, not an international waterway.

—The west bank. Part of Jordan until the 1967 war, with a largely Arab population but some Israeli settlement, is an area of major controversy. Some have suggested that it be constituted as a separate Palestinian state.

—Jerusalem. This is the most emotional point at issue. Holy City for three major religions—Judaism, Islam and Christianity—Jerusalem was partitioned into Israeli and Arab sectors up until 1967 and Israel's Jews were cut off from access to the wailing wall and other sites of major religious significance. Since 1967, the City of Jerusalem has been united under Jewish Rule and the Israelis are determined to maintain control while the Arabs are bitterly opposed to this. This is a continuing controversy and potentially explosive.

I believe strongly that the basic objective of negotiations in the Middle East must be the establishment of secure, defensible boundaries for the State of Israel. This is essential for the achievement of peace in the Middle East: it is essential for the survival and prosperity of the Jewish State. There are a number of possible means of resolving the various territorial issues—neutralization of border areas, international supervision, assured access to international waterways, to name but a few. Although no easy solution appears on the horizon, with the intense effort of skilled negotiators and the passage of time and hopefully a willingness to compromise on both sides, some resolution of these issues should be achieved.

Another related dilemma which has to be faced is the fate of the Arab refugees from the former State of Palestine. For 25 years they have been pawns in the Arab-Israeli conflict, confined to the squalor of temporary refugee camps that have become for many a permanent trap.

Israel rightly asserts that the absorption of the entire refugee population would not only be economically disastrous but would also gravely endanger the survival of the Jewish State. Given that Israel's current population is somewhat over 3 million, 400,000 of which are Arabs who remained after Israel was founded, the sudden addition of the more than 1 million Palestinian refugees registered with the United Nations would in fact overwhelm Israel and call into question its existence as a Jewish State. I feel it is vital to preserve the Jewish State.

On the other hand, the Arabs make the point that the refugees were dispossessed of their lands and property by the founding of Israel and thus claim that Israel should bear the responsibility of resettling them. It should be noted also that large numbers of refugees have in fact resettled themselves in other Arab countries, and indeed in other parts of the world, including the U.S. However, for political reasons, the Arab states refuse officially to assume any responsibility for the refugees.

Again, no easy solutions can be found for the problem of the Palestinian refugees, which is not just a political but also a very human dilemma. Possibilities under discussion include the establishment of a new Palestinian State, probably based on the west bank and including the Gaza Strip, plus some compensation on an international basis for the properly lost by Arabs and Jews alike in the massive displacement of populations brought about by the Arab-Israeli conflict.

A final problem which must be discussed—and which is far more visible now than ever before—is the "oil weapon" and the Arabs' demonstrated willingness to use it to achieve their political ends. The recent Arab oil embargo has sounded a grim warning to the United States.

—It has shown us that our economy and indeed our whole way of life depend to a significant degree on oil imports from the Arab world.

—It has shown us that the Arabs are able to act in concert and are willing to use the oil weapon to achieve their political ends in the Middle East.

It is important to remember, however, that the energy crisis was not invented by the Arabs. For several years, we in the United States have been warned that we faced a crisis of over-consumption of energy. The Arab oil embargo hastened the day of reckoning for us in terms of supply and in terms of price, but it did not create the energy crisis in the first instance.

In the long run, we must focus on developing alternative sources of energy—ones which will not deplete our limited natural resources. In the shorter term, we must live with the threat of the Arab oil weapon—a threat which looms even larger for our allies in Western Europe and Japan.

I believe strongly that the United States must stand firm against the Arab threat. It would be disastrously short-sighted for us to sell out the interests of Israel in exchange for a slightly firmer grip on the Arab oil tap.

Instead, we must maintain our commitments to Israel and our resolve to achieve a Middle East settlement which will guarantee peace and security for the Jewish State. There is every indication, moreover, the U.S. is continuing and will continue its support for Israel, while pressing hard for a peaceful resolution of the conflicts in the Middle East. Ultimately, this will be in the best interests of all involved.

I am concerned that the U.S. play the most active and effective role possible in promoting a Middle East settlement. It appears at this time that we are playing such a role, through the skillful efforts of Secretary of State Henry Kissinger. On the other hand, we must recognize that our role is a limited one, given the large number of strong and conflicting interests involved in the Middle East situation.

A crucial factor in Middle East diplomacy will be our relationship with the Soviet Union. At the present time we are committed to a policy of detente. However, there are obvious strains being placed on the detente. The U.S. cannot countenance the Soviets' continuing refusal to allow Russian Jews freely to emigrate to Israel and the persecution of those who seek to do so. The driving of Soviet author Alexander Solzhenitsyn from Russia is yet another sign of repression in the Soviet Union. All of this runs totally counter to the traditions of individual liberty and freedom of conscience which have been the cornerstone of American life throughout our history. Thus, the U.S. must always seek a realistic understanding of the motives and objectives of Russian policy in all areas, particularly in the Middle East, and we must realize that there are fundamental conflicts which can never be wholly resolved and may hinder the reaching of a mutually agreeable settlement.

In short, I see no justification for any suggestion that the United States will or should consider a policy of abandoning its essential interests in the Middle East or abandoning the essential interests of the State of Israel. I think that our goals of a free and independent Israel with normalized relationships with its Arab neighbors under continuing international supervision can be achieved. I think this objective calls for careful and quiet diplomacy, for flexibility and compromise which does not jeopardize our long-range aims and for a recognition that the long-term goals will be accomplished not through invective or strident statements, but through hard work, skillful diplomacy and good faith on the part of all those involved in the Middle East conflict.

BUILDING A STRUCTURE FOR PEACE

Mr. FONG. Mr. President, the "major diplomatic achievement" that was accomplished in the Middle East yesterday is another important building block for peace that has been brought about by President Nixon's strong determination to build a structure for

peace that can last for generations to come.

Yesterday's announcement that Syria and Israel agreed to a cease-fire and a disengagement of forces on the Golan Heights, coupled with the Egyptian-Israeli disengagement agreement reached several months ago, now paves the way for achieving a permanent peace settlement in the Middle East.

Ever since President Nixon took office, he has worked ceaselessly to improve the international climate in order to make it more receptive to his efforts in behalf of peace for all people.

To his great credit, the President has contributed to mankind's quest for a more stable and peaceful world by:

Ending America's long and costly involvement in the Vietnam war;

Opening the doors to a normalization of relations between the United States and the People's Republic of China, the most powerful and the most populous countries in the world, respectively;

Seeking agreements with the Soviet Union to reduce our respective nuclear armaments and to further economic relations between the two nuclear giants; and

Achieving cease-fire and disengagement agreements in the Middle East that represent important steps leading from war to peace in that war-torn region of the world.

I join with the President in recognizing and thanking Secretary of State Henry Kissinger and his able staff for the Herculean work that they did in keeping the negotiations going and finally reaching an agreement when at times it appeared that their efforts would end in an impasse. The United States is most fortunate in having a man of Dr. Kissinger's intellectual training and political understanding as our Secretary of State. Never before, have I seen an individual display more physical stamina, patience, and imagination in working for the cause of world peace.

Mr. President, in spite of yesterday's welcome news, there is much more that needs to be done before lasting peace can be a reality in the Middle East. As President Nixon stated in his announcement of the disengagement agreement between Israel and Syria:

> We should have in mind that despite the fact that these two agreements have now been reached, there are many difficulties ahead before a permanent settlement is reached.

However, the President pledged that:

> As far as the United States is concerned, we shall continue with our diplomatic initiatives, working with all governments in the area, working toward achieving the goal of a permanent settlement—a permanent peace.

As a U.S. Senator, I pledge to give my full support to the President's noble efforts to build a more lasting structure for peace.

AN ATTACK AIRCRAFT THAT IS CHEAP AND GOOD GETS COLD SHOULDER

Mr. PROXMIRE. Mr. President, it is difficult to understand why the Pentagon refuses to seriously consider a new lightweight, low-cost aircraft designed and built by a private individual which appears to fit the requirements for a new close-support aircraft.

The story of the new aircraft, called the Enforcer, is detailed on the front page of today's Wall Street Journal.

According to the Journal, the Enforcer can land and take off from short, rough runways, can stay in the air for long periods, and carries six .50-caliber machineguns and 10 rockets, missiles, or bombs. Its performance characteristics dovetail neatly with the requirements for a close-support aircraft.

The Pentagon is now in the process of deciding which of two candidates to select for the close-support aircraft role. In the running so far are the Harrier and the A–10. The major difference between those aircraft and the Enforcer seems to be the Harrier will cost an estimated $4.3 million each, the A–10 is estimated at $3.4 million, while the Enforcer can be built for under $1 million—the current estimate is $770,000.

The Air Force has known about the Enforcer for 3 years. In 1971, according to the Wall Street Journal, Air Force pilots tested the plane at Eglin Air Force Base. One of the pilots is quoted as saying that the Enforcer performed better than was expected and:

> Technically, it didn't have all that fancy stuff. It was just a good platform that could take the punishment and deliver the ordnance.

All of us are aware of the fact that advances in technology are sometimes suppressed through inadvertence, lack of initiative, or worse. Recently my Subcommittee on Priorities and Economy in Government held hearings on a new method for converting garbage and waste materials into glucose. The glucose, in turn, can be used to manufacture ethanol, a fuel, or single-cell protein, a food source. The process was developed in an Army laboratory. Yet, the civilian agencies which should be directly concerned with the energy and food implications have expressed little interest and taken no steps to follow up the new technology.

Here is an example, in the case of the Enforcer, of a potential major breakthrough of the cost barrier to new, needed weapon systems. A private individual aided by a relatively small firm has built a prototype of an aircraft which appears to satisfy the Pentagon's requirement for an aircraft that we have spent millions of dollars trying to develop.

The Enforcer can not only do the things the Pentagon says a new close air support plane needs to do, it can be built, according to its designer, for a fraction of the cost of the planes now being considered.

The only thing that seems to be in the way of testing out the Enforcer to see if it can measure up to its promises is Government redtape and bureaucratic resentment. There may also be industrial resistance from the aerospace companies now in the running.

Whatever the reasons, they are unacceptable. At the very least, the Enforcer should be examined and tested so that an initial official evaluation of its advantages and disadvantages can be made. If this step is not taken, the inference must be drawn that the Pentagon is unable or unwilling to explore ways for reducing weapons costs.

I ask unanimous consent to print the article from the Wall Street Journal, May 30, 1974, by Richard J. Levine, entitled "An Attack Aircraft That's Cheap, Good Gets Cold Shoulder" in the RECORD.

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

[From the Wall Street Journal, May 30, 1974]

AN ATTACK AIRCRAFT THAT'S CHEAP, GOOD GETS COLD SHOULDER—PROTOTYPE SITS IN STORAGE, IGNORED BY THE PENTAGON; THREAT TO PET PROJECTS?

(By Richard J. Levine)

WASHINGTON.—It can take a lot to shake the Pentagon's weapons-building bureaucracy out of its accustomed ways—more, apparently, than even the formidable ingenuity and persistence of aircraft designer David B. Lindsay, Jr.

Mr. Lindsay, who is also a wealthy Florida newspaper publisher, has been trying for three years to interest the Defense Department in his design for an attack aircraft to provide close support to ground troops. He has built a rugged little warplane, called the Enforcer, that packs a potent punch, carries a bargain-basement price tag, gets high marks for performance—and leaves the Pentagon cold.

Designer Lindsay has run into one bureaucratic roadblock after another. He has failed to persuade the Pentagon to give the Enforcer a full-scale flight test, much less consider buying it.

"I'm totally frustrated," he says. "We aren't selling anything. We're just trying to get the plane tested. The Defense Department has given up knocking the airplane and now says, 'There's no requirement for it.'"

The apparent reason for official coolness is simply that the military brass fears that the Enforcer would show up, or even threaten, such pet projects as the Air Force's new A10 attack jet and the Marine Corps' vertical-liftoff Harrier; those planes, which are designed for the same close-support role as the Enforcer, are more costly and complex.

"The services are closing every door they can," says a staff member of the Senate Armed Services Committee. "The Enforcer is too practical and too cheap to appeal to them."

LONELY STORAGE

And so the prototype plane, developed entirely with funds put up by Mr. Lindsay and Piper Aircraft Corp., sits in lonely storage in Vero Beach, Fla., far from the wild blue yonder.

(Mr. Lindsay is an unpaid consultant both to Piper, which bought the prototype, patents and manufacturing rights from him in late 1970, and to Lockheed Aircraft Corp., which last year made an agreement with Piper that could give it manufacturing rights.)

Ironically, Pentagon rebuffs of the Enforcer have coincided with calls from Defense Secretary James Schlesinger for simpler, cheaper warplanes. And officials concede that Mr. Lindsay's baby is such a craft—and more besides. After seeing Air Force and Marine Corps studies of the Enforcer, Deputy Defense Secretary William Clements, the Pentagon procurement chief, wrote: "There is little question the Enforcer can meet the general performance claims."

But he added that "neither service sees a role for Enforcer in the combat scenarios on which their future plans for aircraft inventories are based." Charles Meyers, assistant director of Defense Department research for

air warfare, puts it more plainly. "It's a nifty little airplane," he says. "But unfortunately the office of Secretary of Defense doesn't have the power to stimulate the services to have a need for the thing."

UNCOMPLICATED AND INEXPENSIVE

What intrigues Mr. Meyers and other aircraft experts is that the Enforcer is uncomplicated and inexpensive. (At an estimated $770,000 each it would cost a lot less than the Harrier's $4.3 million and the A10's $3.4 million.) The Enforcer can operate from short, rough runways, stay aloft for long periods and deliver heavy firepower—ideal qualities for close-support aircraft.

The Enforcer has a speed range of 86 to 440 miles an hour and is heavily armored to protect the pilot from ground fire. It mounts six internal .50-caliber machine guns that can each spit out 1,100 rounds a minute, and it can carry 10 rockets, missiles or bombs.

"As far as shooting up people with guns or stopping tanks with missiles," Mr. Lindsay says, "we think the Enforcer will do it as well as or better than the A10 and at one-fourth the price."

In an age of sleek jets, it's true, the Enforcer hardly appears sexy. It most resembles the famed World War II P51 Mustang and has, of all things, a propeller. But Mr. Lindsay stresses that the propeller is driven by a jet engine, which should make for extreme reliability and easy maintenance.

Moreover, he contends that a jet-prop plane like the Enforcer has a significant advantage over a pure jet in flying slow and low cost support missions. Because most of the heat from the engine is used to turn the propeller, rather than being pushed out the rear of the engine, the Enforcer should be a lot less vulnerable to heat-seeking antiaircraft missiles, which proved so deadly in last October's Mideast war.

While the Enforcer generally draws high marks, it isn't faultless. A pilot who has flown the plane describes it as a "bit of a tail dragger." And Gen. Robert Cushman, commandant of the Marine Corps, recently wrote that the Enforcer "would provide a lesser combat capability" than light attack jets currently in the Marines' inventory, although he didn't make any detailed comparisons.

The Enforcer grew out of Mr. Lindsay's interest in restoring P51 Mustangs during the 1960s for sale to Latin American countries through the U.S. military-assistance program. Using ideas picked up from American pilots who had flown in Vietnam, Mr. Lindsay started designing the plane. In the spring of 1971, when the U.S. Air Force sought ideas for a counterinsurgency plane for the South Vietnamese, he and Piper Aircraft stepped forward with the Enforcer.

In August 1971, Air Force pilots briefly flew the Enforcer at Eglin Air Force Base, Fla. One of them, now-retired Major James Tilburg, says today: "It did as much as or more than was designed into the test plan. Technically, it didn't have all that fancy stuff. It was just a good platform that could take the punishment and deliver the ordnance."

After these 1971 flights, the designer, Mr. Lindsay says, "we went back to Vero Beach and waited for an order." When nothing happened, he returned to the drawing board and kept on improving the aircraft. In early 1973, disgusted at the government's inaction, he started making the rounds of Pentagon and Capitol Hill offices in an effort to win a full-scale flight test of his plane. But all he got was a paper study—and, last month, word that there isn't any need for the Enforcer. Today he will tell the full story to the House Appropriations subcommittee on defense.

About $3 million has gone into the development of the Enforcer, roughly one-third of it from Mr. Lindsay's pocket. A full flight test would cost about $6 million—money that Chairman John Stennis of the Senate Armed Services Committee has indicated would be available if requested by the Defense Department.

To Mr. Lindsay and such key legislators as Republican Sens. Barry Goldwater of Arizona and Strom Thurmond of South Carolina, it makes good sense to test the Enforcer further. In Mr. Lindsay's view, the plane would provide "damn cheap insurance" against the failure of the A10, not yet in production, and he contends that it would find a large market overseas, especially in Asia.

Perhaps Democratic Rep. Robert Sikes of Florida summed up the situation best a year ago, when he told then-Navy Secretary John Warner during a hearing:

"I have noted other instances, Mr. Secretary, where weapons systems and equipment have been offered to the services but because they were not developed by the testing service, they were given the cold shoulder. I do not think that is the proper approach.

"I think the services should be willing to test equipment that has promise. The old P51 was a great aircraft in its day. That was a long time ago. Maybe it no longer has any value. But this is a modernized version, and if it does have value, it could save the government a lot of money. We would like to have more than paper studies."

MEDICAL BENEFITS FOR OUR RETIRED MILITARY PERSONNEL

Mr. TALMADGE. Mr. President, I have watched with growing alarm the recent development of policies by the various branches of our military services to restrict or deny outright the medical benefits of our retired military personnel. This new policy comes as a great shock to me as I am sure it does indeed to those Americans who have served this great country for so many years.

Mr. President, my home State of Georgia is proud to have thousands of military retirees living within her boundaries. These dedicated Americans have either come home to their native soil or settled in Georgia upon retirement not only for the boundless opportunities we proudly offer, but also because within our State are excellent military installations representing each branch of our Armed Forces.

Now, after 20 or more years of dedicated and honorable service to the defense of this Nation, these brave men and women, who have faced the battles of three wars and remained vigilant during years of peace, are being told that strings were attached and fingers were crossed when Uncle Sam promised them the benefit of free medical care upon retirement.

I submit that such a policy is a slap in the face to these Americans, and indeed to this Congress which has for nearly 200 years raised and provided for armies to defend this Nation.

I have followed closely the past few years the struggles of our military to develop and maintain an all-volunteer force, and I sincerely hope this will be successful. To accomplish that in this day and age, however, is not an easy task, and involves not only the recruiting of dedicated young men and women, but, more important, the retaining of their trained services once their initial enlistment has expired.

The retention of highly qualified individuals in our military has always been a rough road to travel. It has been accomplished to some degree in the past, however, because of the benefits offered while on active duty and especially those available upon retirement.

These new policies of restricting or denying some of these benefits will surely sabotage the already perilous effort to retain dedicated men and women in our armed services and may also discourage those who plan to enter the service as a career.

The potential dangers of this policy should not just concern the generals in the Pentagon. It should be of great concern to each and every American. The Founders of this great Nation made it abundantly clear that a strong and vigilant military force has to be a high priority if we are to remain a free and viable people. Such strength and vigilance will not be possible if the Nation's career military and our veterans are met at every corner of life with a pie in the face.

I understand that these new policies for medical benefits have been prompted by a shortage of doctors in the military. The Senate passed in December a measure creating cash bonuses for doctors to enter our armed services, and I earnestly hope this will help alleviate this shortage.

But, this country cannot afford, in the interim, to forsake those who have dedicated their lives to her service, and I want those in the Pentagon who formulate these policies to be well aware of the grave consequences of such action, and of my deep and abiding concern over the restriction or denial of medical benefits promised to retired military personnel.

TAX-EXEMPT BONDS

Mr. DOMINICK. Mr. President, the Office of Management and Budget has proposed implementation of some new guidelines for Federal credit policies in a draft proposal referred to as "Circular A–70." Among the proposals is included a provision which would preclude the Federal Government from guaranteeing, insuring, or subsidizing in any way State and local government bonds if the interest on such bonds is tax-exempt. This circular has provoked criticism from most State governments which use such bonds to finance such projects as higher education facilities and medical care facilities.

In my own State, our legislature has gone on record in opposition to this circular because many projects dependent on Federal assistance and involving issuance of tax-exempt bonds would be jeopardized.

Mr. President, I ask that the Colorado House Joint Resolution 104 be printed in the RECORD, and I urge my colleagues to review it carefully.

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

HOUSE JOINT RESOLUTION 1043

Whereas, the federal Office of Management and Budget has proposed implementation of Circular No. A–70, entitled "Policies and Guidelines for Federal Credit Programs", which would preclude local governments from issuing tax-exempt bonds to finance programs and facilities receiving federal assistance; and

Whereas, local governments rely heavily on federal assistance for financing municipal programs and facilities; and

Whereas, the implementation of Circular A–70 would significantly and adversely affect the ability of the State of Colorado and its political subdivisions to finance higher education facilities, medical care facilities, highway and mass transit facilities, urban renewal and public housing projects, and privately-owned low and moderate income housing funded by the state and by municipalities; and

Whereas, over a year ago, the attempt to implement Circular No. A–70 resulted in immediate and vigorous opposition by state and local governments and national interest groups, such as the National Governors' Conference, the Municipal Finance Officers' Association, and the National League of Cities/Conference of Mayors; and

Whereas, implementation of Circular No. A–70 would constitute direct federal intervention in, and substantial control of, debt management of the State of Colorado and its municipalities and would result in severe curtailment of the volume of tax-exempt financing, as the state and local governments would be unable to utilize it with respect to projects whose financial feasibility depends upon federal assistance; and

Whereas, Circular No. A–70 proposed an undesirable means of accomplishing public policy and has massive implications for public finance throughout the country; and

Whereas, there exist no feasible financial alternatives to replace the combination of tax-exempt municipal financing and federal assistance to provide state and local facilities; and

Whereas, it has come to the attention of the General Assembly that the Office of Management and Budget is planning a specific action with respect to implementation of Circular No. A–70 in the near future; now, therefore,

Be It Resolved by the House of Representatives of the Forty-ninth General Assembly of the State of Colorado, the Senate concurring herein:

That the General Assembly of the State of Colorado communicates its strong opposition to the implementation of Circular No. A–70 to the President of the United States and to the Director of the Office of Management and Budget.

Be It Further Resolved, That copies of this Resolution be transmitted to the President of the United States, the Director of the Office of Management and Budget, and to each member of the Congress of the United States from the State of Colorado.

THE CROSS CREEK WATERSHED PROJECT IN WASHINGTON COUNTY, PA.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that my recent statement before the Water Resources Subcommittee in support of the Cross Creek Watershed project in Washington County, Pa., be printed in the RECORD.

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

STATEMENT OF SENATOR HUGH SCOTT

Mr. Chairman, I very much appreciate this opportunity to express my strong support for the Cross Creek Watershed Project, an important public works project which has been recommended for approval by the Soil Conservation Service of the United States Department of Agriculture and recently transmitted to the Congress by the Office of Management and Budget.

Located in Washington County in Southwestern Pennsylvania less than one mile east of the West Virginia-Pennsylvania State line, the Cross Creek Watershed Project lies within the Ohio River Basin. It was studied as a part of that recent basin study and also under the Development of Water Resources in Appalachia Study authorized by the Appalachia Regional Development Act of 1965. (Public Law 89–4 as amended by Public Law 90–103). This local project for land and water resource conservation is sponsored by the Washington County Soil and Water Conservation District, Washington County, Cross Creek Township and Independence Township Municipal Authority in conjunction with the Soil Conservation Service of the United States Department of Agriculture.

Basically, this request for $1,903,000.00 in Federal assistance for works of improvement provided under the authority of the Watershed Protection and Flood Prevention Act, Public Law 566, (83rd Congress, 68 Stat. 666) as amended, is for watershed resource protection, flood prevention, municipal and industrial water supply as well as recreational purposes. The Cross Creek Project consists of various soil conservation and treatment measures to be implemented by the land owners and the Washington County Soil and Water Conservation District with assistance from the Soil Conservation and Forest Services as well as four (4) structural improvements. Planned are (3) single purpose flood prevention structures and one multiple purpose reservoir for alleviating flood damage, water supply storage, and water-oriented recreation in conjunction with the appropriate facilities. These improvements on Cross Creek, a tributary of the Ohio River, are slated to be completed within a period of seven (7) years.

The watershed is rural in character and the economy is agriculturally based. However, it is within twenty (20) miles of Pittsburgh and Washington, Pennsylvania; Steubenville, Ohio; and Weirton and Wheeling, West Virginia. Therefore, over 2,000,000 people live within a radius of fifty (50) miles and have easy access to the area. Because of generations of use, erosion and sediment damage, there is great need for a proper land treatment program to be implemented immediately. Flooding has long been a serious problem also.

Improved open land management and forestry practices, along with various conservation measures within the project area, will significantly contribute to the reduction of erosion and sedimentation and will improve farm productivity along with water quality in Cross Creek. Flood damage will be substantially alleviated by the four structural improvements and the communities of Auella, Browntown and Studa will be protected. Because a dependable water supply will be available from the impoundments, current and future needs for planned commercial and municipal expansion will be satisfied to meet the goal of long range economic development for Washington County. The project will be of measurable help to provide for the great demand for water recreation in the southwest region of Western Pennsylvania and the Northern Panhandle of West Virginia.

Thus we see that the Cross Creek Watershed Project has great merit providing benefits of flood control, soil and resource conservation, fish and wildlife, enhanced water quality, increased municipal and industrial water supply, along with recreation and facilities for boating, fishing, camping, picnicing, or hiking. It will be a significant contribution to Pennsylvania's continuing viability as a commercial and environmental center. I am very pleased to join with the Washington County Soil and Water Conservation District, Washington County, Independence Township Municipal Authority and Cross Creek Township on behalf of this important conservation project and I urge the Committee to consider it favorably for approval.

MORE ON SOME FORGOTTEN AMERICANS

Mr. EAGLETON. Mr. President, on April 8 I made some remarks about what I termed "forgotten Americans"—those aged, blind, and disabled persons receiving State supplementary payments who have been denied the benefit of the social security and SSI cost-of-living increases voted by Congress.

Because Congress did not require the States to "passthrough" those increases, some 77,500 aged, blind, and disabled persons in Missouri and thousands more across the country are receiving today only that level of income they had in December 1973.

Last week the President sent to Congress his recommendation for legislation to authorize automatic cost-of-living increases in SSI payments in the future. Similar legislation has already been introduced in the Senate by the Senator from Minnesota (Mr. HUMPHREY). This is important legislation, deserving of the support of Members of Congress.

However, I want to point out once again that even with automatic SSI cost-of-living increases as many as 1 million SSI recipients may still be denied any increase in income unless and until Congress enacts the legislation I have proposed to prohibit the States from reducing their payments when these cost-of-living increases occur.

I have received a considerable number of communications over the past 2 months from those who have seen their long-awaited cost-of-living increase vanish into thin air. On May 28, I received a letter from a lady in St. Louis which describes clearly and succinctly the plight of those persons who have been denied their cost-of-living increases and, I believe, illustrates the necessity for enactment of my amendment to H.R. 3153 now pending in a conference committee.

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

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

ST. LOUIS, MO., *May 21, 1974.*

DEAR SENATOR: Am writing about the old folks on Welfare.

We got a raise on Social Security, but it was taken off our gold check which is a supplementary check. And the Welfare office only made up to the amount we received last December of 1973. Therefore we got no raise whatsoever. Food has gone up in price, we have raises in gas and electricity so that leaves us no raise at all.

My Social Security and gold check amounts to $160.00 and Welfare check is $58.00 which amounts to $218.00 per month.

Have also the Doctor to pay every month

as there are so few doctors that will accept that orange card from Welfare. All our medicine is not included on that card either.

I have no education as you can see not knowing just how to explain these things.

Don't think I am not thankful for so little help, but would like to know why we are not entitled to that raise in Social Security. Every time there is a raise, it is taken off our amounts and it would help us out if we could get the raise like everyone else. Not knowing who to write about this thought I would call on you.

I remain,

———, ———.

ENERGY AND THE OCEANS

Mr. HOLLINGS. Mr. President, the oceanic policies of the United States must be formulated so as to provide incentives to help us achieve both the benefits of the sea as well as the ability to protect and preserve its ecosystem. It is important that our national ocean policy, however, allow the United States to regain a competitive posture across the boards in the oceans so that by serving the welfare of our own citizens, we serve also in achieving the betterment of mankind.

ENERGY AND OCEAN POLICY

In January of last year I introduced S. 70, a bill to establish a Council on Energy Policy. The function of this council would be to establish a central point for the collection and analysis of energy information. It would also coordinate the energy activities of the Federal Government and prepare a long-range, comprehensive plan for energy development, utilization and conservation; such a council could foster improvement in the efficiency of energy production and utilization, reduce the adverse environmental impacts of energy production and utilization, assist in conservation of energy resources for the use of future generations, help reduce excessive demands, and encourage the development of new technologies to produce clean energy.

I am gratified to learn that on April 12, President Nixon's own Federal Energy Regulation Study Team, chaired by William O. Doub, has recommended establishment of a council almost identical to the one proposed in my bill, which has passed the Senate three times.

Mr. Doub, a member of the Atomic Energy Commission, believes that the United States needs an organization to consider long-range national objectives and goals. The study team reported that many agencies are working at crosspurposes without cohesive coordination. I believe it behooves the President and the Congress to get into step on these proposals by uniting for passage of the Energy Policy Council legislation.

You are aware of the march of events that led to critical energy shortages during 1973 and of our unsuccessful attempts to pass legislation to help structure Federal agencies to deal with the energy problem on a broad scale. There have been many hearings, thousands of pages of testimony and numerous proposals for major energy research and development programs, conservation programs and for Federal reorganization. I am confident that eventually, we will move in the right directions.

A report of the National Petroleum Council, "U.S. Energy Outlook," dated December, 1972 projected that the national demand for energy would grow at a yearly rate between 3.5 and 4.5 percent and that energy imports in 1975 could be within 20 to 26 percent of total U.S. energy supply.

Recent figures indicate the yearly energy demand increase rate for 1973 continued in excess of 4 percent in spite of the oil embargo and conservation measures put into effect during the autumn of 1973.

The $10 billion, 5-year program for energy research and development which was presented to the Congress in December, 1973, heavily emphasizes near-term solutions. The Federal Energy Office now appears, in the spring of 1974, to favor a combined effort to reduce the demand curve from a nominal 4 percent to 1 percent annual growth rate in 5 years, and increase domestic supplies of energy through R. & D. and other means from a declining 4 percent per year to 1 percent in this time period. This would leave a net 2 percent between the supply and demand curve to be made up by imported forms of energy.

The Federal approach of heavily committing to continued R. & D. on nuclear energy is understandable. It is relatively painless for the administration because an agency to carry out this effort already exists and functions well and this group played a large part in developing the program.

The nuclear electric business community continues to consider the sea as an attractive heat sink for the larger and larger powerplants that are envisioned. The sea is not treated as a source by this community. It is my strong feeling that the sea has more to offer to help in solving the national energy supply and demand imbalance than merely to be used as a heat sink. Are there gaps in the existing agency assignments that tend to work against planning for the use of the oceans as an energy source? How should the national energy R. & D. dollar be spent to maximize the future use of renewable forms of energy as opposed to the current squandering of nonrenewable forms of energy? Without intending to blind you, I suggest we carefully examine the sun, and the solar forms of energy available to us on this planet which is 71 percent covered by ocean waters. The sun, the sea, and the two ingredients in water may well hold the key to future generations' energy needs. It is none too soon to consider them now.

Here in the Senate, we have created the mechanism to consider these alternatives: the national ocean policy study. The study is authorized by Senate Resolution 222, requiring the Committee on Commerce, working in concert with representatives of seven other interested committees, to conduct a thorough investigation of national ocean policy and programs, including ocean sources of energy. I submit that an important function of the study in the years ahead will be renewable ocean-based energy.

Energy from the sun or solar energy is virtually inexhaustible and is inherently clean. The problem is to collect it efficiently and economically. A million-kilowatt or "thousand megawatt" solar power plant on land, equal in output to the largest conventional generating station, would require a collection area of 100 or more square kilometers, depending on the efficiency of conversion. This brings us to the sea. The tropical oceans with millions of square kilometers collecting and storing solar energy seems to be a logical target for greater emphasis in the overall energy R. & D. program for the United States and many less developed tropical countries.

Not only does the sea present an extensive surface area which can be used for solar energy collection with virtually no interference with other activities; it also lends itself to an advantageous approach to the next stages of the energy system—conversion and transmission. Fossil fuels represent solar energy converted, over millions of years, to coal, gas, and oil. These fuels can be transported by pipelines, ship, rail, or highway to the site of use, or to powerplants where the energy is converted to electricity which is transmitted in turn by wire to the site of its use. Ocean transport has traditionally been one of the least energy expensive forms of transport while electric transmission suffers substantially higher losses.

Solar energy can be used directly in the home and in industry to heat and cool buildings. It can be used to produce electricity for local consumption in small convenience electronic equipments such as radios.

Using solar radiation during the day to produce electricity requires some form of battery to hold the energy for nightfall which the demand increases. Electricity is one of the least effectively stored forms of energy in addition to the significant transmission losses that are present.

A more desirable alternative, especially when the sun's energy is collected at sea, is to use this energy to electrolyze sea water thus generating hydrogen gas, which can be liquefied and transported by pipeline and/or tanker for ultimate end use.

Hydrogen is being proposed more and more frequently throughout the world as a universal, nonpolluting fuel. I am told that we are still a long way from such a "Hydrogen Economy" but the apparent advantages which could result from an ocean-based, hydrogen economy using the sun as the prime energy source has led me to look further into the matter.

CURRENT ENERGY RESOURCES AND PROJECTIONS

Our current dependence upon fossil fuels—oil, gas, and coal—is well established. Projections reported in the hearing records of the Committee on Interior and Insular Affairs of the Senate pursuant to Senate Resolution 45 as well as projections of the American Petroleum Institute and the National Petroleum Council indicated that from 80 to 90% of our energy needs through 1985 must be satisfied through the use of fossil fuels. Coal, and oil from oil shale, are probably the only domestic fossil resources capable of decreasing our dependence on imported fuels until we develop an energy economy based upon either solar or

nuclear energy, or both as primary sources and the use of hydrogen or other synthetic fuels as the secondary or energy storage form.

As I mentioned, this emphasis on the near- and mid-term is reflected in the $10 billion, 5 year energy research and development program which is divided into the following categories:

I. Conservation, $1,440 million, 13%.
II. Increase Production of Oil and Gas, $460 million, 4.7%.
III. Substitute Coal for Oil and Gas, $2,175 million, 20%.
IV. Validate the Nuclear Option, $4,090 million, 37%.
V. Exploit Renewable Energy Resources, $1,835 million, 16%.
VI. Supporting Programs, $1,000 million, 10%.

About 24 percent of the total resources would be allocated to research programs dealing with increasing our capability to develop and utilize fossil fuels in an environmentally acceptable manner. Nuclear energy programs would receive the lion's share of 37 percent while the exploitation of renewable energy sources at 16 percent which emphasizes primarily nuclear fusion but does include solar and geothermal efforts. The solar and geothermal efforts total about 3.5 percent.

I am convinced that we must move as rapidly as is feasible away from the use of fossil fuels for the generation of electric power, and the use of petroleum fuels for our internal combustion engines and similar uses. Not only are the environmental and ecological costs increasing to the point where such costs may no longer be tolerable, but these fossil fuels are a very basic raw material for many, many other uses—chemicals, fertilizers, plastics synthetic fibers and even food. In fact, one of the principal raw materials of modern U.S. agriculture is fossil fuel; to produce an acre of corn takes 80 gallons of gasoline. Remaining quantities of coal and oil on the earth, even though large, should be carefully conserved.

Certainly, nuclear energy is destined to play an increasing role as a primary energy source. In the short term, say from the present through 1985 or 1990, nuclear power will primarily be used for the generation of electricity. Scientists do not anticipate the use of nuclear powerplants in cars, trucks, trains, or commercial aircraft. However, in the transportation sector there is one promising application of nuclear propulsion power. This application is in ship propulsion.

Here the very large capital intensive ships can readily accommodate the large shielded nuclear reactor. Furthermore, the elimination of the ship's self propulsion fuel requirements represents significant potential revenue producing payload space. A present-day fossil fueled supertanker burns on the order of 6 percent of its payload to propel the ship from the Persian Gulf to the U.S. market and return. Such ships could be adapted to nuclear propulsion, and save both crude oil and time.

Surprisingly though, nuclear commercial ship propulsion has not as yet received enthusiastic support on energy conservation grounds alone.

Likewise, it is not yet feasible to consider direct solar-powered automobiles, and aircraft. Thus there appear to be some uses for which no suitable substitute for fossil fuels is readily available for the short term. Some midterm possibilities exist for synthetic liquid fuels such as methanol; however, this too is a fossil fuel.

The breadth and scope of the overall energy problem is vast and the time scales involved are much too distant for the problem to fit the customary behavior of the existing governmental and industrial institutions normally dealing with energy. Thus, the establishment of an Energy Policy Council can be considered to be a part of continuing series of actions that will bring gradual progress and improvement. Each action that is taken should not be considered to result in final solutions; 20, 30, and even 50 and 100 years from now, energy production, consumption, and conservation will be serious topics.

We must continue to analyze alternative solutions to broad multifaceted social problems such as the energy problem that face and will continue to face mankind. We must consider all the consequences of the alternatives in terms of social, technical, environment, political, economic, ecological, and esthetic aspects. This is extremely difficult and we, as yet, are ill-equipped to deal rationally with such inherent difficulties as conflicting goals and the assessment of the overall costs and benefits.

The Office of Technology Assessment which was legislated by the Congress under Public Law 92-484 has been established within the legislative branch of the Government: "to provide early indications of the probable beneficial and adverse impacts of the applications of technology and to develop and coordinate information which may assist the Congress." In my view, the establishment of the OTA represents a major milestone on the path toward increasing the capability of the Congress to deal rationally and effectively with large-scale, long-term diverse social problems, particularly those with major technological implications.

I have proposed certain technology assessment projects which, I feel, should be undertaken by the OTA so as to develop the technology assessments upon which a comprehensive, viable national ocean and coastal zone management policy can be based. Surely we must investigate and assess the overall implications of an ocean-based hydrogen economy.

ALTERNATIVES FOR THE FUTURE

Now to a more detailed consideration of the concept of a hydrogen economy. At the outset, I would point out that a full hydrogen economy is an alternative or option for the mid-term (1980–2020), but that actions must be initiated now to insure that this viable option move steadily from concept to operational status.

Hydrogen is a very economical medium for transporting energy over great distances and is a flexible synthetic fuel for many energy uses that currently rely on electricity or fossil fuel. The production of hydrogen can be achieved by various means. Most studies of the hydrogen economy take nuclear power as the starting point, using nuclear heat energy to decompose water into hydrogen and oxygen. I emphasize, however, that solar power, particularly associated with the ocean as a collector or by using the thermal gradients in the ocean, is more acceptable to me.

As I have said, hydrogen can be used in many applications that now rely on electricity of fossil fuel. These applications include: heating, cooling, lighting, and both air and ground transportation.

First. A hydrogen-fueled catalytic burner would be appropriate for us in a cooking appliance; there is no need for preheating as is required for natural-gas catalytic heaters so that the design of the burner is very simple. Similar techniques can be used for the generation of large quantities of heat for commercial and/or industrial application, but detailed design of large-scale hydrogen-fueled burners has not yet been undertaken.

For space heating at home, hydrogen-fueled burners are also attractive. Flues would not generally be required because moisture (this is the combustion by-product) added to the air by burning the hydrogen would be a welcome addition to the usually dry winter air. On the coldest days, however, the amount of moisture produced would be excessive and venting would be required.

Second. Cooling can be accomplished with conventional absorption refrigerators using hydrogen-fueled catalytic or conventional burners for the heat source. However, the solar form home heating and cooling is applicable and may well keep the hydrogen out of the average home except for cooking. This is typical of the type of trade-off that must be carried out.

Third. Gas turbine aircraft can be designed to operate on hydrogen as a fuel but quantities of such fuel required would be enormous. The National Pollution Control Administration estimated in 1970 that a single supersonic transport flying 5,000 miles a day at mach 6 would consume 100 tons per day of liquid hydrogen (more than half the present daily world production). A significant advantage involved in the use of hydrogen-fueled aircraft is that the large amounts of carbon dioxide (and carbon monoxide) currently being released into the upper atmosphere would be eliminated. Atmospheric scientists are concerned that continued introduction of large amounts of carbon dioxide into the atmosphere might trigger unacceptable long-term changes in the world's weather and climate.

Fourth. In recent years there have been a number of automobile engines converted to run on hydrogen. Two entries in the 1972 Urban Vehicle Design Competition were fueled by hydrogen with excellent results; however, major problems regarding storage of the hydrogen fuel in the automobile remain to be solved.

The School of Engineering and Environmental Design of the University of Miami presented the Hydrogen Economy Miami Energy (THEME) Conference on March 18–19, 1974. There were more than 700 participants and representatives from many nations throughout the world. More than 50 papers

were presented addressing such subjects as: Primary energy sources, hydrogen transmission and storage, hydrogen production, and hydrogen utilization. The large number of scientists who participated in this conference attests to the growing interest in this new concept.

I feel that I should include some comments by Dr. Derek P. Gregory, Institute of Gas Technology, made at the Cornell International Symposium and Workshop on the Hydrogen Economy, August 20, 1973.

Why, if hydrogen is such a clear and convenient fuel, do we not already have a hydrogen economy today? The reasons include, of course, its being too expensive, both to make the change from gas, oil and gasoline and to produce and use hydrogen. One of the reasons for the high anticipated cost is the poor efficiency of several of the process steps, compared with the fossil fuel alternatives which we have today.

Dr. Gregory says that with currently available techniques the conversion efficiency of electrolyzers in converting electric power to hydrogen is about 75 percent. If we then transport the hydrogen to another location and convert back to electricity, using conventional electric generators fueled by the hydrogen, the overall efficiency is only 27 percent. This is one reason why the hydrogen economy is a mid-term alternative. However, research needs are identified that should be initiated now. There is a need for an efficient process for the conversion of nuclear or solar thermal energy to hydrogen. Commercial scale electrolyzers with efficiencies near 100 percent will also be needed. In addition, technology must be developed for producing and transmitting hydrogen at high pressures as well as for hydrogen storage.

SUMMARY

I have drawn attention primarily to only one alternative for the production and distribution of energy for the nation's future. I have indicated that long-term planning efforts which consider all the complex interactions involved in establishing a rational energy policy for the Nation must continue to be strengthened. In addition to the technological constraints there are social, political, environmental, economic, ecological, and esthetic considerations.

I believe that we must prepare now by undertaking research and development and technology programs which will provide the tools and knowledge necessary to maintain a solar-driven ocean-based hydrogen economy as a viable alternative for the Nation's future.

I consider the proposed Energy Policy Council, as well as Senate investigations under Senate Resolution 222, the national ocean policy study, to be extremely important to our Nation's future. We have already witnessed, in the space of less than a year, the result of a lack of national energy policy. And the Federal agencies we have or are considering creating will lack the focal authority for considering future energy policy needs.

The proposal I have made today for looking to the ocean as a major energy source is one which the national ocean policy study and its members will be considering in this and future Congresses. But the Energy Policy Council is something which we need now.

I call attention to an illuminating article by Victor K. McElheny, published in the New York Times on Sunday, May 12, 1974, which describes hydrogen as a way out of the energy crisis. 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:

HYDROGEN—A WAY OUT OF THE ENERGY CRISIS? THIS LIGHT, PLENTIFUL GAS IS AN ALTERNATIVE TO THE ALL-ELECTRIC ECONOMY IN THE YEAR 2000

(By Victor K. McElheny)

People who shuddered when they saw pictures of the hydrogen-filled German airship Hindenburg collapsing in flames in 1937, probably were unaware that coal-derived "town gas," which many were burning in their kitchen stoves that very day, was about 50 per cent hydrogen.

This mundane use of hydrogen in the home kitchen—rather than the explosion at Lakehurst, N.J.—was a harbinger of the "hydrogen economy" that might well develop after the year 2000.

People who saw the giant, hydrogen-fueled Saturn moon rockets thunder up from Florida in 1968–72 probably didn't realize that oil refineries and other industries in the United States already generate a tenth as much hydrogen every year as the quantity of natural gas flowing through the nation's pipelines. So there is already a kind of hydrogen economy.

Talk about a future hydrogen economy envisions a situation in which hydrogen—the simplest and lightest of all elements—would be burned as the main source of energy, supplanting oil, natural gas and coal. Such talk has intensified since the energy crisis last winter forced people to pay attention to long-neglected, long-range energy problems.

Against this background, people are asking generally how their future energy, their future British thermal units, will be generated. Proponents of a hydrogen economy bolster their case by asking also how all this new energy can be stored or delivered.

They express concern over the accelerating trend toward an "all-electric economy," in which such fossil fuels as coal, oil and natural gas increasingly are used to generate electricity, along with hundreds of new nuclear power plants and possibly solar, tidal, wind and geothermal stations.

Unless cheap, compact batteries and other energy-storage devices can be developed, most of this electricity will have to be used as it is generated, and a lot of it will have to move from remote places over a costly network of wires to get to the users. Where this will leave the automobile is not clear.

The backers of a hydrogen economy do not deny the need for vast numbers of new nuclear power plants, operating stations using solar, wind or other power.

They simply prefer to use the plant's heat—or their output of electricity, to extract hydrogen from water.

They ask if hydrogen wouldn't be a better medium for getting energy from the place where it is produced to the places where people want to use it.

Because hydrogen can be stored as a liquid in tanks or caves, a hydrogen economy might forestall the potential clumsiness of an all-electric economy. An economy tied too closely to electricity, the hydrogen enthusiasts believe, could prove almost as inflexible as the first industrial economies nearly two centuries ago tied to water mills and canals.

Most discussions of alternatives to today's fossil-fuel economy—focus on various ways to generate electric power, not on possible competitors of electricity as a means of delivering energy to users.

The proponents of a hydrogen economy think that using hydrogen as a kind of common currency of energy, independent of the source, will prove less expensive and more flexible than using electricity.

They can't be sure yet. Batteries, despite much progress, remain clumsy and costly. But the methods for obtaining hydrogen from water by using heat directly instead of by using electricity are still in the laboratory stage. If the electricity industry faces environmental challenges, the hydrogen enthusiasts face the fears dramatized by the Hindenburg.

A hydrogen economy cannot exist until the price of hydrogen begins to compete with that of natural gas, and therefore it lies far in the future. Its proponents, however, think a hydrogen economy would not seem futuristic to its users. Although nuclear and other power plants would generate hydrogen instead of electricity, hydrogen enthusiasts anticipate little change in the energy systems people are already accustomed to using.

Stored in vast tanks or caves, or moving through a greatly enlarged version of today's 250,000-mile natural gas pipeline network, hydrogen would furnish energy to millions of points of use.

It is expected that hydrogen could be burned in kitchen stoves, hot water heaters and home furnaces with burners little different, if at all, from those that use natural gas now. Baseboard electric heating units could give way to similar-looking catalytic devices where the hydrogen would "burn"—combine with oxygen—flamelessly and give off a faint, humidifying mist.

Although tank-car loads of liquid hydrogen move around the United States routinely and a hydrogen pipeline system has operated in Germany since 1938, the proponents of a hydrogen economy do not deny that there will be some extra risks that will require special controls.

Hydrogen, as the lightest of gases, will escape very rapidly from a leaking tank. The energy needed to ignite a mixture of hydrogen and air in an enclosed space, such as the airship Hindenburg, is about one-tenth the energy needed to ignite a mixture of gasoline and air in a car's engine, or a mixture of methane gas and air in a gas stove.

Because the flame of burning hydrogen is odorless and invisible, odorants and illuminants would have to be added to the gas stream if it were to be used in domestic stoves.

In a hydrogen economy, automobile engines little different from today's could be fed a stream of hydrogen from a tank full of powdered metal hydrides heated by the engine exhaust—and give off to the environment a plume of water vapor containing only traces of oxides of nitrogen.

Used widely, hydrogen would take over the role filled today by oil and gas. Most students of energy supplies expect oil and gas to be increasingly costly from now on and to be exhausted within a century.

Reliance on hydrogen as the medium of energy exchange would forestall a requirement (implicit in the increasingly electricity-intensive economy now being built in all developed nations) to distribute much of the energy supply on ultra-highvoltage lines.

This is a matter of importance to such proponents of a hydrogen economy as Henry Linden, director of the respected Institute of Gas Technology in Chicago, and Derek Gregory of the institute.

With its own funds at first (and later with support from a major patron, the American Gas Association) the institute began more than a decade ago to study the long-term usefulness of the gas industry's pipelines and

other equipment when natural gas began running out.

In their discussions of a future hydrogen economy, Dr. Linden and Dr. Gregory, and other supporters of the idea, have challenged the major competing vision: an economy running largely on electricity from nuclear power plants.

The electrical equipment industry has argued that the current trend toward an electricity-intensive economy can continue to offer the flexibility of today's energy pattern.

The electrical industry's argument is buttressed by the apparent future trends in energy supply. A major customer for the projected coal gasification plants would be electric utilities. Doubts exist about the rate of expansion and ultimate size of coal and oil-shale mining or of exploitation of tar sands for oil.

Nuclear power so far has been used only to generate electricity. And most designs of big solar furnaces, windfills and geothermal wells or the harnessing of ocean tides and temperature gradients focus on producing electric power.

But critics of electricity note that really good devices for storing electric energy have not been developed, despite progress toward smaller batteries.

Another problem cited by critics is the limited number of sites—even if all environmental objections could be overcome—available in the United States for "pumped storage" reservoirs of the sort that the Consolidated Edison Company sought vainly for more than a decade to build at Storm King on the Hudson River.

In such a plant, electricity is used during hours of low demand to lift water into the reservoir. At peak hours the water is allowed to flow out again through turbines, generating electricity.

Such facilities are expected to account for only a small percentage of the total national capacity for generating electricity. By contrast, the natural gas industry reportedly possesses enough tanks and caverns to store about a quarter of the total annual flow against periods of maximum demand.

Dr. Gregory points out that the 11-million kilowatt-hour storage capacity of a single, 900,000-gallon liquid hydrogen tank at the Kennedy Space Center in Florida is about three-quarters the energy capacity of the world's largest electric "pumped storage" facility, near Ludington, Mich.

If electricity cannot be stored like a liquid, then the plants that generate it must be turned down when the demand for electricity slows after the peak hours. But million-kilowatt nuclear power plants, which have become the standard in electric utility ordering, operate best at a steady rate and near full power.

Furthermore, suitable sites for such plants, which need large amounts of cooling water or air, are becoming scarce—even though about 1,000 of them, along with nearly equal numbers of plants fueled by coal, oil or natural gas, are expected to be operating in the year 2000. The scarcity is hinted in the recent group of orders for offshore nuclear power plants from New Jersey to Florida.

If sites are scarce, then it is likely that the plants increasingly will be grouped at remote places such as the "nuclear parks" suggested by the Atomic Energy Commission.

Dr. Linden cites figures indicating that the cost of sending energy in the form of hydrogen gas through pipelines 30 inches in diameter will be cheaper than underground transmission of alternating-current power beyond 50 miles.

Pipeline shipment of hydrogen becomes cheaper than above-ground transmission of electricity on a 400,000-volt direct-current line beyond 300 miles, and cheaper than above-ground transmission of alternating current at 500,000 volts beyond 600 miles, Dr. Linden notes.

The hydrogen he is talking about would have been produced by electrolysis—using electricity to split water into its constituents of hydrogen and oxygen.

The cost of such hydrogen, computed by J. E. Mrochek in 1969, was based on an electricity price of 0.9 cent per kilowatt-hour. This would have made the hydrogen cost $2.67 per million British thermal units in 1970, more than 10 times the wellhead price of natural gas.

In an interview, Dr. Gregory said today's cost of such hydrogen is closer to $5 per million B.T.U.'s. Figures like these have led him and other pioneers of a hydrogen economy, such as Cesare Marchetti of the Italian energy research center at Ispra, to write off electrolytic hydrogen for now.

They have turned their attention to using heat directly, with the help of such metal compounds as iron chloride, to react with water and produce hydrogen, oxygen and other elements in multi-stage processes.

One of the most glamorous possibilities of a heat source for such thermochemical hydrogen is the High-Temperature, Gas-Cooled Reactor. It is marketed solely by General Atomic of San Diego, Calif., a joint venture of the Gulf Oil Corporation and the Royal Dutch/Shell Group. A 330,000-kilowatt electric power version of this plant is being put into commercial service by the Public Service Company of Colorado.

The proponents also are seeking practical tests of a hydrogen economy, Dr. Gregory said, in a "captive" situation such as the A.E.C.'s National Reactor Testing Station near Idaho Falls, Idaho. He said there had been discussion of a test of hydrogen fuel for the center's fleet of commuter buses.

Meanwhile, on a more immediate level, a hydrogen economy of sorts flourishes in the American petroleum refineries, where hydrogen is used in "cracking" crude oil.

To meet such requirements, the United States produces at least 2.2 trillion cubic feet of hydrogen annually, about 10 percent as much as the natural gas flow.

PATRIOTISM IN NEED OF REDEFINITION

Mr. TAFT. Mr. President, on May 26, my distinguished colleague from Connecticut, Senator WEICKER, delivered the commencement address at John Carroll University in Cleveland, at my request.

His address, entitled "Patriotism in Need of a Redefinition," was well received by those in attendance. I would like to share his remarks with Members of the Senate, and I ask unanimous consent that they be printed in the RECORD.

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

PATRIOTISM IN NEED OF A REDEFINITION

(By Senator LOWELL WEICKER)

Remember when you were a youngster the joy of receiving one letter. Well, one of the rewards of being a United States Senator is that you usually get more than one letter a day. Try a thousand. Some of it complimentary; some of it very critical.

On the critical side, there are many letters opposing my stance on issues in a sincere, thoughtful, if vigorous way. That's as it should be in a democracy. It's also a vital part of my education. But there is another kind of criticism which does not deal with issues, facts, or logic, but rather questions my patriotism. This kind of disagreement finds expression in phrases such as "Go back to Russia where you came from." Or "Why don't you join the communists." Or "Stop betraying our country."

The logic of such disagreement had a parallel in the behavior of the current administration toward those who disagreed with its foreign and domestic policies. For example, it would be an understatement to say that there was disagreement in our country over the war in Vietnam. Yet I believe that all who participated in the debate were motivated by love of the United States. "Hawk" and "dove" alike, all did what they thought was best for the Eagle. In my case that meant support for President Nixon's Vietnam policies.

Yet I've never been so mad as when in February, 1973 I was invited to the White House for a "Peace with Honor" Reception. Mad because I learned that far from invitations going to the whole Congress in celebration of the end to that tragic conflict, invitations went only to those who had supported the President's position. Since the reception was designated "Peace with Honor" the implication was clear—those who had disagreed either did not want peace or were dishonorable men and women.

Now I remember the incredulity with which the nation heard the first voices of dissent over Vietnam, so committed were we to an undemocratic patriotism on the subject of war. And though I give credit to Richard Nixon for the physical act of getting us out of Vietnam as much credit goes to those patriots who caused this nation to question for the first time the correctness of its violence.

I did not accept that invitation and for other reasons have never been back.

That is what I want to focus on today—patriotism. In a wonderful passage from "A Connecticut Yankee in King Arthur's Court", Mark Twain wrote:

"You see my kind of loyalty was loyalty to one's country, not to its institutions or office holders. The country is the real thing, the eternal thing; it is the thing to watch over and care for, and be loyal to; institutions are extraneous, they are its mere clothing, and clothing can wear out, become ragged, cease to be comfortable, cease to protect the body from winter, and disease, and death.

"To be loyal to rags, to shout for rags, to worship rags, to die for rags—that is a loyalty of unreason, it is pure animal; it belongs to monarchy, was invented by monarchy; let monarchy keep it. I was from Connecticut, whose Constitution declares 'that all political power is inherent in the people, and all free governments are founded on their authority and instituted for their benefit; and that they have *at all times* an undeniable and indefensible right to *alter their form of government* in such a manner as they may think expedient.'

"Under that gospel, the citizen who thinks he sees that the commonwealth's political clothes are worn out, and yet holds his peace and does not agitate for a new suit, is disloyal; he is a traitor. That he may be the only one who thinks he sees this decay, does not excuse him; it is his duty to agitate any way, and it is the duty of the others to vote him down if they do not see the matter as he does."

James Russell Lowell said it another way:

"Then it is the brave man chooses while the coward stands aside till the multitude make virtue of the faith they had denied."

The American people said it another way in 1972.

When a young reporter standing outside a supermarket asked shoppers to sign a copy of the Bill of Rights, 75% wouldn't do so; over half said they wouldn't do so because it was a Communist document.

In the 1970's what faith had we denied? What kinds of loyalty had we acquired? Who had become the traitor?

We all know the symbols of patriotism. The flag, the parades, the national anthem, the Fourth of July. The question is not do we respect those symbols. But rather what is their meaning today? Not what *was* their meaning but what *is* their meaning? Only the living not the dead have the answer.

Wearing a flag lapel pin doesn't make you an American any more than wearing a cross makes you a Christian.

There is no American flag without the Bill of Rights.

There is no Fourth of July without the Constitution.

There is no Star Spangled Banner without an idealistic America.

There is no *patriotic* parade or speech without a nation whose focus is on the least rather than the greatest of its citizens.

In 1972 employees of the White House wore lapel pins while they advocated burglary, wiretapping, committeed perjury, impugned the patriotism of those who disagreed with them and threw due process into the shredder.

I think it is apparent that a redefinition of patriotism is very much in order in this country.

In my office is a book of watercolors based on the Star Spangled Banner as interpreted by the truly talented artist Peter Spier. The paintings which deal with the first and second stanzas are what you'd expect: The bombing of Fort McHenry, the rockets, the explosions. But then the third stanza goes on to say: "And conquer we must, for our cause it is just." And to illustrate that passage Mr. Spier painted a bulldozer conquering a slum housing, a reaping machine conquering the elements to harvest a crop of wheat, scientists in a laboratory conquering disease, and astronauts conquering the moon. The words then are Francis Scott Key, 19th century; the definition Peter Spier, 20th century.

That's what needs doing today by each of us in our own way. A definition of patriotism more in keeping with the America of our Constitution. A definition of patriotism more in keeping with the sacrifices of men and women who suffered and died at their best because they were uncompromising in the idealism they wished for their country.

Back in 1889, a Republican president, Benjamin Harrison, used his inaugural address to say: "Let those who would die for the Flag on the field of battle give a better proof of their patriotism and a higher glory to their country by promoting fraternity and justice."

Isn't that what it should *all* be about? You can't love God *only* on Sunday morning, and you can't love America *only* on the Fourth of July.

How do we show our patriotism? Well certainly not by merely paying taxes and keeping our mouths shut. That's not what the Founding Fathers had in mind for America.

Remember that the revolution which founded our nation was not like most revolutions. It was not a revolution by the lower classes against the landowners. It was not the dregs of society fighting for a piece of the economic pie. It was not the have-nots challenging the haves. Rather it was the elite of a society fighting to achieve certain idealistic principles for all their countrymen.

Think about that. The people who founded our nation were precisely those who had the most to lose in starting their revolution. Jefferson, Madison, Franklin, Washington and Hamilton. They were the elite, educated, wealthy, white male establishment. They were the Fortune 500 of their era. And yet they established principles which even today are being used to expand opportunity for all Americans and guarantee that what is hurtful will be done away with.

When those who had so much were willing to risk it all for these principles, and have time and again throughout all generations, who of this generation wants to declare the American Dream accomplished? Who does so dishonors the past and makes the horizon possible of capture. The dreams and goals of this country, like the horizons of nature, are never ending. Uniquely then among nations, America is a concept and not a political subdivision.

Rather I wish for each of you that in your own way you will seek out trouble. Isn't that what Americans have always done? Isn't that where the promise of patriotism lies?

If no one had spoken up we'd still have slavery. If no one had spoken up we'd still have the right to vote reserved to men. If no one had spoken up we'd have quality education for whites only. If no one had spoken out the working man would be machinery rather than human. If no one had spoken out "your own home" would be reality for the tens rather than the millions. And most importantly, if no one had spoken up we'd have a lot less democracy in all our lives.

As you know, our nation has a 200th anniversary coming up. Everyone is running around in a panic bemoaning our tardiness at coming to agreement on some appropriate monument or exhibition. But is that what we really need? A stone or steel symbol of our patriotism? Wouldn't it be a more fitting tribute to rededicate ourselves to those very, very difficult ideals we set for ourselves almost 200 years ago.

When most of you were about 8 years old, President Kennedy said: "Since this country was founded, each generation of Americans has been summoned to give testimony to its national loyalty. The graves of young Americans who answered the call to service surround the globe.

"Now the trumpet summons us again—not as a call to arms, though arms we need; not as a call to battle, though embattled we are; but a call to bear the burden of a long twilight struggle, year in, and year out, 'rejoicing in hope, patient in tribulation'—a struggle against the common enemies of man; tyranny, poverty, disease, and war itself."

American needs new words, new deeds, a new bravery from our generations. People ask the question when are we going to reach the low point? America, we reached the low point in the 1970s when dissent was answered with bullets, political opposition with burglary and conscience with accusations of treason. Occurrences like that without outcry—which was the case in the early 70s—are low points. Not the truth, no matter how raw, which is what we started to get in 1973. Nineteen hundred and seventy three is when we started to stand again as a nation of free men.

Your future then lies not in the House Judiciary Committee, but within yourself. Patriotism in the sense of dedication to this nation's ideals, written and unwritten requires as much as courage in surroundings of national affluence as it did of the Founders of America in surroundings of personal affluence.

In other words you risk yourself for the other fellow; not the other fellow for yourself.

"Then it is the brave man chooses."

GARBAGE: A NEGLECTED RESOURCE

Mr. HART. Mr. President, the Resource Conservation and Energy Recovery Act of 1974 is presently pending before the Senate Commerce Committee. Some of us on the committee believe that this legislation would be a major step in assuring increased energy and resource supplies for the United States. Earlier this year, Senator TUNNEY held comprehensive hearings regarding the need for increased demonstration projects for solid waste conversion into energy, and then used the record of those hearings to develop section 12 of this bill. In furtherance of his interest and expertise in this area, he has now written what I regard as an extremely perceptive and interesting article for the Nation magazine entitled "Garbage: A Neglected Resource." So that this article may be brought to the attention of my colleagues, I ask, Mr. President, 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:

GARBAGE: A NEGLECTED RESOURCE

(By Senator John V. Tunney)

WASHINGTON.—In its quest for self-sufficiency in the production of energy, the nation may be overlooking a critical source of power—the tens of thousands of tons of garbage that, each day, are bulldozed into dumps all across the country.

President Nixon has given us the slogan, "Project Independence—1980," by which time the nation should be producing from domestic sources all the energy needed to sustain our advanced standard of living. But we can never reach that admirable goal if we are unwilling to make substantial investment now in new forms of power generation, including the transformation of daily tons of waste into energy. The impatient lines at gasoline stations may have become shorter, but our sense of urgency should be just as intense as when the Arabs first turned off their petroleum spigots.

In the long run, the solution to the energy problem will depend, in large measure, on how each citizen budgets his or her demand for fuel and power. Car pooling, mass transit, and the development of a more efficient substitute for the smog-producing internal combustion engine should continue to be important goals. But to reach true self-sufficiency, the country must begin—as a matter of basic and urgent policy—systematically to examine all its potential resources. Solid waste presents a spectacular opportunity to help solve the energy problem, while at the same time contributing to the solution of environmental and materials problems.

Earlier in our history, when materials were scarce and expensive, "waste not" was practically a law of the land. With affluence, however, America has become conditioned to a "throwaway" style of life. Packaging is ubiquitous and planned obsolescence a way of life. Disposable products dominate the consumer market, and the economy is so structured that it is frequently cheaper to replace worn items than to repair them. Our affluence has contributed to the highest per capita production of waste in the world. Last year, we threw away 4.5 billion tons of solid waste. Included in this staggering sum were 50 billion metal cans, 27 billion glass containers, 4 million tons of plastic containers, 18.8 million tons of paper, 100 million tires and 7 million automobiles. All projections suggest that we shall be adding to these vast mountains of waste at an ever accelerating rate—and it is already five times greater than our population growth.

Meanwhile, we are creating enormous environmental, health and safety problems. Incineration and open burning of wastes thicken air pollution; open dumps cause noxious odors. Water resources are contaminated by "leachate" from landfills and dumps. Mine tailings and other industrial wastes and sludges too often befoul ponds, lakes, rivers and the oceans. Open dumps, debris and automobile graveyards blight the countryside.

Rats, lice and other insects thrive on the refuse and garbage that pile up in the urban

outskirts, and wastes that may be dangerously toxic, inflammable, corrosive, or explosive are tossed into open dumps or insanitary landfills. At the same time, the shortage of land has become so serious that many cities believe that within a very few years all the space available for landfill operations will be gone. For environmental reasons as well as for energy, we must begin to view waste not as garbage to be buried or dumped but as a rich, untapped resource.

The Senate Commerce Committee is at work on a comprehensive bill on both recycling and energy generation from solid waste. In eleven days of hearings, Senators Hart, Moss and I received abundant and sometimes dramatic testimony on the potential of this new resource.

This legislation, the Resource Conservation and Energy Recovery Act, offers for the first time a total approach to the country's management of its solid wastes. It proposes a set of economic and other incentives for improving solid waste disposal and for the rapid acceleration of new techniques for recycling and energy generation. This legislation is crucial if America is to do more with its junk than be smothered with it.

The major cities alone dispose annually of metals worth $5 billion. We thus lose an estimated 12 million pounds of steel and more aluminum and tin that we produce domestically. It has been estimated that recycled waste would reclaim 7 per cent of the iron, 8 per cent of the aluminum, 5 per cent of the copper, 3 per cent of the lead, 19 per cent of the tin, and 14 per cent of the paper consumed in this country.

We still incline to take our raw materials for granted. It is sobering to realize that, of the seventy-five minerals vital to our economy, twenty-five are not found in this country. Another twenty-five exist here, but not in sufficient supply to satisfy present demand; and the rest face significant depletion by the end of this century. Yet the percentage of waste that we recover has been decreasing, even as potential shortages loom across a wide spectrum of materials. Furthermore, the recycling process itself saves energy. When scrap is used, the energy demands of steel production drop 25 per cent, and by recycling we can save 95 per cent of the energy requirements for aluminum production.

At present, we throw away garbage that contains the potential equivalent of millions of barrels of oil and gas—enough each year to meet this nation's entire energy needs for residential and commercial lighting, or up to one-third of the energy that is to be delivered by the Alaska pipeline. Europe already has begun to utilize garbage. The Netherlands, West Germany and Switzerland all make extensive use of waste for energy generation. Frankfurt now gets 7 per cent of its electrical energy from a garbage-burning installation; Amsterdam gets 6 per cent.

In recent years, we have made rapid progress in the development of technologies to convert solid waste to energy. California has plans to drill in landfills for the methane gas produced by decomposing garbage. It is estimated that from one landfill site in Los Angeles alone enough methane gas could be pumped to serve the energy needs of 25,000 households for a year. It is now also possible to convert wastes into combustible, coal-like pellets that are easily transportable and can be used in coal-burning furnaces. More advanced techniques—such as pyrolysis, whereby the wastes are, in effect, cooked at extremely high temperatures without oxygen—are available to produce a low-sulfur oil or gas. This process reduces the bulk of the solid waste, thus easing disposal.

Nevertheless, Americans continue to handle their solid waste disposal problems much as they did hundreds of years ago. While sending rockets to the moon and manned space stations around the earth, we throw our garbage out the back door.

Little headway will be made unless the President alters his policies to accord with his professed goals. In the last three years, the Administration has spent only $20 million on demonstration projects to convert waste into energy. (During this same period, it impounded $6 million earmarked for this purpose by Congress.) Such funding is inadequate for the needed rapid development of solid waste recovery and energy conversion plants.

Administration spokesmen argue that they are doing enough. They say present funding levels allow for demonstrating direct burning of shredded waste in St. Louis, a system for recovering oil from waste in San Diego, and a system for getting gas and steam from waste in Baltimore. They say they will thus be demonstrating the three major energy conversion techniques that are now available and that the roadblocks to rapid utilization of these technologies are *institutional* rather than fiscal.

The Administration unfortunately and typically, is simplistic. Witness after witness at our extensive hearings testified that the size of the city, the type of waste (which varies from area to area), and even geographical location and pollution requirements all may affect the type of system that would be desirable. But present demonstration projects are so limited that local governments, which are the major potential purchasers of such systems, have inadequate information to make an intelligent choice and are often reluctant to act at all.

Money is a major barrier also in many cities already overburdened by a multitude of urban problems. In California and several other large states, laws limit the ability of cities and counties to levy taxes for new projects, and nationwide, new municipal tax and bond schemes go down to defeat by fiscally overburdened and irate voters.

Therefore, if the Administration continues to restrict funding for recycling and energy generation, rapid tapping of our solid waste resources is impossible. The Resource Conservation and Energy Recovery Act, on the other hand, will provide the money necessary for the United States to benefit from a vital resource. To spur greater development of energy recovery, resource recovery and waste management systems, this legislation authorizes $135 million for direct grants, and $825 million in loan guarantees to stimulate the rapid development of meaningful demonstration projects. Also provided is funding for state and local plans, the construction of facilities and the training of personnel.

Money would be available under this Act only for projects that were in compliance with comprehensive state or regional plans. Therefore, this funding will serve the double purpose of stimulating research into and demonstration of new technologies, while speeding their application at the state and regional levels. Only such a program can assure a nationwide systematic use of waste resources. The federal government and its agencies will be required to set an example for the nation by being mandated to purchase recycled materials if they are available at reasonable cost.

It is time that this Administration, which has spoken boldly of energy self-sufficiency by 1980, began to match words with action. If we continue to wait for the marketplace to force local governments to take advantage of their waste resources, decades may go by, and every year of inaction means billions of dollars lost in materials and energy production. Also, sole reliance on the marketplace will not force the states to develop the comprehensive waste management plans that are essential for maximum returns. It is incredible that the Administration, despite the energy crisis, fails to ask that any money be appropriated for fiscal 1975 to demonstrate solid waste energy-recovering technologies.

Already a number of independent studies have caused serious doubts about the attainability of "Project Independence—1980." It is estimated that unless present demand trends are dramatically reversed, an all-out drive to develop domestic energy resources will still fall short of demand in 1980 by millions of barrels of oil a day—which fuel would have to come from foreign sources. Even if, as I believe, total self-sufficiency by 1980 is a commendable but probably unattainable goal, we still must act forcefully and immediately to begin to check an ever increasing dependence on foreign sources of energy and materials. If we wish to avoid a foreign stranglehold on our materials and energy supplies, we cannot continue to ignore our important solid waste resources—and now is the time for action.

DAYLIGHT SAVING TIME

Mr. BARTLETT. Mr. President, although the furor over winter daylight saving time has temporarily abated due to the longer days of springtime, a recent Harris survey should not go unnoticed.

According to Harris:

Only 19 per cent (of the American people) rate the daylight saving move as a "good decision" while 43 per cent say it was a "bad decision" with 32 percent saying it was "neither good nor bad."

I believe it significant that, of those expressing an opinion, more than two to one oppose winter daylight saving time.

A breakdown of those opposing daylight saving shows that almost half do so because of the danger to schoolchildren leaving for school in the dark.

In the breakdown of those who favor winter daylight saving time, it is interesting to note that only 6 percent of the public thinks it saves energy—and this was the only reason the Congress passed the bill to begin with.

Mr. President, later this year I intend to introduce once again legislation to eliminate winter daylight saving time. While the preliminary studies indicate mixed results in energy saving, public opinion obviously is overwhelmingly opposed to this experiment.

I ask unanimous consent that the attached Harris poll be printed in the RECORD.

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

[The Harris Survey, Apr. 22, 1974]

YEAR-ROUND DAYLIGHT SAVING TIME LACKS PUBLIC APPROVAL

(By Louis Harris)

In the aftermath of the winter-long gasoline crunch, the American people tend to agree that the law making Daylight Saving Time mandatory on a year-round basis was a poor idea. Only 19 per cent rate the daylight saving move as a "good decision," while 43 per cent say it was a "bad decision," with 32 per cent saying it was "neither good nor bad."

The major criticism centers on the perceived dangers to children going to school in the dark. Parents report that they became deeply worried over their offspring crossing streets in the early morning hours in darkness, citing numerous case of children actually hit by cars and even killed.

The other major misgiving is that while daylight saving was invoked as an energy-saver, people report they used just as much extra heat and electric light in the dark hours

of the morning as they believe they saved in the late afternoons. Thus, the rationale for the move lost much credibility with the public.

In late March, a cross section of 1,495 families was asked:

"In your opinion, was the decision to go to Daylight Saving Time year-round in order to save fuel a good decision, a bad decision, or neither good nor bad?"

Winter Daylight Saving

(Total public percent)

Good decision	19
Bad decision	43
Neither good nor bad	32
Not sure	6

The daylight saving move was most resented in the Midwest and South, particularly in the small towns and rural areas, where majorities could be found in opposition. These areas are especially hard hit by two conditions: 1.) They contain agricultural communities where many people have to rise early to begin their chores, and they would rather begin work in daylight than in darkness, and 2.) Children in these locations tend to have to go longer distances to school, thus increasing the dangers they might face in the early morning darkness.

When people were asked why they felt the way they did about Daylight Saving Time, the volunteered answers broke down this way:

Behind People's Views on Daylight Saving

(Total public percent)

Why Bad Decision:	
School kids endangered	24
Use more electricity in AM	11
Hate getting up in dark	7
Use lot of fuel in AM	2
Use cars to take kids to school	1
Why Good Decision:	
Like daylight saving time	7
Gain an hour at day's end	6
Saves energy	6
Why Neither Good Nor Bad:	
Didn't save any energy	11
Doesn't affect us	6
Not sure	3

The Harris Survey found the public highly vocal and opinionated on the Daylight Saving Time issue. For example, a young mother in Nashville, Tenn., said, "I have two little ones, 8 and 6, who had to go to school all winter long in the dark hours. They would hold each other's hands, trembling every morning as they left to walk to school. I've aged 10 years worrying about them." A businessman in Little Rock, Ark., said, "It was just plain foolishness. We all just used more electricity in the morning and less in the afternoon, no gain at all." A mother in Stonington, Conn., reported. "They claimed that we would save energy by not putting lights on early in the evening. But I personally used up more gasoline taking my kids to school in the car every day than I could have saved."

The small minority who stood firm in defense of the change to Daylight Saving Time could be found mainly in the big cities in the East and West. The chief benefit they saw was to have an hour at the end of the day in daylight to spend in leisure. A Los Angeles secretary put it this way: "I like daylight saving, because it lets me get my work done early and then have some time in the late afternoon daylight to play tennis, swim, or go shopping. I think it's great." A businessman in Seattle added, "I was able to get in some extra rounds of golf and then also see the kids in daylight for a change during the winter. It was a good deal."

But the heavy weight of public opinion is against year-round Daylight Saving Time, for even those with no strong opinions on the matter mainly felt that it did not succeed in conserving more fuel.

JAMES M. FARLEY'S 86TH BIRTHDAY

Mr. McGEE. Mr. President, today is the 86th birthday of one of the most distinguished and skillful professional politicians in our history, and of a man who also happened to be both a highly successful businessman and a most effective public administrator.

I refer, of course, to James A. Farley, remembered by most of us as Postmaster General of the United States. He also is remembered by most of us as chairman of the Democratic National Committee.

Jim Farley has brought distinction to several callings, in business, in politics, and in government. It is with a great deal of pleasure that I call attention to his 86th birthday and join his countless friends and admirers in wishing him many happy returns of the day.

STRIP MINING

Mr. METCALF. Mr. President, the Senate is well aware of the potential magnitude of coal strip mining in my State of Montana. It might not be as aware, however, of the depth of feeling the activity has stirred among the people of the State.

As a result of this concern, Montana is going forward to meet the problem. The State legislature has already enacted a strong regulatory law, and can be expected to refine it when that body reconvenes next January.

Behind the push for controls over strip mining is the vast majority of Montana's citizens. Typical of those who fear stripping will create an Appalachia of the Great Plains is Harriette E. Cushman of Bozeman. Miss Cushman is herself a pioneer in Montana who has seen the effects of several decades of extraction of the State's precious resources.

I would like to share with the Senate a personal and eloquent plea by Miss Cushman to save Montana's land, water, and air. She asks Americans to seek alternatives to coal as a source of energy. She asks that we honor a moral obligation to our Indian citizens by refraining from stripping their lands. Finally, she appends a personal poem entitled "Avalanche," which suggests what an aroused citizenry can do if it will only unite.

Mr. President, I commend the reading of Miss Cushman's statement and poem to the U.S. Senate, and I ask unanimous consent that they be printed in the RECORD for even wider reading. I only regret that the RECORD will not accommodate artwork, for her writings are accompanied by an excellent cover illustration by Mr. Raymond Campeau.

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

"WHERE THE DEER AND THE ANTELOPE PLAY" NO MORE?

(By Harriette E. Cushman)

(Cover by Raymond Campeau, Art Professor)

You may well ask why, when you are already overburdened with stacks of material re: Coal Strip mining that I, a mere citizen, along with hundreds of other Montanans grieve over this subject when strip mining is no skin off our noses. It's simply that we cannot stand by in apathy and allow our beautiful state to be raped by vested interests bent on wresting blackgold from some of the best range land in the country.

When I first visited Colstrip my reaction was, what wonders man has accomplished: two great shovelsful filled a coal car; the flagman waved it on; a second car came into place for filling. No deep mine shafts or tunnels where fires or "coal damp" could trap or snuff out lives.

Then my eyes looked up the unbroken draw. As far as I could see lush green grass, stirrup high waved in the breeze. While here and there white faced cattle grazed or rested in the shade of scattered Douglas firs. All was peaceful and right with the world.

Turning back to the great shovel, I asked, "How far do you intend to go before you stop?" "We won't. We'll just keep going on."

All at once I did not think so much of strip mining. Were there no alternatives for supplying human beings with needed energy without defacing a great land? Right then and there I began to read and study—both sides of the question—and buttonhole everyone who could further my education. For example I contacted Wallace McRae, manager of the Rocker Six Cattle Company, South of Forsyth, Montana. McRae is not only a director of the Montana Stockgrowers' Association, which represents the largest industry of the state, but it also a true Livestockman. To be that, one is not only a raiser of four legged critters but is also a veternarian, a mechanic, an agriculturist and also an economist and a shrewd marketing man. I might add he is a poet. He loves his land, the wide open spaces and his fellow men, regardless of race or creed. McRae is not only a poet at heart but can express those feelings in words. Let me quote from a recent verse he wrote me. By the way Wallace is the third generation on his great spread.

"They're turning my country all wrong-side up,
In the quest for the black gold—coal.
The rape of the land just wrenches my heart,
Three million acres, their goal.

"Why, if this is our country's salvation,
Do I recoil with disgust?
Why does the flavor of gold in the air,
Taste so, of ashes and dust?

"Is it the memory of fore bearers, dead?
The question in my son's eye?
Is it my pride, that won't let me give in?
Why, dear God, tell me why?"

Then from the other side, the urban man who has only two weeks vacation and tries to see the whole nation in that allotted time. He goes from the Black Hills to Yellowstone Park and sees nothing but the black top road he follows. His remarks, "There's nothing there but desert. Hell, strip it." He forgets it is a hunter's paradise. He forgets this is where "the deer and the antelope play." Also it's great pheasant and even wild turkey country.

Also from the other side you constantly hear the statement that the country will be just as good as new after restoration. They omit telling you when they show you a restored demonstration plot that hundreds of dollars per acre were used to make the comeback. It would be utterly uneconomic to expect any company to dish up that type of restoration. How much more beneficial to the company and all mankind if the coal were left and this immense amount of money needed for restoration were used to develop alternative sources of energy. That man's company and himself would surely be blessed.

Also those who say that things will be as good as new do not have all of the an-

swers yet. There has got to be a lot more soul searching and scientific data. What will all of this do to water tables and ground waters? All through our national history, we have been too quick to call something a crisis and give an immediate solution. It is a well-known fact that back east where strip mining has been employed, "come-back" just doesn't happen.

One young and brilliant Doctor of Chemistry from the University of Kentucky wrote me a gripping letter. It contained one paragraph which is particularly pertinent. All the scientists and ecologists which I have shown it to asked me to include it in any material which I prepared. Quote:

"One position that one could take is that some new energy source will be developed while we are consuming what we already have. While many people may find this to be a reasonable view, I believe the long-range effects will be terribly detrimental. While we are waiting for this miracle we are and will be burning up irreplaceable hydrocarbons. Hydrocarbons are the backbone of the petrochemical industry which we depend upon so much for the products we use every day. The hydrocarbons are uniquely suited to these products because of their stability. When hydrocarbons are combusted they are gone forever, but other uses result in products which can be recycled. When hydrocarbons are gone, many products are not going to be possible anymore because the natural fibers which may be available such as wood, cotton etc. are inferior. What I would really like to see happen is a movement as rapid as possible away from combustion of carbohydrates. Our present reserves may already be too short for future needs."

Thus let's keep the coal for money in the bank as the rancher keeps extra hay stacks for a real emergency.

There is a second segment of our society that must be considered when determining the coal strip mining problem. That is our attitude toward coal underlying Indian Reservation land. We have a serious MORAL OBLIGATION here. The Crows, the Assiniboines, the Sioux and the Northern Cheyennes may all feel the impact of this program. It will especially affect the Northern Cheyennes since all of their land is underlined with coal. Their Tribal seat, Lame Deer, is only a stone's throw from Colstrip. The Northern Cheyennes are loyal United States citizens. They volunteered in great numbers not only for World War II but also did not wait for draft either for the Korean or for recent conflicts. Besides they are the ablest forest fire fighters that we have. No large fire has occurred in the Northwest that the Northern Cheyennes did not turn out in great numbers and fought where Whites were unable to go. Those who recognize this may think the equitable procedure is to remove them to areas of equal size with equal opportunity. This cannot solve the situation. During my 50 years of working with Indians, first in Extension Service with Montana State University and since with special work with the various tribes, their leaders are telling the truth—that if strip mining is carried out as now envisioned, it will be the end of the Northern Cheyenne Tribe. Indian Culture is not White Culture. There may be a few who have adopted white ways who may sign their land away but no amount of cash will be sufficient to tempt the Indian who reveres his own culture to give up the land that birthed him. Please, take my word for this. Let's work out some equitable solution. Do we want a repeat of the tragedy of the recent occurrence at Wounded Knee? Let's for once keep our treaty promises with our Red Brothers.

There is a third group that may be sorely affected by strip mining operations. I understand that it will take 50% or better of the water from the Yellowstone and its main tributaries: the Big Horn, the Rosebud, the Tongue and the Powder Rivers. This would be during good years. On dry years, and we have plenty of them, there would be less than a trickle to serve the irrigated tracts from East of Billings to Sidney. This could create national repercussions.

This has been much too long. Was it not Marie Antoinette who said, "If I had time I would write a note. However, lacking in time, I will write a book." That seems to be my position. For you who read all of this I thank you for your extreme patience. For you who are not so inclined, you may enjoy Ray Campeau's cover page. He made it for you.

Also I hope that you may like the idea of my poem of the Avalanche. I wrote it especially for this occasion. I am only a very small snow ball; yet with your help, may be we can start an avalanche.

After seeming so pessimistic, let me end on the note that I sincerely believe alternatives can be worked out for strip mining of coal, leaving it in the ground for money in the bank. We already know that wind can generate energy. With Yankee ingenuity the use of solar energy can be worked out that will cost less than the exorbitant cost of reclaiming land that has been stripped mined.

Thanking you for the opportunity to talk to you, I am,

Yours very sincerely,

HARRIETTE E. CUSHMAN.

BOZEMAN, MONT.

AN AVALANCHE

How ineffective is one snow ball tossed
Against the side of a huge diesel,
Huffing with its cars of coal.
It's only a few drops of water vapor on the winter air.
And yet—
I've seen an avalanche, which is the aggregate of a million
Balls of snow,
Shake from the ridge
Above the mountain side where the G.N.R.R. snakes
Up-grade from Belton to the Summit.
Up-rooted trees and giant boulders pushed by the implacable foe
Crush snow sheds as you might snap match sticks
In your hand.
And the not-so-powerful engine now is tossed
As a toy with its string of freight
Down, down, down,
Until it's buried on the canyon floor.
Do we start an Avalanche?

HARRIETTE E. CUSHMAN.

BOZEMAN, MONT., *August, 1973.*

FINANCE HEALTH INSURANCE HEARINGS

Mr. HANSEN. Mr. President, on Friday, May 23, 1974, Russell B. Roth, M.D., president of the American Medical Association, testified before the Senate Finance Committee on national health insurance.

As the Senate had adjourned the day before, many of the Senators were unable to attend the hearings to listen to Dr. Roth's testimony. Having read the testimony myself, I find it to be the most concise, relevant, and helpful testimony yet given to the committee. I would like to share it with my colleagues.

It appears from some of the press reports that some of what Dr. Roth said has been misinterpreted. To clear up any misunderstanding, I ask unanimous consent that the text of Dr. Roth's comments be printed in the RECORD.

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

NATIONAL HEALTH INSURANCE

(By Russell B. Roth, M.D.)

Mr. Chairman and Members of the Committee: My name is Russell B. Roth. I am a practicing physician in Erie, Pennsylvania and I am President of the American Medical Association. With me are Malcolm C. Todd, M.D., of Long Beach, California, our President-Elect, Ernest T. Livingstone, M.D., of Portland, Oregon, Chairman of the AMA Council on Legislation, and Harry N. Peterson, Director of our Department of Legislation.

It is a privilege for us to come before this Committee, once again, to discuss the views of the American Medical Association on the subject of National Health Insurance. As the Nation's largest Association of actively practicing physicians, the ones who will be called upon to provide the professional services which are contemplated under any program which may be authorized by Congress, we feel that our viewpoints are extraordinarily important.

In addition, since the provision of the services in question is our daily work, we feel especially well qualified to separate the practical from the theoretical in the medical service field. Having carried on the practice of medicine in all of the many systems which have evolved in our society, we have familiarity and experience with each of the variations.

No one recognizes better than the physicians who work within them and choose between them that we have a full spectrum of operational systems, varied in organization, in financing and in administration. The Armed Forces has a federally financed and administered system which may be equated organizationally to some of the governmental systems of care abroad. The Veterans' Administration Department of Medicine and Surgery operates a network of hospitals and employs professional and allied medical personnel in a system which is larger than that of several European countries such as Sweden. We have prepaid capitation financed group practices of the Kaiser-Permanente type. We have emerging health maintenance organizations. We have fee-for-service group practices exemplified by some of the world's greatest medical centers. We have community health centers. We have corporate practices, partnerships and solo practice.

In each of these settings there is much excellent medical practice and some that is less than excellent. In any event, we have abundant evidence that it is not the system which controls the quality of care provided. That is a function of the training, the motivation and the integrity of the physicians within the system.

A wide variety of proposals generally lumped under the heading of National Health Insurance has been introduced for congressional consideration in the last five years. All deal with financing mechanisms. Some concern themselves extensively with proposed changes in medical service delivery and there are some variations among them in respect to administration.

At this point it seems most important to agree upon the fundamental principles that should undergird any program to be written into law. We would therefore deal with these principles.

Initial focus should be on the benefit structure of any program. It is obvious that the more benefits that are offered, the more expensive the program becomes. Equally clearly it is least expensive to cover the major expense end of serious illness, the so called "catastrophic expense" area, be-

cause relatively few episodes of illness are involved. It is most expensive to cover front end, minor expenses because they are so numerous. If we are to meet the principal needs not only of the aged and the poor but of the vast middle income group, it would seem we must endeavor to provide basic coverage for medical service and, if possible, add to this protection against ruinous catastrophic major medical expense.

We appreciate the economies of providing only catastrophic coverage but feel that it will meet too few of the needs and will prove very difficult to administer. We appreciate the appeal of first dollar coverage but recognize the inordinate expense involved. It has been our conclusion that if Congress is willing to appropriate the funds, benefits should include basic hospitalization, say for 60 days, and this should include psychiatric hospital care. They should include physician services wherever rendered, extended care services, outpatient hospital and home health care, dental services for children, and a well-adjusted catastrophic umbrella coverage. This essentially describes what has been built into our Medicredit bill, S. 444. The catastrophic coverage should be adjusted to ability to pay, since it is obvious that an amount which could be easy for the well-to-do family to pay could be disastrous for the much larger group of middle and low-income individuals. If the insurance is really to protect, it must be operative at the level of need.

The next important area is financing. Here the considerations are more complex. The coverage must be written within the financial reach of everyone. It must be clear that the financing arrangement should be simple and efficient. If I provide $10 worth of service for my patient and he pays me directly. I have earned $10 and he has spent $10. If, instead, money is to be collected from the patient as a tax to be transmitted to Washington, processed, transferred to another agency, processed, passed on to an intermediary, processed, and paid out as a benefit, and then reviewed for appropriateness, I will need to leave it to others to estimate how much more must be collected from the patient to yield the $10 necessary to cover the service rendered. Each complicating step in the process contributes to a shrinkage in service purchased by the medical dollar.

It should also be axiomatic that the more of the total bill for medical service that is paid by private funds, the smaller will be the demand on government, or alternatively, the more aid can be given to those who need it by the available governmental funds.

We believe that the public will look with dismay on a financing mechanism which increases the Social Security tax by 4%, as with the Kennedy-Mills proposal. As the wage earner would quickly discover, this would represent a substantial increase in actual Social Security tax—as much as 25%; the maximum Social Security tax on wages, now at $772, would be raised to $972, an increase of $200. An average wage earner (as defined by the Bureau of Labor Statistics) now earning $11,446, and paying $670 of Social Security tax, would pay $785, an increase of $115, or 17%. And the added amount of tax on the wage earner would be matched by three times that amount as the employer's share. Nor do we feel that anyone is any longer deluded by the assignment of 3% to the employer and 1% to the employee. All of this is in the category of employee compensation and nothing comes for free. It is also to be noted that when the regressive Social Security mechanism is used the family with $13,200 income pays just as much for coverage as does the family with $100,000.

We also believe that mandated insurance coverage to be provided by employers, with or without cost sharing by employees, while it reduces the tax impact, is not entirely desirable. It requires a different kind of financing for the unemployed. It is difficult to apply to persons who work for multiple employers, to migrant workers, to those who change employers, and to those who have retired from employment for any reason. We believe that the principle here should stress maximal financial participation from the private sector, and the use of general revenue financing in the governmental sector. In consequence we have enthusiasm for the financing mechanism in the Medicredit bill, S. 444, which uses tax credits to minimize the number of dollars making a round trip to Washington as tax to return as a shrunken benefit, and which places the obligation to contribute their share on those who have the ability to pay all or part of their premium cost. It uses an existing governmental collection agency, minimizes new demands for an increase in bureaucracy, and reduces administrative costs.

Finally, there is the matter of administering the program. There is precious little evidence that any particular economy or efficiency results from government health programs, but a growing body of evidence that the opposite may be true.

An example is a recent Community Health Service study. It found that the cost of a patient visit to a government-financed community health center is double the cost of a patient visit to a fee-for-service physician. The actual figures for 1969–1970, as reported by CHS, were: private physician office visit, $9.59; community health center, $21.16.

Another study involved prepaid health care for Medicaid patients in California. That study revealed, to quote HEW's own official statement, "abuses in the marketing of prepaid health care services, failures in the delivery of promised services, and deficiencies in State monitoring practices." California's State Auditor General also found that only 48% of the money for prepaid health care for these beneficiaries was actually spent for benefits. The remainder went for administration and profits.

In the case of national health insurance, we feel assured that if any part of the funding derives from Social Security taxes there would be a compulsion for Social Security control of the program. As demonstrated by the costs of the Medicare program—or the unanticipated delay in implementing the kidney dialysis and transplant program—this would be neither efficient nor economical.

We are confident that the administration of the program will best be accomplished by existing private entities in the field. Federal involvement, while inescapable when dealing with Federal tax dollars, should be kept minimal.

We again believe that our Medicredit program fulfills these objectives in respect to administration more aptly than does any other proposal to date. We believe the public, in opinion poll after poll, has reiterated its high degree of confidence in the medical profession and its low esteem for bureaucratic administration. We believe that there is validity in other current public opinion poll which indicate that the chief national concern is over inflation. In a recent Lou Harris poll, concern for medical care rated fifteenth on the priority list, while inflation ranked first. That raises a final question. Does the public really, genuinely, want Congress to aggravate its principal concern—inflation—in order to treat the fifteenth ranking problem—health? We are not sure the public does, but if it does, we strongly recommend adherence to the principles we have stated.

We recommend to your studious attention S. 444 as a well-tailored package of benefits, well-financed and well-administered. It does not make the serious mistake of trying to solve all of our problems in one piece of legislation.

Mr. Chairman, we will now be pleased to respond to questions which the Committee may have.

FINANCIAL STATEMENT/TAX RETURN SUMMARY FOR 1973 OF SENATOR AND MRS. DICK CLARK

Mr. CLARK. Mr. President, the need for openness in Government has never been more apparent. A democratic government should have nothing to hide, and neither should its public officials.

Last month, the Senate expressed its sentiment on the question of financial disclosure by Senators, Congressmen, and Federal officials. In passing the Federal Election Campaign Act Amendments of 1974 (S. 3044), the Senate decided that the Federal and State tax returns of all Federal employees making more than $20,000 a year should be open to the public. Even without the evidence of scandal and corruption that has come to light in the last few months, that provision of the bill makes commonsense. It would also make for better Government.

I ask unanimous consent that a summary of my 1973 Federal and Iowa income tax returns and a summary of my family's net worth as of January 1, 1974, be printed in the RECORD—along with a copy of a letter to the Secretary of the Senate asking that they be kept on file and available to the public.

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

U.S. SENATE,
Washington, D.C., May 30, 1974.

Hon. FRANCIS R. VALEO,
Secretary of the Senate,
Washington, D.C.

DEAR MR. SECRETARY: Enclosed is a complete financial statement for myself and my wife. It details our family's assets and liabilities as of January 1, 1974, and it includes a complete copy of our 1973 federal and Iowa tax returns.

I intend to submit a similar report to your office each year that I am a member of the U.S. Senate. Please make it available to the public on request.

Thank you.

Sincerely,

DICK CLARK.

Statement of Senator and Mrs. Dick Clark's estimated financial worth, January 1, 1974

Assets:	
Savings deposits and cash on hand	$600.00
Senate retirement fund	3,401.00
Stocks and mutual fund shares:	
Exxon (5 shares at 94⅛)	472.50
Champion Spark Plugs (14 shares at 16½)	231.00
Iowa Southern Utilities (12 shares at 21⅛)	254.40
National Investors Mutual Fund (1,302.988 shares at 7.70)	10,033.00
Personal belongings	12,330.00
Residence	92,430.00
Total	119,751.90
Liabilities:	
Mortgage on residence	71,900.00
Loan, 1st National Bank Marion, Iowa	4,000.00
Total	75,900.00
Net worth (Jan. 1, 1974)	43,851.90
Net worth (Jan. 3, 1973)	44,126.39

Summary of Senator and Mrs. Dick Clark 1973 Federal tax return—Joint return

Income:	
Senate salary	$42,263.89
Dividends	6.55
Interest	122.42
Speaking fees	3,400.00
Capital gains	1,527.37
Dick Clark Senate committee funds considered taxable income by IRS	870.69
Total	48,190.92
Less adjustments to income:	
Moving expenses	3,405.77
Congressional travel allowance	3,000.00
Total	6,405.77
Adjusted gross income	41,785.15
Less itemized deductions:	
Medical, dental expenses	150.00
Estimated State and local taxes	2,935.89
Mortgage interest	3,951.26
Congressional expenses	3,350.86
Total	10,388.01
Less personal exemptions	3,000.00
Net taxble income	28,397.14
Total tax	7,526.88

SUMMARY OF 1973 IOWA TAX RETURN (COMBINED RETURN

	Jean Clark	Dick Clark
Income:		
Salary		$42,263.89
Dividends	$3.27	3.28
Interest	61.21	61.21
Speaking fees		3,400.00
Capital gains	763.69	763.69
Dick Clark Senate Committee funds considered taxable income by IRS		870.69
Total	828.17	47,362.75
Less adjustments to income:		
Moving expenses		3,405.77
Congressional travel allowance		3,000.00
Total	0	6,405.77
Adjusted gross income	828.17	40,956.98
Federal income tax refunds received in 1973	90.48	403.52
Total	918.65	41,360.50
Less Federal income tax withheld in 1973	0	$10,729.26
Total	$918.65	30,631.50
Less itemized deductions:		
Medical, dental expenses		150.00
Local taxes	154.46	1,381.43
Mortgage interest		3,951.26
Congressional expenses		3,350.86
Total	154.46	8,833.56
Net taxable income	764.19	21,797.68
Tax	5.73	1,258.34
Less personal exemption credits	5.73	35.00
Total tax	0	1,223.34

FEDERAL ADVISORY COMMITTEES

Mr. METCALF. Mr. President, the May 26 issue of the Washington Star-News includes an informative article regarding Federal advisory committees. Written by Gerald D. Sturges, the article is headlined "Advising Government From the Closet."

He points out that a number of advisory committees still are not living up to the standards of the Federal Advisory Committee Act, especially its open meeting provision.

I ask unanimous consent to print Mr. Sturges' article in the RECORD.

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

[From the Washington Star-News, May 26, 1974]

ADVISING GOVERNMENT FROM THE CLOSET

(By Gerald D. Sturges)

The public continues to be wrongfully excluded from meetings of federal advisory committees, not only because meetings are closed when they ought to be open, but because ostensibly open meetings are announced on such short notice that they might as well be closed.

Agencies seem to favor the short-notice technique for energy, consumer and environmental advisory committees, and the Federal Energy Office is a prime offender.

In force now more than 16 months, the Federal Advisory Committee Act (FACA) has failed to realize its full potential as an open-meeting law for the more than 1,400 committees, commissions, councils, boards and other citizen panels that influence the executive branch in virtually every area of policy-making. The FACA declares that:

Standards and uniform procedures should govern the establishment, operation, administration and duration of advisory committees;

The Congress and the public should be kept informed with respect to the number, purpose, membership, activities and cost of these panels;

Each advisory committee meeting shall be open to the public, unless the President or head of the agency to which the committee reports determines in writing that the meeting will be "concerned with matters" listed in one of the nine categories of information which the Freedom of Information Act exempts from mandatory public disclosure.

Now consider this box score: From now through Saturday, advisory committee meetings will involve a total of 51 daily sessions. Of these, 18 are scheduled to be open to the public (35 percent), 11 will be closed (22 percent), and the remaining 22 will be "open with restrictions," meaning that a portion of the meeting will be closed or that seating will be limited or that some other limitation on attendance has been imposed.

In all, 65 percent of this week's sessions will be closed or subject to some sort of restriction. In another recent week, out of 67 sessions, 24 were slated to be closed (36 percent), 14 closed (21 percent), and 29 "open with . . ." (43 percent), for a total of 64 percent closed or open less than all the way. The week before that, with 73 sessions, it was 26 percent open, 30 percent closed, and 44 percent "open with . . .," for a consistent 74 percent.

To say that a meeting will be open may give the controlling agency better than it deserves, in view of the FACA requirement that "timely notice" of a meeting be published in the Federal Register. The Office of Management and Budget promptly interpreted that to mean seven days, with time off for emergency situations or when it just wasn't practicable to give a full week's notice.

Under pressure from the Senate Subommittee on Budgeting, Management and Expenditures, chaired by Sen. Lee Metcalf, D-Mont., OMB decided—effective May 1—that timely notice really means 15 days. Since then:

FEO gave one-day notice of the May 15 meeting of its Wholesale Petroleum Advisory Group, when the agenda included no-lead gasoline problems, two-tier pricing system and allocation problems, and published same-day notice of the May 6 meeting of its Retail Dealers Group. (In March, FEO gave 24-hour notice of a meeting of its Electric Utilities Committee and four-day notice for a San Francisco meeting of its Retail Dealers Group.)

Virginia Knauer published six-day notice of a May 13-14 meeting of her Consumer Advisory Council, when the agenda included disussions of consumer interest in agriculture programs, energy conservation, population issues, complaint handling mechanisms and the consumer's rights to privacy.

The Department of the Interior gave seven-day notice of the May 16-17 Rangely, Colo., meeting of its Oil Shale Environmental Advisory Panel. The program was to include a tour of two leased federal oil shale tracts and consideration of policy guidelines to be recommended to federal officials.

Each of these meetings was announced as open to the public, although FEO routinely includes a caution that "space and facilities are limited." And in each case, inadequate notice was given (under the prevailing OMB interpretation) and the FACA was broken.

In supposed "observance" of the new 15-day requirement, the National Science Foundation claimed May 8 it was giving only nine-day notice of the closed meeting of its Advisory Panel for History and Philosophy of Science because of an "emergency situation"; panel members couldn't agree on a meeting date.

Those who recall the dust-gathering reports of special presidential commissions on pornography, violence and population growth may wonder whether advisory committees in general wield enough influence to worry about. Indeed they do.

Prof. William H. Rodgers, Jr., of the Georgetown University Law Center, explained at Metcalf subcommittee oversight hearings on the FACA that he has written about advisory committees and explored their influence "beause I believe they're vastly underrated as policy-makers, mostly because those who do the rating (scholars, journalists and others) are only occasional observers of the advisory committee process."

One example could be the 1971 Advisory Council on Social Security, which recommended that beneficiaries receive automatic cost-of-living adjustments, and that the system switch from its conservative level-earnings level-benefits assumption to a dynamic actuarial methodology which assumes that both prices and wages will rise. The recommendations were handed in to the Secretary of Health, Education and Welfare and, as the law requires, transmitted to Congress, which adopted them.

(Ironically, a newly appointed U.S. Advisory Council on Social Security met for the first time May 3-4 of this year—in public session, because of FACA requirements—and was told by Social Security actuaries that newly revised estimates, adjusted for changing demographic and economic factors, indicate the cash benefits programs will run a long-term deficit of about $20 billion a year. Yet no reporters were present at the public meeting to hear what automatic adjustments and dynamic methodology have wrought on the Social Security system.)

Another, prospective example can be found in a recent article in the New York Times headlined. "Business Input On Trade Sought," which reported that almost 600 businessmen were about to be invited to serve on 26 industry committees, in what was termed "the most organized system of contact with industry since trade negotiations with other nations began in a big way a quarter-century ago." The article quoted an anonymous official as saying:

"American businessmen have sometimes been present during the important stages of these negotiations in the past, but always on a haphazard basis. This time we'll have

as much input from our industries as the other countries have." These sector-by-sector industry advisory committees for multilateral trade negotiating would be in a key position if Congress passes a trade bill.

In the full range of federal advisory panels on whatever subject, there is a network of 1,439 committees serving more than 50 agencies, having more than 24,500 memberships, operating at a cost of more than $25 million a year. It seems little enough to insist that they live up to the open-meeting and other requirements of the Federal Advisory Committee Act.

CRISIS OF LEADERSHIP

Mr. DOMENICI. Mr. President, it has become a common tenet that the Nation suffers from a vaguely defined "crisis of leadership" and that the ship of state flounders now aimlessly. As one who disagrees with this chic opinion, I feel it is appropriate to put the entire idea of leadership into perspective. I have seldom seen a better job of this than a recent editorial by the Christian Science Monitor entitled "Crisis of Leadership."

This editorial is not only well conceived and well executed, it is well written. I especially commend to my colleagues' attention the following paragraph:

In general, we get the government we earn. There is an interplay between the living ideals of a people and the leaders they choose—or reject. It is naive to suppose that there is not an influential relationship between the private citizen's sense of moral responsibility and the public servant's. Character in government is not something different from character in the office, the factory, the school, the theater, the law court, the kitchen, the ball park.

I ask unanimous consent that this entire editorial be printed in the RECORD.

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

CRISIS OF LEADERSHIP

It is commonly held today that this is an age of large crises and small men.

"Where are the giants of yesteryear?" is the melancholy cry from those who often forget that some of the giants were ogres. Somehow, somewhere—the feeling runs—there must be men who can give us the quick, sure answers to our multiplying problems.

And so governments tumble, each with its particular set of political and socio-economic causes, its distinctive crisis of confidence, as an article in this paper spells out today. But what is the common denominator between these apparently unrelated overturnings?

The contemporary mind, which sees even the random collisions of atoms as events within a universal framework of law, is not likely to write off such a rapid series of governmental collapses as wholly meaningless coincidence. At the very least it recognizes as background to all of them a common feeling of frustration, a deepening sense of the gulf between promise and fulfillment.

Yet within this disillusionment is a kernel of hope. As Emerson wrote, "When halfgods go, the gods arrive." This is something different from the revolutionary philosophy that preaches ruthless demolition as the necessary prelude to utopian order. It allows, in fact, for the possible arrival of a higher form of wisdom than mere expertise can furnish.

What is stirring in the present flurry of government defeats is a still inchoate desire that political leadership be more than an expedient manipulation of overlapping crises. There is a groping for principle, in however crude a form.

To look solely within material circumstances for either the diagnosis or the cure of the current spate of upheavals is worse than useless. The average citizen, no less than the beleaguered expert, increasingly perceives that to take steps to alleviate one social ill is often to intensify another—as the conflicting urgencies of the world's energy and environmental needs illustrate all too well.

There have been those who looked to the marriage of government and technology for the sorting out and solving of such interlocking dilemmas, but the computer as statesman is less credible in fact than in fiction. At the same time a wistful longing for moral character as distinct from mere political shrewdness has come increasingly into evidence. This is a helpful sign, if character is understood to include objective intelligence.

People long to have trust in their leaders, and to feel in them humane concern. There is nothing wrong with this desire, if it operates as a demand within the framework of democratic law and citizen responsibility. The danger comes when it opens the way for the demagogue and the dictator, citizen's own moral and intellectual effort to understand what is going on, to make responsible choices, to uphold the reign of law.

In general, we get the governments we earn. There is an interplay between the living ideals of a people and the leaders they choose—or reject. It is naive to suppose that there is not an influential relationship between the private citizen's sense of moral responsibility and the public servant's. Character in government is not something different from character in the office, the factory, the school, the theater, the law court, the kitchen, the ball park.

These are platitudes that leap to renewed life in the baleful glare of today's crises. Oddly enough, they are also promises that the individual citizen is not helpless before the unrushing tide of complexity and change. What he does and thinks counts in helping to determine the kind of men and women who will fill the posts of authority in government and national life.

If people mourn that the "great" leaders have passed away, it may be that the necessity of our time is to rediscover greatness in new ways of looking at experience. Charisma is not necessarily character, and charismatic leadership may be less important than the tone of a nation's living as reflected in its government.

This newspaper finds an illuminating hint in a modest statement from an earlier, less explosive age. When discussing the discriminatory laws against women in her own day, the founder of this paper, Mary Baker Eddy, pointed out that women were not helpless even then to effect the desired legal and moral changes. "A feasible as well as rational means of improvement at present," she concluded, "is the elevation of society in general and the achievement of a nobler race for legislation,—a race having higher aims and motives."

The statement is deceptively simple on the surface. But without fanfare it puts the responsibility where it always belongs—in the people from whom legitimate government draws its ultimate authority.

Nothing is gained by merely wishing for gifted leaders to do the job, but the achievement of "a nobler race for legislation"—and for the administration of government—is a responsbility which every citizen shares to the extent of his present capacity to participate in the democratic process.

This is not a moment in history when it is easy to speak of nobility. Yet beyond all the clutter of a distintegrating past stands the superb Genesis vision of man and woman created in the image and likeness of God. Either we rise to see the infinite possibilities of that divine creation or we fall among the ruins of the only destiny we deserve.

RADIO LIBERTY ASSESSES SOVIET CROP SITUATION

Mr. HUMPHREY. Mr. President, increasingly we are seeing food policy becoming one of the most important public policy issues throughout the world. With grain stocks at their lowest point in almost 30 years, consumers have become dependent on year-to-year production to fulfill current needs. The lack of a buffer of stocks to protect consumers against production shortfalls places the world in one of the most precarious food supply situations we have faced in recent history. And expectations are that production for the coming year will not be adequate to begin rebuilding food stockpiles. Therefore, the food security of consumers everywhere will be subject for another year to the vagaries of weather and the uncertainty over the availability of critical farm inputs such as fuel and fertilizer.

This situation means that all nations will be closely watching the outcome of the crops in the key producing areas of the world. And the largest and most uncertain variable in the world food supply situation is the outlook for grain production in the Soviet Union.

Information on the internal political and economic affairs of the Soviet Union and other Communist countries is sparse and most difficult to come by. Therefore, it is most fortunate that the Western World has the resources of Radio Free Europe and Radio Liberty to call upon when up-to-date assessments on the affairs of these countries are needed. The research arms of these radios have earned a place in academic and government circles around the world for complete and competent analyses of current Soviet and East European economic and political issues. As a result, Radio Liberty and Radio Free Europe have become the "first line" source of information to everyone depending on the most current data on the internal affairs of the Communist world.

A case in point is the thoughtful appraisal of the present Soviet grain situation prepared by Ms. Paige Bryan of the staff of Radio Liberty. This article, entitled "The Early 1974 Grain Outlook for the Soviet Union," represents the most up-to-date review of Soviet crop prospects I have been able to get anywhere. And because of the importance of this issue to world food security, I would like to share this paper with my colleagues. Mr. President, I ask unanimous consent that the full text of this paper be printed in the RECORD.

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

THE EARLY 1974 GRAIN OUTLOOK FOR THE SOVIET UNION, APRIL 29, 1974

(By Paige Bryan)

Summary: The following report summarizes the evidence and statistics promulgated to date which relate to this year's grain harvest.

Prospects for the world food harvest are naturally claiming much political attention this year. Along with the question of how to stretch world grain stocks to meet population growth in 1974 is the perturbing question of rising prices for raw materials of all kinds. The index of world commodity prices, for instance, compiled by the Economist, was

up 83 percent in July 1973 over July 1972.[1] The price for wheat has tripled since 1972 and the price for soybeans has doubled. Meanwhile, the pace of inflation continues to mount in Western Europe, the US, Japan and many of the developing countries.

World food stocks appear to be dangerously low. Reserve stocks of wheat are approaching the vanishing point, partly owing to the soaring demand for meat and high-quality products in countries such as the Soviet Union, where people are becoming more affluent and can spend more of their discretionary income on high-quality foodstuffs. The disproportion between supply and demand became apparent with widespread crop shortfalls during 1971–72 in grains and other staples. The 1972 grain failure in the Soviet Union caused repercussions which pointed out the political sensitivity of a scarcity of grain. Now, despite a record world harvest in 1973, twice the increase achieved in that year must be obtained just to meet world population growth in 1974, according to the Director-General of the UN Food and Agricultural Organization.

Where does the Soviet Union fit in? The country is the largest grain producer in the world, but uses most of its grain domestically and for exporting small amounts to Eastern Europe. But the harvests there are unstable and unpredictable. For this reason, Soviet leaders were forced to order about 43 million tons of Western grain for delivery during the calendar years 1972–74, contrary to all previous trade patterns. They acquired most of the grain very cheaply, but prices began to rise immediately and US and European consumers have been paying substantially higher prices for food ever since. The Soviet purchases coincided with soaring inflation in world demand for high-quality food products and drought in the developing countries—notably India.

The big question is whether the Soviet Union will have to import grain again in the future, putting pressure on already burgeoning demands, and whether or not it may ever produce surpluses if it suddenly starts achieving stable yields, as Soviet officials hopefully predict at every five-year interval. The surpluses are not likely to appear for some time, but the potential might be there in the long run. It will be several years, however, before the Soviet Union could ever store large surpluses, because it is unable to store the entirety of even average harvests. There is a good chance that the Soviet Union will keep importing feed grains and other high-protein feed crops, however, in order to fulfill its aim to produce more livestock products for Soviet citizens.

The outcome of the Soviet grain harvest this year is, therefore, a matter of vital economic and political concern. It cold play a significant role in determining the course of world trade in grain and will have a psychological, if not a direct, effect upon the trends in world grain prices. It is not likely that the Soviet Union will order further appreciable quantities of cereal grains in 1974. Early prospects are for a good harvest of between 200 and 205 million tons in terms of bunkerweight. (The sowing progress through May and June, however, will have a decisive effect on the end result.)

Information about the harvest still must be derived from sketchy meteorological reports in the press and the odd figure which pops up in the economic journals. This situation hasn't changed, according to U.S. Department of Agriculture economist Roger S. Euler,[2] since Secretary-General Brezhnev agreed with President Nixon in June 1972 to provide more detailed agricultural statistics on farm production, consumption, demand and trade as part of the joint Soviet-American Agricultural Agreement. The exact figures for the area and outputs of specific grains in 1973 are even now unavailable, which makes estimates for 1974 that much more difficult to guess. Camouflaged statistics may have helped the Soviet Union to procure cheap grain in 1972 (which shows that this is not an entirely unpolitical area), but it is unlikely that they could serve the same purpose again. It is difficult to think of any other reasons for the secrecy.

Footnotes at end of article.

EARLY HARVEST OUTLOOK

The statistics and estimates below are based upon area figures for 1971 to 1974 and statistics from *Narkhoz 72*. They represent an attempt to derive an early idea of the gross output of winter and spring grains in the Soviet Union for 1974, compared with the results achieved since 1971.

SPRING AND WINTER GRAINS IN THE SOVIET UNION, 1971–74

Crop	1971	1972	1973	1974
Winter grains:				
Area, million hectares	30.0	24.4	27.0	35.0
Output, million tons	60.5	39.1	59.5	[1] 65–67.0
Spring grains: Output, million tons	120.7	129.1	163.0	[1] 135–140.0

[1] Estimated from comparative yields and areas for this and preceding years.

Sources: "Izvestia," Mar. 14, 1974 (1973, 1974 area sown to grains). "Narkhoz 72," pp. 325–27.

The plan for total grain production in 1974 is 205 million tons.[3] State purchases of grain are planned to reach 84.8 million tons, compared with 90 million tons in 1973.[4] The total area to be sown to grains this year is to be 3.5 million hectares larger than in 1973, which means that the total area sown to grain will reach for the first time approximately 130 million hectares.[5] The area sown to winter crops did not reach the planned 40 million hectares, which occasioned a comment by the Collegium of USSR Ministry of Agriculture, saying that the volume of spring work will, for this reason, be increased.[6] Nonetheless, as may be seen from the table above, the area sown to winter crops this year significantly surpasses that of past years.

The overall grain yield has also been "planned" for this year. It is supposed to show an increase of 7.6 percent,[7] although such a large increase over the record average yield of 17.4 centners per hectare in 1973 now appears to be out of reach.

SPRING AND WINTER GRAINS IN THE SOVIET UNION, 1971–74

Crop	1971	1972	1973	1974
Winter grains:				
Area, million hectares	30.0	24.4	27.0	35.0
Output, million tons	60.5	39.1	59.5	[1] 65–67.0
Spring grains: Output, million tons	120.7	129.1	163.0	[1] 135–140.0

[1] Estimated from comparative yields and areas for this and preceding years.

Sources: "Izvestia," Mar. 14, 1974 (1973, 1974 area sown to grains). "Narkhoz 72," pp. 325–27.

Gross capital investments in agriculture will be considerably increased. Fertilizer deliveries are planned to reach over 72 million tons, according to a report in March 1974.[8] The plan was revised this spring over the 64.6 million tons stated as the 1974 plan in December 1973.[9] The March figure represents a 14 million ton increase over 1973 deliveries to the agricultural sector.[10] Total state investments in agriculture are planned to rise by 11.6 percent over the previous year. Total agricultural investments by the state and kolkhozes is planned to reach 26 billion rubles, which will constitute 27 percent of total investments in the economy.[11] Agricultural investment is obviously not showing any slack in its proportion of the total, and—although this does not assure efficiency—the acceleration of inputs is bound to have some favorable effects in raising crop yields. It is believed, therefore, that barring catastrophic developments in weather conditions, a harvest of from 200 to 205 million tons (in TsSU terms) can be reached.

WINTER GRAIN CONDITIONS

In the RSFSR, which contains the important nonchernozem, Ural and Volga grain regions, the winter grain area was expanded significantly. Overall fall and winter temperatures were rather low, reducing the level of soil nutrification. It was reported, however, that 20–30 kilograms of nitrogenous fertilizers per hectare will be applied to the winter grain to counteract this condition.[12] The entire area sown to grain in the RSFSR will be expanded by 1.6 million hectares.[13]

Winter grains in the central Volga and the central nonchernozem zones should be in fairly good shape, requiring no more than the normal resowing to spring crops, which is about 15 percent of the total winter area. There was a good snow cover in January in the northern chernozem region, although in the southern oblast of Volgograd and in the Eastern Ukraine the snow cover was thin or nonexistent, which meant that the soil froze to great depths and damaged winter grains.[14] There were no severe frosts observed in Bellorussia or the Baltic area. The worst winter and early spring conditions occurred in the Ukraine and the North Caucasus. There was little precipitation throughout the fall, a cold, icy winter with no snow and little rain throughout March. A higher percentage than usual of resowing winter crops will be required, according to *Pravada Ukrainy*.[15] It must be remembered, however, that the ratio of the corn area has been increased in the Ukraine this year, which will contribute to higher grain yields.

Kazakhstan also suffered, with about one-third of the winter area requiring resowing in the southern oblasts of Chimkent, Alma-Atinsk and Dzhambul. This was due to cold temperatures and hurricane winds in February.

Part of the reason that grain production will probably not reach last year's levels is because Kazakhstan's vulnerability to cyclically poor weather for crops has not been altered. The fluctuations in the original "new lands" areas of Kazakhstan, West Siberia and the Volga region can still lead to large losses in agricultural output. Weather conditions from January to April contain forebodings of a drought-ridden spring, which has been warmer than usual. About 70 percent of the 3.5 million hectares of grain in southern Kazakhstan have no water supplies of their own.[16] Although Kazakhstan plans to produce 26 million tons of grain in 1974, this goal may not be reached. Good harvests since 1969 have been obtained under excellent weather conditions, with the largest single discomfort of great quantities of rain. For this reason, the grain produced in 1972 and 1973 is believed to have been of very high moisture content, which means that in usable terms the harvest may have been 20–25 percent lower than reported.

SPRING SOWING CONDITIONS

Spring sowing is lagging seriously in the RSFSR. As of April 15, 8.8 million hectares had been sown to spring crops in the republic, taking into account the resowing of part of the area sown to winter grain.[17] This may be compared to 22 million hectares by this time last year (under excellent weather conditions).[18] The European part of the country is experiencing an unusually cold April—3 to 6 degrees below normal, according to meteorological reports.[19] This could reduce the yields from the spring grain area, but it is too early as yet to tell by how much. Warmer weather in early May could still allow for a generous output of grain in the republic, which has averaged about 100 m[illegible]

lion tons since 1966.[20] (The plan for 1974 is 130 million tons after last year's record of 129 million tons.) [21] The sowing of spring crops in the country lagged behind last year's tempo by 2.5 million hectares as of April 17.[22] By April 24, 30 million hectares of summer crops had been sown, which is 13 million hectares less than at the same time last year.[23] The sowing in the Ukraine, however, has been almost completed.

While weather has been cold in the European part of the Soviet Union, it has been warm in the Urals as far as the Enisei and in Kazakhstan.[24] Spring sowing in these regions, in Belorussia and in Moldavia is proceeding significantly faster than last year.[25]

About 87 million hectares will be sown to spring grains and pulses, excluding corn (which could occupy about 4.5 million hectares this year). This is about equivalent to the 1971 area. Part of the delay this spring has arisen from a lag in completing equipment repairs owing to cold weather.

Sugarbeets had been sown on over half the planned area of about 3.7 million hectares by April 15. No reports had been received to that date on sunflower or soybean sowing. The production of sunflowers recovered to reach 7.7 million tons for the first time in 1973, against a 1966–70 average output of 6.4 million tons.[26] Inclement weather in the Ukraine could prevent their reaching such a level this year, however. The sunflower harvest is important to the Soviet Union as a source not only of vegetable oil but of oilseeds which are important components of mixed feed (kombikorm). This component, as well as certain meals and other additives, is not being delivered to state processing factories from farms in adequate amounts, which retards the program to improve livestock productivity. A brief account of a new incentive measure regarding the delivery of these additives in 1974 follows.

MIXED FEED INCENTIVE

An urgent mixed feed program has been initiated in the Soviet Union as part of the effort greatly to expand the production and consumption of animal protein in the country. Mixed feed consists of a balanced mixture of concentrates such as oats, barley and corn and protein additives such as oilseed meals, vitamin grass meal and others. The balanced feeding of kombikorm is much more effective in raising average liveweights than feeding larger amounts by volume of grain, hay and forage crops in unbalanced amounts. The production of this commodity will affect future imports of high-protein crops such as soybeans, sorghum, etc., from the United States and other Western suppliers.

By 1975 the plan calls for the production of 40.8 million tons of kombikorm and 1.2 million tons of important vitamin additives by government enterprises. On the kolkhozes and sovkhozes, with their own grain and additives, 7 million tons of mixed feed production is planned by 1975. This will still not meet feed requirements even if the targets are met. Nevertheless, state enterprises are encountering a lot of problems in obtaining the components to produce mixed feed, even though large enough amounts to meet planned deliveries are being produced on farms. Only about 15 percent of production is being sold to the state enterprises.[27] Part of the reason is that kolkhozes prefer to keep the additives themselves because they often cannot buy enough from the government, which sells scarce kombikorm to specialized livestock farms and sovkhozes first.

Beginning with the 1974 harvest, for every centner of grass meal delivered to the state mixed feed enterprises according to plan, one centner of mixed feed will be sold to the farms.[28] Each republican procurement ministry will have a supply of mixed feed to distribute in this way. In 1972, the same plan was announced for the sale of oilseeds to state kombikorm enterprises, to begin with the 1973 harvest.[29]

The plan seems to have helped in spurring the production of sunflower seeds in 1973, as mentioned above, and will probably be effective in obtaining greater deliveries of vitamin meals. Nevertheless, the problem is far from being solved and allusions to the real causes are scarce. It is possible that the price structure has been disproportionate for kolkhozes producing livestock and that some resistance has been purposely shown to protest the situation.

GRAIN STORAGE PROBLEMS

Finally, the problem of grain storage has a tremendous bearing upon the entire grain problem in the Soviet Union. Information on grain stocks is closely guarded, but storage capacity must limit the level of state reserves and farm stocks. The exact volume of storage space available in the country is unknown. It has been stated, however, that only about 23 percent of the country's feed grain and silage crop output was stored efficiently in 1971.[30] From 1971 to 73 grain elevator space was increased by only 9 million tons,[31] but the production of grain in 1973 topped 1971 by 36 million tons.

The present rate of construction is about 145 elevators per year, with 45,000 tons of storage capacity per elevator. Construction is extremely slow and inefficient, according to reports in the Soviet journals.[32] Goals for elevator construction in 1974 are only for 120 elevators, 6 new grain mills (capacity—2,100 tons per day) and 33 new mixed feed factories. A total of 610 million rubles is to be invested in grain storage, drying and processing facilities during 1974.[33] At this rate and cost, it is hard to see how the proposed intention to raise the construction of grain storage space to a rate of 10 million tons per year will be accomplished. According to K. Kuznetsov, representative of the USSR Ministry of Procurements, planners intend to be able to store all the country's grain efficiently within four to five years.[34]

CONCLUSION

The Soviet grain harvest is projected to show about a 17–22 ton reduction in comparison with the 1973 harvest. Winter crops must be resown on about 15 percent of the area in the European part of the Soviet Union, but possibly on more in oblasts of the Ukraine and the North Caucasus. Kazakhstan and West Siberia are not likely to produce as much grain as during the previous four years if the signs of drought this summer are confirmed.

The impact of the harvest for the world will be that the USSR will probably accept deliveries of grain ordered from Western countries in fiscal year 1973–74, but will place no substantial new orders for grain. It may import feed grains and additives, however. Grain storage problems are still severe and reflect how hard it will be for the country to attain efficiency in grain feeding and processing, even if production increases.

ADDENDUM

More recent reports confirm that up to 10 million hectares of the winter grain area required resowing because of winterkill, i.e., approximately on the same scale as in 1972. In this case, feed grains would probably be substituted for food grains. The widespread lack of moisture remains a prime source of concern, but we feel that the 200 million ton level (in TsSU terms) will still be reached.

FOOTNOTES

[1] *International Herald Tribune*, July 30, 1973.
[2] See: *Washington Post*, March 22, 1974.
[3] *Ekonomika sel'skogo khoziaistva*, No. 3, 1974, p. 4.
[4] *Izvestia*, December 13, 1973.
[5] Radio Moscow-I, 1900 GMT, April 10, 1974.
[6] *Ibid.*
[7] *Ibid.*
[8] *Ibid.*, 1900 GMT, March 7, 1974.
[9] *Izvestia*, December 13, 1973.
[10] *Ibid.*
[11] *Ekonomika sel'skogo khoziaistva*, No. 3, 1974, p. 4.
[12] *Sovetskaia Rossiia*, March 19, 1974.
[13] Radio Moscow–I, 1600 GMT, April 9, 1974.
[14] *Sel'skaia zhizn'*, January 13, 1974.
[15] *Pravda Ukrainy*, March 13, 1974.
[16] *Kazakhstanskaia pravda*, April 3, 1974.
[17] *Izvestia*, April 24, 1974.
[18] *Ibid.*
[19] Radio Moscow–I, 0230 GMT, April 24, 1974.
[20] *Narkhoz* 72, p. 324.
[21] *Izvestia*, March 10, 1974.
[22] Radio Moscow–I, 1600 GMT, April 17, 1974.
[23] *Ibid.*
[24] *Pravda*, April 18, 1974.
[25] *Ibid.*
[26] *Ibid.*, January 26, 1974.
[27] *Zakupki sel'skokhoziaistvennikh produktov*, No. 3, 1974, pp. 14–16.
[28] *Ibid.*, p. 14.
[29] *Pravda*, November 22, 1972.
[30] *Ekonomika sel'skogo khoziaistva*, No. 10, 1973, p. 13.
[31] *Zakupki sel'skokhoziaistvennikh produktov*, No. 3, 1974, p. 6.
[32] *Ibid.*, p. 7.
[33] *Ibid.*
[34] *Ibid.*

SCIENTISTS GANGING UP ON ANACONDA, LAWYER CHARGES

Mr. METCALF. Mr. President, I have long advocated the establishment of the Office of Consumer Counsel to represent the interests of the rank and file in utility rate cases, in abatement cases before State and regulatory agencies, and in environmental cases before State agencies. Skilled representation includes the ability to obtain and utilize speedy testimony and the experience necessary to cross-examine opposing witnesses.

Recently, in Montana, the Anaconda Co. asked for permission to have a variance on the air pollution standards at its smelter in Anaconda, Mont., when the board of health insisted that the Anaconda Co. adhere to the air quality standards established. Within its rights under the law, the Anaconda Co. requested a hearing. Time was set and the usual retinue of attorneys, experts, engineers, accountants, and briefcase carriers showed up to represent the Anaconda Co. and to overwhelm the board of health with testimony, legalisms, and expertise.

Lo and behold, the public witnesses were also prepared. The attorneys were experienced, the witnesses were knowledgeable and the usual bulldozer—no pun intended—did not overrun the board of health. For the first time the Anaconda Co. was faced with opposition, determined, skilled, and informed. The Anaconda Co. hollered foul. The opponents were prepared. The following story from the Great Falls Tribune is self-explanatory. I ask unanimous consent that the above story be printed in the RECORD.

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

SCIENTISTS GANGING UP ON ANACONDA CO., LAWYER CHARGES

HELENA.—The first phase of a state hearing on pollution control at the southwest Montana copper smelter of the Anaconda Co.

came to an end Friday and charges that a band of scientists had ganged up on the giant mining firm.

The hearing on a petition by Anaconda for permission to violate Montana air-quality standards on sulfur-oxide emissions is scheduled to resume July 15 at the Smelter City that bears the company name.

"It becomes increasingly clear that there has been a concerted, well directed and well-timed attack," said Urban L. Roth, a Butte lawyer for the Anaconda Co., as the fifth day of the Board of Health hearing began Friday.

Roth objected to the remarks of many of the 16 persons who have appeared since Wednesday during the public-testimony phase of the hearing.

Earlier in the hearing, three Anaconda witnesses appeared. The mining firm had requested a recess in the hearing to gain more time to prepare arguments. More Anaconda testimony and witnesses for the state health agency will be heard in mid-July.

Roth said Anaconda was surprised to find "an army of well-prepared experts" ready to testify against the petition. He specifically objected to the testimony of four officials from the U.S. Environmental Protection Agency and the remarks of five members of the Western Montana Scientific Committee for Public Information, an organization based at the University of Montana.

Those two organizations appeared in opposition to Anaconda's petition. Roth alleged both organizations had prepared their testimony on the matter far enough in advance of the hearing to intervene through administrative channels.

He said the organizations instead chose to hide behind the guise of "public testimony" to make "self-serving statements, gratuitous remarks and editorial comments."

Roth said the organized opponents to Anaconda should have notified the firm in advance to allow lawyers for the company to prepare for cross examination and to take depositions from witnesses prior to the hearing.

Regulations set by the Board of Health require control of 90 per cent of sulfur-oxides, a byproduct of the production of 35 million pounds of copper monthly at the smelter. Anaconda officials have said the best they can do is 59 per cent control.

The health agency disagrees.

Arden Shenker, a Portland, Ore., lawyer who heads the state's legal team, defended the right of the Environmental Protection Agency to appear as part of the general public.

Shenker said the federal agency has a public responsibility to speak out and should not be criticized for performing that duty.

Mr. METCALF. Mr. President, this incident points up the need for Federal assistance and experienced and knowledgeable counsel to represent the public interest in all such cases.

SENIOR ETHNIC FIND—A PROGRAM OF VISTA

Mr. TAFT. Mr. President, it seems appropriate to me at this time to emphasize "good in Government" by recognizing a fine Federal program that is excelling in its purpose. The program, Senior Ethnic Find, was conceived by a bright, young Government worker, Myron B. Kuropas, Chicago regional director of ACTION, and is administered by VISTA—Volunteers in Service to America.

As a special tribute to the program's innovator, Myron B. Kuropas, and the volunteers, who have served so diligently to make this program a success, I ask unanimous consent to print in the RECORD a complimentary article which appeared in the Philadelphia Sunday Bulletin on April 14, 1974.

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

ELDERLY ETHNICS, POOR BUT PROUD, GET FEDERAL AID

DETROIT.—Tucked away in ethnic pockets in large American cities are thousands of poor and disadvantaged senior citizens, many of them immigrants who do not speak English and are unaware of aid available to them.

A federally funded effort to reach and assist them is now making inroads in four midwestern cities including Detroit. The success rate is so high that the project will probably expand to other regions of the country.

The program, called "Senior Ethnic Find," was initiated in Chicago in 1972 by VISTA (Volunteers in Service to America) under Illinois sponsorship.

Since then, the program has expanded under local sponsorship to Gary, Ind., Cleveland and Detroit, and new programs are being planned in Milwaukee and Minneapolis.

MANY LEFT OUT

The program is the brainchild of Moyron Kuropas, Chicago regional director of Action, the federal agency which administers VISTA, the Peace Corps and other volunteer agencies. Kuropas had been looking for a program that could address itself to a group he felt was being ignored—white ethnic Americans.

"Being white ethnic myself," the son of Ukrainian immigrants explained, "I had the general feeling that when it came to social action programs, these people felt they had been left out, and all the programs were for so-called minorities and not for them."

The pilot program in Chicago uncovered widespread poverty among the aged. Most of the neglected elderly, it was found, were immigrants to their present environment, either from foreign nations or an entirely different rural environment. Many knew little English and many others knew none at all.

The language difficulty sparked the program's basic premises: To assist the ethnic elderly you have to speak their language.

DON'T WANT WELFARE

Each of the 58 VISTA volunteers working in the four Midwestern programs is bilingual. Most are ethnic elderly themselves.

"They are displaced people, they still feel strange in this country," said Mrs. Claire Kowalski, 56, a Polish-speaking volunteer who works in the Detroit enclave of Hamtramck, a colorful area of old world Poles, Russians, Yugoslavs and Ukrainians.

"They don't want welfare—they're above that—and they don't think other benefits like state property tax rebates on rental rebates affect them."

She recalled a case in which she helped an English-speaking woman with eye trouble find a Polish-speaking ophthalmologist.

"Sometimes they understand English but only want to verify it in their own language," she said.

CHURCHES ASSIST

The volunteers contact the elderly through a variety of church, civic and community groups, and through advertisements. Once they have been completely accepted by the community, many of their new contacts are through word of mouth.

One of the toughest chores is trying to convince the aged that the Government is not the ogre it may have been in their native land, and that they have a right to apply for food stamps or rent rebates.

"They feel like beggars taking handouts," explained Alex Rackauskas, 63, a VISTA worker in Chicago's Lithuanian community. "It's pride from the old country. Many are so grateful for just being in the United States that they would never complain."

NEEDS FACING SENIOR CITIZENS

Mr. MONDALE. Mr. President, Senator GAYLORD NELSON recently discussed the needs facing senior citizens in a speech before the Wisconsin Allied Council of Senior Citizens. He emphasized that current Federal programs and budgetary priorities do not adequately meet these needs.

The problems of Wisconsin senior citizens are the same for the elderly nationwide: Low income, loneliness, lack of adequate housing and transportation, and the high cost of health care. Senator NELSON supports expanded programs for mass transit, home health care, health insurance coverage, tax reform, pension reform, liberalized retirement income credit, upgraded retirement earnings test, housing for the low-income and elderly, public service jobs, and reduced prescription drug costs.

Senator NELSON has been responsible for many changes in Federal laws that benefit the elderly. He led the legislative battle to extend public service job programs such as Green Thumb and Green Light, which give elderly citizens part-time employment. He has sponsored far-reaching proposals to reform the Federal drug law, which grew out of more than 6 years of hearings that the Monopoly Subcommittee, which he chairs, has conducted. He has led the fight for pension and tax reform. And his efforts to make the world a healthier place to live—through environmental clean-up—have been persistent and unmatched over many years.

I commend his recent speech to our colleagues, and Mr. President, I ask unanimous consent to have it printed in the RECORD.

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

SENATOR GAYLORD NELSON'S REMARKS AT THE ANNUAL CONVENTION OF ALLIED COUNCIL OF SENIOR CITIZENS OF WISCONSIN, INC.

It is indeed a pleasure to be here again, and to bring you up to date on what has been happening in Congress and the Federal Government since I appeared here 2 years ago.

Certainly, your voice has been heard consistently in Congress, and this kind of effective voice on behalf of senior citizens brings about change.

To mention a few (and I see a number of old friends here today): Dave Sigman, your program committee chairman and Chairman of the State Legislative Council, an old friend . . . Herman Luedke, your executive secretary . . . August (Augie) Gamalski, a member of the executive board . . . Floyd Lucia, who has long been active on behalf of senior citizens as a member of the State Board on Aging. I would like to pay particular tribute to the president of the Allied Council, Edward (Ed) Schroedter, who I understand is doing well, recuperating from a recent heart attack. We wish him a very speedy recovery and return to his active role as a long-time leader of Wisconsin's senior citizens. Some of your goals have been realized, some not, but the able leadership and dedication of this very group of people has had an impact.

Benjamin Franklin wrote in June 1740 in Poor Richard's Almanac:

"At 20 years of age, the will reigns; at 30, the wit; and at 40, the judgment."

Franklin, ironically, wrote that when he was only 34 years old.

We know that age places no limits on man's abilities, and, in fact, adds to his wisdom and resources. Being "over 30" is an attribute, not a liability.

Franklin, for example, who lived to age 84, became Ambassador to France when he was 70.

Interestingly enough, though, with all the great medical technology which has led to a longer life, the tendency in the western world, at least, is to "retire" earlier. I say "retire," because often this means simply a change in what we were doing, a new beginning.

In the United States, age 65 is "official" retirement age. In Norway and Ireland, it is 70; in Sweden and Iceland, 67; in Israel, it is 63 for women, 65 for men; and in Russia, Japan, Italy, Hungary, and Yugoslavia, retirement age is 55 for women and 60 for men.

While we are "retiring" people from the so-called work force earlier, we are finding that people are living longer than ever before. This means that many vigorous and productive years must be filled in a meaningful way.

Wisconsin's senior citizens are a unique lot, in that there are more of them than in most States of the union. Wisconsin citizens live to an average age of 71.22 years, according to the National Center for Health Statistics. Close to 38,000 persons are over 85. Wisconsin ranks 8th highest in the Nation in life expectancy. That says something is right about Wisconsin . . . and about growing old in Wisconsin.

About 14% of the State's total population is over 65. That amounts to about 550,000 people.

Unfortunately, a long life does not necessarily mean comfortable or happy years after "retirement." The phenomenon of prolonging life has brought with it problems in aging.

Today, in the United States, there is a net increase every day of almost 1,000 persons in the aged population. There are about 15 million Americans between ages 65 and 74. There are about 7,000 centenarians in the United States today who are social security beneficiaries. In Wisconsin, as of December, 1973, there were an estimated 165 centenarians on social security.

One very interesting statistic is that the number of those living to 75 years and over is rapidly increasing, and is expected to reach almost 35 percent of all the elderly by the year 2000.

In 1900 there were 3.1 million persons 65 or over. By the year 2000, there will be some 30 million persons over 65.

This incredible increase in life span, however, is not always coupled with the good life.

There are many problems with growing old in America, despite efforts to make these years comfortable.

Wisconsin senior citizens and the State Board on Aging tell me that the 5 major problems faced by senior citizens are low income, loneliness, lack of adequate housing, lack of transportation, and the high cost of health care.

Two years ago I stood before this group and discussed what Congress had done to improve the lot of America's senior citizens. A great many things *have* been done at the Federal, State, and local level to improve the situation, but far from enough.

Social security benefits have increased by 68.5 percent since 1969. President Nixon, while taking credit for these increases in a notice tucked into 1972 social security checks, would have increased social security by no more than 28 percent. We now see, however, that the large increases which Congress voted for social security are not enough to match inflation, despite a cost of living escalator provision.

A major step was taken to make social security increases "inflation-proof" when Congress, in 1972, adopted the cost-of-living yearly adjustments provision. For years, many of us have been advocating such an escalator clause. I supported this step more than 6 years ago. Unfortunately, the current inflation is so rapid that the adjustment has not caught up with the cost of living, despite the 20% social security increase that Congress passed in 1972 and the 11% passed in 1974. The Senate Special Committee on Aging annual report, issued May 16, 1974, says:

"Since September 1972—the effective date of the 20% social security increase—the overall cost of living has increased by 13.4%, but food has jumped 27.5%, and certain fuel oils for homes by 72.8% during that same period. The net income impact is that the 11% social security raise was already outdistanced when the elderly received their first checks reflecting this increase."

As a result, about 3.5 million of the Nation's senior citizens live below the poverty level. This includes about 100,000—or 20%—of Wisconsin's population over 65.

Other major reforms in recent years include:

Increased payments for more than 3 million elderly widows and dependent widowers;

Liberalization of the retirement test under social security;

A new special minimum monthly payment for persons with low lifetime earnings and long periods of covered employment; and

Establishment of the supplement security income program, which actually provides an income floor for the aged, blind and disabled.

More needs to be done, however. The supplemental security income program was conceived originally to provide an adequate income base so that food stamps would no longer be necessary. This was a mistake, we found, and Congress has tried, through four additional laws, to correct this flaw. The problem still exists in Wisconsin, however, and our office is exploring various approaches to insure that those with supplemental security incomes do not lose either food stamps or comparable cash payments. Wisconsin, again, is in a unique situation of having very high state income support. The problem we have in Congress is not to penalize Wisconsin for having higher than average income maintenance programs.

Other needs that Congress is considering include:

A National Health Insurance Program. No one disputes the need to make health care available to all at a price all can afford. The only question is how to implement such a system. I have always supported national health insurance. A number of approaches have been advocated, and Congress is now getting down to the business of carefully considering all of the proposals. Some form of national health insurance is likely to pass in the near future.

An independent Social Security Administration is a proposal that your organization is interested in. This approach is contained in one of the national health insurance bills (Kennedy-Mills) and is proposed in a separate bill, which also would prohibit mailing of messages with Social Security checks and provide for the separation of the Social Security Trust Fund from the unified budget. There are strong and compelling arguments in support of such a step.

Expanded medicare benefits are vitally important. I have long advocated medicare coverage of prescription drugs, hearing aids, eye glasses, and dentures. The Senate has passed a bill to extend medicare to out-patient drugs that are essential for maintenance to those with chronic illnesses. This issue will be carefully examined during the debate on a national health insurance bill.

Home health care coverage must also be expanded under any health insurance program. An amendment that I offered in 1972 and which was enacted as part of the medicare program, eliminated the requirement for 20 percent co-payment under part B Medicare.

The Senate Committee on Aging has documented that home health care cuts costs and keeps people in their homes, where they want to be. However, present laws encourage institutionalization. It is estimated that possibly 20 to 40 percent of the present population of institutionalized elderly could be maintained in the community if adequate supportive services were available. The fact is, however, that payments for home health care under Medicare actually declined from $115 million in 1970 to $69 million in 1972. At the same time, the number of home health agencies has declined. Several of the health insurance bills would expand home health coverage.

Tax reform is a major area that needs the attention of Congress. I have long advocated closing a number of tax loopholes, such as the oil depletion allowance, and strengthening the minimum tax. Money saved by such action could be used for desirable social programs and for tax relief.

Pension reform is another area that Congress is addressing. A bill containing provisions that I have advocated is now the subject of a conference between the House and Senate. It is our hope that a meaningful pension reform bill will be enacted shortly, although it comes, for many of you, too late.

The retirement income credit, which does affect you, should be improved and liberalized. As you know, social security and railroad retirement benefits are tax free, but the same is not true of Civil Service annuities. The retirement tax credit was adopted in 1954 to provide retired teachers, policemen, firemen and others in public employment with the same tax relief given social security beneficiaries. This retirement tax credit, however, has needed updating. The Senate Finance Committee, of which I am a member, approved an increase in the 15% retirement income credit on April 3. The base amount would be increased from $1,524 to $2,500 for single aged persons and from $2,286 to $3,750 for elderly couples. It is my expectation and hope that the full Senate will approve this liberalized retirement income credit in the near future.

The retirement earnings test also needs upgrading. The Senate passed an amendment last year that would raise the allowable income from $2,400 to $3,000, before social security benefits are reduced. This measure, along with a number of other social security amendments, is now awaiting conference action between the House and Senate.

The Federal housing program for low-income and elderly people must be unfrozen.

Public service job programs, and programs like Green Thumb and Green Light, which give elderly citizens part-time employment, must be extended. As chairman of the Senate Subcommittee on Employment, Manpower and Poverty, I led the legislative battle to extend these programs and have always worked for more adequate funding.

Federal assistance to mass transit must be expanded, so that senior citizens have better public transportation.

The cost of prescription drugs must be brought within reason. As you know, the Senate Monopoly Subcommittee, which I Chair, has produced some 30 volumes of hearings on the practices of the drug industry. Findings clearly show that the industry will charge what the traffic will bear. Bills that I have introduced are designed to improve drug testing mechanisms and reduce excessively high prices for drugs. These bills

are now the subject of hearings before the Senate Health Subcommittee.

Above all these factors is the overriding need to clean up our environment, and to meet the problems of world resource shortages.

At a time when these kinds of social and environmental needs demand attention, it is interesting that the U.S. defense budget is higher than during wartime. With practically 60% of the federal budget being spent on military-oriented costs (including current military expenditures, veterans benefits and services, and interest on the national debt—most of it war-incurred), the average American family spends nearly $1,500 in general taxes to pay for military-related programs. This compares with $125 for education and manpower, $63 for community development and housing, and $45 for natural resources and environmental programs.

Millions of Americans live in poverty . . . drink substandard water . . . are poisoned by polluted air . . . and are malnourished.

This is no time to be increasing military expenditures and reducing social and environmental expenditures.

The administration's proposed 1975 budget for older Americans, however, would reduce funding for the older Americans act . . . requests no funding for training of personnel in the medical field of aging and would cut back research funding in gerontology . . . requests no funds for the employment section of the older Americans community service employment program . . . and continues a policy of rejecting housing programs for the elderly and the handicapped (section 202).

Congress will be assessing these budget proposals carefully.

Senior citizens have a right to expect a comfortable and rewarding life in later years.

The kind of senior power that your organization provides gives impetus to improving the quality of life in these years.

Thank you.

STEWART ALSOP

Mr. RIBICOFF. Mr. President, I knew Stewart Alsop well and for many years. Our paths crossed personally and journalistically. I respected Stewart Alsop, I admired him. He was a most special man; a broad gauged human being.

Stewart Alsop's writing is already a vital chronicle of three decades of American history. Broadened by the finest education and tempered by battle, his was at once a sensitive and tough view of national and world events. A view that was trusted; a view that shaped the perspective and direction of opinion from small town America to the most powerful capitals in the world.

While his desk and the best part of his beat were in Washington, Mr. Alsop reported on the concentric circles of events that flowed beyond the Capitol, beyond our frontiers. Trends and political point-counterpoint were drawn into perspective in straightforward, declarative sentences.

He wrote with the modesty of a man with doubts and questions, yet his pieces were forthright—backed by hard gotten facts and crafted with great thoughtfulness.

But for people who knew Stewart Alsop, the man transcended his work. We will remember Stewart Alsop as well for his courage and his grace as for his journalistic legacy.

Raised and educated in Connecticut, he was every inch a Yankee in his reserve and sense of tradition. Yet, his family heritage was merely the doorstep of his own generation which he described with profound insight.

Tragically, the finest measure of the man was his match with death—an inevitability which only a person of his stature, his intellect, accepts with such courage and grace. In his physical descent it is remarkable that his work reached what is generally regarded by his colleagues to be the zenith of his career.

Only a man confident of his mark on his and future generations and selfless in spirit could write, as he recently did:

A dying man needs to die as a sleepy man needs to sleep, and there comes a time when it is wrong, as well as useless, to resist.

PETROLEUM LEGISLATION

Mr. HANSEN. Mr. President, this Congress is embarked on a suicidal course in the spate of legislation aimed at the petroleum industry.

My colleagues in the Senate may grow weary of hearing my admonitions but if the Congress succeeds in passing the punitive and even vindictive legislation and if these bills are enacted into law, there will be no hope of achieving any semblance of domestic energy self-sufficiency.

Regardless of what anyone may think of the major oil companies—and I understand the urgency in identifying whipping boys and scapegoats when things go wrong—every shotgun blast such as the Emergency Petroleum Allocation Act and the Energy Emergency Act aimed at the big oil companies also knocks the feathers out of about 10,000 independent oil and gas drillers and producers. And they are the ones who account for most of the domestic exploration and drilling inland in the lower 48 States.

One of these, Don Thorson who is a son of Harry Thorson, one of Wyoming's pioneer independent oil men, wrote a letter to the editor which graphically expresses the frustration of thousands of independent oil men at the attitude of Congress toward the oil industry.

In the hope that Dno Thorson's letter will warn some of my colleagues of the fallacy of their intentions to literally paralyze the exploration efforts of the independent segment of the oil industry—our only chance to solve our energy problems. I ask unanimous consent that the letter be printed in the RECORD.

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

LETTER TO THE EDITOR

The attitudes of people toward the oil companies concerning the oil shortage seems amazing until you listen to the politicians. Supposedly intelligent men such as Jackson and Stevenson make statements which could be called "rabble rousing" until you consider the political reasons for crucifying the oil companies.

How can we expect anything but a shortage when we produce 9 million barrels per day and consume 17 million? It is only because the large companies have gone overseas and produced cheap oil—and in turn held down domestic prices—that our energy costs have been so low. Many people have long advocated higher imports to reduce domestic prices to $2.50 per barrel; but if this had happened, we would probably be producing a third less oil than we are now and paying even more for imports if we could get them.

America has grown strong on cheap food and cheap fuel, and people have come to expect them as a birthright. The food and fuel producers have subsidized much of America's life of luxury and waste because the politicians were afraid to advocate realistic price programs.

The Sierra Club states that we have many wells shut in awaiting a market; but do they realize that most of these wells were uneconomic under conditions which existed three months ago? Do they realize that offshore wells capable of 2,000 barrels per day can be uneconomic because of their location?

Industry inventory is high, but represents only about a 30-day supply and much of this is unavailable because it is tied up in pipe lines.

The oil industry is criticized for increasing its profit 60 to 80 percent; but the actual percentage of investment which is seldom stated, has increased from about 6% to about 10% which is still low compared to industry as a whole. What other industry risks the millions year after year that the oil industry does? The rate of return for the best oil company in the nation is rated 235th among all industries for the twelve months ending September 30, 1973.

Drilling costs have nearly doubled the last four months. Taxes are increasing. The oil producer must give away nearly the first 25% of his production in royalties and taxes, but pay for producing it.

The oil companies are guilty of trying to make a reasonable profit which is the goal of every American industry, or they would not be in business.

Some misguided individuals advocate a national petroleum company; but when you look at what the government has done with the mail, think what they could do with the complex problems of petroleum production and marketing. Gasoline could cost a dollar per gallon instead of fifty cents.

Very truly yours,

DON THORSON.

Newcastle, Wyoming.

NIXON ECONOMIC REPORT DANGEROUSLY MISLEADING

Mr. HUMPHREY. Mr. President, yesterday I issued a statement in response to the President's report to Congress on "Economic Developmens and Policies."

In it I pointed out that the report is filled with "bad arithmetic, false promises, and self-serving prophecy."

I also observed that "the economic policy apparatus of the Nixon administration is in complete disarray. Each economic organization in the executive branch has a different idea about where the economy is headed and what economic policy should be pursued."

Mr. President, the optimistic White House pronouncement that they see "signs of improvement" in the economy, is incredible and misleading in view of the disastrous performance of our economy so far this year.

In hearings before my Consumer Economic Subcommittee of the Joint Economic Committee during the past few weeks, I have closely questioned Dr. Stein, Dr. Dunlop, and prominent private economists on the economic outlook for the remainder of this year. None of these witnesses shared the optimism expressed in the President's report to Congress.

The President's rhetoric on the economic outlook is dangerously misleading.

In this morning's issue of the Washington Post, Hobart Rowen has written an excellent article making many similar points. He cuts through the President's latest economic rhetoric to bear on the basic problem which we confront: How far will inflation go and how serious a recession will the Federal Reserve Board put the Nation through in an effort to bring down prices?

Mr. President, I ask unanimous consent that my statement of May 29, "Nixon Economic Policy Apparatus in Complete Disarray," and Hobart Rowen's article in the May 30 Washington Post, "How Much Inflation? How Serious a Recession?" be printed in the RECORD.

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

NIXON ECONOMIC POLICY APPARATUS IN COMPLETE DISARRAY

(Statement by Senator Hubert H. Humphrey)

The President's report to Congress on "Economic Developments and Policies" is filled with bad arithmetic, false promises and self-serving prophecy.

It is a repeat performance. We have heard it all before. The results speak for themselves.

Who can forget the similar empty promises of the past, promises of "four percent inflation" in 1973 and "no recession" in 1974. The Administration's economic forecasts long will be remembered for understating problems and overstating prospects for solving them.

The economic policy apparatus of the Nixon Administration is in complete disarray. Each economic organization in the Executive Branch has a different idea about where the economy is headed and what economic policy should be pursued.

One group is calling for a balanced budget this year, while another argues that this is impossible. One organization reports that inflation will have moderated greatly by the end of this year, while another projects a near double-digit level. And the President himself points to progress in fighting unemployment, while his top economic advisor predicts a level of up to six percent by the end of this year.

Under these conditions, it is not surprising that the President's Report and his creation of a new Economic Policy Coordinator are seen largely as cosmetic moves to indicate control over economic matters where none in fact exists.

It is obvious that this Administration really has no national economic policy. Even worse, its economic course has run hither and yon, with control and de-control phases and freezes, in a baffling array of ineffective, stop-gap measures.

As a result of the inconsistent, short-sighted and misleading nature of Nixonomics, confidence in the economy on the part of business, labor and consumers has been all but destroyed. And, without this very basic confidence, inflationary prices and high interest rates are pushed ever upward.

There is only one string on the Administration's economic fiddle—interest rates. It is relying completely on high interest rates at our banks and tight money policy at the Federal Reserve Board miraculously to cure our nation's economic problems.

But most Americans will only be hurt by this narrow policy. It certainly will not solve the basic problem of simultaneous inflation, recession and high unemployment that are drawing vitality and strength from the economy.

HOW MUCH INFLATION? HOW SERIOUS A RECESSION?

(By Hobart Rowen)

President Nixon, according to John Kenneth Galbraith, noted Harvard economist, "is in more trouble for failed economics than failed burglars." In an interview with Parade Magazine, Galbraith said that "no administration can survive" when the inflation rate hits 11.5 per cent, as it did in the first quarter.

Judging by the new White House cover-up of the real problems of the economy, Galbraith may be right.

In a radio address last Saturday, President Nixon assured the nation there are "encouraging signs today that the worst is behind us."

He went on to point out that the chief causes of inflation last year were food and energy prices, over which the administration had little control, and that these price increases had diminished and should ease further. Thus, "the storms are abating," the President said.

The only problem with this analysis is that, at best, it is simplistic and, at worst, dead wrong. The pattern of inflation in 1974 is different from the inflation in 1973, and as Cost of Living Council Chairman John T. Dunlop has indicated, might be more serious.

Just a day after the President delivered his soothing words on Saturday, Federal Reserve Board Chairman Arthur F. Burns told a college commencement that "the gravity of our current inflationary problem can hardly be overestimated." Using grim words very carefully, Burns said that the very future of the nation could be "in jeopardy" if the inflation rate did not recede. And he offered little hope of lower prices.

"The President is right and Burns is wrong," Ron Ziegler told UPI. Ziegler may later have to make that statement inoperative.

The root of the inflation problem that President Nixon failed to mention is that there are counter forces at work this year which more than make up the reduced pressure from oil and food prices (which of course are still very high).

"We are seeing in 1974 the consequences of the 1973 inflation," Dunlop told an audience of business writers a few weeks ago. "The 1973 costs are now going through the (economic) system, into steel, paper, utilities, transportation."

Beyond that, Dunlop pointed out, with the end of wage-price controls, business is not only free to raise profit margins—but many companies have raised prices in anticipation of further higher costs. Moreover, wages—freed of government restraint—will also tend to push prices higher.

Thus, argues Dunlop—and he has made the same presentation in the White House—we are confronted with a "bedrock" inflation in items that make up 69 per cent of the Consumer Price Index.

The stage is potentially being set, as Federal Reserve Board Governor Andrew F. Brimmer pointed out over the weekend, for a "cost-push phase of a renewed wage-price spiral similar to that in 1969 and 1970."

So our economic problems are far from being behind us: they lie ahead, and are likely to become more pressing before easing up.

"If 1973's inflation was made abroad (in fuel and other commodities) then 1974 inflation will be made at home," Dunlop says, "and one one thinks that this bedrock inflation is reversible because it is being built into wage rates and profit margins."

Recently, administration and private economists who had expected inflation to turn down this year and be less than 6 per cent during the fourth quarter have come to the conclusion we will be lucky if the rate then is no more than 7½ to 8 per cent. That is also the rate predicted by Treasury Secretary William Simon in an interview with the Washington Post, a forecast that would have been unthinkable a few weeks ago.

Paul H. Earl, an economist with Data Resources, Inc., estimates that the CPI, which swelled to 12.2 per cent in the first quarter, will still be rising at a 9.6 per cent rate in the fourth quarter.

Earl takes into account the end of price controls, especially in health care, construction, auto and processed food industries; continued supply shortages for critical materials like scrap metals, paper and copper; large increases in price of electricity and steel; and higher wage rates. All this outweighs the moderation expectable in petroleum and food prices, as well as the weakening of some spot commodity prices.

Nixon administration economists have consistently underestimated the strength of inflationary pressures in the economy. They misjudged the strength of the world-wide commodities boom when they junked Phase II of the wage-price effort in January, 1973—yet complain there was little they could have done to head off that part of the inflation.

Now, President Nixon talks in syrupy style of "further improvements in the economy" for the rest of the year. The real question is how far inflation will go, and how serious a recession the Federal Reserve Board will be forced to put the nation through in an effort to bring down prices.

JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Mr. BAYH. Mr. President, as chairman of the Senate Subcommittee on Juvenile Delinquency, I want to bring my colleagues in the Congress and the concerned public up-to-date on the most recent legislative steps in regard to my 3-year effort to overhaul the Federal approach to combat delinquency and to provide a constructive method to deal with runaways.

On March 5, 1974, I was gratified that the Senate Juvenile Delinquency Subcommittee reported unanimously to the full Judiciary Committee my long-needed comprehensive Juvenile Justice and Delinquency Prevention Act, S. 821, substantially as it was introduced. Then, on May 8, the Judiciary Committee reported this legislation as amended, to the Senate. The committee action means that the possibility of enacting a comprehensive coordinated Federal delinquency program is closer to realization.

S. 821 provides for Federal leadership and coordination of the resources necessary to develop and implement at the State and local community level effective programs for the prevention and treatment of juvenile delinquency. The bill provides for a new centralized administration to insure coordination at the Federal level. The bill authorizes substantial grants to States, local governments, and public and private agencies to encourage the development of programs and services designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system and to provide community-based alternatives to traditional detention and correctional facilities used for the confinement of juveniles.

The bill creates a National Institute for Juvenile Justice to serve as a center for national efforts in juvenile delinquency evaluation, data collection and dissemination, research, and training.

The Institute, through an Advisory Committee on Standards for Juvenile Justice, will be charged with developing recommendations on Federal action to facilitate adoption of standards for the administration of juvenile justice.

The bill also amends the Federal Juvenile Delinquency Act, virtually unchanged for the past 35 years, to provide basic procedural rights for juveniles who come under Federal jurisdiction and to bring Federal procedures up to the standards set by various model acts, many State codes and court decisions.

The subcommittee, which I chair, held 10 days of hearings and heard 80 witnesses on S. 821 and S. 3148, a similar bill which I introduced in the 92d Congress. These hearings demonstrated the need for comprehensive changes in Federal juvenile delinquency programs combined with assistance to States, local governments, and private agencies to prevent delinquency and to provide community-based alternatives to juvenile detention and correctional facilities.

The bill has been endorsed by the National Council on Crime and Delinquency, the National Council of Juvenile Court Judges, the American Parents Committee, the Boys Clubs of America, the Girls Clubs of America, the American Federation of State, County, and Municipal Employees, the National Congress of Parents and Teachers, the National Executive Committee of the American Legion, the National Legal Aid, and Defender Association, the National Federation of Jewish Women, the National Association of State Juvenile Delinquency Program Administrators, the National Association of Social Workers, the Family Service Association of America, the National Governors Conference, the National League of Cities and U.S. Conference of Mayors and many others concerned organizations. The support of these concerned groups demonstrates that the passage of S. 821 would represent a vital contribution to the well-being of the youth of our nation.

I must share with you my disappointment that S. 821 as amended and reported by the Judiciary Committee place the program in the Law Enforcement Assistance Administration rather than in the Department of Health, Education, and Welfare as envisaged by my bill. The Juvenile Delinquency Subcommittee had concluded after careful study and investigation that the Department of Health, Education, and Welfare was the best place to locate a program to provide leadership in preventing delinquency and diverting youth from the juvenile justice system due to its expertise in the related areas of health, education, and other programs of social rehabilitation. There are other aspects of S. 821 as amended, particularly provisions concerning the operation and administration of the program, which I hope can be strengthened through perfecting amendments on the floor. Nevertheless, the bill as reported retains the program goals of S. 821 and brings us closer to the enactment of a measure that will provide essential programs for delinquents and youth in danger of becoming delinquent.

I am also pleased that the House of Representatives Subcommittee on Equal Opportunities of the Education and Labor Committee which has jurisdiction over H.R. 6265, the companion bill to S. 821, is completing its study of the legislation. I gave testimony in support of this bill and the Runaway Youth Act, S. 645 and its companion measure H.R. 9298, which is under the jurisdiction of the same committee. The Runaway Youth Act, S. 645, which I originally introduced in the Senate in 1971, has passed the Senate twice, once in 1972 and again in June of 1973. The Runaway Youth Act would provide Federal assistance to local groups to establish temporary shelter-care facilities and counseling services for transient youth, a long neglected group. I was impressed by the understanding of the members of the House subcommittee of both the runaway and delinquency problems and am confident that this subcommittee will be reporting this legislation soon.

I am gratified by the support expressed for legislation to help children in trouble from concerned individuals and organizations in all parts of the United States. I am particularly appreciative of the dedicated citizens in my home State of Indiana, who deal with the problems of providing justice for juveniles on a daily basis and from whom I have learned much about what still needs to be done by the Federal Government to meet the needs of our youth. I urge my colleagues in Congress to act expeditiously to provide the Federal leadership and resources so desperately needed to deal with juvenile delinquency. By enacting the Juvenile Justice and Delinquency Prevention Act, we will contribute significantly to the safety and well-being of all of our citizens, particularly our youth.

NATIONAL PEST CONTROL MONTH

Mr. DOLE. Mr. President, June is National Pest Control Month. This month has been singled out to honor the contribution the members of the pest control industry make to the protection of the health and property of all Americans.

The men and women of this industry do much to make our lives more healthy and secure. They treat our homes for crawling and flying pests which carry and transmit disease. They wage war constantly on rodents and other vermin which infiltrate our homes, businesses, and agricultural storage facilities. They service the restaurants, grocery stores, and other places where our food is sold and served. And they counteract the costly and damaging effects of termites which strike five times as many American homes each year as fire.

Members of the National Pest Control Association and the many State pest control associations submit themselves to a meaningful code of ethics and continually update their skills to participating in voluntary education and training programs for themselves and their employees. The National Pest Control Association has distinguished itself by a cooperative effort with the Environmental Protection Agency to achieve successful implementation of the new Federal Environmental Pesticide Control Act. In addition, National Pest Control Association has an active consumers affairs department which keeps the public informed on how to protect its health and property.

I ask the Senate to join me in recognition of the valuable role the members of this industry play in giving all Americans a healthier and more pleasant way of life in their homes and work environments.

OIL PROFITS CONDEMN INDUSTRY STRUCTURE

Mr. CHILES. Mr. President, I would like to bring to the attention of the Senate some very noteworthy facts concerning the oil crisis and profitmaking record of the large petroleum corporations during the last quarter.

For years, oil corporations have practiced "Dollar Diplomacy" abroad. Now that a similar scheme is being perpetrated on the American people, I think that Congress should take a forceful stand to rebalance huge oil company profits against the interests of the American consumer.

Mr. President, I am not alone in my feelings.

On April 23, Mr. Fred Hartley, the president of Union Oil Co., testified before a Subcommittee of the Joint Committee on Public Domain in California that the price of new domestic crude oil should be cut in view of the considerable profits announced by the major oil corporations—including his own company, Union Oil.

Recent studies have disclosed so many problems with oil pricing that to list them all would fill this RECORD.

But let us consider the fact that new oil produced from new wells or increased production from wells already in operation before March 1972 sells for about $9.50 a barrel. Under Federal price regulations old domestic oil sells at about $4.50 a barrel.

The differential was designed to give oil companies an incentive to develop new domestic sources of oil.

Instead, according to Mr. Hartly, new oil prices have risen so far and profits have risen more than needed as an incentive for more exploration while the increases have been passed along to the consumers.

This is a critical point that should not escape any of us in light of the statistics recently released by the major oil corporations showing startling increases in profit levels. According to the Wall Street Journal, April 24 edition, the following companies experienced gains in profits and revenue.

EXXON CORP.

First quarter profits rose 39 percent. Exxon's net rose to $705 million from $508 million. Revenue, including excise taxes and duties, increased 59 percent to $9.95 billion from $6.24 billion a year earlier.

TEXACO

The $589.4 million in first quarter profits, up from $264 million, an increase of 97 percent, the sharpest increase of the six major oil companies. Revenue rose to $4.92 billion from $2.49 billion. Texaco also stated that nonrecurring crude

inventory profit accounted for $258 million or nearly half of its first quarter net.

GULF OIL CORP.

The 76 percent increase in first quarter profits and a 114 percent increase in revenue to $4.52 billion.

PHILLIPS PETROLEUM

The country's tenth largest oil company reported first quarter earnings of $108.6 million up from $43.4 million. Revenue nearly doubled to $1.15 billion. Phillips attributed its improved earnings to a 6-percent rise in its crude prices, and higher world chemical sales.

ATLANTIC RICHFIELD CO.

The company earned $93.9 million in the quarter compared to $50.3 million for the first quarter of last year.

CITIES SERVICE

First quarter net income of $68.8 million compared to $36.8 for the same period last year. Revenues totaled $703.2 million, up 34 percent from the first quarter of 1973.

OCCIDENTAL PETROLEUM

A spectacular increase in profits that soared 718 percent to $67.8 million from $8.3 million for the first quarter last year. Revenue rose 96 percent from $681.4 million to $1.33 billion. The company said first quarter increases were mainly due to sharp price increases reflecting unusually high demand, particularly for crude oil, coal and agricultural chemicals and fertilizer.

COMMONWEALTH OIL REFINING

First quarter earnings soared 457 percent, from $2.8 million to $15.6 million. Revenue surged from $91.1 million to $298.5 million, 228 percent.

STANDARD OIL OF INDIANA

First quarter earnings of $219 million, up 81 percent from $121 million a year earlier. Indiana Standard's domestic earnings were up 34 percent to $126 million, while the company's total revenues rose 55 percent in the quarter to $2.278 billion.

I find the Nation confronted with the simple question—Where do we go from here?

Do we go into a shell of silence until another shortage occurs?

Do we generate heat and motion until the more vocal critics become distracted by other events?

Or do we move with measured steps toward a return to reason in the oil marketplace?

As the president of Union Oil has suggested, a strong congressional action to roll back crude oil prices is an immediate step to return to reason.

But—this can only be a holding action until we see our way clear to institute some far-reaching reforms. Mr. President, I subscribe to the concept and practice of a free enterprise market place economy. I agree with the theory of profit motivation to inspire innovation; improvement and capital investment to increase productivity and increase the value of the consumers' dollar.

In this context, the outlandish profits realized during the first quarter can in no way be characterized as "business as usual." I think those kinds of profit percentages raise the ghost of monopolistic practices. They tell a damning story about the structure of our economy. There is something drastically wrong with the structure of the petroleum industry and its business practices.

Nobody thinks the modern American economy can look like an economist's perfect competitive model as envisioned by Adam Smith. It never has, even back in the pre-Civil War days and it certainly does not now. We are in for a mixed economy of some sort.

But the oil crisis has made us face up to the turning point issue because we cannot leave the American consumer at the mercy of the large corporations.

Do we move Government control and nationalization of the industry or do we move to restructure it so that we have some marketplace behavior protecting the American consumer?

I believe this is the issue which has to be effectively dealt with if we are to return to reason on gas prices.

"Reasonable monopoly," said Henry Simon, the noted economist, "is a contradiction in terms. There can be no such thing." Events of the first quarter cause me to nod in some agreement with Mr. Simon, although I find his ultimate conclusion of Government incorporation of all private corporations too drastic.

Government can influence business and should.

The Federal Trade Commission regulates the kind of advertising business may do.

The Securities and Exchange Commission regulates its practices in issuing securities.

The Federal Reserve controls the terms on which it can borrow money from the banks.

Federal law establishes the minimum wages of workers and determines that business must deal with certain labor unions. Through its income tax, Government takes half of all business profits and in effect prescribes what kind of accounting procedures must be followed. On the vast amount of contracts, nearly $60 billion in 1970, it sets elaborate standards of performance and specifies that business cannot discriminate amongst employees on the basis of race, creed, color or sex.

If business registers the huge profits, as the oil companies did in the first quarter this year, it is no easy matter to impose some sort of inhibiting Government controls so that consumers are protected. This price we pay downstream in terms of a supporting Federal bureaucracy will be borne by generations of consumers.

I believe we must move to restructure the industry so that competition and marketplace forces once again come into play.

In the meantime, I have seen reports in the media where some oil company executives have labeled Congress vindictive for even considering legislation to regulate oil profits. Mr. President, if its vindictive to expect oil corporations to be fair to consumers then this Congress should be vindictive. If it is vindictive to deplore 700-percent increases in profits at a time when inflation has already diluted the average wage earners wages then I consider being vindictive a compliment to this Congress.

Mr. President, I would like to ask unanimous consent that the San Francisco Chronicle article be printed in the RECORD.

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

OIL EXECUTIVE URGES PRICE CUTS IN CRUDE

SACRAMENTO.—The president of Union Oil Co. said yesterday that big oil company profits show that the price of new domestic crude oil should be cut.

"I think the incentive is currently greater than required and that the oil company profits that are being announced this week—our company included—verify that," Fred Hartley told the crude oil pricing subcommittee of the Joint Committee on Public Domain.

He said under federal price regulations, old domestic oil sells at about $4.50 a barrel. But new oil—produced from new wells or increased production from wells already in operation before March, 1972—sells for about $9.50 a barrel.

The differential was designed to give oil companies an incentive to develop new domestic sources of oil, Hartley said.

But he added that since new oil prices have risen so far and since the increases are passed along to the consumers, profits have risen more than needed as an incentive for more exploration.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I would like to report that, according to current U.S. Census Bureau approximations, the total population of the United States as of Saturday, June 1, 1974, will be 212,213,275. In spite of widely publicized reductions in our birth and fertility rates, this represents an increase of 1,472,684 since June 1 of last year. It also represents an increase of 155,277 since May 1 of this year—that is, in just 1 short month.

Over the year, therefore, Mr. President, we have added the equivalent of three cities larger than Atlanta, Ga. And in just the last month, we have added more than enough people to fill three cities the size of Champaign, Ill.

RURAL RAIL PRESERVATION

Mr. MONDALE. Mr. President, a recent editorial in the St. Paul Pioneer Press discusses the rural rail preservation bill, S. 3438, introduced by myself, Senator HUMPHREY, Senator SCHWEIKER, and Senator CLARK on May 2, 1974. The bill places a 2-year moratorium on railroad abandonments pending completion of State and local programs to effectively utilize Federal rail service continuation grants. The bill also mandates a comprehensive study of the impact of branch line abandonments on our Nation's economic, social, and environmental requirements and to provide Federal assistance to continue service along essential lines which would otherwise be discontinued.

As noted in the editorial:

Lacking an overall transportation policy, America has bumped along with deteriorating rail service being gradually replaced by bigger and bigger trucks. Fuel problems last winter pointed up one of the problems in-

herent in a nation dependent on high-energy highway transportation.

Railroads, for their part, have been attempting to "streamline" operations by abandoning low-revenue branch lines. Proposed abandonments have to be cleared by the Interstate Commerce Commission. The ICC has approved more than 97 percent of the abandonment requests it has heard. The ICC has been guided exclusively, it seems, by the railroads' financial claims and has not considered the effects of abandonments on the rural areas served—or once served—by the affected branches.

It is because of the effects on rural America that we proposed this bill in the form of amendments to the Rail Service Act of 1973. Although the amendments were adopted by the Senate, they were, unfortunately, dropped from the bill during conference with the House.

I ask unanimous consent that the editorial from the St. Paul Pioneer Press of May 21, 1974, be printed in the RECORD.

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

RAIL ABANDONMENT STUDY

Senators Humphrey and Mondale are trying to hang a Stop-Look-Listen sign on the nation's railroads. And it's about time.

The Minnesota Democrats have introduced a bill in the Senate that would impose a two-year moratorium on track abandonments. During the two-year period, there would be a thorough study of the effects of abandonment and federal assistance would be provided to keep open essential lines that were scheduled to be closed.

Lacking an overall transportation policy, America has bumped along with deteriorating rail service being gradually replaced by bigger and bigger trucks. Fuel problems last winter pointed up one of the problems inherent in a nation dependent on high-energy highway transportation.

Railroads, for their part, have been attempting to "streamline" operations by abandoning low-revenue branch lines. Proposed abandonments have to be cleared by the Interstate Commerce Commission. The ICC has approved more than 97 percent of the abandonment requests it has heard. The ICC has been guided exclusively, it stands by the railraods' financial claims and has not considered the effects of abandonment on the rural areas served—or once served—by the affected branches.

The Mondale-Humphrey bill, known as the Rural Rail Preservation Act of 1974, once was an amendment to the Passenger Rail Service Act of 1973, but was lost in the House of Representatives. Surely, the events of the last 12 months should give it a better chance as a separate bill this time around.

Last year the rail system "broke down" when called upon to move crops to market. Sen. Humphrey said, "and with this year's (expected) sharp increase in production, I fail to see how we will move the crop." Mondale noted that in the last three years alone, rail abandonments have resulted in the loss of 7,800 miles of track to rural communities.

Abandonment proceedings are in a sort of moratorium now because of a Federal Court order requiring the ICC to start producing environmental impact statements before approving abandonments. The Humphrey-Mondale bill would formalize this, require an overall study of this one important phase of American transportation and, hopefully, point the way to a long-term solution to the problem of rural rail service.

THE GENOCIDE CONVENTION: IN OUR BEST INTERESTS

Mr. PROXMIRE. Mr. President, the Genocide Convention was the first human rights treaty passed by the United Nations. The United States was one of the prime supporters of this treaty, yet we have failed to ratify it.

It has been questioned whether or not a human rights convention is the proper use of the treatymaking power granted in the Constitution to the President and the Senate. Fortunately, this question has been resolved.

The Special Committee of Lawyers of the President's Commission for the Observance of Human Rights Year 1968, commonly called the Clark Committee, issued a report in October 1969 that dealt with the issue of U.S. ratification of human rights treaties. They concluded that—

Treaties which deal with the rights of individuals within their own countries as a matter of international concern may be a proper exercise of the treaty making power of the United States. This conclusion is supported by the past treaty making practice of this country.

The most important criteria to judge whether the Senate should ratify any treaty is whether it is in the best interests of the United States. By ratification, the United States stands to improve our international relations and give an impetus to the prospects for world peace. The treaty is in the best interests of our country since with a determined stand against the crime of genocide by the U.S. chances of genocide occurring will be reduced and will help in preserving world peace.

Mr. President, I urge the Senate to ratify the Genocide Convention.

SCHOOL BUS SAFETY: LOCAL INITIATIVE NEEDED

Mr. PERCY. Mr. President, despite widespread demands for expeditious Federal action, the problems of hazardous design and unsafe operation of school buses are still with us. In previous remarks on the Senate floor, I have urged the National Highway Traffic Safety Administration to issue, not more proposals or notices of postponed proposals, but the concrete standards that are so essential to the safety of our children. Yet, each day NHTA's delay becomes more conspicuous.

In this regard, James Morrison, an excellent free-lance writer, has penned a most constructive article, entitled, "School Bus Safety: There Is Something You Can Do." It appears in the April, 1974, issue of "Media and Consumer"—which is fast becoming one of the most outstanding compendiums of original topical writing on matters of importance to all consumers. Not willing to wait out the long delays on the Federal level in meeting school bus safety problems, Mr. Morrison intended the article "to explain enough about school bus safety to do something about it in your area."

The article points up the flimsy construction of school bus bodies as "little more than a sheet metal box bolted to a truck chassis." It is further reported that 90 percent of all injuries incurred in school bus impact accidents are caused at least partly by unsafe seat construction. Upon impact, either the seats rip out of the floor, or heads, necks, and chests are sent flying into the metal railing of the seat directly in front. These criticisms have been repeatedly raised, but keep falling on deaf ears.

Most incisively, Mr. Morrison strongly suggests that school administrators take direct initiative: First, to train and carefully superintend drivers and, second, to insure proper maintenance and safe operation of school buses. He points out:

Nearly two-thirds of all school bus-related fatalities occur outside the bus when children are struck by passing vehicles or the bus itself. (Yet), few school districts give instruction on safe loading and unloading. . . .

I was appalled to read that one 22-year-old operator in New York had four accidents, a license probation, two speeding convictions, one other motor vehicle conviction, and a police warning on his record—yet he was hired to drive a school bus.

The article closes with an extremely helpful section entitled "25 Questions To Ask About School Buses." The questions will aid the concerned school administrator or parent in pinpointing safety problems with local school bus operation.

District 19 in Illinois and other entities around the country have already taken decisive steps towards the goal of safer school bus transportation. I wholeheartedly encourage other responsible leaders on the State, county, and district level, to follow this lead.

Mr. President, because I believe that local initiative to alleviate the hazards of school buses is so impotarnt to safeguard young children from injury and death—particularly in the absence of decisive leadership by Federal administrators—I ask unanimous consent that the Morrison article be printed in the RECORD.

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

SCHOOL BUS SAFETY: THERE IS SOMETHING YOU CAN DO—WHAT DIFFERENCE DOES IT MAKE?

(By James Morrison)

On Oct. 30, 1973 at 6:45 p.m. nine-year-old Jeffrey Kaiserman of Skokie, Ill. was delivered to his home by a privately-operated, contract school bus. The term "school bus" is used rather loosely here, since this vehicle could not pass the state school bus safety inspection. It carried a truck safety inspection sticker. And, since it was not technically a school bus, the warning light system, by state law, had to be disconnected.

It was, however, still allowed to carry students to and from school because this particular bus was contracted directly by a private school. Thus, it did not fall explicitly under state regulation. Since this bus operation was not state regulated, the driver was not required to have a state school bus driver's certificate. In fact, this particular driver did not even have an Illinois driver's license. If he had had a state certificate he would have had to pass a test covering, among other things, proper stopping and unloading procedures. Since this was not required of him, he was not even aware there were such procedures.

This probably contributed to the fact that he stopped his non-lighted, non-school bus on the wrong side of the street. Of course, Jeff Kaiserman should have known how he and the bus driver are supposed to work together to ensure that he gets safely

across the street, but since neither of them had ever been told how to do it, it is understandable that as Jeffrey Kaiserman, age 9, ran from behind an unlighted "school bus" across the street from his home, he was struck by a speeding taxi. He died a few minutes later in his father's arms.

Is your local school bus operation an accident looking for somewhere to happen? Do you know what the safety record is? Are the buses in use modern and well-equipped or ancient, creaking hulks? Is the system well-administered? Are the buses well-maintained? In short, just what is your child being exposed to every time he or she climbs on that school bus? You trust the people who drive your child to and from school, but should you?

Concerned citizens all over the country are asking themselves these questions, and many are finding that things are not as they should be.

Some are getting results in setting the situation right. Not many, but some. The ones who have been successful have taken the trouble to learn what the issues are and have committed themselves to doing something.

The intent of this special feature is to explain enough about school bus safety to allow you to do something about it in your area.

HAZARDOUS DESIGN: SOME ANTIDOTES

A school bus is a spartan vehicle. It has no frills, no luxurious appointments, little in the way of creature comforts and almost nothing to protect its passengers in an accident. School buses are built for economy. The idea is to carry as many passengers as possible (66 is normal capacity) with the least possible investment, and in this, at least, they excel.

The typical school bus is little more than a sheet metal box bolted to a truck-chassis. The seats are designed more for longevity in the face of hard use by active (and sometimes malicious) children than for either comfort or safety. A normal school bus seat is covered with semi-slick, switchblade-resistant vinyl, has a kick-proof sheet metal back and an exposed chrome rail frame to protect easily damaged upholstery borders. The whole assembly is bolted to a sheet metal floor.

The school bus body is made of sheet metal panels riveted together and to a support frame in a manner akin more to the way siding is put on a house than to the way the skin is attached to an airplane. An airplane's body panels serve as an integral part of the structure, while a school bus's skin seems to do little beyond keeping the weather out.

In vehicle accidents, injuries do not necessarily occur because the vehicle hits something. More often, injuries occur because the vehicle stops suddenly. Experts estimate that over 90 per cent of all injuries in school bus impact accidents are caused at least partly by seats.

The classic solution for preventing this kind of injury is to pad places that are likely to be hit by flying people and to keep people from flying by restraining them with seat belts.

Yet, seat belts have not been adopted in school buses for several reasons. First, seats currently in operation would not be able to do their job because the seat anchors themselves are not strong enough to take the stress of a full-fledged emergency. They rip out of the floor. Also, in many current buses, even if the passenger were constrained by seat belts, his or her head, neck and even chest could still hit the exposed frame of the seat in front. Therefore, for a total passenger restraint system to be effective, it would have to include reinforced seat anchors, stronger floors, stronger seats and padded, higher seat backs (28 inches versus the current 22 inches) to give protection in both front and rear collisions, plus padded aisle-side arm rests for protection in side crashes.

School bus manufacturers contend that all of these safety features are already available at somewhat higher cost but that nobody is buying. It seems your child is riding in the bus furnished by the low bidder.

The typical school bus costs about $10,000, and the added cost of stronger bodies, seats, seat belts and padding is estimated to be about $1,500. This works out to about $3 per child per year.

PROPER ADMINISTRATION IS ESSENTIAL TOO

If a bus never runs into anything, its crashworthiness becomes somewhat academic. But buses do run into things and children are injured on school buses. Why? The following examples should point out the effect school administrators can have on school bus safety.

The probability of serious injury in an accident is many times higher for standing passengers than for seated ones. If administrators do not choose routes in such a way that every passenger is assured of a seat, then the bus system is dangerous by definition.

Nearly two-thirds of all school-bus-related fatalities occur outside the bus when children are struck by passing vehicles or the bus itself. Few school districts give instruction on safe loading and unloading procedures to children themselves.

In many states, buses that are operated by private schools or contracted directly by parents are not bound by the legislated safety rules and can operate standard equipment driven by uncertified drivers.

School-bus drivers in some states can be as young as 16. Many states have no upper age limit for drivers, nor do they require regular medical checkups. Pay is low and reflects the low esteem for the job.

Since school-bus driving is a part-time job, almost all drivers are housewives or shift workers, often with little or no prior experience driving anything larger than a family car and no license other than a normal operator's permit before being hired. Elementary training is often all that's given and turnover is high. A study of New York school bus accidents uncovered drivers with "notoriously bad driving records." For example, one 22-year-old man with four accidents to his credit, a license probation, two speeding convictions, one other motor vehicle conviction and a police warning was hired to drive a school bus.

Approximately 203,000 school buses were recalled during a 1970 DOT field survey of bus safety. Most of the defects were discovered because they caused accidents, but most of the problems, even though they were design deficiences, should have been discovered much earlier had even a cursory preventive maintenance program been in effect.

What this boils down to is that proper or improper administration can have a tremendous effect on safe school bus operation.

STANDARDS AND LEGISLATION: NO RUSH TO ACTION

The National Highway Traffic Safety Administration has responsibility for establishing and enforcing federal safety standards for vehicle manufacturers and state highway programs. The latter is to insure that state highway programs are consistent with each other and that each state passes and enforces minimum standards of safety. To date, 19 highway safety program standards have been issued dealing with such things as driver licensing, vehicle inspection programs, police traffic services and, most recently, pupil transportation safety. They are laws and, as such, carry a penalty for noncompliance. If a state does not carry out the provisions of the standards within the specified time, it can lose 10 per cent of its federal highway funding. To date, this enforcement has been used only once and that was against Vermont for not being vigorous enough in implementing the Highway Beautification Act.

NHTSA's issuance of Highway Safety Program Standard 17, Pupil Transportation Safety (or simply Standard 17 as it is known in school bus circles) in May 1972 was a landmark event for school bus safety proponents. Standard 17 specifies minimum standards for equipment appearance (color, warning lights, signs, etc.), state program administration, driver selection and training and equipment maintenance.

Basically Standard 17 has the following provisions:

1. All safety standard legislation will apply to all vehicles that are used exclusively to transport pupils to and from schools. This means that school buses contracted by private and church schools must now use the same standards as public school buses.

2. All school buses must be painted National School Bus Glossy Yellow and have standard warning light systems and external markings. This provision is intended to give drivers of other vehicles instant recognition of school buses regardless of what state they are in.

3. Each state must have a single agency responsible for administering, enforcing and reporting on school bus operations. The responsibilities of the state agency include ensuring that drivers are properly trained and certified, that pupils receive safety and emergency evacuation instruction and that routes are planned so that there are no standees.

4. Maintenance standards, including daily pre-trip inspections, must be developed and enforced.

The school bus community was first informed of the scope of what became Standard 17 in June 1970. Thirty drafts later it appeared in the May 6, 1972 Federal Register, becoming law 30 days afterwards. It was revised to allow certain deviations for public transit buses used as school buses, and reissued in May 1973. After all this notification, the states were given until September 1977 to implement it. To date, not a single state has brought their program up to the Standard 17 minimums.

It is also the responsibility of the NHTSA to issue standards for school bus construction, but it has not acted. A comprehensive auto safety bill (H.R. 4187), currently before the House Commerce Committee, includes provisions on school bus construction. H.R. 4187 does not define school bus construction standards, but rather would force the Department of Transportation to issue a standard within a year after passage by Congress. According to the office of Rep. Les Aspin (D-Wis.), one of the bill's authors, passage is expected this session.

But even if H.R. 4187 is passed, it will be a long time before we see safe school buses on the streets. It would take at least 10 years before new buses would be in universal service because school buses last a long time and are replaced slowly. Important as it is, legislation, then, is not the place to look for quick action.

What can be done now is to encourage local school districts to refurbish old buses and buy new buses with safety options.

25 QUESTIONS TO ASK ABOUT SCHOOL BUSES

How does your local school bus system stack up? The answers to the following questions may give you insight into the safety of your local operation:

1. What is the licensing requirement for school bus driver? Is it a state or local regulation?

2. What exceptions are allowed in licensing requirements (learners' permits, who is carried in the bus, etc.)?

3. What background checks are made on driving, health and employment records?

4. What training is given in bus operation? Who gives it? How was the course devised (Standard 17 sets 40 hours of classroom training as the minimum)?

5. What training is given in emergency and first aid procedures?

6. How often are re-tests required?

7. What is the turnover rate for drivers? Is it high? What would help?

8. What is the procedure for reporting school bus accidents? When do injuries not have to be reported?

9. What action is taken when a driver gets a traffic citation? When a driver has an accident?

10. How old are the buses? What renovation, if any, has been done?

11. What optional equipment do they have?

12. Do the buses have seat belts, energy absorbing seat backs, stanchions and reinforced seat anchors? Why not?

13. What is the legal requirement for safety equipment (first aid kits, fire extinguishers, flares, reflectors, etc.)? Who checks that the equipment mounted in such a way that it is not a hazard itself?

14. Does the maintenance program include daily pre-trip checks by drivers for critical safety items?

15. Are exhaust emission levels checked regularly? Can carbon monoxide leak into the bus body?

16. What does whoever is in charge think of Standard 17? H.R. 4187? (If they don't understand this question, then you will have a good indication of their concern with school bus safety).

17. If the bus company is a contract operator that underbid the competition, where did this company save money that the others couldn't?

18. What instruction is given to students in emergency procedures? How often? Do monitors ride buses with the students?

19. Are standees allowed? What steps are being taken to eliminate them?

20. How are school bus mechanics certified?

21. Is there a central authority for school bus operations in the state? How effective is it?

22. Are school bus regulations being enforced? What are the penalties for non-compliance?

23. Will the state be in compliance with Standard 17 soon, or will it take until 1977?

24. What are the maintenance standards for equipment? How are records kept?

25. Who checks to see if maintenance is done? How often?

SENATOR CHILES DISCLOSES INCOME TAX RETURN AND FINANCIAL STATEMENT

Mr. CHILES. Mr. President, when I came to the Senate in 1971, I adopted a policy of making public my financial statement so that anyone who desired could be aware of my financial interests and could utilize that information in judging my performance as a Senator.

I felt then—and do now even more so—that such personal financial disclosure by public officials would help gain and maintain public confidence in the integrity of those in positions to conduct the people's business. To that end I have sponsored legislation to require financial disclosure by elected Federal officials, major appointed officials, and many Federal employees. I hope that a disclosure bill will be approved by Congress soon.

At this time I am again submitting a statement of the financial status of my wife and myself. I am this year also making public the joint income tax return of my wife and myself for 1973. This decision was not made lightly, for the privacy of Federal income tax returns has long been considered one of our most cherished and inviolate individual rights; but weighing heavily in my decision was the hope that it might further contribute to restoring public confidence in congressional integrity.

Therefore, Mr. President, I ask unanimous consent to have printed in the RECORD the statement of financial status for my wife and myself, compiled as of February 1974, and the joint income tax return for Mrs. Chiles and myself for 1973.

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

U.S. SENATE,
Washington, D.C., May 28, 1974.

Hon. FRANCIS R. VALEO,
Secretary of the Senate,
The Capitol,
Washington, D.C.

DEAR MR. SECRETARY: My purpose in writing this is to send to you a copy of the joint income tax return filed by my wife and myself for the year 1973 and a statement of financial status. This statement includes holdings and liabilities and is compiled as of February 1974.

ASSETS

Cash in checking and savings accounts approx., $2,600.00.

Stocks and other securities (See Schedule A).

Real Estate (See Schedule B).

Miscellaneous Assets (See Schedule C).

LIABILITIES

Accounts payable, $350.00.

Notes payable, $96,000.00.

Most sincerely,

LAWTON CHILES.

SCHEDULE A.—STOCKS AND OTHER SECURITIES

Unlisted securities:	*Shares*
Lake Bonny Properties, Inc. (⅓ equity)	875
Industrial Development, Inc	5
Wild Animal Kingdom	500
Over-the-counter stock:	
Lake First Mortgage Corp. (⅓ equity) less liabilities	4,728
Founder's Financial Corp	22,223
Hardwicke Companies, Inc	5,000
Listed securities:	
American Telephone and Telegraph	200
American Home Products	100
Marcor, Inc	1,020

SCHEDULE B.—REAL ESTATE

The Colonial Building, 910 South Florida Avenue, Lakeland, Florida. Completed August 1966, 6 units, 5000 sq. ft. Lot—100'x 135', ½ ownership. Mortgage—$42,079.11.

Red Lobster Inn, Lakeland, Florida. Completed January 1968, with addition November 1968. Mortgage—$155,193.63.

Red Lobster Inn, Daytona Beach, Florida. Completed June 1969. Mortgage—$212,187.40.

Red Lobster Inn, Tampa, Florida. Completed June 1969. Mortgage—$130,338.05.

Red Lobster Inn, St. Petersburg, Florida. Completed October 1969. Mortgage—$215,098.11.

Secondary financing obligation on two of four units.

From the above properties I received an income of $66,346.69 in 1973.

Manatee County, Florida Property. An undivided ½ interest in the N.W. ¼ of the S.W. ¼ of Sec. 34, Township 34 South, Range 18 East. 40 acres in submerged land in Manatee County, Florida.

Real Estate mortgages receivable:

James I. Black, Jr. et ux. 16⅔ ownership.

Assets: Real estate.

Residence: 904 Lake Hollingsworth Drive, Lakeland, Florida. Mortgage—$32,949.52.

Residence: 3807 North Woodstock Drive, Arlington, Virginia. Mortgage—$56,029.60.

Residence: Casa Del Mar, Apartment 10–C, 4621 Gulf of Mexico Drive, Longboat Key, Florida. Mortgage—$22,215. 93.

Real estate contracts receivable:

Max Leider, et ux. 16⅔% ownership.

William M. Skipper, Jr. Trustee, 16⅔% ownership.

SCHEDULE C. MISCELLANEOUS ASSETS

Furnishings.

Money in escrow from sale of stocks in 1973.

INCOME TAX RETURN—FORM 1040, 1973

Name: Lawton, M. & Rhea G. Chiles, Jr.

Address: Federal Building, Lakeland, Fla.

Occupation: U.S. Senator: Wife's occupation: Housewife.

Number of dependents: 6.

Wages: $42,500.00.

Dividends: $2,735.47.

Interest income: $32.19.

Income other than wages, dividends and interest, $67,266.41.

Total income: $112,534.07.

Adjustments to income: $9,464.93.

Adjusted gross income: $103,069.14.

Tax, check if from Form 4726: $30,977.59.

Total credits: $12.99.

Income tax: $30,064.60.

Other taxes: $864.00.

Total: $30,928.60.

Total tax withheld: $10,789.20.

Estimated payments: $12,000.

Total tax: $22,789.20.

Balance due: $8,139.40.

INCOME OTHER THAN WAGES, DIVIDENDS, AND INTEREST

Net gain or (loss) from sale or exchange of capital assets: $1,000.00.

Pensions, annuities, rents, royalties, partnerships, estates or trusts, etc.: $60,266.41.

Other (state nature and source): $8,000.00.

Total (add lines 28, 29, 30, 31, 32, 33, 34, 35, 36, and 37): $67,266.41.

ADJUSTMENTS TO INCOME

Employee business expense (attach Form 2106 or statement): $9,464.93.

Total adjustments (add lines 39, 40, 41, and 42). Enter here and on line 14: $9,464.93.

TAX COMPUTATION

Adjusted gross income (from line 15): $103,069.14.

(a) If you itemize deductions, enter total from Schedule A, line 41 and attach Schedule A. (b) If you do not itemize deductions, enter 15% of line 44, but do NOT enter more than $2,000. ($1,000 if line 3 checked): $22,533.95.

Subtract line 45 from line 44: $80,535.19.

Multiply total number of exemptions claimed on line 7, by $750: $4,500.00.

Taxable income. Subtract line 47 from line 46: $76,035.19.

CREDITS

Foreign tax credit (attach Form 1116): $12.99.

Total credits (add lines 49, 50, 51, 52, and 53). Enter here and on line 17: $12.99.

OTHER TAXES

Self-employment tax (attach Schedule SE): $864.00.

Total (add lines 55, 56, 57, 58, 59, and 60). Enter here and on line 19: $864,00.

SCHEDULE D.—CAPITAL GAINS AND LOSSES

SHORT-TERM CAPITAL GAINS AND LOSSES—ASSETS HELD NOT MORE THAN 6 MONTHS

Bad debt—Scholarship Services, Incorporated: loss—$33,000.00.

Enter net gain or (loss), loss $33,000.00.

Short-term capital loss component carryover from years beginning before 1970 (see Instruction H), 4(a).

Short-term capital loss carryover attributable to years beginning after 1969 (see Instruction H), 4(b), loss $33,000.00.

LONG-TERM CAPITAL GAINS AND LOSSES—ASSETS HELD MORE THAN 6 MONTHS

65 L–N installment sale, 1973 collections, $143.39 x 84.13%, $120.63.

71 S–Q installment sale, 1973 collections, $609.38 x 88.13%, $537.04.

510 sh Pittsburg Brewing, A, 5–25–73, 5–5–69, $1,729.71, $8,115.00, loss $6,385.29.

212 sh Royal Trust Co., A, 5–25–73, 1963, $5,052.73, $918.00, 4,134.73.

11. Net gain or (loss), combine lines 6 through 10, 11, loss $1,592.89.

13. Net long-term gain or (loss), combine lines 11, 12(a) and 12(b), 13, loss $1,592.89.

SUMMARY OF PARTS I AND II

14. Combine the amounts shown on lines 5 and 13, and enter the net gain or loss here, 14, loss $34,592.89.

If amounts on line 5 and line 13 are net losses, enter amount on line 5 added to 50% of amount on line 13, 16(a), loss $33,796.44.

Taxable income, as adjusted (see Instruction L): loss $1,000.00.

SCHEDULE A.—ITEMIZED DEDUCTIONS

MEDICAL AND DENTAL EXPENSES

One-half (but not more than $150) of insurance premiums for medical care: $150.00.

Total (add lines 1 and 9). Enter here and on line 35: $150.00.

TAXES

Real estate: $835.70.

State and local gasoline (see gas tax tables): $388.08.

General sales (see sales tax tables): $548.10.

Personal property: $208.41.

Auto sales tax: $80.00.

Total (add lines 11, 12, 13, 14, 15, and 16). Enter here and on line 36: $2,060.29.

INTEREST EXPENSE

See list: $14,560.95.

Total: $14,560.95.

CONTRIBUTIONS

Cash contributions for which you have receipts, cancelled checks, etc.: $2,247.80.

Church: $300.00.

Other than cash: $100.00.

Total contributions: $2,647.80.

MISCELLANEOUS DEDUCTIONS

Tax return prep.: $790.00.

Misc. Senate Expense: $50.83.

Entertainment: $2,274.08.

Total: $3,114.91.

SUMMARY OF ITEMIZED DEDUCTIONS

Total medical and dental: $150.00.

Total taxes: $2,060.29.

Total interest: $14,560.95.

Total contributions: $2,647.80.

Total miscellaneous: $3,114.91.

Total deductions: $22,533.95.

SCHEDULES E&R—SUPPLEMENTAL INCOME SCHEDULE

RENT AND ROYALTY INCOME

Totals: $2,994.36; depreciation, $2,359.31; other expenses, $6,715.33.

Net income (or loss) from rents and royalties (column (b) plus column (c) less columns (d) and (e)) loss: $6,080.28.

INCOME OR LOSSES FROM PARTNERSHIPS, ESTATES OR TRUSTS, SMALL BUSINESS CORPORATIONS

Chiles & Ellsworth, Partnership; $66,346.69.

Total: $66,346.69.

Income or (loss). Total of column (d) less total of column (e): $66,346.69.

Total of parts I, II, and III (Enter here and on Form 1040, line 31): $60,266.41.

Maximum amount of retirement income for credit computation: $2,286.00.

RENTAL INCOME

Property A—Lake Hollingsworth House (rented ½ year), residential: $2,047.44.

Property B—Casa del Mar beach house (rented 10 mos.), $946.92.

Total $2,994.36.

EXPENSES

Insurance property A: $54.40; property B: $79.90.

Interest property A: $2,338.05; property B: $1,874.15.

Taxes and licenses, property A: $619.65.

Utilities, property B: $429.08.

Other (list): sub-lease payment, property B: $420.00.

Maintenance, property B: $900.00.

Total expenses, property A: $3,012.20; property B: $3,703.13.

Total expenses: $6,715.33.

(DEPRECIATION CLAIMED ON SCHEDULE E)

Other depreciation: property A: House, land, F & F—$990.81.

Property B: building, F & F—$1,368.50.

Total: $2,359.31.

SOCIAL SECURITY SELF-EMPLOYMENT TAX

NET EARNINGS FROM NONFARM SELF-EMPLOYMENT

(b) Partnerships, joint ventures, etc. (other than farming): $66,346.69.

(e) Other (director's fees, etc.). Specify, Attorney fee: $8,000.00.

Adjusted net earnings (loss) from nonfarm self-employment: $74,346.69.

(a) Maximum amount reportable, under both optional methods combined (farm and nonfarm): $1,600.00.

SOCIAL SECURITY SELF-EMPLOYMENT TAX

Net earnings or (loss): (b) From nonfarm (from line 8, or line 11 if you elect to use the Nonfarm Optional Method): $74,346.69.

Total net earnings or (loss) from self-employment reported on line 12. (If line 13 is less than $400, you are not subject to self-employment tax. Do not fill in rest of form.): $74,346.69.

The largest amount of combined wages and self-employment earnings subject to social security tax for 1973 is: $10,800.00.

Balance: $10,800.00.

Self-employment income—line 13 or 16, whichever is smaller: $10,800.00.

If line 17 is $10,800, enter $864.00: $864.00.

Self-employment tax (subtract line 19 from line 18). Enter here and on Form 1040, line 55: $864.00.

SCHEDULE OF CONGRESSIONAL REIMBURSEMENTS AND EXPENSES

Lawton M. & Rhea G. Chiles, Jr., xxx-xx-[redacted]x.

REIMBURSEMENTS

Travel	$3,945.70
Official Expense	10,243.63
Total Reimbursements	14,189.33

EXPENSES

Travel	10,410.63
Official Expense	10,243.63
*Cost of Living, Washington, D.C.	3,000.00
Total Expense	23,654.26
Excess expenses	9,464.93

*See attached affidavit.

Lawton M. and Rhea G. Chiles, Jr., 265–36–4818.

I hereby certify that I was in a travel status in the Washington area, away from home, in the performance of my official duties as a Member of Congress, for 250 days during the taxable year, and my deductible living expense while in such travel status amounted to $3,000.00.

LAWTON M. CHILES, Jr.

INTEREST EXPENSE

Lawton M. & Rhea G. Chiles, Jr., xxx-xx-[redacted]

1st National Bank of Lakeland	$7,300.00
Fla. National Bank of Gainesville	75.33
National Permanent Savings & Loan Assn	3,808.08
Gulf Life Insurance Company	3,336.00
Prudential Insurance	41.54
Total	14,560.95

MAXIMUM TAX ON EARNED INCOME

Earned income: $116,846.69.

Deductions (see instructions): $9,464.93.

Earned net income. Subtract line 2 from line 1, $107,381.76.

Enter your adjusted gross income $103,069.14.

Divide the amount on line 3 by the amount on line 4. Enter percentage result here, but not more than 100%: 100 percent.

Enter your taxable income, $76,035.19.

Multiply the amount on line 6 by the percentage on line 5: $76,035.19.

a. Enter the larger of either (1) the total of your 1973 items of tax preference or (2) one-fourth of the total of your tax preference items for 1970, 1971, 1972, and 1973.

b. Less $30,000

c. Subtract line 8b from line 3a: 0.

Earned taxable income Subtract line 8c from line 7 (see instructions): $76,035.19.

If: you checked line 1 or line 4, Form 1040, enter $38,000: if you checked line 2 or 5, Form 1040, enter $52,000; if Estate or Trust, enter $26,000, $52,000.00.

Subtract line 10 from line 9 (if zero or less, do not complete rest of form): $24,035.19.

Enter 50 percent of line 11: $12,017.59.

Tax on amount on line 6 (use Tax Rate Schedule in Form 1040 (or Form 1041 instructions): $31,040.41.

Tax on amount on line 9 (use Tax Rate Schedule in Form 1040 (or Form 1041) instructions): $31,040.41.

Subtract line 14 from line 13–0.

If the amount on line 10 is: $38,000, enter $13,290 ($12,240 if unmarried head of household); $52,000, enter $18,060; $26,000, enter $9,030: $18,060.00.

Add lines 12, 15, and 16. This is your maximum tax. Enter here and on line 16, Form 1040 (or line 24, Form 1041); however, if you had net long-term capital gain in excess of net short-term capital loss, complete Computation of Alternative Tax below: $30,077.59.

COMPUTATION OF FOREIGN TAX CREDIT

Canada, date paid 1973; type of tax: income; gross taxable income: $129.90; taxes paid in dollars: $12.99.

Carryback or carryover: 0.

Total foreign taxes: $12.99.

Total U.S. income tax: $30,077.59.

Total taxable income from all sources: $80,535.19.

Column 5(c) divided by column 10: $.0016.

Limitation: $48.12.

Credit: $12.99.

GOVERNMENT WIRETAPPING BANNED IN FRANCE

Mr. KENNEDY. Mr. President, yesterday the new President of France, Valery Giscard d'Estaing, ordered an end to all government wiretapping and electronic surveillance in France within 3 weeks. He also directed that all files from any previous wiretaps or bugs be destroyed.

This action of the French Government indicates that at least one major Western power believes it can resolve the balance between individual privacy and the legitimate needs of national security solidly in favor of individual rights. President Giscard d'Estaing's order constitutes a forceful and definite statement that the right to privacy and to be free from unreasonable search in a civilized

society can be safeguarded without jeopardizing the national security.

That this has happened in France is especially significant in light of Attorney General Saxbe's testimony last week before my Subcommittee on Administrative Practice and Procedure at a hearing on warrantless wiretapping and electronic surveillance. The Attorney General testified that there are estimated to be more than 70,000 wiretaps and electronic surveillances in France, compared to fewer than 1,000 law enforcement wiretaps in the United States. He cited France as an example of another Western government which has felt the need to resort to wiretapping on a massive scale.

Of course, President Giscard d'Estaing's order provides a ringing statement that France does not need to use the intrusive weapons of the wiretap and the bug to accomplish any legitimate governmental purposes. Now that France has taken this step, the executive branch of the U.S. Government should reevaluate the need and justification for this surveillance technique which operates in secret and impinges so seriously upon the constitutional liberties protected by our Bill of Rights.

Mr. President, I ask unanimous consent that the text of two articles from today's editions of the New York Times and the Washington Post be printed in the RECORD.

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

[From the New York Times, May 30, 1974]

GISCARD PROHIBITS WIRETAPS IN FRANCE

(By Flora Lewis)

PARIS, May 29.—President Valéry Giscard d'Estaing today ordered an end of Government wiretapping and also the destruction of files from previous taps.

This directive was announced after his first Cabinet meeting, at which he also pledged "the development of France as a country of political and intellectual asylum" and said no newspaper would be confiscated "even if there are attacks against the President."

"France is a liberal country, and she must express that tendency even more strongly," Mr. Giscard d'Estaing said as he sought to demonstrate that he meant to keep his campaign promises of change and efficiency.

Breaking with custom, the new President had the usual Cabinet communiqué read out as a statement in his own name, setting forth his own decisions.

"I will make full use of the presidential powers and the responsibilities they entail," he said.

The statement was read by his closest political associate, Michel Poniatowski, the new Interior Minister who reported that the President had a stiff warning to the Cabinet.

Mr. Poniatowski quoted the President as having said: "You are friends, you are personal friends in your problems, your worries, your life, but in your duties, you are men in the service of France and nothing else."

The President's statement said that weekly Cabinet meetings were to be simplified so that time could be devoted to general discussion of major problems.

The next meeting is to discuss the government's program, which is then to be submitted to the National Assembly on behalf of the whole cabinet.

INFLATION TO BE TOPIC

In this way, Mr. Giscard d'Estaing, who heads the small Independent Republican party, may be forcing one or more of his five Gaullist ministers to accept new policies or quit.

The cabinet, made up largely of nonpolitical specialism, also includes four centrist reformers and three members of the President's party.

The following cabinet session, on June 12, is to concentrate on the problems of inflation and the foreign payments deficit, resulting from an increase of oil prices.

The week afterward, on June 12, the Cabinet is to attend to ways to "transform French society, so as to bring more justice, more equality of opportunity, and the participation of all, particularly workers, in the responsibility" of management.

The President also said ministries were to reduce the number of aides and assistants surrounding cabinet officers. He said he would set an example by cutting the presidential staff at the Elysée Palace from 464 to fewer than 300.

The President's directive on wiretapping ordered an end to the practice within three weeks "if it exists."

The government has not bothered in the past to deny that it has a widespread, elaborate tapping system, based on circuits originally installed by the Germans during the World War II.

There was nothing specific in the directive on political and intellectual asylum about who would be welcome. France has on the whole been generous, but sometimes selective, in their hospitality to exiles from foreign lands. The statement was taken to mean that the right of asylum would be made broader and more automatic.

PAST PRACTICE RECALLED

The section of the President's statement pledging no "confiscation of the press" recalled the era when the President did not hesitate to ban personal attacks that irritated him, though he tolerated many.

In the evening, the President went on television to tell the country about his cabinet choices and what he expected of his ministers. The speech, a departure from political custom, did not praise the people he selected nearly so much as it listed the qualifications he thought worthwhile and his expectations of them.

The President, who was relaxed and chatty, gave a few details about how the government was to be organized, explaining that some of the under secretaries to be appointed on June 9 would be autonomous—those in charge of universities, the postal service and transportation, for example—and others would be deputies to their ministers. He gave only vague glimpses of what the surprisingly named new ministries of "reform" and "quality of life" would do.

The resentment and unease of traditional Gaullists at the President's approach came through clearly in a news conference today by the Gaullist party secretary, Alexander Sanguinetti.

He said his group "would no longer give unconditional support to any government, whatever it may be." He added that the Gaullists would not vote against the Government at the start, "but we will reconsider our position every time we find it necessary."

[From The Washington Post, May 30, 1974]

GISCARD TO LIBERALIZE CIVIL RIGHTS APPROACH

(By Jonathan C. Randal)

PARIS, May 29.—French President Valery Giscard d'Estaing today banned official wiretapping, promised political refugees the right of asylum and renounced the government's right to seize newspapers.

A return to what the president called France's traditional "liberal" reputation in civil rights matters was announced by Interior Minister Michel Paniatowski, long a critic of the Gaullists' practices in this field.

Presiding over his first Cabinet meeting, the 48-year-old new president did not spell out specific examples of past abuses in promising that any wiretapping archives would be destroyed and bugging itself would be stopped "if it exists."

Last December the offices of the satirical weekly Le Canard Enchaine were bugged by members of France's counter-espionage agency who were caught by the newspapers' employees.

The incident, coming on top of other bungled wiretapping cases, brought considerable discredit on the then government, especially on its interior minister, Raymond Marcellin, who ironically was technically a member of Giscard d'Estaing's Republican Independent Party.

Giscard d'Estaing's decision to stop seizing newspapers, including those attacking the president, is another break with the Gaullist view of the sacred nature of the nation's highest office.

Press seizures reached a high point during the 1954–1962 Algerian war when they were a powerful economic weapon in government hands to force critics out of business.

Even thereafter, Gen. Charles de Gaulle regularly brought suits against newspapers deemed to have insulted both himself and the presidency.

The administration of his successor, George Pompidou, on at least one occasion used the existing legislation in an unsuccessful effort to condemn a satire on Mrs. Pompidou.

In a 1971 case involving political refugees' rights, a Chinese diplomat was taken off an Algiers-to-Paris flight upon his arrival here by French counter espionage agents suspicious of his drugged condition and unusual escort of fellow Chinese.

But after apparent complaints by the Chinese government, the diplomat, said to have wanted to seek asylum, was put back on a Peking-bound flight.

In less dramatic cases, Spanish Basque refugees have complained that French authorities have banned them from living in the French Basque country in violation of the Geneva convention governing political refugees.

Under Marcellin's long reign at the Interior Ministry, hundreds of immigrant workers often were expelled from France. There was frequently criticism that their only alleged offenses had been what would have been considered the exercise of normal democratic freedoms for French citizens.

Giscard d'Estaing told his ministers: "We're here to change France and not to further our own careers." He added: "I count on you to lead France and to organize the necessary change."

He asked his ministers to streamline their own staffs and ministries, and he set an example by pledging to cut back the 464 Elysee Palace employees to fewer than 300.

Less meaningful to average citizens—but deeply galling to the already much bloodied Gaullists—was the president's suggested constitutional reform that would allow ministers to return to their National Assembly or Senate seats six months after leaving office.

De Gaulle had purposely forced parliamentarians to give up their seats upon assuming ministerial office as a means of discouraging revolving-door governments.

On more immediate matters, Giscard d'Estaing said the government's plans to fight inflation and right the increasing trade deficit caused by oil imports would be unveiled June 12.

Indicative of the government's problems are recent statistics from the Organization for Economic Cooperation and Development which increased France's projected 1974 foreign exchange deficit from roughly $3.6 billion to $6 billion.

THE THREAT OF WORLD EMBARGOES

Mr. PERCY. Mr. President, although the Arab oil embargo ended some months ago, its impact on our national economy is still very real. For example, inflation during the first quarter of 1974 jumped to an annual rate of 12.1 percent, the real value of our gross national product dipped 6.3 percent during the same period and the economy is characterized by commodity scarcities. It has become apparent that the American economy is more vulnerable to worldwide economic forces than we had thought. These cold facts make it imperative that we consider such questions as: "What is the likelihood of similar embargoes being imposed in the future? What—if anything—can we do to prevent this from happening?"

Natural resources represent the most possible area for future embargoes since a few third world countries control a large percentage of certain natural resources. It is also the most vulnerable area for the United States since we rely heavily on imports for a critical share of certain important mineral supplies. For example, we are completely dependent on imports for our cobalt, chromium, manganese, and tin. Foreign sources last year supplied 84 percent of the bauxite consumed in the United States, 92 percent of the nickel and 82 percent of the mercury.

Experts disagree, however, on the likelihood of embargoes by the third world countries. The optimists argue that the third world nations are not in a position to blackmail the rest of the world. The reasons given are: The diverse political and economic philosophies characterizing these countries; the possibilities of synthetic substitutes; and the lack of financial reserves to squeeze back production without impairing economic growth.

Fred Bergsten, senior fellow, Brookings Institution has, however, continuously insisted that the third world countries could most certainly establish their own "OPEC's" and restrict or cut off supplies to the industrialized world. He argues that this becomes more probable unless the developed nations make a significant effort to improve their relations with the mineral exporting countries. Mr. Bergsten elaborates further on this issue in an article, "The Threat Is Real," published in Foreign Policy, No. 14, spring 1974, which, Mr. President, I ask unanimous consent to print in the RECORD.

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

THE THREAT IS REAL

(By C. Fred Bergsten)

Stephen Krasner seeks to minimize "The Threat From The Third World" which I described in Foreign Policy 11. He concludes that "The Third World is not in a position to squeeze [the primary product needs of the industrialized countries] very hard," because "petroleum is the exception, not the rule." Unfortunately for the consuming countries, Krasner is wrong. As Zuhayr Mikdashi points out in the preceding piece, collusion could work—and could add dramatically to both the raging inflation and rising unemployment which are spreading rapidly across most of the globe.

First, it should be noted that neither Krasner nor anyone else has yet contradicted my view that there are a number of economic issues other than natural resources (investments, markets, supplies of manufactured goods, agreement on monetary reform and trade liberalization, environmental protection, etc.) on which the Third World can hold us up. For example, the developing countries, even those whose "objective economic interests suggest a contrary course, have adopted a common position on the *seabeds* in opposition to that of the United States. Likewise, they have adopted a set of views on monetary reform, contrary to those of the United States, on which they seem unlikely to relent. And Krasner does not deal with several of the commodities for which, as I indicated, cartelization is most likely, such as *bauxite and timber*. So these points stand unchallenged in print, at least so far.

Second, there is growing evidence that my analysis is all too correct with regard to natural resources. OPEC has succeeded beyond my wildest fears. The bauxite producers have explicitly decided to form their own "OPEC."

OIL IS ONLY THE BEGINNING

The coffee exporters have successfully held production off the market to boost prices, and are so confident that they let the International Coffee Agreement with the consuming countries expire. The rubber producers have agreed to regular consultation. Krasner says that the market scoffs at threats from the copper exporters, but they are in contact with OPEC and something has driven the price of that commodity to unheard-of levels. Mikdashi's doubts that copper can be cartelized because "the copper exported by CIPEC countries represented less than a quarter of total world copper supply" is not very comforting, because Krasner's Table I reveals that the comparable number of OPEC oil is, at 32 percent, only slightly higher. The Shah of Iran has publicly suggested that other Third World countries emulate OPEC, and offered them assistance to do so.

Indeed, all of Krasner's examples of unsuccessful cartelization efforts come from an era which now seems light-years away. Shortages of supply have replaced shortages of demand as the dominant force in world economics for the first time in almost 50 years, and the power position of suppliers and consumers has thus changed dramatically. Détente has removed much of the security blanket which smothered international economic conflict in the past. The successes of many developing countries on a variety of fronts, and especially of OPEC itself, have provided them with the skills and the courage to effectively promote their own interests. There is indeed a very real and growing threat from the Third World unless the industrialized countries, particularly the United States, both stand up to the producer cartels and begin to adopt far more cooperative policies toward it.

On the issue of additional producer cartels, Krasner himself disposes of most of the potential differences between oil and other commodities. He concludes, however, that there are two distinguishing features which set oil apart: the flush foreign exchange positions of the oil producers, which enable them to afford the risks of cartelization, and their "shared value" concerning Israel. Neither point in fact distinguishes OPEC from potential emulators.

The foreign exchange argument

The foreign exchange argument fails for four reasons: some of the key oil producers are *not* flush, some of the leaders of other potential cartels *are* flush, reserve holdings do not tell the whole story of a country's ability to risk failure in a cartelization effort anyway, and, most important, none of these considerations is very important if the likelihood of successful cartelization is high.

Iran is crucial to OPEC, as the second largest oil producer, but its reserves equal less than three months' imports and it spends virtually all of its earnings for development. So do Iraq, Algeria, Venezuela, Nigeria, and Indonesia, which along with Iran account for 60 percent of OPEC output. Yet OPEC has obviously succeeded; reserve levels thus need not be high for even the most important cartel members.

The reason is that oil was a setup for cartelization, with very little risk involved. The same situation holds for several other commodities as well. But a country can undertake even a risky cartelization effort for a particular commodity if its over-all economic position is strong enough to stand failure.

If its economy is solely or heavily dependent on the commodity in question, as is Saudi Arabia's on oil, the risk is high unless its reserve cushion is also very high. But the risks are much lower if the potential cartelizer has a highly diversified economy, and if its reserve position does not then determine whether it can undertake the effort. This is precisely why Brazil, which has developed both an impressive manufacturing base and a highly diversified range of primary exports, as well as the world's eighth largest reserves, can hold an umbrella over the coffee market now whereas it could not do so a decade ago. Colombia can even help, because coffee now provides less than one-half its export earnings and its reserves equal six months' imports. Krasner's Table II is thus misleading; it needs to be weighted by the dependence of the producing countries on the commodities in question to portray an accurate picture of how likely they are to initiate cartels.

In addition to "safe" export earnings, a diversified economic base sharply increases the likelihood that the country can borrow sizable sums from the international capital markets to supplement its reserves. The Third World obtained over $8 billion in Eurocredits in 1972 and perhaps $10–$12 billion in 1973. So there is every likelihood that cartelization efforts can be underwritten by foreign loans as well as by national reserves and ongoing earnings from other exports of goods and services.

One source of financing for emulators of OPEC might be OPEC. The huge increase in oil prices obviously hobbles the development efforts of many countries in the Third World. But the Shah seems to reject the obvious alternatives of dual pricing for oil and compensatory grants to the beleaguered, because those options could undermine his own cartel and deplete his own reserves, respectively. Hence he has called on other developing countries to restore their terms of trade by raising their own export prices, and offered to help them do so. Underwriting such an effort would, in one fell swoop, establish OPEC as leader of the entire Third World and provide a handsome return on invested capital if the cartels worked.

These considerations of economic invulnerability are far more important for potential cartel leaders than rank and file members. There will always be cheating by smaller countries, as Krasner suggests, but the output decisions of one or two leaders determine whether the price umbrella can be held. How then do the potential leaders, and to a lesser extent members of other potential cartels, meet these criteria?

For tin, Malaysia accounts for one-half of world exports, has reserves which exceed seven months' imports, and relies on that commodity for only 20 percent of its export earnings. That same country accounts for 38 percent of world rubber exports, but rubber provides only one-third of its export earnings. Australia, which has announced that it will attend the organizational meeting of the bauxite "OPEC" and has spoken publicly of developing a "resources diplomacy," is a leading exporter of bauxite, iron

ore, and lead, and has a widely diversified economic base and the world's ninth largest reserves. (The other bauxite producers are less affluent, but this appears to be the commodity least susecptible to substitutes and hence the least risky to cartelize, especially if the tin and copper producers move along similar lines.) Thailand is an important factor in the tin and rubber markets. Each of these commodities represents less than 15 percent of total Thai exports, and its reserves exceed eight months' imports. Each of the four main copper exporters relies heavily on that commodity, but Zambia, the largest exporter, has substantial reserves as do Peru and Zaire. There are many other similar examples. "Surfeit reserves" are not a distinguishing characteristic of great significance for the petroleum oligopoly.

"Shared values"

The issue of "shared values"—hatred for Israel—is even more easily disposed of. OPEC is comprised of countries with sharp political *differences*. Iran has always been *close* to Israel. There remains deep hostility between Iran and Iraq, Iran and Kuwait, and Iraq and Kuwait, Iran and Saudi Arabia are leading rivals for dominance of the Persian Gulf. Libya under Qaddafi and Saudi Arabia have bitterly competed for leadership of the entire Arab world. Venezuela and Nigeria have none of the so-called "shared values."

Yet OPEC has clearly succeeded, and was in fact a highly successful cartel well over two years *before* the latest war submerged at least some of these differences. It nicely survives the failure of Iran, Iraq, Libya, and all non-Arabs to join the production cutbacks to pressure the West over Israel. There is only one explanation: the common economic gain for all participants from raising their prices and avoiding the production increases which would undermine such action—a motive which could readily trigger similar action wherever the economics permit.

Indeed, the only political prerequisite for producer cartels is the absence of overt hostility, and none seems to exist among the members of any of the potential emulators of OPEC. Few of those countries (e.g., Bolivia and Malaysia for tin, Guinea and Guyana for bauxite) have any reason even to talk to each other *except* for their common interest in maximizing their economic returns from a commodity which they happen to have in common. So "shared values" hardly set OPEC apart.

In fact, producer cartels look more feasible in other commodities than in oil. Fewer countries need to collude. Capital, technological, and marketing complexities may be more easily mastered. As already indicated, other potential cartelizers are frequently more diversified economically and less antagonistic politically. I continue to fear that oil is only the beginning, particularly in view of the dramatic demonstration effect of OPEC's success and the utter failure of the consuming countries to respond with common action of their own.

Finally, Krasner badly misreads my proposals to deal with "The Threat" when he likens them to the Alliance for Progress and the policies of General Foods on coffee. I explicitly recognized in "The Threat" (p. 103) that autonomy is a primary Third World aim, and my policy proposals—*multilateral* aid, increased trade, a "link" between SDR's and development assistance, limitation on the activities of multinational firms—all had that objective very much in mind, and would create more than an "airy structure."

Nevertheless, Krasner may be right in doubting that my proposals will be sufficient to deal with "The Threat," I will propose a more comprehensive "Response To The Third World" in a future issue of Foreign Policy.

PRIDE ON "THE HILL"

Mr. SYMINGTON. Mr. President, "The Hill" in St. Louis has long been known for its contribution to major league baseball through such personalities as Yogi Berra and Joe Garagiola.

This Italian community in the heart of the city is now earning recognition as one of the few urban neighborhoods in this country which has escaped blight and decay.

In the April 29 issue of Time magazine an excellent article describes the efforts of Hill residents to preserve their community as a pleasant and safe place to live and work.

The dedication and cooperation of these St. Louisans provide a meaningful and challenging example to marginal neighborhoods in cities throughout the country.

I ask unanimous consent that the Time article be printed in the RECORD.

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

AMERICAN SCENE: ST. LOUIS: PRIDE ON "THE HILL"

(Many of the small and tightly knit ethnic communities that once dotted virtually every U.S. city have crumbled under the planner's rezoning and renewal schemes and the bulldozer's giant blade. One community that has successfully resisted the encroachment of urbanization is "the Hill," a 56-block, largely Italian area on the south side of St. Louis, where Yogi Berra and Joe Garagiola grew up. After a series of fierce, emotion-charged struggles with local, state and federal officials, Hill residents now boast a model community that has the lowest crime rate and the highest property values in the city. TIME Correspondent Marguerite Michaels recently visited the Hill. Her report:)

In the afternoons around 3:30, Joe ("Green") Verdi, Aneglo ("Foots") Colombo, John ("Detroit") Agresti and other properly and not-so-properly nicknamed neighborhood men gather at Rose's Tavern for a glass of beer from the 7-ft. wooden cooler. Then they drift out back toward the grape arbor for a game of *boccie*. On Wednesdays, Amelia Garavaglia, 76, flours her plump, competent hands in the back room of Gioia's Corner Market and begins rolling out 5,000 raviodi for sale in the front room. Each evening, Ida Galli switches on the spotlight in her front yard——not to scare away burglars, but to illuminate a 3-ft.-high statue of the Blessed Virgin. It is all part of the pleasant, unhurried flavor of life today on the Hill.

ITALIAN SAUSAGE

There is strong sense of ritual, both religious and community, on the Hill, where 90% of the population of 6,500 is Italian and 95% Catholic. There is also a bursting pride in the rows of narrow, well-scrubbed houses and in the family-run corner stores, where links of fat Italian sausage dangle in long rows. Many residents are direct descendants of the immigrants who left Lombardy at the turn of the century to work the clay mines of St. Louis under the hill that gives the section its name. Life on the Hill is as finely woven as Ann Reistino's brightly colored, crocheted afghans.

It was not always so. In the '60s, the neighborhood's youth began to drift away. Federal and state highway officials designated the path of Interstate Highway 44 through an area of the Hill. Assuming that land values would plunge with the construction of the road, many homeowners stopped maintaining their property. A local lead company began pumping slurry into the abandoned clay mines, threatening to undermine foundations. Explains Father Salvatore Polizzi, 43, associate pastor of St. Ambrose Roman Catholic Church: "The Hill was becoming a blighted cemetery."

Polizzi determined to change things. He began delivering sermons urging the residents to regain their lost sense of spirit and pride. He also made a point of cultivating leaders of the area's strong Democratic organization.

His efforts paid off in his first encounter: discouraging the sale of land to builders of a planned drive-in theater. Polizzi sent the Democratic ward committeeman into the streets with a sound truck announcing an emergency meeting in the Big Club Hall. After a session exploring the blight that the drive-in would inflict on the area, a small army of Italian dowagers volunteered to lie down in front of the bulldozers. The sellers backed down, and the Hill's alderman quickly slipped a regulation through the zoning board forbidding a building permit for any drive-in within 500 ft. of a residential area.

Buoyed by that success, Polizzi once again rallied community support and forced the lead company to stop pumping waste into the abandoned mines. But the biggest fight was yet to come. By 1971 construction was well under way on Interstate 44. It cut off a segment of the community, isolating 150 families. Yet the state planned only one vehicle overpass. In protest, some 300 citizens piled into buses and traveled to the state capital, Jefferson City; there they argued before the highway commission for an additional overpass.

The commission said no, and the residents cannily decided to turn the problem into an "Italian issue." When Secretary of Transportation John Volpe visited St. Louis on another matter, Polizzi requested a meeting and pressed for the overpass in the same, formal Italian that Volpe had learned back home in Massachusetts. Joe Garagiola began dropping hints that he might not be available any more on the Republican banquet circuit unless the Hill got its overpass. Finally Polizzi led a Hill delegation to Washington with a check for $50,000, raised by the residents themselves, to pay for the overpass. The Hill got its bridge, and the bells of St. Ambrose rang out the good news.

Polizzi has joined 1,100 of the area's 1,500 families in a nonprofit development corporation to guide the future of the area. In its four years' existence, the corporation has found 60 jobs for new—and old—residents in the neighborhood's salami and macaroni factories, tool company and glass factory. It has set up a summer youth program and hired students at $1 an hour to spruce up the area. The students redecorated the Hill's hydrants and trash cans in red, white and green (the colors of the Italian flag). More than 1,000 trees have been planted. A system of block workers set up by the corporation makes certain that leftover ravioli lands in, not outside the garbage cans. The corporation maintains a list of Italians eager to move onto the Hill. When houses become vacant, it often refurbishes and resells them at low cost to young couples.

The money for many of these projects comes from the approximately $50,000 earned at an annual summer festival, which draws 100,000 visitors. The aroma of lasagna and meat balls fills the air, and amateur Carusos croon over the loudspeakers. There are grape-stomping contests and a step-by-step demonstration of how to make sfinge, an Italian confection. At the evening's end a spray of fireworks flares over the neighborhood as proud residents and guests clap and cheer.

aware that they have seen the past and that on the Hill at least, it still works.

MEMORIES OF A BROTHER

Mr. HUGH SCOTT. Mr. President, Joseph Alsop shares some poignant memories of his late brother, Stewart, in today's Los Angeles Times. For those of my colleagues who knew Stewart Alsop and for those who would have liked to know him, I ask unanimous consent that this revealing article be printed in the RECORD.

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

[From the Los Angeles Times, May 30, 1974]

MEMORIES—BOTH ODD AND FOND—OF A BROTHER

(By Joseph Alsop)

WASHINGTON.—My first memory of my brother Stewart, who died Sunday, is almost grotesquely odd. When he was a baby, 60 years ago, he suffered fearful eczema. The remedy was to slather him with cocoa butter and then wrap him in gauze bandages from head to toe, so that he looked like a small, rather wizened mummy.

After that, the eczema turned into even more fearful asthma, so that on our farm there were large forbidden areas, such as "near the manure pile," because these were thought to "make Stew wheeze." Yet he was a brave, singularly stoical child, as he became a brave and stoical man. So I cannot recall him wailing in his mummy bandages or, later on, even once complaining during the hideous asthmatic attacks that repeatedly disabled him until he was about 13.

It is odd, too, that until childhood merged into youth, he was quite strikingly ugly—yellow-skinned, with a head that seemed far too large for his rather puny body, and a general look of being faintly misshapen. But that was compensated for in time, when he grew up to be the sole male Alsop with a serious claim to being handsome.

Of such trifles are one's memories made. But were the foregoing facts really so trifling? Does it not require tremendous inner fiber for an ugly, always-ailing child to develop with the years into a man of quite exceptional gaiety and grace?

The grace and gaiety, the good companionship, the gallantry whenever it was needful to be gallant, the genial wit, the wisdom of the heart, the strong insight of the mind—these qualities of my brother's hardly need pointing out to anyone who knew him or read much of what he wrote. Yet as I think back over the years, what mainly strikes me was my brother's singular combination of marked eccentricity with the best kind of conventionality.

On the eccentric side, there was my brother's view of clothing, furniture and all the normal outward ornaments of life. He almost literally held the opinion about these things of the Boston lady who remarked scornfully, "You don't *buy* hats! You *have* hats!"

To this economical approach to possessions in general, my brother added a positive mania for making amateur repairs. By some unlucky accident, for instance, he discovered a particularly noisome glue, which he firmly believed could be used to repair rugs. The results were awful to behold. Yet the glued rugs never bothered anyone; for he and my sister-in-law joined immense hospitality to a singular knack for making their innumerable guests enjoy themselves.

Feeling young again, alas, is never easy in one's 60s, but it always happened when I spent a weekend at the country house my brother loved above all other places. There would be quantities of people, young and old. There would be endless entertaining talk—for my brother was a marvelous talker, always shrewd, always salty, always worth hearing. There would be vast delicious meals. And suddenly, the staleness that age brings would be lifted.

In that country house, in a queer way, you could also see my brother's eccentric side merging into his conventional side. It was a mite eccentric, after all, to set about recreating in Maryland in the 1970s the general style and atmosphere of our family farm in Connecticut half a century earlier. Perhaps it was just this that always made me feel so much younger when I went there.

At the same time, the atmosphere of those country weekends was powerfully impregnated with all those values that my brother always cherished. Warm affection for friends, deep love of family and of country, hearty dislike for what was cheap or mean, and positive detestation for anything phony—these were his main values, all conventional enough.

Or maybe one should say that these were rather old-fashioned values, rather than conventional ones. Until his long last illness, borne with such courage, we seldom talked seriously except about politics or practical matters. But sometimes, after he was ill, something would slip out that hinted of great seriousness, as when he once said to me:

"You know, I sometimes thank God you and I were born Americans so long ago—for although I don't enjoy getting older, I begin to suspect we have seen the best time in this country."

I look at the next generation, whom he cared for so intensely, and I hope against hope he was wrong.

BRUCE BIOSSAT

Mr. KENNEDY. Mr. President, the profession of journalism and the field of politics lost a cherished friend this past weekend with the death of Bruce Biossat, a syndicated columnist for the Newspaper Enterprise Association.

Bruce was called "the dean of America's political reporters"—a title he would have put down with some self-deprecation—and he certainly filled that role. For 35 years he covered the political scene as a reporter, editorial writer and columnist. He was a gentle, honest, and supremely humorous man, who relished the rough-and-tumble of politics, and who could write about that world with wisdom and understanding but without bitterness or spite for those whose careers he examined in print. I do not think there was anyone among his colleagues or among those politicians he covered who did not share a respect and affection for him.

Bruce loved to travel on political excursions, and it was my good fortune to make many trips with him. It is hard to imagine, now, a political season which will not include, somewhere along the way, that grey-haired, wise, funny man clambering about a plane, dressed for heavy weather and looking forward to political combat. He truly graced the politics of this country, as he graced the lives of his countless friends.

Mr. President, I would like to ask unanimous consent that the obituaries of Mr. Biossat from the Washington Post and the Washington Star-News be printed in the RECORD.

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

[From the Washington Post]

BRUCE BIOSSAT, POLITICAL WRITER, DIES

(By Jules Witcover)

Bruce Biossat, dean of America's national political writers whose syndicated column ran in more than 400 newspapers, died in his sleep yesterday morning, apparently of a heart attack. He was 64.

Mr. Biossat was found in his bed by his wife, Barbara, about 10 a.m. at their home at 5020 Garfield St. NW. He had been in general good health and was preparing to attend the National Governor's Conference in Seattle next week.

An inveterate traveler, collector of political information, folklore and friendships among the nation's political great, Mr. Biossat was the most knowledgeable of reporters about the procedures, and intricacies involved in the making of presidential candidates.

As chief Washington correspondent and columnist for the Newspaper Enterprise Association, Scripps-Howard affiliate, he visited leading politicans in most of the 50 states every election year and often in-between, building up a network of sources that few of his colleagues could match.

In both 1968 and 1972, he compiled convention delegate counts for NEA and the National Observer that were guideposts for other political reporters. He covered his first national convention in 1940 and every one after that.

Born in Chicago on January 10, 1910, the oldest of the six children of Harry Biossat and the former Marie Reich, he attended the Universities of Washington and Chicago and worked in a steel mill and as a cookie taster in a biscuit factory before breaking into journalism.

He showed up one day in 1940 in the Chicago bureau of what was then United Press and besieged the Midwestern manager, Boyd Lewis, to hire him. Lewis had no job but invited young Biossat to send him samples of his work.

In the next four months, the would-be reporter flooded Lewis' desk with stories from all over the city, state and country, hitchhiking to Philadelphia to cover the Republican National Convention that nominated Wendell L. Willkie and filing daily reports for his special readership of one.

The young man's persistence—which became a trademark of his career as a political writer and columnist—finally was rewarded with a job covering the state legislature in Springfield, Ill. From there he went to Harrin, Ill., the Washington bureau of UP, the Chicago Daily News as a political reporter and the Washington bureau of the AP.

In 1949, he was reunited with his old boss, Lewis, who hired him to be chief editorial writer for NEA in New York, a job he held for 12 years until he moved again to Washington, first to write editorials and then to succeed Peter Edson as NEA's chief Washington correspondent and columnist.

Since then, Mr. Biossat had written four columns a week from every corner of the country and overseas, particularly Japan, in which he developed a special interest in his last years.

A gentle man with a dry sense of humor and an incredible memory for detail, he was considered and used as a walking encyclopedia of political history by his colleagues. A full and flowing mane of gray-white hair made him look older than his years and made him the brunt of his political associates. He was once referred to unwittingly by a young reporter as "that old codger," and his colleagues never let him forget it—to his undisguised amusement.

His news sources were numerous in both major parties and among liberals and conservatives alike, but the Kennedy brothers—John, Robert and Edward—had a special

treatment for him, and for his doggedness as a reporter. They needled him endlessly but affectionately, to his delight.

Once when Sen. Edward M. Kennedy was campaigning for re-election, Mr. Biossat accompanied him one morning first to a casket manufacturing factory and then to an old people's home. Kennedy told his reporter friend the itinerary had been arranged for him. Another time, while speaking at a college in Massachusetts, Kennedy introduced Mr. Biossat to the faculty as his father.

During the 1968 presidential campaign of Sen. Robert Kennedy in California, the press bus was stalled on a hot afternoon and Kennedy's press secretary and a longtime friend of Mr. Biossat, Richard Drayne, jumped off and came back with a case of cold beer. When Mr. Biossat complained and asked what he'd brought for the non-beer drinkers, Drayne told him he'd tried to buy "a six-pack of Geritol, but they didn't have any." On Mr. Biossat's next birthday, Drayne came to the party for him with the six-pack.

On a presidential campaign flight a few years ago, as deadline time approached and reporters began pounding their typewriters, one of them got on the public-address system and inquired whether "anybody aboard has a quill pen, because Bruce Biossat wants to start writing."

He interviewed and knew many Presidents, but his closest association was with John F. Kennedy. In November, 1960, shortly after Kennedy's election, the President-elect was enroute to the airport to make a speech in New York when his limousine passed Mr. Biossat on a Washington street. Kennedy stopped and asked him if he'd like to go along—obviously a chance for an exclusive interview. No, the reporter said with aplomb, he was delivering a raincoat to his daughter at a school nearby, and besides he had his car with him.

Although his friends included most of the leading political figures of his day, he was as well a friend to the greenest of reporters who embarked on the political beat, steering many of them—and some not so green—away from error in fact and judgment on the campaign trail.

"No one knew more about politics in this country, or about politicians, than Bruce did," Sen. Edward Kennedy said yesterday. "And no one brought more zest and humor to the art of political journalism. He was great fun, and he was a great man, and we will miss him."

In addition to his wife, Mr. Biossat is survived by a daughter, Susan Patton of Virginia Beach, Va.; four sisters, Marzalie Stevens and Barbara Snow of Chicago, Mary Warde of Denver and Suzanne Andrews of Prescott, Ariz.; and a brother, Bayard Biossat of Chicago.

Burial, in Washington, will be private. A memorial service will be held in the library of the National Press Club on Saturday at 11 a.m., with a buffet afterward.

Mrs. Biossat has requested that remembrances be in the form of contributions to the Kennedy Center for the Performing Arts, which she and her husband attended often.

[From the Washington Star-News]

BRUCE BIOSSAT DIES AT 64; DEAN OF POLITICAL REPORTERS

(By David Burgin)

Bruce Biossat had a photographic memory, and well that he did. For to get along in lawyer Harry Biossat's household, and to be an aspiring newspaperman, an astonishing ability to recall names and dates and places was a handy tool.

"My father never bargained on my memory," Bruce Biossat often recalled. "Ah, we had some great battles! He was peerless; he would go to any length. But I held my own, and it was marvelous training for me."

So it was that Mr. Biossat, from "battles" with his father over who could be first each year to spot the auto license plates from every state and the District of Columbia, or who could rattle off the names of all the vice presidents or the entire congressional roll, fashioned a 35-year career in journalism as a political reporter.

Considered by colleagues to be the dean of reporters covering the national political scene, Mr. Biossat died in his sleep yesterday morning, Memorial Day, of an apparent heart attack at his home on Garfield Street, NW. He was 64.

He was found in bed by his wife Barbara (Babs) at 10 a.m. when he did not answer her call to breakfast.

For 25 years, Mr. Biossat's columns and dispatches appeared in The Washington Daily News and for the last two in The Star-News. His column was circulated to more than 400 North American newspapers by The Newspaper Enterprise Association (NEA), a Scripps-Howard affiliate for which he worked since 1948.

A native of Chicago and an alumnus of the University of Chicago, Bruce Biossat began his journalism career in 1940 with United Press with the same perfectionist's integrity, tenacity and attention to detail that was the mark of his style through his very last column.

Boyd Lewis, then manager of UP's Chicago bureau, rather routinely told the eager job applicant to send in samples of his work. Having worked only at odd jobs—including one as a cookie taster for a biscuit manufacturer—Mr. Biossat had no samples.

But over the ensuing weeks Lewis received samples galore, as Mr. Biossat hopscotched Illinois filing feature stories. Later he set out on his own for Philadelphia to cover the Republican National Convention that nominated Wendell Wikie, and the samples from that experience eventually convinced Lewis that UP needed upstart Biossat to cover the state legislature at Springfield, Ill.

Eight years later, after Mr. Biossat had worked for UP (now United Press International) in Harrisburg, Ill., for the Chicago Daily News and for the Associated Press in Washington, Lewis had joined NEA and hired him as an editorial writer. Lewis later became president of NEA and in 1961 sent Mr. Biossat from New York to Washington to become the syndicate's top political reporter and columnist.

Early in Mr. Biossat's days with NEA, he covered the Massachusetts senatorial campaign of young John F. Kennedy and the two struck up a friendship that lasted through President Kennedy's death and spread to Kennedy's brothers, Robert and Edward.

Mr. Biossat was enamored of the Kennedy style—"their refusal as politicians to take themselves so darn seriously," as he put it—and in particular he enjoyed the Kennedy brothers' ironic wit.

Mr. Biossat himself possessed a wry, slightly self-effacing wit which made him one of the most popular members of the Washington political press corps. During quiet times in the press galleries or on the road with the pols, he would often regale colleagues with tales of the Biossat family's annual Christmas reunion in Chicago.

Mr. Biossat's four younger sisters and brother would drive hundreds of miles to find just the right Christmas tree, usually a 25-footer, then lop seven feet off the top and seven feet off the bottom "for a wide, fat effect."

The idea was to break the family record for most ornaments, but rigid rules dictated that no ornament could touch a branch below. "The record number of ornaments is 712," he would say proudly.

Well known, too, was Mr. Biossat's annual hunt to see all the new license plates or stickers, the boyhood game he learned from his father in Chicago, where out-of-state plates are not as plentiful as they are in the Nation's Capital.

Several Washington journalists now are converts to the license tag game, among them Carl Leubsdorf, the AP political writer. In four years of competition, Leubsdorf struggled to a 2-2 tie against heavy odds.

Once, when Leubsdorf phoned Sen. Edward Kennedy's office to check a fact, an office aide rebuffed him. "I know why you're calling," the aide said. "You're just trying to find out where rare out-of-state licenses are parked, but we're working for Mr. Biossat."

Tom Nolan, a Biossat protege in the NEA bureau here and now deputy metropolitan editor of the Star-News, recalled 1967 when he led Mr. Biossat 49–42 in number of license tags seen. Nolan needed only two plates, Alaska and Rhode Island, to win the game.

"I went to Sen. Claiborne Pell's Office and found a girl who had Rhode Island plates," Nolan said. "She had her stickers but hadn't put them on yet, so I volunteered to do it for her.

"That gave me 50—only Alaska to go. I couldn't find an 'Alaska.'

Meanwhile, Bruce put on a last minute blitz by touring Capitol Hill parking areas—you were on your honor to actually see the plate—to catch up. He not only found an 'Alaska,' but he got my 'Rhode Island' to beat me."

Professionally, his colleagues say, Mr. Biossat put that kind of integrity and enterprise into his work. He was recognized as an expert on the processes by which a person can become president. And because of his tireless attention to state politics, about which he often wrote, he was the envy of peers for his long list of contacts.

As a writer, Bruce Biossat's syntax was crips, flawlessly clean, a refinement of his early wire service training. His copy was meticulously prepared. Often as not he would retype a piece until it was letter perfect.

Mr. Biossat's colleagues also knew him for another acceptable eccentricity—"one man's outrage against the system." He saved some of his best prose for indignant letters to the heads of public utilities, credit card companies, hotels and arlines. "Ralph Nader can take a lesson from me," he would say.

Although a prolific writer, and with his acute memory, Mr. Biossat was never able to write a book on either of his favorite subjects, politics and travel (he would log as many as 100,000 miles a year). But Mrs. Biossat, his almost constant companion in his work and travel, said he was to have gone to New York this week to make plans for a book about the humorous side of covering politics, and had talked about another book which would examine the contemporary press as seen through the eyes of well known political press secretaries and image-makers.

Besides his wife, Mr. Biossat is survived by a daughter, Susan Patton of Virginia Beach, Va.; four sisters, Mary Warde of Denver, Susanne Andrews of Prescott, Ariz., Marzalie Stevens and Barbara Snow of Chicago, and a brother, Bayard, of Chicago.

The family announced that burial, private, will be in Washington, but that on Saturday at 11 a.m. a memorial service will be held at the National Press Club with a buffet following. Remembrances are suggested in the form of donations to the Kennedy Center of Performing Arts.

A CONSUMER ADVOCATE OF GIANT PROPORTIONS

Mr. PERCY. Mr. President, today I wish to commend a most extraordinary woman, Mrs. Esther Peterson. This gallant lady has held one important job after another in Washington having to do with the safety and economic well-being of laborers and consumers.

Esther began her career with the Consumer's League for Fair Standards and has since been Assistant Labor Secretary under Presidents Kennedy and Johnson, White House Consumer Adviser under President Johnson, and is now chairman of the National Consumers' League and consumer adviser to Giant Food's president, Joseph Danzansky.

In the latter capacity, according to Lynn Jordan, head of the Virginia Citizens' Consumer Council—

Esther started a chain reaction. No matter where I go in the country every consumer advocate has heard about Giant Food even though its a local chain.

In the 3 years Mrs. Peterson has been with the company, Giant has been a conspicuous pioneer among food retailers in advancing progressive consumer reforms. As a result, Giant controls a continually increasing percentage of the Washington area's retail food market.

One of Mrs. Peterson's first innovations at the company was to form consumer advisory groups whose membership included highly respected professionals as well as concerned customers. Unit pricing, open dating of perishables, nutritional and ingredient labeling of Giant brand food products, and a comprehensive toy safety program are all a part of the Peterson approach to aboveboard retailing. Mutual trust between buyer and seller is her aim.

Mrs. Peterson says:

If you don't explain things and let consumers know, you can't complain when consumers yell about profit pictures they don't understand.

Mrs. Peterson's unusual candor even includes public announcements of the consumer program's mistakes.

What Esther Peterson symbolizes is that there exists a vast difference between responsible, constructive consumer advocates and inexperienced "demagogues" who, as she puts it, are "short on expertise and long on rhetoric."

Her experience with Giant demonstrates that there is no more effective way for an aggressive, forward-looking company to increase sales than to become genuinely responsive to the consumer.

Mr. President, I ask unanimous consent that an outstanding description of Esther Peterson and her substantial contributions—written by Claudia Levy and appearing in the Washington Post of May 12, 1974, be printed in the RECORD.

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

[From the Washington Post, May 12, 1974]

COUNTING ON ESTHER PETERSON—SUPERMARKET CHAIN'S CONSUMER ADVISER SPEAKS OUT

(By Claudia Levy)

Esther Peterson says that when she came to Giant Food, Inc., as consumer advisor to its president, consumer advocates thought she had sold out and executives of the Washington grocery chain thought she would keep them from selling out of anything.

But in three years of Giant's pioneering with unit-pricing, open-dating of perishables and ingredient labeling of Giant-brand products, the president of one local consumers' council says, "Esther started a chain reaction. . . ."

These days, retail food executives nationwide listen with respect—as they did last week at a Super Market Institute conference in Dallas—when Esther Peterson lays it on the line.

"If you don't explain things and let consumers know," the former White House advisor tells them, "you can't complain when consumers yell about profit pictures they don't understand."

"No matter where I go in the country," says Lynn Jordan, head of the Virginia Citizens Consumer Council, "every consumer advocate has heard about Giant Food, even though it's a local chain . . . . The word has spread across the country."

A friendly, intelligent and direct woman who approaches shoppers, labor leaders and U.S. presidents with equal ease, Mrs. Peterson initially turned down job offers from Giant chief Joseph Danzansky because she "didn't want to chance becoming a publicity gimmick."

But today, the 67-year-old former assistant labor secretary under Presidents Kennedy and Johnson—and consumer affairs advisor to the latter—is probably Giant's most easily recognized publicity asset.

Her picture and signature appear on ads pledging Giant's commitment and proclaiming the consumer's right to choose, to be heard and to know everything there is to know about meat prices. She makes similar pronouncements in low-keyed but effective television commercials and maintains a highly active schedule of speaking engagements.

And when she walks right up to a woman rummaging in the collard greens in a Southeast Washington Giant and says, "Excuse me, I'm Esther Peterson. How do you find things here? All right?" she doesn't have to explain who she is or why she's asking.

A veteran labor lobbyist who got her "picket line come-upance" fresh out of college with the Consumers League for Fair Labor Standards, Mrs. Peterson says she demanded of Danzansky and got "complete freedom to speak out according to my convictions, both publicly and within the company" when she came to work for him.

Not only was she to have "a hand at the levers of corporate power," she said, but the company would have to commit itself to try some of the programs she believed in, programs based on recommendations made by White House advisory committees and conferences.

Although a "consumer action task force" composed of Giant executives was in the process of developing a unit pricing system to help customers compare food costs when she arrived, Mrs. Peterson writes in the current issue of the Harvard Business Review, consumerism was not universally regarded as a constructive force by Giant's numerous vice presidents.

But gradually, she says, "their suspicion and hostility began to ebb, in turn, I got a priceless inside glimpse into the dynamics of a corporation."

Mrs. Peterson alarmed some retailers with her somewhat unique approach to keeping the public informed, which included announcements of the consumer program's mistakes as well as its innovations. Candor about such initial flops as an attempt to label fat content in ground beef (the state of the art wouldn't permit strict accuracy) has not harmed Giant's image, she said.

"Apparently, people admire those who are not afraid to own up to their errors."

American businesses generally have reacted to the growing consumer awareness in distinct steps, she observes. First, they deny charges made by consumer groups, then try to discredit those who make the charges or question their motives.

"When consumers get no redress and seek legislative action," she went on, businesses "oppose everything" and when legislation is passed or regulations written, they try to 'defang' anything that is enacted by working against implementation and appropriations or getting an opponent of the law appointed to administer it."

Finally, she observes, after repeated frustration, "business realizes that service is its first obligation if it is to grow and prosper" and that the best way to cope with the problems is to give "reasponsible consumer spokesmen a fair hearing." Giant Food, she adds, arrived at the last step earlier than most, "although it, too, had to agonize its way through the five steps during the 1960s."

The company's previous experience with consumer advocates had not always been happy, she said, because inexperienced advocates were often "shrill and unreasonable." The advocates, on the other hand, had been unable to convince Giant that consumers needed to be provided much more than cooking demonstrations and recipes.

One of her first moves at Giant was to start forming consumer advisory groups that included highly respected professionals such as Harvard nutritionist Jean Mayer and former Nader Raider James S. Turner, author of "The Chemical Feast"—as well as Giant customers concerned about certain issues.

Store employees were kept up to date on changes such as improvements in food and the labeling and safety packaging through lunches, informal meetings and a newsletter.

Paul Forbes, executive assistant to Danzansky, says the Giant president is highly pleased with the consumer program. Forbes acknowledges that "some of the things Mrs. Peterson proposed haven't turned out to be practical, but she says, 'You win a few and lose a few.' "

Customer demand for such heavily advertised products as fruit-scented caustic cleaners, for instance, won out over the suggestion of advisory groups that they be dropped. But, at the same time, Giant discontinued packaging them under the Giant label and posted signs in stores urging parents to keep the products out of the reach of children.

As a reporter tagged along on one of Mrs. Peterson's weekly inspection trips to Giant stores, this one at Alabama Avenue and Good Hope Road SE, the consumer affairs advisor pointed out items she said she considers "rip-offs."

High on her list, she said, are prepared foods such as shrimp cocktail ("the main ingredient is sauce; people complain about prices, but often they're paying for someone else to do their work") and fruit drinks that are 97 per cent water.

"People are bringing home water," she said. "It's best to buy a concentrate like frozen orange juice and add the water." But fruit drinks, she notes wryly, are "high-profit items, heavily advertised."

Among her goals, she said, is listing ingredients on labels by percentage.

When Giant began noting on its private-brand orange drink that real orange juice constituted 10 per cent of the contents, she added, "people said, 'Only 10 per cent?' I said, 'How much do you think is in the others?' " She searched the Southeast store's shelves to point out Giant brand orange drink, but was told by a Giant administrator that it was out of stock because it's "selling fantastic!"

Since Giant began its consumer program in earnest, Safeway Stores, the national chain that has traditionally dominated the market here, followed suit. Today, Safeway, with 163 stores, continues to generate 31 per cent of the area's sales, while Giant, with 102 stores, controls 30 per cent, up from 26 per cent in 1968.

Giant, however, has only seven stores in the District of Columbia, while Safeway has 43, many of them smaller, long-established facilities serving low-income neighborhoods.

Danzansky advocates government "write-downs" to encourage supermarket development on high priced inner city land, his assistant, Forbes, said.

"It's frightfully expensive to assemble land in the inner city," Mrs. Peterson says, "but, on the other hand, we're denying the advantages of supermarket shopping to people—the poor and the elderly—who need it the most."

Mrs. Peterson came to Giant in 1970 on a year's leave of absense from the Amalgamated Clothing Workers of America, with which she had been closely associated over the years. Later, she formally quit her labor lobbying post to stay on as a $36,000-a-year advisor to Danzansky. She has to work harder at Giant, she says, than she did when she was serving simultaneously as assistant labor secretary and White House consumer advisor.

In addition, she has gone "full circle," she says, by accepting the chairmanship of the National Consumers League, the country's oldest consumer organization, which evolved from the Consumer League for Fair Labor Standards, the group that inspired her life-long interest in labor standards. One current aim of the league is to develeop a knowledgeable group to develop a dialogue with retailers over "legitimate consumer concerns."

Mrs. Peterson finds consumer "demagogues" who fail to do their homework "short on expertise and long on rhetoric."

Others, like the Virginia consumer council's Lynn Jordan, are often asked to join Giant advisory committees because of their commitment.

Mrs. Jordan, who observes that unit pricing and open dating have helped sales rather than hindered them, feels that most of the consumer reforms initiated by Giant and other stores were fairly safe risks for the retailers.

"This is not a criticism of Esther but of the system," she said. The question of market concentration, which in this area means that four companies control more than half the market, "the real heavy economics of competition, you won't find Giant trending into those," Mrs. Jordan said.

"Among the supermarkets here, there is only the appearance of competition," said Mrs. Jordan, a Springfield, Va., resident and former computer programmmer. "You will find pricing down to meet competition in produce—if Giant runs a sale on onions, Safeway will mark them down tomorrow—but in many of the items, you will find price leading. One store sets a price and within two weeks every other store has risen up to that price."

Food prices in this area have risen comparatively higher to other costs than in other major cities, she said. And the discounting among grocery chains that began when Memco moved into this area several years ago has pretty much disappeared, she noted.

Easy slogans such as Giant's "Count on Us" are meaningless, Mrs. Jordan said. What stores should be providing consumers is "hard economic information," like "the price of potatoes is going up next month."

CLOSER COOPERATION WITH EUROPEAN ALLIES IN MILITARY RESEARCH AND DEVELOPMENT

Mr. McINTYRE. Mr. President, the subject of closer cooperation with our allies in research and development of military equipment of mutual interest is of very great importance. In fact, it promises to become even more so in these times of inflation and when the need to control Defense spending is becoming more acute.

During this past year, in my capacity as chairman of the Research and Development Subcommittee of the Armed Services Committee, I have taken a direct and personal interest in this subject. At my request, a member of the committee staff spent several weeks late last year visiting our NATO allies primarily to explore the possibility of increasing such cooperation. His report was comprehensive and very informative. It addressed a series of questions which I sent to the Secretary of Defense for comment and appropriate action. A copy of the report and my letter of transmittal were printed in the CONGRESSIONAL RECORD for February 5, 1974, on pages S1224 through S1227.

The substance of the report was very helpful as the basis for questions during the hearings on the fiscal year 1975 military procurement authorization bill.

An interim reply was made by the Director of Defense Research and Engineering on February 23, 1974, and the final reply on April 18, 1974. I request unanimous consent to have these letters and unclassified attachments printed in the RECORD at the conclusion of my remarks. Much of the information should be of interest to my colleagues, to industry and to our allies. I am convinced that it will stimulate greater cooperation and enhance our relationships.

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

(See exhibit 1.)

Mr. McINTYRE. Mr. President, there remain certain items which will require follow-up actions, and these will be pursued.

I am encouraged by the attitude and cooperation of the Department of Defense, and intend to keep the Senate informed of any significant events as they occur.

Mr. President, I am pleased to report that the Armed Services Committee has demonstrated its strong support of cooperative programs by recommending authorization of the full amounts requested in the fiscal year 1975 military procurement bill for two major programs. These are the NATO patrol hydrofoil missile ship which is a cooperative program with the Federal Republic of Germany and Italy, and the short range air defense system (Shorads) which may lead to the adoption of one of three candidate foreign developments for production in the United States by a domestic corporation.

EXHIBIT 1

DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING,
Washington, D.C., February 23, 1974.

Hon. THOMAS J. MCINTYRE,
Chairman, Subcommittee on Research and Development, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Secretary Schlesinger has requested me to respond to your letter of 21 January 1974. As you requested, I have attached data sheets on most of the technical developments listed in paragraph four of Mr. Fine's trip report. The attached information represents an interim reply covering only the information available at this time. More detailed information as well as appropriate comments on the entire report will be forwarded shortly.

Mr. Fine's report of his R&D orientation visit in Europe is excellent and comprehensive. It is obvious from his comments that the European trip has provided him an extensive understanding and appreciation for the problems and promises of international cooperative research and development. His trip report should serve as a solid basis for a continuing dialogue between our staffs that can lead us to improve our international cooperative R&D efforts.

Sincerely,

MALCOLM R. CURRIE.

LEOPARD II, MAIN BATTLE TANK

A. Background

1. Developing Country—Germany.

2. Description—The LEOPARD II is the German continuation of the MBT–70 joint program which started in 1962. It is a good tank with very high cross country mobility. The FRG has not selected the main armament for the Leopard II.

3. Comparable U.S. System—XM1.

4. Status of Development—Engineering Development 14 prototypes to be built by summer 1974.

B. Relationship to XM–1 Program

Before the Army initiated the XM–1 program, it reviewed ongoing foreign tank developments and found that the Leopard II had many of the characteristics that the Army wanted in its new tank; however, there were several areas where it did not meet Army needs. These areas were ballistic protection, night vision, and fire control. Ballistic protection was an area of disagreement throughout the joint MBT–70 development. The FRG put greater stress on mobility while the U.S. placed higher emphasis on protection. New armor developments have created the opportunity for much higher levels of ballistic protection and this was a key factor in Army's decision to develop a new tank. The Leopard II night vision suit was a hold-over from the MBT–70 and overtaken by technology. It is now possible to build a night vision system that is both more effective and far less costly than the system installed in Leopard II. The Leopard II's fire control system is much more complex and costly than the Army feels is needed or that it can afford. Although the Leopard II in its present configuration is not a candidate for the Army's new tank, several of its subsystems are. These include the engine, transmission, and track. In addition, its gun is a candidate in the trination program to select a single gun for the new tanks of all three countries. The FRG has been encouraged by the U.S. to consider improving the Leopard II by adopting XM–1 components and/or technology. In response, the FRG is presently investigating the feasibility and desirability of modifying the Leopard II.

Q: What is the USAF interest in a cooperative program with Rolls Royce on the ESM 600 engine?

A: The ESM 600 is a small turbo shaft engine now in the demonstrative phase of development. Two demonstrative engines are to be tested this year. The ESM 600 is similar to the already developed AVCO Lycoming LTS–101 engine. The USAF has no known requirement for either of these engines at this time. There is no U.S. Navy interest in this engine.

ROLLS-ROYCE PEGASUS 15

Comment: Subject is "under development for the Advanced Harrier". Why is there or is there not an interest in pursuing a cooperative program?

Answer: Rolls-Royce did in fact investigate the uprating of the Pegasus 11 engine currently installed in the Hawker-Siddeley Harrier (AV–8A) in service with the U.S. Marine Corps and the Royal Air Force. As a product of this investigation, a configuration has been designated the Pegasus 15, which provides higher thrust, but also requires fuselage and inlet changes to accommodate the increased fan diameter. A Joint

Study Group, composed of U.K. government and contractors, Hawker-Siddeley and Rolls-Royce, and U.S. government and contractors, McDonnell-Douglas and Pratt & Whitney, are conducting a study to determine a common baseline aircraft (AV–16) and engine, resolve positions regarding rights, royalties and levies and define a possible joint development and production plan. The U.K. government is funding the U.K. contractors and the U.S. government is funding the U.S. contractors for this study.

Position: The final report of the Joint Study Group expected in April 1974 will provide a basis for a decision as to whether the development will be sought.

HAWKER-SIDDELEY ADVANCED HARRIER

Comment: Subject is "Advanced Harrier with Pegasus 15 engine". Why is there or is there not an interest in pursuing a cooperative program?

Answer: See response to Rolls-Royce Pegasus 15.

JAVELOT—AIR DEFENSE GUN

A. Background

1. Developing Country—US/France.

2. Description—The JAVELOT is a multitube launcher which fires 40mm rocket-assisted projectiles (RAP). It is a concept of achieving a high probability of hit by using highly accurate RAPs fired in salvoes from an assembly of multiple tube launchers having discreet predetermined angular divergence.

3. Comparable US System—None.

4. Characteristics:

Weight (system)—Unknown.

Guidance—Ballistic RAP (fire control type not defined for AD application).

Range—Optimized for 2 kilometers.

Cost—Unknown.

5. Status of Development:

US/France completing Phase I, demonstration of the feasibility of the JAVELOT concept; Phase II, testing of the JAVELOT gun against aerial targets, is contingent on test results of Phase I, a requirement being generated for such a gun, and agreement by both the US and French armies to initiate Phase II.

B. Proposed response

The US Army is interested and is currently participating with France in the Phase I feasibility study. US participation in Phase II, tests against aerial targets, has been approved contingent on the test results of Phase I.

Q: What is the USAF interest in a cooperative program with Engins MATRA on the Super 530 All-Weather Air-to-Air Missile?

A: This missile is for intermediate and high altitude intercepts and can be fitted with either infra-red or radar guidance. The first launches were scheduled in 1973, with delivery of the first production units in 1976–77. The AIM 7F has a greater range and payload and will be available much sooner. We currently have no requirement for an IR version of such a missile.

Q: What is the USAF interest in a cooperative program with Engins MATRA on the 550 "MAGIC" Air-to-Air Missile?

A: USAF is interested in MATRA 550 aerodynamic performance capability and has provided a draft Memorandum of Understanding to the French for their consideration. USAF interest is confined to the unique aerodynamic design and control system of this high-maneuver missile, and not to the weapon system as an entity. Exploratory discussions for a cooperative test program have been underway for over two years.

Q: What is the USAF interest in a Cooperative Program with Engins MATRA on Drag-chute retarded bombs?

A: Bomb retarders are used to provide a safe separation distance between low flying aircraft and the blast and fragments of any ordnance it releases. The French use a 400-kg general purpose (GP) bomb almost identical to the USAF 750-lb M117 bomb. During the mid-1960's, the USAF investigated the French parachute retarder during the definition phase of the M117 bomb retardation development program. Other retarders similarly evaluated included a US-designed parachute retarder, a variation of the US Navy SNAKEYE reader fin used on the 250–lb MK81 and 500-lb MK82 GP bombs, an autogyro rotor device, a solid propellant retrorocket and a balloon parachute. The SNAKEEYE type retarder fin was selected for the M117 bomb due primarily to its mechanical repeatibility and increased weapon accuracy. The parachute retarders, both French and US, did not provide the required accuracy due to critical variations in parachute deployment times.

In either event, the USAF is phasing the M117 bomb out of service for fighter aircraft in favor of the MK82 bomb, which provides less drag when carried externally. This removes the requirement for retarders for M117 bombs.

ARMBRUST—ANTITANK WEAPON

A. Background

1. Developing Country: Germany.

2. Description—Armbrust identifies a double piston launch concept that portends a system with a firing signature less than that of a rifle or pistol. The Armburst is a closed breech system that launches a drag stabilized projectile to an effective range of 300 meters, provides a very mild gunner environment, and can be fired from inside a bunker or house because of low overpressure. The launcher consists of a straight tube containing two pistons inclosing a propellant charge which is used to eject equal masses from each end of the tube. One mass is the projectile and the other is a slug of thin plastic wafers that are broken-up and disbursed in the area immeditaely behind the launcher. Propellant gases are permanently trapped between the pistons of the launcher which is discarded after use.

3. Comparable US System—Lightweight Antitank Weapon (LAW).

	Armbrust	Law
4. Characteristics:		
System weight	10.6 lb	5.2 lb.
Effective range	300 meters	200 meters.
Guidance	Free flight rocket.	Free flight rocket.
Armor penetration	Unk	12.1 in.
Cost	Unk	$50

5. Status of Development:

Armbrust is in exploratory development. There are some technical problems involving the aerodynamics of the projectile yet to be solved. The system has not been safety certified or man rated.

B. Proposed response

The US Army is very interested in Armbrust technology. As a system, the Armbrust is too heavy to meet the US Army requirement for a Lightweight Antitank Weapon (LAW), but the technology may be adaptable to a lighter system. A cooperative R&D effort to explore the Armbrust technology may be worthwhile once the feasibility has been satisfactorily demonstrated.

MBB-KORMORAN

Comment: Subject is "long range air-to-ship weapon system". Why is there or is there not an interest in pursuing a cooperative program?

Answer: In 1969–70, while still in development, Kormoran was evaluated, along with other foreign missiles, as a candidate to fulfill the Harpoon requirement. It was rejected because of its relatively short range and other performance shortcomings. More recently, as a result of a USN–FRG Cooperative R&D meeting in April 1972, a letter of offer was forwarded to the FRG regarding their request to conduct test firings of Kormoran on the Pacific Missile Range. FRG failed to accept the offer.

Q. What is the USAF interest in a Cooperative Program with Messerschmidt-Boelkow-Blohm on the STREBO—Airborne Dispenser?

A. The AF is pursuing the possibility of cooperative R&D of the STREBO weapon system with the FRG through the mechanism of NAFAG Subgroup 9. At the present time, the STREBO is conceptual. Its development is being followed to see how it competes with existing CBU type weapons toward meeting stated operational requirements.

FRG-VTOL TECHNOLOGY

Background: The U.S. Navy is negotiating with the FRG a cooperative test plan utilizing the German lift-plus lift cruise UAK–191 prototype experimental aircraft. The program as foreseen is on the order of $2.5M. The U.S. Navy will fund about $1.9M and Germany will furnish the aircraft and provide maintenance and operations.

The FRG presently has no VTOL aircraft or aircraft programs of interest to the Air Force. Their primary VTOL work is in the area of light helicopters. The Air Force has no current requirement for VTOL aircraft.

Although there are no cooperative V/STOL development programs underway, the Air Force continues to work closely with the German Federal Ministry of Defense (FMOD) in the area of V/STOL technology, with primary emphasis in STOL technology. Approximately $14 million has been applied to coordinated V/STOL programs by each side since 1968. Under the program, the USAF developed and tested the XV–4B experimental test aircraft. USAF/FMOD cooperative V/STOL efforts continue, but at a reduced level because of funding limitations. As far as can be determined, none of the current work being done by MBB has direct relationship to known Air Force requirements.

105MM AND 120MM SMOOTHBORE TANK GUNS

A. Background

1. Developing Country: Germany.

2. Description—The Federal Republic of Germany has continued to develop both the 105mm and the 120mm smoothbore guns. The 105mm is considerably ahead of the 120mm and has demonstrated accuracy of groups with a standard deviation (SD) of .16 mils × 19 mils and penetration of the NATO medium single and triple targets at a range of 2000m. The 120 mm has demonstrated an SD of .20 mils × .21 mils and has penetrated the NATO heavy single and triple targets at 2000m.

3. Comparable US System—M68 105mm with XM735 round.

4. Status of Development—Development of the 105mm round is virtually complete and should be ready for troop trials in April 1974. Some development work remains on the 120mm round, particularly with the combustible case. This round is anticipated to be ready for troop trials in April 1975. HEAT rounds are the only other ones under development at this time. They trail the KE rounds considerably.

B. Proposed response

The 120mm smoothbore Tank Gun is the prime candidate for Germany in the Tripartite (US/FRG/UK) Tank Gun Evaluation. The 105mm Smoothbore Tank Gun serves as a backup candidate. The Tripartite Tank Gun evaluation resulted from a U.S. DoD initiative, and will evaluate gun candidates from the UK, FRG, U.S. and possibly France leading toward a common gun solution for future NATO main battle tanks.

SP–70 155MM SELF-PROPELLED HOWITZER

A. Background

1. Developing Country—United Kingdom/Germany/Italy.

2. Description—A modern self-propelled howitzer featuring high rate of fire, extended range; armor protection, and mobility. Developed in accordance with Quadrilateral (US/UK/FRG/IT) Memorandum of Understanding on 155mm ballistics and NATO standardization agreements aimed at achieving total interchangeability of allied ammunition and a common firing table.

3. Comparable US System—The US has no modern SP howitzer under development having terminated the XM179 program in 1969. The SP 155 mm howitzer in the invnetory is the M109A1, a product improved version of the M109 developed in the early 1960's.

	SP-70	M109A1
Characteristics:		
Range	24,000 m unassisted.	18,000 m unassisted.
	30,000 m w/rocket assist.	24,000 m w/rocket assist.
Weight	92,400 lb	53,060 lb.
Rate of fire	3 rds in 14 sec	4 rds/min for 3 min
	6 rds/min for 1 min.	2 rds/min for 30 min.
	2 rds/min for 1 hr.	1 rd/3 min sustained
On board ammunition.	32 rds	28 rds.
Road speed	40 mi/hr	35 mi/hr.
Cross country	25 mi/hr	20 mi/hr.
Cost	$400–$500,000	$143,700.

5. Status of Development—SP–70 is in advanced development. M109A1 is in the field.

B. Proposed response

Although the US Army does not now have a stated requirement for a new self-propelled 155mm howitzer, a Required Operational Capability (ROC) is being prepared and coordinated for submission to HQDA. If the ROC is approved, and after the Concept Formulation Package is prepared, an assessment will be made of systems under development to include the SP–70 as a possible cooperative program.

Subject: VANESSA ASMD System as a Potential Cooperative R&D Program.

Comment: The only information immediately available on the system is in Mr. Fine's trip report, which precludes assessment of its potential as a cooperative program. However, as a direct result of the trip report, inquiry has been made to the Italian Navy under the auspices of the existing USN/ITN Mutual Weapons Development Data Exchange Agreement (MWDDEA). Determination of U.S. Navy interest in a cooperative program will be made upon receipt of the Italian reply.

DIRECTOR OF DEFENSE
RESEARCH AND ENGINEERING,
Washington, D.C., April 18, 1974.

Hon. THOMAS J. MCINTYRE,
Chairman, Subcommittee on Research and Development, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am now forwarding to you more detailed comments on Mr. Fine's European Trip Report as a follow-up to my letter to you of 23 February 1974. I hope you will find the attached information adequate, and encourage any further questions concerning this important subject.

Mr. Fine's trip report is thorough and stimulating, and of great value to the DoD efforts in international cooperation in R&D. I would welcome your and Mr. Fine's continued focus on this subject, and recommend that perhaps another trip be taken by him during the next year as a follow-up.

Sincerely,

MALCOLM R. CURRIE.

The Department of Defense through the Director of Defense Research and Engineering supports and fosters international cooperation in military research and development with our Allies. The following is the DoD response to the specific paragraphs of Mr. Fine's report:

(3c) The U.S. Army is in the process of issuing a request for proposals (RFP) for a short-range air defense missile system. The leading competitors are the three European-developed systems being proposed by three U.S. industries. The selected system will be produced in the U.S. for U.S. inventory. To further reduce outlay of U.S. R&D funds, the DoD is negotiating Memoranda of Understanding with the three European nations developing these systems to share engineering tests in the event one of these systems is selected. In this way, the U.S. will not repeat testing already conducted on the selected system, and will share costs for certain specific future testing. The DoD realizes the importance our NATO Allies attach to having the U.S. select a European-developed system for U.S. inventory and the deleterious effect on the credibility of future U.S. international cooperative efforts should a European system not be selected. However, even though the European-developed systems are strong contenders, the DoD competitive source selection procedures will be followed to insure meeting the DoD objective of satisfying our military need at the lowest risk to cost, schedule and performance.

(3d) Since its inception, NATO has worked towards equipment standardization to reduce system proliferation and logistic complexity with varying degrees of success. In the past ten years the technological competence of our NATO Allies has improved to the point that in some areas they are equal to and even surpass us. This has led to a tendency for nations to support their technological base by national developments of different systems for similar missions, which is inimical to standardization. Although standardization is and will remain a desired goal, a second goal of cooperative research and development is to achieve interoperability where standardization is not possible.

Some progress toward standardization and interoperability has been made. For example, in the Air Defense area, a number of NATO nations use Redeye, Hawk, and Nike, and plan to use Improved Hawk. The U.S. selection of a foreign-developed Shorads would add to standardization in NATO Air Defense. Another example is the agreement on common ballistics between the U.S. XM–198 and the UK–FRG–Italy FH–70 155MM howitzer. Just concluded is an agreement to competitively evaluate U.S., UK, and FRG tank guns toward selection of common main armament for future main battle tanks. These are a few examples.

(3e) In NATO and bilaterally with our Allies, the U.S. meets regularly to discuss and explore more efficient ways to increase R&D cooperation. The method showing most promise, as well as a past measure of success, has been various forms of licensing and coproduction. In a few instances to meet specific needs, the U.S. has purchased European-developed systems from European production. The French developed wire-guided short range missile SS–11, the battlefield radar RATAC, the passive sonar ranging DUUG–1, and the Marine Corps Harrier are examples. In this exchange, however, the overwhelming ratio has been in favor of European purchases of U.S. equipment. Because the U.S. technology is so advanced over a broad spectrum of military equipment, and the large production runs of U.S. equipment provides economies of scale, European purchases of U.S. equipment will dominate for some years making a balance difficult if not impossible to achieve. For this reason, shared production of equipment components or licensed production of systems seems to be a more viable procedure.

DoD believes that it is unwise to depend upon a foreign production source for a large amount of key equipment on an extended basis. This dependency not only has a direct impact on national security, but also an impact on key areas of our industrial mobilization base. In addition, U.S. production of a foreign-developed system is usually cheaper in the long run if the production requirements are large.

In summary, we prefer U.S. production under license of foreign-developed items, and believe that purchase of foreign-produced items should be limited to special cases that have little negative impact upon our national interests.

(3f) The Army initially requested $19.5M in FY 1974 for LOFAADS. After discussions with Congress, a reduced request for $7M was submitted, including $2.5M for in-house effort and $5M for licensing fees and long-lead time requirements. The Congress approved the $2.5M for in-house cost (as stated in paragraph 3c of your report) stating that the other $5M could not be used this year. DoD did not draw the conclusion that the $5M had been cut out because a determination had been made that the cost of the data package would be spread over the unit production costs.

In general, licensing agreements include various costs. There are royalty fees which are normally charged by the licensor on each unit produced. But these fees would not normally cover the preparation of a data package, which could be very costly depending on the extent of the package requested. Data packages are normally specifically contracted for as a line item in a contract with a clear understanding of what is to be delivered and what the government's rights are in the use of the data. This cost is considered a valid nonrecurring cost. The cost of a data package which is identified to a specific item is chargeable to that item, and is not normally charged to Bid and Proposal Expense.

In the SHORADS case, the data and know-how required to be transferred from a foreign country to the U.S. during the nonrecurring phase for fabrication of complete systems and missiles is quite sizeable and is considered a valid nonrecurring cost.

(3i) Generally, performance requirements of European systems require less technical risk, complexity and cost than U.S. systems. Less available military R&D funding has resulted in smaller quantum jumps in technology risk in new foreign developments, and greater use of past proven technologies in an evolutionary way. Avions Marcel Dassault has used this approach in the MIRAGE series by the use of technology or prototype demonstrators. The EXOCET anti-ship missile is another good example. On the other hand, the Europeans sometimes attempt large technology jumps, as in the case of the CONCORDE and the MRCA.

DoD feels that one of the key considerations in system design is the mix of proven and new technology used in the design. We believe that the lessons learned on the F–111 and the C–5 are being wisely used in the F–15, YF–16, and YF–17, for example. The fly-before-buy approach and the careful use of technology demonstrators represents an economical and proven technique for introducing new technology without excessive risk.

We believe that the U.S. can retain the qualitative superiority of its weapons systems by a prudent mixture of the evolutionary and revolutionary approaches, with increased emphasis upon more realistic requirements, more thorough verification of new technologies prior to system application, increased realistic testing programs, and an overall management sense of return-on-investment on a more business-like basis rather than an open-ended commitment to superior technology for its own sake.

(3k) The problem of coordinating the use of test facilities on an international basis has concerned NATO since the early 60's. In that period NATO has constructed a NATO weapons testing center in Crete and is in

the process of establishing two European-based naval weapons accuracy check sites. In the past few years NATO has organized a special working group to review all test sites, wind tunnels, ranges, naval model basins and other test capabilities available in the NATO nations with an aim to improving coordination of their use and to recommend consolidation. This work is going on now.

(3m) The U.S. has and will continue to cooperate with Germany to support research and development programs and projects of mutual benefit. The availability of German offset funds has already been used in the US/FRG development of a miniature inertial navigation system in which the R&G was wholly conducted in the U.S. while costs were shared equally by the U.S. and Germany. A project underway now is the US/FRG development of a side-looking radar where again all R&G is conducted in the U.S. We continue to explore all possibilities to find other mutually beneficial projects of this nature that would permit expansion of this program. However, to draw on available offset funds, the program must meet US/FRG needs, be supported by the FRG Ministry of Defense and be of sufficient FRG priority to be approved in the FRG defense budget. The FRG Ministry of Defense is willing to expend offset funds only to meet priorities for allocation of funds.

(3n) The R&D Directors of US/UK/FR/FRG meet informally and regularly for the purpose of improving cooperation among themselves and using their good offices to increase cooperation in NATO. Some measure of success has been achieved. In practical terms, some of the efforts of the group to date are: cancellation of two (UK and FRG) of the four IR air-to-air missiles under development for similar requirements: driving toward standardization of much of the family of ground-based air defense missile systems, especially on the Central Front (REDEYE/STINGER, SHORADS, IMPROVED HAWK, and SAM–D); pressing for introduction of AWACS to upgrade the NATO Early Warning and Command and Control Network (NADGE), and for common main armament on future main battle tanks; completion of two-sided testing of Four-Nation candidate anti-tank weapons to support additional deployment doctrine in NATO, and evolve cooperation on next generation anti-tank weapons. The group regularly exchanges operational requirements to assure that no member nation starts a development project without being aware of similar projects in the other nations and without having the opportunity to cooperate rather than start an independent project. Since its inception in 1970, this Four-Power group has had a beneficial effect on cooperation at the NATO level as well. It has also led to a greater understanding of the problems and promises of R&D cooperation. As the group matures and more confidence builds up among its members, opportunities for expansion in the numbers and range of projects will grow.

(3o) The U.S. is working with its Allies and in NATO to find ways which would permit our Allies to increase their participation in the SAM–D project. The FRG is in support of the concept that SAM–D should be deployed by NATO in the early-mid 1980's as a replacement for NIKE–HERCULES, and is now including limited SAM–D procurement for this purpose in their long-range planning. It is our understanding that FRG will be encouraging other NATO Allies who presently deploy NIKE–HERCULES to use limited numbers of SAM–D in this role.

(3p) We are in agreement with the Italian Ministry of Defense on the need to examine operational requirements in NATO in order to increase the opportunities for NATO cooperation in R&D. The U.S. has contributed significantly in this NATO effort by expanding information exchange in the sensitive areas of electronic warfare, airborne early warning, command and control, air-to-air missiles and battlefield surveillance. The U.S. has also led the effort to establish closer ties between the NATO military authorities and the NATO R&D community so that a better base of understanding can be established. We have also met bilaterally with our Italian colleagues and exchanged views with an aim to increase cooperation in R&D.

(3q) The DoD is taking maximum advantage of the available excess foreign currency within the regulations established for its use. The bulk of excess foreign currency is in the Middle East and Far East countries such as Egypt and India were possibilities for cooperative R&D projects are minimal. The residual excess foreign currency in NATO available for defense R&D purposes is small and would not support extensive programs. The governing difficulty with the use of excess currency is that, in both the U.S. and the foreign country, the amounts budgeted must be accounted for in the overall defense budget and counted as defense expenditures. For DoD, projects of sufficient priority to use allocated defense funds would be conducted in the U.S.

(3r) Single service control of the requirements, specifications and development of a particular weapons area undoubtedly will preclude proliferation of hardware solutions for a common mission. However, we tend to agree with the findings of the GAO on this subject in that competition between the services up through Advanced Development can be healthful, particularly in surfacing alternative technologies and design approaches. Our management goal is to bring competitive approaches to a "shoot off" so as to select the best design for entry into Engineering Development. In situations where there is a significant difference in service requirements, we force a hard appraisal of the justification of each parameter with a goal for bringing them together in a JSOR (Joint Service Operational Requirement). In summary, we believe this approach will yield the most effective weapons to support our projected combat preparedness goals.

(3s) The Defense Advanced Research Projects Agency (DARPA) has had extensive discussions with the British Ministry of Defense representatives engaged in research and advanced technology. DARPA has already established cooperative programs and information exchanges where such activity showed promise to be mutually beneficial to both, including lasers. Continued future contacts will assure that any new programs proposed by the U.S. and UK will be given thorough scrutiny for consideration as a cooperative effort.

(3t) On the subject of Data Exchange Agreements (DEA), DoD makes every effort to review and update the existing DEAs at least biannually. The normal practice is for the Services to review the validity and continued usefulness of each established DEA according to its administrative procedures. The Army and Navy visit each country having DEAs for their review. The Air Force has each DEA project officer review his DEAs and report annually. In the Netherlands, the Army last reviewed DEAs with the Dutch in May 1973 and the Navy on 3 July 1972. The Netherlands Ministry of Defense has been invited to send a team to the U.S. to review their DEAs at their convenience.

(3u) We are fully aware of the capabilities of the complete product line of Avions Marcel Dassault and continue a dialogue with officials of the firm through various forums available. Avions Marcel Dassault is a highly competitive aerospace company which enjoys full support of the French Government in the international marketing of their products. Recent examples include the Mirage versus A–7 for Switzerland, where the intervention of the French Government adversely affected the Swiss decision to approve an A–7 buy. The Mirage F–1 versus P–530/P–600 in the Netherlands is another case where our companies will be competing with Avions Marcel Dassault and the French Government. In addition to this extremely competitive relationship, another difficulty involved in cooperation with Dassault is the third-country problem. Many important customers of French military aircraft are countries to whom the U.S. will not release advanced military aircraft for reasons of national policy. However, no insurmountable barries exist to such cooperation and we remain open to suggestions.

(3v) Dr. Gardiner Tucker, Assistant Secretary General of Defense Support, NATO International Staff, has circulated his views on the need to consolidate defense industry to reduce the impact of declining defense business. Dr. Tucker also acts for the Secretary General as Chairman of the Conference of National Armaments Directors (CNAD). He will present his views at the next meeting of the CNAD in late April 1974 where these ideas will be discussed by the R&D and production leaders of NATO. Both DDR&E and ASD (I&L) will be there to represent the U.S. at this meeting.

(3w) The CNAD has been kept informed of the NATO R&D objectives established and has been working to establish cooperative projects to meet the stated deficiencies. For the first time in NATO, during its April 1974 meeting the CNAD will have a one-day joint meeting with the NATO military authorities at the Supreme Headquarters Allied Powers Europe (SHAPE). It is believed that should the CNAD and the military authorities arrive at a consensus on the most important projects needed to meet the deficiencies, then they could present these to the NATO Ministers for their approval and action both in NATO and in their national capitals. R&D cooperation in NATO depends not only on the definition of deficiencies and the willingness of defense leaders to cooperate. It also depends on the political/economic factors in each nation which affect the will of these nations to joint cooperative programs. It is this latter political/economic will to cooperate which must be affirmed and activated to increase cooperation in NATO.

(3x) OSD is proceeding with the formulation of this new directive. The new Army regulation AR70–41 was effective 1 March 1974.

U.S. CHAMBER OF COMMERCE PRESIDENT SETS WORTHY GOALS FOR FREE ENTERPRISE—SENATOR RANDOLPH COMMENDS INITIATIVE OF PRESIDENT ARCH N. BOOTH

Mr. RANDOLPH. Mr. President, these times of uncertainty and doubt on our national goals emphasize the need for creative leadership, both in the public and private sectors of our Nation. One response to this challenge has been a heightened awareness by those in positions of influence and decisionmaking to reassess the practices of the past. Recently, at the U.S. Chamber of Commerce's annual dinner in Washington, Chamber President Arch N. Booth sounded a clarion call to business and industry leaders to join in meeting "some of the greatest challenges in our history." He warned that the business community must improve the public knowledge and acceptance of free enterprise, and demonstrate to the American people the benefits of our free economy—a tested system on which we must continue to build.

Mr. Booth then stated certain goals the members of this national organization must strive to achieve:

We must increase the involvement of all

of us in taking special leadership in dealing with problems and opportunities in community development.

We must let everybody know that it is our unswerving purpose to make the time-tested principle of representative government work better.

To make the time-tested profit-and-loss business system work better, too.

Over and above all else, we must make the principle of honesty and candor the trademark of excellence for all that we write or speak.

Mr. President, I suggest that these are goals worthy of a nation and a people which have, over this past 200 years, achieved greater progress in human dignity and material wealth than any other nation in history.

I ask unanimous consent that Mr. Booth's remarks setting the course for the U.S. Chamber of Commerce be printed in the RECORD.

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

REMARKS OF ARCH N. BOOTH, PRESIDENT, CHAMBER OF COMMERCE OF THE UNITED STATES

Thank you Mr. Lowe for your kind words.

Thank you ladies and gentlemen for your generous and encouraging greetings.

I'm grateful to our Board of Directors—and to all of you—for the continued confidence which you have expressed in me by this appointment to the office of President of the National Chamber.

You may be sure that I accept this office as a trust, as an honor and with a full acknowledgement of my accountability to you for all that you would like to see accomplished.

I've spent some exciting, rewarding years working in this great organization of American business and professional people.

I have the highest respect for its philosophies and its policies—for its capabilities and its potentials.

The National Chamber is now 62 years old. That fact in itself is not something to boast about. It's like Elbert Hubbard said, "There's no trick to growing old—anybody can do it who has time enough."

But there is a trick to using the passing years to gain perspective—to develop mature judgment—to grow wiser, stronger and more effective. And that's what this organization has done.

Tonight, as we face the future, our task is not so much to set great and new exciting goals, as it is to improve the processes and procedures through which we select and pursue our goals.

Ours is an economy which like all human institutions is not perfect. So we have work to do. Our function is to help with efforts to improve—to address ourselves to correcting faults and defects—to help build the strengths of our system.

As we work at the endless stream of new challenges calling for progress, we are still confronted by some *elusive* but still *essential* goals.

The goal of achieving a growing balanced economy, with high levels of employment, reasonable price stability and reasonably steady growth.

Of achieving the fullest utilization of our *human* resources.

The fullest utilization of *natural* resources.

And a development of a system which *balances* the interrelation of the two.

Certainly there will be *new worlds* to conquer.

As we face some of the greatest challenges in our history:

We must improve the public acceptance of private enterprise, and convince the American people that what they have going for them is the best there is.

We must increase the involvement of all of us in taking special leadership in dealing with the problems and opportunities in *community* development.

We must let everybody know that it is our unswerving purpose to make the time-tested American principle of representative government work better.

To make the time-tested profit-and-loss business system work better, too.

Over and above all else, we should make our greatest objective the development of ethics and integrity in all of us—in all that we do.

We in this organization must make the principle of honesty and candor the trademark of excellence for all that we write or speak.

We must face the facts and speak the truth about issues—refusing to say that the impossible is possible—or that problems can be solved by proposed solutions which may be exciting but unsound—or that some new problem will lead straight to disaster unless we adopt some drastic remedy—or that we can have our liberties and "bread and circuses" too.

That approach will give us inner strength and credibility and staying power. It will enable us to be realistic in setting our priorities.

It will enable us to match the quality of our ideas with strength of conduct that makes the way we go about our work, from day-to-day, as important as the goals we seek to achieve.

In all of this, my function will be to serve you—to continue to work, and speak, for positive progress—for America—for the Chamber of Commerce of the United States—and for the most dynamic and productive system this world has known.

COMPREHENSIVE TEST BAN TREATY

Mr. KENNEDY. Mr. President, during recent weeks I have expressed concern at the indications that administration negotiators have discarded our previous commitment to pursue a comprehensive test ban treaty, and instead have limited their goal to the achievement of a threshold treaty.

The explosion of a nuclear device by India has reinforced my belief that our national interest, and the interest of all nations, would be far better served by a mutual moratorium on weapons testing by the United States and the Soviet Union, and by the negotiation of a comprehensive treaty permanently banning all nuclear weapons tests.

The Federation of American Scientists and the Task Force for a Nuclear Test Ban have recently published statements urging the negotiation of a comprehensive test ban treaty. They believe a CTB is far more in our interests than a threshold treaty.

They argue that the issue of verification is no longer a legitimate obstacle to the signing of a CTB, and they point to the value that a CTB would offer in placing an additional qualitative restraint on nuclear weapons production, in supporting the treaty on nonproliferation of nuclear weapons, and in creating a better climate for further arms control measures.

I ask unanimous consent that the statement of the Federation of American Scientists, as well as the background materials of the Task Force for a Nuclear Test Ban, be printed in the RECORD along with the names of the board of sponsors of both groups.

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

FAS AND TASK FORCE FOR A NUCLEAR TEST BAN WARN AGAINST ACCEPTING A THRESHOLD TEST BAN RATHER THAN A COMPLETE HALT TO NUCLEAR TESTS

The Administration is considering the negotiation of a threshold test ban with the Soviet Union in lieu of a comprehensive, i.e., complete, test ban. We wish to make these observations, spelled out in the attached position paper.

A comprehensive test ban has many advantages in ease of monitoring compliance.

A threshold ban will do little to reduce numbers of nuclear tests if it permits explosions in the tens of kilotons (as we anticipate would be agreed) but a comprehensive ban would stop them all.

A threshold ban, but not a comprehensive test ban, would permit the United States to build (and presumably the Soviet Union to follow with) mininukes—small nuclear weapons. A threshold ban, but not a comprehensive ban, would permit the Soviet Union to build new and advanced MIRV warheads. These are not desirable developments.

A comprehensive ban—but not a threshold ban—would set an appropriate example for non-nuclear countries who have not yet signed the non-proliferation treaty.

A threshold test ban might forestall forever the achievement of a comprehensive test ban.

We understand very well that the politics of summitry and the politics of impeachment both impel the Administration toward an arms control agreement in June in Moscow. We welcome this fact! But the agreement should be a real one. We do not want to see an important potential element in our national security—the complete test ban—sold out in favor of a much less useful agreement precisely because a partial agreement, lacking real substance, is easier to reach agreement upon.

Attending the Press Conference were Dr. George Rathjens, former Deputy Director of the Advanced Research Projects Agency (ARPA) of the Defense Department and James Leonard, Ambassador and Chief of the U.S. Delegation to the Geneva Disarmament Conference, 1969–1971.

The Statement carries the specific endorsement of these former Government officials, among others, as well as the approval of the FAS and Task Force For A Nuclear Test Ban:

George B. Kistiakowsky, Science Adviser to President Eisenhower;

Herbert Scoville, Jr., Deputy Director, CIA under Presidents Eisenhower and Kennedy;

Franklin A. Long, Assistant Director, ACDA under President Kennedy;

Herbert F. York, Director of Defense Research and Engineering, DOD under President Eisenhower.

THRESHOLD TEST BAN AND ITS PROBLEMS

Negotiations on a ban on underground nuclear tests have been at a virtual standstill ever since the Limited Test Ban Treaty was signed in 1963. Publicly the U.S. has not altered its position that it favored a comprehensive test ban provided only that it could have onsite inspections to verify compliance. The Soviet Union has insisted that such inspections were unnecessary. No serious discussions to receive this fundamental difference have been held despite the fact that, in the last ten years, very extensive research programs have dramatically improved seismic capabilities for detecting and identifying underground nuclear tests. Now, in the spring of 1974, private discussions between the U.S. and the U.S.S.R. appear to be under way to try to limit underground

testing. Unfortunately, it seems that these discussions are focused on a partial rather than a total ban on all underground tests.

The Federation of American Scientists has long supported a complete nuclear test ban treaty. In January 1972, an ad hoc committee studied the problem and called for a total test ban without onsite inspections. The arguments which were made in support of this position more than two years ago are even more compelling today. Confidence in our seismic—and other capabilities also—for monitoring underground tests has grown as experience with the new seismic technology has accumulated and as reconnaissance has improved. The requirements for new nuclear weapons, unimpressive two years ago, are even less persuasive in 1974. With the Non-Proliferation Treaty Review Conference coming up next year, the need for super-power nuclear restraint is becoming more urgent in order to prevent our non-proliferation policies from coming apart. Senator Kennedy reported that on his recent trip to the Soviet Union, Russian leaders expressed great interest in a comprehensive ban. The Senate has before it a resolution, SR 67, co-sponsored by 36 Senators from both parties. There seems little question that with a positive decision a comprehensive test ban is politically viable today.

Two alternatives for a partial ban have been suggested, a number limit and a size limit. The first would be to place an annual quota on tests for each nation which could perhaps be on a sliding decreasing scale leading to a total ban in the distant future. No restrictions would be placed on the size of the explosions carried out under the quota, but it would put a finite limit on the size of the test programs and perhaps also on new weapons developments. Such a measure would not satisfy those who are worried about weaknesses in verification capabilities since cheating—by testing above the quota—would be unaffected. (However, the incentives for cheating would be reduced as long as some tests were permitted.)

The establishment of agreed quotas for the U.S. and the U.S.S.R. might not be too difficult, but would certainly present problems for the other nuclear powers, particularly the French and the Chinese who are not prone to admit second power status. Non-nuclear weapons countries might feel that they should be allowed a quota of tests as well, thereby shattering our goal of keeping the number of nuclear weapons countries at current levels. The sliding scale could lead to a total ban, but it would be very easy for a country to refuse to continue reducing the number of tests at some later date.

The other alternative, and the one now being given serious consideration by the U.S. and Russian negotiators, would be a threshold test ban. Under such an agreement, tests giving seismic signals above a certain magnitude would be forbidden, but tests below this threshold level would be allowed. This arrangement has certain political allure since it would allow the weapons laboratories to continue weapons development and thus weaken their opposition and that of those opposed to any test ban. However, we believe that this compromise proposal has the following serious shortcomings which should be carefully examined:

1. The measured seismic signals from a given explosion will not appear to be of the same magnitude at all instrumentation stations even if carefully standardized procedures are agreed to by all parties. Some statistical criteria for describing the threshold will be required and even then the opportunities for disagreements will be manifold since the capabilities of any station will vary from day to day. Thus, not only will the negotiation of an international verification system be extremely difficult, but even with the best of intentions suspicions of cheating are likely to arise.

2. The magnitude of seismic signals will vary depending on the media in which the explosions are carried out. Thus, a 1 KT explosion in hard rock will have a seismic magnitude equivalent to 10 KT in soft dry alluvium. As a result, the threshold does not place any fixed limits on the size of the nuclear tests which will be banned.

3. Since verification inadequacies will be used as the reason for compromising on a threshold ban, it is likely that the threshold will be set artificially high to take care of "worst possible case" assumptions. Thus, in a total ban, even though an occasional seismic event of magnitude 4.5 might not be certainly identifiable, a violator would not be able to test at this level since he would still have a high probability of being caught. Furthermore, testing techniques to reduce the size of the seismic signal become legal under a threshold ban so that again the yield of allowable tests will be increased. Under a comprehensive ban the use of these techniques would have a high risk of being discovered by non-seismic means. Consequently, a threshold ban will end up by permitting tests of much higher yield than the verification technology would demand.

4. Unless the threshold were set very low, the number of nuclear tests might not be greatly reduced below the present level. The experience of the Limited Test Ban Treaty has shown that if tests are allowed to continue, under any circumstances, the ban only diverts the programs into areas that are permitted. Thus, the testing rate increased, rather than decreased, after the Limited Test Ban Treaty. In the aftermath of a threshold treaty the programs of testing at low yields—that would be below the threshold—would probably be expanded. Since hedges against abrogations would always be sought, every effort would be made to extrapolate the results of testing at lower yield to higher yield weapons. This would undermine the effectiveness of the ban. Furthermore, in order that no other ountry could obtain an undue advantage, testing would probably be carried out as close to the threshold as possible. This will increase the chances for accidental violations with resulting increased tensions. The treaty would become only a very marginal arms control measure.

5. An argument for a threshold test ban is that it would allow development of new models of tactical nuclear weapons to replace those now widely deployed. Secretary of Defense Schlesinger has said that the issue of a comprehensive treaty is "to what degree the United States wishes to improve its tactical nuclear weapons." However Schlesinger also stated in his annual Defense Department Report, FY 75, (page 82):

". . . I must stress that our tactical nuclear systems do not now and are most unlikely in the future to constitute a serious substitute for a stalwart non-nuclear defense. In fact, we must recognize in our planning that the decision to initiate the use of nuclear weapons—however small, clean, and precisely used they might be—would be the most agonizing that could face any national leader."

The negotiation of a threshold treaty will only give impetus to efforts to develop new tactical weapons that will tend to erode the firebreak between conventional and nuclear war. Instead of developing new weapons, we should be examining the size and location of our existing overseas stockpiles which Secretary of Defense Schlesinger has admitted are larger than are necessary. And we should be making these more secure by less provocative deployments. Our goal should be to make nuclear weapons harder to use, not to make new models which are more useable.

6. Continued testing between the U.S. and the U.S.S.R. is not likely to satisfy the non-nuclear weapons countries that are looking for super-power restraint in exchange for their renouncing the option of acquiring nuclear weapons of their own. Such an agreement will be viewed as confirmation that the two super-powers have only self-serving interests in promoting the Non-Proliferation Treaty. It could weaken, rather than strengthen, the U.S. position at the NPT Review Conference in 1975.

7. The negotiation of a threshold treaty now would probably put off indefinitely the achievement of a total test ban. If, as a result of the tremendous advances which have been made in our verification capabilities in the past ten years, we still do not think our capabilities are adequate for a comprehensive test ban today, then it is hard to see when they ever could be considered so. Our seismic techniques are now approaching the limits of what we can ever hope to achieve. The number of natural earthquakes increases very rapidly as the magnitude goes down and the seismic background noise becomes increasingly difficult to avoid. The yield range between those events which can be detected and those which can be identified is already very small, perhaps of the order of 1–3 KT, and it is only in this range that on-site inspections have any meaning at all. Furthermore, improvements are not likely to reduce this interval appreciably and, in any case, would be of very little significance. Thus, the acceptance of a threshold treaty now is likely to foreclose the achievement of a comprehensive test ban for years to come.

FAS BACKGROUND

The Federation of American Scientists, founded in 1946, is a unique nonprofit public interest lobby of scientists concerned with problems of science and society. Unlike virtually all other scientific societies, FAS is not a tax-deductible organization and therefore is free to influence legislation.

Membership is open to all natural and social scientists and engineers, so that an interdisciplinary point of view can be achieved.

FAS is democratically organized with an elected Council of 26 members. Constitutionally, the FAS Executive Committee (composed of 8 officials) may also issue pronouncements consistent with FAS policy.

Members of FAS participate in several ways: they vote for its officers, respond to questionnaires, suggest ideas to the National Office, serve on committees to investigate special issues, and testify before Congressional committees.

The 6,000 dues-paying members of FAS include former science-related officials of the highest possible rank from the relevant government agencies, as well as half of America's Nobel laureates in science.

In fulfilling its role as a conscience of the scientific community, FAS has worked on a variety of vital issues: disarmament, environment, energy, conversion to a non-military economy, rights of scientists, and many others.

FAS public policy statements are reflected in periodic press releases, in testimony before Congressional committees, and in the monthly FAS Public Interest Report.

TASK FORCE FOR THE NUCLEAR TEST BAN

The Task Force for the Nuclear Test Ban was established in 1971 by members of the Disarmament Issues Committee of the United Nations Association-USA to promote public awareness of the need for a comprehensive test ban treaty.

CHRONOLOGY OF THE TEST BAN CAMPAIGN SINCE 1971

April 1971—Task Force Co-Chairman, Jo Pomerance, urged the Senate Foreign Relations Committee Subcommittee on Arms Control and International Organization, chaired by Senator Muskie, to hold hearings on the underground test ban.

July 1971—Hearings were held by the Foreign Relations Subcommittee. Leading scientists and arms control experts testified that the United States should initiate negotiations

with the USSR for a treaty banning underground tests. Dr. Bernard T. Feld of the Laboratory for Nuclear Science at M.I.T. testified on behalf of the Task Force that on-site inspection, long the major obstacle to a treaty, was no longer necessary to detect violation. Dr. Field's testimony asserted that detection of violations was now possible by national means, including seismic detection methods.

September 1971—The Task Force organized a public education campaign on the comprehensive test ban, working through the media, and national citizens' organizations; and providing information to the Congress and the Conference of the Committee on Disarmament in Geneva.

January 1972—Encouraged by public concern, Senator Edward Kennedy introduced a Senate Resolution calling for a moratorium on underground nuclear tests and the prompt negotiations of a test ban treaty.

February 1972—Assisted by experts from the Task Force, Senators Hart and Mathias introduced a Senate Resolution calling for a test ban treaty.

These two Resolutions were endorsed by more than 35 Senators.

May 1972—Senate hearings were held on a CTB by the Senate Subcommittee on Arms Control and International Organization chaired by Senator Edmund Muskie. Some of the nation's leading scientist and arms control experts testified, urging the Administration to seek a treaty banning all nuclear tests. Mrs. Jo Pomerance of the Task Force testified on behalf of over 30 national citizens' organizations endorsing a CTB.

December 1972—Because of world-wide public concern, three Resolutions were passed in the United Nations General Assembly one of which called for a comprehensive test ban treaty by August 5, 1972, the tenth anniversary of the Partial Test Ban Treaty.

February 1973—Senator Edward Kennedy introduced Senate Resolution 67, "calling on the President to promote negotiations for a Comprehensive Test Ban Treaty."

June 1973—The Senate Foreign Relations Committee adopted Senator Kennedy's resolution by a vote of 14–1.

May 1974—The Task Force has continued its support for a comprehensive test ban and welcomes forthcoming Senate consideration of SR 67.

ABOUT THE COCHAIRMEN

Betty G. Lall was formerly Special Assistant to the Deputy Director of the US Arms Control and Disarmament Agency and Staff Director of the US Senate Subcommittee on Disarmament. She is currently on the faculty of the New York State School of Industrial and Labor Relations of Cornell University in New York City.

Jo Pomerance is a sepcial consultant to the Chairman of the Senate Subcommittee on Arms Control and International Organization, a Member of the Board of Directors of the United Nations Association, formerly Chairman of its Disarmament Issues Committee, and has in many capacities worked with non-governmental organizations accredited by the United Nations.

TASK FORCE FOR THE NUCLEAR TEST BAN,
Washington, D.C., May 21, 1974.

Hon. HENRY A. KISSINGER,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: We applaud your recognition of the compelling urgency to restrain the nuclear arms race. We agree with your view that, "The accumulation of nuclear arms must be contained if mankind is not to destroy itself." Towards this end we welcome the recent report that you and Foreign Minister Gromyko are discussing an underground test ban treaty for possible signature at a June summit meeting in Moscow.

In our view American security interests require that the comprehensive test ban (CTB) remain our goal rather than the threshold version now under discussion. Some of our reasons follow.

The CTB would signal the intention of the superpowers to halt the qualitative arms race. The threshold version, on the other hand, which merely prohibits tests down to a specified level, permits continued research and development of new weapons, adding to already exorbitant defense costs and increasing the danger of a nuclear holocaust.

Unless the CTB is arranged there is an increasing probability that additional nations will go nuclear following the example of India, now the world's sixth nuclear power.

A deadline is the review conference on the Nuclear Non-Proliferation Treaty (NPT) planned for 1975. In Article VI of the NPT the superpowers pledged to move promptly toward "a cessation of the arms race." As of now progress under the NPT has been minimal. Agreement on the CTB could fulfill this pledge, satisfying the non-nuclear powers that the nuclear threat has diminished. The threshold ban, which perpetuates the development of nuclear weapons, could have the opposite effect.

The support of the CTB "adequately verified," is established United States policy. Nearly all knowledgeable and objective experts are convinced we can now sign a CTB using national means for verification. Just this month, during Senator Kennedy's trip to the USSR, Russian leaders repeated their position: they will sign a total test ban on condition the United States abandon its persistent demand for on-site inspection. Since the Defense Department's own experts report that, because of progress in techniques of seismic detection, underground tests can be identified down to a level of two kilotons in hard rock; and since smaller tests are not considered militarily significant, there is now no legitimate excuse for failing to conclude a total test ban verified by national means alone.

We recognize that principal opposition to the CTB will come from the Defense Department and the Atomic Energy Commission, as it did when President Kennedy proposed the CTB in 1963. Already the Secretary of Defense has testified before the Senate that current arguments against the CTB relate to the new "mini-nuke" program proposed in the fiscal 1975 budget, which will require tests in the low yield categories. But we believe, Mr. Secretary, that the mini-nukes tend to blur the distinction between conventional and nuclear weapons, increasig the possibility of their use and of retaliation in kind or worse. Global devastation could follow. This is precisely the reason the Kennedy and Johnson Administrations resisted development of these nuclear novelties.

After a decade of inactivity, this breakthrough in the test ban negotiations provides an historic opportunity. Currently the CTB is advocated in a Senate Resolution, already approved by the Senate Foreign Relations Committee by a large majority. The CTB has been repeatedly endorsed by the United Nations. The measure has widespread support among American non-governmental organizations.

Against this backround, we urge you to make every effort to conclude the total test ban with the USSR—a step which could truly reverse the arms race.

Sincerely yours,

SIGNATORIES

Dr. Betty Goetz Lall, Mrs. Jo Pomerance (Co-Chairmen).

The Honorable Benjamin W. Cohen, The Honorable James J. Wadsworth (Honorary Co-Chairmen).

Dr. Herbet Scoville, Jr. (for the Executive Committee).

Adrian Fisher, Former Deputy Director of the U.S. Arms Control and Disarmament Agency, 1961 to 1969; Dean of the Law School, Georgetown University.

William Foster, Former Director of the U.S. Arms Control and Disarmament Agency, 1961 to 1969; currently Chairman of the Board of the Arms Control Association.

James E. Leonard, Ambassador and Chief of U.S. Delegation to Geneva Disarmament Conference 1969–1971, Vice President for Policy Studies, United Nations Association, UNA–USA.

Archibald S. Alexander, President, The Arms Control Association.

Rev. Harry Applewhite, United Church of Christ.

Mrs. J. Berenson, Board of Directors, UNA/USA.

Dr. Harrison Brown, California Institute of Technology.

William J. Butler, U.N. Representative of the International Commission of Jurists.

Rev. Sterling Cary, President, National Council of Churches of Christ in the U.S.A.

Hon. Joseph S. Clark, Chairman, Coalition on National Priorities and Military Policy.

Dr. Barry Commoner, Center for the Biology of Natural Systems, Washington Univ., St. Louis.

Norman Cousins, Editor, Saturday Review/World.

Dr. Paul Doty, Harvard University.

William Epstein, Former Chief of Disarmament Affairs Division, UN Secretariat.

Hon. Seymour M. Finger, Director, Ralph Bunche Institute on the UN, CUNY.

Hon. Donald M. Fraser, M.C.

Dr. Richard Gardner, Professor of Law and International Organization, Columbia Univ.

Sanford Gottlieb, Executive Director, Coalition on National Priorities and Military Policy.

Thomas Halsted, Executive Director, The Arms Control Association.

Marii Hasegawa, President, U.S. Section, Women's International League for Peace and Freedom.

Hedda Hendrix, Public Relations Consultant.

Dr. David R. Inglis, Professor of Physics, Univ. of Mass.

Dr. Marvin Kalkstein, State Univ. of New York, Stony Brook.

Donald F. Keys, World Association of World Federalists.

Dr. Betty Goetz Lall, N.Y. State School of Industrial Labor Relations, Cornell Univ.

Dr. Arthur Larson, Director, Rule of Law Research Center, Duke Univ.

Oscar de Lima, Vice-Chairman, UNA/USA.

Dr. Franklin A. Long, Director of the Program on Science, Technology and Society, Cornell Univ.

Dr. Burke Marshall, Deputy Dean, Yale Law School.

Seymour Melman, Co-Chairman, SANE.

Dr. Hans J. Morgenthau, Professor of Political Science, Graduate School, CUNY.

Hon. Wayne Morse, Co-Chairman, SANE.

Earl Osborn, Institute for International Order.

Mrs. Mildred Persinger, U.N. Representative for the U.S. YWCA.

Mrs. Jo Pomerance, Co-Chairman, Committee on Disarmament and Peacekeeping Conference of U.N. Representatives, UNA/USA.

Mrs. Frances Sawyer, President, Women United for the United Nations.

Mrs. Marjorie Schell, Committee for a New China Policy.

Dr. Herbert Scoville, Jr., Federation of American Scientists.

Dr. John Toll, Professor of Physics and President State Univ. at Stony Brook.

Jack Tourin, President, American Ethical Union.

Mrs. Carolyn Tumarkin, Women United for the U.N.

Mr. Paul Warnke.

Dr. Jerome Wiesner, President, Mass. Institute of Technology.

Dr. Herman Will, Jr., Associate General

Secretary, Board of Christian Social Concerns of the United Methodist Church.

Jerry Wurf, President, American Federation of State, County & Municipal Employees, AFL–CIO.

Charles W. Yost, Former Head, U.S. Mission to the U.N.

SENATE RESOLUTION 67

Whereas the United States is committed in the Partial Test Ban Treaty of 1963 and the Nonproliferation of Nuclear Weapons Treaty of 1968 to negotiate a comprehensive test ban treaty;

Whereas the conclusion of a comprehensive test ban treaty will reinforce the Nonproliferation of Nuclear Weapons Treaty, and will fulfill our pledge in the Partial Test Ban Treaty;

Whereas there has been significant progress in the detection and identification of underground nuclear tests by seismological and other means; and

Whereas the SALT accords of 1972 have placed quantitative limitations on offensive and defensive strategic weapons and have established important precedents for arms control verification procedures; and

Whereas early achievement of total nuclear test cessation would have many beneficial consequences: creating a more favorable international arms control climate; imposing further finite limits on the nuclear arms race; releasing resources for domestic needs; protecting our environment from growing testing dangers; making more stable existing arms limitations agreements; and complementing the ongoing strategic arms limitation talks: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President of the United States (1) should propose an immediate suspension on underground nuclear testing to remain in effect so long as the Soviet Union abstains from underground testing, and (2) should set forth promptly a new proposal to the Government of the Union of Soviet Socialist Republics and other nations for a permanent treaty to ban all nuclear tests.

Introduced February 20, 1973.

Reported by the Senate Foreign Relations Committee June 13, 1973, by a vote of 14 to 1.

PRINCIPAL SPONSORS

Kennedy (D-Mass), Muskie (D-Maine), Humphrey (D-Minn), Hart (R-Mich), Case (R-N.J.), Mathias (R-Md).

COSPONSORS

Abourezk (D-S. Dak), Bayh (D-Ind), Biden (D-Del), Burdick (D-N. Dak), Church (D-Idaho), Clark (D-Iowa), Cranston (D-Cal), Fulbright (D-Ark), Gravel (D-Alaska), Haskell (D-Colo), Hathaway (D-Maine), Hughes (D-Iowa), Hartke (D-Ind).

Inouye (D-Hawaii), Magnuson (D-Wash), McGovern (D-S. Dak), Mondale (D-Minn), Moss (D-Utah), Nelson (D-Wis), Pell (D-R.I.), Proxmire (D-Wis), Ribicoff (D-Conn), Stevenson (D-Ill), Tunney (D-Cal), Williams (D-N.J.), McGee (D-Wyo), Brooke (R-Mass), Hatfield (R-Oreg), Javits (R-N.Y.), Dole (R-Kan).

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the House message relating to a Productivity Commission is laid before the Senate, there be a 30-minute time limitation thereon, to be equally divided between the majority and minority leaders or their designees.

Mr. President, I withdraw that request temporarily.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the time H.R. 11546, a bill to establish a Big Thicket National Preserve, is laid before the Senate, there be a time limitation thereon of 40 minutes, to be equally divided between the majority and minority leaders or their designees;

That the time on any amendment be limited to 30 minutes; That the time on any debatable motion or appeal be limited to 30 minutes; and That the agreement be in the usual form.

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

AMENDMENT OF FREEDOM OF INFORMATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 2543, which the clerk will state by title.

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

A bill (S. 2543) to amend section 552 of title V, United States Code, commonly known as the Freedom of Information Act.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That (a) the fourth sentence of section 552(a)(2) of title 5, United States Code, is deleted and the following substituted in lieu thereof: "Each agency shall maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall publish, quarterly or more frequently, each index unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which case the agency shall nonetheless provide copies of such index on request at a cost comparable to that charged had the index been published."

(b)(1) Section 552(a)(3) of title 5, United States Code, is amended to read as follows:

"(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request for records which reasonably describes such records and which is made in accordance with published rules stating the time, place, fees, and procedures to be followed, shall make the records promptly available to any person.".

(2) Section 552(a) of such title 5 is amended by redesignating paragraph (4) as paragraph (5) and by inserting immediately after paragraph (3) the following new paragraph:

"(4)(A) In order to carry out the provisions of this section, the Director of the Office of Management and Budget shall promulgate regulations, pursuant to notice and receipt of public comment, specifying a uniform schedule of fees applicable to all agencies. Such fees shall be limited to reasonable standard charges for document search and duplication and provide recovery of only the direct costs of such search and duplication. Documents may be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public. But such fees shall ordinarily not be charged whenever—

"(i) the person requesting the records is an indigent individual;

"(ii) such fees would amount, in the aggregate, for a request or series of related requests, to less than $3;

"(iii) the records requested are not found; or

"(iv) the records located are determined by the agency to be exempt from disclosure under subsection (b).

"(B)(i) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall consider the case de novo, with such in camera examination of the requested records as it finds appropriate to determine whether such records or any part thereof may be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action.

"(ii) In determining whether a document is in fact specifically required by an Executive order or statute to be kept secret in the interest of national defense or foreign policy, a court may review the contested document in camera if it is unable to resolve the matter on the basis of affidavits and other information submitted by the parties. In conjunction with its in camera examination, the court may consider further argument, or an ex parte showing by the Government, in explanation of the withholding. If there has been filed in the record an affidavit by the head of the agency certifying that he has personally examined the documents withheld and has determined after such examination that they should be withheld under the criteria established by a statute or Executive order referred to in subsection (b)(1) of this section, the court shall sustain such withholding unless, following its in camera examination, it finds the withholding is without a reasonable basis under such criteria.

"(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within forty days after the service upon the United States attorney of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.

"(D) Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this subsection, and appeals therefrom, take precedence on the docket over all causes and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

"(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed. In exercising its discretion under this paragraph, the court shall consider the benefit to the public, if any, deriving from the case, the commercial benefit to the complainant and the nature of his interest in the records sought, and whether the Government's withholding of the records sought had a reasonable basis in law.

"(F) Whenever records are ordered by the court to be made available under this section, the court shall on motion by the complainant find whether the withholding of such records was without reasonable basis in law and which federal officer or employee

was responsible for the withholding. Before such findings are made, any officers or employees named in the complainant's motion shall be personally served a copy of such motion and shall have 20 days in which to respond thereto, and shall be afforded an opportunity to be heard by the court. If such findings are made, the court shall, upon consideration of the recommendation of the agency, direct that an appropriate official of the agency which employs such responsible officer or employee suspend such officer or employee without pay for a period of not more than 60 days or take other appropriate disciplinary or corrective action against him.

"(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member.".

(c) Section 552(a) of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(6)(A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall—

"(i) determine within ten days (excepting Saturdays, Sundays and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefor, and of the right of such person to appeal to the head of the agency any adverse determination; and

"(ii) make a determination with respect to such appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

"(B) Upon the written certification by the head of an agency setting forth in detail his personal findings that a regulation of the kind specified in this paragraph is necessitated by such factors as the volume of requests, the volume of records involved, and the dispersion and transfer of such records, and with the approval in writing of the Attorney General, the time limit prescribed in clause (i) for initial determinations may by regulation be extended with respect to specified types of records of specified components of such agency so as not to exceed thirty working days. Any such certification shall be effective only for periods of fifteen months following publication thereof in the Federal Register.

"(C) In unusual circumstances as specified in this subparagraph, the time limits prescribed pursuant to subparagraph (A), but not those prescribed pursuant to subparagraph (B), may be extended by written notice to the requester setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than 10 days. As used in this subparagraph, 'unusual circumstances' means, but only to the extent reasonably necessary to the proper processing of the particular request—

"(i) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

"(ii) the need to assign professional or managerial personnel with sufficient experience to assist in efforts to locate records that have been requested in categorical terms, or with sufficient competence and discretion to aid in determining by examination of large numbers of records whether they are exempt from compulsory disclosure under this section and if so, whether they should nevertheless be made available as a matter of sound policy with or without appropriate deletions;

"(iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein, in order to resolve novel and difficult questions of law or policy; and

"(iv) the death, resignation, illness, or unavailability due to exceptional circumstances that the agency could not reasonably foresee and control, of key personnel whose assistance is required in processing the request and who would ordinarily be readily available for such duties.

"(D) Whenever practicable, requests and appeals shall be processed more rapidly than required by the time periods specified under (i) and (ii) of subparagraph (A) and paragraphs (B) and (C). Upon receipt of a request for specially expedited processing accompanied by a substantial showing of a public interest in a priority determination of the request, including but not limited to requests made for use of any person engaged in the collection and dissemination of news, an agency may by regulation or otherwise provide for special procedures or the waiver of regular procedures.

"(E) An agency may by regulation transfer part of the number of days of the time limit prescribed in (A)(ii) to the time limit prescribed in (A)(i). In the event of such a transfer, the provisions of paragraph (C) shall apply to the time limits prescribed under such clauses as modified by such transfer. Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provision of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.".

SEC. 2. (a) Section 552(b)(1) of title 5, United States Code, is amended to read as follows:

"(1) specifically required by an Executive order or statute to be kept secret in the interest of national defense or foreign policy and are in fact covered by such order or statute;".

(b) Section 552(b) of title 5, United States Code, is amended by adding at the end the following: "Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection.".

SEC. 3. Section 552 of title 5, United States Code, is amended by adding at the end thereof the following new subsections:

"(d) On or before March 1 of each calendar year, each agency shall submit a report covering the preceding calendar year to the Committee on the Judiciary of the Senate and the Committee on Government Operations of the House of Representatives, which shall include—

"(1) the number of determinations made by such agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

"(2) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

"(3) the names and titles or positions of each person responsible for the denial of records requested under this section, and the number of instances of participation for each;

"(4) a copy of every rule made by such agency regarding this section;

"(5) the total amount of fees collected by the agency for making records available under this section;

"(6) a copy of every certification promulgated by such agency under subsection (a)(6)(B) of this section; and

"(7) such other information as indicates efforts to administer fully this section.

The Attorney General shall submit an annual report on or before March 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the exemption involved in each case, the disposition of such case, and the cost, fees, and penalties assessed under subsections (a)(3)(E), (F), and (G). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

"(e) For purposes of this section, the term 'agency' means any agency defined in section 551(1) of this title, and in addition includes the United States Postal Service, the Postal Rate Commission, and any other authority of the Government of the United States which is a corporation and which receives any appropriated funds.".

SEC. 4. There is hereby authorized to be appropriated such sums as may be necessary to assist in carrying out the purposes of this Act and of section 552 of title 5, United States Code.

SEC. 5. The amendments made by this Act shall take effect on the ninetieth day beginning after the date of enactment of this Act.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mr. Thomas Susman and Mrs. Hank Phillippi, of the staff of the Subcommittee on Administrative Practice and Procedure, Mr. Al Friendly and Mr. Al From, of the staff of the Committee on Government Operations, and Mr. Paul Summit and Mr. Dennis Thelen, of the staff of the Committee on the Judiciary, be accorded the privilege of the floor during the consideration of this measure.

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

Mr. KENNEDY. Mr. President, I yield myself such time as I may use.

The Supreme Court of the United States observed a few years ago that:

It is now well established that the Constitution protects the right to receive information and ideas.

Continued the Court,

This right to receive information and ideas is fundamental for our free society.

An important objective behind the Freedom of Information Act, passed by Congress in 1966, is to give concrete meaning to one aspect of this right to receive information—the right to receive information from the Federal Government. This is no meager right. The processes of Government touch almost every aspect of our lives, every day. From the food we eat to the cars we drive to the air we breathe, Federal agencies constantly monitor and regulate and control. Our Government is the biggest buyer and the biggest spender in the world. It taxes and subsidizes and enforces. And it generates tons of paperwork as it goes about its business.

The Freedom of Information Act guarantees citizen access to Government information and provides the key for unlocking the doors to a vast storeroom of information. The protections of the act thus become protections for the public's right to receive information and ideas. And the accomplishments of the act become fuller implementation of the first amendment of the Constitution.

There is another significant purpose behind the Freedom of Information Act, perhaps best stated by Justice Brandeis when he wrote:

> Publicity is justly commendable as a remedy for social and industrial disease. Sunlight is said to be the best disinfectant, and electric light the most effective policeman.

Chief Justice Warren echoed this recently when he said that secrecy "is the incubator for corruption." We have seen too much secrecy in the past few years, and the American people are tired of it. Secret bombing of Cambodia, secret wheat deals, secret campaign contributions, secret domestic intelligence operations, secret cost overruns, secret antitrust settlement negotiations, secret White House spying operations—clearly an open Government is more likely to be a responsive and responsible Government. And the Freedom of Information Act is designed to open our Government.

Finally, the Freedom of Information Act is basic to the maintenance of our democratic form of government. President Johnson said on signing the FOIA that—

> A democracy works best when the people have all the information that the security of the nation permits.

The people can judge public officials better by knowing what they are doing, rather than only by listening to what they say. But to know what Government officials are doing, the people must have access to their decisions, their orders, their instructions, their deliberations, their meetings. The Freedom of Information Act provides an avenue to public access to the records of Government. Through these records the public can better judge, weigh, analyze, and scrutinize the activities of public officials, making sure at every turn that Government is being operated by, of, and for the people. And that Government is fully accountable to the people.

The Freedom of Information Act contains three basic subsections. The first sets out the affirmative obligation of each Government agency to make information available to the public, with certain information to be published and other information to be made available for public inspection or copying. Remedies are provided for noncompliance: No regulation, policy, or decision can affect any person adversely if it is not published as required, and any person improperly denied information can go to court to require disclosure. The second subsection contains exceptions to the general mandatory rule of disclosure, for matters such as properly classified information, trade secrets, internal advice memoranda, personnel and investigatory files. The third subsection makes clear that the Freedom of Information Act authorizes only withholding "as specifically stated" in the exemptions and that the act "is not authority to withhold information from Congress."

I think that it is important to point out that the act attempts to strike a proper balance between disclosure and nondisclosure, providing protection for information where legitimate justification is present. Congress has circumscribed narrowly the boundaries of justifiable withholding in the act's exemptions. Agencies have no discretion to withhold information that does not fall within one of those exemptions. It is equally clear, however, that agencies have a definite obligation to release information—even where withholding may be authorized by the language of the statute—where the public interest lies in disclosure. Congress certainly did not intend the exemptions of the Freedom of Information Act to be used to prohibit disclosure of information or to justify automatic withholding. This is a frequent misunderstanding, shared by many Government officials who insist on citing the act as forbidding release of requested information in specific cases. In fact, the exceptions to required disclosure are only permissive and mark the outer limits of information that may be withheld.

The Freedom of Information Act grew out of the efforts of a special House subcommittee and the Senate Subcommittee on Administrative Practice and Procedure in the mid-1960's. The Administrative Procedure Act had attempted to open up Government records in 1946, but it failed to provide any remedy for wrongful withholding of information. It required persons seeking information to be "properly and directly concerned," and it allowed administrators to withhold information where secrecy was required "in the public interest" or where it was considered "confidential for good cause found." With support and encouragement by the press, Congress, in 1966, enacted the Freedom of Information Act guaranteeing the public an enforceable right to Government records in the broadest sense.

Shortly after I took over as chairman of the Administrative Practice Subcommitee, we undertook a review of agency practices and court decisions under the Freedom of Information Act. We found that many agencies had not yet brought their regulations and procedures into line with the requirements of the act, but we concluded that additional time would be useful to allow them to come into compliance before looking to legislative proposals to change the still-new law. Many of the areas of the act where language was considered unclear or ambiguous were being interpreted by the courts, and we believed that the development of a body of case law on the act would be a useful predicate to any legislative attempt at clarification.

In 1972 a House subcommittee conducted extensive hearings on the operation of the Freedom of Information Act and concluded that there were major gaps in the law through which agencies were able to justify unnecessary delays, to place unreasonable obstacles in the way of public access, and to obtain undue withholding of information. The final report of the House Government Operations Committee described the failure of the act to realize fully its lofty goals because of agency antagonism to its objectives.

When Congress passed the Freedom of Information Act, it issued a rule of Government that all information with some valid exceptions was to be made available to the American people—no questions asked. The exceptions—intended to safeguard vital Defense and State secrets, personal privacy, trade secrets, and the like—were only permissive, not mandatory. When in doubt, the department or agency was supposed to lean toward disclosure, not withholding.

But most of the Federal bureaucracy already set in its ways never got the message. They forgot they are the servants of the people—the people are not their servants.

Agency officials appeared and actually testified under oath that they had to balance the Government's rights against the people's rights. The Government, however, has no rights. It has only limited power delegated to it from we, the people.

Last year, my Subcommittee on Administrative Practice and Procedure began its efforts to define the loopholes in the Freedom of Information Act and to design legislation to close them. After extensive hearings, I introduced S. 2543, which focused on the procedural obstacles to timely access to Government information. Through subcommittee and full committee consideration, we amended and improved some of the sections of the bill. And on May 8 the Judiciary Committee unanimously ordered the bill reported, as amended.

S. 2543 makes a number of changes in the present Freedom of Information Act. Let me briefly outline all of the changes made by the bill, and then discuss in greater detail what I consider to be some of its most significant provisions.

First. Indexes. Under present law, indexes of agency opinions, policy statements, and staff manuals must be made available to the public. To increase the availability of these indexes, S. 2543 requires their publication unless it would be "unnecessary and impractical." This should especially increase their availability to libraries, which play a vital role in making information widely available to the people.

Second. Identifiable records. Under present law a request must be made for "identifiable records." Since some agencies have used this requirement to evade disclosure of public information, S. 2543 requires only that the request "reasonably describes" the records sought.

Third. Search and copy fees. Each agency presently sets its own schedule of fees without review or supervision. Exaggerated search charges and extravagant charges for legal review time can provide effective obstacles to public access to Government information. S. 2543 requires the office of Management and Budget to set uniform fees, which will only cover direct costs of search and duplication, eliminating any possibility of padded fees or charges for peripheral services. These fees may be waived or reduced under specific circumstances set out in the bill.

Fourth. Venue. The bill establishes

alternate concurrent venue for Freedom of Information cases in the District of Columbia, which has built up a special expertise in such cases.

Fifth. Expedition on appeal. Freedom of Information cases are under present law to be expedited in the trial court. The bill adds a congressional intent that expedition of Freedom of Information cases extends to the appellate level also.

Sixth. In camera and de novo review. Presently de novo review with in camera inspection of documents is allowed in all cases except where withholding is justified as being in the interest of national defense or foreign policy. This exception is dictated by the Supreme Court's interpretation of the Freedom of Information Act in the case of Environmental Protection Agency against Mink. S. 2543 would reverse Mink and extend full in camera judicial review to all areas, including those involving classified documents. Specific procedures are set out in the bill for courts to follow where classification decisions are reviewed.

Seventh. Attorneys' fees. S. 2543 would allow recovery from the Government of attorneys' fees where the plaintiff in a Freedom of Information action substantially prevails and where recovery would be in the public interest. The bill contains criteria to govern the court's award of these fees.

Eighth. Answer time in court. The Government presently has 60 days to respond to a complaint in the Federal District Court. Private parties have 20 days. The bill would expedite the Government's response time, allowing 40 days for its answer. The court may grant an extension of time, or may shorten the response time, for good cause shown.

Ninth. Sanction for withholding. S. 2543 adds a new government accountability provision whereby if the court in a freedom of information case, after a hearing, finds the withholding to have been without a "reasonable basis in law," the official responsible can be disciplined or suspended by direction of the courts for up to 60 days. This should eliminate many of the cases where obstinate officials disregard the law in order to minimize embarrassment to the agency.

Tenth. Administrative deadlines. S. 2543 sets deadlines for agency handling of freedom of information requests: 10 days for the initial reply and 20 days on appeal. It sets up a certification procedure for extraordinary cases—where a large magnitude of documents subject to numerous requests are widely disbursed geographically—allowing 30 days for the initial answer time. And it provides that 10 days may be added to either the reply or appeal time if "unusual circumstances," as narrowly defined by the bill, are presented.

Eleventh. Exemption (b)(1). In its only amendment of a substantive exemption in the FOIA, S. 2543 makes clear the duty of a court reviewing withholding of classified material to determine whether a claim based on national defense or foreign policy is in fact justified under statute or executive order. Thus the court will not take an official's word for the propriety of the classification, but will look to the substance of the information to see if it had been properly classified.

Twelfth. Responsible officials. The names and positions of all government officials responsible for denying freedom of information requests are required by S. 2543 to be noted in denials and reported annually to the Congress. This supplements the sanctions section in encouraging personal accountability on the part of government officials who would withhold information.

Thirteenth. Segregable records. S. 2543 adds a new provision to the act stating that if exempt portions of requested records or files are severable, they should be severed—or deleted, as the case may be—and the nonexempt portions disclosed. Many courts are requiring this now, and the bill emphasizes the desirability of this approach in providing specifically that courts may order disclosure of "portions" of files or records as well as entire files or records.

Fourteenth. Reporting. S. 2543 requires annual reporting of agency handling of freedom of information requests to Congress. Specific information useful to the oversight functions of Congress in assessing implementation of the bill and the act is required in the report.

Fifteenth. Agency definition. The bill expands the definition of agency under the Freedom of Information Act to include the Postal Service, and Government corporations, such as the National Railroad Passenger Corporation.

Sixteenth. Authorization. S. 2543 contains language authorizing appropriations for such sums as may be necessary to assist in carrying out agency freedom of information activities, although it is expected that funds will be appropriated only for special or supplemental agency activities and not for the routine processing of requests.

Seventeenth. Effective date. S. 2543 will become effective 90 days after enactment, to give the agencies time to adapt their internal procedures to the requirements of the new law.

Mr. President, I would now like to focus on some of the most significant portions of the bill we are considering today and elaborate on the purposes and objectives of the legislation in those areas.

One of the key provisions is the new subsection 552(a)(4)(F) proposed by the bill. Under this subsection if the court determines that the Federal employee or official responsible for wrongfully withholding information from the public has acted without a reasonable basis in law, it may order the employee or official be disciplined or suspended from employment up to 60 days. Specifically, the subsection reads as follows:

> Whenever records are ordered by the court to be made available under this section, the court shall on motion by the complainant find whether the withholding of such records was without reasonable basis in law and which Federal officer or employee was responsible for the withholding. Before such findings are made, any officers or employees named in complainant's motion shall be personally served a copy of such motion and shall have 20 days in which to respond thereto, and shall be afforded an opportunity to be heard by the court. If such findings are made, the court shall, upon consideration of the recommendation of the agency, direct that an appropriate official of the agency which employs such responsible officer or employee suspend such officer or employee without pay for a period of not more than 60 days or take other appropriate disciplinary or corrective action against him.

The Freedom of Information Act has been in operation for almost 7 years, but one of its great failures is that it does not hold Federal officials accountable for withholding information required by the act to be made public. The only mechanism for enforcing the mandates of the Freedom of Information Act has been for individuals to go to court for an injunction, on a case-by-case basis, with great cost and delay. This is an expensive and not always an effective approach. The sanction is intended to encourage administrators responsible for carrying out the Freedom of Information Act to make sure that their actions faithfully carry out the terms of that law.

Former Attorney General Richardson observed in our hearings that—

> The problem in affording the public more access to official information is not statutory but administrative.

He indicated that—

> The real need is not to revise the act extensively but to improve compliance.

That is precisely why we included this sanction in S. 2543.

There are three problems to which this new accountability provision addresses itself: where officials refuse to follow clear precedent, forcing a requester to go to court despite the clarity of the disclosure requirement in the specific case; where officials deny requests without bothering to inform themselves of the mandates of the law; and where obstinacy provides the obvious basis for the official's refusal to disclose information. Let me provide some examples, both from our hearing record and from the subcommittee's day-to-day involvement with agencies on FOI problems.

Mr. Mal Schechter, a senior editor of Hospital Practice magazine, provided the subcommittee with an egregious example of agency handling of his freedom of information requests. He had for several years been attempting to obtain from the Social Security Administration access to medical survey reports done on nursing homes and other medical facilities receiving Federal payments under medicare. Mr. Schechter finally brought legal action under the Freedom of Information Act, and the district court here in the District of Columbia granted him access to 15 reports on nursing homes in the Washington metropolitan area. The Government did not appeal.

The safe assumption would have been that the next time Mr. Schechter asked for access to a medical survey report, it would be made promptly available to him. This was not the case. For in response to his next request for similar documents, the Social Security Administration refused access and stated that they did not acquiesce in the opinion of the court. Mr. Schechter had to go to court again.

This situation is epidemic in the area of requests for information which the Government considers "confidential" but which is neither commercial nor financial. While the language of the fourth

exemption of the Freedom of Information Act may on its face have been slightly ambiguous on this point, numerous courts have unanimously held that for information which does not constitute trade secrets to be withheld under this exemption, the information must be both confidential and commercial, or both confidential and financial. Agency refusals to acquiesce in this clearly correct judicial interpretation have been frequent, but in light of the clarity of the case law on the subject the earlier position on this issue could no longer be considered as having a reasonable basis in law.

One of our witnesses, Mr. Peter Shuck, told of a lawsuit brought to obtain access to Agriculture Department inspection reports on meat processing plants. His suit was successful and the Government did not appeal. About a year later, however, USDA refused to turn over similar reports to another requester, alleging that they were exempt from disclosure under the FOIA. Only after Mr. Schuck's attorney intervened on behalf of this second requester did the USDA release reports.

If the persons responsible for the decisions in the nursing home and meat inspection cases knew that their actions the second time around might have resulted in the imposition of administrative sanctions by a Federal judge, their responses would likely have been different. Access would have been expedited, and resort to the courts unnecessary.

In some circumstances agency officials refuse access to information merely because they do not want it released, and they practically dare the requester to bring them to court. One example from our hearing will suffice to illustrate this problem.

Pursuant to statute the Office of Economic Opportunity must prepare an annual report. A report for fiscal 1972 was prepared prior to the decision by the administration to dismantle OEO, but the report was not submitted to Congress and was not released. Two individuals requested and were denied access to the report. They filed suit under the Freedom of Information Act.

The required disclosure of this document was so clear that the Justice Department took the position it would not defend OEO in court on the question of access to that report. Where the law was clear, and their lawyers wouldn't even defend them, OEO officials nevertheless persisted withholding the report until the last moment in court. If the responsible officials at OEO knew that their actions could result in the imposition of administrative sanctions, perhaps the citizens requesting the information would not have had to wait so long for a final adjudication of their rights.

In one instance, an agency official refused access to documents because he did not think they ought to be made available to the requester, although during a subsequent review it became clear that this official had not even considered application of the Freedom of Information request. In another, an agency lawyer articulated the basis for refusing access to records thusly: the material requested was written before 1967—so the act would not apply, he surmised—and the requester had not given any reason why he needed the information. These are cases that would likely not have arisen if the sanctions provision had been a part of the law at that time.

The concept of administrative sanctions for the nonperformance of a Federal official's duties is not a new one, nor is the concept of sanctioning a Government official for noncompliance with disclosure laws.

Under title 5 of the Code of Federal Regulations, a Federal employee can be reprimanded or suspended without the benefit of a hearing. That sanction applies to a wide range of derelictions ranging from insubordination to tardiness to failure to follow work regulations. Under the adverse action procedures an employee may be suspended for more than 30 days or removed from his job. Although a hearing is required, it is not held until after an employee is removed. An adverse action is used where it is determined that the employee should be disciplined or removed for the efficiency of the service. And under the conflict of interest regulations an employee who is involved in an activity that may give the appearance of conflict and that may affect public confidence in the Government may be administratively reassigned without a hearing or right of review.

The administrative sanctions sections of S. 2543 provides only that if a Federal judge has found the withholding of a document was without reasonable basis in law, the responsible employee—after being given notice and a hearing to present his own defense—may be subject to certain sanctions in the discretion of the judge. The recommendation of the agency involved, as to the appropriate sanction, is to be taken into account. This is certainly more protective of a Government employee's rights than those in existing Civil Service regulations. Here, only officials or employees who have clearly violated the law are subject to sanctions—not too great a penalty for guaranteeing the public's right to an open Government.

Fifteen States have penalties for violation of their freedom of information of public records statutes. Most of these penalties are criminal in nature and charge the violating official with a misdemeanor. A list of the State laws with a brief description of the penalties they provide appears in the committee report on S. 2543 at page 63.

In a recent case in the New York Federal district court, a court ordered imposition of a $5,000 sanction against a party to private litigation who obstructed the discovery of information by the adverse party under the Federal Rules of Civil Procedure. The concept of imposing sanctions to guarantee a right of access to information is thus not a novel one in the law.

The administrative sanctions contained in S. 2543 will create an incentive to Government administrators to withhold information from the public only when the Freedom of Information Act specifically exempts disclosure. Without such a sanction the act will remain a right without an effective remedy.

Now I would like to turn to another important feature of S. 2543, which is reflected in two provisions of the bill. That is the strong statement against commingling of exempt with nonexempt materials in order to prevent disclosure of the latter, and against withholding records where deletions would as well serve the purposes of the exemption under which they are withheld. Section 552(a)(4)(B)(i) provides that the court shall in Freedom of Information Act actions "consider the case de novo, with such in camera examination of the requested records as it finds appropriate to determine whether such records or any part thereof may be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action."

Furthermore, a new sentence is added to section 552(b) stating:

> Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this section.

Taken together these provisions are intended to require agencies, and courts, to look at the information requested—not the title of the document or a restricted-access stamp or the fact that the record is in a file marked "Confidential" or "Investigation"—to determine whether the information should be released under the Freedom of Information Act.

When I originally introduced S. 2543 in October 1973 the new sentence added to section 552(b) would have read as follows:

> If the deletions of names or other identifying characteristics of individuals would prevent an inhibition of informers, agents, or other sources of investigatory or intelligence information, then records otherwise exempt under clauses (1) and (7) of this subsection, unless exempt for some other reason under this subsection, shall be made available with such deletions.

During subcommittee consideration of the legislation it became clear that it would be desirable to apply this deletion principle to other exemptions. For example, deletion of names and identifying characteristics of individuals would in some cases serve the underlying purpose of exemption 6, which exempts "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy." Deletion of formulas or statistics or figures may also in many cases entirely fulfill the purpose of the fourth exemption, designed to protect "trade secrets and commercial or financial information obtained from a person and privileged or confidential." Thus the objectives and purposes of these exemptions, as well as of exemptions (1) and (7), could equally be served by selective deletions while the basic document or record or file could otherwise be made available to the public.

It is upon this background that the new language in the Freedom of Information Act must be read. The Association of the Bar of the City of New York, in its recent report on freedom of information legislation, indicated its conclusion that the deletion or "savings clause" is "in its original form one of the most

significant proposed amendments of the FOIA. It seems very important," stated the association, "that this deletion concept be included in any final amendment, and be expanded to cover other reasons for nondisclosure and all exemptions." This is precisely what we had in mind, Mr. President, in amending the original language. As stated in the committee report, page 32:

The amended language is intended to encompass the scope of this original proposal but to apply the deletion principle to all exemptions.

With the new provisions it should be clear that there can be no blanket claim of confidentiality under any of the exemptions. In connection with this objective, S. 2543 proposes specifically to reaffirm the discretion of the courts through in camera inspection to examine each and every element of requested files or records. The Senate report in this respect cites with approval the type of procedure set out in the District of Columbia Court of Appeals in the case of Vaughn against Rosen, requiring the Government to sustain its burden of justifying its withholding of each element of a contested file or record. That procedure is consistent with our intent that only parts of records which are specifically exempt may be withheld from public disclosure. This should result in maximum possible disclosure and is consistent with the original congressional purpose in enacting the Freedom of Information Act.

This new requirement is also consistent with most judicial pronouncements in Freedom of Information Act cases, although unfortunately some courts are not adhering to the principle under some exemptions. The new language in S. 2543 should extend this deletion principle to all cases, involving all exemptions. As one court observed, "it is a violation of the act to withhold documents on the ground that parts are exempt and parts nonexempt." "Suitable deletion may be made," said the court. In another case the court found that the legislative history of the Freedom of Information Act "does not indicate . . . that Congress intended to exempt an entire document merely because it contained some confidential information." And another court said that "identifying details or secret matters can be deleted from a document to render it subject to disclosure."

When the Freedom of Information Act, as amended, refers to disclosure of "any part" of a record or to "any reasonably segregable portion of a record" this is intended to provide for release of the record after deletion of the names of informers or sources of information, formulas or financial information, confidential investigatory techniques, and the like, depending on the exemption involved. The legislative history of the act and the case law construing it is adequate to provide the basis for those exemptions, against which this deletion principle can be applied and measured.

I would like to take a few minutes to mention some other areas where S. 2543 would strengthen the public's right to Government information. These involve providing meaningful judicial review of classification decisions, setting firm time deadlines for agency responses to information requests, and eliminating abuses in the charging of fees for handling Freedom of Information Act requests, and allowing recovery of attorneys' fees in successful court actions.

Before January 23, 1973, it was generally thought that the de novo review required in Freedom of Information Act cases by section 552(a)(3) of the act applied to documents withheld under all nine exemptions, and that contested documents under all exemptions could be examined in camera by a court deciding whether withholding was justified. On that day, however, the Supreme Court handed down its decision in Environmental Protection Agency against Mink, in which Congresswoman PATSY MINK was attempting to obtain documents relating to the effect of the proposed Amchitka atomic test. The Supreme Court, upholding nondisclosure, held that where information is claimed to be required by executive order to be kept secret in the interest of national defense and foreign policy, the Freedom of Information Act does not permit an attack on the merits of the classification decision. Thus where the document requested on its face bears a classification marking, in camera review serves no useful purpose.

S. 2543 addresses both aspects of the *Mink* decision—the reviewability of classification decisions in freedom of information cases and the related matter of in camera inspection of records in the course of such review. Under the amended exemption (b)(1), courts must determine whether documents in issue are "in fact covered" by an Executive order or statute in the interest of national defense or foreign policy. In order to make this factual determination, the courts will have discretion to examine the contested documents in camera.

The bill sets out some procedures to guide judicial review of the propriety of withholding classified documents. In making its factual determination, the court must first attempt to resolve the matter on the basis of affidavits and other information submitted by the parties. If it does decide to consider the documents in camera, the court may consider further argument by both parties, may take further expert testimony, and may in some cases of a particularly sensitive nature entertain an ex parte showing by the Government. This ex parte showing would represent an exception to the normal judicial procedures. Although it may be requested frequently by the Government in order to gain some advantage over its opponent in court, I do not believe that courts should initiate such a procedure lightly. It should be used only in the most exceptional cases, perhaps where the court determines that involvement of plaintiff's counsel in that aspect of the case would itself pose a threat to national security. If the head of the agency involved, and this means a commission chairman, cabinet official or independent agency administrator, files an affidavit with the court certifying that he has personally reviewed the contested documents and finds them properly withheld under the standards of the applicable Executive order, then the court must resolve whether, in its view, the determination by the agency head is in fact reasonable or unreasonable.

That affidavit should specify which information be required to be kept secret and the reasons for this conclusion. The Court can then order disclosure of the material if it finds the withholding to be without a reasonable basis under the order of statute.

Clearly, Mr. President, the classification system is noted more for its abuses than for its protection of legitimate Government secrets. In May 1973 the House Government Operations Committee issued a report on Executive classification of information that concluded that there has been "widespread overclassification, abuses in the use of classification stamps, and other serious defects in the operation of the security classification system." The committee found the existing classification order inadequate in many respects and thus projected continuing problems in this area.

When he issued a new Executive order on classification in March 1972, President Nixon acknowledged the widespread abuses raging under the existing classification process. Let me quote from President Nixon's statement on the issue:

Unfortunately, the system of classification which has evolved in the United States has failed to meet the standards of an open and democratic society, allowing too many papers to be classified for too long a time. The Controls which have been imposed on classification authority have proved unworkable, and classification has frequently served to conceal bureaucratic mistakes or to prevent embarrassment to officials and administrations.

In our subcommittee hearings last spring retired Air Force security analyst William Florence observed that—

There is abundant proof that the false philosophy of classifying information in the name of national security is the source of most of the secrecy evils in the executive branch.

Mr. Florence then listed what he considered the reasons most commonly used for classifying information, and I would like to read this list for my colleagues:

First, newness of the information;

Second, keep it out of the newspapers;

Third, foreigners might be interested;

Fourth, do not give it away—and you hear the old cliche, do not give it to them on a silver platter;

Fifth, association of separate nonclassified items;

Sixth, reuse of old information without declassification;

Seventh, personal prestige; and

Eighth, habitual practice, including clerical routine.

This sentiment was echoed and the list expanded somewhat by retired Rear Adm. Gene LaRocque, who observed in testimony on the House side that for the vast majority of classified information, the reasons for classification are:

To keep it from other military services, from civilians in their own service, from

civilians in the Defense Department, from the State Department, and of course, from Congress.

It is therefore crucial that there be effective judicial review of executive branch classification decisions if the most far reaching barricade of unjustified secrecy in Government is to be penetrated. S. 2543 is designed to provide just such effective judicial review.

Another problem which this bill addresses itself to, Mr. President, is that of undue delays in agency handling of Freedom of Information requests. Time and again our witnesses from the private sector decried the unreasonable and unnecessary delays that are involved in agency responses to requests for information under the act. Our record abounds with example upon example where a request was followed by periods of long silence, with the first word back from the agency often unresponsive. Earlier this spring my Subcommittee on Administrative Practice and Procedure opened oversight hearings on administration of the Freedom of Information Act at the Internal Revenue Service, and we continued to find delays endemic in that agency's process. Clearly legislative restrictions and guidance are necessary to meet this kind of problem.

S. 2543 establishes time deadlines for the administrative handling of Freedom of Information requests. It requires agencies to determine within 10 working days whether to comply with a request, and gives them an additional 20 days to respond to an appeal or any denial of access at the initial stage. Agencies can by regulation shift time from the appeal to the initial reply period, but would have to do this across the board, not selectively as to types of documents.

Where there are specific types of documents in large quantities, subject to numerous requests, spread geographically, then the bill provides for a certification procedure allowing the agency 30 days for the initial response time. This is to be considered an exceptional procedure, and I believe that our use in the Senate report of the Immigration and Naturalization Service example best illustrates the committee's intention with regard to this section. INS processes an average of 90,000 formal requests for records each year, seeking access to 1 or more of the 12 million individual files dispersed and frequently transferred between 57 widely scattered service offices and 10 Federal records centers. Few other agencies will be able to rival this example; but then few other agencies should be allowed to take advantage of this special certification process.

Under S. 2543 an agency may, by notifying the requester, obtain a limited extension for a period not to exceed 10 days of either the initial or appellate time limits—but not both. If the agency has certified a longer period of time for its initial response as to records sought, then no additional time extension may be obtained for this period.

Mr. President, I recognize that the sections of the bill imposing deadlines might be subject to abuse by the agencies because they are not airtight. And history has convinced us that whenever there are loopholes in procedural legislation, there is a tendency for administrators to navigate their agencies through them at each opportunity. Nonetheless, we have tried to tighten substantially the exceptions to our basic time limits. We have tried to define their perimeters in the legislation and in a rather extensive report on this point. And we will be requiring agencies to report their practices to the Congress each year, so that both the House and Senate subcommittees with oversight responsibilities can exercise those responsibilities effectively. Certainly language of these escape clauses was not lightly arrived at. We do not expect them to be lightly invoked.

The press often has special problems with its need to obtain information in a timely manner, and testimony at our hearings reflected how delays in agency responses to press requests can particularly frustrate the operation of the Freedom of Information Act from its perspective. A new provision is included in the law to promote expedited handling of any request which is "accompanied by a substantial showing of a public interest in a priority determination of the request." I believe that this will assist the press in its efforts to obtain Government information. It should also assist others who have a special need for expedited handling of their request, such as workers or public interest groups requesting information relating to health and safety. The Federal Energy Office set a good example by providing for the answering of press requests within 24 hours whenever possible.

There are two final matters I would briefly mention before concluding my remarks. First is the provision in the bill relating to user charges that may be imposed by agencies under the Freedom of Information Act. Under it the Office of Management and Budget is to promulgate regulations, subject to notice and comment, specifying a uniform schedule of fees applicable to Freedom of Information Act requests. These are to be limited to "reasonable standard charges for document search and duplication," thereby establishing a ceiling and preventing agencies from imposing burdensome and unreasonable fees as barriers to the disclosure of information which should otherwise be forthcoming.

Agencies could not under the bill charge for professional time used to review requested records or to sanitize documents before release. S. 2543 also allows documents to be furnished without charge or at a reduced rate where the public interest is best served thereby. And this public interest standard, spelled out generally in the legislation, is to be liberally construed.

Second, the bill authorizes discretionary assessment of attorneys' fees and costs against the Government where the complainant substantially prevails. This would eliminate another major obstacle to public access to information, assisting the public in their efforts to obtain judicial enforcement of the mandates of the Freedom of Information Act. S. 2543 sets out four criteria for courts to use in determining whether to award fees in a given case. The amount of fees awarded will, of course, also be influenced by application of these criteria. The bill does not state precisely how costs or fees are to be measured, but courts should look to the prevailing rate on attorneys' fees, for example, rather than solely to whether the specific attorney involved is from Wall Street or a public interest law firm.

The effective date of this legislation will be 90 days from the date of enactment. I hope that agencies will not plan to wait until the last possible moment before implementing this new legislation, since its basic principles have been proposed and debated for over a year, and a similar measure passed the House over 2 months ago. Provisions such as those relating to in camera inspection and attorneys' fees should be applied to cases already filed before the effective date, since these are not dependent on any prior agency preparation or public notice for implementation.

Mr. President, the Freedom of Information Act has already opened substantial access for the public to Government files and records. Under the act citizens have been able to obtain nursing home reports, meat inspection reports, statements of Justice Department intent on proposed mergers, AEC reports on nuclear generator safety, civil rights compliance documents, IRS agents' manuals, FBI counterintelligence program guidelines, FHA appraisal reports, and a large number and variety of other documents reflecting what the Government is doing and how it is doing it.

Even now, however, with the law on the side of the American public, it is still an uphill battle with the Government agencies and their deeply inured penchant for secrecy. There are blatantly unnecessary delays and purposeful frustrations.

There are outrageous fees. There is nitpicking over identification and there is bargaining over exemptions. There are lengthy and costly court fights. And with each new request the entire process often has to be repeated.

This is not the intent of the Freedom of Information Act. This is not what is meant by citizens' access in an open government.

The amendments presented in my bill today will give the people of this country more than just a foot in the agencies' doors—it will provide them with the necessary tools to break down the traditional bureaucratic barriers of secrecy, and to gain access to what is granted them by the Freedom of Information Act.

I urge the Senate's adoption of this important legislation.

Mr. HRUSKA. I yield myself 5 minutes on the bill.

Mr. President, I ask unanimous consent that David Clanton, a member of Senator GRIFFIN'S staff, be allowed the privilege of the floor during the debate and vote on the pending measure.

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

Mr. HRUSKA. Mr. President, freedom of information is basic to the democratic process. The right of the citizen to be informed about the actions of his government must remain viable if a govern-

ment of the people is to exist in practice as well as theory. It is elementary that the people cannot govern themselves if they cannot know the actions of those in whom they trust to carry out the functions of Government.

Yet, it is also elementary that the welfare of our Nation and that of its citizens may require that some information in the possession of the Government be held in the strictest of confidence. For example, the individual's right of privacy requires that personal information collected and held in the files of Government agencies under census reporting laws, income tax reporting laws, criminal investigations, and other activities, be protected from disclosure. Indeed, Senator ERVIN and I have introduced bills dealing with criminal justice information systems, the primary purpose of which is to insure that this type of information is not disclosed to the public or to any persons not directly engaged in apprehending and prosecuting an offender. Likewise, information which directly bears on delicate negotiations with foreign nations or on the maintenance of our national defense must not be exposed for all the world to see, to the prejudice of our national position or our national integrity.

The Freedom of Information Act, enacted in 1966, recognized the competing interests in disclosure and confidentiality. It attempted to balance and protect all the interests, yet place emphasis on the fullest responsible disclosure. That act imposed on the executive branch an affirmative obligation to provide access to official information that previously had been long shielded from public view. Under that act, an agency must comply with a citizen's request for information unless it can show that competing interests, such as the right of privacy or the national defense, require the information to remain confidential.

It is my understanding that, by and large, the balancing of competing interests codified in the Freedom of Information Act has proven successful. However, experience with the administration of the act indicates that some changes are necessary. As the Committee on the Judiciary found in reporting on this bill:

> The primary obstacles to the act's faithful implementation by the executive branch have been procedural rather than substantive.

In short, the problem lies not with the substantive provisions of the act but with its administration. The real need is to improve compliance with the disclosure provisions we already have on the books.

To this end, S. 2543, as amended, has been reported favorably by the Committee on the Judiciary. It is designed to remove the obstacles to full and faithful compliance with the act. Its basic purpose is to facilitate more free and expeditious public access to the information the act obligates the Government agencies to disclose.

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

Mr. HRUSKA. I yield myself an additional 5 minutes.

The provisions of the bill have already been discussed. The basic features of the bill that I believe deserve elaboration are the following:

First. The bill expedites public access to Government information by requiring Government agencies to respond to requests for information within specified time periods. It is a difficult task to draw the deadline at the most appropriate point. If too much time is granted, there is the possibility that the requester's access to government records may be delayed. On the other hand, if the time limits are too rigid, Government agencies, in a spirit of caution to insure that personal rights and other interests are served, will be forced to deny requests for information that might with more study be granted. In short, time limits that are too rigid, too inflexible will be counterproductive to the interests in affording citizens the greatest amount of access to information that individual rights and good Government will permit.

I believe that the time limit provision of this bill walks the fine line. It imposes reasonable time limits under which an agency must respond to a request but permits the agency to extend the time for certain compelling reasons. For example, an agency could get an extension of time if the records requested are dispersed and cannot be located within the time limits imposed or if the request is for a voluminous amount of records which must be located and reviewed. In my view, this provision is responsive to the needs of both the Government agencies and the public.

Second. S. 2543 insures the integrity of the classification of a classified document by allowing the courts to review the document in camera, if that procedure becomes necessary. However, the bill does not permit a judge to substitute his view of the sensitivity of the document for that of the agency. A judge can overrule the agency's decision to withhold the document only if he is convinced that there is not any reasonable basis for the classification.

Mr. President, I think that this standard is sensible. Under this bill, the court can review the document to determine whether the classification is reasonably based on an Executive order or statute. But the Court cannot, and should not, be able to second-guess foreign policy and national defense experts.

Third. The bill insures responsible responses to requests by holding accountable those officials who, without a reasonable basis, deny requests for information. If a court determines that the withholding by the decisionmaker was without a reasonable basis, it may order that corrective or disciplinary action be taken. Before making such a decision, however, the agency involved shall recommend what corrective or disciplinary action it deems appropriate and the court shall accord this recommendation considerable weight in making its ultimate decision.

Finally, I want to refer to a provision that is not in the bill. The basic premise under which S. 2543 was drafted is that the problems arising under the Freedom of Information Act are procedural, not substantive. True to this premise, the committee decided not to amend the substantive provisions of the act. One of the substantive provisions considered but deleted by the committee from the bill as originally introduced was a provision changing the word "files" in exemptions 6 and 7 to the word "records." By and large, the reason for this deletion was that there was no evidence that such a change was necessary.

The provision dealing with deletion of segregable portions of records is procedural and requires the agency to segregate the disclosable portion of a record from the nondisclosable and to grant access to the disclosable portion. This provision reflects existing law, but is incorporated in this bill to clarify and emphasize the point. Being procedural in nature, it does not aid in the substantive analysis whether a particular exemption applies to a record or portions thereof. Instead, it applies once the court determines that portions of a record are disclosable, requiring the agency to divulge those portions. Thus, it would not apply where, for instance, an entire file was exempt such as under exemption 7.

Mr. President, I am pleased to have worked with the Senator from Massachusetts (Mr. KENNEDY) to develop this bill which was supported by every member of the Committee on the Judiciary when it was reported. I believe that this bill will insure that the Freedom of Information Act lives up to its title. While stressing the fullest responsible disclosure, it produces a workable formula that, in my view, balances and protects all interests.

Mr. President, I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I yield 30 seconds to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. HART. Mr. President, during the consideration of this bill I ask unanimous consent that two members of my staff, Burton Wides and Harrison Wellford be granted access to the floor.

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

Mr. CRANSTON. Mr. President, the Freedom of Information Act has become one of the basic charters of the public's right to know what goes on inside their Government's executive departments and agencies.

As a result of the act, more information has been made available to the public. Entire battalions of rubberstamp wielding bureaucrats have been stripped of their arbitrary, unreviewable, power to keep documents secret from the public.

Before the act, there were an estimated 53,000 officials authorized to classify documents—23,000 at the Department of Defense, over 5,000 at State and hundreds of others scattered through agencies such as General Services Administration and HEW.

Reductions of classifiers at some agencies have been dramatic, for example, before the act there were 7,745 classifiers at the Department of Commerce, today there are 81. At GSA there were 866,

today there are 31. But there is still a small army of classifiers at work—17,364 in 25 agencies and 11 White House offices, according to the staff of the Government Operations Committee.

Arrayed against this phalanx is the Interagency Classification Committee, which has no chairman, one full-time employee, and a secretary.

Fortunately, the Freedom of Information Act contemplated more than a toothless guardian of the public's right to know. The act gave to citizens the right to go into court to compel agency heads to comply with the requirements of the act.

But the courts have applied rules of administrative law which have made bureaucrats the final judge of the public's right to know. The seal of approval to this interpretation of the Federal of Information Act was given by the Supreme Court in *Environmental Protection Agency* v. *Mink*, 410 U.S. 732 (1973). In that case the Court ruled that the Executive's determination as to what shall be kept secret "must be honored."

Justice Stewart in a separate opinion wrote:

[Congress] has built into the Freedom of Information Act an exemption that provides no means to question an Executive decision to stamp a document "secret", however, cynical, myopic, or even corrupt that decision might have been. . . .

In my judgment, we must not let 17,364 bureaucrats be the final judges of what we are to know from our Government. The courts have been the traditional defenders of the right to know and association first amendment rights. The courts must not be pushed out of the picture.

S. 2543, amending the Freedom of Information Act, brings the courts back into the process of deciding what information shall be withheld from the public and what information shall be disclosed.

It provides that challenges to Government claims of exemption from disclosure under the act shall be reviewed de novo in court and the burden of sustaining the claim of exemption is on the Government.

It eliminates opportunities for arbitrary delay and obstructionism by agencies attempting to deny information to citizens. Among the abuses the bill corrects are denials of records based on the agency's assertion that the citizen has not specified an "identifiable record" when the agency knows full well exactly which documents the citizen is requesting. Arbitrary and unreasonable fees for copying and searching for documents will become uniform under schedules to be set by the Office of Management and Budget. At present agency copying fees range from 5 cents per page to $1 per page and search fees range from $3 to $7 per hour.

The bill further provides for the award of attorneys fees and costs, if the Government loses in court. This provision will discourage unreasonable litigation by the Government undertaken for no good reason except to make as burdensome as possible the effort of a citizen to acquire information from his Government.

These modifications and improvements of the Freedom of Information Act are vitally necessary. But S. 2543 falls short in at least two respects of what can be done to strengthen the public right to know under the Freedom of Information Act.

First, the provisions of section (b) (4) (B) (ii) should be eliminated from the bill.

The provisions in effect require the court to accept without question the Government's word when it decides to keep information secret from the public. The practical result of this direction to the courts is to make hollow the major achievement of S. 2543 in spelling out the right of a plaintiff to a de novo review in court of the agency's determination not to disclose confidential information.

The second change is to spell out the precise grounds on which the Government can withhold information contained in investigatory files. This change has been recommended by the administrative law section of the American Bar Association.

Our Government and way of life thrive on free and open debate. The free flow of information is vital to sustenance of our freedoms. The control of access to information should not be left solely in the hands of bureaucrats whose function it is to deny information. Citizens must have an opportunity to appeal bureaucratic determination in court. The amendments to the Freedom of Information Act proposed by S. 2543 will guarantee full review of refusals by Government agencies to make public information withheld unreasonably.

Mr. MUSKIE. Mr. President, I call up my amendment No. 1356.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MUSKIE. 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, ordered to be printed in the RECORD, is as follows:

On page 10, line 11, strike out "(1)", and on page 10, beginning with line 24, strike out all through page 11, line 15.

Mr. MUSKIE. Mr. President, I call up this amendment in behalf of 27 of my colleagues. I ask unanimous consent that their names be included as cosponsors. I will not undertake to read them all.

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

The names of the cosponsors, ordered to be printed in the RECORD, as follows:

Mr. Ervin, Mr. Javits, Mr. Symington, Mr. Hart, Mr. Chiles, Mr. Humphrey, Mr. McGovern, Mr. Gravel, Mr. Clark, Mr. Tunney, Mr. Metcalf, Mr. Mondale, Mr. Mathias, Mr. Hathaway, Mr. Burdick, Mr. Percy, Mr. Ribicoff, Mr. Montoya, Mr. Weicker, Mr. Cranston, Mr. Nelson, Mr. Baker, Mr. Stevenson, Mr. Hatfield, Mr. Abourezk, Mr. Inouye, and Mr. Biden.

Mr. MUSKIE. Mr. President, I rise with some reluctance today to offer an amendment to the generally excellent Freedom of Information Act amendments offered by my friend and able colleague, the Senator from Massachusetts. No one should underestimate the diligence and concern with which he and other members of the Committee on the Judiciary have worked to insure that the changes made in the 1967 act will, in fact, further the vital work of making Government records readily available for public scrutiny and making the conduct of the public business a subject for informed public comment.

It is because the bill before us is so very rare and important an opportunity to correct the defects we discovered in the administration of the act during joint hearings I conducted with Senator KENNEDY and Senator ERVIN last year that I wish to insure that we fully meet our responsibility to make the law a clear expression of congressional intent. In many important procedural areas, S. 2543, as the Judiciary Committee has reported it, will close loopholes through which agencies were evading their duties to the public right to know.

For example, this legislation will enable courts to award costs and attorneys' fees to plaintiffs who successfully contest agency withholding of information. The price of a court suit has too long been a deterrent to legitimate citizen contests of Government secrecy claims. Additionally, the bill will require agencies to be prompt in responding to requests for access to information. It will bar the stalling tactics which too many agencies have used to frustrate requests for material until the material loses its timeliness to an issue under public debate. And the bill provides long-overdue assurance that agencies will give full report to the Congress of their policies and actions in handling Freedom of Information Act cases.

With all these significant advances in its favor, there should be little reason to argue with the wisdom of the bill's authors. But in one vital respect, S. 2543 runs counter to the purpose I and 21 cosponsors had in introducing its predecessor, S. 1142, and endangers the momentum this Congress is developing toward bringing the problem of Government secrecy under review and control.

Responding to the Supreme Court ruling of January 22, 1973, in the case of *Environmental Protection Agency et al.* v. *Patsy T. Mink et al.*, I had proposed in S. 1142 that we require Federal judges to review in camera the contents of records the Government wished to withhold on grounds of security classification. I agree that such a requirement would have been an excessive response to the Court's holding that the original act prohibited in camera inspection of classified records, and I am completely at ease with the language in S. 2543 that makes in camera inspection possible at the discretion of the judges whenever any of the nine permissive exemptions are asserted. What I cannot accept and what I move today to strike in the subsequent language which would force judges to conduct the proceedings of in their chambers in such a way that the presumption of validity for a classification marking would be overwhelming.

Under the present terms of S. 2543, the Court is permitted to make a determination in camera to resolve the question of whether or not the information was properly classified under the criteria established by the appropriate Executive order or statute. However, if an affidavit is on record filed by the head of the agency controlling the information certifying that the head of the agency in fact examined the information and determined that it was properly classified, the judge must sustain the withholding unless he "finds the withholding is without a reasonable basis under such criteria."

If this provision is allowed to stand, it will make the independent judicial evaluation meaningless. This provision would, in fact, shift the burden of proof away from the Government and go against the express language in section (a) of the Freedom of Information Act, which states that in court review "the burden of proof shall be on the Government to sustain its action." Under the amendment I propose, the court could still, if it wishes, make note of an affidavit submitted by the head of an agency, just as the court could request or accept any data, explanatory information or assistance it deems relevant when making its determination. However, to give express statutory authority to such an affidavit goes far to reduce the judicial role to that of a mere concurrence in Executive decisionmaking.

The express reason for amending the section of the act dealing with review of classified information grows, as I indicated, from concern with the Supreme Court ruling in the Mink case last year. In that case 32 Members of Congress, bringing suit as private citizens, sought access to information dealing with the atomic test on Amchitka Island in Alaska. The U.S. Court of Appeals directed the Federal district judge to review the documents in camera to determine which, if any, should be released. This seemed an appropriate step since the act does provide for court determination on a de novo basis of the validity of any executive branch withholdings.

Unfortunately, the Supreme Court reached a decision in that case which I regard as somewhat tortuous. The Court held that in camera review of material classified for national defense or foreign policy reasons is not permitted by the act. The basis of this decision was exemption No. 1, which permits withholding of matters authorized by Executive order to be kept secret in the interests of national defense or foreign policy.

The Supreme Court decided that once the Executive had shown that documents were so classified, the judiciary could not intrude. Thus, the mere rubberstamping of a document as "secret" could forever immunize it from disclosure. All the Court could determine was whether it was so stamped.

The abuses inherent in such a system of unrestrained secrecy are obvious. As the system has operated, there is no specific Executive order for each classified document. Instead, the President issued one single Executive order establishing the entire classification system, and all of the millions of documents stamped "secret" under this authorization over succeeding years are now forbidden to even the most superficial judicial scrutiny. One of the 17,364 authorized classifiers in the Government could stamp the Manhattan telephone directory "top secret" and no court could order the marking changed. Under the Supreme Court edict, the Executive need only dispatch an affidavit certifying that the directory was classified pursuant to the Executive order, and no action could be taken.

Obviously, something must be done to correct this strained court interpretation. It need not be a drastic step. Actually, it was the original intention of Congress in adopting the Freedom of Information Act to increase the disclosure of information. Congress authorized de novo probes by the judiciary as a check on arbitrary withholding actions by the Executive. Typically, the de novo process involves in camera inspections. These have regularly been carried out by lower courts in the case of materials withheld under other exemptions in the act. They can be barred under exemption No. 1, only through a misguided reading of the act and by ignoring the wrongful consequences.

But in correcting this fault, to permit in camera review of documents withheld under any of the exemptions, S. 2543 would simultaneously erect such restrictions around the conduct of the review when classified material was at issue that the permission could probably never be fully utilized.

By telling judges so specifically how to manage their inquiry into the propriety of a classification marking, we show a strange contempt for their ability to devise procedures on their own to help them reach a just decision. Moreover, by giving classified material a status unlike that of any other claimed Government secret, we foster the outworn myth that only those in possession of military and diplomatic confidences can have the expertise to decide with whom and when to share their knowledge.

It should not have required the deceptions practiced on the American public under the banner of national secrecy in the course of the Vietnam war or since to prove to us that Government classifiers must be subject to some impartial review. If courts cannot have full latitude to conduct that review, no one can. And if we constrict the manner in which courts may perform this vital review function, we make the classifiers privileged officials, almost immune from the accountability we insist on from their colleagues.

I object to the idea that anything but full de novo review will give us the assurance that classification—like other aspects of claimed secrecy—has been brought under check. I cannot accept an undefined reasonableness standard as the only basis on which courts may overrule an agency head's certification of the propriety of classification. And I cannot understand why we should trust a Federal judge to be able to sort out valid from invalid claims of Executive privilege in the Watergate affair but not trust him or his colleagues to make the same unfettered judgments in matters allegedly connected to the conduct of defense or foreign policy.

Therefore, while I am anxious to compliment the chief sponsor of S. 2543 on the fine work that has been done and to praise the Judiciary Committee for its sincere commitment in improving the working of the Freedom of Information Act, I must respectfully move to strike these 17 offensive and unnecessary lines and to make the bill what we all want it to be—a restatement of congressional commitment to an open, democratic society.

I withhold the remainder of my time.

Mr. KENNEDY. Mr. President, at the outset I want to say how much I have enjoyed joining with the distinguished Senator from Maine, as well as the distinguished Senator from North Carolina, during the course of our joint hearings on the Freedom of Information Act and Government secrecy last year. The kind of joint hearings we had, provided an additional dimension and insight into our better understanding the opportunities as well as the problems of the Freedom of Information Act.

Many of the amendments that are included in the legislation today were developed out of and during the course of those hearings, and I want to commend the distinguished Senator from Maine for focusing attention on the particular provision of the legislation that we are considering here this afternoon. I know of his special interest and expertise in this area.

This area was a matter of considerable interest to the members of the committee. As a matter of fact, when I initially introduced the bill last year, it did not include the language which the distinguished Senator from Maine desires to strike. But during the course of the subcommittee and full committee process of markup, this language in issue was added.

I want to state at the outset that I think the amendment of the Senator from Maine is responsible and reasonable and I intend to support it.

I would like to ask the Senator from Maine just a few questions. The clause which will be excluded by the Senator from Maine's amendment deals with the procedures of how classified documents will be considered in camera.

I ask unanimous consent that the whole section to be struck be included at this point in the RECORD.

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

"(ii) In determining whether a document is in fact specifically required by an Executive order or statute to be kept secret in the interest of national defense or foreign policy, a court may review the contested document in camera if it is unable to resolve the matter on the basis of affidavits and other information submitted by the parties. In conjunction with its in camera examination, the court may consider further argument, or an ex parte showing by the Government, in explanation of the withholding. If there has been filed in the record an affidavit by the head of the agency certifying that he has personally examined the documents withheld and has determined after such examination

that they should be withheld under the criteria established by a statute or Executive order referred to in subsection (b)(1) of this section, the court shall sustain such withholding unless, following its in camera examination, it finds the withholding is without a reasonable basis under such criteria.

Mr. KENNEDY. I will highlight these particular lines: "a court may review a contested document in camera if it is unable to resolve the matter on the basis of affidavits:" It continues as follows: "In conjunction with its in camera examination, the court may consider further argument."

There was some suggestion that we require courts to entertain ex parte argument from the Government in every case, but we did succeed in making it permissive.

Our language would add a presumption to the agency head's declaration that if such a matter falls within the statute or an Executive order referred to in subsection (b)(1) of this section, the court shall sustain that provision unless, following its in camera examination, it finds the withholding is without a reasonable basis under such criteria.

I want to indicate to the Senator from Maine that although others may read it differently, I do not interpret that language as indicating a very strong presumption. I cannot understand why it concerns the Senator from Maine, although, as I said before, I intend to support the amendment. I do want the legislative history to be clear that I, at least, do not think it presents a very strong presumption in favor of an administrative agency.

But I understand what the Senator is attempting to do. I think it would strengthen the legislation.

I should like to ask the Senator from Maine, some specific questions. His amendment in no way attempts to require an in camera inspection, but I understand it still leaves that as discretionary in each of these cases. Is this right?

Mr. MUSKIE. The Senator is correct.

Mr. KENNEDY. Furthermore, the Senator's amendment allows the court to question the propriety of classification only under the standards set up in a statute or by Executive order. Is that correct?

Mr. MUSKIE. The Senator is correct.

Mr. KENNEDY. I think that is important.

This is an important, useful amendment, but it does not seek to alter the classification standards or procedures presently applicable.

We do add a slight presumption, which the Senator recognizes from reading the language. It concerns him because it is a presumption. As the author of the bill, I do not want to acknowledge a very strong presumption. At least, that is my interpretation.

Does the Senator believe there ought to be any special exemption for the National Security Administration, NSA, or the Department of Defense in this part of the bill itself?

Mr. MUSKIE. As the Senator probably knows, we are holding hearings at this time on proposals to establish classification control systems and new criteria for classifications. Out of those hearings may come something; but the amendment I have offered does not touch that.

Mr. President, will the Senator from Massachusetts yield further to me?

Mr. KENNEDY. I yield.

Mr. MUSKIE. The Senator, I think, has described the sense of my amendment very accurately and precisely. I have no real quarrel with the procedures which my amendment would remove from the statute. The principal quarrel is with the last 3 lines, as the Senator from Massachusetts has correctly pointed out.

The weight of that presumption has to be analyzed in the light of the classification system. As the Senator knows, fully as well as I do, my amendment relates to the reluctance to declassify. All the momentum in the existing classification system is on the side of secrecy and all the incentives are in favor of classification.

All of that experience with the classification system goes back a quarter of a century or more. It seems to me the language in the bill, read in that context, would reinforce the same presumptive effect. The effect would be different with different judges.

I must say that different members of the committee and of the Senate, I think, would give it a different effect if we started from scratch, with a new law that would define the presumptions dealing with classification.

If we were to start from scratch and have a new law with the presumption of law in that way, I think the presumption would be different from that operating with the existing classification system.

So the inevitable momentum that the bill's language gives supports the classifier and the classification in these words:

The court shall sustain such withholding unless it finds such withholding is without a reasonable basis.

I should think that a judge might feel that anyone who has the responsibility at high levels to classify would not classify without a basis that was reasonable to him.

If he is a responsible man, we have to accept his basis, whether or not someone else would agree. He would make an independent judgment. That basis is reasonable.

That does not say that his basis is the same basis as my reason or the basis of someone else's, presumably that of the classifier.

That language must have a purpose, and putting that language into the bill has a purpose. The purpose clearly is to give greater weight to the testimony which the judge receives from the head of the agency than the evidence received from any other source and greater than the weight of his own judgment.

That is how I read that language. I think that in the context of the momentum of the experience which has been generated under the classification system, we ought to be very reluctant and careful in adopting this kind of language.

Mr. BAYH. Mr. President, I ask unanimous consent that Howard Paster of my staff be granted the privilege of the floor during the debate.

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

Mr. BAYH. Will the Senator permit me 1 minute under the bill?

Mr. KENNEDY. Mr. President, I yield to the Senator from Indiana.

Mr. BAYH. Mr. President, I will yield to the Senator from Mississippi shortly. I simply want to say that I find great comfort in the position of the Senator from Maine.

It seems to me that in a free society, certainly in the light of everything that we have seen occur over the past few months and years, we ought to revise the present position which seems to be that there is a right to mark something classified until it is proved not to be in the public interest. In a free society information ought to be regarded as a matter of public interest and public knowledge unless it can be proven that it should be secret.

Mr. MUSKIE. Mr. President, I thank the Senator from Indiana. In proposing this amendment, I am not asking the courts to disregard the expertise of the Pentagon, the CIA, or the State Department.

Rather, I am saying that I would assume and wish that the judges give such expert testimony considerable weight. However, in addition, I would also want the judges to be free to consult such experts in military affairs as the Senator from Mississippi (Mr. STENNIS), or experts on international relations, such as the Senator from Arkansas (Mr. FULBRIGHT), or other experts, and give their testimony equal weight. Their expertise should also be given considerable weight.

I do not see why the head of a department should be able to walk into a judge's chamber, knowing that his testimony is against that of any other expert and weighs more than any other on a one-for-one basis. He has the additional weight that the exclusive judgment is given to him. He has all of that behind him.

Why should he be given a statutory presumption in addition if he cannot make his case on its merits. He is in a better position to do that than anyone else.

Then, if he cannot make a case on its merits, I say he is not entitled to a presumption.

We ought not to classify information by presumptions, but only on the basis of merit. And only the head of an agency involved can make that case. And if he cannot make it, then he ought to lose it and not find it possible to get sustained only through the support of a statutory presumption.

Mr. HRUSKA. Mr. President, I yield 5 minutes in opposition to the amendment to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I certainly thank the Senator from Nebraska.

I have just gone into this matter within the last hour, Mr. President, but I am greatly concerned with the Senator's amendment, the amendment of the Senator from Maine, and that is not dis-

counting his very fine work on the subject.

I think the bill itself, as worked out by the committee, has struck a fair balance that meets the requirements of law and, at the same time, gives a reasonable amount of protection.

The Senator from Maine raised a point of why give a little more weight here to the head of an agency with reference to these matters. It is for the very reason that we have placed that person in charge of that agency and given him all responsibility and power that goes with that entire office. He is the only one who is permitted to file such an affidavit here, as I understand.

I want to focus now primarily on the CIA. I start with the proposition that we have to have a CIA in world affairs; we just must have one, and time has proven its value.

So in the matter of certain information being classified, the average judge—and with all due deference to them personally—and I had the honor at one time of being a judge of a trial court myself—is just short of knowledge and information on a lot of different subject matters, just as a Senator is on a great deal of subject matters that come before him.

So I imagine that the average judge would want to hear and would want to give consideration to the head of this agency and, in matters of great concern, would really have no objection to this amendment. It is a kind of warning to the judge. The head of the agency is the only person who can file an affidavit with a court within a vast worldwide operation such as the CIA. It has to be the head of the agency. If he files an affidavit, if he takes a position on the classification of a document, that is certainly not just another piece of paper.

That is something with the man's honor and official responsibility tied with it. This provision here is one where the judge is still the master of the situation; he is still running his own court, as we use that term. He is still free to reach a conclusion of his own. But this is a mild guideline, as the Senator from Massachusetts suggests. It is not a violent presumption. It is not a wall built around this head of agency and his testimony. It is a mild presumption in favor of his testimony. The judge can still weigh it all, and unless there is found a reason that satisfies the judge—and you have got to satisfy this judge—he is not going to stop and back off because it might have satisfied the head of the agency. The judge has all of this other testimony before him, and he is going to have to be convinced himself in view of all other testimony or he is going to rule in favor of reviewing the classified documents now.

I tell you this is a serious matter, Members of the Senate. I do not lean toward trying to protect everything. I want matters to be classified the same as the rest of you do. But I have been at this thing long enough and on enough subject matters to know that we are flirting here with things that can be deadly and dangerous to our welfare, our national welfare, and we ought not to just throw the gates wide open and say, "All this is to be testimony along with all the other testimony," some of which is usually from biased sources, sources of interest, and not give any consideration here any more than just ordinary consideration to the official certification under oath of the head of the agency.

So I have to rest this thing with the Senate. The committee has worked on it and has come up with something that, I take it, is practical to live with and, at the same time largely gives to the complainants what they might wish in this case.

So until we just strike down this matter that the committee has worked so hard on and has balanced off, let us take a second thought, and I believe we will——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STENNIS. I thought he had yielded to me and I will then finish. I thank the Senator. I have not made any remarks here yet about the Department of Defense.

There are matters, and there are many of them, that are of equal importance as those of the CIA. When I leave this floor I am going down here now for a hearing with respect to a gentleman who is nominated to be the Chief of Naval Operations, the highest ranking officer in the Navy. Next week we are going to have a hearing for the Chairman of the Joint Chiefs, the highest ranking officer, military officer, in the whole Government. In addition to that we have the civilian officers over there, men of great esteem, of great competence.

These caliber men do not carelessly file affidavits, that is my point, and committee proposal would put their honor and their official conduct at stake and at issue. Those things are not carelessly done.

So instead of just brushing them aside here in a moment, let us stay or remain with the law of reason as this committee has worked it out.

I thank the Senator again for yielding to me.

Mr. MUSKIE. Mr. President, just a minute or two of response.

May I say to the distinguished Senator from Mississippi that I hardly regard my amendment as throwing the doors wide open to irresponsible disclosure of Government secrets. But on the question as to whether or not the weight of the bureaucracy of Government is on the side of secrecy or openness, let me give you a few statistics. At the CIA there are only five full-time secrecy reviewers for 1,878 authorized classifiers.

In the third quarter of 1973 in the CIA, 1,350 documents were classified top secret, and that has climbed until, during the first quarter of this year, the number has risen to 3,115. So the enormous weight of the bureaucracy is on the side of secrecy. We have all that here, and now we want to add to that weight, a presumption. Arrayed on the other side is a district court judge who treats this issue as a part-time responsibility, who does not have this background, and he is asked to give that weight, that bureaucratic weight, a presumption over anything else he hears, over any other testimony he hears. That is what we are trying to overcome. I do not regard that as throwing the door wide open.

I am happy to yield to the Senator from New York.

Mr. JAVITS. Mr. President, I have joined Senator MUSKIE and his other colleagues in his amendment for the following basic reasons:

I believe that, one, there is no question about the fact that the whole movement of Government, especially in view of Government's experience in Vietnam, Watergate, and many other directions, is toward more openness, so that the bias, in my judgment, in the Senate, should be toward more openness rather than being toward more closed.

Second, we have finally come abreast of the fact of life that it is not providence on Mount Sinai that stamps a document secret or top secret, but a lot of boys and girls just like us who have all their own hangups and who decide in individual cases what the document should be classified as, and very serious consequences flow to individuals as a result of that classification, very serious consequences in the denial of the basic information upon which the judge releases it to the public. So the bias ought to be for openness not for closeness.

Now, one would say this is a close question normally because of this tension as between the right of the public to know and the necessity of Government in given cases to have secrecy. But the basic question has been decided by the committee, as by us, who are the movers of the amendment, that is, that a judge in camera should have the right to inspect this material. Having done that, and that is the basic question, why put a ball and chain on the ankle of the deciding authority? I cannot see that the balance of wisdom in government should move in that direction, having decided that the judge may see it. We should give him the freedom to determine whether, under all the circumstances, as the umpire between the right of the public to know and the necessity for secrecy—claimed necessity for secrecy—the umpire should not be restricted by ground rules, except ground rules dealing with basic justice and the balance of responsibility and the balance of the national interest as it relates to a given item of information.

It is for those reasons, Mr. President, because I think, having made that basic decision which now has been made by the sponsors of the bill, by the sponsors of the amendment, and by the sponsors of the House bill, I see no case for further restricting that authority and hamstringing it, once it has been given.

I find special support for that proposition in the fact that the committee itself—incidentally, I personally think they are promising a lot more than they can deliver in terms of decisions of the courts, but the committee itself says that this standard of review does not allow the court to substitute its judgment for that of the agency as under a de novo re-

view, and neither to require the court to refer discretion of the agency even if it finds the determination thereof arbitrary or capricious. I respectfully submit it is promising a lot more than it will deliver, because I doubt that judges will do any differently—except judges who want to do differently—they are human like the classifiers in reading the information in camera—than they would without the provision.

In those circumstances, why put it in? Why not put responsibility on the shoulders of the judges, whom we trust enough to allow to see the material anyhow?

For all these reasons, Mr. President, the motion to strike is eminently warranted, and I hope that the Senate will support it.

Mr. HRUSKA. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER (Mr. HELMS). The Senator from Nebraska is recognized for 5 minutes.

Mr. HRUSKA. I rise in opposition to the amendment proposed by the senior Senator from Maine (Mr. MUSKIE). The Freedom of Information Act was enacted at the expense of a lot of time and effort. It took several years to process to the point of balancing the several interests contained in it and a sincere balanced result has been attained.

There is the right to know on the part of the public, but there is also the right and duty on the part of the Government to survive and to take such steps as may be necessary to preserve the national integrity and security.

This amendment would substantially alter that balance which is presently contained in the Freedom of Information Act. It would endanger the passage and approval of the instant bill into law, in my considered judgment. It should be acted on, if we act on it at all, not in connection with a bill where virtual unanimity was reached in the Judiciary Committee and reported unanimously without any objection to the Senate.

Mr. President, I oppose the amendment offered by the Senator from Maine. I believe that the amendment is unworkable and certainly is unwise.

At the outset, it is imperative to realize what is and what is not at issue here. Is the crux of the issue whether the courts should be able to review classified documents in camera? No. Under both the bill and the amendment, the judge can review the documents in camera. Thus, S. 2543, as unanimously recommended by the Judiciary Committee, establishes a means to question an executive decision to stamp a classification on the document.

What is at stake, Mr. President, is the sole question of whether there should be a special standard to guide the judge's decision in this matter pertaining to the first exemption. S. 2543 provides such a standard.

Under the bill, a judge shall sustain the agency's decision to keep the document in confidence unless he finds the withholding is "without a reasonable basis." We could turn that around, Mr. President, and we could ask whether it would be proper for a judge to go ahead and disclose a document even if he finds that a reasonable basis for declassification exists. That is the other end of the dilemma.

In other words, if the court finds a reasonable basis for the classification, it shall not disclose the document.

The amendment of the senior Senator from Maine would eliminate this "reasonable basis" standard and put nothing in its place. It does not substitute any standard in its place. How is the judge to be guided in his decision whether a document is properly classified? In the absence of a specified standard, I must assume that the standard that obtains is the one that applies to all the other exemptions.

Let me take the sixth exemption as an example. That exemption allows an agency to withhold records if it determines that disclosure would constitute an unwarranted invasion of privacy. In determining whether the invasion is unwarranted, the court attempts to ascertain the extent of the invasion and then balances that against the requester's and the public's need for that information. The burden of proving that the extent of the invasion outweighs the countervailing interests is on the Government.

How would this standard then apply with respect to exemption 1—the exemption that allows the Government to maintain classified documents in confidence. It would allow the judge to balance what he perceives to be the public interest in disclosing the information against Government's, which is to say the people's, judgment that disclosure will jeopardize our foreign relations and national defense. Stated quite simply, the amendment before us purports to allow a judge to release a classified document if he believes that the document should be in the public domain even if there exists a reasonable basis for the classification.

I realize that standards of proof are difficult concepts to understand and apply even for the lawyer. So, let me pose an example. Suppose that the Freedom of Information Act, together with this amendment, was on the books in the 1940's. And further suppose that someone wrote the Government requesting information about the Manhattan project. Now, under this amendment, a judge would be able to examine the project's documents in camera and decide for himself whether the classification was proper. He would realize that the disclosure of documents could jeopardize national defense but, on the other hand, he could also reason that the public should have some information so that it would know how much all this research was costing and what its objectives were. The judge could go on to reason that the public should be informed of the cataclysmic damage that could be done by an atomic weapon upon delivery so that the public could make a moral judgment as to whether such a weapon should ever be used. Balancing these concerns, as the Muskie amendment would call for, the judge could find the public interest in disclosure to outweigh the national defense implications.

Mr. President, such a standard of proof is workable for the other exemptions. If a judge is wrong in a case involving exemption 6—the privacy exemption—the harm is confined. Only one person is injured. But if a judge is wrong in a case involving the first exemption, the damage is not confined. Aspects of our national defense or foreign relations could be compromised. Put in jeopardy is not just one person but a nation and perhaps its allies.

Mr. President, what then is the crux of the issue? Is it a question whether the judge can review the classified documents in camera? No. Under both the bill and the amendment the judge can review the document in camera. Instead, the sole question is whether there should be a standard to guide the judge's decision in this matter.

By eliminating any standard to guide the judge's decision in this area, the proposed amendment would put the courts in the position of making political judgments in the field of foreign affairs and national defense. Yet the courts have little, if any, experience in these fields. Indeed the courts themselves have declared that they do not have the capacity or expertise to make these kinds of judgments.

In *Epstein* v. *Resor*, 421 F. 2d 930 (9th Cir. 1970), cert, denied, 398 U.S. 965 (1970), the Court of Appeals for the Ninth Circuit stated that the judiciary has neither the—and I quote—"aptitude, facilities, nor responsibility" to make political judgments as to what is desirable in the interest of national defense and foreign policy. The Supreme Court took the same view in *C. & S. Air Lines* v. *Waterman Corp.*, 333 U.S. 103, 111 (1948).

A "Developments in the Law Note on National Security" by the Harvard Law Review reaches the same conclusion. In discussing the role of the courts in reviewing classification decisions, it states that—

> There are limits to the scope of review that the courts are competent to exercise.

And concludes that—

> A court would have difficulty determining when the public interest in disclosure was sufficient to require the Government to divulge information notwithstanding a substantial national security interest in secrecy. 85 Harvard Law Review 1130, 1225–26 (1972).

There is also another reason why the judges should not be making political judgments on foreign policy and national defense. In order to convince a court that national defense interests outweigh any interests in public disclosure, the Government agencies may have to disclose more sensitive information to show how sensitive the documents requested really are. For example, the fact that information is sensitive may not appear from the face of the document. The agency may then be required to divulge more information to show that the document is relevant to secret ongoing negotiations with a foreign nation. Thus, the agency may be put in the curious dilemma that it must divulge more sensitive information to protect the information requested.

Mr. President, I believe we all recognize that there have been some abuses in the classification system. But we should also recognize that new classification pro-

cedures have recently been promulgated in Executive Order 11652 to correct these abuses. In a progress report just issued by the Interagency Classification Review Committee, the body created to monitor the classification system, the following progress was documented:

First. The total number of authorized classifiers within all departments has been reduced by 73 percent since the order took effect;

Second. The National Archives and Records Service has declassified over 50 million pages of records since 1972;

Third. The Department of Defense alone achieved a 25-percent reduction in its "Top Secret" inventory during 1973;

Fourth. The majority of requests, 63 percent, for the declassification of documents has been granted either in full or in part.

This last point deserves some elaboration. Under the Executive order, a person may request review of classified documents in order to obtain access to the records. If the documents are over a certain age, the agency must review the documents. This is usually a two-step process: the operating division first reviews the document to see if it is properly classified. If it determines the classification is appropriate, the requester may then appeal to the review board in the agency. If he is not successful there, he may appeal outside the agency to the Interagency Classification Review Committee. He thus has three opportunities to obtain the documents declassified before he files suit under the Freedom of Information Act.

Mr. President, in my own view, a decision by all three of these bodies that the classification is proper should put the matter to rest. Nevertheless, under S. 2543 we will also permit the courts to review the documents in camera to judge whether the classification is proper. Is it too much to ask that a standard be imposed to guide the court's decision so that a document will not be divulged to all the world if there is a reasonable basis for the classification? I think not.

Mr. President, the question whether a document is properly classified is a political judgment. This judgment must take cognizance of a number of factors, such as negotiations with other countries, the timeliness of the moment, the disclosure of other information. Who is in a better position to make this judgment—the Secretary of State or a district judge? Should we permit a judge to balance what he perceives to be the interests of the public in disclosure against the interests of the public in maintaining the document in confidence? I say, most emphatically, no.

I believe the point must be stressed that this standard does not equip the courts with a mere rubber stamp. The courts are granted the authority to review the documents in camera. And the courts can overturn a classification decision in a case involving a request for the classified documents upon finding that there is no reasonable basis upon which the classification decision can be predicated.

But if there is a reasonable basis for the classification, a judge would not and should not be able to divulge the document. It is as simple as that.

Mr. President, Senator KENNEDY, the author of this bill, has worked with me and other members of the Senate Judiciary Committee in developing a bill that recognizes and balances all of the interests. The bill was reported by the committee without a dissent. I fear that this amendment will thwart the bipartisan and cooperative efforts of the committee. But more than that, it is unworkable and extremely unwise.

If my colleagues believe that a judge should not be granted the power to disclose a classified document upon finding a reasonable basis for the classification, they should vote against the proposed amendment. I intend to.

Under the amendment offered by the Senator from Maine and under the way the bill as now drafted the judge can review documents in camera. The sole question is whether there should be a standard to guide the judge's decision on this matter.

It is not a ball and chain, Mr. President, because he can decide for himself whether there is a reasonable basis for the classification. Under the bill as presently drafted the judge is governed by the existence of a reasonable basis for the classification and on appeal it would be for the circuit court to decide whether there is a reasonable basis for that classification. I do not know—perhaps I can pose that question to the distinguished Senator from Maine, whether there is an intent to foreclose an appeal under his amendment.

Mr. MUSKIE. There is not, of course, any intention to foreclose. In addition, there is no presumption on the part of the Senator from Maine that, absent the language my amendment would strike—judges would always be unreasonable. What the Senator seeks to tell us is that his language, the language I have described, was inserted in the bill because otherwise judges would be unreasonable in evaluating the basis for the classification of documents; and that the only way to avoid that unreasonable tendency on the part of district court judges is to create a presumption on the part of the classifier. I listened to the Senator's argument closely, and that seems to be the thrust of the argument.

Mr. HRUSKA. Mr. President, the Attorney General has written a letter, the text of which is on the desk of each Senator, and I ask unanimous consent that it be printed in the RECORD.

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

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., May 29, 1974.

Hon. ROMAN L. HRUSKA,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HRUSKA: The Department of Justice appreciates your interest in S. 2543, a bill to amend the Freedom of Information Act.

You have inquired about a proposed amendment to the bill's provision on judicial review of documents withheld in the interest of national defense or foreign policy. This suggested amendment would alter the provisions on page 10, line 24 through page 11, line 15 of S. 2543. It would subject these documents to standards of judicial review that are the same or similar to standards applicable to ordinary government records.

As the courts themselves have recognized, the conduct of defense and foreign policy is specially entrusted to the Executive by the Constitution, and this responsibility includes the protection of information necessary to the successful conduct of these activities. For this reason the constitutionality of the proposed amendment is in serious question.

In addition, the suggested change would call for a de novo review by the court, and shift the burden of proof to the government. Such a change would place a heavy burden on the executive branch to reveal classified material which the judicial branch is unprepared to properly evaluate.

For these reasons the Department of Justice is opposed to an amendment of this nature.

Sincerely,

WILLIAM B. SAXBE,
Attorney General.

Mr. HRUSKA. The letter says, among other things the following:

As the courts themselves have recognized, the conduct of defense and foreign policy is specially entrusted to the Executive by the Constitution, and this responsibility includes the protection of information necessary to the successful conduct of these activities. For this reason the constitutionality of the proposed amendment is in serious question.

In addition, the suggested change would call for a de novo review by the court, and shift the burden of proof to the government. Such a change would place a heavy burden on the executive branch to reveal classified material which the judicial branch is unprepared to properly evaluate.

Mr. MUSKIE. I gather that in offering that letter from Mr. Saxbe, the Senator is suggesting another point: If, for example, the bill is amended by my amendment and is passed and enacted into law and its constitutionality is challenged, would it be the Senator's view that Mr. Saxbe's view on the subject of constitutionality ought to be given a presumption over that of any other opinion that the court would consider?

Mr. HRUSKA. The language in the bill is not intended to serve as the basis for the creation of a presumption. That is not its intent at all, and I do not think that is its meaning.

Mr. MUSKIE. What is its intent, if it is not a presumption? If it is not intended to give the classifier's judgment a weight exceeding that of any other witness, what is it intended to do?

Mr. HRUSKA. Let me suggest this. The question of whether a document is properly classified is a political judgment. There is no question about it. It has to be that, when it comes to national security and foreign policy.

This judgment must take cognizance of a number of factors, such as negotiations with other countries, the timeliness of the moment, the disclosure of other information, and so forth. Who is in a better position to make this judgment—the Secretary of State or a district judge? That is what it comes down to.

Should we permit a judge to balance what he perceives, with his relatively parochial interests, to be the interests of the public, in disclosure against the

interests of the public, in maintaining the document in confidence? I say, most emphatically, no.

It is a problem of such scope and with so many ramifications that it belongs, as the Senator from Mississippi has said, in the hands and in the minds and in the decisions of those who are versed in that field and who have the expertise for it.

That is the reason for the language in the bill as it exists—to furnish the judge, when he is called upon to pronounce judgment, with the standard and the requirement that if he finds there is a reasonable basis for the classification, he must sustain that classification.

The point should be stressed that this standard does not equip the courts with a mere rubberstamp. They are granted the right and the authority to review the documents in camera. They can overturn a classification decision in a case involving a request for the classified documents upon finding that there is no reasonable basis upon which the classification be predicated.

It seems to me that we are tampering here with a highly important subject. The decision was deliberately made some years ago, when the parent act was passed, and we will be interfering with that political balance and a matter of vital importance if this amendment is adopted.

I hope the Senate will reject the amendment.

Mr. HART. Mr. President, will the Senator yield me a couple of minutes?

Mr. MUSKIE. I yield.

Mr. HART. I should like to ask a question of the Senator from Maine. I have listened to the exchange he has had with the Senator from Nebraska; and, as I understand, the bill, as reported by the committee, says that in the matter of a security document or file, if the head of the agency—let us say the Secretary of Defense—certifies to the court that he has examined the document and has determined that it should be withheld, the court must sustain that finding and certification, unless the court finds the withholding is without a reasonable basis.

Mr. MUSKIE. In other words, he has to find that the Secretary of Defense was unreasonable.

Mr. HART. I have never been confronted with the problem of resolving a national security file, but some of us, at least years ago, were confronted with the homely experience of trying an accident case. Is there not a parallel here?

A plaintiff puts on one eminent physician who describes why the blinking eye is the result of the accident, and the defendant puts on 10 very eminent physicians who say that is nonsense, that the blinking eye is congenital. That court can make a decision, choosing which among the 11 opinions seems most persuasive. But if accident cases were tried under a statute such as this committee bill provides, would not the court be compelled to agree with the plaintiff because there is a reasonable presumption supporting the blinking eye?

If the Secretary of Defense files a certificate, that certificate is a reasonable basis; but five prior Secretaries of Defense and the CIA Director—and name your favorite expert—all say that is nonsense. The court may agree with them; but under this language, unless it is stricken, he is handcuffed, is he not?

Mr. MUSKIE. I think the Senator has described the effect of the amendment as I understand it.

Mr. HART. I would not be comfortable with that kind of restriction.

Mr. HRUSKA. Certainly, the judge has the right to say that the blinking of an eye is, as a defense, unreasonable. Then that case will go to the circuit court of appeals, and I see no harm in that. I trust that the Senator from Michigan does not, either. But it seems to me that the door is open by this amendment and the language is plain and simple: If the basis is considered unreasonable and the judge so finds, then the information must be disclosed.

Mr. MUSKIE. I yield myself 1 minute, and then I will yield to the distinguished Senator from Florida.

The difficulty with the Senator's response is simply this. The Senator minimizes the implication that the Senator from Michigan and the Senator from Maine draw from his language, but then, in the Senator's prepared remarks, in which he justifies his language, he justifies it on the ground that the Director of the CIA is the only man who knows. The Senator clearly wants to give his knowledge, his position, and his judgment a weight far out of proportion to the Senator's response to the question raised by the distinguished Senator from Michigan.

I say to the Senator that he cannot have it both ways. Either this amendment has the effect of giving a weight to the classifier's judgment and certificate that inhibits the disclosure of information that ought to be disclosed or it does not. It cannot do both. I think I read it correctly when I read it as the Senator from Michigan has read it.

How much time would the distinguished Senator from Florida like?

Mr. CHILES. Four minutes.

Mr. MUSKIE. I yield 4 minutes to the distinguished Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. CHILES. Mr. President, I support the amendment offered by the Senator from Maine (Mr. MUSKIE), when the Freedom of Information Act was enacted over 7 years ago, it was the congressional intent that from that time forward the general rule to be observed by all bureaucrats was that disclosure of information was the norm and withholding the exception. Recognizing that the ideal is not often observed, the Federal district court was given jurisdiction to litigate differences originating from requests.

The past 7 years' experience with the act has indicated that the fears of bureaucratic obstruction were in large part well founded and that but for firm guidance by the courts in the more than 200 cases litigated under the act, the public's right to know would still be little more than a wish.

The bill before us today is the result of extensive hearings which pointed out a number of procedural shortcomings in administration of the Freedom of Information Act. I am satisfied that many of the problems will be resolved by this bill. However, I am concerned by the language presently found in a section of the bill which, in my estimation, would reverse the central thrust of the Freedom of Information Act.

As the result of a Supreme Court decision which adopted an interpretation of the language in section (b)(1) of the original act, information claimed to be classified for security purposes could not be examined by the Federal courts to determine if in fact the classification was proper and valid. Rather, the Supreme Court held that the trial judge must be satisfied with an affidavit from the head of the department originally classifying the information which affidavit would attest to the propriety of the classification. Thus, the classifier would, in fact, be the judge of the classification. This result was patently absurd. Yet, the corrective language in the bill before us does little to remedy the situation. Rather than allow true judicial review of this material, the present language once again attempts to hold the view of the department head by stating that the court must accept his affidavit unless it is found to be unreasonable. While seemingly, a step forward, this language actually reverses the general rule of the Freedom of Information Act which puts the burden of proof upon the Government to establish the basis for withholding.

If the present language in (b)(4)(B)(ii) is allowed to stand, the burden of proof will in effect be shifted away from the Government and placed with the courts.

This is a situation which must not be allowed to stand. I do not argue that an affidavit or other submission from the head of an agency should be disregarded. On the contrary, I would hope that the Court, in its camera examination of contested documents, would call upon whatever expertise it found necessary.

However, to raise the opinion of one person, especially an interested party, to that of a rebuttable presumption is to destroy the possibility of adequate judicial oversight which is so necessary for the Freedom of Information Act to function.

I think it really goes against the thrust of what we are trying to do in amending the bill, to again say that the norm is to be to open things up unless a reason can be shown to have them closed.

If, as the Senator from Mississippi said, there is a reason, why are judges going to be so unreasonable? We say that four-star generals or admirals will be reasonable but a Federal district judge is going to be unreasonable. I cannot buy that argument, especially when I see that general or that admiral has participated in covering up a mistake, and the Federal judge sits there without a bias one way or another. I want him to be able to decide without blinders or having to go in one direction.

I think we would be much better off with this amendment. I urge the adoption of the amendment.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, in my opening remarks I mentioned some words of the President of the United States when he issued his new Executive order on classification. This concern which has been expressed by the Senator from Florida, the Senator from Maine, and the Senator from Michigan is very real. This is what the President of the United States said in talking about classification, and it supports the basis for the amendment of the Senator from Maine:

Unfortunately, the system of classification which has evolved in the United States has failed to meet the standards of an open and democratic society, allowing too many papers to be classified for too long a time. The controls which have been imposed on classification authority have proved unworkable, and classification has frequently served to conceal bureaucratic mistakes or to prevent embarrassment to officials and administrations.

I think precisely this kind of sentiment has triggered the amendment of the Senator from Maine. In reviewing hearings before the Committee on Armed Services, dealing with the transmittal of documents from the National Security Council to the Chairman of the Joint Chiefs of Staff, I find the following on page 4 of those hearings, part 2.

The CHAIRMAN. I do not know of anything now that really is national security. We have not been able to find out anything. But when we get into it it will be a matter of judgment and so forth.

Senator HUGHES. Who is to make that judgment?

The CHAIRMAN. The committee I am not trying to overrule anyone as a member of this committee, you know that, but it is all right for you to raise the point.

Gentlemen, anyone else want to say anything?

Senator SYMINGTON. Last summer when the special prosecutor sent us some papers taken out of the Dean file, in Alexandria, and which had a lot to do with CIA and military matters, they were sent here and also sent to the Ervin committee. Hastily everyone wanted to see us at once, the State Department, the CIA, FBI, DIA. Anybody I left out, Mr. Braswell?

Mr. BRASWELL. NSA, I think.

Senator SYMINGTON. Yes, and they all said these papers from the standpoint of national security must not be utilized by the Watergate Committee. We sat around this table. I said, the best thing to do would be to first read the papers Mr. Dean put in his safe before we consider making a decision to request Senator Ervin not to use them. So we read the papers. They literally had nothing to do, that we could see, with the national security. One of the staff members said, after we had read for 10 or 15 minutes, it looks to me as if this is more a case of national embarrassment than national security. In my opinion, he could not have been more right. So having been through that syndrome last summer, that particular aspect, and because of all of the various stories that have been getting out, I would join the Senator from Iowa and hope we make a full report on this situation, one way or the other because I do not see any national security involved. Admiral Moorer said he knew everything being done. So I do not see the national security angle.

The CHAIRMAN. I have already told you twice that I have not run across anything yet that is national security.

Here, supposedly the most sensitive materials are considered classified by the heads of these respective agencies mentioned, yet the language which would be included in the committee amendment to the Freedom of Information Act would add some presumption to their conclusion. That presumption is what the Senator from Maine is attempting to erase. And these excerpts illustrate his point.

I think the amendment makes sense, and I am extremely hopeful that this body will support the Senator from Maine. I think it is a responsible approach. It is sensitive, as we reviewed earlier, in terms of protecting the kinds of classified material, where that protection is legitimately essential to our security and the national defense. The amendment would reach the kinds of abuses we have seen far too often in recent times.

I hope the amendment is agreed to.

Mr. MUSKIE. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, first may I say that if the committee bill prevails, I would like to see something that minimizes the question of presumption, but I am afraid to raise the issue because, in the proper perspective, we have to describe the situation as it is.

Then, Mr. President, I would like to make one technical point with respect to the letter to Senator HRUSKA by the Attorney General, William Saxbe, which was put in the RECORD earlier. The Attorney General's letter reads:

In addition, the suggested change would call for de novo review by a court and shift the burden to the government.

I wish to correct that. Section (a) of the Freedom of Information Act provides that in court cases "the burden is on the agency to sustain its action." That is no shifting of the burden. The Freedom of Information Act imposes this burden for a very real reason. That reason is the weight of the Federal bureaucracy, which has made it almost impossible for us to come to grips with secrecy control and limit the classification process.

I withhold the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE. Mr. President, I am happy to yield 4 minutes to the distinguished Senator from North Carolina (Mr. ERVIN).

Mr. ERVIN. Mr. President, I rise in support of this amendment. It seems to me that we ought not to have artificial weight given to agency action, which the bill in its present form certainly would do.

It has always seemed to me that all judicial questions should be determined de novo by a court when the court is reviewing agency action. One of the things which has been most astounding to me during the time I have served in the Senate is the reluctance of the executive departments and agencies to let the American people know how their Government is operating. I think the American people are entitled to know how those who are entrusted with great governmental power conduct themselves.

Several years ago the Subcommittee on Constitutional Rights, of which I have the privilege of being chairman, conducted quite an extensive investigation of the use of military intelligence to spy on civilians who, in most instances, were merely exercising their rights under the first amendment peaceably to assemble and to petition the Government for redress of grievances. At that time, as chairman of that subcommittee, I was informed by the Secretary of Defense, when the committee asked that one of the commanders of military intelligence appear before the committee to testify that the Department of Defense had the prerogative of selecting the witnesses who were to testify before the subcommittee with respect of the activities of the Department of Defense and the Department of the Army.

On another occasion I was informed by the chief counsel of the Department of Defense that evidence which was quite relevant to the committee's inquiry, and which had been sought by the committee, was evidence which, in his judgment, neither the committee nor the American people were entitled to have or to know anything about.

And so the Freedom of Information Act, the pending bill, is designed to make more secure the right of the American people to know what their Government is doing and to preclude those who seek to keep the American people in ignorance from being able to attain their heart's desire.

I strongly support the amendment offered by the distinguished Senator from Maine, of which I have the privilege of being a cosponsor, because it makes certain that when one is seeking public information, or information which ought to be made public, the matter will be heard by a judge free from any presumptions and free from any artificial barriers which are designed to prevent the withholding of the evidence; and I sincerely hope the Senate will adopt this amendment.

I thank the Senator for yielding.

Mr. MUSKIE. I thank the distinguished Senator from North Carolina.

Mr. President, at this time I withhold the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Mr. President, I yield myself 3 minutes.

A little while ago the question was asked whether the Director of the CIA or the Secretary of State is the only man who knows whether information should be classified or whether a district judge equally situated with regard to matters relating to national security or foreign policy as any other officer of the Government.

Mr. President, it is not a question whether or not he is the only man. The courts themselves have said, as has already been cited in Epstein versus Resor in 1970, wherein certiorari was denied by the Supreme Court, that the judiciary has neither the "aptitude, facilities, nor responsibility" to make political judgments as to what is desirable in the interest of national defense and foreign policy. That is their decision, Mr. President—it is not the court's business to attempt to weigh public interests in the

disclosure of this information. These are political judgments outside the province of the courts.

The Supreme Court, in the case of C. & S. Air Lines against Waterman Corp., in 1948, held to the same effect.

The Harvard Law Review note reached that same conclusion.

It is not a matter of any one person's knowing who is the one who would best know. There is the review, the trial de novo, to be sure. The bill is written so as to place upon the district judge the responsibility of determining whether or not there is a reasonable basis. If there is no reasonable basis, then he orders the information disclosed. If there is a reasonable basis, he is charged with the responsibility of maintaining the confidentiality of the information. Under that system, it would be an appealable order. It would be something that could be reviewed.

The further suggestion is made that there is no indication that a district judge will be unreasonable in acting under the amendment of the Senator from Maine. I would not think that any judge would be unreasonable. But that is not the point. If the district judge finds that there is no reasonable basis for it, should he still have the power to say, "Release the information, anyway"? That is the position for which the Senator from Maine is arguing. That is exactly the position for which he is arguing.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HRUSKA. I yield myself 3 minutes more.

In all applications for the disclosure of public documents, the procedures, under the amendment of the Senator from Maine as well as under the bill, are the same. The documents would be available if the matter cannot be resolved on the basis of affidavits. The documents are available for examination in camera, and it will be for the judge to examine them and determine whether there is a reasonable basis.

Under the amendment proposed there is no standard to guide the courts in this difficult area. The purpose of the language in the bill is to require the judge to determine whether or not there is a reasonable basis. If there is, he holds the document; if there is no reasonable basis, he may order it disclosed.

Mr. President, there are difficulties in getting papers from the Government and its agencies. There is no question that there are abuses. But, as I indicated in my earlier remarks, many steps have been taken pursuant to the Executive Order 11652 to correct those abuses. However, again, I say that the issue of abuses is not relevant to a consideration of the amendment proposed by the Senator from Maine.

Finally, I must say, Mr. President, that the adoption of this amendment could endanger the passage and approval of the bill into law. It will substantially alter that finely tuned balance. We have competing interests that are highly controversial in this field that must be encompassed and balanced.

Mr. President, it is my hope that the amendment will be defeated.

Mr. MUSKIE. Mr. President, I yield to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. ERVIN. Mr President, the question involved here would be whether a court could determine this is a matter which does affect national security. The question is whether the agency is wrong in claiming that it does.

The court ought not to be required to find anything except that the matter affects or does not affect national security. If a judge does not have enough sense to make that kind of decision, he ought not to be a judge. We ought not to leave that decision to be made by the CIA or any other branch of the Government.

The bill provides that a court cannot reverse an agency even though it finds it was wrong in classifying the document as being one affecting national security, unless it further finds that the agency was not only wrong, but also unreasonably wrong.

With all due respect to my friend, the Senator from Nebraska, is it not ridiculous to say that to find out what the truth is, one has to show whether the agency reached the truth in a reasonable manner?

Why not let the judge determine that question, because national security is information that affects national defense and our dealings with foreign countries? That is all it amounts to.

If a judge does not have enough sense to make that kind of judgment and determine the matter, he ought not to be a judge, and he ought not to inquire whether or not the man reached the wrong decision in an unreasonable or reasonable manner.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Mr. President, I yield myself 3 minutes.

Mr. President, will the Senator respond to a question on that subject? He and I have discussed this matter preliminarily to coming on the floor.

If a decision is made by a court, either ordering a document disclosed or ordering it withheld, is that judgment or order on the part of the district court judge appealable to the circuit court?

Mr. ERVIN. I should think so.

Mr. HRUSKA. What would be the ground of appeal?

Mr. ERVIN. The ground ought to be not whether a man has reached a wrong decision reasonably or unreasonably. It ought to be whether he had reached a wrong decision.

Mr. HRUSKA. I did not hear the Senator.

Mr. ERVIN. The question involved ought to be whether an agency reached a correct or incorrect decision when it classified a matter as affecting national security. It ought not to be based on the question whether the agency acted reasonably or unreasonably in reaching the wrong decision. That is the point that the bill provides, in effect. In other words, a court ought to be searching for the truth, not searching for the reason for the question as to whether someone reasonably did not adhere to the truth in classifying the document as affecting national security.

Mr. HRUSKA. The bill presently provides that a judge should not disclose a classified document if he finds a reasonable basis for the classification. What would the Senator from North Carolina say in response to the following question: Should a judge be able to go ahead and order the disclosure of a document even if he finds a reasonable basis for the classification?

Mr. ERVIN. I think he ought to require the document to be disclosed. I do not think that a judge should have to inquire as to whether a man acted reasonably or unreasonably, or whether an agency or department did the wrong thing and acted reasonably or unreasonably.

The question ought to be whether classifying the document as affecting national security was a correct or an incorrect decision. Just because a person acted in a reasonable manner in coming to a wrong conclusion ought not to require that the wrongful conclusion be sustained.

Mr. HRUSKA. Mr. President, I am grateful to the Senator for his confirmation that such a decision would be appealable.

However, on the second part of his answer, I cannot get out of my mind the language of the Supreme Court. This is the particular language that the Court has used: Decisions about foreign policy are decisions "which the judiciary has neither aptitude, facilities, nor responsibility and which has long been held to belong in the domain of political power not subject to judicial intrusion or inquiry." *C. & S. Air Lines* v. *Waterman Corp.*, 333 U.S. 103 (1948).

That is not their field; that is not their policy.

Mr. ERVIN. Pardon me. A court is composed of human beings. Sometimes they reach an unreasonable conclusion, and the question would be on a determination as to whether the conclusion of the agency was reasonable or unreasonable.

Mr. HRUSKA. Mr. President, I yield myself 2 minutes to read from the Supreme Court case of C. & S. Airlines versus Waterman Corp., 333 U.S. 103 (1948):

> [T]he very nature of executive decisions as to foreign policy is political, not judicial. Such decisions are wholly confided by our Constitution to the political departments of the government, Executive and Legislative. They are delicate, complex, and involve large elements of prophecy. They are and should be undertaken only by those directly responsible to the people whose welfare they advance or imperil. They are decisions of a kind for which the Judiciary has neither aptitude, facilities nor responsibility and which has long been held to belong in the domain of political power not subject to judicial intrusion or inquiry.

Mr. President, I think that is pretty plain language. I stand by it.

In this connection, as I understand Senator MUSKIE's amendment, the burden of proof is upon the Government to demonstrate what harm would befall the United States if such information would be made public and the court is to weigh such factors against the benefit accruing

to the public if such information were released. However, no standards for guiding the court's judgment are included.

It seems obvious to me that in an area where the courts have themselves admitted their inadequacies in dealing with these issues, Congress should endeavor to provide the proper guidance. The reported version of this bill does so. It provides that only in the event a court determines the classification of a document to be without a reasonable basis according to criteria established by an Executive order or statute may it order the document's release.

Therefore, I respectfully submit that Senator MUSKIE's proposed amendment does not adequately come to grips with the various competing concerns involved in this issue.

Mr. MUSKIE. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator from Maine has 21 minutes remaining.

Mr. MUSKIE. Mr. President, I yield myself 3 minutes.

Mr. President, I have listened to the distinguished Senator from Nebraska expound at length on what he believes to be the facts and say that the judges are not qualified to make evaluations of classification decisions.

If he believes what he says he believes, he has got to be opposed to the committee bill because the committee bill establishes a procedure for judicial review. If he believes judges to be as unqualified as he describes them, eloquently and vigorously, on the floor of the Senate, he has to be against the bill to which he has given his name and support, because that bill rests on the process of judicial review.

The second point that I wish to make is, of course, that judges can be unreasonable, as my good friend the Senator from North Carolina has pointed out. But what about the executives? Let me read, from the committee report, the language of Justice Potter Stewart in concurring with the majority opinion of the Supreme Court in the Mink case that we seek in this bill to alter.

Justice Stewart stated:

> Congress has built into the Freedom of Information Act an exemption that provides no means of questioning an executive decision that determine a document is secret, however, cynical, myopic, or even corrupt that decision might have been.

Now that is the opinion of a justice who concurred in the decision in the Mink case which denied judges in camera review of executive decisions to classify in the national security field, clearly urging the Congress, in my judgment, to do something about it, and that is what we seek to do.

I simply cannot understand the position of the Senator from Nebraska (Mr. HRUSKA) in supporting, on the one hand, a judicial review process designed to open the door to examination of executive decision, and then on the other hand closing that door part way back again, because that is the clear purpose of the presumption written into the act.

So I hope, Mr. President, that, having taken this step, that we will not take part of it back, and I urge the support of my amendment for the reasons that I have amply discussed this afternoon.

I am ready for a vote at any time, but I will withhold the remainder of my time until it is clear that the Senate is ready for the vote.

Mr. TAFT. Mr. President, the Judiciary Committee deserve our appreciation for the significant work that is embodied in the bill before us today.

These amendments to the Freedom of Information Act will accomplish the committee objective of providing more open access to Government activities. The fresh air that open access will bring can only strengthen our form of Government. Informed citizens and responsive Government agencies will go a long way toward restoring the faith and confidence that the American people must have in our institutions.

The amendment offered to S. 2543 by the Senator from Maine which deals with classified information relating to national defense or foreign policy will not serve the interests of clear legislation or assist in the delicate process of making available such sensitive classified material.

It seems to me that the committee version of S. 2543 offers a definite procedure and a definite standard by which national defense or foreign policy classified information may be examined in a court proceeding. The court is not required to conduct a de novo review, most courts are not knowledgeable in the sensitive foreign policy factors that must be weighed in determining whether material deserves or in fact demands classification. Under the committee version a court needs to determine if there is a reasonable basis for the agency classification. The standard "reasonable basis" is not vague. The standard of reasonableness has been applied in our judicial system for centuries.

The proposed amendment would call for a de novo weighing of all of the factors and leave the determination to the court according to a weighing of all the information which is much more vague than that standard promulgated by the committee.

The executive branch has especially significant responsibilities in foreign policy and national defense. The recently conducted Middle East negotiations by our Secretary of State had to be conducted in secret and we are now enjoying fruit of the successful culmination of these negotiations.

I believe foreign policy considerations and national defense considerations deserve special attention and the committee version of S. 2543 accords them such special attention.

It does not seem worthwhile to confuse the standard that the committee has set nor does it seem useful to diminish the executive branch's flexibility in dealing with sensitive foreign policy matters.

I intend to support S. 2543 and urge my colleagues to approve it without amendment.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Are there a sufficient number of Senators present to order the yeas and the nays?

The PRESIDING OFFICER. There is not a sufficient second.

Mr. HRUSKA. Mr. President, I have no further requests for time on this side or in opposition to the amendment.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum, with the time to be charged to my time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine (Mr. MUSKIE).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

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

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. BUCKLEY), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. FANNIN), and the Senator from South Carolina (Mr. THURMOND) are absent on official business.

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from South Carolina (Mr. THURMOND).

If present and voting, the Senator from Illinois would vote "yea" and the Senator from South Carolina would vote "nay."

The result was announced—yeas 56, nays 29, as follows:

[No. 219 Leg.]

YEAS—56

Abourezk	Eagleton	Moss
Aiken	Ervin	Muskie
Baker	Hart	Nelson
Bayh	Haskell	Packwood
Beall	Hatfield	Pastore
Bentsen	Hathaway	Pearson
Biden	Huddleston	Proxmire
Brock	Humphrey	Randolph
Brooke	Javits	Ribicoff
Burdick	Johnston	Roth
Byrd, Robert C.	Kennedy	Schweiker
Case	Magnuson	Stafford
Chiles	Mansfield	Stevens
Church	Mathias	Stevenson
Clark	McIntyre	Symington
Cook	Metcalf	Tunney
Cranston	Metzenbaum	Weicker
Dole	Mondale	Williams
Domenici	Montoya	

NAYS—29

Allen	Goldwater	Nunn
Bartlett	Griffin	Scott, Hugh
Bellmon	Gurney	Scott, William L.
Bible	Hansen	Stennis
Byrd, Harry F., Jr.	Helms	Taft
Cannon	Hruska	Talmadge
Cotton	Jackson	Tower
Curtis	Long	Young
Eastland	McClellan	
Fong	McClure	
	McGee	

NOT VOTING—15

Bennett	Gravel	McGovern
Buckley	Hartke	Pell
Dominick	Hollings	Percy
Fannin	Hughes	Sparkman
Fulbright	Inouye	Thurmond

So Mr. MUSKIE's amendment (No. 1356) was agreed to.

Mr. MUSKIE. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

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

The motion to lay on the table was agreed to.

Mr. BAYH. Mr. President, I send my amendment to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. HELMS). The amendment will be stated.

The legislative clerk read as follows:

On page 9, line 9, following the word "person" insert the following:

"When such records are made available under this section in matters which the person seeking those records can demonstrate to be of general public concern, the agency complying with the request for the records shall make them available for public inspection and purchase in accordance with the provisions of this act, unless the agency can demonstrate that such records could subsequently be denied to another individual under the exceptions provided for in subsection (b) of this act."

Mr. BAYH. Mr. President, this amendment is designed to make certain Federal departments and agencies comply with both the letter and the spirit of the Freedom of Information Act in making public requested documents in matters of general public concern.

It is not consistent with the intent of Congress for an agency to comply with a request for a certain document under the Freedom of Information Act, but, at the same time, to refuse to make that document available to the public despite the legitimate and broad public nature of the document in question.

Yet, this is precisely what happened in a Freedom of Information Act request which I made earlier this year to the Federal Trade Commission. Probably the best way to demonstrate the real need for adoption of the amendment I have offered would be for me to recount my experience in seeking information from the FTC.

On March 20 a public interest law firm—the Institute for Public Interest Representation at the Georgetown University Law Center—wrote to the Federal Trade Commission on my behalf requesting a copy of a transcript of prehearing conference the Commission had conducted on December 18, 1973 with eight major oil companies which the FTC has charged with engaging in anticompetitive practices.

That request was based on the Freedom of Information Act. Subsequently, on April 3, having received no substantive reply to the letter my attorney had sent 2 weeks earlier, I filed suit in U.S. District Court here in Washington against the FTC to secure a copy of the requested transcript.

While I did not take lightly the significance of a U.S. Senator suing an agency of the Federal Government, I felt the issue was of such importance that this strong action was required. In seeking access to the transcript, I must emphasize, I did not merely want to secure this material for myself.

Certainly the Senator from Indiana did feel it would be helpful to him in weighing current energy-related legislation to have the information being generated in this very important proceeding before the Federal Trade Commission. But beyond the need which I felt I had for the document, I also felt that it was important that the transcript of a proceeding against the eight largest oil companies be available to the public.

Few issues have generated as much concern among the American people in recent months than the energy crisis. Much has been charged about the role of the oil companies in contributing to and exploiting the energy crisis, and the FTC allegations of major anticompetitive practices against the oil companies go directly to the heart of the public concern regarding the role of the oil companies.

It, therefore, seemed to me important that not only should the transcript in question be available to the Senator from Indiana, but that transcript should be part of the public record of the FTC, available for examination and purchase by the media and individual citizens.

However, when, on April 30, the FTC agreed to my request for the December 18, 1973 transcript, it did so on a very limited basis. Specifically, the Commission provided copies of the transcript to me and to three State attorneys general who had requested it. The Commission did not add the transcript to the public docket in its case against the oil companies, and when newsmen requested a copy of the transcript they were told they would have to make individual requests for copies under the Freedom of Information Act.

This limited release of the transcript was especially incongruous since I was not under any constraint in what I could do with the copy delivered to me. Accordingly, to save those newsmen the time and trouble of bringing individual Freedom of Information Act cases against the FTC, I provided access to the transcript to anyone who wanted to come to my office and examine it.

It is evident, Mr. President, that in its limited response to my request the FTC had complied with the letter of the Freedom of Information Act. But it is equally evident that in refusing to add the requested transcript to the public docket in its case against the oil companies that the FTC had not complied with the spirit of the act.

This amendment is designed to avoid such evasion of the true purpose of the act.

I must note, Mr. President, that the amendment is written in such a way so as to place the responsibility for demonstrating that the requested material is of general public concern on the individual requesting the material. The purpose of this part of the amendment is to guarantee that the various agencies do not have to make general release of all information provided for under the Freedom of Information Act. It would be an unfair and burdensome requirement on the agencies to insist that documents of limited interest—for example, something required for academic research—be made public.

Also, the amendment does permit the agency faced with a request that information be made public to object to that request if the agency can argue successfully that subsequent requests for the documents might be denied under the exceptions provided for in subsection (b) of the act.

If I may take my experience with the FTC as an example, Mr. President, it is obvious that the case against the major oil companies is of general public concern and it is not unreasonable to place the responsibility for demonstrating this fact on the Senator from Indiana or any other individual requesting material in this category.

As for the right of the agency to object, I see no problem in giving the agency the responsibility—if it does not want to make something public—to prove that the material in question might under different circumstances qualify for a subsection (b) exception. I am satisfied once again using my experience as an example, that the FTC could not make a successful argument of this nature in the oil company case.

I do want to emphasize, Mr. President, that in citing my experience as an example I am not trying to pass an amendment of relevance to a single issue in which I was involved. Rather, I cite this experience as an example, with the conviction that if the amendment I propose addresses itself properly to my experience, it would work in the future on matters of similar public concern. In this way, when Freedom of Information Act requests are made in areas of general importance, we can be satisfied that Federal agencies will have to meet both the letter and the spirit of the law.

Mr. President, finally, what this amendment is designed to do is to satisfy what I think the intent was of the original act, and the bill brought to us today by the distinguished Senator from Massachusetts and others who are joining him, as I am, in proposing the new amendments to the Freedom of Information Act.

My amendment specifies that if an individual, under this act, is entitled to information that is a matter of some public concern, a copy of the information that is given to the individual should also be spread on the agency's public record, so that members of the news media and individual citizens may have access to it.

As I said, I have been involved in this matter with the FTC relative to some of the prehearing conferences they have been holding with the major oil companies. At long last, after having to take them to court or threatening to take

them to court, the agency did, in fact, give me a copy of the first conference transcript; and I hope that before we are through, they will promise to give me other transcripts as these hearings are held. Yet while BIRCH BAYH happens to be a Senator from Indiana who wants this material to make proper decisions on energy issues; but I think the public has a right to know what is going on before the FTC as well. This amendment would make that possible, by requiring that a copy of these documents be put in the public records, pursuant to the provisions of this act.

Mr. KENNEDY. I yield myself such time as I may require.

Mr. President, I urge the acceptance of this amendment. I believe that the Senator from Nebraska has been informed of it as well.

It seems to me to make eminently good sense that if information is going to be made available to a particular individual, and if it meets the other requirements of the Freedom of Information Act relating to disclosure, that information should be available to other citizens as well.

The amendment does have certain protections. When an agency attempts to respond positively and constructively to a request of an individual, even though the act would allow withholding, the amendment has certain protections for the agency so it does not have to release this generally automatically. I think makes a good deal of sense. I believe it carries forward the spirit and the purpose of the legislation in encouraging release of information, and I hope that the amendment will be accepted by the Senate.

Mr. HRUSKA. Mr. President, will the Senator yield me 2 minutes?

Mr. KENNEDY. I yield.

Mr. HRUSKA. Mr. President, upon analysis, it is found that this amendment does clarify the law. The amendment contains a safeguard, by reference to section 4(b) of Public Law 90–23, commonly known as the Freedom of Information Act, which amply takes care of those items which are excluded from its purview.

I have no objection to the amendment. In fact, I favor it.

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

Mr. BAYH. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HRUSKA. Mr. President, I have a brief amendment, which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 14, line 22, insert the word "working" between "10" and "days."

Mr. HRUSKA. Mr. President, this amendment has to do with the time limitation for the purpose of filing an answer or extending the time within which an answer should be given to certain applications for disclosure. The general reference to time limitations is in terms of "working days." By inadvertence, I take it, line 22, page 14, simply says "for more than 10 days." The amendment, technical in nature, would insert the word "working," so that it would be for not more than 10 working days. That is the purpose of the amendment, and I urge its adoption.

Mr. KENNEDY. Mr. President, this is a technical, clarifying amendment. It is useful and consistent with the other provisions of the bill, and I urge its adoption.

I yield back the remainder of my time.

Mr. HRUSKA. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. DOMENICI). The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 1361

Mr. HART. Mr. President, I call up Amendment No. 1361.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HART. 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 11, line 15, after the period, insert the following new subsection:

(3) Section 552(b)(7) is amended to read as follows: "Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication or constitute a clearly unwarranted invasion of personal privacy, (C) disclose the identity of an informer, or (D) disclose investigative techniques and procedures.".

Mr. HART. I yield myself such time as I may require.

Mr. President, this act exempts from disclosure "investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency."

My reading of the legislative history suggests that Congress intended that this seventh exemption was to prevent harm to the Government's case in court by not allowing an opposing litigant earlier or greater access to investigative files than he would otherwise have.

Recently, the courts have interpreted the seventh exception to the Freedom of Information Act to be applied whenever an agency can show that the document sought is an investigatory file compiled for law enforcement purposes—a stone wall at that point. The court would have the exemption applied without the need of the agency to show why the disclosure of the particular document should not be made.

That, we suggest, is not consistent with the intent of Congress when it passed this basic act in 1966. Then, as now, we recognized the need for law enforcement agencies to be able to keep their records and files confidential where a disclosure would interfere with any one of a number of specific interests, each of which is set forth in the amendment that a number of us are offering.

I am offering this amendment on behalf of myself and the following Senators: Mr. MATHIAS, Mr. CRANSTON, Mr. MUSKIE, Mr. CLARK, Mr. RIBICOFF, Mr. MOSS, Mr. JAVITS, Mr. MCGOVERN, Mr. PROXMIRE, Mr. HUMPHREY, Mr. HATFIELD, Mr. BIDEN, Mr. NELSON, and Mr. ABOUREZK.

This amendment was proposed by the Administrative Law Section of the American Bar Association. It explicitly places the burden of justifying nondisclosure on the Government, which would have to show that disclosure would interfere with enforcement proceedings, deprive a person of a right to a fair trial, constitute an unwarranted invasion of personal privacy, reveal the identity of informants, or disclose investigative techniques or procedures.

Our concern is that, under the interpretation by the courts in recent cases, the seventh exemption will deny public access to information even previously available. For example, we fear that such information as meat inspection reports, civil rights compliance information, and medicare nursing home reports will be considered exempt under the seventh exemption.

Our amendment is broadly written, and when any one of the reasons for nondisclosure is met, the material will be unavailable. But the material cannot be and ought not be exempt merely because it can be categorized as an investigatory file compiled for law enforcement purposes.

Let me clarify the instances in which nondisclosure would obtain: First, where the production of a record would interfere with enforcement procedures. This would apply whenever the Government's case in court—a concrete prospective law enforcement proceeding—would be harmed by the premature release of evidence or information not in the possession of known or potential defendants. This would apply also where the agency could show that the disclosure of the information would substantially harm such proceedings by impeding any necessary investigation before the proceeding. In determining whether or not the information to be released will interfere with a law enforcement proceeding it is only relevant to make such determination in the context of the particular enforcement proceeding.

Second, the protection for personal privacy included in clause (B) of our amendment was not explicitly included in the ABA Administrative Law Section's amendment but is a part of the sixth exemption in the present law. By adding the protective language here, we simply make clear that the protections in the sixth exemption for personal privacy also apply to disclosure under the seventh exemption. I wish also to make clear, in case there is any doubt, that this clause is intended to protect the

privacy of any person mentioned in the requested files, and not only the person who is the object of the investigation.

Third, investigatory files compiled for law enforcement purposes would not be made available where production would deprive a person of a right to a fair trial or an impartial adjudication.

Fourth, the amendment protects without exception and without limitation the identity of informers. It protects both the identity of informers and information which might reasonably be found to lead to such disclosure. These may be paid informers or simply concerned citizens who give information to enforcement agencies and desire their identity to be kept confidential.

Finally, the amendment would protect against the release of investigative techniques and procedures where such techniques and procedures are not generally known outside the Government. It would not generally apply to techniques of questioning witnesses.

The purpose of the Freedom of Information Act is to provide maximum public access while at the same time recognizing valid governmental and individual interests in confidentiality. This amendment balances those two interests and is critical to a free and open society. This amendment is by no means a radical departure from existing case law under the Freedom of Information Act. Until a year ago the courts looked to the reasons for the seventh exemption before allowing the withholding of documents. That approach is in keeping with the intent of Congress and by this amendment we wish to reinstall it as the basis for access to information.

Mr. President, I think that it would be useful if a brief excerpt from the report of the committee on Federal legislation of the association of the bar of the City of New York were printed in the RECORD. The full document is captioned "Amendments to the Freedom of Information Act." I ask unanimous consent that that material may be printed in the RECORD.

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

S. 2543 and H.R. 12471 do not propose any amendment to Exemption 7, but would add to subsection (b) the "Savings Clause" discussed above.

The courts have agreed that Exemption 7 applies to investigations by regulatory agencies as well as criminal investigations. But there is dramatic disagreement over the question of continued non-disclosure after the specific investigation is completed. The Second Circuit, in *Frankel* v. *SEC*, 460 F. 2d 813 (1972), held that investigatory files are exempt from disclosure forever, on the theory that disclosure of investigatory techniques would undermine the agency's effectiveness and would choke off the supply of information received from persons who abhor, for whatever reason, public knowledge of their participation in the investigation. The court found:

"These Reports indicate that Congress had a two-fold purpose in enacting the exemption for investigatory files: to prevent the premature disclosure of the results of an investigation so that the Government can present its strongest case in court, and to keep confidential the procedures by which the agency conducted its investigation and by which it has obtained information. Both these forms of confidentiality are necessary for effective law enforcement." *Id* at 817.[27]

Other jurists, however, have reached the conclusion that Exemption 7 was intended only to protect against premature disclosure in a pending investigation, and that once the investigation is completed and all reasonably foreseeable administrative and judicial proceedings concluded, the files must be disclosed.[28] We agree with this view.

The fear that disclosure of investigative techniques *in general* will hinder an agency's operations appears to be illusory. The methods used for such investigations are widely known and relatively limited in type and scope. The realistic problems are those we have already met—the need to preserve the identity of sources of information *in particular cases*, the need to assure an impartial trial and to protect reasonable personal privacy. In the context of Exemption 7, there is the additional consideration that premature disclosure of the Government's case will allow the civil or criminal defendant to "construct" his defense.

Against these real problems must be weighed important policy considerations which are by now also familiar—that our political system is premised upon public and congressional knowledge of the Executive Branch's activities; that the policy of agency actions is ultimately established by Congress and the public; that importunate decisions or those based on party politics, campaign contributions and the like are less likely if the public has access to the record of such decisions.

Mr. HART. Mr. President, I reserve the remainder of my time, but I hope very much that the committee and our colleagues are persuaded as to the wisdom of the amendment.

Mr. KENNEDY. Mr. President, I yield myself such time as I may use.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I believe that it would be useful for me to outline for my colleagues briefly why S. 2543 did not initially attempt to amend the seventh exemption of the Freedom of Information Act, and why I presently believe that the amendment proposed by the Senator from Michigan is a constructive and desirable one.

Last October, when I introduced S. 2543, the case law on the subject of investigatory files was substantially different than it is today. During our hearings in the spring of 1973, the subcommittee had before it legislation that would have amended in various ways a number of the exemptions of the FOIA. These proposals were fully discussed and debated. Nonetheless, when I introduced the legislation I believe that the public was secure in its right to obtain information falling within the "investigatory file" exception to disclosure mandated by the act. As Attorney General Elliot Richardson had told our subcommittee:

The courts have rsolved almost all legal doubts in favor of disclosure.

Thus, I did not propose a change in the language of that exemption.

In the report on S. 2543, as amended, the Judiciary Committee expressed its position generally:

The risk that newly drawn exemptions might increase rather than lessen confusion in interpretation of the FOIA, and the increasing acceptance by courts of interpretations of the exemptions favoring the public disclosure originally intended by Congress, strongly militated against substantive amendments to the language of the exemptions.

But we warned that by leaving the substance of the exemptions unchanged—

The committee is implying acceptance of neither agency objections to the specific changes proposed in the bills being considered, nor judicial decisions which duly constrict the application of the act.

Unfortunately, Mr. President, I must agree with the Senator from Michigan that our initial appraisal of the development of the law in the area affected by his amendment has turned out to be short lived. A series of recent cases in the District of Columbia has applied the seventh exemption of the act woodenly and mechanically and, I believe, in direct contravention of congressional intent when we passed that law in 1966. One court a few years back correctly read this intent when it observed:

The touchstone of any proceedings under the act must be the clear legislative intent to assure public access to all governmental records whose disclosure would not significantly harm specific governmental interests.

Yet in the most recent decision interpreting the seventh exemption of the Freedom of Information Act, the District of Columbia Court of Appeals observed that—

Recent decisions of this court construing exemption seven have considerably narrowed the scope of our inquiry.

This, Mr. President, was a foreboding that the court was going astray, since the court was limiting its inquiry to avoid discussion of the intent behind the exemption and whether Congress intended documents of the kind sought, under the circumstances, to be kept secret pursuant to that exemption. The court continued:

The sole question before us is whether the materials in question are "investigatory files compiled for law enforcement purposes." Should we answer that question in the affirmative, our role is "at an end."

This is the same kind of determination made by the Supreme Court in the Mink case, when it observed that once a judge determined records to be in fact, on their face, classified, then he could not look beneath that marking to determine whether they were properly classified. We are today reversing that holding of the court by the legislation before us, spelling out that it is Congress intention for courts to look behind classification markings. I think it appropriate and useful that we also spell out our disapproval of the line of cases I referred to earlier, and that we make clear our intention for courts to look behind the investigation mark stamped on a file folder.

The Senator from Michigan has made a persuasive case for the amendment he is proposing, and I will not go over the same ground he has covered. I do want to make two points that bear directly on this issue.

First, whether or not this amendment is adopted, I would like to make it clear that I believe the courts have, in narrowly and mechanically interpreting the seventh exemption, strayed from the re-

quirements and the spirit of the Freedom of Information Act. The Supreme Court has not ruled on the subject yet, and there is a division among various circuits on a number of issues arising from application of that exemption. I thus want the record to show that by accepting the Senator's amendment we will be reemphasizing and clarifying what the law presently requires. If it is not accepted, the Supreme Court will still have the opportunity to set things straight.

Second, I would point out that we do address ourselves in S. 2543 to this issue in a less direct manner. Our report and my opening statement contain extensive discussion of new provisions in this legislation relating to release of records "or portions of records" and to deleting or segregating exempt portions of files or records so that nonexempt portions may be released. Judicial and agency adherence to the requirements of these amendments would go a long way to removing strict and undiscriminating adherence to narrow interpretations of the Freedom of Information Act. This would apply to the area of investigatory files as well as to the other exemptions of the act. So I think that courts would have to reconsider their reliance on any restrictive cases after passage of these new provisions anyway.

The approach suggested by the Senator from Michigan in his amendment, which states the policy considerations to be utilized by agencies and courts in determining whether to disclose investigatory information, is a salutory one. It is the same approach—with the same language—proposed by the American Bar Association representative at our hearings last year. Then, Attorney General Elliot Richardson, testifying at our hearings, told the subcommitee that—

If a fresh approach is needed, we suggest that a modified version of the ABA's proposed amendment should be considered.

These comments were addressed to a rather different proposal to amend the seventh exemption contained in S. 1142, being considered by the subcommittee at the time. And just last week the prestigious Association of the Bar of the City of New York issued its report on amendments to the Freedom of Information Act, in which it too recommended adoption of the language proposed by the ABA, with slight modifications. Since the discussions by the ABA, the Attorney General, and the City of New York Bar Association on this issue are relevant to our consideration of the proposed amendment, I ask unanimous consent that excerpts therefrom be included in the RECORD at this point.

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

FROM THE STATEMENT OF JOHN MILLER, CHAIRMAN, ADMINISTRATIVE LAW SECTION, AMERICAN BAR ASSOCIATION, JUNE 11, 1973

THE SEVENTH EXEMPTION

S. 1142 also proposes changes in the seventh exemption to the Freedom of Information Act, which relates to investigatory files compiled for law enforcement purposes, by expressly excluding certain specific types of records from the investigatory files exemption. Section 2(d)). However, the Administrative Law Section believes that a better approach is to set forth explicitly the objectives which the investigatory files exemption is intended to achieve in order to assure that information is withheld only if one of those objectives would be frustrated were the information disclosed. Because many different types of information may be contained in an investigatory file for which there are legitimate reasons for non-disclosure, the Section believes that it is unwise to attempt to exclude certain types of records from the exemption under all circumstances. For example, even "scientific tests, reports, or data" (Section 2(d)) contained in an investigatory file, if released prematurely, could interfere with the prosecution of an offense or result in prejudicial publicity so as to deprive an accused of his right to a fair trial. In addition, the proposal set forth in S. 1142 would not resolve the issue as to when the investigatory files exemption terminates, an issue that has arisen in several recent court decisions.

Accordingly, the Administrative Law Section recommends that, if the seventh exemption is to be amended, it be revised to read as follows:

"Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) disclose the identity of an informer, or (D) disclose investigative techniques and procedures."

FROM THE REPORT OF THE COMMITTEE ON FEDERAL LEGISLATION OF THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK, APRIL 22, 1974

EXEMPTION 7

Exemption 7 now exempts:

"Investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency."

H.R. 5425 and S. 1142 would have amended Exemption 7 to read as follows:

"(7) investigatory records compiled for any specified law enforcement purpose the disclosure of which is not in the public interest, except to the extent that—

"(A) any such investigatory records are available by law to a party other than an agency, or

"(B) any such investigatory records are—

"(i) scientific tests, reports, or data,

"(ii) inspection reports of any agency which relate to health, safety, environmental protection, or

"(iii) records which serve as a basis for any public policy statement made by any agency or officer or employee of the United States or which serve as a basis for rulemaking by any agency."

S. 2543 and H.R. 12471 do not propose any amendment to Exemption 7, but would add to subsection (b) the "Savings Clause" discussed above.

The courts have agreed that Exemption 7 applies to investigations by regulatory agencies as well as criminal investigations. But there is dramatic disagreement over the question of continued non-disclosure after the specific investigation is completed. The Second Circuit, in *Frankel* v. *SEC*, 460 F.2d 813 (1972), held that investigatory files are exempt from disclosure forever, on the theory that disclosure of investigatory techniques would undermine the agency's effectiveness and would choke off the supply of information received from persons who abhor, for whatever reason, public knowledge of their participation in the investigation. The court found:

"These Reports indicate that Congress had a two-fold purpose in enacting the exemption for investigatory files: to prevent the premature disclosure of the results of an investigation so that the Government can present its stronger case in court, and to keep confidential the procedures by which the agency conducted its investigation and by which it has obtained information. Both these forms of confidentiality are necessary for effective law enforcement." *Id.* at 817.

Other jurists, however, have reached the conclusion that Exemption 7 was intended only to protect against premature disclosure in a pending investigation, and that once the investigation is completed and all reasonably foreseeable administrative and judicial proceedings concluded, the files must be disclosed. We agree with this view.

The fear that disclosure of investigative techniques *in general* will hinder an agency's operations appears to be illusory. The methods used for such investigations are widely known and relatively limited in type and scope. The realistic problems are those we have already met—the need to preserve the identity of sources of information *in particular cases*, the need to assure an impartial trial and to protect reasonable personal privacy. In the context of Exemption 7, there is the additional consideration that premature disclosure of the Government's case will allow the civil or criminal defendant to "construct" his defense.

Against these real problems must be weighed important policy considerations which are by now also familiar—that our political system is premised upon public and congressional knowledge of the Executive Branch's activities; that the policy of agency actions is ultimately established by Congress and the public; that importunate decisions contributions and the like are less likely if the public has access to the record of such decisions.

For these reasons, we conclude that the strict definitions in the earlier proposed amendment to Exemption 7 could not be relied upon to produce the intended result in all cases. For example, the non-exemption of "scientific tests, reports or data" could easily cause disclosure of special techniques or the extent of the Government's knowledge with respect to a particular investigation. Therefore, we recommend amendment of Exemption 7 instead to state the policy considerations which are to be utilized by the agencies and courts with respect to disclosure. The Department of Justice and the ABA Administrative Law Section reached the same conclusion and recommended similar amendments.

For the reasons discussed above, we recommend adoption of the language proposed by the ABA, modified slightly to make it clear that (a) *completed* investigations must be disclosed except where confidential sources of information will be *unavoidably* revealed, (b) only specialized techniques, not generally used in investigations, are protected from disclosure; and (c) the exemption applies to "records" not "files," so that disclosable material is not exempted merely by being placed in an investigatory file. Thus, Exemption 7 would read:

"Investigatory records compiled for law enforcement purposes, but only to the extent that disclosure of such records would (A) interfere with pending or actually and reasonably contemplated enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) unavoidably disclose the identity of an informer, or (D) disclose unique or specialized investigative techniques other than those generally used and known."

FROM THE STATEMENT OF ELLIOT L. RICHARDSON, ATTORNEY GENERAL OF THE UNITED STATES, JUNE 26, 1973

Section 2(d) of the bill would also limit the coverage of the exemption by excluding:

(1) scientific tests, (2) inspection reports relating to health, safety or environmental protection, and (3) any investigatory records which are also used as a basis for public policy statements or rulemaking.

These changes would seriously impair the law enforcement capability of many agencies.

The provision excluding scientific tests, reports or data from the protection of the exemption presents several problems.

First, it could jeopardize the right to an impartial trial by permitting any requestor to obtain and publish any incriminating scientific tests, such as ballistic reports, before the defendant is brought to trial.

Second, because the act does not permit an agency to determine whether a requestor has a rational basis for seeking information, any one could insist on obtaining autopsy reports or other medical reports on victims of crime, which reports may not be exempt under exemption six if the victim is dead.

Because this same information can be obtained in discovery proceedings, in which the need of the individual for the reports is a proper consideration, we do not believe an amendment is necessary.

The provision denying the protection of exemption seven to inspection records relating to health, safety or environmental protection would impede the efforts of agencies to take law enforcement action against offenders.

It would permit offenders to obtain these records and thereby discover all of the details that an agency intends to use against them in any law enforcement action, whether civil or criminal.

Finally, the provision excluding from the coverage of exemption seven records which serve as a basis for public statements or regulations not only would inhibit rulemaking in important regulatory areas but also would restrict the flow of information to the public by discouraging official discussion of public business.

For example, if a Justice Department spokesman announced that on the basis of an investigation by the FBI and the Criminal Division a grand jury would be convened to consider indictments, all of the investigatory reports apparently would no longer be protected by exemption seven.

The protection of this information cannot depend on the continued silence of officials in making public statements or issuing regulations.

If a fresh approach is needed, we suggest that a modified version of the ABA's proposed amendment should be considered along the following lines:

The provisions of this section shall not be applicable to matters that are . . . (7), investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency; *Provided*, That this exemption shall be invoked only while a law enforcement proceeding or investigation to which such files pertain is pending or contemplated, or to the extent that the production of such files would (A) interfer with law enforcement functions designed directly to protect individuals against violations of law, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) disclose the identity of an informant, (D) disclose investigatory techniques and procedures. (E) damage the reputation of innocent persons, or (F) jeopardize law enforcement personnel or their families or assignments.

Mr. KENNEDY. Mr. President, I recommend the adoption of the amendment of the Senator from Michigan.

Mr. HRUSKA. Mr. President, I yield myself 10 minutes to speak in opposition to the amendment.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HRUSKA. Mr. President, again we have a situation here where an amendment is proposed that goes to the substance of a bill which was enacted after years of processing. In 1966, agreement was finally reached among several competing interests in this field for the disclosure of public documents. Those issues were resolved and we have a very well balanced act, the deficiencies of which are such that they called for amendment but amendments which have procedural features rather than substantive features. I do believe that while the public has a right to know, there is also the duty of a government to survive. There must be sufficient safeguards under which officials of our Government can preserve national integrity, security, and public interest, and in the case of the instant amendment, law enforcement.

In my judgment, the approval of this amendment would endanger the passage and approval of this bill into law, and I would urge the Members of the Senate to reject the amendment for that reason and for additional reasons which I shall now recite.

Mr. President, in considering this bill, the Judiciary Committee reviewed an amendment that did not go as far as this one. The committee decided to reject it because it could hinder the FBI in carrying out its law enforcement responsibilities and, further, because the forced disclosure of FBI information could infringe on the individual's right of privacy. I must oppose this amendment for the same reasons.

The FBI has been successful in the past in apprehending criminal offenders and for carrying out its other investigative duties because of one chief and important asset—that is, its ability to obtain information from its informants and private citizens throughout these United States. In many instances it has not solved a crucial case because of deductive reasoning or a specific clue but because a private citizen was not afraid to come forth and offer a piece of information. In the past, the FBI has usually taken the information it receives as a matter of confidence and assured the individual his name would be kept in confidence.

The passage of this proposed amendment would undoubtedly have the effect of inhibiting FBI informants and citizens from coming forth to offer vital bits of information to the FBI. They will no longer feel confident that their names will remain secret from public scrutiny, possibly subjecting them to embarrassment and/or reprisals. The net result will be a crippling effect on the FBI's ability to garner information and obtain successful prosecution in criminal cases.

Moreover, the release of any material into the public domain is likely to cause embarrassment to individuals mentioned in FBI files. This Congress has exhibited a marked increase in the concern for the protection of privacy of U.S. citizens. There are literally dozens of bills being circulated in Congress today with various provisions attempting to protect private citizens from unauthorized disclosure of many Government records which may concern them.

Indeed, I fear that this amendment will work cross-purposes to the bills on criminal justice information systems, such as the measures introduced by the senior Senator from North Carolina (Mr. ERVIN) and this Senator.

The basic thrust of these bills is to maintain the confidentiality of law enforcement records. We have held extensive hearing on these bills and throughout these hearings the point has been repeatedly stressed that information in law enforcement files must be kept in confidence to insure that the individual's right to privacy is secure. Yet, this amendment purports to give anyone the right to request and receive some of these very same records. I can think of no other instance where an amendment to a bill has posed such a grave threat to the very thrust of a major bill that is still in committee and has yet to come to the floor.

Mr. President, the threat to personal privacy that such an amendment poses can already be documented. The Department of Justice has adopted regulations which authorize release of files which are over 15 years old to historical researchers. Like the proposed amendment, the regulations provide that the FBI can delete information which might reveal the identity of informants.

In one instance, a researcher asked for the files on the investigation of Ezra Pound for treason. Pursuant to its regulations, the FBI deleted the names of the informants and other information that it thought could reveal his identity. Yet, the research was so knowledgeable about the facts of the case that he was able to link the information in the file to the actual informants. The researcher then went on in his article to criticize these informers for cooperating with the FBI and squealing on their friend, Pound.

Apart from the merits of it, apart from the justice or injustice of it, Mr. President, if it becomes known that files may be released subject to deletions such as those enumerated in the amendment proposed by the Senator from Michigan, if it becomes known and if by deduction and by the supplying of additional extraneous information those names can, in effect, be restored by a researcher, then the forecast can be readily and reliably made that the sources for FBI information will dry up and become fewer and fewer as time goes on. This was an issue in the Pound case that arose more than 15 years after the file was current. But the Department is finding administrative difficulties with the regulations which have been adopted; regulations which are very similar to those which the Senator from Michigan seeks to put into the concrete form of a statute.

Mr. President, a few more instances like that of the Ezra Pound case and the FBI will be hard put to use informants as legitimate law enforcement techniques.

Mr. President, the FBI is very strongly opposed to this amendment. They focus on the point that their files are investigatory for law enforcement purposes, not for the purpose of writing stories. It is for one purpose only, and that is a law enforcement purpose. Since that is their mission and since enforcement of the

law is a matter of prime importance to this country, this amendment should be denied and rejected.

The proposed amendment would apply to records of any age, including those most recently compiled. And it is commonsense that the more recent the case and the more recent the forced disclosure of the identity of the informant, the more impact such a disclosure will have on other individuals who may wish to do their part to assist the FBI in enforcing the law.

In my judgment, the mere approval of this amendment, even without any further procedures under it, will have that effect, Mr. President, because there will always be the imminent potential that there will be a release of that document and that there will be, through it, notwithstanding the deletion of names, the ability to trace the informant's name, address, and location.

Furthermore, it is going to be very difficult for the FBI to know how much information can be disclosed without exposing an informant. The FBI cannot know the extent of the requester's knowledge on the subject, what other information the requester may have to link certain items to the informants or even the purpose for which the requester wants to use the information.

Mr. President, I yield myself 5 minutes more.

The identification of an informant, even if accomplished by other information, together with a reference that portions of an FBI file were obtained, can strike fear in the hearts of those who already have cooperated with the FBI. This fear will be not only for their reputations but also for their own safety and that of their families.

Mr. President, as I already have mentioned, the FBI is operating under guidelines that apply to records over 15 years old. Those guidelines protect categories of information similar to the categories the proposed amendment purports to protect. However, as is clearly documented, the FBI is experiencing some difficulties under standards which go further and protect more information than those proposed in the amendment. In addition to the problem of revealing informants, it is my understanding that the estate of one individual whose file or portions of it were disclosed intends to bring suit against the FBI for invading the privacy and adversely affecting the reputations of the relatives of the individual.

In my view, we should allow the FBI to have more time to gain more experience in this difficult field before we embalm any standards in a statute. Perhaps some of the problems can be ironed out. Let us legislate on the basis of experience, not on unfounded forecasts of what might occur in the future, and certainly not in the vacuum of saying that the public has a right to know without referring to the rights that society possesses, as well as the rights of private individuals who are involved.

Mr. President, we are dealing in this matter with what I believe to be the most important rights, and in some respect the most important rights, an individual may possess, his right to privacy, and his right to personal safety. This amendment poses a threat to those rights. For that reason, Mr. President, I oppose the amendment, and I urge my colleagues to take the same step when they come to casting their votes.

Mr. President, I ask unanimous consent that there be printed in the RECORD a statement by the distinguished senior Senator from South Carolina (Mr. THURMOND) on this particular subject and on this particular point, he being absent from the Senate on official business.

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

STATEMENT BY SENATOR THURMOND

When the Freedom of Information Act was enacted in 1966, it was well recognized that Congressional intent behind such an Act was directed towards regulatory agencies as distinguished from investigative agencies. This premise is reaffirmed when it is noted that Congress went to great lengths to insure that data contained in investigatory files would not be disclosed to unauthorized agencies or individuals, by specifically listing as one of the nine exemptions to disclosure under the Act exemption seven pertaining to investigatory files. The passage of time has failed to produce worthwhile evidence that would encourage a change from that original stance.

All of us are aware of the general feeling permeating the country that our citizens want to know what their Government is doing and therefore, should have access to the files, of various Governmental agencies. However, by the same token, we are also concerned about a mutual problem of invasion of an individual's privacy. I contend that this fundamental right of privacy is as great, if not greater, than the right owed to the general public for open disclosure.

The FBI, being an investigative agency of the Federal Government, obtains raw, unevaluated data from individuals from all walks of life who furnish this information with the implied or expressed understanding that such information is being furnished the Government in confidence, never to be disclosed unless to an official, authorized individual or agency. Senate Report No. 813 supports this view by stating in part, "it is also necessary for the very operation of our Government to allow it to keep confidential certain material, such as the investigatory files of the Federal Bureau of Investigation." The House, in Report No. 1497 also took note of exemption seven providing protection for data such as that which is contained in the files of the Federal Bureau of Investigation.

This position has also come under judicial review and has been sustained in a number of legal proceedings. In *Weisberg v. Department of Justice*, which involved a suit by Mr. Weisberg for an FBI Laboratory report which was part of the investigation of the assassination of President Kennedy, the court held that once it has been determined by a District Judge that files, "(1) were investigatory in nature; and (2) were compiled for law enforcement purposes, such files are exempt from compelled disclosure." As recently as May 15, 1974, the Supreme Court denied certiorari in this case.

In a more recent case in which some Members of Congress brought suit against the FBI for any data it might have in its files concerning them, the District Court of the District of Columbia held that in regards to background-type investigations conducted on an individual being considered for Federal employment, such investigations are protected from disclosure under the seventh exemption of the Freedom of Information Act. It is clearly apparent that both Congress and the courts have seen the wisdom of excluding from disclosure data contained in investigatory files compiled for law enforcement purposes.

Departmental Order 528–73 which became effective in July of last year, basically provides that although Justice Department investigatory files are exempt from compulsory disclosure, persons engaged in historical research projects will be accorded access to material of historical interest that is more than 15 years old as a matter of administrative discretion. It is my understanding that since July of last year, the FBI has attempted to implement the provisions of this Order, even though it has been confronted with enumerable problems relating to the invasion of an individual's privacy.

"The New York Times" in its April 21st issue, reported that the researcher, who had requested and received data concerning Ezra Pound from the files of the FBI, was successful in identifying a number of individuals who had furnished the Bureau data concerning Pound. This, despite the fact that the names and addresses of such individuals, as well as other pertinent identifying data, were deleted from the information furnished. The researcher went on and not only identified the individuals furnishing information to the FBI by name, but also described the data they gave as well as expressed surprise that Pound's "closest friends" cooperated with the FBI. This points out the futility of attempting to protect a source of information, by deleting identfying data, from an experienced researcher who can easily put the pieces of the puzzle together.

Disclosures of this type of information can only hinder the investigative responsibilities of the FBI or those of similar agencies whose primary responsibility is to investigate criminal activities. The FBI has always staked its high reputation on the fact that information given to it in confidence is kept secret. It is just such assurance as this that encourages individuals from all walks of life to furnish this agency information felt to come within its investigative responsibilities. If we now attempt, through legislation, to discourage such people from reporting to their Government violations of law because of fear that their identities will be made public, we will be doing a disservice to our country.

Therefore, I am unalterably opposed to any amendment which will weaken the investigative effectiveness of the FBI or other agencies responsible for investigating criminal activities, by shutting off one of their greatest source of information—the American public.

Mr. HART. Mr. President, I yield 10 minutes to the distinguished Senator from Connecticut.

Mr. HRUSKA. Mr. President, will the Senator yield half a minute to me on my time?

Mr. WEICKER. I yield to the distinguished Senator from Nebraska.

Mr. HRUSKA. Mr. President, reference was made to the standards set forth in the amendment which the Senator from Michigan has offered as an American Bar Association proposal. That suggestion was not made by the Senator from Michigan. He correctly described it as a position recommended by the administrative law section of the American Bar Association. All of us who are familiar with the proceedings of that association know that that section, when it

reports to the House of Delegates, thoroughly canvass and make their effort an additional process. After it has been carefully considered and recommended, it then goes to the House of Delegates.

The Senator has correctly described it. However, it has come to be known as an American Bar Association proposal, and it is not.

Mr. WEICKER. Mr. President, I wish to speak in favor of the amendment offered by the distinguished Senator from Michigan. I think it is a great amendment. I think it relates to a matter that should have received our attention and the attention of the American people a long time ago. If it had and if we had acted, many of the abuses which we place under the heading of Watergate would never have occurred.

Mr. President, I notice in the memorandum distributed by the Federal Bureau of Investigation to various members of the U.S. Senate, a statement is made in opposition to the amendment of the Senator from Michigan, that the Hart amendment would:

> Destroy the confidence of the American people in the Federal investigative agencies.

I have been asked by many young people in my State as to what for me was the greatest surprise of Watergate. I have responded by saying that the greatest revelation was the fantastic scope and quality of abuses committed by the Federal law enforcement and intelligence community; that these various agencies—be they the FBI, the CIA, the military intelligence, or the Secret Service—had escaped accountability for such a long period of time that it was only a matter of time before the little acknowledgements and the little favors snowballed into the types of massive abuses which surfaced before the Senate Select Committee.

There is nothing stated in the Constitution which places any of our law enforcement agencies in some special status separate and apart from either the executive, or congressional or judicial branches.

Yet there is not one Senator who can attest to the fact that we have exercised the type of supervision and have demanded the type of accountability of these agencies as we do of other agencies of the Government. Slowly but surely, as our legislative processes mature, one after another of the sacred bureaucratic cows comes tumbling down. And as they have, we have produced better government.

How long ago was it, for example, that it would have been unpatriotic for us to question the Defense Department? Now, we are long over that hurdle, and we have better defense because of it.

It was not too long ago that we could not question our foreign policy. We will have better foreign policy because Congress participates.

The time is long overdue to say that the intelligence agencies are performing a special function, and that we should not be a part of that function.

Abuses committed are our responsibility because there is nothing in the Constitution that says that we should not act. Rather, it is our responsibility to achieve accountability, to exercise supervision over all agencies of Government.

So when the Senator stated that it would destroy the confidence of the American people in the agencies and that that was a reason to be against the amendment, let me say that the American faith in those agencies has never been at a lower point, because we have never had the type of legislation as is contained in the amendment offered by Senator HART this afternoon.

I have already made the statement to the Senator from Michigan and the Senator from Massachusetts that I consider the amendment too weak.

My feeling is that supervision ought to be direct and not via the courts. When I am elected a U.S. Senator from the State of Connecticut, I have my security clearance. It could be that I am a crook or in the pay of a foreign government. Sorry about that. That is one of the risks of a democracy. However, I have faith in that the democratic process minimizes that possibility.

When a man or woman is elected, he or she represents the people. And he or she is the one who should supervise. That is the democratic way.

We should make sure that we get into what every Government agency is doing. Otherwise, how can we tell whether they are performing their function under the Constitution? I cannot assure my constituents that I am performing my duty if I am not allowed to look here or not allowed to look there.

So by our nonaction we have built up a new type of government. It operates under a new Constitution, and that new Constitution and that new type of Government brought us Watergate.

Let me say this insofar as law enforcement is concerned. I remember well an interview several years back Justice Black had with Martin Agronsky.

Martin turned to Justice Black and said:

> Because of these recent Supreme Court decisions, doesn't it make it more difficult to convict an individual of any particular crime or, to put it in the words of others, aren't you being soft on the criminal?

Justice Black responded, he said:

> Well, of course, it makes conviction more difficult. Have you read the Bill of Rights? The fact that a man is entitled to counsel makes it more difficult to convict him. The fact that you have a right as an American to a trial by jury makes it more difficult to convict an individual.

He went down the whole list of rights that we, as Americans, had, and which makes it more difficult to close that prison door on any one of us.

That is the view that he took upon our rights as American citizens, in making it more difficult, to incarcerate an American.

I make no bones about the fact that from a law enforcement and efficiency standpoint, ours is a very inefficient system of government because its whole emphasis is on the individual rather than society as a whole.

I have heard this term, "What's good for society." If that is the focus, we have lost the greatness that is ours as a nation; for, we have achieved a strength way beyond our head count because each of us has been allowed to flourish, as an individual rather than as a dot in a mob.

It is an inefficient form of government, but a very great form of government.

So I correlate this to what sits before us insofar as this amendment is concerned.

Yes, it is going to make the job of the law enforcement agencies more difficult in that it brings them out into the open. But, let me assure you, the far greater danger lies behind closed doors and in locked files. None of the abuses that we have seen come out of this system would have happened if more people, more eyes, more ears, had been on the scene, I would hope this body would adopt the amendment of the distinguished Senator from Michigan (Mr. HART) because to sit and groan as to all the horrible things that have happened without action would be ludicrous. A finger-pointing exercise insofar as the executive branch of Government is concerned is not good enough. Congress has to have the guts to stand up and say, "We are doing something." We cannot do something by traveling the old ways.

What is expected of each of us now is that we stand up and look where we have not looked before, and that is exactly what this amendment attempts to achieve, and why it is supported so wholeheartedly. It is not antilaw enforcement, and it is not antipatriotic. This amendment is democracy. This amendment is the patriotism that I stand for.

I thank the distinguished Senator from Michigan.

Mr. HART. Mr. President, I have felt very strongly that this amendment was sound and desirable. I salute the Senator from Connecticut. I have no doubt this is precisely the way we must go. I wish very much, others had been free to hear him.

The Senator from Nebraska correctly cautions us that there is an obligation and a duty and a right of a government to survive. But survival for a society such as ours hinges very importantly on the access that a citizen can have to the performance of those he has hired. That is important to the survival of government, too. That is what this amendment seeks to do. As the Senator from Connecticut stated so eloquently, this is really the meat and potatoes of the society that we so often describe as a free society.

I reserve the balance of my time.

Mr. HRUSKA. Mr. President, I yield myself 5 minutes.

Mr. President, the first duty of a nation is to survive. We figure that usually in terms of national defense where we are supposed to be equipped with such weapons and such military forces that we will be able to withstand and successfully resist invasion.

Yet, it has been written many, many times in political history and in philosophical government discussions that if this Nation is going to fall it is not going to fall because of external pressure or invasion from without. It is going to fall because of events that happened within

its interior, and we have witnessed here for the last several decades an on-rush and an increase in crime and increasing problems in the field of law enforcement.

Mr. President, as against any individual rights to see what is in an FBI file, such as those to which we were just referred by the senior Senator from Michigan, what is the price for giving individual citizens' a right to go into Government files. There will be a continued and increasing inability of the Government to deal with violators of the law and enforcement of the law, that price is unacceptable, totally unacceptable. This Nation cannot survive if we are not able to deal with the lawless elements.

It is nice to say that our freedoms are valuable and we must have the right to know and to do this and that or the other thing, but if, in the process of getting those things we are going to be unable to deal wtih organized crime, if we are going to be unable to deal with those who wilfully violate our criminal laws and we impair the tools or even do away with the tools that we have available to us now for the purpose of dealing with those violators of law, then indeed we will have been very, very misguided in this business of trying to see that the Nation survives.

I say again that the adoption of this amendment, together with the adoption of the amendment offered here by the Senator from Maine (Mr. MUSKIE), Mr. President, will gravely endanger the enactment and the effectiveness of the bill before us today.

The better course of wisdom earlier this afternoon would have been to put the substance of the amendment of the Senator from Maine (Mr. MUSKIE) on a separate and independent basis.

That same thing is true in reference to the pending amendment. Let us put this Freedom of Information Act into a position where it can operate effectively, efficiently and for its declared purposes in those areas upon which we find agreement, and then go onto the proposition of taking substantive amendments to the Freedom of Information Act and treating them on their own merits.

They are two separable problems, and I say the price is just too high; it is too high to pay to try to treat the whole subject in one bill when the passage and the approval of certain of these amendments will actually endanger its becoming law.

It is my hope that the amendment will be defeated.

Mr. WEICKER. Mr. President, will the distinguished Senator from Nebraska yield for a question?

Mr. HRUSKA. I am happy to yield.

Mr. WEICKER. The distinguished Senator from Nebraska refers to the increase in lawlessness, and so forth. How do we deal, since these matters have come to our attention of late, with the lawless elements within the Federal Bureau of Investigation, within the CIA, within military intelligence, within the Secret Service, within the Internal Revenue Service? How do we deal with lawless elements within those Government agencies?

Mr. HRUSKA. The pending amendment does not bear upon that in any way whatsoever, because if we are going to say they must all function in the open, they must all function in total frankness and with total public disclosure, there may well be an erosion of our law-enforcement capabilities.

The answer to the question is simply this: There are regular oversight practices and procedures available to the Congress for the purpose of investigating these abuses, if they are abuses, that come to light. Furthermore, criminal abuses can be prosecuted in the courts.

I cite the case of the narcotics agents in Illinois, who allegedly raided a wrong address in search of heroin or whatever the controlled substance was. For awhile, it was said they may have infringed upon the rights of the individuals. They were tried in court. They were tried in court for lawless entry and a violation of law. Those issues were submitted to a jury and they were found innocent.

Yes, bring to court Government officials who abuse the law if there is any violation of law. Furthermore, as I earlier indicated, we also have adequate procedures here in Congress. We have legislative oversight committees.

Mr. WEICKER. I do not believe that the amendment of the Senator from Michigan involves throwing the FBI open to the mob. The amendment of the Senator from Michigan, as I understand it, employs regular court procedures, Mr. President, and is very restrictive and specific.

I repeat my question: How do we find out? How do we find out unless we have access to information as to the lawlessness that could take place or has taken place in the agencies? How do we find out?

Mr. HRUSKA. There are ways of doing it. We have legislative oversight. We have the courts to resort to where there is a violation of law.

But, Mr. President, there is a more fundamental question involved here: How are we going to find out about illegal doings of the law enforcement agencies?

I ask this question, to which I should like an answer from the Senator from Connecticut: How are we going to investigate effectively violations of law, how are we going to investigate organized crime when, if this amendment is passed, individuals will say, "Nothing doing, Mr. FBI, because if we give you a statement, it will be in that file, and there will be a court order saying that the file should be disclosed. My name may be deleted but there are other ways to find out, and they may identify me, threaten my family, or myself." These are not possibilities I am dreaming up. They can be documented by the examples I referred to earlier.

The question is, therefore, how are we going to investigate successfully to the prosecutorial and conviction stage the violation of law at large in the community?

It is a big, a massive, and a serious proposition, as all of us know.

Mr. WEICKER. I am glad to respond to the Senator from Nebraska. The fact is, there has not been a good job done in those areas of law enforcement where the agencies operated illegally. The problem is that in the quest for law and order, case after case after case after case has been thrown out because the law enforcement and intelligence communities acted illegally. So I do not think we attain any particular status of accomplishment in conquering organized crime, or any crime whatsoever for that matter, with illegal activities resulting in cases being thrown out of court.

I would suggest that the record speaks for itself. Frankly, I never thought the record of former Attorney General Ramsey Clark was that good. But, comparing his record with that achieved by succeeding Attorneys General, he looks like Tom Dewey in his prosecutorial heyday.

Mr. HRUSKA. That record is bad, but do we want to make it worse by adopting this amendment which threatens to tie the hands of the FBI and dry up their sources of information? I say, with that, the soup or the broth is spoiled, and I see no use in adding a few dosages of poison.

The pending amendment should be rejected.

Mr. KENNEDY. Mr. President, I do not recognize the amendment, as it has been described by the Senator from Nebraska, as the amendment we are now considering. I feel there has been a gross misinterpretation of the actual words of the amendment and its intention, as well as what it would actually achieve and accomplish. So I think it is important for the record to be extremely clear about this.

If we accept the amendment of the Senator from Michigan, we will not open up the community to rapists, muggers, and killers, as the Senator from Nebraska has almost suggested by his direct comments and statements on the amendment. What I am trying to do, as I understand the thrust of the amendment, is that it be specific about safeguarding the legitimate investigations that would be conducted by the Federal agencies and also the investigative files of the FBI.

As a matter of fact, looking back over the development of legislation under the 1966 act and looking at the Senate report language from that legislation, it was clearly the interpretation in the Senate's development of that legislation that the "investigatory file" exemption would be extremely narrowly defined. It was so until recent times—really, until about the past few months. It is to remedy that different interpretation that the amendment of the Senator from Michigan which we are now considering was proposed.

I should like to ask the Senator from Michigan a couple of questions.

Does the Senator's amendment in effect override the court decisions in the court of appeals on the Weisberg against United States, Aspin against Department of Defense; Ditlow against Brinegar; and National Center against Weinberger?

As I understand it, the holdings in those particular cases are of the greatest concern to the Senator from Michigan. As I interpret it, the impact and effect of his amendment would be to override those particular decisions. Is that not correct?

Mr. HART. The Senator from Massachusetts is correct. That is its purpose. That was the purpose of Congress in 1966, we thought, when we enacted this. Until about 9 or 12 months ago, the courts consistently had approached it on a balancing basis, which is exactly what this amendment seeks to do.

Mr. President, while several Senators are in the Chamber, I should like to ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. KENNEDY. Furthermore, Mr. President, the Senate report language that refers to exemption 7 in the 1966 report on the Freedom of Information Act—and that seventh exemption is the target of the Senator from Michigan's amendment—reads as follows:

Exemption No. 7 deals with "investigatory files compiled for law enforcement purposes." These are the files prepared by Government agencies to prosecute law violators. Their disclosure of such files, except to the extent they are available by law to a private party, could harm the Government's case in court.

It seems to me that the interpretation, the definition, in that report language is much more restrictive than the kind of amendment the Senator from Michigan at this time is attempting to achieve. Of course, that interpretation in the 1966 report was embraced by a unanimous Senate back then.

Mr. HART. I think the Senator from Massachusetts is correct. One could argue that the amendment we are now considering, if adopted, would leave the Freedom of Information Act less available to a concerned citizen than was the case with the 1966 language initially.

Again, however, the development in recent cases requires that we respond in some fashion, even though we may not achieve the same breadth of opportunity for the availability of documents that may arguably be said to apply under the original 1967 act.

Mr. KENNEDY. That would certainly be my understanding. Furthermore, it seems to me that the amendment itself has considerable sensitivity built in to protect against the invasion of privacy, and to protect the identities of informants, and most generally to protect the legitimate interests of a law enforcement agency to conduct an investigation into any one of these crimes which have been outlined in such wonderful verbiage here this afternoon—treason, espionage, or what have you.

So I just want to express that on these points the amendment is precise and clear and is an extremely positive and constructive development to meet legitimate law enforcement concerns. These are some of the reasons why I will support the amendment, and I urge my colleagues to do so.

The PRESIDING OFFICER (Mr. DOMENICI). The Senator from Nebraska has 6 minutes remaining.

Mr. HRUSKA. Mr. President, I should like to point out that the amendment proposed by the Senator from Michigan, preserves the right of people to a fair trial or impartial adjudication. It is careful to preserve the identity of an informer. It is careful to preserve the idea of protecting the investigative techniques and procedures, and so forth. But what about the names of those persons that are contained in the file who are not informers and who are not accused of crime and who will not be tried? What about the protection of those people whose names will be in there, together with information having to do with them? Will they be protected? It is a real question, and it would be of great interest to people who will be named by informers somewhere along the line of the investigation and whose name presumably would stay in the file.

Mr. President, by way of summary, I would like to say that it would distort the purposes of the FBI, imposing on them the added burden, in addition to investigating cases and getting evidence, of serving as a research source for every writer or curious person, or for those who may wish to find a basis for suit either against the Government or against someone else who might be mentioned in the file.

Second, it would impose upon the FBI the tremendous task of reviewing each page and each document contained in many of their investigatory files to make an independent judgment as to whether or not any part thereof should be released. Some of these files are very extensive, particularly in organized crime cases that are sometimes under consideration for a year, a year and a half, or 2 years.

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

The PRESIDING OFFICER. All time of the Senator has expired.

Mr. KENNEDY. I yield the Senator 5 minutes on the bill.

Mr. HART. Mr. President, I ask unanimous consent that a memorandum letter, reference to which has been made in the debate and which has been distributed to each Senator, be printed in the RECORD.

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

MEMORANDUM LETTER

A question has been raised as to whether my amendment might hinder the Federal Bureau of Investigation in the performance of its investigatory duties. The Bureau stresses the need for confidentiality in its investigations. I agree completely. All of us recognize the crucial law enforcement role of the Bureau's unparalleled investigating capabilities.

However, my amendment would not hinder the Bureau's performance in any way. The Administrative Law Section of the American Bar Association language, which my amendment adopts verbatim, was carefully drawn to preserve every conceiveable reason the Bureau might have for resisting disclosure of material in an investigative file:

If informants' anonymity—whether paid informers or citizen volunteers—would be threatened, there would be no disclosures;

If the Bureau's confidential techniques and procedures would be threatened, there would be no disclosure;

If disclosure is an unwarranted invasion of privacy, there would be no disclosure (contrary to the Bureau's letter, this is a determination courts make all the time; indeed the sixth exemption in the Act presently involves just such a task);

If in any other way the Bureau's ability to conduct such investigations was threatened, there would be no disclosure.

Thus, my amendment more than adequately safeguards against any problem which might be raised for the Bureau. The point is that the "law enforcement" exemption has been broadly construed to include any investigation by a government agency of a federally funded or monitored activity. The courts only require that the investigation might result in some government "sanction" such as a cutoff of funds—and not necessarily a prosecution. The investigations of auto defects, harmful children's toys, or federally-assisted hospitals could all be hidden completely from public view, and from criticism of government inaction or favoritism, unless my amendment is adopted. This is the danger which the ABA proposal seeks to correct. These are rarely FBI investigations.

Beyond these legitimate concerns, the Bureau's letter presents arguments which reject the entire Freedom of Information Act and all efforts by the press and the public to find out what their government representatives are actually doing.

The Bureau objects that government employees would have to review files to determine whether disclosure would really be harmful, and that someone might sue if he disagrees with an agency's refusal.

But the fundamental premise of the Freedom of Information Act is precisely that the opportunity to seek information is essential to an informed electorate. It is also axiomatic that an official should not be the sole judge of what he must disclose about his own agency's activities.

Surely if the events of the last two years, collectively known as Watergate have taught us anything, they have underlined vividly the wisdom of these two assumptions.

Sincerely,

PHILIP A. HART.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL) and the Senator from Rhode Island (Mr. PASTORE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. BUCKLEY), and the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

I also announce that the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. FANNIN), and the Senator from South Carolina (Mr. THURMOND) are absent on official business.

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

The result was announced—yeas 51, nays 33, as follows:

[No. 220 Leg.]

YEAS—51

Abourezk	Hatfield	Nelson
Aiken	Hathaway	Packwood
Bayh	Humphrey	Pearson
Beall	Jackson	Percy
Biden	Javits	Proxmire
Brooke	Kennedy	Ribicoff
Burdick	Magnuson	Roth
Case	Mansfield	Schweiker
Chiles	Mathias	Stafford
Church	McGee	Stevens
Clark	McIntyre	Stevenson
Cook	Metcalf	Symington
Cranston	Metzenbaum	Taft
Eagleton	Mondale	Tunney
Fong	Montoya	Weicker
Hart	Moss	Williams
Haskell	Muskie	Young

NAYS—33

Allen	Curtis	Johnston
Baker	Dole	Long
Bartlett	Domenici	McClellan
Bellmon	Eastland	Nunn
Bentsen	Ervin	Randolph
Bible	Goldwater	Scott, Hugh
Brock	Griffin	Scott, William L.
Byrd, Harry F., Jr.	Gurney	Stennis
Byrd, Robert C.	Hansen	Talmadge
Cannon	Helms	Tower
Cotton	Hruska	
	Huddleston	

NOT VOTING—16

Bennett	Hartke	Pastore
Buckley	Hollings	Pell
Dominick	Hughes	Sparkman
Fannin	Inouye	Thurmond
Fulbright	McClure	
Gravel	McGovern	

So Mr. HART'S amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President——

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I yield to the Senator from Pennsylvania without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HUGH SCOTT. Mr. President, I thank the Senator from Massachusetts.

The PRESIDING OFFICER. Will the Senator suspend? Who yields time?

Mr. KENNEDY. I yield 5 minutes to the Senator from Pennsylvania, or whatever time he needs.

PROGRAM

Mr. HUGH SCOTT. Mr. President, I rise to inquire of the distinguished majority leader what is the order of business for today and for the near future, expressing the hope that perhaps it may not be necessary to be in session tomorrow. The distinguished majority leader did not know I was going to say that.

Mr. MANSFIELD. That is correct, but we are going to be in tomorrow, I am happy to state to my friend the distinguished Republican leader.

Mr. HUGH SCOTT. I have discharged my duty to my colleagues.

Mr. MANSFIELD. It is anticipated that tonight, after the disposition of the pending business, we will take up the Big Thicket National Preserve, and I would hope that the two Texas Senators would be in attendance at that time.

Following that, we will take up the House message relating to the Productivity Commission tomorrow.

Following that, S. 3433, the national wilderness preservation system.

I must apologize to the distinguished dean of the Republicans, the senior Senator from Vermont (Mr. AIKEN), and to notify him that, after many months, finally, after the original bill was reported February 15, 1973, it is the intention to call up this collateral measure, Calendar 771, S. 3433, tomorrow. It takes me a long time to attend to my good friend and colleague, my breakfast companion for many years, but tomorrow is the day.

Mr. AIKEN. Mr. President, I will say that this bill has been worked over and worked over and worked over for 15 months now. If it is to be worked over some more, there will not be any bill this session of Congress. It so happens that when you meet somebody's request and write it into the bill, someone will come up later, after someone has gotten to him, and he will say, "We want that different."

As far as any differences between the West and the East are concerned, they have been resolved, and I am very appreciative of that. I think the bill should be passed now if we are going to make a start, setting out some 246,000 acres in the Eastern States, and a study of another 400,000 acres. The East does not have any of these areas and we think it is time we did.

As soon as we reach full agreement, somebody comes along with another proposal and it is delayed another month or two; and there is no more time for delay now.

Mr. MANSFIELD Mr. President, may I say I was joking when I said I was yielding to pressure, because the Senator from Vermont understands that I am keeping a promise made before the Memorial Day recess that it would be taken up when we return.

Then, of course, conference reports and other bills on the calendar will be taken up, and it is anticipated that the defense authorization bill will be laid before the Senate tomorrow. Perhaps opening statements will be made, but no action will be undertaken until Monday next.

AUTHORIZATION FOR COMMITTEE ON FINANCE TO REPORT H.R. 8215 BY MIDNIGHT

Mr. MANSFIELD. Mr. President, I also ask unanimous consent at this time, with the consent of the Senate, that the Committee on Finance have until midnight to report H.R. 8215.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. This is a minor tariff bill to which has been appended an amendment having to do with the common fund. I understand that this bill has come out of the Committee on Finance unanimously. I see the distinguished Senator from Wyoming over there.

May we have order, Mr President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MANSFIELD. And it is my understanding that the so-called common fund has to do with college investments made up of private donations and that if it is not attended to shortly, it would create economic hardships on the colleges to be involved.

So I would hope—and this, of course, would be subject to the approval of the Senate—that when that bill is reported out of committee tonight and is on the calendar tomorrow, with that kind of a time limiting factor, the usual consideration will be given to the possibility of perhaps taking it up tomorrow.

May I say, if there are any other amendments to be offered, I will pull it off the calendar and we will turn to some other measure—with the proviso of some minor tariff measure having to do with shoe leather, because this matter is very important to colleges that are dependent upon private funds to survive.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HUGH SCOTT. Mr. President, will the distinguished Senator yield me an additional 5 minutes?

Mr. KENNEDY. Yes, I yield such time as the Senator may need.

PROGRAM—CONTINUED

Mr. HUGH SCOTT. The distinguished majority leader referred to the Big Thicket.

Mr. MANSFIELD. Yes.

Mr. HUGH SCOTT. Many of my colleagues have mentioned that we seemed to be going through some sort of little thicket. While I certainly would not characterize it as legislation of the feline persuasion, I am delighted that the distinguished majority leader has mentioned the defense authorization bill, because we need to get our teeth into the "big ones," as the Senator is aware, and as the whole Senate is aware, if we are going to get our work done before the recesses we have been assured of getting.

I hope that following the defense authorization bill, if there are any other "Big Thickets" in the vicinity, they will be brought in at the earliest possible time, and I know he will receive the cooperation of the minority and of the ranking Republican members of the committees in that regard.

Mr. MANSFIELD. Yes, indeed. May I express my thanks to the distinguished Republican leader and to other Senators for the accommodation and understanding they have shown in helping clear the calendar as much as possible so that we can get our work done insofar as it is possible to do so. But I think I should say, in all candor, that after the defense authorization bill is disposed of, it is anticipated calling up H.R. 8217, to which there will be some amendments proposed and which will entail some debate.

Mr. HUGH SCOTT. May I ask what that bill is?

Mr. MANSFIELD. A bill to which POW tax amendments and depreciation allowances may well be offered.

Mr. HUGH SCOTT. I thank the distinguished majority leader.

Mr. President, I am not responsible for the expletive deleted there.

ORDER FOR ADJOURNMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business tonight, it stand in adjournment until the hour of 12 noon tomorrow.

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

AMENDMENT OF FREEDOM OF INFORMATION ACT

The Senate continued with the consideration of the bill (S. 2543) to amend section 552 of title 5, United States Code, commonly known as the Freedom of Information Act.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. KENNEDY. Mr. President, I yield myself 1 minute.

The Senator from Kansas has mentioned to me an amendment which he was considering offering to expand one of the exemptions dealing with medical research, and its relationship to the category of confidential information. Although we have no specific information about its impact at this time, I have indicated that I will work with him to review the proposal and make a determination as to its merit. The Senator would then have the opportunity to offer his amendment at a later time, perhaps to a health bill that will be pending.

Mr. DOLE. Mr. President, based on that assurance, I would like to commend the Judiciary Committee's Subcommittee on Administrative Practice and Procedure, under the very capable leadership of the distinguished Senator from Massachusetts (Mr. KENNEDY), for its work on this bill to refine the provisions of the Freedom of Information Act.

I think they quite properly endeavored to correct some of the many problems of implementation created by the deficiencies and shortcomings of the existing law under section 552 of title 5, United States Code. However, I am concerned that, as spelled out on the first page of its report, the committee chose not to approach and attempt to resolve the difficulties emanating from the "exceptions to disclosure" contained in subsection (b) of the relevant section.

They did so, apparently, on the premise that such "exceptions" had been substantially clarified through numerous reported court decisions. I would have to take issue with this position, particularly as it involves item 4 pertaining to "trade secrets," and the definition thereof. For there are many yet unsettled questions in this area, probably as the result of our failure to adequately specify by statute exactly what is meant by such a "secret."

Accordingly I had considered offering to S. 2543 the following amendment to which Senator KENNEDY has referred:

On page 17, between lines 12 and 13, insert the following new subsection:

Section 552(b)(4) of title 5, United States Code, is amended to read as follows:

"(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential, including applications for research grants based on original ideas."

Mr. President, very briefly, this was a simple amendment intended to clarify in part the application of the Freedom of Information Act as it directly relates to research grants. I have received several letters on this subject from Kansas educators—especially those associated with medical or other scientific investigations—all expressing criticism of the act's interpretation and ultimate impact on original experimental project studies.

COMPETITION IN RESEARCH

Basically, their arguments have been that research, like any other free enterprise, is highly competitive. And while individuals capable of performing experiments using the ideas of others are rather plentiful, creative individuals with new ideas of their own are much less common. Therefore, it is extremely important that the ideas of such investigators be protected.

It seems to me, then, that the scientist who applies for a research grant, based on his original idea, should not have to risk the exposure of that notion in a public document for anyone to test before he himself has the opportunity to be awarded funds to perform the necessary experiments; that is, the confidentiality of an application for a research grant being the integral part of the granting process that it is, the safeguarding of the ideas contained therein should be imperative.

PROTOCOL OF GRANT APPLICATIONS

This very standard has been generally invoked in the past, as described by Dr. John F. Sherman, Deputy Director of National Institutes of Health, during his testimony before a House subcommittee surveying the granting process in hearings of June 1972. Certain portions of his remarks are particularly pertinent, I think, and merit the attention of my colleagues.

Reading from his statement, Dr. Sherman said that—

The information provided in grant applications submitted to the NIH is treated as confidential. Because research scientists and academic clinicians owe their advancement and standing in the scientific community to their original research contributions, their creative ideas are of critical importance and research scientists carefully protect their ideas. Thus, to the scientists and to the research clinician, research designs and protocols are regarded and treated as proprietary information, just as trade secrets are protected by the commercial and industrial sector.

If we are to encourage vigorous competition in health research, the NIH must respect applicants' ideas and protect them. If they could not be assured of this confidentiality, we believe the NIH review system and its encouragement of scientific competition could not be sustained. Scientists would not supply the explicit details of their proposed research approach and methodology essential for competent review, and the NIH ability to obtain effective evaluation of scientific merit for further programmatic judgments would be markedly hampered.

Mr. President, I ask unanimous consent that the remaining selected extracts of Dr. Sherman's testimony be included in the RECORD at this point.

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

PARTIAL EXTRACT OF TESTIMONY OF DR. JOHN F. SHERMAN, DEPUTY DIRECTOR, NATIONAL INSTITUTES OF HEALTH, DURING HEARINGS BEFORE A SUBCOMMITTEE OF THE COMMITTEE ON GOVERNMENT OPERATIONS

FLOW OF INFORMATION TO THE PUBLIC REGARDING THE RESEARCH GRANT PROGRAM

1. Applications

While the substance of the research grant applications is considered to be privileged information, a notice of the application is sent to the science information exchange. The science information exchange is an informational system operated by the Smithsonian Institution.

Section 1 of the research grant application is entitled "Research Objectives." This particular sheet contains no privileged information. It includes the name and address of the applicant organization as well as the name and other pertinent information regarding the professional personnel engaged on the project, the title of the project, and an abstract of the proposed project which has been prepared by the principal investigator.

This sheet is sent to the science information exchange and is available from them when the project is funded. The public, particularly the scientific community, may request that information about individual projects or aggregates of projects from that organization. At the time an award is made, this information is also provided to the SSIE, plus information regarding the dollar amount of the award.

2. Research grant awards

Public notices of the research grants awarded by the NIH are made available in a number of publications:

(*a*) Each year a cumulative list of awards made during the previous fiscal year is published in a series of volumes entitled "Public Health Service Grants and Awards" through the U.S. Government Printing Office. Data with regard to the awards are broken down in a number of fashions. Principally, however, this is by institution, by States, by principal investigator, the project title, the initial review group, the grant number, and the dollar amount.

(*b*) The Division of Research Grants also issues a two-volume series each year entitled "Research Grants Index," which displays the grant awards by major rubric headings, such as arthritis, brain injury, gastrointestinal circulation, et cetera. The research grants are also indexed by number and alphabetical listings of investigators.

(*c*) In addition to these formal publications, interim listings of grant awards are also available to interested individuals or organizations, including members of the press. Notice of a grant award is also sent to the congressional Representative in whose district the grantee institution is located.

3. Notification to principal investigator re applications which are disapproved or "approved but not funded"

For those applications which are disapproved or, though approved are not awarded, information summarizing the reviewer's opinions regarding scientific merit will be sent to the principal investigator upon his

request. Since this information relates to the original ideas of the principal investigator and reflects on his qualifications as a scientist, it is not released to any other request or without the principal investigator's consent.

Mr. DOLE. Mr. President, in spite of this practice in the treatment of grant applications, the courts have, unfortunately, not always seen fit to accept it as being in compliance with the Freedom of Information Act provisions. And I think this may be due in great part to the vague language used in the previously mentioned "exemptions" subsection.

In fact, in ruling last November that privileged research grant information must be made public, U.S. District Judge Gesell admonished Congress for its "* * * imprecise and poorly drafted freedom of information statute." I believe the entire backdrop and rationale of that decision—which is currently on appeal—is important in the consideration of this amendment, and ask unanimous consent that the complete memorandum opinion and order be printed in the RECORD.

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

[U.S. District Court for the District of Columbia—Civil Action No. 1279–73]

WASHINGTON RESEARCH PROJECT, INC., PLAINTIFF, VERSUS DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, AND CASPAR W. WEINBERGER, DEFENDANTS

MEMORANDUM OPINION

Plaintiff invokes the Freedom of Information Act, 5 U.S.C. § 552, and seeks to compel production of certain records from the Department of Health, Education, and Welfare and one of its constituent agencies, the National Institute of Mental Health (NIMH). An injunction and declaratory judgment are sought. Plaintiff's written request for production, inspection and copying of specified records has been fully processed through appropriate administrative channels and the issues are accordingly properly before the Court, which has jurisdiction under 5 U.S.C. § 522(a)(3).

On April 13, 1973, plaintiff requested, with detailed specification, documents relating to eleven designated research grants by the Psychopharmacology Research Branch of NIMH for studies on the drug treatment of children with learning difficulties or behavioral disorders, particularly hyperkinesis. All but two of the research grants involve the use of one or a combination of stimulant or anti-depressant drugs, including methylphenidate (Ritalin), dextroamphetamine, thioridazine and imipramine, on selected school age and/or pre-school children.

All of the grants are administered by public or private non-profit educational, medical or research institutions. None of the grants is concerned with the production or marketing of the drugs being tested. Their purposes include the determination of optimal dosage levels and treatment schedules; the identification of possible harmful side effects such as drug addiction and loss of weight; the measurement of the effect of different drugs on learning, including the existence of state-dependent learning; and the development of improved assessment techniques to measure the efficacy of drug treatment on children.

Following a series of conferences and administrative actions, which need not be reviewed here in any detail, a considerable number of documents were furnished. However, as of July 27, 1973, the following categories of documents were still being withheld, and it is upon these that the litigation has finally focused:

(a) with regard to previously approved grant applications, the narrative statement and any related exhibits describing in detail the research plan to be followed (sometimes referred to as the research protocol or research design);

(b) with regard to previously approved continuation, renewal or supplemental applications, the comprehensive progress reports describing the results and accomplishments of the projects since the last such report;

(c) the entire text of all site visit reports and "pink sheets" prepared by outside consultants and NIMH staff during the agency review of the applications;

(d) the entire text of all continuation and renewal applications which have not yet been approved.

For the purposes of analysis, these various documents will be referred to simply as grant applications, site visit reports, and "pink sheets."

After some discovery, the matter came before the Court for final hearing under an arrangement developed at a status conference. The parties presented *in camera* a portion of a single grant file marked to show the type of information defendant believes may properly be withheld under the Act. This file, as marked, was also given plaintiff informally. It was agreed that the determinations made by the Court based on this example would control the disposition as to other similar material covered by plaintiff's request and presently withheld. After the record was completed, the parties presented argument and were allowed to file post-trial briefs.

I. NIMH grant procedures

Before turning to the conflicting interpretations of the Freedom of Information Act presented by the parties, the nature of the material requested must be elaborated and its significance in the chain of the grant process explained.[1]

The National Institute of Mental Health operates a dual system of review for all major research projects. The first stage involves the initial review group (sometimes called a study section or review committee), made up of from 10–20 nongovernmental technical consultants, who are appointed by the Director of NIMH for overlapping terms of up to four years. Each branch or center of the NIMH is served by one or more review groups qualified in a specific field. There are approximately 20 NIMH review groups for research project grants, as well as review groups for long-term program grants, small grants, fellowships and training. There is an Executive Secretary for each review group who is an NIMH employee and a chairman who is appointed by the Executive Secretary.

Each application is assigned by the Executive Secretary to one or more members (assignees) of the initial review group for study and comment. Assignees are selected because of their experience and competence in the areas covered by the proposed research. Noncommittee members may also be asked to review a project on an *ad hoc* basis, when the Executive Secretary feels that the committee itself lacks expertise in a necessary area.

When additional information is needed, the Executive Secretary may obtain it through correspondence, by telephone, or by a site visit conducted by the review group assignees. Site visits may also be requested by the assignees themselves when they believe it will aid in their review of the project. Site visits are generally used for unusually large or multidisciplinary applications, or when it is deemed important to meet personally with the investigator and his or her associates in order to observe the physical facilities and equipment which will be used or to observe a particular experimental technique in operation. Visitors may make suggestions for changes in the proposed research plan, and a revised protocol or addendum is sometimes submitted to NIMH following the site visit.

At the conclusion of the site visit, the team meets in executive session to discuss their reactions and to formulate a recommendation. One assignee is delegated to write up the team's findings, sometimes with the assistance of written reports from the other visitors. The site visit reports are prepared on behalf of the team as a whole and they do not identify evaluations with particular members of the site visit team.

The site visit report or, when no site visit was held, a written evaluation prepared by one of the assignees is made part of a grant book which is sent to each member of the initial review group four to six weeks before its meeting. The grant book also contains a copy of the complete grant application for each project which is scheduled to be reviewed.

Initial review groups meet three times a year. The Clinical Psychopharmacology Research Review Committee, which reviewed the grants involved here, considers an average of ten to fifteen applications at each meeting, including supplemental and renewal applications.[2] Each proposed research project is reviewed separately for approximately 45 minutes to an hour. The principal assignee describes the project and presents the findings of the site team visit. The other visitors also present a critique of the project, and NIMH staff may be asked to comment.

Following the discussion and after a consensus has been reached, a formal vote is taken on each project. If it is approved, each member of the committee then assigns a rating to the project, which is used for determining funding priorities. The minutes of each meeting contain a complete attendance list and data on the number of approvals, disapprovals and deferrals of applications considered, but they do not contain a summary of the discussion regarding any application.

After the meeting of the initial review group, an NIMH staff person prepares a Summary Statement ("pink sheet") for each grant, containing in a single document a brief description of the proposed research or training grant request and the substantive considerations that led to the specific recommendation, including in the case of a split vote the reasons for both majority and minority opinions. The Statement will normally discuss the background and competence of the investigators, any special aspects of the facilities and equipment, and whether the budget is appropriate to the aims and methodology of the project. Where human subjects are involved, the Statement should include the opinion of the review group on the risks involved. In addition, the site visit report, if one has been written, is incorporated by reference into the Statement.

All Review Commitee actions are considered to be collective and anonymous. Therefore, the Summary Statement does not attribute evaluations or comments to any individual member. If two or more members voted against the majority recommendation, their opinion is also summarized in the Statement, without identifying the members involved.

The Statements are the principal source of information regarding the application and the recommendation provided to the National Advisory Mental Health Council; they are also used by NIMH staff to provide information concerning disapprovals to applicants and to follow the results of approved projects. According to the NIMH Handbook, at 32, the Statements are "perhaps the most informative document in the history of the grant."

Footnotes at end of article.

The second stage in the dual NIMH review process involves the National Advisory Mental Health Council, a body set up by statute to "advise, consult with, and make recommendations to, the [Secretary] on matters relating to the activities and functions of the [Public Health] Service in the field of Mental Health." 42 U.S.C. § 218(c). The Council is specifically authorized "to review research projects or programs submitted to or initiated by it in the field of mental health and recommend to the Secretary . . . any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of psychiatric disorders." 42 U.S.C. § 218(c). The members of the Council are the Assistant Secretary for Health, the Chief Medical Officer of the Veterans' Administration, a medical officer designated by the Secretary of Defense, and twelve public members appointed by the Secretary of HEW.

The National Advisory Mental Health Council meets three times a year for two or three days to review the "recommendations" of all of the initial review groups within NIMH. The Council reviews from 500 to 1,000 grants during each meeting. Except where a special request is made, the Council members do not receive individual grant applications. Their decision is based solely on the review group Summary Statements. Except for grants on which a special question is raised (no more than five percent of the grants), the Council approves the recommendations from each review group in a block. Consequently, the Council's concern is with questions of general policy and of program priority, and not with the scientific merit of any individual applications.

Following approval by the National Advisory Mental Health Council, funding of a project is contingent upon the availability of funds. General priorities for funding are determined by the Director of NIMH, with the advice of the National Advisory Mental Health Council. Within these general priorities, 90 percent of the approved grants are funded in the order of numerical priority set by the initial review group. Researchers are notified of the grant award by an award letter and a formal notice, both of which are signed by the NIMH branch chief. The award letter states that the project has been approved by the initial review group and the National Advisory Mental Health Council.

II. The act

These procedures generate a prodigious amount of information concerning the proposed research projects and the allocation of funds among them. NIMH incorporates into its application instructions a warning that some of this information must be made available to the public under the Freedom of Information Act. However, it specifically assures the applicants that the following information does not fall within the terms of the Act and will not be disclosed to the public:

a. Applications for research grant support are considered to be privileged information. Until such time as an application is approved and a grant awarded, no information is disclosed except for the use of Section I of the application form PHS–398 and the notice of research project form PHS–166 by the Science Information Exchange in connection with its responsibilities for exchange of information among participating agencies.

b. Section II of the application form PHS–398 or the corresponding material in application form PHS–2590.

c. Details of estimated budgets.

d. Discussions of applications by advisory bodies.[2a] Plaintiff challenges this interpretation of the Act and NIMH's consequent withholding of substantial portions of the grant applications, "pink sheets," and site visit reports requested.

In resolving this dispute, the Court is faced wih the initial difficulty that the Act on its face does not give special consideration to the field of medical research or the problem of grant applications. Accordingly, as is usually the case where the Court must attempt to apply this imprecise and poorly drafted statute to a situation apparently never contemplated by the Congress, it becomes necessary to resolve the controversy by reliance on the high gloss which the learned decisions of this Circuit have been required to place on the legislation.

The initial question for consideration is whether the "pink sheets," site visit reports and grant applications are documents coming within the disclosure provisions of § 552 (a). Under the decisions in this Circuit, it is clear that the NIMH initial review groups constitute "agencies" as that term is used in the Act. *See, e.g., Grumman Aircraft Engineering Corp.* v. *Renegotiation Bd.*, No. 71–1730 (D.C. Cir. July 3, 1973) ("Grumman II"). They "serve as a discrete, decision-producing layer" in the application process and the priorities they set receive only perfunctory review by the National Advisory Mental Health Council. *Id.* at 10. It is equally clear—indeed not contested—that the "pink sheets" represent the final opinions of the initial review groups, presenting authoritative reasons for assigning each application to a particular priority. The site visit reports must be viewed as integral parts of these final decisions, since, as indicated by the sample file, they are incorporated by reference into the "pink sheets" and are cited as a basis for the review groups' final decisions. *See Sterling Drug, Inc.* v. *F.T.C.*, 450 F.2d 698, 704–08 (D.C. Cir. 1971); *American Mail Lines, Ltd.* v. *Gulick*, 411 F.2d 696, 703 (D.C. Cir. 1968). Both types of documents are therefore subject to disclosure as an agency's "final opinions . . . made in the adjudication of cases . . ." 5 U.S.C. § 552(a)(2)(A). As for the grant applications, they are "identifiable records" of an agency and are therefore subject to disclosure upon specific request, which plaintiff has duly made. *See* 5 U.S.C. § 552(a)(3); *Bristol-Myers Co.* v. *F.T.C.*, 284 F. Supp. 745, 747 (D.D.C. 1968).

All of the documents sought by plaintiff must therefore be produced in full unless the Government can establish that certain papers or sections thereof fall within the specific exemptions enumerated in the Act. Defendants suggest that three of these exceptions are applicable to the documents at issue. In considering this claim, the Court must construe the requirement of disclosure broadly and the exemptions narrowly in order to promote "the clear legislative intent to assure public access to all government records whose disclosure would not significantly harm specific governmental interests." *Soucie* v. *David*, 448 F.2d 1067, 1080 (D.C. Cir. 1971).

Defendants argue that all description of an applicant's proposed research, whether in its application or in agency reports, constitutes confidential material within the terms of the fourth exemption.[3] However, that exemption shields only trade secrets and other confidential information that is either "commercial" or "financial" in nature. *Getman* v. *N.L.R.B.*, 450 F.2d 670, 673 (D.C. Cir. 1971). None of the applicants for NIMH grant funds are profit-making enterprises, nor are such funds sought for the production or marketing of a product or service.[4] Whatever Congress may have meant by the admittedly imprecise terms in the fourth exception, the Court cannot, consistent with its duty to construe the Act's exemptions narrowly, find that scientific research procedures to be undertaken by non-profit educational or medical institutions fall within those terms.[5] Even if the Court were to find otherwise, however, defendants would not prevail, for they have wholly failed to meet their burden of proving that the particular research designs and protocols at issue in this case contain material that would normally be kept confidential by the researchers themselves, regardless of the agency's own assurances of confidentiality. *See Sterling Drug, Inc.* v. *F.T.C., supra*, at 709.

Defendants also raise the fifth exemption,[6] which shields inter- and intra-agency memoranda. However, this Court's finding that the "pink sheets" and site visit reports constitute final agency opinions takes those documents out of the fifth exemption, *see Grumman II, supra*, at 13, and the applications are not protected because they were written by non-agency personnel, *see Note, The Freedom of Information Act and the Exemption for Intra-Agency Memoranda*, 86 Harv. L. Rev. 1047, 1063–66 (1973), and contain essentially factual material, *see Bristol-Myers Company* v. *F.T.C.*, 424 F.2d 935, 939, *cert. denied*, 400 U.S. 824 (1970).

Similarly, there is no merit to defendants' claim that the disclosure of any agency reference to the professional qualifications or competence of a particular researcher would constitute a clearly unwarranted invasion of personal privacy under the sixth exemption.[7] That provision shields only, "personnel and medical files and similar files" from disclosure. Although the term "files" has been justifiably criticized as vague, *see K. Davis, supra* note 4, at 798, it cannot be ignored.[8] The sixth exemption was intended to protect "detailed Government records on an individual," H. Rept. 1497, 89th Cong., 2d Sess. 11 (1966), and it cannot be extended to shield a brief analysis of professional competence written into a final agency opinion.

Perhaps in recognition of this distinction, Congress incorporated another privacy provision into the Act which is not limited to Government files. Immediately following the disclosure requirement in § 552(a)(2), the Act states: "To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each case the justification for the deletion shall be explained fully in writing." Portions of the "pink sheets" and the site visit reports could fall within the terms of this exemption, but the Government has the burden of establishing that disclosure in each instance would be "clearly unwarranted." *See Getman* v. *N.L.R.B., supra*, at 674.

Upon careful consideration of the competing interests involved, the Court concludes that the Government may, to the extent described below, delete identifying details from statements of opinion concerning the professional qualifications or competence of particular individuals involved in the research project under consideration. Disclosure of such information might substantially injure the professional reputations of researchers, while deletion would not, in most instances, significantly obscure the reasons for assigning an application to a particular priority.

It must be stressed, however, that the holding of this Court is narrowly limited. Normally, only the names of the individuals under discussion may be deleted, leaving the opinions themselves free to be disclosed. *Grumman Aircraft Engineering Corp.* v. *Renegotiation Bd.*, 425 F.2d 578, 580–81 (D.C. Cir. 1970) ("Grumman I"). If, as is the case with many of the documents sought by plaintiff, the names of the researchers have already been disclosed or if for any other reason the deletion of such names would not conceal the identity of the individuals under discussion, the statements of opinion might

Footnotes at end of article.

have to be deleted in their entirety. But in every case the defendants may only delete that minimum amount of information necessary to conceal the identity of those individuals whose privacy is threatened in the manner described above.

As a further limitation, no deletions whatever may be made from documents relating to an application—whether initial, continuation, renewal or supplemental—which has actually been granted, since in such cases the public's interest in knowing how its funds are disbursed surpasses the privacy interests involved. Nor may the identity of an institutional applicant be concealed, because the right of privacy envisioned in the Act is personal and cannot be claimed by a corporation or association. *K. Davis, supra* note 4, at 781, 799.

Apart from resolution of the instant controversy, plaintiff asks for assistance to insure that subsequent similar requests for information from NIMH will not be delayed and obfuscated by drawn-out negotiations and Court proceedings. Plaintiff's concern is well taken, for the Act should, to the extent practical, be self-operative to assure prompt disclosure as contemplated by Congress. At a minimum, the defendants should promptly modify existing regulations and grant application instructions to bring them into conformity with the decision of this Court. It is particularly important that grant applicants be placed on notice that information submitted pursuant to an application for NIMH grant funds and final agency opinions concerning the award of such funds, as defined above, cannot normally be kept confidential nor withheld from the public.

The foregoing shall constitute the Court's findings of fact and conclusions of law.

GERHARD A. GESELL,
U.S. District Judge.

NOVEMBER 6, 1973.

FOOTNOTES

[1] The following textual description of the NIMH grant review process is taken principally from the deposition of Dr. Ronald S. Lipman, Chief of the Clinical Studies Section of the Psychopharmacology Research Branch of NIMH and from the NIMH Handbook for Initial Review Staff (1970), plaintiff's 1 exhibit in evidence.

[2] Supplemental applications are for additional funds above the amount previously approved for the current or any future project year. Renewal applications are for funds beyond the project period previously approved. Continuation applications are filed at the beginning of each year in the previously approved project period. Generally, supplemental and renewal applications must compete for available funds with other applications, new or otherwise; they are processed through both stages of the review process. Continuation applications are generally noncompeting and not subject to the review process.

[2a] National Institutes of Health, Grant for Research Projects, Policy Statement 14 (1972). This interpretation of the Act is consistent with HEW's more general interpretation. codified at 45 C.F.R. § —.

[3] 5 U.S.C. § 552(b)(4): "This section does not apply to matters that are . . . trade secrets and commercial or financial information obtained from a person and privileged or confidential. . . ."

[4] In recent testimony before Congress, Dr. John F. Sherman, Deputy Director of the National Institutes of Health, argued that the fourth exemption should apply to grant documents because "to the scientist and to the research clinician, research designs and protocols are regarded and treated as propriatary information, just as trade secrets are protected by the commercial and industrial sector." Hearings on U.S. Government Information Policies and Practices Before a Subcomm. of the House Comm. on Government Operations, 92d Cong., 2d Sess. 3620 (1972). However, this analysis is only relevant to the extent that Dr. Sherman recognizes that research procedures are not actually trade secrets, nor are research part of the "commercial or industrial sector." His arguments are exceptional * * *.

* * * * *

[5] The Attorney General's Memorandum on the Public Information Section of the Administrative Procedure Act (1967), at 34, apparently reached a contrary conclusion, based upon comments in the congressional reports to the effect that "technical data" concerning "scientific or manufacturing processes" would be covered by the fourth exemption. However, Professor Davis points out that the quoted language was derived from a Senate report on an earlier version of the exemption which did not contain the limiting words "commercial or financial," and that the shielding of non-commercial technical information would be contrary to the clear wording of the statute. K. Davis, The Information Act: A Preliminary Analysis, 34 U. Chi. L. Rev. 761, 789–91 (1967). In resolving this dispute in Davis' favor, the Court finds it significant that the D.C. Circuit in Getman followed Davis and interpreted the fourth exemption narrowly (although it did not specifically consider the disputed language in the congressional reports), while the Attorney General's Memorandum interpreted it broadly to cover all confidential material.

[6] 5 U.S.C. § 552(b)(5): "This section does not apply to matters that are . . . inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency . . . ."

[7] 5 U.S.C. § 552(b)(6): "This section does not apply to matters that are . . . personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. . . ."

[8] An earlier version of the sixth exemption shielded the specified files and all "similar matter" (emphasis added), but Congress amended that phrase to use the more limited term "files" throughout. K. Davis, supra note 4, at 798 n. 94.

[U.S. District Court for the District of Columbia—Civil Action No. 1279–73]

WASHINGTON RESEARCH PROJECT, INC., PLAINTIFF, VERSUS DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, AND CASPAR W. WEINBERGER, DEFENDANTS

ORDER

In accordance with the Court's Memorandum Opinion filed this 6th day of November, 1973, it is hereby

Ordered that the defendants promptly amend all relevant application instructions and agency regulations, including those codified at 45 C.F.R. § 5, to bring them into conformity with the decision of this Court, and it is further

Ordered that the defendants promptly produce and make available to plaintiff for inspection and copying all documents listed in its request for information dated April 13, 1973, except that, if any such document relating to an application that has not been granted contains a statement of opinion by a Government officer, employee or consultant concerning the professional qualifications or competence of an individual involved in the research project under consideration, the defendants may delete from that document any detail which would identify a particular individual as the subject of that statement, or, if such deletion would be impossible or ineffectual, the defendants may delete the statement itself.

GERHARD A. GESELL,
U.S. District Judge.

NOVEMBER 6, 1973

Mr. DOLE. Mr. President, I think the situation in this case of Washington Research Project, Inc., against Department of Health, Education and Welfare clearly demonstrates the need for congressional action to insure that research ideas are indeed accorded the confidential status which they deserve. It is for that sole reason that I drafted the said amendment, in anticipation of proposing its adoption.

While it is not our business to preempt the courts in matters of judicial concern, it is our affirmative legislative duty to lay down proper statutory guidelines. Regardless of the outcome in the cited case, therefore, we still have the obligation to protect against any future unnecessary, unwise, and unfair premature disclosure requirements in the specific area of scientific experimentation.

Certainly, the whole idea of "disclosure" and the public's "right to know" is of paramount importance at this time in our Nation's history. And I have no desire or intention of placing undue restrictions on those fundamental concepts. But I feel very strongly that, in the area of research grants, nondisclosure entitlement is justified—and completely within the spirit of the Freedom of Information Act itself.

It is my sincere hope that my colleagues will agree, and join me at the appropriate time in moving to identify such matters as specifically excepted from categories of information which should be disseminated to the public. I urge this problem to be the subject of special hearings at the earliest opportunity, and that it be resolved coincident with future health legislation, as the distinguished floor manager of the present bill (Mr. KENNEDY) has suggested.

The PRESIDING OFFICER. The question is on agreeing to committee amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill (S. 2543) was ordered to a third reading and read the third time.

Mr. KENNEDY. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 12471.

The PRESIDING OFFICER laid before the Senate H.R. 12471, to amend section 552 of title 5, United States Code, known as the Freedom of Information Act.

The PRESIDING OFFICER. The bill will be considered as having been read twice by title, and without objection the Senate will proceed to its consideration.

Mr. KENNEDY. Mr. President, I move to strike all after the enacting clause of H.R. 12471 and insert in lieu thereof the language of S. 2543 as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts to insert the Senate language as a substitute for the House bill.

The motion was agreed to.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. The ques-

tion is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 12471) was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. GRIFFIN. Mr. President, is the Senator from Nebraska entitled to recognition?

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HRUSKA. Mr. President, I shall take not more than 3 or 4 minutes to recapitulate what has transpired today on this bill.

First, I point out that this bill was reported unanimously and without objection from the Judiciary Committee to accomplish certain procedural changes in the Freedom of Information Act, which was enacted in 1966.

Some substantive changes were offered in committee. They were turned down. The purpose was to make it an effective and an efficient implement and in a very vital field; namely, the right of the public to know, on the one hand, and, on the other hand, to conserve the confidentiality of Federal Government departments and documents and to enable them to function properly and effectively.

Mr. President, it is to be regretted that some major, substantive changes were effected by amendments on the floor of the Senate today.

It is my intention—and I shall do so—to vote against the bill because of the agreement to those amendments. It was my prior intention to vote for the bill, but it is my present intention to call to the attention of the President the very undesirable features of the two amendments.

In my judgment, there has been a disastrous effect upon law enforcement, particularly by the Federal Bureau of Investigation and the law enforcement agencies of our national Government. The amendments will have an effect also on the local law enforcement agencies as well.

I shall urge the President as strongly as I can to veto this measure. It is my belief that it is sufficiently disadvantageous and detrimental that it requires a veto. It is to be regretted, Mr. President, because we had a good bill. We should go forward and make the Freedom of Information Act as effective as possible. I think a fine balance had been worked out with the many interests competing for information that either should be disclosed or should be held confidential, and with other interests such as permitting the courts to review classified documents in camera.

Mr. President, I make this as a statement in connection with the future proceedings on the bill.

Mr. President, I ask unanimous consent that a brief statement summarizing those points be printed in the RECORD.

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

STATEMENT

Mr. President, my points of summary are as follows. First as to the Muskie amendment, I fear that we are giving undue latitude to the courts in dealing with a very important national issue. The amendment asks the courts to review documents to determine their effect on the national defense and foreign policy of the United States. Yet the amendment offers the courts no guidance in performing this task. It asks the court to make political judgments.

Indeed, this is a task for which the courts themselves have found that they lack the aptitude, facilities and responsibility. This is not my own flat statement. These are the words the Supreme Court used in *C. & S. Air Lines* v. *Waterman:*

[T]he very nature of executive decisions as to foreign policy is political, not judicial. Such decisions are wholly confided by our Constitution to the political departments of the government, Executive and Legislative. They are delicate, complex, and involve large elements of prophecy. They are and should be undertaken only by those directly responsible to the people whose welfare they advance or imperil. They are decisions of a kind for which the Judiciary has neither aptitude, facilities nor responsibility and which has long been held to belong in the domain of political power not subject to judicial intrusion or inquiry.

Likewise, a Harvard Law Review Developments Note reached the same conclusion.

In discussing the role of the courts in reviewing classification decisions, it states that "there are limits to the scope of review that the courts are competent to exercise," and concludes that "a court would have difficulty determining when the public interest in disclosure was sufficient to require the Government to divulge information notwithstanding a substantial national security interest in secrecy." 85 Harvard Law Review 1130, 1225-26 (1972).

Furthermore, the Attorney General in a letter which I earlier introduced in the Record expressed the opinion that grave constitutional questions arise in the adoption of this amendment. As the Attorney General concluded, "the conduct of defense and foreign policy is specially entrusted to the Executive by the Constitution, and this responsibility includes the protection of information necessary to the successful conduct of these activities. For this reason, the constitutionality of the proposed amendment is in serious question."

Second, I believe that the amendment to exemption 7 could lead to a disastrous erosion of the FBI's capability for law enforcement notwithstanding the safeguards and standards contained in that amendment. To be sure, the standards contained in the amendment look well on paper. However, based on the experience that the FBI has accumulated to date under standards similar to these, it is clear that they are difficult if not impossible to administer.

Here are some of the effects which adoption of the Hart amendment could have.

1. It could distort the purpose of agencies such as the FBI, imposing on them the added burden of serving as a research source for every writer, busybody, or curious person.

2. It could impose upon these agencies the tremendous task of reviewing each page of each document contained in any of their many investigatory files to make an independent judgment as to whether or not any part thereof should be released.

3. It could detrimentally affect the confidence of the American people in its Federal investigative agencies since it will be apparent these agencies no longer can assure that their identities and the information they furnish in confidence for law enforcement purposes will not some day be disclosed to the subject of the conversation.

Fourth, and finally, it could set the stage for severe problems regarding the privacy of individuals.

Mr. President, in my view, nothing would be lost by deferring action on this amendment because the FBI is now operating under standards virtually similar to those contained in the amendment. It would be well to allow a suitable interval of experience to be accumulated under these regulations in order to ascertain the wisdom or lack thereof in putting these standards in statutory form.

Mr. President, the highly detrimental and far-reaching impact that these two amendments taken together pose is so grave and sweeping that it is my intention to address a letter to the President urging as strong as I can that he veto this measure if it passes in this form.

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

Mr. HRUSKA. Mr. President, I gladly yield to the distinguished Senator from Arkansas.

Mr. McCLELLAN. Mr. President, I wish to associate myself with the views expressed by the distinguished Senator from Nebraska. I fully intended to support the measure as it came to the floor of the Senate. However, in view of the amendments that have been agreed to today, which destroys the purpose of the bill, in my judgment, and violate the Nation's security on documents and records, I cannot support the measure. I shall now have to vote against the bill.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

The Freedom of Information Act was passed in 1966. This legislation we are considering today is really a response by Congress to the past experience we have found with the failure of Government agencies to respond to the public's legitimate interest in what had been taking place inside their walls. It is precisely the extreme and unreasonable secrecy of the past that this bill addresses, and I think the overwhelming support by the press and across the country for some legislative response to this secrecy can be answered by this bill.

I should say that the amendments that have been agreed to by a strong vote in the Senate today in no way infringe upon national security or upon the law enforcement agencies and their responsibilities in this country. I think this is the most important legislative action that can be taken to open up the Government to the American people, who require it, who demand it, who are begging and pleading for it.

I want to acknowledge the constructive and supportive efforts of Senator HRUSKA and his staff in developing this legislation for floor action. I am disappointed that he does not feel that he can support this bill as amended on the floor.

The bill provides ample protection for the legitimate interests of Government agencies. It also insures that they will be open and responsive to the American people.

I hope that the bill will be passed.

I am ready to yield back the remainder of my time.

Mr. HRUSKA. Mr. President, may I ask of my colleagues if there are any requests for time? Apparently there are

none, so I yield back the remainder of my time.

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

The PRESIDING OFFICER. All time has been yielded back. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from South Dakota (Mr. McGOVERN), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), and the Senator from California (Mr. CRANSTON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. BUCKLEY), and the Senator from Idaho (Mr. McCLURE) are necessarily absent.

I also announce that the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. FANNIN), the Senator from Arizona (Mr. GOLDWATER), and the Senator from South Carolina (Mr. THURMOND) are absent on official business.

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

The result was announced—yeas 64, nays 17, as follows:

[No. 221 Leg.]

YEAS—64

Abourezk	Domenici	Mondale
Aiken	Eagleton	Moss
Baker	Ervin	Muskie
Bartlett	Fong	Nelson
Bayh	Gurney	Packwood
Beall	Hart	Pearson
Bellmon	Haskell	Percy
Bentsen	Hatfield	Proxmire
Bible	Hathaway	Ribicoff
Biden	Huddleston	Roth
Brock	Humphrey	Schweiker
Brooke	Jackson	Scott, Hugh
Burdick	Javits	Stafford
Byrd, Harry F., Jr.	Johnston	Stevens
	Kennedy	Stevenson
Cannon	Magnuson	Symington
Case	Mansfield	Taft
Chiles	Mathias	Tunney
Church	McGee	Weicker
Clark	McIntyre	Williams
Cook	Metcalf	Young
Dole	Metzenbaum	

NAYS—17

Allen	Hansen	Randolph
Byrd, Robert C.	Helms	Scott, William L.
Cotton	Hruska	
Curtis	Long	Stennis
Eastland	McClellan	Talmadge
Griffin	Nunn	Tower

NOT VOTING—19

Bennett	Gravel	Montoya
Buckley	Hartke	Pastore
Cranston	Hollings	Pell
Dominick	Hughes	Sparkman
Fannin	Inouye	Thurmond
Fulbright	McClure	
Goldwater	McGovern	

So the bill (H.R. 12471) was passed.

Mr. KENNEDY. Mr. President, I move that the vote by which the bill was passed be reconsidered.

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

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I move that S. 2543 be indefinitely postponed.

The motion was agreed to.

HEALTH SERVICES RESEARCH, HEALTH STATISTICS, AND MEDICAL LIBRARIES ACT OF 1974

Mr. KENNEDY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 11385.

The PRESIDING OFFICER (Mr. NUNN) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 11385) to amend the Public Health Service Act to revise the programs of health services research and to extend the program of assistance for medical libraries, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. KENNEDY. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. KENNEDY, Mr. WILLIAMS, Mr. NELSON, Mr. EAGLETON, Mr. CRANSTON, Mr. HUGHES, Mr. PELL, Mr. MONDALE, Mr. HATHAWAY, Mr. SCHWEIKER, Mr. JAVITS, Mr. DOMINICK, Mr. BEALL, Mr. TAFT, Mr. STAFFORD conferees on the part of the Senate.

ENERGY TRANSPORTATION SECURITY OR INSECURITY—AT WHAT COST?

Mr. COTTON. Mr. President, I ask unanimous consent to insert in the RECORD a statement which I made today before the Subcommittee on Merchant Marine of our Committee on Commerce, opposing the bills, H.R. 8193 and S. 2089.

The bill, H.R. 8193, carries the short title, "The Energy Transportation Security Act of 1974," and would require an increasing percentage of imported petroleum and petroleum products to be transported on higher-costing U.S.-flag tanker vessels.

If enacted, this legislation could have a profound, and probably adverse, effect upon the cost of meeting our current, pressing energy resource needs. I seriously question whether, as reflected in the short title "The Energy Transportation Security Act of 1974," this legislation would provide our Nation with such security. Rather, I fear that it could very well render the availability of needed petroleum from foreign sources more insecure and increase the cost to the American economy, including consumers, farmers, and industries.

Of course, as in many such cases, there is plenty of room for reasonable men to differ on the rather complex provisions of this bill. A similar bill was defeated in the Senate last year by a margin of only 12 votes. However, I feel that at this time the Senate should be made aware of the rather far-reaching issues involved in this measure. That is the reason why I should like to have printed in the RECORD the statement I made before the committee, not as a speech, but as a statement, and invite the attention of the Senate to it. I ask unanimous consent that the statement be printed in the RECORD.

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

STATEMENT OF SENATOR NORRIS COTTON ON H.R. 8193 AND S. 2089

Mr. Chairman, I wish to express my appreciation to you and to Chairman Magnuson for granting my request for this additional day of hearing on the bills, S. 2089 and H.R. 8193.

As you will recall, in the 92nd Congress I opposed vigorously a legislative proposal similar to the pending bills. That earlier legislative proposal was a Committee amendment to the maritime appropriation authorization bill, H.R. 13324, of the 92nd Congress, which would have required that at least 50% of all "crude and unfinished oils and finished products" imported into the United States on "a quota basis, allocation or licenses" be carried on board higher-costing tanker vessels of the United States.

My principal concern then, as now, was the probable cost impact upon the consumers of certain sectors of the country, such as the New England and upper Midwestern States. Although this remains my principal concern, I do have several others, not the least of which is my personal opinion that at this particular time in our Nation's history when it is beset with the problems of very serious energy shortages, any restriction of any kind whatsoever that would make it more difficult for us to obtain oil, such as the pending legislation, should be resisted.

Accordingly, my primary objective is to ensure the continued flow of vital energy resources at the lowest possible cost to the American consumer and to the American taxpayer.

In expressing this opposition to the pending legislation, I wish to make clear that I am *not* opposed to needed maritime promotional programs. I supported enactment of the Merchant Marine Act of 1970. Moreover, I have continued to support that statutory maritime program both in this Committee and on the Committee on Appropriations on which I serve with respect to annual appropriations implementing that Act which have annually been in excess of ½ billion dollars.

Mr. Chairman, I am not expressing opposition to the pending legislation out of any deference to the major oil companies. None are located or have any facilities in my State. As a matter of fact, those of us from the New England region represent 6 of the 12 States in this Nation which are without any refinery capacity whatsoever.

Moreover, as Under Secretary of Commerce Tabor testified on the initial day of hearings

on this legislation, those of us situated on the Eastern seaboard are most heavily dependent upon foreign oil, and in 1970 the 17 Eastern seaboard States which constitute Petroleum Administration for Defense (PAD) District I, imported more than 70% of all U.S. petroleum imports. Therefore, I, as the senior Senator from New Hampshire, have a vital and a genuine interest in any legislative proposal which might in any way serve to impede or increase the cost of the transportation of this needed energy supply.

Now, Mr. Chairman, with respect to the pending legislative proposals—H.R. 8193 and S. 2089—I would like to make two observations in comparison to H.R. 13324 of the 92nd Congress. First, with respect to the issue of consumer costs I invite the Committee's attention to the following excerpt from its majority report, accompanying H.R. 13324, seeking to rebut the cost argument on the basis that the preference requirement was tied to the then existing mandatory oil import program:

"* * * Obviously, if that program [i.e., the mandatory oil import program] is eliminated at some future date, none of the foregoing analysis with respect to the lack of impact on American-flag carriage on consumer costs would remain true. *At that point, these additional costs would have an impact on consumer prices.*" (Emphasis supplied)

Mr. Chairman, the mandatory oil import program no longer is in existence so that, based upon the very language quoted above from the majority report on H.R. 13324, the pending bills, S. 2089 and H.R. 8193, will have an impact on consumer costs!

Second, and again in comparison with H.R. 13324 of the 92nd Congress, notwithstanding the amendment adopted by the House during the floor debate on H.R. 8193 to exempt the small independent refiner from the provisions of this legislation, it is my present opinion that the pending legislation may very well have broader implications than H.R. 13324. The earlier legislation (H.R. 13324), although specifying a greater percentage of 50%, contained various exclusions which would have limited it to only about 18% of all oil imported in 1972, according to one witness who testified before the House Committee on Merchant Marine and Fisheries. By contrast the pending legislation is drafted so as to require at least 20 percent, increasing to at least 30 percent after June 30, 1977, of the gross tonnage of all liquid petroleum products imported into the United States on ocean vessels "including movements (i) directly from original point of production and (ii) *from original point to intermediate points for transshipment or refinement and ultimate delivery to the United States . . .*" This would apply, Mr. Chairman, not only to crude oil but also to badly needed imports, such as home heating oil, gasoline, heavily industrial fuel oil, jet fuel, and petrochemical feedstocks.

And, Mr. Chairman, the argument advanced for including in the percentage requirement movements from original point to intermediate points is to avoid any incentive to construct refineries outside of the United States, and thereby avoid the application of this legislation. However, notwithstanding this meritorious objective, I would hasten to point out that it is my understanding that we have built only three refineries in the last eight years in the United States, and that increasing concern over damage to the environment has led the citizens of some States, such as my own, to vote against the construction of refinery capacity in such States. Thus, in the final analysis, Mr. Chairman, it may very well prove to be in our national interest to continue to allow the construction of offshore refinery capacity, yet the pending legislation could serve to impede even that.

Now, Mr. Chairman, with respect to H.R. 8193—the proposed "Energy Transportation Security Act of 1974?—I believe that there are several significant issues involved, including the following:

(1) Potential cost impact upon American economy, including consumers, farmers and industries;

(2) Retaliation by the Arab Organization of Petroleum Exporting Countries (AOPEC);

(3) Unduly burdensome administrative problems;

(4) Domestic shipyard capability and inflationary impact;

(5) Lack of a demonstrated need;

(6) A precedent for the extension of cargo preference requirements to other commodities;

(7) Creation of a captive, noncompetitive market for U.S.-flag tanker vessels;

(8) Balance-of-payment benefit; and

(9) Another added government benefit to our multi-faceted maritime promotional program.

1. Potential cost impact upon American economy, including farmers and industries:

Mr. Chairman, as you are aware, the House Committee on Merchant Marine and Fisheries conducted 15 days of hearings on the bill, H.R. 8193, and similar measures. During the course of those extensive hearings, the House Committee received testimony from a number of witnesses. All of the witnesses, except one, who testified on the issue of cost, indicated that there would indeed be some cost from enactment of this legislation passed on to the American consumer. These cost estimates range from a high of 45 cents per barrel for each and every barrel of waterborne oil imports by the American Petroleum Institute to a *savings* to the American consumer of 68 cents, according to Mr. Stanley H. Ruttenberg, President of Stanley H. Ruttenberg & Associates Inc., of Washington, D.C.

Since testifying before the House Committee, I understand that the American Petroleum Institute has revised its earlier estimate upward to a cost of 79 cents per barrel in 1975, increasing to $1.44 per barrel by 1985 for every barrel of oil imported to our shores, with a cumulative cost for the period 1975–1985 approaching *$60 billion*.

Now, Mr. Chairman, I understand Mr. Ruttenberg, author of a study sponsored by the National Marine Engineers Beneficial Association entitled "The American Oil Industry: A Failure of Anti-Trust Policy," has indicated that 52 cents of his 68 cents savings to the American consumer is predicated upon "transfer pricing" and relates to enforcement by the Internal Revenue Service of section 482 of the Internal Revenue Code. My only observation in this regard, Mr. Chairman, is that if Mr. Ruttenberg's allegation is correct, then the proper remedy lies with enforcement by the Internal Revenue Service, or an appropriate amendment to the Internal Revenue Code, which you, as Chairman of the Senate Committee on Finance, I am sure would be able to take care of in rather short order.

Mr. Chairman, I would like the record to show that the senior Senator from New Hampshire is not the only skeptic with respect to the allegation that there would be no cost as a result of this legislation, to the American consumer. In this connection, I noted with particular interest that midway through the hearings before the House Committee on Merchant Marine and Fisheries, on February 5th, its distinguished Chairman the Honorable Leonor Sullivan, when questioning Mr. Herbert Brand, President of the Transportation Institute, noted the following:

"I am not sure that I agree with your statement on page 4 that there will not be any increase in the cost of fuel as a result of this legislation" (See hearings before the Committee on Merchant Marine and Fisheries, House of Representatives, Serial No. 93–26, at page 331).

Mr. Chairman, my fears concerning a potential cost impact upon the American consumer as a result of this legislation is only heightened after examining the experience under existing cargo preference statutes with respect to government-financed cargo. The American Petroleum Institute inserted in the hearing record of the House Committee on Merchant Marine the table entitled "Comparison of U.S. and Foreign-flag Charter Fixtures, 1968–72" which indicated that the cost for American-flag vessels was on the magnitude of 260% greater than that for foreign-flag vessels. Certainly one might discount this tabulation as one of bias in view of the American Petroleum Institute's opposition to the pending legislation. But, Mr. Chairman, I would hasten to point out that the Maritime Subsidy Board arrived at a somewhat similar conclusion in its fact-finding hearing on the payment of subsidy for carriage of preference cargoes (Docket No. S–244) when it noted the following:

"* * * *In 1969, the rate premium's averaged 100–150% of the foreign-flag rate.* It is estimated that the rate premium reimbursements for these agriculture programs has approximated *$100 million a year* in recent years and has perhaps *aggregated a billion dollars over the full life of the program.*" (Emphasis supplied)

Mr. Chairman, I submit that all of the indications bode ill for the impact upon our economy of the pending legislation. In this connection Dr. William A. Johnson, Special Assistant to the Deputy Secretary of the Treasury, testified before the House Merchant Marine and Fisheries Committee in the following manner:

"My basic objection to the proposed legislation is that it could intensify the energy crisis. As I understand it, a major objective of the bill is to stimulate employment in the shipping industry. However, to the extent that impedes imports of vitally needed oil, it will create unemployment in the petrochemical, automobile, machine tool, and other industries that are dependent upon oil or oil products as feedstocks or sources of energy * * * " (See hearings before the Committee on Merchant Marine and Fisheries, House of Representatives, Serial No. 93–26 at page 207)

With respect to the American farming community, Mr. Chairman, I would simply point out that several letters have been received from organizations representing this sector of our economy, and all have been in opposition to the pending legislation.

For example, by letter dated May 20th, the National Association of Wheat Growers noted the following:

". . . Wheat growers have continuously been opposed to legislation mandating use of U.S.-flag vessels.

"Required use of U.S.-flag vessels is an indirect subsidy that raises costs to U.S. consumers, increases costs of agricultural production, processing and distribution of food.

"It is also very damaging to our efforts to reduce trade barriers, and to expand trade opportunities around the world."

By letter dated May 21st, the American Farm Bureau stated its opposition in the following manner:

"Enactment of this bill would adversely affect farmers and ranchers in two important ways:

"1. Higher farm production costs.

* * * * *

"2. Reduced export markets for agricultural commodities.

* * * * *

"Urban consumers also would be adversely affected. They would have to pay more for (1) the petroleum products they use themselves, (2) various consumer products for which the industrial use of petroleum products is a significant cost factor, and (3) U.S.

food and fiber produced in smaller quantities, at higher per unit costs as a result of shrinking export markets for agricultural commodities.

"Decreased expenditures by foreign buyers would lead not only to a further loss of markets for U.S. farmers and ranchers but also to a worsening of our international trade balance. Our net surplus in value of agricultural exports over agricultural imports now is the most favorable part of our national trade balance situation.

"We urge the Subcommittee on Merchant Marine of the Senate Committee on Commerce to reject in their entirety H.R. 8193, the 'Energy Transportation Security Act of 1974', and other bills with similar objectives."

Finally, by letter dated May 22nd, the National Grange expressed its position on the pending legislation as follows:

"The National Grange has always opposed the passage of legislation that would require a percentage of U.S. imports of crude oil and petroleum products to be carried on U.S.-flag vessels. It has so testified in Congressional hearings in the past. The late fuel oil crisis and continuing fuel shortage and cost escalation has in no way changed our views but, if anything, has intensified our convictions."

But, Mr. Chairman, the underlying issue which is not resolved in either of the pending bills is the question of who is to assume the burden of costs resulting from these bills. Is it to be all of the taxpayers under a direct subsidy type program, or is it to be the American consumers under an indirect subsidy through a cargo preference type program, or is it to be a combination of both, which is what would result from enactment of either S. 2089 or H.R. 8193. Both pending bills would permit a combination of government assistance, involving construction-differential subsidy, operating-differential subsidy in some instances, and cargo preference. However, not even those favoring enactment of the pending legislation are in accord on this point.

"For example, Mr. Alfred Maskin, Executive Director of the American Maritime Association (AMA), whose organization, I might add, raised the "double subsidy" issue in Docket No. S–244, has testified in the following manner before this Subcommittee:

"We turn now to the question of how the cost of this fleet should be borne.

"The first device to be considered, naturally, is the direct subsidy program offered under the Merchant Marine Act of 1970.

"We are not convinced, however, that this will provide the tanker fleet we need.

"First, at the statutory rate of construction subsidy, even taking into account that this will descend to 35% by 1976, the Government's share of the building program, which we estimate will cost some $10.4 billion, would run to some $3.6 billion or an average of $520 million a year.

"Not only is this more than twice the annual appropriation for *all* construction since F.Y. '71, but it would rise to an average of $750 million in the last three years of the program.

"Frankly, we have grave doubts that the Congress would be willing to appropriate, or the Administration to spend, such sums of money.

"Second, the Government's willingness to pay subsidy is only one side of the coin. The shipowner must also be ready to invest his own money, ..."

"Our essential point is that cargo is more critical to ship construction and operation than subsidies; and with respect to this legislation, cargo is the name of the game."

On the other hand, Mr. Michael R. Naess, Executive President of Zapata Corporation, submitted a statement for the hearing record of the House Committee on Merchant Marine and Fisheries in which he noted the following:

"If H.R. 8193 included a provision precluding tankers from ODS and CDS, we would oppose it vigorously, since under these circumstances our costs would be substantially higher than our foreign-flag competitors and we would have no choice but to pass along the difference to our customers. But no such provision appears. * * *"

"Now, if you assume that H.R. 8193 replaces CDS, the U.S.-flag operator therefore does without ODS and CDS, then the cost premium escalates drastically. Versus new foreign-flag ship, the premium rises 13-fold over what it was to 1.6c per gallon. And versus *old* foreign-flag ships, the U.S.-flag ships need a startling premium range from 2.3c to 3.2c per gallon. * * * *To further safeguard this possibility, and to ensure that cargo preference cannot be used to create an undue burden on the consumer, we would recommnd that the proposed bill be modified to extend the benefit of cargo preference exclusively to ships built with construction differential subsidy* * * *" (See hearings before House Committee on Merchant Marine and Fisheries, House of Representatives, Serial No. 93–26 at pages 725 and 727).

Mr. Chairman, I suggest that Mr. Naess knows whereof he speaks. Although Zapata Corporation now has no shipping investments, until July 1973 it did have a fleet consisting of over 40 tankers, bulk carriers and combination carriers, largely of Liberian and British registry.

2. Retaliation by the Arab Organization of Petroleum Exporting Countries (AOPEC):

Mr. Chairman, proponents of the pending legislation have advanced the argument that enactment of S. 2089 or H.R. 8193 would provide our nation with the security of having the necessary transport to carry needed oil to our country. But, I submit that this argument simply glosses over the fact that our major national security concern should be, and is with the interruption of oil at its source in foreign countries, rather than any major concern in interruptions in shipping due to the flag or ownership of vessels used in international oil trade. There is no avoiding the fact that this legislation would create a non-tariff trade barrier. And it will be of little avail if we have several million deadweight tons of tanker vessels under American registry and they arrive at the source of oil, be it Kuwait or Venezuela, only to have those nations refuse to load needed crude oil on our ships. The likelihood of such an event coming to pass is only heightened by the fact that most oil producing foreign nations presently are seeking to build and operate tanker vessels under their own national registry. We therefore could end up with a great deal of tanker tonnage constructed at the expense of both the American taxpayer and consumer, but with no oil for them to transport to our ports.

Mr. Chairman, to quote the late and distinguished Senator Dirksen, "It seems to me that we are confronted with teh issue of pork chops at 90 cents a pound or no pork chops at all!"

3. Unduly burdensome administrative problems:

Mr. Chairman, with respect to the issue of undue administrative problems, I foresee at least the following three concerning H.R. 8193:

(i) Determination of "fair and reasonable rates for United States-flag commercial vessels";

(ii) Administration of "fair and reasonable participation of United States-flag commercial vessels in such cargo by geographical areas"; and

(iii) Establishment of "reasonable classifications of persons and imports . . ."

With respect to the first problem area of determination of "fair and reasonable rates". Mr. Chairman, proponents of the pending legislation have been prone to argue that this determination provides relief insuring the availability of necessary tanker tonnage to provide for the uninterrupted flow of needed petroleum imports. This may prove to be correct to the extent to which the proponents quote the provision of the bill. Unfortunately, what they fail to indicate is that the bill specifies "fair and reasonable rates for *United States-flag commercial vessels*". This has significant cost import since fair and reasonable rates are not to be determined on the basis of "world scale", or in other words, world-wide competition, but rather with respect to those rates which are fair and reasonable in our own domestic tanker market, which as a general rule will be higher.

Additionally, Mr. Chairman, with respect to the determination of "fair and reasonable rates for United States-flag commercial vessels", the provision of the bill is silent with respect to whether this means fair and reasonable with respect to (i) company-owned tanker vessels?; (ii) tanker vessels on long-term bareboat or time charters?; or (iii) tanker vessels on spot charters? For this reason, Mr. Chairman, I suggest that this one determination alone has the potential for creating a bureaucratic morass.

But, then, Mr. Chairman, there also must be a determination to ensure "fair and reasonable participation of United States-flag commercial vessels in such cargoes by *geographical areas* . . ." To what geographical areas does this refer? Are there presently designated "geographical areas", and if so, where are they situated, and if not, is this a concept that is subject to change pursuant to administrative determination?

Mr. Chairman, although the "geographical areas" concept has been incorporated into the existing cargo preference requirement of section 901(b) of the Merchant Marine Act of 1936, as amended, it is my understanding that it has been the subject of a variety of administrative interpretations by agencies of the Executive Branch. However, whereas existing law is concerned principally with the *exportation* of government-financed cargoes, H.R. 8193 is concerned with *importation* of petroleum and petroleum products. How, then is the "geographical areas" concept to be applied? Is it to be applied to point of destination or point of origin? The difference could have a profound impact. Quite frankly from a parochial standpoint, I wonder whether it means that those of us situated in northern New England will be encountering another invidious quota program applicable, for example, to Canada if it is considered one of several "geographical areas".

The third and final problem area I foresee is the requirement that the Secretary of Commerce "establish reasonable classifications of persons and imports subject thereto . . ." This provision prompted Under Secretary of Commerce Tabor to make the following observation:

". . . the bureaucratic and legal quagmire certain to be encountered in the daily enforcement of cargo preference is explicit in the amendment. I am referring to the administrative and judicial remedies which are outlined for individuals seeking redress from alleged improper classification or treatment in implementing the provisions of the law.

"* * * I would be less than candid, however, if I did not acknowledge that a large administrative organization will have to be established to carry out those duties. * * *"

In this connection, Mr. Chairman, when Mr. Ruttenberg responded to written questions submitted to him by Congressman Clark concerning the determination of fair and reasonable rates for United States-flag commercial vessels, Mr. Ruttenberg made the following statement:

". . . if this clause is fully implemented by proper regulations, the government, presumably the Maritime Administration, could require full disclosure of cost and prices to enable determination of whether a rate is fair and reasonable. The consumer would

thus be protected from overcharges, at least for that portion of oil which would be carried on U.S.-flag ships." (See hearings before the Committee on Merchant Marine and Fisheries, House of Representatives, Serial No. 93–26, at page 635).

My only observation in this regard, Mr. Chairman, is that it would appear that Mr. Ruttenberg's statement is premised upon the false assumption that the Maritime Administration will be regulating tanker vessel rates whereas in point of fact it will only be passing upon the fairness and reasonableness of such rates "for United States-flag commercial vessels". On the other hand, if Mr. Ruttenberg's regulatory premise is correct, then not only would it appear to be a duplication of the functions of the recently established Federal Energy Administration, but the Congress might be well advised to consider repeal of Reorganization Plan No. 7 of 1961 which transferred the regulatory functions from the then existing Federal Maritime Board to the Federal Maritime Commission, since for all intents and purposes we will be vesting in the Maritime Administration regulatory authority necessary to enable it to carry out functions under the pending legislation!

4. Domestic shipyard capability and inflationary impact:

Mr. Chairman, with respect to the issue of our domestic shipbuilding capability, I am reminded of the testimony of Mr. Howard F. Casey, Deputy Assistant Secretary for Maritime Affairs, before this very same Subcommittee on Merchant Marine on May 16, 1974 when testifying on the pending maritime authorization bill, S. 3319. On that occasion Mr. Casey made the following observation:

"Subsidized shipbuilding orders exceeding $2.5 billion have been generated by the 1970 Act. * * *

"As a result, the domestic shipbuilding industry today has underway the greatest peacetime shipbuilding boom in its history. * * * This backlog in terms of value is 3½ times as large as the 1970 orderbook, and is only exceeded by the crash shipbuilding programs of World Wars I and II. * * * "

Now, Mr. Chairman, the foregoing quote might be discounted by some as a self-serving declaration. But, I would like to quote from the Foreword to the 1973 Annual Report of the Shipbuilders Council of America which noted, in part, the following:

"Placement of contracts for naval vessels, merchant ships, oil drilling rigs, barges and other floating equipment produced an unprecedented peacetime backlog of work in U.S. shipyards valued at more than $6.5 billion.

"On the world scale of ship tonnage on order or under construction, the United States moved from tenth to eighth position.

"Federal appropriations in support of naval and merchant shipbuilding reached new highs for peacetime."

Finally, Mr. Chairman, in the magazine Fortune of May 1974, there was an article entitled "Fortune's Directory of the 500 Largest Industrial Corporations". Included with that article is a tabulation of the industry medians for return on stockholders' equity, and for 1973 the category entitled "Shipbuilding, railroad equipment, mobile homes" shows a return of 13.9%, which is even greater than the 13.4% recorded for the same period of time for the category of "Petroleum refining"!

Based upon the foregoing, I submit that one need not ponder very long as to why Under Secretary of Commerce Tabor, correctly in my opinion, observed the following:

"* * * If this bill becomes law, we can expect sharply increased prices for both the construction and operation of U.S.-flag tankers. * * * The 40 additional VLCCs required by 1977 would cost approximately 4.2 billion dollars at currently estimated prices—prices which do not include the anticipated shipyard price escalations."

Let us not therefore delude ourselves any further with respect to the potential cost impact of the pending legislation. Be it the American taxpayer through Federal subsidies, or the American consumer through increased product prices—and, I consider "taxpayer" and "consumer" to be synonymous—The citizens of this country are inevitably going to be called upon to bear the burden of any such increased cost.

5. Lack of demonstrated need:

Mr. Chairman, the next issue that causes concern to me is the apparent lack of a demonstrated need for a crash shipbuilding program for additional tanker tonnage when viewed in light of the present world-wide tanker construction. For example, Mr. Paul H. Riley, Deputy Assistant Secretary of Defense (Installations and Logistics) for Supply, Maintenance, and Services when testifying before the House Committee on Merchant Marine and Fisheries, made the following point:

In point of fact, total tonnage now in service, building or on order in world shipyards for delivery by 1977 may already be approaching the total tonnage which the world oil industry will require in 1980. There is, therefore, the likelihood of a surplus tanker supply and possibly depressed prices in coming years, particularly for large crude carriers.

"Under these conditions, forced employment of U.S.-flag tankers by oil importers would incur increases in transportation costs, which would, in turn, be reflected in higher domestic petroleum prices." (See hearings before the Committee on Merchant Marine and Fisheries, House of Representatives, Serial No. 93–266, at pages 174–175.)

"Well, our estimate is that by 1980, the world will need about 350 million dwt of tanker tonnage to satisfy its crude oil shipment requirement.

"We now have about 200 million dwt on hand. We now have on order or planned another 150 million, so that gets you to about your 350 million. * * *" (Ibid. at page 193)

In addition, Mr. Chairman, I request unanimous consent to insert at the conclusion of my statement a copy of an article appearing in the financial section of the *New York Times* of Sunday, April 14, 1974, predicting a similar potential surplus tonnage of tanker vessels.

Accordingly, Mr. Chairman, I am constrained to conclude that, notwithstanding the meritorious objectives of S. 2089 and H.R. 8193, the cost implications could make it foolhardy and unwarranted to embark upon a "crash" tanker vessel building program fueled by the pending legislation.

6. The legislation establishes a precedent for the extension of cargo preference requirements to other commodities:

Mr. Chairman, in examining the issue of precedent which the pending legislation will furnish, I firmly believe that all members of Congress should recognize that, if enacted the pending legislation will provide the first precedent for extension by statute of the United States of a government-mandated preference requirement for U.S.-flag vessels with respect to *commercial cargoes*. Certainly, it is a recognized fact that our nation is dependent upon other nations for the supply of raw materials, such as chrome ore. It is not inconceivable, Mr. Chairman, that once the entering wedge has been made by the pending legislation, there will be future efforts to extend this same commercial application or cargo preference to a multitude of other commodities, both for importation and exportation.

I have a very real fear that such an extension of the cargo preference requirement could very well come to pass, especially in light of testimony received before the House Committee on Merchant Marine and Fisheries.

For example, in response to certain questions submitted by Congressman Frank M. Clark, Mr. Alfred Maskin, Executive Director of the American Maritime Association responded in the following manner:

"*Question.* The government has never applied a preference requirement to commercial cargo. Now you are asking us to do it for oil. If for oil, why not for every type of commercial cargo?

"*Answer.* Well, I don't intend to make sweeping generalizations for that because I believe that circumstances surrounding the importation or exportation of any particular commercial commodity vary, and that whether or not we apply a preference requirement to any other commodity has to be decided on the merits of that particular case.

"Of course, we import many other bulk commodities besides oil—ores and other dry bulk commodities which are of strategic importance to the United States, and which again are being carried almost entirely by foreign-flag ships. *Off the top of my head, I can see no reason why a preference requirement should not be applied to these commodities, or to liquefied natural gas which we're just beginning to export.* * * *" (See hearings before House Committee on Merchant Marine and Fisheries, Serial No. 93–26, at pages 362–363)

Similarly when Mr. Shannon J. Wall, President of the National Maritime Union of American, AFL–CIO, appeared before the same House Committee, the following exchange occurred between he and Congressman DuPont:

"Mr. DuPont. Let me ask a second question.

"If this is good for all oil, why is it not good for chromite and Volkswagens, and Swiss watches?

"Why not require everything that comes into the United States to have 30 percent of it come in on American-flag ships?

"Mr. Wall. I think we have to take one step at a time. Let us see if we can get the 20 percent on the tankers.

"Mr. DuPont. So this is the first time you are coming up, and you intend to come back and ask us to extend it to other products?

"Mr. Wall. The United States is dependent on its importations from overseas, and *I would see no reason why all commodities could not be so treated.* * * *" (Emphasis supplied) (Ibid. at pages 408–409)

7. Creation of a captive, non-competitive market for U.S.-flag tanker vessels:

Mr. Chairman, when Under Secretary of Commerce Tabor testified before this Subcommittee on May 20th, one of his observations was as follows:

"I am opposed to the proposed legislation because it is contrary to our efforts to create a truly healthy and *competitive* fleet. A statutory requirement that commercial oil import cargo be carried in U.S.-flag bottoms would effectively abandon the concept that the U.S. Merchant Marine can become competitive in the international market place. * * *" (Emphasis supplied)

In a similar vein, the Assistant Secretary of Commerce for Maritime Affairs Robert J. Blackwell, testified in the following manner before the House Committee on Merchant Marine and Fisheries:

"In summary, I am opposed to oil cargo preference legislation for the following reasons:

"3. Cargo preference could introduce inefficiencies into the transportation of petroleum which, because of inflexible carriage requirements, may result in higher costs than would otherwise occur." (See hearings before Committee on Merchant Marine and Fisheries,

House of Representatives, Serial No. 93-26 at page 27)

Now, Mr. Chairman, the foregoing observations have been made principally with respect to the pending legislation, S. 2089 and H.R. 8193. Unfortunately, I feel that the pending legislation cannot be so isolated and viewed solely with respect to its impact. Rather, it must be viewed in its total context, especially in relationship to existing cargo preference statutes applicable to government-financed generated cargoes.

When so viewed, I foresee the very real prospect that what we are accomplishing is simply extending seaward into the international market place a trade which could be subject to what will be, in effect, cabotage principles. For example, if H.R. 8193 is enacted, I can foresee the prospect of operators of U.S.-flag tanker vessels, which could be eligible for construction-differential subsidy, operating-differential subsidy, where applicable, and other Federal government benefits, engaging in a triangular trade from continental United States ports to, say, India, transporting grain subject to existing cargo preference requirements with attendant premium rates; making the very short voyage in ballast from India to the Persian Gulf to load crude oil subject to the preference requirements of H.R. 8193; then proceeding with such crude oil for discharge at a refinery in Rotterdam or the Bahamas; and then at such intermediate point under the same preference requirements of H.R. 8193, loading refined petroleum products for discharge at a port in the continental United States.

Thus, in the final analysis, Mr. Chairman, as a matter of simple business practice, I anticipate that, if the pending legislation is enacted, U.S.-flag tanker vessel operators will compete more and more with each other, and less and less with foreign-flag tanker operators. I seriously question the wisdom of pursuing this course of action.

8. Balance-of-payments benefit:

Now, Mr. Chairman, again the proponents of S. 2089 and H.R. 8193 have made much of the argument of the estimated benefit from enactment of this legislation to our balance-of-payments. However, I would hasten to point out that Dr. William A. Johnson, Special Assistant to the Deputy Secretary of Treasury testified before the House Committee on Merchant Marine with respect to this point in the following manner:

"If the present fleet configuration is maintained, the direct balance-of-payments outlay for the period 1976-80 would be $5.95 billion. If the fleet envisioned by H.R. 8193 were created, the outlay would be $4.41 billion, for an annual savings of $308 million. The total balance-of-payments savings of $315 million amount to only 3.4 percent of the 1972 balance-of-payments deficit.

"Let me stress, however, that *I think it highly unlikely that the United States would achieve $315 million in savings each year because of enactment of this bill.* No account is made for possible imitation by foreign countries. We have no idea for example, what the loss in U.S. shipping might be if foreign countries imposed similar restrictions on their imports or exports.

"Nor is it likely that the balance-of-payments savings would result only from a switch from foreign to U.S. tankers. As I have indicated, in the extremely tight crude oil and product market with which we are now confronted, the result of this bill, if enacted, would probably be reduced imports. Should this happen, *we may well have a substantially improved balance-of-payments position but at the cost of disruption to our economy and intensified fuel shortages for the American public. I do not think that the balance-of-payments savings are worth that price* or should be a primary consideration in the decision to enact this bill." (Emphasis supplied) (See hearing before the Committee on Merchant Marine and Fisheries, House of Representatives, Special No. 93-26 at page 211)

9. Another added Government benefit to our multi-faceted maritime program:

Mr. Chairman, I believe it is common knowledge that subsidy and subsidy-effect programs of the Federal Government have been a source of continual concern to the members of the Joint Economic Committee of the Congress. This concern has been reflected in several reports issued by the Joint Committee with respect to such programs. I share some of their concern, particularly in the case at hand, where we have legislation which constitutes yet another step in the proliferation of maritime promotion programs.

At the present time, Mr. Chairman, our maritime subsidy programs, be they direct or indirect, are becoming legion. They include for example, construction-differential subsidy, operating-differential subsidy, cargo preference requirements for government-financed cargoes, cabotage laws to protect our coastwise trade, sale and exchange of vessels, low interest vessel mortgage insurance, war risk insurance, and tax benefits through a special construction reserve fund in which U.S.-flag operators may deposit tax-deferred funds. In addition, it is my understanding that the Department of Defense also has a "build and charter" program for "handy size tanker to deliver [sic. petroleum] products to military forces ashore in time of war."

Now, on top of all of this, Mr. Chairman, S. 2089 and H.R. 8193 under the misleading title of the "Energy Transportation Security Act of 1974" are being promoted as yet another benefit to be added to the existing multi-million dollar programs for our maritime industry. As I observed at the beginning of my statement, Mr. Chairman, I supported actively the enactment of the Merchant Marine Act of 1970. But, I believe that at a certain point Congress must call a halt and say, "Enough is enough!",

Also, Mr. Chairman, I understand that in the course of earlier hearings conducted by your Subcommittee on the pending legislation, you frequently have noted that the resistance of the major oil companies to this legislation has been due to the fact that such companies do not wish to deal with American labor. I am not here to defend or espouse the position of the major oil companies. Since the major oil companies own most of the tanker tonnage, I view the present legislation as a proposition in which "heads they win, or tails they win". The people who are really going to be hurt by enactment of the pending legislation are small independent refineries who must compete with the major oil companies.

For example, I understand that United Refining Company of Warren, Pennsylvania, has, or will express opposition to the pending legislation indicating that, if H.R. 8193 is enacted, its only recourse would be to *export* refined foreign oil to European markets where it would be able to recoup its costs for such higher priced foreign oil. If so, Mr. Chairman, then we may face the unique situation of experiencing not a flight of American capital, but rather a flight of American petroleum products, which are badly needed for the continued operation of our industrial society.

Now, insofar as concerns your observation concerning the desire of the major oil companies to avoid bargaining with American labor, I can only note that within this very Congress our Committee on Commerce held hearings and ordered reported without recommendation the bill, S. 1566, bearing the short title of the "Hawaii and United States Pacific Islands Surface Commerce Act of 1974". The purpose of S. 1566 is to provide for the normal flow of ocean commerce between Hawaii, Guam, American Samoa, or the trust territory of the Pacific Islands, and the West Coast and to prevent certain interruption, such as labor strikes. As one of the principal sponsors of this legislation observed in his opening statement:

"* * * This measure was the culmination of efforts to formulate a reasonable legislative approach to solving Hawaii's most pressing problem—our unique vulnerability to surface transportation stoppages involving the west coast Hawaii trade.

"With 99 percent of our trade by weight arriving by ship or barge and with some 90 percent of our imported food products dependent on west coast-Hawaii shipping the need for relief can be clearly shown."

Yet, Mr. Chairman, these same areas so highly dependent on imported oil may very well be confronting yet another vehicle for disruption of commerce so vital to us. As Under Secretary of Commerce Tabor observed at the opening day of hearings on pending legislation, "Hawaii, for example, imports from abroad virtually all the oil it consumes. Hawaiian consumers will therefore share with consumers on the East Coast the heaviest burden of cost of this bill."

In conclusion, Mr. Chairman, I should like to quote from an editorial of October 16, 1973, which appeared in the *Journal of Commerce* concerning the pending legislation, and which I should like to include in its entirety at the end of my statement. In that editorial entitled "A Double Tanker Subsidy?" the following observation was made:

"* * * A form of special assistance, once given to meet special circumstances, is invariably regarded by its beneficiaries as a God-given right and a permanent feature of their economic environment.

"Moreover, we suspect that once Congress specifies that a certain proportion of oil cargoes move in U.S. ships the minimum won't stay long as 30 per cent and may not long be limited to oil. * * *"

And I might add that the pending bills provide a minimum, *not* a ceiling, percentage of carriage requirement (i.e., "at least") that could even be increased *administratively* without any further Congressional action whatsoever!

Mr. Chairman, S. 2089 and H.R. 8193 are both highly improvident legislative measures. If we are to have any energy transportation security as suggested by the short title of H.R. 8193, then this legislation should be and must be soundly rejected!

[From the New York Times, Apr. 14, 1974]

WHAT TO DO WITH ALL THOSE TANKERS

(By Christopher Hayman)

LONDON.—According to the professionals, the outlook for the world tanker market is grisly indeed.

The world's tanker fleet amounted to 212 million tons, deadweight (carrying capacity), as of the start of the year. By the second half of next year, there will be a surplus of 48 million tons—or 58 million should the Suez Canal be reopened—says Eggar Forester, London shipbrokers.

There are 3,293 ships in the present fleet. Somebody is going to have to be using 141 more tankers each year until 1978 just to accommodate the tonnage on order now, says the Royal Dutch/Shell oil group.

All in all, it would be a brave man who was not looking for a surplus fleet of some kind.

That said, however, one must note the dangers of making any firm prophecies, given the volatile nature of tankering.

Even by its own standards, the business has been excelling itself for virtuosity in recent months. When the embargoes on oil shipments were announced by Arab states in the fall, the index of charter rates skipped from Worldscale 350 to 420, then dropped on a single black day in October from 420 to

80. The index did recover temporarily to around 200, but has plunged again to the 80 level where it now rests.

The imponderables, in fact, abound despite an assumption of a return to more normal shipping patterns.

The future of Suez is an obvious one. The chairman of the canal authority has put forth a reopening program that would make the waterway available to 60,000 tonners by the end of this year, for 150,000 tonners three years later and for 250,000 tonners after another three.

Reopening, agreed to in an unpublished portion of the Jan. 18 disengagement accord between Egypt and Israel, has the financial and technical support of the British, Japanese and Americans. It has been estimated that opening would reduce demand for tankers by 5 per cent. But there are problems.

When the 100-mile canal was closed down in the 1967 Middle East war, it could take 60,000 ton tankers and was 38 feet deep. Siltage, wrecks and tons of unexploded munitions have severely eroded that capacity and to take a laden 200,000 tonner, the canal would have to be deepened to 68 feet—at the cost of billions of dollars.

Two-thirds of the canal's well-over $200-million of revenues in 1966, the last full year of operation, came from oil traffic—at 90 cents a ton, laden. Eight inflationary years and huge cleaning-up costs later, the balance of toll revenue needed versus oil's willingness to pay is out of phase. So is any guess as to what sort and how much traffic the canal would attract.

Another problem is to assess American crude imports for the remainder of the decade, given the United States, "Operation Independence." The Federal Energy Office's latest report supports the view that self-sufficiency may be achievable by 1980. There could be a big increase in American imports between now and 1977–78, but no one is sure whether reduced demand for energy sources generally may take hold.

The impact of offshore exploration on tanker demand is easier to predict, but not much so. Distances from the terminal to the refinery may shrink from historical norms—in the case of the North Sea, for example. According to one guess, if the North Sea is producing 3 million barrels a day by 1980 the demand for tankerage would be cut by 25 million deadweight tons from what would be needed to move the same amount of oil to consumers from the Persian Gulf.

On the supply side, meanwhile, there is already a massive amount of tonnage on order—152 million deadweight tons of above-200,000-ton tankers alone at the turn of the year and about 200 million tons in all.

These are signs that, while contracting has fallen off very sharply in the last three months, oil producing countries, particularly the Arabs, are beginning to catch the bug and order ships. Contracting has come not just from national tanker companies such as those in Iraq and Libya, but also from the Arab Maritime Petroleum Transportation Company, sponsored by the Organization of Petroleum Exporting Countries. Eight participating nations funded the maritime company at $500-million, and it has ultra-large crude carriers and shows signs of ordering more.

For independent tanker owners particularly, there is a hope that the Arabs will supplement their fleet by buying into existing tanker contracts rather than continuing to order fresh tonnage of their own. But it can only be called a hope.

There are a few brighter spots in the picture. With bunker, or fuel, costs showing little sign of easing after more than doubling in the wake of the Middle East war, there is a strong temptation for owners to run their ships at reduced speeds, meaning more tankers used for moving a given amount of oil. For a 16-knot tanker, a reduction of speed of one knot means a bunker saving of 16 per cent.

Also if the projected increase in demand for coal creates a bigger demand for dry-bulk ships, the so-called combination carriers, such as ore-oil carriers, could move into the dry trades, thus acting as a safety valve on the tanker market.

Concerning the size of the ship needed, one crucial factor is the fate of the bill to authorize construction of a United States East Coast deep water oil terminal, capable of accommodating very large crude carriers. The upper limit for tankers serving the coast at present is 80,000 deadweight tons. If the proposal for offshore terminals to handle ships of up to 250,000 tons gets Congressional approval, size patterns would be radically affected.

And size is no small consideration, given that building one of those 250,000-tonners will run you perhaps $60-million at present. Furthermore, only about 15 per cent of any building order is contracted at a fixed rate, allowing for subsequent adjustments to reflect currency shifts and, perhaps, inflation.

Another important element would be the development of refineries in Arab lands, an increasingly popular plan, which would shift shipping needs from bulk crude toward more specalized products.

In any case, a large chunk of the world's product carrier fleet is about to reach the end of its economic life, and there is an opportunity now to radically alter size patterns.

The prospects are certainly blighted for the independent tanker owners, which account for 141 million of the 212 million-ton total world fleet. The increase in bunker fuel costs alone has meant that the break-even point for a spot tanker voyage has climbed to around 50 on the charter rate index from the traditional 30 for a very large crude carrier.

Inflation and the currency situation are pinpointed as the chief threats by the International Association of Independent Tanker Owners, or Intertanko, which represents about 70 per cent of all independently owned tonnage.

Last December, an Intertanko working party found special measures were required to rescue those owners trapped into long-term charter agreements at rates set before the fluctuations that followed the adoption of floating currency rates.

Some 30 per cent of the world fleet is on such long-term, or more than 12-month lease, the remainder being divided among single-voyage charters (20 percent), oil company tonnage and less-than-12-month leasing.

Although some major European oil companies have begun making offsetting payments for currency losses, some observers interpret the institutionalizing of the uncertainties inherent in a world-wide float as posing a threat to the whole future of long-term chartering.

And the clear signs of an imminent overtonnaging situation catch many quite small-time operators faced with taking delivery of ultra large crude carriers in 1976–77 that they may have difficulty in employing.

[From the Journal of Commerce and Commercial, New York, (N.Y.), Oct. 16, 1973]

A DOUBLE TANKER SUBSIDY?

There is a very good reason why Congress should think a long time before voting to aid one section of the business community by restricting another. It is that no matter how urgent the need for aid may seem at the time, the restriction is almost sure to outlast a complete reversal of the conditions that brought it into being.

The same, unfortunately, is too often true of subsidies, whether direct or indirect. One only need cite the difficulty the administration had in paring farm support payments at a time food prices were skyrocketing; or the difficulty others had in convincing the administration that import quotas on oil, meats, dairy products and the like should be dropped in similar circumstances. Other examples could be cited, but these should suffice to make the point that gets so little notice in Congress when proposals to give some group a helping hand take legislative form. A form of special assistance, once given to meet special circumstances, is invariably regarded by its beneficiaries as a God-given right and a permanent feature of their economic environment.

In our view, this consideration alone should be enough to deter Congress from enacting legislation requiring that a specific proportion of petroleum and petroleum products imported into this country be carried in tankers of American registry. After all, if it was folly for the administration to restrict oil imports when prices were already rising and shortages growing, what could be said of legislation that would force petroleum prices still higher?

The administration has already said it. The Department of State, the Interior Department and Maritime Administrator Robert J. Blackwell have already stated their opposition to the idea, and more (the Department of Defense among them) may have done so by the time these lines appear.

But 200 members of the House have other ideas. They are backing a bill requiring that 20 per cent of all imported petroleum and products be moved in American tankers at the start of the program. By 1977 this minimum would have been raised in stages to 30 per cent. Also supporting the bill, not surprisingly, is a coalition of business interests that want to operate the tankers and the maritime unions that want jobs for their members.

Also behind this move is a rationale that strikes us as curious. It is the outgrowth of a relatively new tanker subsidy program which is large enough, on the basis of Mr. Blackwell's estimates, to enable the U.S. operators to haul about 18 per cent of the 12 million barrels expected to be coming into this country daily by 1980, and by 1985 perhaps 20 per cent of an expected daily inflow of 15 million barrels.

Now note the thought processes at work. The subsidy program by itself promises the operators only 15 to 20 percent of the business from seven to a dozen years from now. The operators and the unions want more, and they want it a lot sooner. But the subsidy program cannot be easily enlarged without running afoul of the Office of Management and Budget or perhaps even the House Appropriations Committee.

What could be more attractive, then, than the idea of shifting the extra burden from the Treasury to the importer? Because American ships are costly to run, their charges in trades such as this are relatively high. But the importers will have no choice but to pay them for at least 20 to 30 per cent of what they get from overseas.

It goes without saying, of course, that importers paying artificially inflated rates for nearly a third of their oil, and averaging these out through the remainder of their price structure, will pass the increases on to a public already fearful of future shortages in gasoline, heating oil and other products. And thus will the public subsidize not only the construction program now authorized, but the explanded plans of the operators and unions.

Mr. Blackwell's arguments against this are several and valid. He would view it, he said, as "an admission that the administration's new mritime program has failed and . . . that the U.S. merchant marine can never become competitive in the international market."

Yes, it would. But it would be more than that. It would be a move to accomplish by indirect means what cannot presently be accomplished by direct means. Moreover, we suspect that once Congress specifies that a certain proportion of oil cargoes move in U.S. ships the minimum won't stay long as 30 per cent and may not long be limited to oil. Does anyone seriously doubt that there will be constant pressure to raise it? Have we forgotten the farm parities?

BIG THICKET NATIONAL PRESERVE, TEX.

Mr. BIBLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 11546.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

H.R. 11546, to authorize the establishment of the Big Thicket National Preserve, in the State of Texas, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with amendments on page 2, line 1, after the word "dated", strike out "November 1973" and insert "May 1974"; at the beginning of line 2, strike out "NBR–BT 91027" and insert "NBR–BT 91,030"; on page 4, line 10, after the semicolon, insert "and Big Sandy-Village Creek Unit, Hardin County, Texas, comprising approximately fifteen thousand four hundred and fifty acres."; on page 5, after line 12, strike out:

SEC. 2. (a) Effective six months after the date of the enactment of this Act or at such time as the Secretary publishes the detailed description of the boundaries of the preserve in the Federal Register as required by subsection 1(b) of this Act, whichever is earlier, there is hereby vested in the United States all right, title, and interest in, and the right to immediate possession of, all real property, except the mineral estate, lands or interests in lands owned by the State of Texas or its political subdivisions, or existing easement for public utilities, pipelines, and railroads, and except as provided in subsection (c) of this section. The Secretary shall allow for the orderly termination of all operations on real property acquired by the United States under this subsection, and for the removal of equipment, facilities, and personal property therefrom.

(b) The United States will pay just compensation to the owner of any real property taken by subsection (a) of this section and the full faith and credit of the United States is hereby pledged to the payment of any judgment entered against the United States pursuant to the provisions of this Act. Payment shall be made by the Secretary of the Treasury from moneys available and appropriated from the Land and Water Conservation Fund, subject to the appropriation limitation contained in section 6 of this Act, upon certification to him by the Secretary of the agreed negotiated value of such property, or the valuation of the property awarded by judgment, including interest at the rate of 6 per centum per annum from the date of taking to the date of payment therefor. Any action against the United States for just compensation for any lands or interests taken pursuant to this subsection shall be brought in the district court of the United States for the district in which such property is situated. In the absence of a negotiated agreement or an action by the owner within one year after the date of enactment of this Act, the Secretary may initiate proceedings at any time seeking a determination of just compensation in the district court of the United States for the district in which the property is situated. In the event that the Secretary determines that fee title to any lands taken pursuant to this provision is not necessary for the purposes of this Act, he may, with the concurrence of the former owner, revest title in such lands to such owner subject to such terms and conditions as he deems appropriate to carry out the purposes of this Act and he may compensate the owner for no more than the fair market value of the rights so reserved: *Provided*, That the Secretary shall not revest title to any lands for which just and full compensation has been paid.

(c) This section shall not apply to any improved property as defined in subsection 3 (b) of this Act: *Provided*, That the Secretary may, in his discretion, initiate eminent domain proceedings if, in his judgment, such lands are subject to, or threatened with, uses which are or would be detrimental to the purposes and objectives of this Act. The district court of the United States for the district in which such property is situated shall have jurisdiction to hear evidence and determine just compensation for any lands taken pursuant to the provisions of this subsection.

On page 7, at the beginning of line 21, change the section number from "3" to "2"; on page 10, at the beginning of line 22, change the section number from "5" to "4"; and on page 11, at the beginning of line 7, change the section number from "6" to "5".

Mr. BIBLE. Mr. President, I ask unanimous consent that Jim Beirne, the staff assistant handling parks and recreation areas, be granted the privilege of the floor on the pending bill.

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

Mr. TOWER. Mr. President, I ask unanimous consent during consideration of H.R. 11546 and all amendments thereto, that Melanie McCoy of my staff be permitted the privilege of the floor.

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

Mr. BENTSEN. Mr. President, I ask unanimous consent that a member of my staff, Tim Furlong, be granted the privilege of the floor during debate on the pending bill and any amendments thereto.

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

Mr. BIBLE. Mr. President, I now yield to the distinguished Senator from Utah (Mr. Moss).

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION—CONFERENCE REPORT

Mr. MOSS. Mr. President, I submit a report of the committee of conference on H.R. 13998, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. NUNN). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13998) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report which reads as follows:

CONFERENCE REPORT (S. REPT. No. 93–886)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13998) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That there is hereby authorized to be appropriated to the National Aeronautics and Space Administration:

(a) For "Research and development," for the following programs:

(1) Space Shuttle, $805,000,000;

(2) Space flight operations, $313,300,000;

(3) Advanced missions, $1,500,000;

(4) Physics and astronomy, $140,515,000;

(5) Lunar and planetary exploration, $266,000,000;

(6) Launch vehicle procurement, $143,500,000;

(7) Space applications, $196,300,000 of which $2,000,000 is designated for research on Short Term Weather Phenomena; and $1,000,000 is designated for research on ground propulsion systems;

(8) Aeronautical research and technology, $171,500,000;

(9) Space and nuclear research and technology, $79,700,000, of which $1,000,000 is designated for research on hydrogen production and utilization systems;

(10) Tracking and data acquisition, $250,000,000;

(11) Technology utilization, $5,500,000;

(b) For "Construction of facilities," including land acquisition, as follows:

(1) Addition to flight and guidance simulation laboratory, Ames Research Center, $3,660,000;

(2) Rehabilitation and modification of science and applications laboratories, Goddard Space Flight Center, $890,000;

(3) Modifications for fire protection and safety, Goddard Space Flight Center, $1,220,000;

(4) Acquisition of land, Jet Propulsion Laboratory, $150,000;

(5) Addition to systems development laboratory, Jet Propulsion Laboratory, $4,880,000;

(6) Addition for integrated systems testing facility, Jet Propulsion Laboratory, $3,790,000;

(7) Modification of water supply system, Lyndon B. Johnson Space Center, $935,000;

(8) Modification of 6,000 pounds per square inch air storage system, Langley Research Center, $515,000;

(9) Rehabilitation of 16-foot transonic wind tunnel, Langley Research Center, $2,990,000;

(10) Modification of propulsion systems laboratory, Lewis Research Center, $2,580,000;

(11) Modification of rocket engine test facility, Lewis Research Center, $660,000;

(12) Construction of X-ray telescope facility, Marshall Space Flight Center, $4,060,000;

(13) Modification of beach protection system, Wallops Station, $1,370,000;

(14) Construction of infrared telescope facility, Mauna Kea, Hawaii, $6,040,000;

(15) Modifications for fire protection and safety at various tracking and data stations, $1,430,000;

(16) Space Shuttle facilities at various locations as follows:

(A) Construction of Orbiter landing facilities, John F. Kennedy Space Center, $15,880,000;

(B) Construction of Orbiter processing facility, John F. Kennedy Space Center, $13,380,000;

(C) Modifications to launch complex 39, John F. Kennedy Space Center, $37,690,000;

(D) Modifications for dynamic test facilities, Marshall Space Flight Center, and National Aeronautics and Space Administration Industrial Plant, Downey, California, $3,920,000;

(E) Construction of Orbiter horizontal flight test facilities, Flight Research Center, $3,940,000;

(F) Modifications for crew training facilities, Lyndon B. Johnson Space Center, $420,000;

(G) Modification of the vibration and acoustic test facility, Lyndon B. Johnson Space Center, $410,000;

(H) Construction of materials test facility, White Sands Test Facility, $790,000;

(I) Modifications for solid rocket booster structural test facilities, Marshall Space Flight Center, $2,590,000;

(17) Rehabilitation and modification of facilities at various locations, not in excess of $500,000 per project, $14,900,000;

(18) Minor construction of new facilities and additions to existing facilities at various locations not in excess of $250,000 per project, $4,500,000;

(19) Facility planning and design not otherwise provided for, $10,900,000.

(c) For "Research and program management," $749,624,000, and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

(d) Notwithstanding the provisions of subsection 1(g), appropriations for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities, and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Astronautics of the House of Representatives and the Committee on Aeronautical and Space Sciences of the Senate of the nature, location, and estimated cost of such facility.

(e) When so specified in an appropriation Act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

(f) Appropriations made pursuant to subsection 1(c) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

(g) Of the funds appropriated pursuant to subsections 1(a) and 1(c), not in excess of $10,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and not in excess of $25,000 for each project, including collateral equipment, may be used for rehabilitation or modification of facilities: Provided, That of the funds appropriated pursuant to subsection 1(a), not in excess of $250,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

(h) The authorization for the appropriation to the National Aeronautics and Space Administration of $10,900,000, which amount represents that part of the authorization provided for in section 1(b)(12)(I) of the National Aeronautics and Space Administration Authorization Act, 1974, for which appropriations have not been made, shall expire on the date of the enactment of this Act.

SEC. 2. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (8), inclusive, of subsection 1(b) may, in the discretion of the Administrator or his designee, be varied upward 10 per centum to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 3. Not to exceed one-half of 1 per centum of the funds appropriated pursuant to subsection 1(a) hereof may be transferred to the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of the funds appropriated pursuant to subsection 1(b) hereof (other than funds appropriated pursuant to paragraph (19) of such subsection) shall be available for expenditure to construct, expand, or modify laboratories and other installations at any location (including locations specified in subsection 1(b)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) he determines that deferral of such action until the enactment of the next Authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installation unless (A) a period of thirty days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Astronautics of the House of Representatives and to the Committee on Aeronautical and Space Sciences of the Senate a written report containing a full and complete statement concerning (1) the nature of such construction, expansion, or modification, (2) the cost thereof including the cost of any real estate action pertaining thereto, and (3) the reason why such construction, expansion, or modification is necessary in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 4. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Astronautics or the Senate Committee on Aeronautical and Space Sciences.

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by sections 1(a) and 1(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee,

unless (A) a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 5. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 6. Section 203(b)(9) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2473(b)(9)), is amended to read as follows:

"(9) to obtain services as authorized by section 3109 of title 5, United States Code, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18;".

SEC. 7. The National Aeronautics and Space Administration is authorized, when so provided in an appropriation Act, to enter into a contract for tracking and data relay satellite services. Such services shall be furnished to the National Aeronautics and Space Administration in accordance with applicable authorization and appropriation Acts. The Government shall incur no costs under such contract prior to the furnishing of such services except that the contract may provide for the payment for contingent liability of the Government which may accrue in the event the Government should decide for its convenience to terminate the contract before the end of the period of the contract. Title to any facilities which may be required in the performance of the contract and constructed on Government-owned land shall vest in the United States upon the termination of the contract. The Administrator shall in January of each year report to the Com-

mittee on Science and Astronautics and the Committee on Appropriations of the House of Representatives and the Committee on Aeronautical and Space Sciences and the Committee on Appropriations of the Senate the projected aggregate contingent liability of the Government under termination provisions of any contract authorized in this section through the next fiscal year. The authority of the National Aeronautics and Space Administration to enter into and to maintain the contract authorized hereunder shall remain in effect as long as provision therefor is included in Acts authorizing appropriations to the National Aeronautics and Space Administration for subsequent fiscal years.

SEC. 8. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1975".

And the Senate agree to the same.

FRANK E. MOSS,
JOHN C. STENNIS,
HOWARD W. CANNON,
BARRY GOLDWATER
CARL T. CURTIS,
Managers on the Part of the Senate.
OLIN TEAGUE,
KEN HECHLER,
DON FUQUA,
J. W. SYMINGTON,
CHARLES A. MOSHER,
ALPHONZO BELL,
JOHN W. WYDLER,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13998) to authorize appropriations to the National Aeronautics and Space Administration for FY 1975 for research and development, construction of facilities, and research and program management submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The NASA request for Fiscal Year 1975 totaled $3,247,129,000. The House authorized $3,259,084,000, and the Senate amendment authorized $3,267,229,000. The committee of conference agrees to a total authorization of $3,266,929,000, as follows:

CONGRESSIONAL ADJUSTMENTS TO NASA FISCAL YEAR 1975 BUDGET REQUEST

	Budget request	House	Senate	Committee of conference
Research and development:				
Space Shuttle	$800,000,000	$820,000,000	$800,000,000	$805,000,000
Space flight operations	323,300,000	308,300,000	318,300,000	313,300,000
Advanced missions	1,500,000	1,500,000	1,500,000	1,500,000
Physics and astronomy	140,515,000	140,515,000	140,515,000	140,515,000
Lunar and planetary exploration	266,000,000	266,000,000	264,000,000	266,000,000
Launch vehicle procurement	140,500,000	140,500,000	143,500,000	143,500,000
Space applications	177,500,000	179,500,000	200,500,000	196,300,000
Aeronautical research and technology	166,400,000	170,655,000	171,500,000	171,500,000
Space and nuclear research and technology	74,800,000	80,500,000	74,800,000	79,700,000
Tracking and data acquisition	250,000,000	250,000,000	250,000,000	250,000,000
Technology utilization	5,500,000	5,500,000	5,500,000	5,500,000
Total	2,346,015,000	2,362,970,000	2,370,115,000	2,372,815,000
Construction of facilities	151,490,000	146,490,000	147,490,000	144,490,000
Research and program management	749,624,000	749,624,000	749,624,000	749,624,000
Grand total	3,247,129,000	3,259,084,000	3,267,229,000	3,266,929,000

The points in disagreement and the conference resolution of them are as follows:

1. The House authorized $820,000,000 for the Space Shuttle program, adding $20,000,000 to the NASA request.

The Senate authorized $800,000,000.

The Conference substitute authorizes $805,000,000.

The Conference agreement recognizes that funds have been utilized from the program management reserve to solve the unanticipated technical difficulties encountered in the preparation of the Santa Susana test facilities to support Space Shuttle main engine component and subsystem development testing.

2. The House authorized $308,300,000 for the Space Flight Operations program.

The Senate authorized $318,300,000.

The Conference substitute authorizes $313,300,000 for this program.

The Conference substitute is a reduction of $10,000,000 from the NASA request and both Houses were in agreement that $5,000,000 of this reduction is to be made against the Apollo-Soyuz Test Project. The Committee of Conference agrees that the additional $5,000,000 reduction in the NASA request contained in the Conference substitute is to be taken from Development, Test and Mission Operations authorization provided, however, none of the reduction is to be applied against the supporting activities at the Mississippi Test Facility.

3. The House approved $266,000,000, the NASA request, for the Lunar and Planetary Exploration program.

The Senate authorized $264,000,000.

The Committee of Conference adopts the House position authorizing $266,000,000 for this program.

4. The House authorized $140,500,000 for the Launch Vehicle Procurement program, the amount of the NASA request.

The Senate authorized $143,500,000 for this program, an increase of $3,000,000 to initiate procurement of the Delta launch vehicle to be used to launch the ERTS–C spacecraft.

The Committee of Conference adopts the Senate position.

5. NASA requested $177,500,000 for the Space Applications program. The House authorized $179,500,000, an increase of $2,000,000, and specifically designated in the bill that $2,000,000 of the authorized funds are to be used for research on short-term weather phenomena, $2,000,000 for research on hydrogen production and utilization systems, and $1,000,000 for research on ground propulsion systems.

The Senate authorized $200,500,000, adding $23,000,000 to the request—$13,000,000 to initiate the ERTS–C spacecraft, $6,000,000 for additional energy research, $2,000,000 for research on short-term weather phenomena, and $2,000,000 for ERTS data processing activities.

The Conference substitute authorizes $196,300,000 for this program and designates $2,000,000 for research on short-term weather phenomena and $1,000,000 for research on ground propulsion systems.

The Committee of Conference agrees that NASA should initiate promptly the ERTS–C spacecraft project and should apply added resources to its energy research and development activities including the solar satellite power station study.

6. NASA requested $166,400,000 for Aeronautical Research and Technology.

The House authorized $170,655,000, an increase of $4,255,000 for additional effort in selected areas of aeronautical research.

The Senate authorized $171,500,000, an increase of $5,100,000 in the NASA request, with generally similar objectives to those of the House.

The Conference substitute adopts the Senate position.

7. The House authorized $80,500,000 for the Space and Nuclear Research and Technology program, increasing the NASA request $5,700,000 for coal and other energy-related research.

The Senate authorized $74,800,000, the amount of the NASA request.

The Conference substitute authorizes $79,700,000, designating $1,000,000 for research on hydrogen production and utilization systems.

The Conferees agree that $3,900,000 of the additional authorization is to be applied to coal-related research.

8. The House authorized $10,040,000 for an optimized infrared telescope facility to be constructed at Mauna Kea, Hawaii.

The Senate authorized $6,040,000 for this facility as requested by NASA.

The Conference substitute adopts the Senate position.

9. NASA requested $42,690,000 for modifications to Launch Complex 39, John F. Kennedy Space Center, to accommodate the Space Shuttle.

The House authorized $35,690,000 for this project, a reduction of $7,000,000.

The Senate authorized $42,690,000.

The Conference substitute authorizes $37,690,000.

10. The House authorized $3,940,000 for the construction of orbiter horizontal flight test facilities at the Flight Research Center, an increase of $2,000,000 above the NASA request to provide a capability for long-term aeronautical research.

The Senate authorized $1,940,000 for this facility.

The Conference substitute adopts the House position.

11. The House authorized a lump sum amount of $77,020,000 for Item 16. Section 1(b) for the several projects authorized for the Space Shuttle program.

The Senate authorized each individual Shuttle project with a specified amount therefor in lieu of a lump sum total for all projects.

The Conference substitute adopts the Senate position.

12. The House inserted Section 1(h) in the bill rescinding $10,900,000 of FY 1974 authorization for the construction of Orbiter landing facilities at the John F. Kennedy Space Center.

The Senate did not include a comparable provision in its action on this bill.

The Committee of Conference adopts the House position.

13. The Committee of Conference adopts the House position opposing the NASA proposal to place the Plum Brook Station in a standby mode and considers that every effort should be made to maintain this facility in a minimum operating condition so as to continue to provide support for NASA and other associated research activities for at least one year.

FRANK E. MOSS,
JOHN C. STENNIS,
HOWARD W. CANNON,
BARRY GOLDWATER,
CARL T. CURTIS,
Managers on the Part of the Senate.
OLIN TEAGUE,
KEN HECHLER,
DON FUQUA,
J. W. SYMINGTON,
C. A. MOSHER,

ALPHONZO BELL,
JOHN W. WYDLER,
Managers on the Part of the House.

Mr. MOSS. Mr. President, I move adoption of the conference report.

The motion was agreed to.

BIG THICKET NATIONAL PRESERVE, TEX.

The Senate continued with the consideration of the bill (H.R. 11546) to authorize the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.

Mr. BIBLE. Mr. President, I shall make a brief statement on the pending measure.

A similar measure was previously passed by the Senate in 1970. It was sponsored by one of the early leaders and great dedicated supporters of the Big Thicket, former Senator Yarborough, who worked tirelessly during the time he was in the Senate and has worked tirelessly ever since to see this area acquired and made a national preserve. I want to pay tribute to him at the outset of my statement.

The purpose of this bill is to establish the Big Thicket National Preserve in the State of Texas. In establishing this unit of the national park system, the Congress will assure the preservation of numerous representative areas typical of the Big Thicket region and it will protect and preserve the natural values which make this "biological crossroads" unique in the United States.

The bill authorizes the Secretary of the Interior to acquire lands, waters, and interests therein, within an area depicted on a map on file with the Department of the Interior, to be known as the Big Thicket National Preserve. The bill provides that the preserve may not include more than approximately 100,000 acres.

Mr. President, I ask unanimous consent that a rather full background description of the area be printed at this point in the RECORD.

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

BACKGROUND AND DESCRIPTION OF AREA

The Big Thicket area of eastern Texas contains a great diversity of plant communities. These vegetative units range from the drier upland country, to the baygall, bog, streambank, and floodplain forest communities. Various habitats within the units are unique, and may support the nearly extinct ivory-billed woodpecker and red wolf.

The chief value of the Big Thicket lies in its unique biological resources, evidenced largely by displays of plant life found nowhere else in the United States. Preservation of examples of these botanical displays is clearly necessary for continued scientific study and an educational and inspirational reminder to future generations.

The National Preserve category is a new concept, which will establish the preservation and protection of areas, which are unique due mainly to the flora and fauna, for the benefit of future generations, and which may be threatened by encroaching developments or other adverse situations.

The approximate 57 miles of river corridor with several access points will provide additional means to explore and appreciate much of the Big Thicket area. In addition to hiking trails in these and other areas, access by boats and canoes will also permit the visitor to enjoy the area in a different manner.

The Big Thicket of East Texas contains eight different biological habitats, ranging from savannah, to bald-cypress swamp, to upland mixtures of American beech, southern magnolia, white oak and loblolly pine. This area is unique in the United States. Changes in elevation from 400 feet on the north to a few feet above sea level on the south, as well as changes from well drained to swampy areas, and from fertile soil to intrusions of less fertile soil types, account for the variety of plant communities in the Big Thicket area. In addition, to its extraordinary diversity of flora, the area contains a wealth of animal life, and magnificent specimens of individual tree species. The larger mammals include the Texas whitetail deer, red and gray fox, raccoon, ringtail, mink, otter, skunks, opossum, bobcat, mountain lion, armadillo, and on occasion, black bear. Three out of four species of insectivorous plants occur there. Over 300 birds have been listed for the Big Thicket, including the American egret, roseate spoonbill, and the relatively rare red-cockaded woodpecker. The ivory-billed woodpecker which was the largest woodpecker in North America, may survive in the area. The Thicket also contains the largest known specimens of American holly, black hickory and planer tree, as well as 40 wild orchid species, some found nowhere else.

The scientific resources of Big Thicket are outstanding, not only because a variety of biological communities are in close proximity, but because of the ecologic interplay between species. The Committee is advised that explanation of these scientific values will be a major part of the interpretation by the Park Service of the Preserve. In addition to its scientific interest, the area is also one of great natural beauty, including park-like beech and magnolia stands, virtually impenetrable "thicket" areas, and picturesque bald cypress-water tupelo swamps.

The Big Thicket once comprised several million acres, but it has been greatly reduced by logging, clearing for agricultural uses and oil field operations, and more recently, vacation home subdivisions. It is now divided into strips and blocks of ecological islands and these islands are steadily being encroached upon.

Interest in preserving the Thicket as a part of the Park System began before the Second World War. Specifically, studies of the area were made in 1965 and 1966, and in April 1967, the Advisory Board on National Parks, Historic Sites, Building and Monuments, found that "The Big Thicket, with its great variety of vegetational types, its magnificent specimens of individual tree species, its diversity of bird life . . . and its unusual animal communities, is of national significance."

The principal purpose of the Preserve would be to preserve key areas for scientific study, rather than to provide solely for outdoor recreational opportunities. Development of the area for visitor use would consist mainly of access roads to the edges of the units, trails, interpretive facilities, primitive campsites and boat launching facilities so that visitors could explore the Preserve from the numerous streams, rivers, and bayous. In preserving the area for a scientific purpose, the Big Thicket National Preserve is similar to the joint Federal-state effort at the Ice Age National Scientific Reserve in Wisconsin (16 U.S.C. 469d *et seq.*), which was created to protect, preserve, and interpret nationally significant values of Wisconsin continental glaciation, including moraines, kettleholes, swamps, lakes, and other reminders of the ice age.

Following are descriptions of the units which are to be included in the Big Thicket Preserve:

1. *Big Sandy Creek Unit.*—Comprising 14,300 acres, this unit extends southward from the Alabama-Coushatta Indian Reservation. It is a wild, well-watered, relatively unaltered area containing outstanding examples of several of the Big Thicket's ecotypes from upland communities to the streambank, bog baygall, and swamp communities. Included in the wide variety of wildlife which inhabit this area are some of the few remaining alligators.

2. *Menard Creek Corridor Unit.*—This appendage to the Big Sandy Creek Unit is about 20 miles long and totals approximately 3,359 acres. Unlike Big Sandy Creek, which is part of the Neches River drainage system, Menard Creek is a tributary of the Trinity River. It is anticipated that visitors in this area will experience many of the natural features common to the Big Thicket area and it is expected that public facilities will be developed on the lands located at its confluence with the Trinity River.

3. *Hickory Creek Savannah Unit.*—This 668 acre tract is considered to be a distinctive threshold community bordering on the traditional Big Thicket. It clearly illustrates the influence of soil types on plant distribution. Basically, it is a grassland containing hundreds of varieties of herbacious plants, broken occasionally by longleaf pines and low bushes and trees. While upland pine savannah areas were once extensive, now only a few unaltered areas remain intact. Of these, the Hickory Creek Unit is considered one of the finest.

4. *Turkey Creek Unit.*—Illustrative of the typical Upper Thicket vegetation types, this 7,800 acre unit contains the largest known field of pitcher plants in the region. Its northern reaches include one of the greatest varieties of subtypes to be found in the Big Thicket, while the southern portion features an unusually well-preserved tract of mixed hardwoods typical of the streambank community.

5. *Beech Creek Unit.*—This 4,856 acre unit lies in the heart of the Big Thicket's upper division. Occupying well-drained, fertile soils, it supports fine stands of beech, magnolia, white oak and loblolly pine—a combination of which represents, to some, the "true" Thicket. While portions of the area have been cut over they are rejuvenating and will ultimately equal the values of the virgin area known as "Woodland Chapel" which is contained in this area.

6. *Upper Neches River Corridor Unit.*—Extending southward from Dam B to the Neches Bottom Unit, this river corridor is approximately 21 miles long and includes approximately 3,775 acres of land. In addition to its many values as one of the major rivers of the area, the Upper Neches offers canoeing opportunities and fishing for smallmouth bass and catfish. This unit also includes the Sally Withers addition which is considered one of the most pristine remaining oxbow lakes.

7. *Neches Bottom and Jack Gore Baygall Unit.*—Located along the eastern border of the Big Thicket region, this 13,300 acre unit supports mature lowland hardwood forest types and contains many species not found elsewhere in the Big Thicket. Laced with sloughs which contain large specimens of bald cypress and water tupelo, the elevated lands contain equally impressive birch, elm, oak, boxelder and planer trees. Such an area naturally provides valuable habitat for both common and endangered wildlife.

8. *Lower Neches River Corridor Unit.*—This 17 mile stretch of the Neches River includes 2,600 acres and helps provide the continuity of the corridor from Dam B to its confluence with Pine Island Bayou. Like the other major creeks and streams in the region, the Lower Neches supports a very rich subtropical forest varying in composition as soil types change. The role of all of the streams is most

important to the entire Big Thicket because it is totally dependent upon the complex pattern of water drainage and seepage; consequently the protection afforded this and the other stream segments will help to assure the continuance of the Big Thicket environment.

9. *Beaumont Unit.*—Although this 6,218 acre tract is located near the City of Beaumont, it remains perhaps the wildest component of all of the units to be included in the Preserve. Located, as it is, at the confluence of the Neches River and Pine Island Bayou, it is virtually an island isolated by the streams and canals that surround it. Although some cypress may have been harvested in the area at some time, part of it has never been logged and it is doubtful that a better stand of basic hardwoods exists anywhere in North America. It is considered to be a superlative example of the Big Thicket's flood plain and streambank communities. In this remote section, where access is difficult, due to sloughs and swampy fingers, it is hoped that the ivory-billed woodpecker may still exist.

10. *Loblolly Unit.*—Comprising 550 acres, this unit has been considered one of the basic components of most of the major Big Thicket proposals. It contains the only extensive stand of loblolly pines remaining in the Big Thicket and is said to have persisted only because it has been entangled in litigation since the turn of the century.

11. *Little Pine Island—Pine Island Bayou Corridor Unit.*—This 2,100-acre corridor unit is about 14 miles long. Like the other stream corridors it is important because it nourishes and drains other areas of the Big Thicket, but it is also significant because of its highly scenic combination of palmetto and cypress swamps.

12. *Lance Rosier Unit.*—Near the southernmost end of the Big Thicket, the Lance Rosier Unit is the largest component of the proposed Preserve. Totaling 25,024 acres, this unit is relatively undisturbed and is the most important representative of Lower Thicket vegetation. Because of its size and character, it should facilitate the preservation of wildlife species that might become endangered in smaller tracts.

13. *Big Sandy-Village Creek Unit, Hardin County.*—This area contains 15,450 acres and contains the unique Sandylands-Ponds Area and is an extension of the Turkey Creek Unit.

Mr. BIBLE. Mr. President, on the question of hunting and fishing, the language in the bill conforms with the traditional committee practice as reflected in other national recreation areas. Hunting and fishing are permitted in accordance with the State and Federal laws.

The Interior Committee of the Senate adopted two amendments, one of which called for a change in the map, which is referred to on page 5 of the report, and I ask unanimous consent that that reference be printed in the RECORD in full.

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

COMMITTEE AMENDMENTS

The Committee made two related amendments to H.R. 11546. The first amendment changes the map designation in section 1(b) of the bill "from NBR–BT 91,027 dated November 1973" to "NBR–BT 91,030 dated May 1974." This change is to reflect the second amendment which is the addition of a 15,450-acre unit designated as the Big Sandy-Village Creek Unit in Hardin County, Texas. The Big Sandy-Village Creek Unit was added on the basis of the unique Sandylands-Ponds Area and as an extension of the Turkey Creek Unit.

The Committee also amended H.R. 11546 by deleting the "legislative taking" provision contained in section 2 of the House-passed bill. This section was eliminated in favor of the normal acquisition policy and subsequent sections of the bill are renumbered. The Committee feels that legislative taking is an extraordinary measure which should be invoked only in those instances in which the qualities which render an area suitable for national park status are imminently threatened with destruction. The Committee does not believe that the Big Thicket area represents such an instance.

The Committee was assured during the hearings on this legislation that those timber companies with holdings in the area will, in good faith, continue the moratorium once specific boundaries are designated.

The Secretary of the Interior is authorized to file a declaration of taking in the usual manner however, should any particular area within this Preserve be threatened. The Committee feels that this is adequate for protection and will provide suitable flexibility for the orderly and prompt acquisition and establishment of the Big Thicket National Preserve. The Committee has always cooperated when any request for a declaration of taking has been requested.

An additional consideration in the deletion of the legislative taking provision is the current backlog within the National Park Service acquisition program. To acquire those areas already authorized but unacquired is estimated to cost at least $248 million. To enact a legislative taking in this legislation would either postpone the acquisition of previously authorized areas or would require the United States to pay interest computed from the time of the taking until the date of final payment.

Mr. BIBLE. The change is an addition of 15,450 acres designated as the Big Sandy-Village Creek Unit in Hardin County, Tex. The Big Sandy-Village Creek Unit was added on the basis of the unique Sandylands-Ponds Area and as an extension of the Turkey Creek Unit. This is practically the only difference between the House-passed bill and the bill that is now before the Senate.

The second main difference is that the committee amended H.R. 11546 by deleting the legislative taking provision contained in section 2 of the House bill. This provision was eliminated in favor of the normal acquisition policy for national park units and subsequent sections of the bill are renumbered.

The committee feels that legislative taking is an extraordinary measure which should be invoked only in those instances in which the qualities which render an area suitable for national park status are imminently threatened with destruction. The committee does not believe that the Big Thicket area represents such an instance. In fact, we have only invoked legislative taking in the case of the Redwood National Park as I recall.

Also, it should be commented that to give legislative-taking authority in this bill would, in effect, give it a priority over a backlog of some $248 million of previously authorized park acquisitions and additions, recreation areas, seashore areas, and lakeshore areas. The committee felt that this was inadvisable; therefore, we have not put this in the bill before the Senate.

As to the cost of the bill, the sum in the Senate version, as in the House version, is $63,813,000 for land acquisition, and $7 million for development of the area.

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

Mr. BIBLE. I yield.

Mr. BENTSEN. Will the distinguished Senator from Nevada tell me whether the provisions of this bill are such that the Secretary would be prevented from taking homes in the Big Thicket Area unless absolutely necessary? I am deeply concerned about the homes, as I know the senior Senator from Texas is, and we want to be certain of that.

Mr. BIBLE. I want to make the RECORD clear that both Senators from Texas have spoken to me on this point. I think the query they raise is understandable, and I believe it is covered on page 2 of the bill. I read from line 12:

. . . the Secretary . . . shall further make every reasonable effort to exclude from the units hereafter described any improved year-round residential properties which he determines, in his discretion, are not necessary for the protection of the values of the area or for its proper administration.

I would be opposed to taking homes that are year-round residential properties. I believe that was the feeling of the full committee, and I am happy to make that part of the legislative history on the floor.

Mr. BENTSEN. I thank the distinguished Senator.

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

Mr. BIBLE. I yield.

Mr. TOWER. Mr. President, I join my colleague in expressing concern about this matter.

I appreciate what the distinguished Senator from Nevada has said. He assures us that in his mind this adequately directs the Secretary of the Interior to actively attempt to exclude homes and businesses. He is confident of that.

Mr. BIBLE. I am confident of that. I give the additional assurance that as this matter moves forward, dollars will be required to acquire the land and develop it, and that can be handled through the appropriations process as well.

If there are shacks or shanties down on the streambeds of the creeks that run out of this area, or other structures which are incompatible with the basic purposes of the bill, then I think that is a little different problem. But as to year-around residences that pose no conflict with preserving the area, I see no problem at all. I give every assurance that as long as I am around—and I hope afterward—there will be no effort to try to take them.

Mr. TOWER. The chairman is satisfied that the Secretary of the Interior has enough flexibility in drawing the boundaries of all these units to make as little impact as possible on homes and businesses.

Mr. BIBLE. I would certainly hope that good commonsense would be used. I do not think there is any better word for it. I hope the boundaries are drawn in such a way to go around the little areas that contain homes.

Mr. TOWER. I thank the Senator. I associate myself with the remarks of my colleague from Texas.

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

Mr. BENTSEN. Mr. President, I wish to say to the distinguished chairman of the subcommittee that we are most appreciative of his efforts and for the work he has done. This is a great day for the supporters of the Big Thicket. I think this exemplifies the long history of the distinguished Senator from Nevada in preserving the unique and natural areas of America. The people of Texas and the friends of the Big Thicket everywhere are greatly indebted to him.

I know there is a difference between the House version and the Senate version. I personally prefer the Senate version, which I understand was reported unanimously by the committee.

Mr. BIBLE. The Senator is correct.

Mr. BENTSEN. I know that House Members support the House version, but I do not think it is such a difference that it cannot be resolved. It is important that we get legislation to preserve the Big Thicket because we know the inroads that are being made on the timber there.

Mr. BIBLE. I concur with the sentiments of both Senators. I anticipate no great problems if the bill goes to conference. There was another great Texan who said, "Come, let us reason together." I am sure if we adopt that philosophy we will be able to get a bill and send it to the White House for signature.

Mr. BENTSEN. As I recall the quotation to which the Senator referred was from the book of Isaiah. As I recall, the rest of the quotation goes on to say, in effect:

> If ye be willing and obedient, you shall eat the good of the land.
>
> But if you refuse and rebel, ye shall be devoured with the sword.

In this instance I say if we do not accomplish our purpose we will see a fast erosion of a great park.

Mr. BIBLE. I recognize the Senator as a student of the Bible and I am glad he has added to the quotation.

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

Mr. BIBLE. I yield.

Mr. TOWER. Mr. President, I resent my distinguished colleague from Texas, who is also a lawyer and a businessman, outshining a clergyman's son in knowledge of the Bible.

I would be remiss if I did not associate myself with his remarks on the splendid work done by the distinguished Senator from Nevada. He has been very patient in this matter and has been most accommodating to Senator BENTSEN and to me. I think we owe the Senator from Nevada a debt of gratitude.

I would like to pose one more question. I was glad to see that the committee included the acreage along Village Creek in the preserve, which I think is very important to the total concept of the preserve. I wish to ask the chairman to join me in expressing support for this unit and its inclusion in the bill as finally agreed to in conference.

Mr. BIBLE. We will attempt to do that. That was the main difference in the bill before us today and the bill passed by the House. In conference we will do our best to sustain the Senator's position.

Mr. TOWER. I thank the Senator from Nevada.

Mr. BENTSEN. Mr. President, as I have said this is a great day for the supporters of the Big Thicket National Preserve. The Senate Interior Committee, through the efforts of the distinguished senior Senator from Nevada, has moved this proposal in record time and the supporters of the Big Thicket owe both him and the committee a great debt. Senator BIBLE has shown the concern for the Big Thicket that he has demonstrated during his remarkable career for the preservation of all our unique natural areas, and the people of Texas and the friends of the Big Thicket everywhere owe him a great debt.

The plight of the Big Thicket has caused great concern in my State and around the country. It has prompted the members of the Texas congressional delegation to support the House-passed bill, which with certain differences we are considering today. And that same concern for the Big Thicket is demonstrated by the unanimous support given this bill by the members of the Senate Interior Committee.

At the outset let me say that, although I obviously prefer the features of the Senate bill, I do not believe that there are any differences between the two versions which are serious enough to be allowed to jeopardize the establishment of a Big Thicket preserve. The Big Thicket is in great danger and it is urgent that we act to save it.

The great conservationist John Muir in urging the preservation of our magnificent western forests once said:

> God has cared for these trees, saved them from drought, disease, avalanches, and a thousand straining, leveling tempests and floods; but he cannot save them from man's folly—only Uncle Sam can do that.

His words were true of the redwoods of California at the beginning of this century and his words are equally true of the hardwoods, virgin pines, and flowering magnolias of the Big Thicket today.

The Big Thicket is the westernmost part of a forest system that once extended across the entire southern region of the United States. At one time the Big Thicket comprised almost 3.5 million acres of forests and streams spread across 12 counties in the southeast area of Texas. Today that vast forest has been reduced to a few hundred thousand acres and the wildlife and vegetation of the Big Thicket stand to be lost forever unless the Government acts to save them. Today, the trees of the Big Thicket continue to be felled and its ecology further damaged by unregulated lumbering and development. By acting today, we will preserve a representative portion area of this great wilderness before it is too late.

The unique nature of the Big Thicket has long been recognized by every major conservation group in the United States and it has been referred to by experts who have visited the thicket and studied its ecology as the biological crossroads of North America. The bill we have before us today establishes a park of 100,000 acres and includes representative samples of all the important features of the Big Thicket area. In addition, this bill, as the report of the committee clearly indicates, provides protection for the landowners and homesites in the Big Thicket area. I want to emphasize again that I believe the Big Thicket Biological Preserve must be established in harmony with the economic and other activities of the people in the area. No homes should be taken that can be avoided. Improved property such as farm and ranch lands have no place in a biological preserve.

I believe that local concern over the loss of homes has been the major source of opposition to this proposal in the area of the park and I believe that this local opposition will develop into prolonged legal conflicts unless the Secretary of the Interior makes a clear policy concerning the rights of homeowners in the area. In order for the Thicket to be saved we must proceed in a spirit of both cooperation and consideration. Cooperation among those who support a Big Thicket Preserve and consideration for the views of those who oppose it.

It is also true, however, that those who profit materially from this natural wilderness and who live near it must also be willing to act in concert with those who are seeking only to profit from its beauty and whose only attachment to the wilderness is a desire to see it preserved.

Teddy Roosevelt spoke of this need when he said:

> We have become great because of the lavish use of our resources and we have just reason to be proud of our growth. But the time has come to inquire seriously what will happen when our forests are gone, when the coal, the iron, the oil, and the gas are exhausted, when the soils have been still further impoverished and washed into the streams polluting the rivers, denuding the fields and obstructing navigation. The questions do not relate only to the next century or to the next generation. It is time for us now as a Nation to exercise the same reasonable foresight in dealing with our great natural resources that would be shown by any prudent man in conserving and widely using the property which contains the assurance of well-being for himself and his children.

This is the spirit that has brought us so close to saving the Big Thicket today and to preserving a legacy not only for those of us who have shared the wonders of the Big Thicket but also for those future generations who will be able to enjoy its beauty and who will applaud our foresight.

Mr. TOWER. Mr. President, not since the 91st Congress has the Senate had the opportunity to vote on the establishment of a Big Thicket National Preserve in the State of Texas. During the 91st Congress, the Senate passed a bill to establish a Big Thicket National Park and I hope that today the Senate will choose to support H.R. 11546 and establish the Big Thicket National Preserve.

I would like to take this opportunity to commend the Senate Interior Committee and its Subcommittee on Parks and Recreation which gave this matter careful study, gave my views on it every consideration, and acted on the legislation expeditiously. In December, the House of

Representatives passed H.R. 11546. I had certain reservations about the way the bill came out of the House and worked with the Senate Interior Committee to see if the bill could be amended. I am happy to say that the committee agreed with a number of my proposals. The Senate version of H.R. 11546 increased the acreage to 100,000 acres and added acreage in the area of Village Creek. If acreage in the area of the arid sandylands, succession ponds area is not included, then, in my opinion and that of many scientists, the heart of the Big Thicket will be omitted from the preserve. One of the most important ecological systems, which is an integral part of the Big Thicket, would be deleted if acreage in this area was not included. I hope that if the Senate passes this bill and goes to conference with the House that the Senate conferees will see fit to work for the inclusion of acreage in this area. I do not believe that the amount of acreage is at issue. I encourage the Senate to be flexible on the amount of acreage to be included but that our conferees continue to support some acreage in the area of Village Creek.

If the Senate passes this legislation, I hope that its conferees will again consider the homeowners in the Big Thicket. I had asked for the deletion of Menard Creek and Pine Island Bayou which are too heavily populated with permanent homes and businesses to be included in any preserve. If the Senate and House continue to support the inclusion of these areas, let me encourage the conferees to consider giving the National Park Service flexibility in drawing the boundaries of these units in order to exclude as many permanent homes and businesses as possible.

Attempts to protect and preserve this unique area of our Nation have been going on for 30 years. During my tenure in the Senate, I have continuously worked for legislation to preserve the area. Because the thicket is located at the crossroads of the forests of the south and east and the vegetation of the west, and contains elements of all these areas, the Big Thicket is unique not only to Texas but to the United States. Its wet climate and rich soil have created a beautiful and ecologically unique combination of plants and wildlife which must be preserved for future generations. This preserve would not only provide unlimited opportunities to scientists and students who wish to study its plants and wildlife but also to the American people who have never had the opportunity to see the champion trees, the unusual plants living in juxtaposition with each other and the lush foliage and wildlife which abound. A canoe trip down the Neches River or Village Creek or a hike through one of the many units, each unique in its own way, is something each American should have the opportunity to experience.

Mr. President, today let us take the next step in our 30-year journey to preserve the Big Thicket and vote in favor of H.R. 11546.

Mr. BIBLE. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc.

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

The amendments were agreed to en bloc.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 11546) was read the third time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BIBLE. I yield back the time under my control.

Mr. TOWER. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 11546) was passed.

Mr. BIBLE. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

SUGAR LEGISLATION

Mr. LONG. Mr. President, whenever Congress is considering extension and amendment of the Sugar Act, there appear a number of press articles which endeavor to analyze the sugar situation. Accusations and innuendoes about lobbyists and special interests run rampant. Hundreds of sinister implications are hinted at as to who is doing what and why. Such is the case this year.

Some of these articles and commentaries are useful because they contain reliable facts. Others, however, are misleading and should be disregarded as irresponsible journalism. Far too few of them even give a fair and impartial analysis as to just why there is a Sugar Act in the first place and why it is essential that the act be extended.

The Sugar Act was first passed in 1937, and although it has been amended by the Congress from time to time, its basic objectives have never changed. They are:

First, to assure adequate supplies of sugar to consumers at fair prices;

Second, to protect and maintain domestic sugar producers;

Third, to promote our export trade by reserving a substantial portion of our market for sugar imports.

Over the years, the act has achieved each of its three objectives. Consumers have been assured of an adequate supply of sugar at reasonable prices. The domestic producers—the 28,000 domestic farms scattered throughout the country with an investment of about $1.5 billion in land, equipment, and crops, as well as the 150,000 sugar farmworkers have benefited from this program.

The importance of having most of our sugar produced at home is dramatically illustrated this year when petroleum, minerals, and some basic agricultural commodities have created difficulties for importing countries. We have had ample supplies of sugar and consumers in just the first 4 months of this year have saved over a third of a billion dollars on the 3.6 million tons of sugar consumed.

The price of sugar for the United States for January through April averaged 4.73 cents a pound less than the world market price—adjusted to a duty paid New York price basis. This is the record despite several speeches by USDA officials late last year and early this year which served only to frustrate the normal operation of the program.

At a critical time when worldwide shortages prevailed and the world price for sugar exceeded our own domestic price, these unfounded hints that the program might be abandoned created great uncertainty not only among our own producers but among our foreign suppliers as well. Some of these foreign suppliers were shipping us sugar at some sacrifice to themselves—because the world market price was higher than our own. Uncertainty on their part as to the future of the Sugar Act made the situation worse for everybody by creating unnecessary instability in the market.

In 4 of the past 5 crop years world consumption of sugar has exceeded world sugar production. The result has been reduced working stocks, spot shortages, and the highest sugar prices since 1920. Given this situation, some persons have arrived at the rather astounding conclusion that the sugar program should be ended and that the U.S. market should be merged with the world market, at world prices. This is surprising because the U.S. price for raw sugar has been below the world price—when adjusted to a comparable basis—since late November 1973.

Indeed, during the first 4 month of this year, the difference has averaged 4.72 cents per pound, or 23.7 percent in our favor. This situation was dramatized during February when the quoted wholesale price for refined sugar in Buffalo, N.Y., averaged 18.49 cents per pound in 100-pound bags, while simultaneously in Toronto, Canada—where the full impact of the world price is reflected in the price consumers pay—the comparable price for February averaged about 35 cents or almost double the U.S. price.

Such a savings to the U.S. consumer would not have been possible without the U.S. sugar program which encourages foreign suppliers to give preference to the U.S. market under all conditions. Despite world scarcity, despite the earlier misadventures of the Department of Agriculture, the U.S. sugar program during the past 4 months has been supplying U.S. consumers with sugar at prices below the prevailing world price.

Mr. President, I ask unanimous consent to insert in the RECORD a table showing the volume and price data for the first 4 months of this year as published by the USDA.

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

	U.S. sugar distribution (thousand tons)	Cents per pound			Price discount (million dollars)
		U.S. price	World market price [1]	Discount to United States	
January	939	12.63	16.87	4.24	80
February	886	17.09	22.83	5.74	102
March	918	18.11	22.86	4.75	88
April	904	19.25	23.40	4.15	75
Total	3,647				345

[1] Adjusted to duty paid—delivered at New York.

Mr. LONG. Mr. President, the experience of the past 4 months make it clear to me that the best way to assure an adequate supply of sugar at stable, reasonable prices is to continue the sugar program in its present, basic form.

It is unfortunate, in my opinion, that the positive benefits of the sugar program often go unreported. One recent, rather lengthy, newspaper article criticized the program but barely mentioned that for 6 months, despite a world shortage, U.S. consumers have been buying sugar at prices substantially below the world price. The same article referred to a letter last January addressed to the President jointly by the distinguished Senator from Utah, Senator BENNETT, who is the ranking minority member of the Finance Committee, and myself. I ask unanimous consent to insert in the RECORD the text of the letter sent to the President.

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

U.S. SENATE,
Washington, D.C., January 24, 1974.

Hon. RICHARD M. NIXON,
President of the United States,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As chairman and ranking minority member of the Senate Committee on Finance, which has jurisdiction over the Sugar Act, we are deeply disturbed by the recent developments in the sugar market.

As you know, worldwide sugar is relatively scarce, especially for the first half of this year. It is both this scarcity, and the way in which your Department of Agriculture is reacting to it, which are the sources of our concern.

The Sugar Act is specifically designed to insulate our market in large degree from the idiosyncrasies of the world market. As such, it tends to protect the domestic industry, to promote stability in foreign commerce, and to assure U.S. consumers adequate supplies at stable prices.

In addition to our own production (which supplies more than half of our needs) we have first call on the exportable supplies of about 30 countries. The reason: when sugar is in surplus, the United States is an assured market at a fair price and so the exporting countries in their own long term interest also fill their U.S. quotas in times like the present when they could get a higher price elsewhere.

This inclination of various countries to fill their U.S. quotas has been weakened by recent speeches and statements by Mr. Calcagnini, Director of the Sugar Division, and Mr. Kenneth Frick, Administrator of ASCS. These U.S.D.A. officials have been proposing that the Sugar Act not be extended when it expires at the end of this year. In place of it, they suggest a program along the lines of the Agricultural Act of 1973, which is appropriate for the export crops to which it applies but which appears to us nonsensical in the case of a sensitive commodity which this nation must import.

The inclination of countries to meet their commitments in supplying our needs has been further weakened by U.S.D.A. decisions relating to our estimated requirements for the current year. Last year we consumed about 11.5 million tons of sugar and would expect to need about 11.7 million tons this year. After several adjustments, the requirements determination for the current year had reached a generous 12 million tons prior to January 11th. On that date it was increased by an additional one-half million tons. The implication of this action was that the rest of the world would be denied a tremendous quantity of sugar at a time when supplies were already scarce.

In making this further increase, the U.S. D.A. did not allocate it country-by-country but made it on a first-come, first-served basis. This action is badly undercutting one of the main strengths of the Act, which has been the obligation of foreign countries to ship their specific quota to the U.S. or else be penalized on future quotas. Failure to allocate the additional imports on a country by-country basis could lessen our ability to get the sugar we do need.

As a result, the world price of sugar at Caribbean ports rose from 14½ cents a pound on January 11th to 16 cents on January 18th. That increase in the world price under the current circumstances had the effect of raising the duty-paid and delivered price for U.S. quota sugar from 12.05 cents per pound on January 11th to 12.85 cents on the 18th.

The unusually large increase in our requirements estimate had the highly unsettling effect of almost immediately starting rumors in trade circles that the U.S. Government would soon suspend quotas and related provisions of the Sugar Act entirely. For this reason, shipments to the United States are being retarded in the expectation that the U.S. price may soon rise to the world price level.

The slowing down of arrivals at this critical stage exerts a strong upward pressure on domestic sugar prices and, therefore, tends to defeat one of the purposes of the Act—protection of consumers.

It should be noted that since Mr. Calcagnini's speech to the Sugar Club in New York on November 9, 1973, the world price for sugar has increased 6.00 cents per pound and the domestic price, 1.78 cents. The natural reaction of sugar exporting countries has been to defer shipments to the United States. It is probable that most countries contemplate filling their quotas but not in the first half of the year when sugar commands such a high price in the world market.

The Sugar Act which has worked so well since the mid 30's is up for renewal this year. The Senate Finance Committee contemplates hearings as early as possible. Pending legislative renewal of the Sugar Act, we believe that some stability can be brought back into the market and that U.S. supplies from foreign countries can be made more secure by the Government's clear statement that it intends to support renewal of the Sugar Act. Furthermore, a statement by you that there are no plans to suspend operation of the Sugar Act by administrative action during the current year would have a significant price stabilizing effect.

We will appreciate your usual prompt attention to this subject and will look forward to an early report as to what assistance the Senate Committee on Finance might expect from the Administration in protecting the integrity of the Sugar Act.

With kindest regards, we are
Respectfully yours,

RUSSELL B. LONG,
WALLACE F. BENNETT,
U.S. Senators.

Mr. LONG. Mr. President, in our letter, we predicted that the unusually large increase in the U.S. requirements estimate implied that the rest of the world would be denied a tremendous quantity of sugar at a time when supplies were scarce. As a result, world prices continued to spiral upward. As it turned out, we were right. An article in the Wall Street Journal on May 17, 1974, stated in part:

The U.S. imports almost half of the sugar it needs every year, and this year the Agriculture Department boosted the import quotas by 500,000 tons to 12.5 million tons in an effort to increase supplies and thus—it was thought—help stem rising prices.

Instead, U.S. buyers were forced into the tight world market compete with the free—spending Arabs. Regular suppliers were running short and some were selling in the hot world market before meeting their U.S. commitments, trade sources say.

It will be noted from this statement that there was a tendency for suppliers to sell on the world market for a higher price than they could receive from U.S. buyers. This action—I am sure—was accelerated by talk of U.S. Government officials who advocated discontinuing the Sugar Act. If there were to be no U.S. sugar program, there would be no incentive to continue supplying the U.S. market.

It is interesting to note that sugar prices have reached high levels when according to the Wall Street Journal article:

World sugar production during the 1973–74 crop year is estimated at 81.8 million tons, a 6% rise from last year, while world consumption is predicted at 81.3 million tons, up 4% from last season. This will be the first time in three years that production has outpaced consumption.

Final stocks of sugar are estimated to be higher at the end of 1973–74 than at the very low level at the beginning of the year. There are many opinions as to why sugar prices rose so much more this year than last year. As the Wall Street Journal article points out:

The Arab nations took some of their bloated petroleum revenues and began buying raw, unrefined sugar in world markets. Seemingly disregarding price, these countries placed orders for about two-thirds of their estimated 1974 import requirements of about one million tons; in previous years, buying was more selective and spread out over a longer period.

Another opinion is that the inflated requirements estimated for the United States had the effect of leading the world exporters to believe that consumption would be higher than in fact it will be. This is exactly what Senator BENNETT and I predicted in our letter to the President.

It should be clear to everyone that the Sugar Act has not caused high prices for sugar. Prices to U.S. consumers would have been much higher if there had been no Sugar Act. I must also point out that the Sugar Act does not guarantee domestic growers or foreign suppliers the current high prices—but the price guarantees are around 12 cents per pound—about half the current price.

The Sugar Act is an effective way to assure consumers of adequate supplies of sugar; to protect the welfare of the domestic producers; and to encourage foreign suppliers to supply us with the additional sugar we need. It has continued

to achieve those objectives under the most adverse conditions.

The House Committee on Agriculture has reported a bill which preserves the basic features of the sugar program and extends the act for 5 years. The Finance Committee will handle the House bill expeditiously when it is received in the Senate and it is my intention to proceed with legislation which continues this essential program.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 o'clock noon tomorrow.

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

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized tomorrow under the standing order, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes.

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

UNANIMOUS-CONSENT AGREEMENT ON S. 1752—HOUSE MESSAGE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of routine morning business tomorrow, the Senate proceed to the consideration of the House message on S. 1752, relating to a Productivity Commission.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation on that House message of 30 minutes, to be equally divided between the two leaders or their designees.

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

ORDER TO PROCEED TO CONSIDERATION OF S. 3433, NATIONAL WILDERNESS BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the House message tomorrow, the Senate proceed to the consideration of S. 3433, which is the so-called wilderness bill.

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

UNANIMOUS-CONSENT AGREEMENT ON S. 2846

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as it is called up and made the pending business before the Senate, there be a time limitation on S. 2846, a bill to protect the flow of interstate commerce from unreasonable damage to the environmental health by assuring an adequate supply of chlorine and other chemicals and substances which are necessary for safe drinking water for waste water treatment, of 1 hour, to be equally divided between the distinguished majority leader and the distinguished minority leader or their designees; that there be a time limitation on any amendment thereto of 30 minutes; that there be a time limitation on any debatable motion or appeal of 20 minutes; and that the agreement be in the usual form, with the understanding that the bill will not be called up tomorrow.

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

EXTENSION OF TIME FOR REPORTING S. 1566

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. WILLIAMS, I ask unanimous consent that the agreement to report the bill, S. 1566, to the Senate by June 3 be modified to allow the committee an additional 15 days within which to consider it.

It is my understanding that on April 24 the Committee on Commerce reported without recommendation the bill, S. 1566, to provide for the normal flow of ocean commerce between Hawaii, Guam, American Samoa, or the Trust Territory of the Pacific Islands and the west coast, and to prevent certain interruption thereof. It was referred to the Committee on Labor and Public Welfare for a period not exceeding 40 days.

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

ORDER FOR ADJOURNMENT FROM FRIDAY TO MONDAY NEXT AT 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in adjournment until the hour of 11 a.m. Monday morning next.

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

ORDER FOR RECOGNITION OF SENATORS ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next, after the two leaders or their designees have been recognized under the standing order, the following Senators be recognized, each for not to exceed 15 minutes, and in the order stated: Mr. CURTIS, Mr. GRIFFIN, and Mr. ROBERT C. BYRD.

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

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the order for the recognition of Senators, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes each.

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

Mr. ROBERT C. BYRD. Mr. President, I now recall that my distinguished majority leader indicated on the floor a little earlier today that on tomorrow the Senate will proceed to the consideration of H.R. 8215 with an understanding that there will be no amendments offered to that bill on the floor.

I, therefore, revise my unanimous-consent request as follows: That immediately after the conclusion of routine morning business on tomorrow, the Senate proceed to the consideration of H.R. 8215, which is a minor tariff bill, and that upon the disposition of that bill—and it has been reported today—the Senate will then proceed to the consideration of the House message as previously stated.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on tomorrow the Senate will convene at the hour of 12 noon. After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes each, at the conclusion of which the Senate will proceed to the consideration of H.R. 8215, after which the House message on S. 1752, relating to a Productivity Commission, will be taken up under a time limitation of 30 minutes.

As of now, I would anticipate no rollcall votes on that measure, based on the information that has been given to me.

Upon the disposition of the House message, the Senate will take up the bill S. 3433, the national wilderness preservation system. There is no time limitation on that bill at the moment. Yea-and-nay votes could occur thereon.

Upon the disposition of that bill, it is the present intention of the leadership to proceed, for opening statements, to call up the bill S. 3000, the military procurement authorization bill, with the understanding that there will be no rollcall votes thereon tomorrow.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 noon tomorrow.

The motion was agreed to; and at 5:41 p.m., the Senate adjourned until tomorrow, Friday, May 31, 1974, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate, May 30, 1974:

DEPARTMENT OF THE TREASURY

Gerald L. Parsky, of the District of Columbia, to be a Deputy Under Secretary of the Treasury, vice Jack Franklin Bennett, elevated.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

The following-named persons to be Members of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency:

Harold Melvin Agnew, of New Mexico, vice John J. McCloy, resigned.

Gordon Allott, of Colorado, vice William J. Casey, resigned.

Edward Clark, of Texas, vice Douglas Dillon, resigned.

Lane Kirkland, of Maryland, vice James R. Killian, Jr., resigned.

Carl M. Marcy, of Virginia, vice Lauris Norstad, resigned.

Joseph Martin, Jr., of California, vice Peter G. Peterson, resigned.

John A. McCone, of California, vice J. P. Ruina, resigned.

Gerard C. Smith, of the District of Columbia, vice Cyrus Roberts Vance, resigned.

IN THE U.S. AIR FORCE

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. Lee M. Paschall, [redacted] FR (major general, Regular Air Force), U.S. Air Force.

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10 of the United States Code:

To be lieutenant general

Lt. Gen. Gordon T. Gould, Jr., [redacted] (major general, Regular Air Force), U.S. Air Force.

IN THE 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. James William Sutherland, Jr., [redacted] Army of the United States (major general, U.S. Army).

U.S. RAILWAY ASSOCIATION

The following-named persons to be Members of the Board of Directors of the United States Railway Association for the terms indicated: (new positions)

FOR A TERM OF 2 YEARS

Clifford G. McIntire, of Maine.
William W. Scranton, of Pennsylvania.

FOR A TERM OF 4 YEARS

Gale B. Aydelott, of Colorado.
James E. Burke, of New Jersey.

FOR A TERM OF 6 YEARS

Frank H. Blatz, Jr., of New Jersey.
Samuel B. Payne, of Massachusetts.
W. K. Smith, of Minnesota.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 30, 1974:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Virginia Y. Trotter, of Nebraska, to be Assistant Secretary for Education in the Department of Health, Education, and Welfare.

ACTION AGENCY

John L. Ganley, of New Jersey, to be Deputy Director of the ACTION Agency.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

EXTENSIONS OF REMARKS

THE CONYERS COALITION

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 29, 1974

Mr. LANDGREBE. Mr. Speaker, I wish to call the attention of my colleagues, and especially the members of the Judiciary Committee, to a column by Victor Riesel, whose personal courage is exceeded only by his accuracy in reporting. The subject of Mr. Riesel's column is Representative JOHN CONYERS, whose excusal from the Judiciary Committee Watergate investigation I have called for and again call for. Mr. CONYERS, by his words and deeds, has amply shown that he cares not a wit for constitutional due process and the Constitution itself. I urge my colleague Mr. RODINO to investigate the fitness of Mr. CONYERS for participation in the Judiciary Committee investigation, in view of the chairman's promise of a fair examination of the evidence in the Watergate affair by the Judiciary Committee.

The article follows:

PREFERS COMMUNISTS?—JUDICIARY COMMITTEE'S JOHN CONYERS JOINS COALITION WITH FRIEND ANGELA DAVIS

(By Victor Riesel)

WASHINGTON.—There's nothing flamboyant about the soft-voiced 45-year-old bachelor, Congressman John Conyers, Jr.—except his violent hatred for Dick Nixon and his intense passion for coalition with left-wingers, former Communists and at least one current member of the Central Committee of the Communist Party U.S.A.

Conyers, who would have the House Judiciary Committee, of which he is a member, investigate the U.S. in general and the White House in particular, sets his own rules. If one discusses him, his record, his friends' activities and their Communist records, one is swiftly denounced as a "racist" and oppressor of the working class. To refer to old FBI dossiers on his politicial ally, Detroit Mayor Coleman Young, is to face the Congressman's full fury, oral brimstone and power.

After carefully perusing Congressman Conyer's recent hell-and-fire speeches, many of which sound brutally, chauvinistically anti-white to me, it's evident he would like to impeach President Nixon merely for breathing. Though Conyers is a member of the National Advisory Council of the American Civil Liberties Union (ACLU) he hasn't granted the President of the U.S. an iota of the right to due process which the ACLU has to Nazis, Fascists and Communists.

For years now he has chosen strange alliances—so his pre-conviction of Dick Nixon hardly is surprising. Actually, he's not even very kind to Sens. Hubert Humphrey, Walter Mondale and Ted Kennedy, whom he finds "all confused."

But none of this is as strange as taking the trouble to fly into Detroit May 10 to join a member of the Communist Party U.S.A. Central Committee and others to whip up a typical radical rally. That member is Angela Davis.

Conyers, speaking that day for the National Alliance Against Racism and Political Oppression, called for "a great coalition" against Watergate-ism, racism and oppression.

He averred he would stay the weekend with the coalition leaders to organize a "struggle against the system of racism and repression that spawned Watergate."

Comrade Angela Davis, whose Communist party leaders (Gus Hall et al.) were in Moscow then where they had spent some time conferring with Soviet General Secretary Leonid Brezhnev, did her oratorical thing. She added a fillip by calling for a national black mobilization in Raleigh, N.C., on July 4.

Now Conyers is far too sophisticated to have overlooked the clear implications of what he was saying and of the import of Angela Davis' presence. Conyers is an old trade-union hand. He knows all about infighting between what are called "the commies" inside labor and the anti-Communists. He sure knows the "C.P." record in Detroit and what they tried to do (and did for a while) to the big United Auto Workers.

What, then, are the Congressman's standards? This question cannot be answered by any vituperative riposte from his corner. He has demanded the President's impeachment for such varied reasons as Dick Nixon's opposition to the Office of Economic Opportunity and the bombing of Cambodia.

Yet he joins with a member of the American Communist Party Central Committee—a party locked into Moscow, a party which approved the Soviet military invasion of Czechoslovakia, a party which has denounced American aid to the allies during the years of Nazi assault on Europe and during the Hitlerian blitz of London.

Conyers has been attacking American multinational corporations. But he strides to the same speaker's platform with Angela Davis, whose party is a section of the most brutal multinational operation the world has known and which joined with the Nazis in the very early '40s.

And there is another, equally grave issue. It seems to me John Conyers, who as a member of the House of Representatives should be speaking for all the people, is using Watergate to whip up racial hatred.

He has a safe seat in Michigan's First Congressional District. He could use his soft voice, his place in the Black Caucus to bring the races together. Yet here he is using the Watergate tragedy as a tool for prying white and black people apart.