SENATE—*Monday, June 10, 1974*

The Senate met at 10 a.m. and was called to order by Hon. FLOYD K. HASKELL, a Senator from the State of Colorado.

PRAYER

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

Eternal Father, may Thy spirit move upon this land and its people to redeem and renew it according to Thy will. Unite us around common values of what is right and good and true. Restore our reliance upon Thy word made known in the Scriptures. As our fathers trusted in Thee and made us a nation, so may we ever walk in the ways of their pilgrimage to preserve the Nation.

Give wisdom and strength, O Lord, to all who serve in all branches and at every level of the Government. May the journey of the President yield increased peace and fraternity among the nations of the Earth and hasten the coming of Thy kingdom.

Through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 10, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. FLOYD K. HASKELL, a Senator from the State of Colorado, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

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

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

WAIVER OF THE CALL OF THE CALENDAR

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

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I desire to talk on two subjects during the time allocated to me today.

NATIONAL HEALTH INSURANCE

Mr. MANSFIELD. Mr. President, on March 28, 1974, the Senate Democratic policy committee adopted a resolution urging the passage in this session of Congress of legislation which would create a national system of health insurance that minimizes the high cost of administrative overlapping and duplication in the current multiplicity of fiscal systems. Our objective was, and is, a health insurance system which guarantees all Americans adequate health services.

As directed by the resolution, I communicated the text to the chairman of the Finance Committee and brought the matter up with the House Democratic leadership for consideration as a possible joint request to the President urging cooperation in the design of a national health insurance program of this kind.

The House-Senate joint Democratic leadership endorsed this proposal and on April 10, 1974, the Speaker and I sent a letter to the President expressing a renewed determination to enact national health insurance legislation and soliciting the active cooperation of the appropriate administration officials with the appropriate committees of Congress toward this goal.

Mr. President, recently I received a response to the letter of the joint leadership to the President which sets forth the views of this administration on this matter. I ask unanimous consent that the joint leadership's letter and the President's response, as well as a copy of the Democratic policy committee's resolution, be printed in the RECORD.

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

APRIL 10, 1974.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: At a meeting today of the House-Senate Democratic Leadership, discussion involved the urgent need to find means of meeting the mounting expenses of Americans for health care. The Leadership concluded that there should be renewed effort this year to enact national health insurance legislation.

It would be our hope that out of the various proposals on this subject, there will be forthcoming a compromise which takes into consideration the views of the Administration and of Members of Congress. To this end, we solicit the active cooperation of the appropriate Administration officials with the Committees of Congress that are involved in consideration of health insurance legislation. Hopefully, in this fashion, we can act to end the constant threat of financial disaster to tens of millions of Americans which is posed by the astronomical cost of medical care.

Hearings on national health insurance have been set for April 24 in the House Ways and Means Committee in order to pursue the search for a viable compromise. Your support in achieving such a compromise would be greatly appreciated by us and the millions of Americans in urgent need of health insurance coverage at an affordable price.

With best personal wishes, we are

Sincerely yours,

MIKE MANSFIELD,
Senate Majority Leader.
CARL ALBERT,
Speaker of the House.

P.S. Enclosed herewith is a copy of a resolution adopted by the Senate Majority Policy Committee which has the concurrence of the House Leadership.

THE WHITE HOUSE,
Washington, D.C., June 4, 1974.

Hon. MIKE MANSFIELD,
Senate Majority Leader, U.S. Senate, Washington, D.C.

DEAR SENATOR MANSFIELD: Thank you for your recent letter supporting the enactment of health insurance legislation this year and urging the cooperation of the Administration with the Congress in reconciling differences among various bills.

As Secretary Weinberger testified on April 24 before the House Ways and Means Committee on behalf of the Administration, I believe strongly the time has come to enact sound and comprehensive health insurance legislation. The broad principles outlined in the attachment to your letter appear consistent with the legislation which we have submitted to the Congress on February 6. Further, Secretary Weinberger's testimony and his response to questions on April 24 make clear the Administration's willingness to seek compromises on important matters of substantive detail where we are in agreement on basic principle.

All of these considerations indicate the Administration's desire to reach mutually satisfactory health insurance legislation. This spirit of compromise should not, however, mask some fundamentally important issues that distinguish various proposals from each other. Among the different proposals are specifically different approaches to the roles of the Federal government, State governments and the private sector plus associated financing mechanisms. While the merits of these differences will and should be debated, they are issues about which we feel very strongly. It would be our hope that after careful consideration, the advantages of our approach will be understood and accepted. Within that framework, I believe we can move quickly toward legislation.

Sincerely,

RICHARD NIXON.

NATIONAL HEALTH INSURANCE

Whereas, an urgent need exists to find better means of meeting the mounting expenses of Americans for health care;

Whereas, the high cost of medical care stands as a constant threat of financial disaster to tens of millions of Americans; and

Whereas, adequate health service, regardless of ability to pay, is the right of all Americans;

The Senate Democratic Policy Committee urges the passage in this session of legislation which will

(1) create a national system of health insurance that minimizes the high cost of administrative overlapping and duplication in the current multiplicity of fiscal systems;

(2) provides financing by contributions from employers, employees and general tax revenue;

(3) allows for all varieties of medical practice ranging from fee-for-service to prepaid group practice;

(4) guarantees all Americans, regardless of ability to pay, adequate health services.

The Leadership is directed to communi-

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cate this resolution to the Chairman of the Finance Committee and to consider, with the House Leadership a joint request to the President urging cooperation in the design of a National Health Insurance Program.

PRESIDENT NIXON'S TRIP TO THE MIDDLE EAST

Mr. MANSFIELD. Mr. President, at this moment, President Nixon and Secretary Kissinger are on their way to visit Israel and four Arab countries.

I am very much in favor of the journey being undertaken by the President of the United States at this time, because I think it is vital to do what we can to cement the fragile armistice which now exists in the Middle East between Israel and her neighbors.

We should not be taken in by euphoria with the fact that Secretary Kissinger has been able to bring about a cease-fire and lines of demarcation between Egypt and Israel on the one hand and Israel and Syria on the other.

These steps were difficult but the most difficult steps lie ahead. Those steps have to do with the question of the Palestinians and the question of the Holy City of Jerusalem.

Secretary Kissinger has reached a plateau but he has a long, a high, and a most difficult mountain to climb before there is the enduring peace and stability in the Middle East which we all desire, hope for, and pray for.

We should keep in mind also that there is little if any connection between the President's trip to the Middle East, which is confined solely to developing a sound foreign policy in a fragile area, and Watergate and related matters which happen to be domestic affairs.

The armistice in the Middle East is just that. Because the agreements made are fragile and are contingent on more difficult negotiations in the future, this is a trip very much, in my opinion, in this Nation's interest.

The significance lies in the fact that, for the first time, a Chief of State of this country or, for that matter, any country, will be able to visit on the basis of good relations with both Israel and the Arab countries in the area.

This trip should be very useful in assisting Secretary Kissinger in the future and I applaud the President for undertaking it. He goes with our hopes and our prayers. I hope that something out of it will come which will be fruitful and which will be of assistance in achieving some degree of success and stability in the future.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that I may yield first to the distinguished Senator from Vermont (Mr. AIKEN).

The ACTING PRESIDENT pro tempore. The Senator from Vermont is recognized.

Mr. MANSFIELD. If I have any extra time I gladly yield it to the distinguished Senator from Vermont.

Mr. AIKEN. Mr. President, I am delighted with the remarks I have just listened to by the distinguished majority leader.

President Nixon is leaving this morning for a visit with the leadership of the countries of the Middle East, both Israel and the Arab States.

There are those who say that he should not make the trip at this time—that it will aggravate Russia and this is no time to aggravate the U.S.S.R.

I thoroughly believe that Russia does not want a renewal of the "cold war" any more than most of the people of the United States do.

And, if President Nixon can create a better feeling among the countries of the Middle East, not only among themselves, but among the larger countries including both the United States and Russia, then he will have performed a yeoman service for the world.

I have heard it said that he is making this trip to the Middle East now and to Moscow later in the month to divert attention from the charges which have been made against him here at home.

May I point out that in the interest of insuring the peace of the world, he visited both China and Moscow before Watergate became anything more than an apartment house.

The attitude of those who would increase tension between Russia and the United States or between Russia and the People's Republic of China is simply incomprehensible.

The future of humanity and civilization in the world is at stake.

I trust and believe that President Nixon's visits to the Middle East and to Moscow will give hope and encouragement and that his missions may be highly successful.

Mr. HUGH SCOTT. Mr. President, the President's visit to the Middle East carries with it the fervent hopes of all Americans for success in extending the gains which have already been made in disengagement and in the cease-fire.

What we hope will eventuate from this and subsequent meetings will be, ultimately, a peace agreement, a final cease-fire, and a laying down of arms.

All of us extend to the President our thanks, first, for what has been done, and our warm good wishes for success in this area.

It is a near miracle that we have moved in the short time since last October from a position where the nations in the Middle East, with the exception of Israel, would not have tolerated any form of U.S. intervention which now has indeed eventuated.

It has come about, I think, because of the good will and the good, high-purposeness of the United States having been recognized by all the parties. They are war-weary. They do realize that we have no ax to grind; that we are not seeking any advantage for the United States; that we wish no man's territory and no person's possessions, and that our appearance is that of a mediator of good will and good intent.

The President deserves the applause of the country for having worked out this happy situation upon which we hope to build the foundations of a permanent peace.

It is not yet time for the prophecy in the Book of Isaiah to have come entirely true, but it is now foreseeable that among these nations who live and must forever live as neighbors, close unto each other, there must someday come a recognition that nothing is to be gained by warfare, and everything is to be gained by peaceful negotiation and a better understanding by each of the problems of the other. We hope that sometime in the future they will indeed come to the prophecy of Isaiah, chapter 19, verse 25, where it is said:

> Whom the Lord of hosts shall bless, saying, Blessed be Egypt my people, and Assyria the work of my hands, and Israel mine inheritance.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial published in the Miami Herald of Thursday, June 6, 1974.

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

PRESIDENT NIXON HAS EARNED TRIUMPHAL TOUR OF MIDEAST

Often, and many times with justification, Richard Nixon has proclaimed a "first" for his presidency. Another one is his visit, begining next Wednesday, to countries of the Middle East which are at peace, or anyway in a state of non-war, also for the first time in a generation.

No American President has ever undertaken the grand tour of Egypt, Israel, Syria, Jordan, Saudi Arabia and perhaps Iran, as Mr. Nixon will do. In a real sense it will be a triumph. The Middle East peace, such as it was, was negotiated under his administration.

Henry Kissinger, who labored there 33 days in achieving a diplomatic prodigy, has gotten most of the credit. Yet brilliantly as he performed, he did so as the instrument of the President of the United States.

Warren G. Harding, who had no grasp of or interest in the niceties of diplomacy, was asked as President-elect to define his foreign policy. Mr. Harding replied: "You must ask Mr. Hughes about that." His Secretary of State, Charles Evans Hughes, ran the whole show.

The relations between Secretary of State Kissinger and President Nixon are quite the opposite. They are close and coordinated. As a private citizen in 1963 Mr. Nixon visited Egypt. It is no accident that his first invitation came from President Sadat, today an admirer and only yesterday a critic if not an enemy.

Mr. Nixon will also visit Syria and probably re-establish diplomatic relations with that country which has been the puppet of the Soviet Union. Today all is sweetness and light, and Syria is chortling over a victory, which it is not—but let that pass. In Jordan he will find a friend and frequent Stateside visitor in King Hussein. The Persian Gulf stop or stops will deal with the Arab oil weapon, spiked or at least inoperative for the time.

Israel is the locus of the oldest and most consistent U.S. partnership in the Middle East. It is some sort of miracle that the Arab world is perfectly content with the President's attentions to what had been a sworn foe.

It could be argued that all of this is a calculated diversion from Watergate. If so, so be it. The President's long suit, as we have always said, is foreign policy. In this instance he has earned his passage and deserves the plaudits. With Henry Kissinger he has brought at least an approach to peace in

the most contentious part of the world. Just as he could not escape the responsibility if Dr. Kissinger's furiously busy mission had aborted, so he cannot be denied the credit.

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

Mr. HUGH SCOTT. I will be glad to yield.

Mr. MANSFIELD. If I may add to that another quotation from Isaiah which I hope will apply to all relations involved in the Middle East, it is to say:

Come, let us reason together.

Mr. HUGH SCOTT. And a very fitting contribution it is. We hope that the time will come when these adjurations from the Great Book will be heeded by all.

QUORUM CALL

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

The PRESIDING OFFICER. Without objection, it so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. There is nothing pending, but under the previous order the next order of business will be the consideration of H.R. 14434.

Mr. MANSFIELD. Is that the energy appropriation bill?

The PRESIDING OFFICER. That is correct.

SPECIAL ENERGY RESEARCH AND DEVELOPMENT APPROPRIATION ACT, 1975

Mr. MANSFIELD. Mr. President, I ask that the Senate proceed to the consideration of H.R. 14434.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 14434) making appropriations for energy research and development activities of certain departments, independent executive agencies, bureau offices, and commissions for the fiscal year ending June 30, 1975, and for other purposes.

The Senate proceeded to consider the bill, which had been reported by the Committee on Appropriations.

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

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

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is H.R. 14434, and there is a time limit on the bill of 2 hours and 1 hour on each amendment.

Mr. McCLELLAN. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. McCLELLAN. Mr. President, in recognition of and in response to the energy crisis, the two Committees on Appropriations have extracted from the budgets of the various departments and agencies of Government estimates for energy research and development activities and assembled them into a single special appropriation bill for fiscal year 1975. The committee considers that it is imperative to have these appropriations enacted into law by the first day of the new fiscal year so that planning and administration of critical energy research and development programs can progress expeditiously and efficient. Furthermore, by providing these appropriations in a single bill, rather than in seven bills as would normally be the case, it is possible to gain a better perspective and overview of the thrust of the Federal energy research and development effort.

In developing this bill, the committee has utilized its existing subcommittee structure in the conduct of hearings, the review of budget estimates, and the recommendation of funding levels. The bill and report are organized and presented by chapters reflecting subcommittee jurisdiction. While the bill largely represents the energy programs contained in the budget of the U.S. Government for fiscal year 1975, as amended, the committee has identified certain additional amounts and activities for inclusion and has adjusted and modified others to identify those progams which should properly be included in this special bill.

In several instances it has been necessary to split appropriation accounts in order to separate energy research and development programs from other activities for which appropriations will be made at a later date. In such cases, it is the intent of the committee that amounts subsequently appropriated under these various specific hearings be merged with amounts made available in this bill in order to obviate accounting and administrative problems that would otherwise arise.

The committee recommends a grand total of $2,209,216,000 in new budget—obligational—authority for energy research and development activities for the fiscal year 1975. This represents a net increase of $5,488,000 over the related budget estimates which the committee considered in making its recommendations and is $60,612,000 below the amount pased by the House. The amount recommended is $862,792,000 greater than the amounts appropriated for these purposes for the current fiscal year, an increase of 64 percent.

The $2.2 billion which is recommended will significantly accelerate the Federal program of energy research and development, particularly in the fields of atomic energy and coal gasificatiaon and liquefaction. These funds will help move the Nation toward the objective of energy independence.

Major items recommended in the bill include the following:

The sum of $1,456,160,000 for energy research and development efforts of the Atomic Energy Commission, including funds for accelerated research for the liquid metal fast breeder reactor, nuclear reactor safety research, development of nuclear materials, space nuclear systems, nuclear fusion, biomedical and environmental research and safety, and plant and capital equipment.

The sum of $549,264,000 for the Interior Department which includes significantly expanded coal research activities including gasification and liquefaction and mining research efforts and $69,590,000 for the Office of Petroleum Allocation and Office of Oil and Gas.

The sum of $101,800,000 for the National Science Foundation which includes major funding for solar and geothermal energy research and also basic research involving energy conservation, automotive propulsion, and oil, gas, and coal resources.

The sum of $54,000,000 for the Environmental Protection Agency to develop methods to control pollutants associated with energy extraction, transmission, production, conversion, and use.

The sum of $19,157,000 for the National Oceanic and Atmospheric Administration to provide ship facilities and operating expenses to support environmental assessments which are required for development of oil and gas resources on the Continental Shelf.

The sum of $18,000,000 for the Federal Energy Office for the overall management of national energy policy.

The sum of $4,435,000 for the National Aeroautics and Space Administration for energy research and development projects which utilize capabilities developed in the space program.

Mr. President, if U.S. energy growth continued at its preoil embargo rate and domestic production does not significantly change, it is estimated that by 1980 the United States would be required to import 19 million barrels of oil per day and the equivalent of 2 million barrels per day of natural gas in liquefied form.

Such dependence on foreign energy is untenable for two reasons.

First, the United States would be forced to rely on the volatile Middle East for a very large portion of its energy requirement, and second, the price for this imported energy would represent a very serious balance-of-payments problem. Estimates in October of 1973 showed the United States paying by 1980 $25 to

$35 billion a year for imported energy. Later estimates suggest an imbalance as high as $45 billion a year.

These deficits are clearly unacceptable, particularly when the United States possesses the resources to develop domestically much greater amounts of energy that would make these large import requirements unnecessary.

Between now and the mid and late 1980's, energy shortages and dependence on energy imports will still be a problem of significant degree. The severity of the problem will depend on conservation measures practiced by the American people and the degree to which oil and gas production is increased and coal can be used at an acceptable environmental cost.

The success of the energy research and development recommended in this bill is inextricably linked with other factors in the energy industry such as environmental policy, tax policy, and the overall political climate.

To achieve the goal of energy independence, more than Federal efforts will be necessary. In fact, a rich mixture of public and private research and development efforts must exist. Some assurance of economic stability in this area will be necessary to enable the energy industry to make the required investment in research and development.

I now yield to the distinguished Senator from North Dakota (Mr. YOUNG).

Mr. YOUNG. Mr. President, the distinguished chairman of the committee (Mr. MCCLELLAN) has done an excellent job of explaining the contents of the bill. I commend him, as well as the six chairmen of the subcommittees and the ranking minority members and all their committee members, for their input into the formulation of this legislation.

The special energy research and development appropriations bill provides $2,209,216,000 in new budget authority. This is $862,792,000 more than we appropriated for these purposes in fiscal year 1974, or an increase of 64 percent. This will greatly accelerate the Federal program of energy research and development, with an emphasis on atomic energy and coal liquefaction and gasification. The Appropriations Committee has provided $1,456,160,000 for the Atomic Energy Commission, $535,266,000 for the Department of the Interior, and $101,800,000 for the National Science Foundation. The balance of the appropriation, $115,990,000 will go to seven other Federal agencies, including the Environmental Protection Agency and the Federal Energy Office. The total amount in this bill is only $5,488,000 over the budget.

Mr. President, included in the appropriation for the Atomic Energy Commission are large increases for the liquid metal fast breeder reactor and for controlled thermonuclear fusion. Both of these items, when developed, will go a long way in helping to solve our energy crisis. The LMFBR will utilize uranium from 30 to 40 times more efficiently than presently operating nuclear reactors. Controlled thermonuclear fusion, which uses a form of hydrogen found in sea water, if proven successful, would provide mankind with an inexhaustible supply of energy.

Nearly half of the appropriation for the Department of the Interior is for the Office of Coal Research, and nearly half of the Office of Coal Research appropriations is for research on coal liquefaction and high-B.t.u. gasification. The funds provided for the Bureau of Mines also have a large amount for research on coal liquefaction and high-B.t.u. gasification.

The research that will be done on solar and geothermal energy is funded for the most part in the appropriation for the National Science Foundation. While these two approaches to solving our energy problems are more applicable to long range solutions, their potential is great and it is important to accelerate research on them as soon as possible.

Mr. President, before concluding my remarks, I think it should be pointed out that passage of this bill will not solve our energy problems overnight. There is a long leadtime on many of the research projects, and many may not show usable results for sometime. We still must urge the American people to conserve their use of energy as much as possible.

By placing all energy research and development appropriations in one bill we are giving emphasis to the energy problem and creating a vehicle that will help us to have an overview of the total Federal energy R. & D. program.

Mr. President, I support the bill and urge that the Senate give it favorable consideration.

Mr. HASKELL. Mr. President, I send to the desk an amendment and ask that it be read and made the pending question.

The PRESIDING OFFICER. The amendment will not be in order until the committee amendments have been agreed to. Does the Senator from Arkansas wish to make that request at this time?

Mr. MCCLELLAN. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be considered original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, the committee amendments will be agreed to en bloc and the bill as thus amended will be considered as original text for the purpose of amendment.

The committee amendments agreed to en bloc are as follows:

On page 2, line 5, after the word "activities", insert a comma and "including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft"; and, in line 15 after the word "expended", insert a colon and "*Provided*, That the Environmental Protection Agency may transfer so much of the funds as it seems appropriate to other Federal agencies for energy research and development activities that it may be in a position to supply, or to render or to obtain by contract."

On page 3, line 2, after "5 U.S.C. 3109", strike out "$8,935,000" and insert "$4,435,000"; and, in line 3, after the word "expended", strike out the colon and "*Provided*, That $4,500,000 of the foregoing amount shall be available only upon the enactment of H.R. 11864 or similar legislation.".

On page 4, line 9, after the word "available", insert "for the acquisition of one additonal aircraft and".

On page 4, line 21, after the word "law", strike out "$144,308,000" and insert "$137,298,000"; and, at the beginning of line 22, strike out "$100,500,000" and insert "$103,500,000".

On page 5, line 17, after "(30 U.S.C. 661–668)", strike out "$283,400,000" and insert "$258,378,000"; and, at the beginning of line 19, strike out "$6,563,000" and insert "$6,541,000".

On page 6, line 3, after the word "gas", insert a comma and "and not to exceed $2,000 for official reception and representation expenses,"; and, in line 4, after the amendment just stated, strike out "$59,700,000" and insert "$69,590,000, of which $10,000,000, to remain available until expended, shall be available for reimbursement of State and local public agencies as authorized by Public Law 93–275, section 7(d).".

On page 6, line 11, after the word "analysis", strike out "$27,400,000" and insert "$26,875,000".

On page 8, line 1, after the word "vehicles", strike out "$1,043,790,000" and insert "$1,023,690"; and, in line 11, after the word "transferred", insert a colon and "Provided further, That no part of the sum herein appropriated shall be used for the field testing of nuclear explosives in the recovery of oil and gas."

On page 8, line 23, after the word "expansion", strike out "$463,970,000" and insert "$432,470,000".

On page 9, line 11, after the word "transmission", strike out "$8,500,000" and insert "$8,498,000".

On page 9, after line 12, insert a new chapter, as follows:

CHAPTER V

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SURVEYS, INVESTIGATIONS, AND RESEARCH

For necessary expenses of the National Oceanic and Atmospheric Administration to reactivate, equip, and operate certain oceanographic research vessels, to extend the operating season and research capability of vessels currently in operation, and to support scientific environmental research for the purpose of conducting assessment of energy-related offshore environmental problems associated with the development of oil and gas leases on the outer continental shelf, $19,157,000, to remain available until expended.

On page 10, line 1, change the Chapter number from "V" to "VI".

On page 10, line 10, change the Chapter number from "VI" to "VII".

On page 10, at the beginning of line 20, strike out "$19,000,000" and insert "$18,000,000".

On page 11, line 2, after the word "General", strike out "Provision" and insert "Provisions".

On page 11, after line 5, insert a new section, as follows:

SEC. 202. No part of any appropriation contained in this Act shall be available for paying to the Administrator of the General Services Administration in excess of 90 per centum of the standard level user charge established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended, for space and services.

The PRESIDING OFFICER. The clerk will read the amendment offered by the Senator from Colorado.

The assistant legislative clerk proceeded to read the amendment.

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

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

The amendment is as follows:

On page 8, line 1, delete "$1,023,690,000" and insert in lieu thereof "$1,020,765,000"; on line 14 deleted "." and insert in lieu thereof ": *Provided further*, That none of the funds herein appropriated shall be used to further research and development efforts for nuclear stimulation technology, except those funds required to complete the technical and economic assessment of Project Rio Blanco, detonated May 17, 1973."; on line 23 delete "$432,470,000" and insert in lieu thereof "$432,160,000".

Mr. HASKELL. Mr. President, this amendment is comparable to an amendment which I proposed on Friday, and it has been discussed with the members and staff of the Appropriations Committee. The difference in the amendment which is now at the desk and the amendment proposed Friday is a matter of amounts of money to complete the evaluation of the Project Rio Blanco tests.

The testimony before the Appropriations Committee by the AEC in March of this year indicated a figure of $375,000 was necessary to complete that evaluation. That figure was raised in late May to $1,475,000, and my office was informed of the new cost figure late Friday night. For that reason I have changed the amendment.

The pending amendment makes it very specific that no funds will be expended for nuclear research on stimulation of natural resources until the technical and economic assessment of Project Rio Blanco, a nuclear device detonated May 17, 1973, is completed and evaluated in full. The question is whether or not we should proceed with nuclear stimulation prior to the evaluation of massive hydraulic fracturing of these tight sands.

We must note that the bill before us, H.R. 14434, contains an appropriation to the Department of the Interior of $17 million for oil and gas stimulation without using nuclear explosives. The report on the bill indicates that the Appropriations Committee deleted $8 million for oil and gas stimulation, which was included in the appropriations bill passed by the House.

The committee makes special note that the budget estimate more than tripled the funds for this program, and that witnesses from the Bureau of Mines indicated during the committee's hearings that this $17 million was the maximum that could be wisely obligated.

We should also take note of the fact that the Atomic Energy Commission recently contracted with a private corporation to fund a large-scale hydraulic fracturing experiment. The AEC will pay approximately $1 million of the $2.5 million project cost.

The site for this experiment is in Colorado and is within 1 mile of the project Rio Blanco nuclear experiment site.

There is much debate as to whether it is necessary to use nuclear explosive devices to fracture these particularly tight sand formations or whether hydraulic fracturing will be successful.

To date the Federal Government has spent over $33 million in developing nuclear stimulation techniques. Prior to this most recent contract no Federal funds had been spent to investigate massive hydraulic fracturing. In my opinion, it is premature and inappropriate for us to commit ourselves still further in support of nuclear stimulation techniques until we have examined the Rio Blanco experiment thoroughly and until we have examined the efficacy of hydraulic fracturing techniques.

I fully recognize that the natural gas resources in the Rocky Mountain States are tremendous and important in our energy development picture. I am not opposing development of our natural gas resources. But I do propose that we must use the best means available for that development; one that will not interfere with development of other valuable resources which are also located in the same area such as oil shale, coal, uranium, nahcolite, and dawnsonite.

A recent report by the General Accounting Office entitled "Progress and Problems in Developing Nuclear and Other Experimental Techniques for Recovering Natural Gas in the Rocky Mountain Area" stresses the view held by the Department of the Interior that:

Commercial programs to recover natural gas in the Rocky Mountain area might not be compatible with development of the other mineral resources in the area.

The Department of the Interior stated in a letter to the GAO dated February 11, 1974:

The apparent incompatibility of nuclear fracturing techniques with concurrent or subsequent mining of oil shale and other mineral resources in the same area is viewed as a most unfavorable feature of fracturing techniques which use nuclear explosives.

Mr. President, no one questions that vast resources trapped in the Rocky Mountain area will aid us in our search for additional energy sources. Nor does anyone question the desirability of making those resources available for use by the people of the United States.

A 1973 Federal Power Commission task force report estimated that up to 300 trillion cubic feet of this gas could be recovered with either of the two techniques—nuclear stimulation or massive hydraulic fracturing—currently under study. The report also indicated that conventional stimulation, without utilizing nuclear explosive devices, would likely result in making the gas available more cheaply.

In order to recover that much gas—300 trillion cubic feet or 50 percent of the resource—using nuclear stimulation the program would involve drilling 5,680 wells and detonating 29,680 nuclear explosive devices each with a 100 kiloton yield over a period ranging from about 35 to 65 years.

For massive hydraulic fracturing the task force report indicated the program would involve about 22,720 wells over a period of about 60 to 115 years.

With anywhere from 400 to 1,000 nuclear devices being detonated annually for a period of up to 65 years considerable risk would be involved.

Just recently, for example, as the result of the Rio Blanco experiment, tritium leaks were detected from a disposal well in close proximity to the Rio Blanco project.

Admittedly, these leaks were small—very small indeed. But my point, Mr. President, is that they were not meant to happen, and, in fact, prior to the May 1973 detonation the Atomic Energy Commission said that this could not happen.

The risk associated with one test may well be negligible. But all of those associated with nuclear stimulation realize that significant quantities of long-lived radioactive nuclides are left buried far beneath the Earth's surface after each explosion. Clearly if we develop this technology to its logical conclusion with thousands of nuclear stimulations, the likelihood of something going wrong—a large leak instead of a small leak of tritiated water—will be far greater and may well occur.

Furthermore, if we leave large amounts of long-lived radioactive material far below the Earth's surface, the possibility of these materials migrating into water sources or otherwise coming to the Earth's surface is increased.

The likelihood of these materials migrating into the water table has been hotly debated in the past and need not be reiterated here. Suffice it to say that no one has ever attempted a series of nuclear explosions anywhere near the magnitude contemplated for the Rocky Mountain area should full field development take place, and the consequences are unknown.

Perhaps the best source I can cite for evidence of the risk involved in a massive nuclear stimulated project is the AEC's own General Advisory Committee—a nine-member body established by the 1954 Atomic Energy Act. In a May, 1972, report they stated:

Although the safety of the underground nuclear weapons testing program has been impressive with no nuclear accidents and only a few cases of venting in more than 300 announced underground tests, the risks are probably larger for the 1900 explosives required for—a limited commercial development program—and certainly larger for the 30,000 explosives required for the release of the 300 trillion cubic feet of gas.

Many uncertainties shroud nuclear stimulation and the Congress must insure that such developments are investigated and resolved before further development takes place.

The Joint Committee on Atomic Energy has recognized that the 1973 Rio Blanco experiment has not been entirely satisfactory. In their report on legislation authorizing appropriations for the Atomic Energy Commission for fiscal year 1975 it was stated:

The committee notes . . . that satisfactory results have not been forthcoming from the fiscal year 1974 Rio Blanco event. The committee considers that the Commission must place strong emphasis on resolving the uncertainties in results from that experiment before proceeding with other major experiments. Further, the joint committee believes it important that the AEC complete the conventional hydrofracturing experiment it started near the Rio Blanco site during fiscal year 1974. (Report 93-969.)

Mr. President, I know that some Senators may be concerned that by limiting the funds available for research and development by the AEC of nuclear stimulation technology we are limiting our options and impeding our energy development progress.

The bill before us today provides an unprecedented level for support for energy research and development. The $2.2 billion contained in H.R. 14434 is evidence of the commitment by Congress to achieve energy independence as soon as possible.

The committee has already tripled the funds available for oil and gas stimulation in the Department of the Interior. I congratulate them for doing so and support that commitment wholeheartedly.

We may be limiting our options by waiting for an evaluation of Rio Blanco until we fund further nuclear stimulation experiments. In fact, I believe we have an obligation to do so. I personally believe that we must thoroughly investigate the conventional methods of stimulating this gas before we even consider the more hazardous methods of nuclear research.

Our decision to proceed must be based on the fact, not on bureaucratic inertia.

Mr. President, I appeal to Senators to support this amendment. I hope that we can agree to evaluate Project Rio Blanco and the current AEC-CER Geonuclear hydraulic fracturing test before proceeding with further development of nuclear stimulation technology for natural gas or oil shale.

By deleting $2,925,000 of the funds contained in today's appropriation measure—all of which are earmarked for nuclear projects in the budget request—we will be acting wisely and in the best interest of those who elected us to office.

Mr. President, I ask unanimous consent that the text of the original budget request submitted by the AEC be printed at this point in the RECORD.

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

OPERATING EXPENSES

[Dollars in thousands, except whole dollars in narrative materials]

	Fiscal year—		
	1973 actual	1974 estimate	1975 estimate
3. Applications of underground explosions			$4,400
(a) Technology development:			
Nuclear	$4,508	$3,100	2,800
Conventional	0	600	0
(b) Explosive, research, development, and testing	1,732	700	1,600
(c) Underground experiments:			
Nuclear	536	0	0
Conventional	0	200	0
Total applications of underground explosions	6,776	4,600	4,400

Energy and natural resources development has been and is a major goal of the program. Marked progress has been made in bringing nuclear gas stimualtion technology to the point where it may be used to augment natural gas supplies to help relieve short-term shortages. Emphasis is being shifted to technology for in-place recovery techniques for oil shale and a small effort in chemical leaching of copper.

TECHNOLOGY DEVELOPMENT—NUCLEAR

Fiscal year 1973—$4,508.
Fiscal year 1974—$3,100.
Fiscal year 1975—$2,800.

Funds in this activity are used (1) to investigate nuclear explosion effects by theoretical analysis and laboratory scale experiments; (2) for applied research, development, and planning activities associated with particular applications; and (3) for development of operational systems for conducting full-scale nuclear tests of the applications being developed.

In FY 1975 a realignment of program priorities will increase the proportion of effort devoted to developing *in situ* processes which have the potential for adding significantly to the recoverable reserve of natural resources, e.g., in-place recovery techniques for oil shale.

In addition to explosion effects work (FY 1974—$400,000; FY 1975—$300,000) and operational systems development (FY 1974—$350,000; FY 1975—$0), specific tasks planned for FY 1975 on each of the major applications are described in the following paragraphs;

Gas Stimulation (FY 1974—$850,000; FY 1975—$375,000).—Long-range assessment of economic and technical viability of nuclear gas stimulation will continue at a reduced level. Also, it is anticipated that technical and economic assessment of Project Rio Blanco, successfully detonated on May 17, 1973, will continue in FY 1975.

In Situ Oil Shale Recovery (FY 1974—$1,075,000; FY 1975—$1,925,000.—The widening recognition of the projected energy crisis and reliance on oil imports and the announced Federal Government pilot leasing program of oil shale tracts has led to increased industrial interest in recovery of oil from oil shale using explosives for *in situ* recovery. Presently, a group of independent oil companies is considering *in situ* development of oil shale and desires to formally cooperate with AEC in its study. Also planned will be an economic analysis of the technology in light of a clearer definition of total resource, size of chimneys, spacing of chimneys, the retort process, and radioactivity in the end product.

In situ Chemical Mining (FY 1974—$425,000; FY 1975—$200,000.—Laboratory experimentation on development of a method for *in situ* chemical mining of primary sulfide ores will continue. Considerable industrial interest has been expressed in this new process. Effort will focus on (1) determining the sensitivity of the overall leaching chemistry to variations in several physical and chemical parameters for a representative ore body, and (2) theoretical and experimental investigations to develop large ore bodies which will require multiple nuclear chimneys.

TECHNOLOGY DEVELOPMENT—CONVENTIONAL

Fiscal year 1973, $0.
Fiscal year 1974, $600.
Fiscal year 1975 $0.

Advanced hydraulic fracturing, accomplished by pressurizing with fluid a section of the wellbore until the rock breaks in tension, holds much promise for the recovery of large quantities of natural gas from tight formations.

In mid-FY 1974 the status of the development of the advanced hydraulic fracturing technology will be fully evaluated and calculational effort and laboratory studies will begin in order to develop appropriate models. Laboratory research will proceed in the areas of equation of state measurements, rock fracture characteristics, fracturing fluids, propping agents, and sonic detection of crack dimensions. An existing 5,000-ton press will be equipped with a servo-system for controlled hydraulic pressurization and with a confinement system for triaxial loading of large rock specimens and will be used for hydraulic fracturing laboratory experiments. This will be followed by project definitions, including site studies, and the start of field effort toward the conduct of field experiments in cooperation with industry. FY 1975 follow-on effort will be supported by the Department of the Interior.

EXPLOSIVE RESEARCH, DEVELOPMENT, AND TESTING

Fiscal year 1973, $1,732.
Fiscal year 1974, $700.
Fiscal year 1975, $1,600.

This category deals with research and development directed toward providing appropriate nuclear explosive designs for use in applications for recovery of natural resources. In FY 1975, the requested funds will permit improvements in the simultaneously fired DIAMOND explosive used for contained applications such as adding a positive self-destruct system, improving the arming and firing components, simplifying or eliminating the cooling system and improvement of electronics and other systems to withstand higher ambient temperatures and pressures.

UNDERGROUND EXPERIMENTS—NUCLEAR

Fiscal year 1973, $536.
Fiscal year 1974, $0.
Fiscal year 1975, $0.

In FY 1975 the program plans no effort in this category.

UNDERGROUND EXPERIMENTS—CONVENTIONAL

Fiscal year 1973, $0.
Fiscal year 1974, $200.
Fiscal year 1975, $0.

In FY 1974 one field experiment using conventional hydrofracturing will be planned in the vicinity of Project Rio Blanco in order to begin a good comparison between advanced hydraulic fracturing and nuclear stimulation. Monitoring holes would be planned near the site of the large hydraulic fracture to define the actual geometry of the fracture. Actual execution will be in the succeeding fiscal year and supported by the Department of the Interior and an industrial sponsor.

3. Applications of Underground Explosions, $310. The amount requested allows primarily for procurement of new equipment for field experiments and for normal upgrading of existing simplified field system equipment.

Laboratory equipment is also required to support product contamination studies.

Laboratory equipment is also needed to determine pre- and post-detonation properties of rocks, such as grain density, mineral composition, permeability, and solubility so as to evaluate the effects of underground experimental resource recovery techniques, both nuclear and non-nuclear; and for conducting laboratory analyses and measurement support activities. This equipment includes precision instruments such as cameras, oscilloscopes, counters and amplifiers, ultrasonic units, and other similar electronic items and mechanical items such as vessels for maintaining controlled temperatures and pressures for use primarily in studying and analyzing the response of differing rock types containing or associated with natural resources under simulated experimental resource recovery conditions.

Also in FY 1975, an existing 5,000-ton press will be equipped with a servo system for triaxial loading of large rock specimens and will be used for laboratory experiments related to explosive fracturing.

Mr. HASKELL. Mr. President, I reserve the remainder of my time.

Mr. President, I ask unanimous consent that Betsy Moler, of my staff, be accorded the privileges of the floor during the debate on this bill and the amendments thereto.

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

How much time does the Senator from Maine desire, and who will allocate it to him?

Mr. MUSKIE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MUSKIE. Is it in order for me to make a point of order at this time?

The PRESIDING OFFICER. If the Senator will have someone yield time to him, it would be in order.

Mr. HASKELL. Mr. President, I yield to the Senator such time as he may need to make a point of order.

Mr. McCLELLAN. Mr. President, will the Senator withhold until the Senator from Hawaii (Mr. FONG) arrives? He is the one who is interested in it, representing the subcommittee.

Mr. MUSKIE. I shall be glad to do so. I have suspended a hearing on which I am the only member present.

Mr. McCLELLAN. I am advised that the Senator is on his way to the Chamber.

Mr. MUSKIE. Of course I am willing.

Mr. McCLELLAN. I would ask that action be deferred until he arrives. He is in charge of that section of the bill.

The PRESIDING OFFICER. Who yields time on the amendment?

Mr. McCLELLAN. I yield 5 minutes to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I thank the Senator. It may be that I shall ask for a little more time for colloquy with the Senator from Nevada (Mr. BIBLE), who is familiar with this subject.

Mr. President, I address my remarks regarding the Haskell amendment, first, by pointing out what the committee put in the bill. So far as field testing or nuclear testing out in the field, with reference to this entire matter, the committee amendment on page 8, beginning at the end of line 12 would prohibit any further field testing, so far as money in this bill is concerned, of nuclear explosives in the recovery of oil and gas.

As I understand, the Senator from Colorado approves that position. He would go further, though; through his amendment he asks, really, that they be required to stop all the work, even in the laboratories, and he would cut the money for that purpose, except with reference to further work on the Rio Blanco project that has already been started.

In other words, Mr. President, he would cut out, through his amendment, what I call the conventional chemical explosions, and the massive hydrofracturing, and the non-nuclear and nuclear laboratory work would all be stopped, which we think, Mr. President, is out of keeping with the purposes of the energy research and development. It is totally unnecessary to stop that important work.

To get the benefits of basic research and development and what we have done in testing so far, we have got to know the effect of it and the results of it. We should be able to tell what steps should be taken next, should it be the pleasure of Congress. We have to continue the basic laboratory efforts on all approaches and not shut the door.

But so far as the money in this bill is concerned, we would absolutely hold up, cut off, and make impossible anything in the way of field testing of nuclear explosives in the recovery of oil and gas.

I want to yield some of my time, if I may, to the Senator from Nevada (Mr. BIBLE), who is a member of the subcommittee. Also, last year, he handled this bill in the hearings, and was present at a part of the hearings and present at the discussion of these matters during the markup. I yield him the remainder of my time, and hope the Senator from Arkansas will yield him more if he desires. He is very knowledgeable in this field.

Mr. BIBLE. Mr. President, I am sorry I did not hear all of the argument advanced by the distinguished Senator from Colorado. However, he was kind enough to furnish me with a copy of his amendment, together with his views on the subject, and I have examined them.

I did have the privilege, a year ago, of presiding at the hearing in the absence of the distinguished Senator from Mississippi. Though I did not hear the testimony on this particular phase of the AEC problem this year, however, as a member of the Joint Committee on Atomic Energy and as a member of the subcommittee on the AEC portion of the bill now in question, I do have some familiarity with the problem to which the Senator from Colorado is directing his attention.

This question was rather thoroughly discussed, as the Senator from Mississippi will recall, at the time of our subcommittee markup. As a matter of fact, the senior Senator from Wyoming is a member of the subcommittee, and we had almost a full attendance of the subcommittee on the day of the markup, and spent considerable time in discussing the problem raised by the Senator from Colorado.

As the Senator from Mississippi has indicated, I thought that we took care of the problem by providing the language that there should be no nuclear testing, and this was written into two sections of the bill, first in the section of the bill dealing with the Bureau of Mines, and second in the section of the bill now before us for consideration involving the Atomic Energy Commission.

We took the identical language out of the Bureau of Mines portion:

Provided, that no part of the sum herein appropriated shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

We took the proviso and wrote it into the bill—not into the report but into the bill—under the Atomic Energy Commission. It is just word for word the same. So it was my thought, if not actually the thought of the subcommittee, that this amply took care of the problems of testing nuclear explosives in the recovery of natural resources.

I understand some of the concerns of the distinguished Senator from Colorado. I am not entirely unfamiliar with the problems of underground testing, having represented the State of Nevada for many years in the U.S. Senate. We have had much underground testing, so we have become somewhat familiar, if not technical experts, in the field of underground testing and the dangers that arise from the explosion of nuclear weapons underground.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). The five minutes allotted by the Senator from Mississippi has expired.

Mr. STENNIS. I yield the Senator 3 additional minutes.

Mr. BIBLE. I appreciate the additional time. I may not use it all, but I appreciate it.

So we have some background and some familiarity, and understand the justifiable concerns of those who are concerned with the contamination of the atmosphere with testing above ground, and likewise those who are concerned with the contamination of our underground water supply. We have had both concerns expressed at the Nevada test site. So we have that thought in mind, to lay at rest concerns in this area. We have the same concerns, as the Senator from Colorado well knows, in the Rio Blanco experiment. But as nearly as we can determine, there have not been these adverse effects.

The language that was discussed by the subcommittee was discussed with the Senator from Wyoming (Mr. McGEE), who has, I think, almost identically the same concerns as the Senator from Colorado, but they are also interested in the fracturing of the oil shale formations, the *in situ* oil shale recovery, not only in Wyoming but in Colorado, in Utah, or wherever oil shale might be available, subject to further exploration and study.

This may well end up being recovered only by conventional means. I do not

know whether the Senator from Colorado objects to doing this by conventional means or not. I did not hear his argument on that point.

Mr. HASKELL. Not, I will say to my friend from Nevada, by any manner or means. I am very anxious that it be done by conventional means, so that we may see how it works out.

Mr. BIBLE. Well, my understanding is that the dollars that are in this program will go largely to research, for laboratory analysis and study for nuclear and nonnuclear methods. There would be no field testing that in any way should raise the concerns of the Senator from Colorado. We have spent about all this year in this one study on just this one problem. The Senator from Wyoming (Mr. McGEE), who shares the concerns of the Senator from Colorado, was completely satisfied that the language we have written, not into the report but into the bill itself, would be a sufficient safeguard and satisfy his concern.

I hope the Senator from Colorado will withdraw his amendment, with the assurances that we have given that there will be no nuclear testing, because it is absolutely prohibited under this bill.

I do not know what the oil companies are going to find. They may find that the only way this rock can be fractured is through nuclear explosion. If that is the ultimate finding as the result of laboratory research, then, of course, we can do nothing under this bill until they come back to the Congress. That should be adequate assurance and safeguard to satisfy my good friend from Colorado. I hope that that will be the case. There is no intention, certainly, on my part, to attempt to set off nuclear explosions underground for the purpose of gas stimulation and exploring or recovering the oil shale from deposits in his State or in any other State that has any possible economic chance of making oil shale a sound and economic source of energy.

Mr. HASKELL. Mr. President, may I respond to my good friends from Nevada and Mississippi—on my time, obviously—by saying first, that my amendment says there will be no "research and development efforts for nuclear stimulation technology, except those funds required to complete the technical and economic assessment of Project Rio Blanco."

So, in response to my friend from Mississippi, we must obviously assess Rio Blanco. I am very much aware and I appreciate the consideration of the committee in putting in the bill a proviso that there will be no field tests. As I read the bill, my concern is that the AEC can continue to do research on nuclear stimulation. The Joint Committee on Atomic Energy itself has stated nuclear stimulation has doubtful validity until the conventional technology now underway is assessed.

I say to my friend from Nevada that as I look at the AEC's budget request, as submitted in testimony before the Appropriations Committee, that under "Applications of Underground Explosions," technology development is broken down into a request of $2,800,000 for nuclear technology development and zero for conventional technology development. The way I read the budget, I say to my friend, is that the laboratory work on general nuclear stimulation will go forward. It is my position that it should not stop until two things have happened; that Rio Blanco is evaluated, No. 1. No. 2, that the conventional stimulation has taken place and has been evaluated.

These are my points and I reserve the remainder of my time.

Mr. STEVENS. Mr. President, I ask unanimous consent that Robert Lane and John Hussey of the staff of the Committee on Commerce be allowed the privileges of the floor.

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

Mr. STEVENS. Mr. President, the administration has proposed that 10 million acres of land on the Outer Continental Shelf be leased for oil and gas development within the next few years in order to help meet the goals established by "project independence." The administration asked the Council on Environmental Quality to assess the environmental implications of this decision and to report its findings. Completed last month, this report recommended the following guidelines for developing OCS resources:

> Exploration and development of the OCS must take place under a policy which puts very high priority on environmental protection.
>
> The location and phasing of OCS leasing should be designed to achieve the energy supply objectives of the leasing program at minimum environmental risk.
>
> Regulatory authorities available to Federal agencies must be fully implemented and requirements strictly enforced to minimize environmental risks in new OCS areas.
>
> Planning at all phases of OCS oil and gas operations must respect the dynamic relationship between initial Federal leasing decisions and subsequent state and local action. The States and the communities affected must be given complete information as early as possible so that planning can precede and channel the inevitable development pressures.

Testimony before recent hearings by the national ocean policy study, established pursuant to Senate Resolution 222, of which I am the ranking member, has confirmed the need for collecting environmental data well in advance of the final decisions to lease sites for development. To collect such data requires the implementation of survey and research ships suitably equipped to make biological, physical, geophysical, and chemical measurements of area under consideration. Since these ships must operate in difficult ocean environments, such as the Gulf of Alaska and the Northwest Atlantic, they must be capable of extended open ocean operation in difficult weather and sea conditions.

The amendment which was added to the special energy research and development appropriations bill (H.R. 14434) now being considered by the Senate, will make the necessary appropriations available for the use of ships and facilities of the National Oceanic and Atmospheric Administration to accomplish environmental baseline studies as needed.

Hearings recently conducted by the national ocean policy study on impacts of OCS development revealed a conviction on the part of many who testified that current knowledge of the environment of the Outer Continental Shelf is insufficient and that the Government's environmental assessment effort on the eve of development is woefully uncoordinated and inadequate.

Dr. William J. Hargis, who is the present Vice Chairman of the presidentially appointed National Advisory Committee on Oceans and Atmosphere, testified that critical gaps exist in much of the biological, geological, and hydrographical data, and that "much additional information is needed to make really tight and detailed evaluations—natural and economic." Dr. Hargis noted that those in the ocean community had urged acquisition of this data several years ago, but those arguments "were lost in the din." Because of our lack of foresight, Hargis warned, quick action is needed to meet this complex and demanding task.

Former Gov. Philip H. Hoff, of Vermont, speaking on behalf of the New England Natural Resource Center, echoed Dr. Hargis' concerns when he told the study:

> (T)here is a critical need for baseline data—for biological and other information—on the conditions that now exist on the Geoges Bank and other areas of the OCS before development takes place . . . We must establish a solid base of information on which to base estimates of changes that take place as a result of development before we proceed with drilling if we are to monitor adequately environmental impacts. I believe it is imperative that we establish a crash program of marine biological research on the OCS before we accept any crash program of OCS oil and gas development.

It is my conviction, based on this and other testimony, that the Congress must move immediately to provide funds for an OCS environmental assessment effort. To ignore the role of environmental considerations in the final leasing decision could have disasterous consequences for the proposed leasing schedule, and consequently, the future energy situation in this country. The data should precede the leasing decision; but while most observers acknowledge this fact, few preparations to facilitate its collection have been made.

In passing Senate Resolution 222 the Senate took upon itself the responsibility to improve the coordination and the effectiveness of our national ocean policy. The accelerated development of the Outer Continental Shelf represents our first test of this goal. The environmental baseline research problem presents an opportunity for the Senate to take the initiative by providing the necessary funds to support this ocean research effort. NOAA presently has the legal mandate, the vessels, and the capability—but not the necessary funding—to per-

form environmental baseline studies on OCS target areas. NOAA's ocean research capability can be augmented to cope with OCS research responsibilities by, first, reactivating three mothballed vessels; second, by increasing the operating season, personnel and research facilities on five vessels currently in operation; and, third, by providing for additional scientists to do proper analyses and evaluations of the environmental data as it relates to the proposed drilling areas. In all, NOAA estimates that $19.2 million would be required to supplement its operation.

The type of data that is needed to perform an adequate environmental assessment of a drilling site is of three broad types:

First. Marine biological surveys: Surveys would be conducted to determine the nature of the marine ecosystem in the lease area, and would include a determination of all species of fish, shellfish, and crustaceans in the area, their concentration, information about their migration and spawning habits, and studies of the potential damage to these stocks from offshore oil and gas development operations. This data is essential to gaging the impacts of oil spills on the food chain and the fisheries industry.

Second. Physical oceanographic surveys: These surveys would provide information about the location, intensity, and variability of ocean current systems, wave heights, and the temperature, salinity, and other chemical characteristics of the ocean. Such data would be required to assess the consequences of an oil spill or blowout in terms of the dispersion and concentration of oil as it might affect the living resources of the sea and adjacent coastal areas. Complementary measurements of meteorological conditions, especially wind, would also be made.

Third. Geological and geophysical surveys: Geophysical surveys would be made to provide information on sediment characteristics, bottom topography, and subseafloor structure—including fault zones, and other geophysical characteristics. At the present time this data is collected primarily by the U.S. Geological Survey and private industry; however, as development activity increases it is expected that NOAA will bear a greater share of the burden. Potential for earthquake-generated tsunamis also would be assessed in areas of high seismicity. This data is of immense importance to the coastal States and to the future of the recreational, tourist, and shellfish industries that are so dependent on a pollution-free coastal zone.

Environmental baseline data is recognized by representatives of industry, the Bureau of Land Management, USGS, CEQ, and the coastal States as being an absolutely essential ingredient in the final leasing decision. The data is needed to formulate environmental impact statements, which is the principal vehicle for assessing whether a tract can be developed safely. It is in the best interest of the oil companies and the Federal Government that these statements be based on the best possible data to prevent any delays that litigation over a poorly documented, uncomprehensive study would surely bring.

The data is needed by the Bureau of Land Management to assist in determining where the "high risks" areas are located and for establishing priority drilling sites.

The data is needed by the coastal States so that they might gage the impact of offshore drilling on the coastal economy and environment and so that they will be prepared through their coastal zone management programs to meet the secondary impacts of offshore development that will certainly be generated.

Finally, this data is needed by the oil companies, so that they will know that development in certain OCS areas will have adverse environmental effects that may prove costly once drilling has begun. The data would also be useful from an engineering standpoint to determine appropriate types of drilling structures, platforms, pipelines, and storage tanks would be suitable for certain areas.

These surveys would be carried out in accordance with priorities established by the Department of the Interior as required to meet the target leasing schedules. They would be conducted jointly with the U.S. Geological Survey, which has the scientific expertise and capability in key areas of geological and geophysical measurement and analysis, thus bringing to bear on the environmental assessment problems the full capability of both organizations. It is my understanding that NOAA and the U.S. Geological Survey have a good working relationship in the data collection effort and have coordinated their efforts in the past to prevent overlap. It is expected that this would continue unabated.

The amendment approved by the committee added a new chapter to H.R. 14434 to augment NOAA's energy-related marine environmental research operations in three areas:

First. It would reactivate and staff three mothballed research vessels—the *Discoverer*, the *Surveyor*, and the *Miller Freeman;*

Second. It would increase the personnel, supplies, and facilities aboard five NOAA vessels currently in operation to reflect an increased at-sea operating schedule of from 180 to 250 days; and

Third. It would provide for additional scientists to analyze and interpret the data as it is compiled.

The total cost of accomplishing the above for fiscal year 1975 would be $19,157,000.

The Council on Environmental Quality has recommended that an effective environmental assessment effort be undertaken immediately in conjunction with the administration's accelerated Outer Continental Shelf leasing program. Testimony in 5 days of hearings before the Senate ocean policy study has confirmed that current Federal data-gathering efforts on the OCS are inadequate and insufficient to cope with the stepped-up leasing effort. Additional scientists, ships, and equipment are going to be needed to get the job done. These needs have not been adequately reflected in recent administration budget requests to Congress.

What type of data is needed for an adequate environmental assessment? Surveys are needed to determine the extent of the fisheries in a given area, their concentration, migration and spawning habits, and the potential damage to ocean and coastal zone marine life from offshore oil and gas development. In addition, surveys would be required on the nature of ocean currents, wave heights, water temperature, salinity, wind frequency, and other meteorological factors. Finally a determination must be made of the nature of the subseafloor and the location of faults.

Why is this data necessary? Environmental baseline data is recognized by the Department of the Interior, CEQ, and the coastal States as being an essential ingredient in determining potential drilling sites. More specifically, the data is needed, first, to develop well-documented enviromental impact statements, required of each block of leases; second, to determine high- and low-risk leasing areas; third, to alert the coastal States as to possible environmental impacts on the coastal zone; and fourth, to alert the oil companies of oceanographic and seismic factors that might hinder the development of a drilling site.

NOAA has the proper legal authority to conduct oceanographic research on the Outer Continental Shelf. It has the expertise and the capability to support such an effort. The environmental baseline studies provided by the amendment would be conducted in cooperation with the U.S. Geological Survey, thus bringing to bear full capacity of both organizations in conducting the necessary research.

I ask unanimous consent that statements prepared in support of these activities, for use of the Appropriations Committee, be inserted in the RECORD at this point.

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

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—NOAA: GENERAL AUTHORITIES FOR ENVIRONMENTAL ASSESSMENTS ON THE OUTER CONTINENTAL SHELF

A. Among the authorities of NOAA for environmental assessments on the outer continental shelf are those included in 33 U.S.C. §§ 883a–888 and the Fish and Wildlife Act of 1956, as amended (16 U.S.C. §§ 742a–742d and 742e–742k).

Under 33 U.S.C. § 883a, NOAA is authorized to conduct (1) hydographic and topographic surveys, (2) tide and current observations, (3) geodetic control surveys, (4) field surveys for aeronautical charts, and (5) geomagnetic, seismological, gravity and related geophysical measurements and investigations. 33 U.S.C. § 883b authorizes the distribution of such information gathered pursuant to the above statute. 33 U.S.C. § 883d authorizes NOAA to conduct developmental work for the improvement of surveying and cartographic methods, instruments and equip-

ment and to conduct investigations and research in geophysical sciences.

Under 16 U.S.C. § 742d, NOAA is authorized to conduct investigations and other activities regarding, among other things, the availability and abundance and the biological requirements of the fish and wildlife resources. 16 U.S.C. § 742f(a)(4) authorizes NOAA to take such steps as may be required for the development, advancement, management, conservation, and protection of the fisheries resources.

B. There is no dollar limitation contained in the appropriation authorizations which pertain to the above statutory authorities.

33 U.S.C. §883i authorizes to be appropriated "such funds as may be necessary to acquire, construct, maintain, and operate ships, stations, equipment, and facilities and for such other expenditures, including personal services . . ." to carry out the above functions under title 33.

16 U.S.C. § 742j authorizes the appropriation of "such sums as may be necessary to carry out the provisions of sections 742a to 742d, and 742e to 742j of this title."

C. Vessels from NOAA's fleet have been constructed or acquired pursuant to the above authorities, and are operated for the purpose of carrying out NOAA's responsibilities thereunder. For instance, the vessels DISCOVERER and SURVEYOR are operated pursuant to the authorities under 33 U.S.C. §§ 883a–888, and the vessel MILLER FREEMAN is operated pursuant to the authorities under the Fish and Wildlife Act of 1956.

D. Included below is budget information for fiscal years 1973, 1974, and 1975 pertaining to the above functions of NOAA, which reflects the amount requested of Congress, the amount appropriated, the amount spent for the indicated program by NOAA and the amount of funds impounded.

	Request	Approximate [1]	Program	Impounded
Mapping, charting, surveying services:				
Operations, research and facilities:				
1973	67,087,000	56,149,000	47,493,000	2,270,000
1974	39,803,000	40,003,000	38,661,000	
1975	51,666,000			
Ocean fish and living marine resources:				
Operations, research and facilities:				
1973	52,454,000	51,702,000	40,500,000	8,502,000
1974	40,535,000	44,832,000	44,832,000	
1975	51,666,000			
Pribilof:				
1973	3,138,000	3,232,000	3,032,000	
1974	3,604,000	3,598,000	3,598,000	
1975	3,937,000			
Fish guaranty:				
1973	61,000	61,000	61,000	
1974	101,000	101,000	101,000	
1975	125,000			
Offshore shrimp: 1974	325,000			
Promote and development:				
1973	7,553,000	7,053,000	7,053,000	
1974	7,053,000	7,288,000	7,288,000	
1975	7,428,000			
Total:				
1973	63,531,000	62,048,000	50,646,000	8,502,000
1974	51,293,000	55,819,000	55,819,000	
1975	55,728,000			

[1] Includes supplementals in fiscal year 1974 passed by Congress but, to date, not signed by President June 6, 1974.

GEOLOGICAL SURVEY: STATEMENT IN SUPPORT OF THE GEOLOGICAL SURVEY'S PROPOSED FISCAL YEAR 1975 BUDGET AMENDMENT FOR ASSESSMENT OF ENERGY RELATED OFFSHORE ENVIRONMENTAL PROBLEMS

Environmental studies offshore involve the development of an understanding of, and a capability to predict, geological, biological, and oceanographic phenomena. The Geological Survey, by prior agreement with NOAA, concentrates its efforts on geological phenomena in offshore areas, and it is for this type of work that the amendment of $2.625 million is being requested. NOAA on the other hand, has the expertise in the biological and oceanographic work which also needs to be accomplished.

The geologic work includes the identification and delineation of earthquake zones, the physical and chemical properties and engineering characteristics of sediments and rocks and their distribution, and studies of the effects of associated physical processes on foundation conditions for offshore installations.

The mission of the Geological Survey, basically is to search for and achieve understanding of physical phenomena and behavior potential of the ocean floor that might endanger offshore activities and installations. To do this, we will take both direct and remote sensing (high-resolution seismic, side-scan sonar, and deep penetrating seismic) measurements and analyse those results in context with our general framework understanding of the geology of the region.

To accomplish this work, the Geological Survey has a staff of marine geologists and geophysicists with a broad range of experience. The necessary onshore geology coordination is likewise available within the ranks of the Geological Survey, as well as expertise in earthquake studies.

The Geological Survey also has all of the necessary equipment to accomplish these investigations, including the oceangoing platforms and sampling and geophysical gear.

In the past several months extensive coordination efforts with NOAA have resulted in a clear delineation of responsibilities and interests in OCS environmental work. The program efforts of the two agencies can and should be complementary and mutually supportive in offshore environmental investigations.

The program of work for this amendment has been discussed with the Associate Administrator of NOAA and he is in agreement that it falls within the responsibility and capabiltiy of the Geological Survey.

Mr. HATFIELD. Mr. President, the administration has designated the Atomic Energy Commission as the lead agency in the field of energy research and development, a position that is reflected in the special energy research and development appropriations bill for fiscal year 1975.

The bill as reported by the Senate Appropriations Committee provides $1,456,160,000 for the AEC's energy R. & D. program, an amount that is almost three-fourths of the funds provided in the bill.

The Commission's highest priority project is the liquid metal fast breeder reactor. It has been estimated that when operational the LMFBR will utilize uranium 30 to 40 times more efficiently than presently operating nuclear reactors. Most of the $396,710,000 provided for civilian reactor research and development will be used for this project.

The research program for controlled thermonuclear fusion, for which the committee has recommended $82 million, could have a very significant impact on our energy picture if proven feasible. This process uses a form of hydrogen found in sea water, providing man with an unlimited source of energy.

Mr. President, there has been a great deal of discussion about the safety of nuclear reactors. While I believe much of the criticism is unfounded, I can understand why our people are concerned. In this bill we are recommending an appropriation of $52,940,000 for reactor safety research.

Some of the other programs for which we are providing funds are biomedical and environmental research and safety, $127,015,000; nuclear materials, $40,750,000; applied energy technology, $33,020,000; and physical research, $42,900,000.

Mr. President, the distinguished chairman of the subcommittee, Mr. STENNIS, was back at the helm this year after his miraculous recovery from gunshot wounds. He chaired most of the hearings, and as usual did a commendable job.

Mr. President, I urge the Senate to pass the bill as reported by the committee.

Mr. STEVENS. Mr. President, chapter III of the special energy research and development appropriations bill contains the appropriation for the Department of Interior's energy research and development program. The Appropriations Committee is recommending an appropriation of $535,266,000; this is $324,772,000 more than appropriated in fiscal year 1974—more than doubled—$26,367,000 under the budget estimate and $22,667,000 under the House bill. Interior's position in energy research and development is second to the Atomic Energy Commission, and accounts for about one-fourth of the funds provided in this bill.

The largest appropriation in Interior's section of this bill, $258,378,000, is provided for the Office of Coal Research. The need for such a large amount for OCR is obvious in light of our desire to get away from wasteful consumption of oil and our desire to become more independent of foreign energy. OCR's energy research and development program will emphasize research on coal liquefaction and high-B.t.u. gasification. The Bureau of Mines energy research and development program also places an emphasis on coal liquefaction and high-B.t.u. gasification, accounting for $49,588,000 of the $137,298,000 provided for the Bureau. As well, the committee recommends $46,200,000 for improved coal mining technology and $17 million for oil and gas stimulation.

The funds provided for the U.S. Geological Survey will greatly increase geo-

thermal investigations and the program for location of coal, oil and gas, oil shale, and uranium, and increased funding for research on environmental problems.

Mr. President, the chairman of our subcommittee, Mr. BIBLE, handled this appropriation in his usual efficient and thorough manner. From the beginning of our hearings through the full committee markup he did an outstanding job, and he was very considerate to me and the rest of the members of the subcommittee.

Mr. President, I join our chairman in support of this bill.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Maine (Mr. MUSKIE) to make a point of order.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Arkansas will state it.

Mr. McCLELLAN. Will that come out of the time on the bill or, in order to make a point of order, is that taken care of by an unanimous consent agreement?

The PRESIDING OFFICER. The time would have to be yielded unless unanimous consent is given.

Mr. McCLELLAN. Mr. President, I ask unanimous consent to yield to the Senator from Maine to make a point of order, and that he make his point of order without the time being charged to either side on the bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arkansas?

Mr. FONG. Mr. President, may I ask that I be allowed to answer the Senator from Maine on his point of order and that the time not be taken away for a discussion of the point of order?

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the time not be charged to either side on the bill.

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

Mr. MUSKIE. Mr. President, I ask unanimous consent that Karl Braithwaite of the Public Works Committee be allowed the privilege of the floor.

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

Mr. MUSKIE. Mr. President, I appreciate the courtesy of my good friend from Arkansas for making it possible for me to raise a point of order in this discussion.

I should like to discuss the point of order first. The point of order which I plan to make against the legislative language placed in this appropriation bill is on page 2, lines 15 to 19. Let me read it so that Senators who are in the Chamber will understand it.

The PRESIDING OFFICER. Will the Senator please repeat his citation of where the language is in the bill.

Mr. MUSKIE. On page 2 of the bill, the italicized words on lines 15 through 19, which language appears in chapter 1 of the title on the Environmental Protection Agency energy research and development.

The language reads:

Provided, That the Environmental Protection Agency may transfer so much of the funds as it seems appropriate to other Federal agencies for energy research and development activities that it may be in a position to supply, or to render or to obtain by contract.

Mr. President, the reason I raise this point of order is that this very issue has been before the Government Operations Committee, described in the markup of ERDA, the legislation which would create the Energy Research Department Administration, and has been specifically discussed in the subcommittee and the full committee. The issue has been resolved by that committee in a different way than this legislation seeks to resolve it.

So what we have is a direct conflict between the legislative committee which has the jurisdiction and which has acted specifically in legislation that will be reported to the floor of the Senate some time this week, and the Appropriations Committee which has not had the benefit of such consideration and which seeks to resolve it in a different way.

The issue that is raised in this: Whether all research programs dealing with the responsibilities of the Environmental Protection Agency and the regulation of pollution activities shall be transferred from the Environmental Protection Agency to an agency concerned primarily with the development of technology in the energy field.

What we are talking about is the distinction between regulatory research and developmental research. The Government Operations Committee resolved the issue by determining that regulatory research should remain in the Environmental Protection Agency and that new developmental research shall be the nature of ERDA's responsibility.

Why my concern, Mr. President?

The research programs that could be transferred away from the Environmental Protection Agency under this language include programs to clean coal, programs to add controls to powerplants, to reduce nitrogen oxide, sulfur oxide, and other cleanup programs associated with energy production. When the agency needs work jointly with other agencies, that can be done and should be done under current law and appropriate intergency agreements, not under such a broad grant of authority as given here.

The House included $54 million in this bill for the Environmental Protection Agency. The Senate bill has the same figure. The House did not include the language on transfer of funds.

As I said a minute ago, the Senate Government Operations Committee has completed its markup of S. 2744, a bill to create an Energy Research and Development Administration. The bill will be reported and placed on the calendar in the next few days. Senator JAVITS and I proposed an amendment which was agreed to by a 7-to-1 vote. The amendment struck out language in the bill that would have transferred EPA's research program to the new Agency. The committee agreed that EPA's research program was vital to establishing sound environmental regulations, and must not be transferred from the Agency.

The language in the appropriation bill now before the Senate could have the effect of nullifying the action of the Senate Government Operations Committee.

I understand the language at issue may have been requested by the Environmental Protection Agency to allow more flexible use of its funds. If this is the case, then the agency has asked for much broader language than could possibly be necessary, and which matches the language which the Government Operations Committee modified and struck out because of its broad implications against our clean-up program.

It seems just as plausible that the request for this language is an attempt by the Office of Management and Budget to bring about a transfer of the Environmental Protection Agency's pollution control technology research program to other agencies and eventually to the Energy Research and Development Administration once it is established. In short, I see it as an attempt to circumvent the normal legislative process.

Mr. President, as evidence of the thorough and comprehensive consideration which this issue received in the Government Operations Committee, I ask unanimous consent to have printed in the RECORD a letter dated May 9, 1974, from Senator JAVITS and me to the chairman of the Government Operations Committee, Senator ERVIN; a letter dated May 17, 1974, from Senator JACKSON to me, conceding the validity of my point on the regulatory research of EPA and asking only that the development research responsibilities of ERDA be identified; and my letter of May 25, 1974, which is in response to Senator JACKSON's letter and which concedes his point on ERDA.

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

IGR/ERDA (COMMITTEE LETTER TO MEMBERS)
MAY 9, 1974.

HON. SAM J. ERVIN, Jr.,
Chairman, Committee on Government Operations, U.S. Senate, Washington, D.C.

DEAR SAM: In the near future the Government Operations Committee will mark up legislation to create a new Energy Research and Development Administration (S. 2744). At that time, we will propose an amendment to the provision which would transfer certain Environmental Protection Agency research and demonstration activities to the new Agency.

We do not believe it is sound public policy to separate pollution control technology from pollution control regulations. Enforcement policies should be based on good research and adequate demonstrated techniques so that the Agency can make sound decisions as to actual pollution control requirements. To transfer an important part of the Agency's program could harm the public interest and lead to less well-based enforcement decisions.

We do not question the importance of the proposed Agency having a strong environmental component but it should not replace or duplicate EPA's activities. Instead of removing this function from EPA, full coordination between EPA and ERDA should

be required to assure that EPA's research capability is utilized.

It is not enough for EPA to maintain an ability to "assess" pollution control developments; the Agency must be able to stimulate such developments and to participate actively in that process in order to understand the problems with particular technologies.

Further, a transfer of this sort could delay the development of essential pollution control technology for one to two years. Much of the clean-up technology for energy sources is similar to that required for steel, smelters, chemical plants and other industrial sources. Separation would simply lead to expensive duplication. EPA needs a substantial research and development program because of the requirements of the Clean Air Act, Federal Water Pollution Control Act, and other environmental laws.

The course we will propose should be an acceptable alternative. We will propose that ERDA have the technical capacity to coordinate with EPA, the in-house capabilities to develop new energy technologies which are environmentally acceptable, and a mandate to assimilate the pollution control technologies developed for existing sources.

We hope you will join with us in this effort to improve the capabilities of the new Energy Research and Development Administration while maintaining the technical capabilities of the Environmental Protection Agency.

Sincerely,

EDMUND S. MUSKIE,
U.S. Senator.
JACOB K. JAVITS,
U.S. Senator.

U.S. SENATE,
COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS,
Washington, D.C., May 17, 1974.

Hon. EDMUND S. MUSKIE,
U.S. Senate,
Washington, D.C.

DEAR ED: Thank you for the letter from you and Senator Javits advising me of your proposal to amend the pending ERDA measures (S. 2744) regarding the transfer of energy research functions presently administered by the Environmental Protection Agency.

I agree with your objectives to insure that EPA will continue to have the confirmatory research capability to back up its regulatory responsibilities regarding the Clean Air Act. I also appreciate the need for EPA to have "in-house" technical competence in the pollution control technologies which are associated with automotive and stationary powerplant emissions.

One aspect of this matter does disturb me, however.

As you know, the two principal R & D programs involved—alternatives to existing automotive engine technologies and emission control in stationary powerplant combustion cycles—are perhaps the two most critical areas of energy concern for the immediate future. Automotive uses now amount to about 40 percent of our consumption of scarce petroleum resources, and the use of the vast American coal resource for electric power production represents our most promising hope for near-term energy independence.

Obviously, R & D associated with automotive engines and stationary powerplants must constitute a major part of ERDA's effort. Furthermore, the environmental factors are among the most difficult technical problems of energy production and should be major concerns of ERDA in these and every other technology it approaches.

I feel strongly, therefore, that whatever action the Committee may take on the EPA programs must clearly indicate:

(1) that the EPA program alone is not considered to be an adequate Federal research effort in these two major energy technologies; and

(2) that the proposed ERDA would be expected to pursue whatever R & D into automotive engines and stationary combustion cycles appears to be needed, *including environmental aspects of each.*

If these areas of R & D were removed from ERDA's authority, I believe there would be serious question whether the agency could fulfill its responsibility to develop a comprehensive Federal R & D program.

I hope you can accommodate my concerns in the specific recommendations you will make to the Committee.

Sincerely,

HENRY M. JACKSON, *Chairman.*

U.S. SENATE,
COMMITTEE ON PUBLIC WORKS,
Washington, D.C., May 25, 1974.

Hon. HENRY M. JACKSON,
U. S. Senate,
Washington, D.C.

DEAR SCOOP: Your letter of May 17 discusses important points regarding the concerns Senator Javits and I raised questioning the transfer of the Environmental Protection Agency's pollution control research and development functions to the proposed Energy Research and Development Administration (S. 2744). I am sure that our amendment is consistent with the philosophy behind the proposal to create the Energy Research and Development Administration, and I believe your concerns can be satisfied.

S. 2744 specifically divides regulatory research from developmental research, with the latter being transferred from existing agencies to the Energy Research and Development Administration. The former remains in the parent agency.

In fact, in the case of atomic energy, a new regulatory research activity is created through the establishment of the Office of Nuclear Safety (Sec. 203) within the new Nuclear Safety and Licensing Commission, which is to be a regulatory body. That research function is *not* transferred to Energy Research and Development Administration, and it should not be.

But in the case of the Environmental Protection Agency, virtually all energy related pollution control research and development is transferred under S. 2744. This research and development is primarily related to regulatory programs. In fact, the Environmental Protection Agency has never had significant funding for purely developmental research.

The Office of Management and Budget has announced that $105 million of the $112 million pollution control budget in the Environmental Protection Agency for FY '75 is to be transferred to the Energy Research and Development Administration. This is not developmental research for energy systems. It is intended for near-term research aimed at emission control related to the regulatory responsibilities of the agency.

Your letter mentions alternatives to existing automobile engines. If the Environmental Protection Agency had a significant effort to develop a new propulsion system designed to achieve high *full economy,* transfer might be appropriate. But it does not. The Advanced Automotive Power Systems effort is to develop a *low emission* vehicle. Environmental Protection Agency personnel in this area have concentrated substantial effort on low emission characteristics of retrofit technology and modification of present engine systems. The little development work done on systems such as the electric car have principally been contract work, and have been small efforts.

Also many of the people in the Environmental Protection Agency involved in the Advanced Automotive Power Systems program provide technical back-up to the regulatory program. Transfer of these personnel would take an important part of the technical base of the automobile emission's regulatory program from the agency.

In addition, it should be pointed out that the approach Senator Javits and I propose is consistent with S. 2176, the National Fuels and Energy Conservation Act of 1973 which you sponsored, and which passed the Senate last December. Section 13 or S. 2176 created a new program for the development of an energy efficient and environmentally sound automobile, but it maintained and recognized the Environmental Protection Agency's program for low emission research.

That precedent should be the model for the Energy Research and Development Administration as well. The development of better automobile fuel economy should be a high priority for the Energy Research and Development Administration and is clearly authorized under S. 2744, but it need not be at the expense of the Environmental Protection Agency's regulatory research program.

Your letter also raises concern over stationery power plant combustion cycles. I certainly agree that the Environmental Protection Agency's program should not constitute the entire federal effort in this area. The Environmental Protection Agency has clear and precise regulatory responsibilities to control the pollutants associated with such energy system—primarily existing sources and new sources which rely on existing energy technologies. Their research effort is directly related to those responsibilities, and should remain in the agency.

This should in no way interfere with the Energy Research and Development Administration's efforts to establish a much-needed developmental effort in combustion cycles. The Energy Research and Development Administration's developmental efforts should include detailed attention to limiting environmental by-products of new technologies. But the capability should be built into the Energy Research and Development Agency, not acquired at the expense of our efforts to clean up existing sources of pollution. Our amendment emphasizes the need for such cooperation. But the principal responsibility for research supporting environmental regulations must remain in the Environmental Protection Agency.

In summary, I believe it is possible to create a viable and strong Energy Research and Development Administration. I do not believe it is necessary or desirable to damage the Environmental Protection Agency's regulatory research program in the process. I believe our recommendation will be consistent wtih those objectives and with your concerns.

Sincerely,

EDMUND S. MUSKIE,
U.S. Senator, Chairman, Subcommittee on Environmental Pollution.

Mr. MUSKIE. Mr. President, here is a clear conflict with a legislative committee which has given full and comprehensive consideration to an issue over weeks of time, whose decisions are being challenged by legislation on an appropriations bill. The Senate Government Operations Committee consideration was made by Senators who are qualified from experience in the program, writing leg-

islation for it over the years, to deal with the issue.

It has been considered and refined in a way that eliminates potential conflicts between EPA and ERDA.

Now this bill comes on the Senate floor and undertakes to throw it overboard.

It is for that reason, Mr. President, that I raise a point of order with respect to the language under rule XVI of the Senate rules, to which I have referred.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Hawaii.

Mr. FONG. Mr. President, before a ruling is made on the point of order raised by the Senator from Maine (Mr. MUSKIE), I should like to explain to the Senate that the language contained in the bill to which a point of order is directed was put into the bill by the Appropriations Subcommittee on Agriculture, Environmental, and Consumer Protection at the specific request of the Environmental Protection Agency.

I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a letter directed to Senator MCGEE, chairman of the subcommittee, from the Environmental Protection Agency, requesting this specific language.

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

(See exhibit 1.)

Mr. FONG. Mr. President, the total request by the Environmental Protection Agency was for $191 million. The House allowed $54 million of this and our subcommittee likewise agreed to the amount of $54 million. So in this bill there is only an appropriation of $54 million for this particular phase of the energy problem. Another $137 million still needs to be appropriated, and that will be considered in the regular appropriations bill for EPA for fiscal year 1975.

Mr. President, the pending bill is an emergency measure. It is an urgent bill. The bill should be effected and passed because we need to speed up our various energy research and development programs. We are trying to move ahead on these programs. We need all the help we can get to have the energy program proceed. That is one of the reasons why these words were added to the appropriations bill.

The Agency requested this language, and the subcommittee recommended it because it is felt that, without this authority, the Agency might not be in a position to utilize the funds appropriated in this bill and to proceed with the necessary work and programs to insure that environmental factors are properly considered and protected as we strive to develop an over-all energy policy and energy program.

As the Senator from Maine is fully aware, while the Environmental Protection Agency was allowed a considerable increase in funding in the energy activities in 1975 as compared with its budget in 1974, the budget estimate contained no provisions for increased personnel to the Agency. The Senator from Maine has expressed his concern over this situation, and I can assure all Senators that it is a matter of due concern to the members of the subcommittee. As a matter of fact, we have included language in the committee report on the bill which is directed specifically toward the personnel situation. While we certainly hope that this problem will be alleviated in the very near future, we have no assurance as of this date that any increased personnel allowances will be forthcoming to the Environmental Protection Agency from the Office of Management and Budget.

Even if additional personnel slots are forthcoming, however, in order to obtain the greatest benefit from the funds appropriated herein, the Agency should have some flexibility and be given the option to utilize the expertise and services of other agencies as may be required. The Agency wants that flexibility and the committee felt that it should be granted that flexibility, and that is the purpose of the language which is now being challenged by means of a point of order which has been raised against it by the distinguished Senator from Maine.

I would point out to my colleagues, also, that this language is not mandatory in anyway whatsoever. It is permissive and simply gives the Environmental Protection Agency the option to transfer some of the appropriated funds if and when it is deemed to be appropriate.

It appeared to the committee that by following this course of action the environmental factors, which certainly have to be considered as we develop an overall energy policy, would be adequately protected and at the same time the Agency would be given some discretion and flexibility and an opportunity to cooperate and coordinate its activities with other Federal agencies.

While I am not certain at this time what ruling will be made on the point of order raised by the Senator from Maine, I do hope it will be overruled. The committee feels that this language is most beneficial and it is important that it be retained in the bill if we are to proceed in an orderly fashion in developing an overall energy research and development program within the Federal Government. If this language is stricken from the bill and if the Environmental Protection Agency is denied the authority which it specifically requested, it could well serve to delay the development of energy and research development in the environmental field at a time when we all are trying desperately to proceed in an orderly manner on all fronts in attacking the most troublesome energy problems.

This is an emergency bill. For this reason, as I have indicated, I do hope that the point of order will be overruled and that this language will be retained in the bill.

But further, Mr. President, if it is determined that this is legislation in an appropriation bill, I suggest that the rule of germaneness would apply and that the subject language can be retained notwithstanding the fact that it is legislation.

The pending bill, as enacted by the House of Representatives and as presented to the Senate Appropriations Committee, contained language which is similar and indeed almost identical to the language which is being challenged here by the point of order.

On page 8 of the bill at line 6 there is a provision which reads:

Provided, That from this appropriation transfers of sums may be made to other agencies of the government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred.

Again, on line 20, page 10, there is the following provision:

Provided, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

So, Mr. President, we have here a situation in which the House of Representatives in considering this bill has provided similar language to accomplish the precise purpose which our committee was attempting to do for the Environmental Protection Agency. By including these matters in the bill, this area has been opened up for Senate action. I repeat my assertion that, even if it is determined that the language in question would be subject to point of order as legislation in an appropriation bill, it is most certainly germane to the bill and therefore should not be stricken under the rules of the Senate.

EXHIBIT 1

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C. May 15, 1974.

HON. GALE W. MCGEE,
Chairman, Subcommittee on Agriculture-Enivronmental and Consumer Protection Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We would appreciate your consideration in making two important language changes when your committee reports out on the proposed Energy Research and Development appropriation for fiscal year 1975.

The first proposal, to make the language consistent with that of our regular Research and Development appropriation, is the addition of the following which we believe was inadvertently omitted in the House bill:

For energy reserach and development activities, *including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft;*

The second language addition requested would clarify our Agency's authority to transfer procurement activity to other agencies as needed, to complete research and development projects. Section 601 of the Economy Act (31 U.S.C. 686) essentially prohibits funding of contract under interagency agreements except where the agency is the—Army, Navy, Treasury Department, Federal Aviation Agency, or the Maritime Commission.

As an example, we propose to transfer $3 million to TVA for the construction and operation of a pilot scale fluidized bed test unit. Design construction of the test unit must be accomplished by TVA under a contract with an industrial firm. The transfer of funds to TVA to enter into such a contract would violate Section 601 of the Economy Act.

To permit the transfer of funds to another agency for contracting purposes and to com-

ply with Section 601 of the Economy Act, we request the addition of the following at the end of the language after the word "expended":

Provided that the Environmental Protection Agency may transfer so much of the funds as it seems appropriate to other Federal agencies for energy research and development activities that it may be in a position to supply, or to render or to obtain by contract.

We also request the addition of the language above to our regular 1975 Research and Development appropriations account.

Sincerely yours,

ALVIN L. ALMA,
Assistant Administrator for Planning and Management.

Mr. FONG. Mr. President, I ask for a determination by the Senate of the germaneness issue at this time. I understand that this motion is not debatable.

The PRESIDING OFFICER. The question of germaneness would take precedence over the point of order. Unless the distinguished Senator from Hawaii withholds his point of germaneness, that question would be submitted to the Senate.

Mr. FONG. Mr. President, I withhold only if I may be permitted to bring it up before a ruling is made by the Chair on the point of order.

The PRESIDING OFFICER. That is understood, and with that understanding will the Senator withhold raising the point of germaneness?

Mr. FONG. Yes, I withhold with that understanding.

Mr. MUSKIE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maine.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. Mr. President, even though the question of germaneness may be raised under the previous unanimous-consent agreement, I understand that no vote can be had on it before 4 o'clock this afternoon.

The PRESIDING OFFICER. No rollcall votes are to occur before 4 p.m. However, that would not prevent a voice vote.

Mr. FONG. Mr. President, I will ask for a rollcall vote on this question.

The PRESIDING OFFICER. Very well.

Mr. FONG. Under those circumstances, it would occur after 4 p.m.

Mr. McCLELLAN. Yes.

Mr. MUSKIE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MUSKIE. Mr. President, I request that prior to the vote, sometime after 4 o'clock, there may be a period for a further discussion on this point. We have a half dozen Senators in the Chamber. There is no way to enlighten Senators who are not present as to the issues involved between now and 4 o'clock, with so few Senators present.

I suggest that if there is to be a vote late in the afternoon, perhaps there should be a time of one-half hour of discussion before that vote so that Senators then present may have the opportunity to understand the issue. The issue is complicated.

Mr. McCLELLAN. Mr. President, if I may be heard on that point, I have no objection. I think it is quite proper that some time be set aside. I have not conferred with the leadership, but I see no objection to the request.

Mr. STENNIS. Mr. President, does the unanimous-consent request prevail now?

Mr. MUSKIE. Yes.

Mr. STENNIS. Mr. President, reserving the right to object, and I am agreeable to the idea of having time on this point, the Senate already has agreed to a closed session concerning the matter to be taken up on the military procurement bill. The time has been agreed to.

Subject to something being worked out consistent with the debate on this matter, I should think that an agreement could be worked out with the leadership.

Mr. MUSKIE. Yes. I think we should work out the matter in connection with the amendment to be debated this afternoon and voted on at 4 o'clock.

Mr. President, may I make a unanimous-consent request subject to that understanding?

The PRESIDING OFFICER. What period of time does the Senator suggest?

Mr. MUSKIE. I suggest 30 minutes.

Mr. FONG. Ten minutes on each side?

Mr. MUSKIE. Thirty minutes with 15 minutes on each side.

Mr. FONG. Thirty minutes with 15 minutes on each side? Very well.

The PRESIDING OFFICER. At what juncture in the proceedings?

Mr. MUSKIE. Following the vote on the McIntyre amendment this afternoon.

The PRESIDING OFFICER. Is there objection to the request that after the McIntyre amendment has been disposed of a period of 30 minutes be set aside for debate on the point of order raised by the distinguished Senator from Maine to the last 5 lines of chapter 1 of the bill; and that a vote be taken immediately after such 30 minutes of debate? Is there objection?

Mr. FONG. I understand the vote is on the question of germaneness.

The PRESIDING OFFICER. The question would be submitted on the question of germaneness, and the Chair understands the Senator from Hawaii to request a yea-and-nay vote.

Mr. MUSKIE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MUSKIE. Mr. President, if there is a vote on germaneness, would it subsequently be in order to have a vote on the point of order whenever the vote on germaneness is completed?

The PRESIDING OFFICER. That would depend on the outcome of the vote on germaneness. If the language is held to be germane, it would wipe out the point of order.

Mr. MUSKIE. One other question, in order to be sure. I rose before making the unanimous-consent request in order to respond to the points made by the Senator from Hawaii. I still would like to do that this morning. I want to make clear that I intend to take a few minutes in order to do that.

The PRESIDING OFFICER. That would have to be by unanimous consent because the raising of the point of germaneness wiped out further consideration of the point of order until the germaneness point has been decided.

Mr. MUSKIE. Mr. President, I ask unanimous consent that I may have 10 minutes to respond to the distinguished Senator from Hawaii.

The PRESIDING OFFICER. Is there objection?

Mr. HASKELL. Mr. President, will the distinguished Senator from Maine withhold for just a moment while I find out the status of my amendment?

Mr. MUSKIE. I yield.

Mr. HASKELL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HASKELL Mr. President, I had an amendment pending, and I would like to find its status.

The PRESIDING OFFICER. The amendment is the pending question. By unanimous consent consideration was set aside pending the raising of the point of order and as soon as that matter has been disposed of temporarily we will revert to the amendment of the Senator from Colorado.

Mr. HASKELL. I have one other parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HASKELL. It is possible that the distinguished Senator from Nevada (Mr. BIBLE) and the Senator from Colorado would be able to work out an agreement on my amendment. Are further amendments pending so that I might postpone consideration of my amendment beyond that?

The PRESIDING OFFICER. That would take unanimous consent to postpone it further.

Mr. HASKELL. Would the Chair be so kind as to instruct me how to obtain unanimous consent to delay consideration of my amendment to a time certain following the discussion of the Senator from Maine and any other amendments pending? Would that be a proper request?

The PRESIDING OFFICER. There is a limitation on the Senator's amendment at this time However, he can withdraw the amendment, if he feels an accommodation could later be reached.

Mr. HASKELL. If I should withdraw the amendment would I be able to reoffer it again?

The PRESIDING OFFICER. Yes. There would be no objection.

Mr. STENNIS. Mr. President, may I be heard on that point? I do not object; instead I commend the Senator from Colorado for his fine interest in this subject and for his conferring with the Senator from Nevada (Mr. BIBLE), who is highly conversant with the problem and who has had this matter on the floor of the Senate before. I believe they will work out something. They are very close neighbors, and I am sure they will be able to get together on some satisfactory solution.

Mr. HASKELL. I thank the distinguished Senator from Mississippi.

Mr. President, under those circumstances, I ask that I may withdraw my amendment, with the understanding that if I am unable to work out an agreement with the distinguished Senator from Nevada, I may re-offer it.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment, and the Senator takes that action. The amendment is withdrawn.

Under the unanimous-consent agreement, the Chair now recognizes the Senator from Maine.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that each side may have 10 minutes for a further consideration of the point of germaneness.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I wonder if we could have a brief quorum call. I suggest the absence of a quorum and ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered, and 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 a quorum call be rescinded.

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

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries, and he announced that on June 7, 1974, the President had approved and signed the bill (S. 2844) to amend the Land and Water Conservation Fund Act, as amended, to provide for collection of special recreation use fees at additional campgrounds, and for other purposes.

EXECUTIVE MESSAGES REFERRED

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

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

UNANIMOUS-CONSENT AGREEMENT—GERMANENESS

Mr. ROBERT C. BYRD. Mr. President, in view of the unforeseen problems that have developed in connection with the point of order and the raising of the germaneness question, the timetable with bill (S. 3000) would be greatly upset if we were to proceed with the vote on germaneness and the debate in connection with that question, and if we were to attempt to proceed to complete action on this bill today or to proceed beyond the hour of 12:45 p.m. today in connection with this bill.

So, the matter has been discussed with all parties, and the distinguished Senator from Arkansas (Mr. McCLELLAN), who is the chairman of the Appropriations Committee, has consented to forego until Wednesday further action in connection with the point of order and the question of germaneness. This is agreeable also to the distinguished Senator from Maine (Mr. MUSKIE).

In view of the fact that most of tomorrow is going to be consumed with further action on the military procurement authorization bill (S. 3000), I ask unanimous consent that there now be a period of 30 minutes for debate, to be equally divided between Mr. MUSKIE, and Mr. FONG; that upon the termination of that 30 minutes the energy appropriation bill be set aside until the hour of 1 p.m. on Wednesday next; and that the time that bill is set aside today, the Senate resume the consideration of S. 3000 without the time beginning to run on the McIntyre amendment until the hour of 12:45 p.m. today.

Mr. YOUNG. Mr. President, reserving the right to object, how much time is left on the bill and amendments?

Mr. ROBERT C. BYRD. I am glad the Senator raised that question.

Mr. President, I ask unanimous consent that the 30 minutes run and be charged against Mr. MUSKIE and Mr. FONG, but that no time be charged against the bill or any other amendments thereto today.

Mr. YOUNG. The full time, the full 2 hours, are left for the bill?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the full 2 hours that were allotted for debate on the bill at the beginning be reallocated to the bill upon the Senate's resuming action thereon on Wednesday.

Mr. MUSKIE. Reserving the right to object—and I will not object—on the germaneness question, has the Senator decided at what time the debate will begin on Wednesday?

Mr. ROBERT C. BYRD. Could we decide that later? We will work out an agreement whereby all Senators will know the hour at which a vote will occur on the germaneness question. But for now, I think this will get us out of the problem in which we find ourselves immediately.

Mr. President, I ask unanimous consent that the time agreement begin ab initio on Wednesday next when the Senate resumes consideration of the energy appropriation bill.

I thank all Senators.

Mr. FONG. Mr. President, reserving the right to object, and I will not object, the vote will be on the question of germaneness; is that correct?

Mr. ROBERT C. BYRD. The vote will be on the question of germaneness in accordance with the rule.

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

Mr. ROBERT C. BYRD. Mr. President, I may say to the distinguished Senator that we will agree on a time.

Mr. FONG. Yes.

The PRESIDING OFFICER. At this time, there will be a period of not to exceed 30 minutes during which time the point of order will be debated, with 15 minutes allotted to the distinguished Senator from Hawaii and 15 minutes to the distinguished Senator from Maine. Who yields time?

Mr. MUSKIE. Mr. President, just to respond—and I may not take the full 15 minutes, since we will have further time to discuss the issue on Wednesday—I shall take just a few minutes to discuss some of the points raised by the distinguished Senator from Hawaii.

First of all, as chairman of the Subcommittee on Environmental Protection, it has been my effort in the last 2 years to work closely with the Appropriations Subcommittee on the Environment in order that we can avoid disagreements on the floor of the Senate as to our environmental objectives.

I regret that this issue has arisen, by surprise to me, under the circumstances that confront me on the floor of the Senate this morning.

With respect to the point of order on the germaneness question, I understand, of course, that the Senate as a whole will decide that question and that the Parliamentarian or the Chair will not rule on it. But, surely, there must be some limitations, some parameters, within which the Senate as a whole ought to judge this question.

If legislation is put on an appropriation bill by the House of Representatives and it them comes to the Senate, we cannot reach that by point of order, so the germaneness question is simply a device to use something that the House did which is beyond our reach to attach legislation on the Senate bill.

If we were to use that practice loosely and without any self-discipline whatsoever, then our rule against legislation on an appropriations bill would be meaningless.

What is the Senator's argument on germaneness, looked at in that light?

My point of order addressed itself to page 2 of the bill, which has to do with an appropriation for the Environmental Protection Agency. There is no legislation in that part of the bill which originated in the House—none whatsoever. So with respect to that provision of the bill, the language to which I addressed my point of order is not germane, but rather the Senator from Hawaii would argue that House legislative language on another provision of the bill, chapter 4, which covers the Atomic Energy Commission, is legislation to which his amendment is germane because the provisions for the Atomic Energy Commission are phrased similarly to those for the Environmental Protection Agency.

If we are to accept that test of germaneness, then all we would need is some obscure piece of legislation tucked away in some corner to justify any legislation that the Senate Appropriations Committee wanted to attach to an appropriation bill covering any subject that is conceivably within the four corners of the bill. If we adopt that test of germaneness, then the germaneness test is meaningless.

Mr. President, I now address myself to the point made by the distinguished Senator from Hawaii to the effect that the EPA requested this language.

On that point, the EPA has been under pressure constantly, for months, from the Federal Energy Administration and from the Office of Management and Budget to compromise the objectives of the Clean Air Act and the Clean Water Act, and the Administrator of EPA, Mr. Russell Train, has fought valiantly; but in order to win some victories in the cause of clean air and clean water, he has had to surrender in other struggles, and one of those struggles is this one. When the Senator from Hawaii tells me that EPA requests this language, I say to him I do not believe that EPA really wants this language.

The original language in the ERDA bill, requested by OMB and FEO and supported by EPA, would have transferred out of EPA all of its regulatory research activities, programs, functions, and personnel, completely undermining its ability to regulate those industries which are subject to regulation under the Clean Air Act.

You cannot tell me, Mr. President—not even the persuasion of the Senator from Hawaii can tell me in a convincing way—that EPA really wants this. This is one of the points which EPA is willing to surrender to get peace in the family and to turn back other more vigorous and vicious attempts to undermine the Clean Air Act.

I say, Mr. President, to the distinguished Senator from Hawaii, I think that the Environmental Subcommittee of the Appropriations Committee has as strong a mandate as the Subcommittee on Environmental pollution to be aware of these attacks on this bill and on this legislation.

This is an attack on the Clean Air Act. The appropriations bills have been used by the House for 2 years in an effort to undercut the Clean Air Act. The efforts will continue, and it is only by being alert to the directions from which the attacks come that we can turn them back. So this is an important issue that that is before us.

I emphasize, Mr. President, that it is an issue that is before the Committee on Government Operations; it has been before the Committee on Government Operations for weeks. It has been thoroughly considered there and resolved there, and the resolution makes sure that EPA will continue to have its regulatory research programs and that ERDA will create its own developmental research programs.

I think that resolution makes sense, Mr. President. I do not think this one makes any sense at all unless one is desirous of undercutting the Clean Air Act.

The Senator says this is an emergency. Mr. President, I have been working on emergency bills connected with the energy crisis since last December, and we have yet to enact an emergency energy bill.

I say, second, that I do not believe there is an energy emergency that justifies gutting the Clean Air Act. This language that I am talking about is a part of the language insisted upon by OMB and insisted upon by FEO to deprive EPA entirely of its research functions. I just do not believe we should meddle with it in this appropriations bills.

There are legislative vehicles coming along which are going to reach the floor of the Senate this week. If there is disagreement with the compromise worked out in the Government Operations Committee by Senator JACKSON, Senator ERVIN, Senator JAVITS, and myself, there is ample opportunity to raise it with full debate, not the kind of debate limited by this appropriations measure. I urge, Mr. President, that the germaneness issue be turned down by the Senate and the point of order be supported, so that we can do what the Senator from Hawaii has been urging: Follow orderly processes for raising and resolving these issues.

The PRESIDING OFFICER. Who yields time?

Mr. FONG. Mr. President, there was no attempt by the Subcommittee on Agriculture, Environmental, and Consumer Protection of the Appropriations Committee, to subvert the Clean Air Act. In fact, we have specifically stated in our report as follows:

> It is the expectation of the Committee that an appropriate amount of funds for initiating chemical coal cleaning technology, in any event no less than 10 percent of the funds appropriated for this purpose, shall be used in demonstrating the most efficient available technology which can be incorporated in new electric generating facilities now in the design and or construction stages.

We all know that if we are going to have sufficient energy, we have got to depend on our coal supply. We have got to improve technology on coal so that we can have clean air.

Here is the committee report which specifically states, "no less than 10 percent" of the funds appropriated for EPA research is for demonstrating the most efficient available technology to incorporate in new electric generating facilities so that we could have clean air.

The distinguished Senator from Maine says that he does not think EPA really wants this language in the bill.

Let me read from their letter of May 15, 1974:

> The second language addition requested would clarify our Agency's authority to transfer procurement activity to other agencies as needed, to complete research and development projects. Section 601 of the Economy Act (31 U.S.C. 686) essentially prohibits funding of contracts under interagency agreements except where the agency is the—Army, Navy, Treasury Department, Federal Aviation Agency, or the Maritime Commission.
>
> As an example, we propose to transfer $3 million to TVA for the construction and operation of a pilot scale fluidized bed test unit. Design construction of the test unit must be accomplished by TVA under a contract with an industrial firm. The transfer of funds to TVA to enter into such a contract would violate Section 601 of the Economy Act.
>
> To permit the transfer of funds to another agency for contracting purposes and to comply with Section 601 of the Economy Act, we request the addition of the following at the end of the language after the word "expended":
>
> "Provided that the Environmental Protection Agency may transfer so much of the funds as it seems appropriate to other Federal agencies for energy research and development activities that it may be in a position to supply, or to render or to obtain by contract."

Now, Mr. President, there is no agency now coordinating all the energy research and development programs. This fact that there is no coordinating agency at the present time is important.

At least 14 or 15 agencies are involved in the pending new energy appropriations bill which we are trying to expedite and which has for its purpose, really, getting the energy research and development programs going.

The purpose of the pending bill is to provide funding to get the programs going as expeditiously as possible.

Let me read the various agencies involved.

Chapter I, EPA. Chapter II, NASA and the National Science Foundation. Chapter III, the Department of Interior. Chapter IV, Atomic Energy Commission; Bonneville Power Administration, Underground and Other Electric Power Transmission Research. Chapter V, Department of Commerce. Chapter VI, Department of Transportation. Chapter VIII, Federal Energy Office.

These are all the various agencies that are involved in this energy research and development appropriations bill. There is no one agency coordinating the energy research and development programs.

Now the language our committee added to the bill gives flexibility to the EPA so that it will not be duplicating a program, so that other agencies will not duplicate the program, and so that it can transfer the funds to other agencies that may be working on some of the EPA programs if they are interested.

On the question of germaneness, the whole theme of the pending bill is energy.

Let me read the title of the bill:

> Making appropriations for energy research and development activities of certain departments, independent executive agencies, bureaus, offices, and commissions for the fiscal year ending June 30, 1975, and for other purposes.

Mr. President, the subject of the bill is energy—energy research and development activities.

What do we have in the bill?

On page 8—the Atomic Energy Commission—we have these very words which are in substance the very same as we are trying to provide for EPA in our wording. That is, on page 8, the way the House has approved the bill insofar as the Atomic Energy Commission is concerned:

> *Provided*, That from this appropriation transfers of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred:

Again, on page 10—Federal Energy Office—we find these words:

> *Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

So, Mr. President, the question of germaneness is really a proper one. I

would say that the words we have included in the EPA appropriation title are germane to the whole issue of energy research and development activities.

The EPA Agency asked for $191 million. The House gave it $54 million. We agreed with the House to give it $54 million for this emergency program, so we still have $137 million to go. We are only appropriating approximately 28 percent of the request for $191 million. We are appropriating $54 million.

I submit that the words we have incorporated in the EPA title are germane to the whole question.

The reason why the House did not include it, as I have been told, is that the matter was never presented to it.

I understand that the House Appropriations Committee did not have a request for the EPA transfer language when they wrote H.R. 14434. So, Mr. President, it is not a case of the House committee's having rejected the language.

This matter, if approved by the Senate, will be in conference. On this particular item, if the House conferees feel it should not stay in the bill, they will have a chance to throw it out.

I say that this provision will not be detrimental to the bill if we put it in. It will be a great benefit to the bill. It will be a great benefit to the Government. It will be a great benefit to EPA to have these words incorporated, because this is a program which we are trying to have the Government initiate, and we need to have some flexibility.

Mr. MUSKIE. Mr. President, the point the Senator from Hawaii has just made appears to suggest that objection to legislation in appropriation bills of the Senate has to do with the failure of the House Appropriations Committee to act.

The point is, his argument seems to be that the reason legislation had not been attached to appropriation bills was that there are legislative committees who have the responsibility and the jurisdiction to act.

Whether the House has attached legislation to an appropriations bill is simply a loophole which has the effect of bypassing Senate legislative committees. So if the Senate endorses the point of view of the Senator from Hawaii, what the Senate will do is to endorse the House's prerogative to legislate on an appropriation bill in ways the Senate cannot do. That is the meaning of this proposal; because if we open the germaneness issue as broadly as he asks us to do, then the House can attach legislation to appropriations bills covering the whole range of issues considered by Senate legislative committees. We cannot attack them on the floor of the House. Then the Senate Appropriations Committee can use that House legislation to further broaden the attack on the legislative committees of the Senate. That is the nature of the position. To justify a breach of the Senate's will against legislation on an appropriation bill by prerogatives of the House committee seems to represent an attempted surrender to the House of Senate prerogatives. That is what the Senator from Hawaii is arguing for.

He is arguing that we should let the House dictate to us on the question of whether or not we should permit legislation on an appropriation bill. And he does it how? He does it by arguing that because the House did it in one chapter of the bill dealing with the Atomic Energy Commision, that makes similar language on the Senate side germane for the Environmental Protection Agency which comes under a separate chapter of the bill.

That is to stretch the argument of germaneness beyond any reason.

Mr. President, I know that EPA wrote the Senator a letter asking for this. They also wrote a statement asking me to completely gut their regulatory research programs, and I refused to do so. Without the regulatory research programs, they cannot do the job of regulation.

If EPA wrote the Senator that letter, they should not have done so if they are really concerned with preserving the integrity of the Clean Air Act.

I can believe they wrote it, just as they wrote their letter to me, under pressure of the Office of Management and Budget, under the pressure of the Federal Energy Administrator, just as those two agencies undertook to pressure Mr. Train into endorsing amendments to the Clean Air Act, which he could not swallow.

He brought them up here, he delivered them, and he was man enough to tell us he was not for them. But he also said that because of the pressures brought upon him, he had to agree to other amendments about which he was not too enthusiastic.

Does the Senator wish me to believe that that letter was the free act of Mr. Train and the Environmental Protection Agency? I regret to say to the Senator I have been too close to the picture for too long to buy any such arguments or any such letter. I have to judge this in terms of my own understanding of the Clean Air Act, the clean air program, the attacks upon it, and the indirect routes that have been taken by its enemies in both Houses of this Congress to gut it. That is what this language does.

It is part of an attack that has been concerted and persisted in for months, to gut the research programs of the Environmental Protection Agency.

I hope no Senator will misread it as being anything but that. Understanding it, if Senators think the Clean Air Act ought to be weakened, then they should vote with the Senator from Hawaii. Understanding it, if Senators want to protect the Clean Air Act, then they should vote with the Senator from Maine.

The PRESIDING OFFICER. Who yields time?

Mr. FONG. Mr. President, how many minutes do I have remaining?

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. FONG. Mr. President, I cannot see how these words in the appropriation bill under the EPA title can gut the Clean Air Act. As I pointed out earlier, the committee in its report stated that not less than 10 percent of the amount which we have appropriated is to go to technology so that the coal may be clean in the production of energy. If that is not helping the Clean Air Act, I do not know what is helping the Clean Air Act.

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

Mr. FONG. I will yield for a question.

Mr. MUSKIE. If the objective of the research is to clean up coal, which agency would be more concerned, if that be the true goal, the Environmental Protection Agency or the energy agency whose mission is different, to expand the use of coal?

Mr. FONG. I believe EPA could put restrictions in its transfer of funds so that EPA would be protecting the Clean Air Act. I cannot see EPA trying to do away with the Clean Air Act. I cannot see EPA transferring money to other agencies so that they could do away with certain parts of the Clean Air Act.

Mr. MUSKIE. May I ask another question?

Mr. FONG. Yes.

Mr. MUSKIE. Does the Senator believe that EPA would get involved with such contracts or transfers without the direct supervision of the Office of Management and Budget?

Is the Senator aware of the previous position of OMB to pursue not environmental goals but energy goals in that kind of transfer? There is a fox in the chicken coop, may I say to the Senator? I have seen it there. The Senator ought to look a little closer to make sure he does not see it, too

Mr. FONG. The EPA Administrator should be an independent administrator. He should not let OMB tell him what to do. If he feels that this transfer is going to denigrate the Clean Air Act, he should not transfer the funds.

What we are asking for here is not a mandatory transfer; we are asking for a permissive transfer. He may do it. He need not do it if he does not want to do it.

Mr. MUSKIE. Will the Senator yield for a further question?

Mr. FONG. I yield.

Mr. MUSKIE. I commend the Senator's attention to our oversight hearings on EPA's budget. I asked EPA:

> Do you ever evaluate what it would cost to meet the goals of the Clean Air Act in terms of personnel and funding? Do you ever make that independent evaluation to submit to OMB?

The answer was "No." OMB gives us the figure, a ceiling, and we have to live within that. There never was an opportunity to tell OMB whether that is adequate or inadequate, whether it ought to be more or less.

With that kind of subservient relationship between OMB and EPA and other agencies of the Government, does the Senator really believe that the language in this bill is going to be used in ways that EPA freely and in an uninhibited, unrestricted, and unrestrained way would determine?

I do not believe that, though the Senator may. If the Senator does believe that, I say the Senator is being a little naive.

Mr. FONG. We have increased the appropriation of EPA very substantially.

They have not been allowed additional personnel, however. We have given them much more money than we did last year, but so far EPA has not received clearance from OMB for additional personnel.

Without that personnel, they will not be able to carry out their fuctions, those which we wish them to perform under this bill.

We should give them that flexibility so that if they feel they should have some help from other agencies, there is no reason why they should not get it.

Mr. MUSKIE. My one question in the debate boils down to this: I know that this language will be used by OMB—because their intentions are clearly on the record of the hearings before our committee—that it will be used by OMB to move all research funds out of EPA into other agencies.

The language is flexible enough to permit that. There are no safeguards here. If the Senator is relying on EPA's backbone to prevent it, then the Senator is asking for something that has not been visible on this subject in this Congress.

Mr. FONG. Since I have only a few minutes, may I say, Mr. President, we are not going to let the House tell us what to do. We are not lettting the House dictate to us.

Mr. President, on the question of germaneness, the entire Senate, 100 Members, will have a chance to express an opinion as to whether or not the question of germaneness is correct. So we are not asking the House of Representatives, by the question of germaneness, to dictate to us. In asking for a vote on the question of germaneness, I am asking that the Senate, 100 Members, decide if the question is germane or not. This question is left to the dictates of the conscience of this body and not the House.

Mr. President, I wish to read from the report of the House. It states on page 11:

The Committee recommends that the $54,000,000 be distributed by program as follows:

Complete pilot scale evaluation of fine particulate control technology on combustion sources, $4,000,000.

Demonstrate advanced waste heat control and utilization technology including dry cooling towers and closed loop systems, $3,000,000.

Develop commercially practicable fuel cell designs for both stationary and mobile energy storage and transmission application, $6,000,000.

Demonstrate the commercial application of municipal waste as an energy source for industrial combustion, $1,000,000.

Initiate commercial demonstration of chemical coal cleaning technology, $34,000,000.

Improve stationary combustion techniques for the control of nitrogen oxide emissions, $6,000,000.

All of this adds up to $54 million. Here we are appropriating $54 million, most for clean air technology in the field of energy. How can EPA go very much wrong if we give them this flexibility?

We are not dictating to the House and the House is not dictating to us by telling us what to do in this bill. We are asking that the whole Senate vote on it so that each Senator by his own conscience will show what he believes to be right by voting on the question of germaneness.

The PRESIDING OFFICER. Who yields time

Mr. ROBERT C. BYRD. Mr. President, is there any more time?

The PRESIDING OFFICER. All time on the point of order has expired.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with statements limited therein to 5 minutes.

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

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.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS ETC.

The ACTING PRESIDENT pro tempore (Mr. HASKELL) laid before the Senate the following communication which was referred as indicated:

PROPOSED AMENDMENT TO BUDGET, 1975, FOR THE SUPREME COURT (S. DOC. NO. 93-85)

A communication from the President of the United States, transmitting a proposed amendment to the 1975 budget, totaling $18,000, for the Judiciary, Supreme Court of the United States (with an accompanying paper). Referred to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HARTKE, from the Committee on Veterans' Affairs, with an amendment:

S. 2784. A Bill To amend title 38, United States Code, to increase the vocational rehabilitation subsistence allowance, educational assistance allowances and the special training allowances paid to eligible veterans and persons under chapters 31, 34, and 35 of such title; to improve and expand the special programs for educationally disadvantaged veterans and servicemen under chapter 34 of such title; to improve and expand the veteran-student services program; to establish a veterans' education loan program for veterans eligible for benefits under chapter 34 of such title; to promote the employment of veterans and the wives and widows of certain veterans by improving and expanding the provisions governing the operation of the Veterans Employment Service and by providing for an action plan for the employment of disabled and Vietnam era veterans; to make improvements in the educational assistance program; to recodify and expand veterans' reemployment rights; to make improvements in the administration of educational benefits; and for other purposes (Rpt. No. 93-907).

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

S. 2687: A bill to provide the authorization for fiscal year 1975 and succeeding fiscal years for the Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, and for other purposes (Rept. No. 93-908).

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. TAFT:

S. 3607. A bill for the relief of Elizabeth Anne Noble; and

S. 3608. A bill for the relief of Lana Shi-Lai Lau. Referred to the Committee on the Judiciary.

By Mr. MOSS (for himself and Mr. MANSFIELD):

S. 3609. A bill to amend section 127 of title 23 of the United States Code relating to vehicle weights. Referred to the Committee on Public Works.

By Mr. HATHAWAY:

S. 3610. A bill to provide for the establishment of regional small contract claims boards for small claims relating to Government contracts. Referred to the Committee on the Judiciary.

By Mr. GRAVEL:

S. 3611. A bill to amend the Act authorizing the Trans-Alaska Pipeline in order to provide for an improved vessel traffic control system for Prince William Sound and Valdez, Alaska. Referred to the Committee on Commerce.

By Mr. HATHAWAY (by request):

S. 3612. A bill to amend the Railroad Retirement Act of 1937 to revise the retirement system for employees of employers covered thereunder and for other purposes. Referred jointly, by unanimous consent, to the Committee on Labor and Public Welfare and the Committee on Finance.

By Mr. MAGNUSON:

S. 3613. A bill to amend the Rail Passenger Service Act of 1970 and for other purposes. Referred to the Committee on Commerce.

By Mr. MAGNUSON (for himself and Mr. JACKSON) (by request):

S. 3614. A bill to amend certain provisions of the Act of July 24, 1956, relating to the restoration of tribal ownership of certain lands upon the Colville Indian Reservation, Washington. Referred to the Committee on Interior and Insular Affairs.

By Mr. HASKELL:

S. 3615. A bill to authorize the Secretary of the Interior to transfer certain lands in the State of Colorado to the Secretary of Agriculture for inclusion in the boundaries of the Arapaho National Forest, Colo. Referred to the Committee on Interior and Insular Affairs.

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 3616. A bill to amend section 905(c) of the Merchant Marine Act, 1936. Referred to the Committee on Commerce.

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 3617. A bill to extend the Marine Protection, Research, and Sanctuaries Act for 2 years. Referred to the Committee on Commerce.

By Mr. CURTIS:

S.J. Res. 213. A joint resolution authorizing the establishment of the Construction Industry Task Force to expedite the construction of energy producing facilities. Referred to the Committee on Government Operations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOSS (for himself and Mr. MANSFIELD):

S. 3609. A bill to amend section 127 of title 23 of the Unite States Code relating to vehicle weights. Referred to the Committee on Public Works.

Mr. MOSS. Mr. President, I introduce, for myself and Senator MANSFIELD, a bill to increase and further standardize weight limits for trucks on interstate highways. The bill is identical with the one introduced in the House of Representatives by Congressman JOHN MELCHER of Montana (H.R. 12964).

The severe energy problems which developed last winter, and the predictable reaction of the Nations' truckers when the price of diesel fuel was increased and the supply drastically limited, brought to attention two aspects of our national life to which many of us had never given much thought before—first, the extent to which we rely on the trucking industry and the Nation's highways to serve our transportation needs, and second, the inequities which many truckers, particularly independent truckers, face constantly in bringing to us in an efficient and economic manner many of the products upon which we depend in our day-to-day existence.

The bill I am introducing is designed to help the trucking industry operate more efficiently so it may transport the freight—both the raw and finished products it is accustomed to carry—at the most reasonable possible costs.

The bill would increase from 18,000 to 20,000 pounds the limit a motor vehicle can carry on one axle; from 32,000 to 36,000 pounds the limit on tandem axles, and the gross limit from 73,280 to 81,000 pounds. The increase would remain in effect until further revision of the law by Congress.

Limits such as those proposed by this bill, and even higher ones, are already permitted in a considerable number of States under provisions of the Federal Highway Act. That act "grandfathered-in" higher limits which the States had enacted prior to 1956, and those higher limits would be continued.

Nor would enactment of the bill mean larger and longer trucks on the highways—larger and longer trucks behind which passenger vehicles could stack up, and which could make such driving more hazardous. The length of trucks is decided solely by State law and this bill would merely allow trucks of the size now permitted in each State to carry heavier loads, and thus to transport more goods on each trip. The economic benefits to the larger number of industries and customers to be served is obvious.

There may be some question on whether the impact of increased weight on interstate highways would require greater maintenance of the highway surface, and greater strain on existing bridges. This naturally must be considered, and hearings would develop more information than is now available. So far, however, there is no evidence available that increased weights have had any detrimental effects on highways or bridges in those States where they have been allowed. In fact, with the improvements made in the last two decades in highway design and other aspects of road building, an increase in truck weight limits appears long overdue.

Enactment of this legislation would have a particularly favorable impact on western States. Geography and topography have greatly limited our mobility, and the advent of the motor vehicle allowed this region to expand far beyond the limits which would otherwise have been set and fixed were we confined to the corridors of other methods of transport.

In the western States, agriculture, livestock, mining, lumbering, petroleum, and other extractive industries of great economic consequence have all been promoted by the extensive use of motor vehicle transportation. The products of these industries, in the first instance, at least, almost always move on highways. Our wealth has not made our highways possible, but our highways have made our wealth possible.

The dynamic growth of the economy of the West in the last quarter of a century has been paralled by the growth in motor vehicle transportation. Therefore, any move which makes such transportation more efficient, and therefore less costly, would be especially beneficial to the West.

But this is not a western bill, nor a sectional bill in any sense. The whole Nation is dependent in a large degree to motor vehicle transportation, and the enactment of this bill, I am convinced, would be beneficial to all of our people in all corners of the country.

Mr. President, I send to the desk, for appropriate reference, a bill to amend section 127 of title 23 of the United States Code relating to vehicle weights, and ask that the full text of the bill be printed in the RECORD at the close of my remarks.

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

S. 3609

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 127 of title 23 of the United States Code is amended by striking out "eighteen thousand pounds carried on any one axle, or with a tandem-axle weight in excess of thirty-two thousand pounds, or with an overall gross weight in excess of seventy-three thousand two hundred and eighty pounds," and inserting in lieu thereof the following: "twenty thousand pounds carried on any one axle, or with a tandem-axle weight in excess of thirty-six thousand pounds, or with an overall gross weight in excess of eighty-one thousand pounds,".

By Mr. HATHAWAY:

S. 3610. A bill to provide for the establishment of regional small contract claims relating to Government contracts. Referred to the Committee on the Judiciary.

Mr. HATHAWAY. Mr. President, I introduce for appropriate reference a bill for the establishment of regional boards of contract appeals concerning claims under Government contracts. This would primarily assist small business contractors, nationwide, who have claims not exceeding $25,000 on their contracts with the Federal procuring agencies. The purpose of this bill is to provide expeditious, as well as convenient, resolution of the smaller contract claims.

As chairman of the Small Business Committee's Subcommittee on Government Procurement, I have been seeking to learn what are the current problems that the small business contractors are facing. These small contractors play a very substantial role in the annual $50-billion Federal Government procurement program. To be exact, within the Department of Defense alone, they received 20 percent of the contract dollars and 70 percent of the contract actions in fiscal year 1973. It is the concern of our subcommittee that these small businesses will continue to receive a fair proportion of Government contracts in accordance with the Small Business Act.

The proposal of regional boards of contract claims was set forth by the Commission on Government Procurement in its report to the Congress on December 31, 1972. The report recommended that boards of this nature should be established to provide an accelerated procedure in lieu of the present procedures of the boards. The benefits of the creation of regional boards would chiefly come to the small business contractors.

Boards of contract appeals are established to consider and rule on claims arising under a Government contract. Under the terms of the contract, a contractor agrees first to submit the claim to the contracting officer who is to render a decision on it. If the decision is adverse to the contractor, he may appeal it to the board as established by most of the contracting agencies in the executive branch. The decision of the board is final as to matters of law except for fraud and other identified circumstances.

It is not uncommon for a contractor to need to submit a claim. For instance, in fiscal year 1972, 1,092 appeals were filed with the Armed Services Board of Contract Appeals alone, according to the Commission on Government Procurement's report.

Predominantly there are small claims. From data developed by the Commission, it was shown that some 63 percent of the present appeals handled by the boards would at least be eligible for consideration by these regional small claims boards as proposed in the bill I am introducing today.

The advantage of having a regional small claims board would be the close proximity of the board to the contractor-claimant, as well as the emphasis on informality and expeditious procedures. It was surprising to learn in the Commission's report that, of the cases studied, 30 percent appealed to the board were resolved within 6 months; 27 percent within 6 to 12 months; and a full 15 percent took longer than 24 months to bring to a conclusion. This delay is not solely due to the boards' administration. Both the Government and the claimant may deliberately continue the case for further negotiation and other reasons. Smaller cases may move more quickly through the process; however, it is still a problem that needs corrective action.

It is my understanding that the boards of contract appeals have generally taken the position in the past that they provide accelerated procedures to the contractor with a smaller claim. They maintain that this optional procedure, although abbreviated, is fully responsive and protective of the needs of the contractor. Furthermore, they will, upon a request of a contractor, hold a hearing of the board outside of Washington, D.C. It is, therefore, their position that there is little need for regional boards.

The small business contractor community feels otherwise. In a survey the Government Procurement Subcommittee recently made, 81 percent of the answers to this question indicated support for the regional boards of contract appeals. This questionnaire was circulated to small business contractors around the country and covered a wide variety of procurement subjects. The findings of this questionnaire survey were buttressed in hearings of the subcommittee on May 21, 1974. One small businessman from the State of Maine testified:

The establishment of regional boards of contract appeals for claims of $25,000 or less would be another big step forward. We are very much in favor of this change. The trip to Boston is far less expensive than one to Washington, D.C.

I feel that this is substantial evidence of a need to rectify a longstanding problem. It is a problem more for the small business contractor than the large contractor. With far less resources available to him, the small business contractor generally cannot wait long periods of time or spend the $5,000, which it can easily cost to appeal a case to the board. Such costs may be tolerable to the contractor who has a really large claim in dispute, but when the amount is small, the attendant costs and time involved in the present system discourage the use of this appeal procedure. The small contractor simply cannot afford to seek this remedy even though his claim may be wholly valid and compensable. This defeats the initial purpose of providing an administrative review and results in gross unfairness.

Mr. President, I ask unanimous consent to have the text of my bill printed in the RECORD at the conclusion of my remarks.

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

S. 3610

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any determination of a dispute concerning a question of fact arising under a contract between a contractor and any department or agency of the Federal Government involving an amount not exceeding $25,000 shall be made by the contracting officer or procuring agent of that department or agency who is responsible for that contract prior to the conclusion of the 60 days period beginning on the date of notification by the contractor of the dispute, unless such period is extended at the request of the contractor.

SEC. 2. The head of each department and agency of the Federal Government shall establish regional small contract claims boards of that department or agency for the consideration of final decisions of contracting officers and procuring agents under the first section of this Act.

SEC. 3. A small contract claims board should, if possible, decide each dispute not later than 30 days following the conclusion of hearings with respect to any dispute, and whenever possible, the presiding hearing officer should issue a verbal decision followed by a written memorandum.

SEC. 4. The head of each department and agency of the Federal Government is authorized to prescribe such rules and regulations relating to the establishment, operation, and procedures of small contract claims boards as may be necessary or appropriate to assure the prompt and informal resolution of small contract claims disputes.

SEC. 5. A decision of a small contract claims board shall not be subject to judicial review, except that a contractor may seek a trial de novo in court after an adverse board decision. Any decision of a small contract claims board adverse to the government shall be final, except in a case of fraud.

By Mr. GRAVEL:

S. 3611. A bill to amend the act authorizing the Trans-Alaska pipeline in order to provide for an improved vessel traffic control system for Prince William Sound and Valdez, Alaska. Referred to the Committee on Commerce.

Mr. GRAVEL. Mr. President, I am today introducing legislation to amend the act which authorized construction of the trans-Alaska oil pipeline in my State. Basically, my bill would assure an optimum ship vessel control system in Valdez Harbor, where the pipeline from the North Slope will terminate.

Modern navigational technology has meant a sharp reduction in the number of harbor accidents. This measure simply strengthens current provisions in order to further assist the Coast Guard in its efforts to control traffic in Prince William Sound, from 20 miles beyond the Cape Hinchinbrook entrance to the sound to the actual pipeline terminus at the Port of Valdez, located 70 miles from the Hinchinbrook entrance. This bill is, in a very real sense, an example of preventive legislation; it would include a number of extra features to further reduce the possibility of human error.

Mr. President, I have discussed these authorizations with the Coast Guard, and I am confident that the installation of the additional equipment will mean an all-weather navigational system that should serve as an example to other ports in the lower 48.

The sheer magnitude of providing about 2 million barrels per day justifies the need for this system.

Among the major provisions is a positive vessel control system, with complete radar coverage from beyond the Hinchinbrook entrance through Prince William Sound to the Port of Valdez. It would include a computerized control center and installation of display consoles which will provide ship captains with pictorial displays of the harbor and approaches to nearby hazards.

It would also allow use of the Navy's navigational satellites to chart courses and locations in any type weather, enabling a ship to fix its position within 200 yards of its actual location as it journeys from Valdez to California or any other State.

The initial cost would require a $23 million investment; another $3 million annually would be authorized for operation and upkeep. I propose the establishment of a Federal navigational system fund in the U.S. Department of the Treasury to cover this annual operation and maintenance cost.

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

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

S. 3611

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 402 of the Act entitled "An Act to amend section 28 of the Mineral Leasing Act of 1920, and to authorize a trans-Alaska oil pipeline, and for other purposes." approved November 16, 1973 (87 Stat. 576), is amended to read as follows:

"VESSEL TRAFFIC CONTROL

"SEC. 402. (a)(1) The Secretary of the Department in which the Coast Guard is operating is hereby directed to establish, operate, and maintain to the extent deemed necessary, a positive vessel traffic control system for Prince William Sound and Valdez, Alaska, beginning twenty miles to sea from Cape Hinchinbrook, pursuant to authority contained in title I of the Ports and Waterways Safety Act of 1972 (86 Stat. 424, Public Law 92-340).

"(2) Such positive vessel traffic control system shall, to the extent deemed necessary by the Secretary, include, but is not limited to, the following features:

"(A) VHF-FM communications network;
"(B) mandatory charted traffic lanes;
"(C) augmented navigation aids;
"(D) complete radar coverage;
"(E) compulsory pilotage;
"(F) positive control of vessel transit; and
"(G) computerized control center.

"(b) No tanker engaged in the transporting of crude oil from the North Slope area of the State of Alaska to the other States of the United States shall operate in any of the navigable waters of the United States unless such tanker is equipped with a collision avoidance system which, by the use of digital computers and display consoles, will be sufficient to provide affected personnel on such tanker with pictorial displays of harbor approaches and other dangers, and which meets the requirements of the Secretary as contained in regulations issued by him pursuant to subsection (c) of this section.

"(c) The Secretary shall issue such regulations as he may determine necessary to carry out the purposes of this section. Such regulations shall contain, among others, provisions setting forth the requirements which must be met with respect to any collision avoidance system referred to in subsection (b) of this section.

"(d) No tanker shall engage in the transporting of North Slope crude oil resources in any of the navigable waters of the United States except in compliance with the provisions of this section and regulations issued pursuant thereto.

"(e)(1) There is authorized to be appropriated the sum of $23,000,000 for the establishment of the positive vessel traffic control system authorized by subsection (a) of this section.

"(2) There is authorized to be appropriated the sum of $3,000,000 for the purpose of operating and maintaining such navigational facility system authorized by subsection (a) of this section.

"(f) For the purpose of reimbursing the United States for all amounts appropriated pursuant to subsection (e) of this section and for providing funds necessary for the operation and maintenance of such navigational system authorized by subsection (a)

of this section, the Secretary of the Interior shall, with respect to any application for a right-of-way or other permit under this Act involving or relating to the construction of the Trans-Alaska Pipeline, issue such permits subject to the condition that the applicant or applicants for such permit or permits shall enter into an agreement with the Secretary of the Interior pursuant to which such applicant or applicants, during the twenty-year period beginning on the date on which oil is first commenced to be transported throughout the Trans-Alaska Pipeline, shall pay to the United States, in such manner and at such time as the Secretary of the Interior shall require, an amount equal to ½ cent for each barrel of oil so transported. Moneys received by the Secretary of the Interior pursuant to such agreement during each calendar year shall be deposited in the fund established by subsection (g) of this section, except that to the extent that such moneys so received exceed, in any one calendar year, the sum of $3,000,000, such amounts in excess thereof shall be deposited in the general fund of the Treasury until the establishment costs are repaid.

"(g) There is hereby established in the Treasury of the United States the Federal Navigational System Fund (referred to in this section as the 'fund'). Moneys deposited in the fund pursuant to this section are hereby made available for expenditure by the Secretary of the department within which the United States Coast Guard is operating for the purpose of operating and maintaining the navigational facility system authorized by subsection (a) of this section, and shall be so available without fiscal year .

By Mr. HATHAWAY (by request):

S. 3612. A bill to amend the Railroad Retirement Act of 1937 to revise the retirement system for employees of employers covered thereunder and for other purposes. Referred jointly, by unanimous consent, to the Committee on Labor and Public Welfare and the Committee on Finance.)

Mr. HATHAWAY. Mr. President, I am introducing today a bill to amend and revise the Railroad Retirement Act of 1937. This bill is the product of negotiations between representatives of both the rail carriers and the major rail unions. The negotiations were the result of Public Law 93–69, the Railroad Retirement amendments of 1973, wherein the parties were instructed to meet together to frame recommendations on a restructuring of the railroad retirement system so as to put it on a more firm financial basis.

As I am sure, my colleagues are aware, the railroad retirement system is, at the present time, in grave financial difficulty. Estimates vary, but most projections indicate that the retirement fund will reach bankruptcy within the next 8 to 10 years. For this reason, action to reverse this trend becomes a matter of urgency in this session of Congress. I am hopeful that the bill I am introducing today will provide a vehicle for this much-needed reform.

For the information of my colleagues, I should point out that because provisions of this bill involve the social security system, it must be considered by the Committee on Ways and Means in the House, and Finance in the Senate as well as House Interstate and Foreign Commerce and the Senate Committee on Labor and Public Welfare. I am sure that all of these committees will move as expeditiously as possible on this complex and important matter.

Mr. President, I ask unanimous consent that this bill be jointly referred to the Committee on Labor and Public Welfare and Finance, respectively, for consideration of those sections of the bill falling within their respective jurisdictions.

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

Mr. HATHAWAY. Mr. President, I ask unanimous consent that the text of the bill as well as the memorandum of the parties upon which the bill is based be printed in the RECORD at the conclusion of my remarks. The actuarial estimates contained in the memorandum are preliminary estimates only and are subject to revision as more reliable data becomes available. I will make available a complete analysis of the bill as soon as its preparation is completed by staff.

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

WASHINGTON, D.C.,
April 10, 1974.

HON. HARRISON A. WILLIAMS,
U.S. Senate Old Senate Office Building, Washington, D.C.

DEAR SENATOR WILLIAMS: The Joint Labor-Management Railroad Retirement Negotiating Committee, established pursuant to Section 107 of Public Law 93–69, has now completed its consideration of the issues relating to the Railroad Retirement System that were the subject of the Report of the Commission on Railroad Retirement. As we advised you last week, we reached tentative agreement on April 1st. Approval by Union Presidents was obtained on April 10th.

We regret our inability to transmit at this time draft legislation reflecting our recommendations. The preparation of such a draft is underway. The complexity of the issues, however, prevented the parties from reaching accord, despite intensive efforts, sufficiently in advance of April 1st to permit a bill to be drafted by that date.

Accordingly, so that you may know promptly the character of the Negotiating Committee's principal recommendations we are attaching a three page "Brief Summary of Fundamental Principles" upon which the parties have agreed, and we will in this letter outline our major conclusions and indicate briefly the reasons underlying those conclusions.

In that connection, we wish to state at the outset that, as in any negotiation of this sort, concessions were made by each side in recognition of concessions made by the other side. The resulting group of recommendations, therefore, are interrelated in the sense that, taken together, they represent the parties' view of the most reasonable accommodation of all relevant interests. The parties strongly urge the enactment of these recommendations into law.

We now turn to discussion of the most significant of our recommendations. Our charge, as we understood it, was to formulate, through mutual agreement, a set of recommendations that would, first, place the Railroad Retirement fund on a sound financial basis, and, second, remedy existing inequities in the Railroad Retirement System—the two general areas explored by the Commission on Railroad Retirement. Our approach to these problems is as follows:

1. Dual Benefits. Resolution of the so-called "dual benefit" problem is central both to insuring the fiscal soundness of the fund and to establishing equitable retirement benefits for all railroad employees. Alone among workers in the private sector of the American economy, railroad employees have been permitted by law to qualify for, in substance, two social security benefits—one as a component of their railroad retirement benefit and another as a result of employment in another industry.

Moreover, as the Commission on Railroad Retirement pointed out, this results in a "windfall" to those workers who qualify under both systems. In the case of non-railroad employees, a single social security benefit is calculated on the basis of all service with all employers. In the case of a duel beneficiary, the total of his two social security benefits is larger than would be a single benefit based upon combined railroad and non-railroad employment, because the social security benefit formula has been weighted to afford proportionately larger benefits to low-wage and short-service workers. Even thought they basically are social security benefits, the costs of those windfall benefits have been charged to the Railroad Retirement System, and this burden has played a major role in the projected financial crisis of the system.

The Commission on Railroad Retirement concluded that these windfall dual benefits are inequitable in the sense that a minority of railroad employees receive an advantage not available either to the majority of career railroad employees or to employees in other industries. The Commission was of the view, however, that any plan to eliminate windfall dual benefits should include protection of the equities of existing employees with claims upon such benefits.

We are in accord with these basic findings of the Commission. At the same time, we wish to make it clear that our recommendations on this subject—and we believe the Commission's recommendations—imply no criticism of dual beneficiaries, as opposed to windfall dual benefits. Dual beneficiaries were perfectly entitled to secure benefits provided under existing law. That is why their equities should be preserved.

But agreement in principle, while essential, does not provide a sure answer as to how the principle is to be applied to the facts of particular situations. The Negotiating Committee struggled for months over the question of how dual benefits could be phased out an equitable basis. Our conclusions in the main, though not in all respects, accord with those of the Commission. Our recommendations are these:

First, the dual benefits of beneficiaries retired as of January 1, 1975, would continue to be paid in full. However, the so-called "windfall" part of those dual benefits—the part a beneficiary would not receive were a single social security benefit calculated on the basis of his combined railroad and non-railroad service and earnings—would not be subject to future social security increases. This is the approach recommended by the Commission.

Second, employees without sufficient railroad and non-railroad service by January 1, 1975, to have fully qualified under both systems would not be entitled to windfall dual benefits. All such employees, upon retirement, would receive a single benefit calculated on the basis of their railroad and non-railroad service. Again, this is what the Commission recommended.

Our views differ from the Commission's only with regard to employees who have sufficient service to be fully qualified under both systems but who have not yet retired. Under our recommendations, this group would be divided into two classes. The first would be those employees with a "current connection" to the railroad industry—12 months of service out of the previous 30 months, as defined in existing law—and

those with 25 years or more of railroad service even though without a "current connection." The Negotiating Committee feels that this group is entitled to be in the same situation as were the retired dual beneficiaries during their period of active service. Accordingly, those non-retired employees would receive future social security cost-of-living increases on their dual benefit until they retire. Upon retirement, however, the "windfall" part of the dual benefit would be frozen, as in the case of dual beneficiaries retired as of January 1, 1975.

The second group would be employees without a current connection to the railroad industry and without 25 years or more of railroad service. Such employees, the Negotiating Committee believes, have a less strong equitable claim than those who have remained with the industry. Accordingly, the Committee recommends that they not receive windfall dual benefits unless they had fully qualified under both systems by the close of the year in which they left railroad service. If they had so qualified at that point, then the Committee recommends that their windfall dual benefit, calculated as of the time they left railroad service, be subject to cost-of-living social security increases after 1974 and prior to retirement. Such windfall benefit would be frozen upon retirement, as is the case of the other beneficiaries covered above.

An employee who does not qualify for such a dual benefit will be entitled upon retirement (or his survivors if he should die before retirement) to a refund of employment taxes paid prior to January 1, 1975 in excess of what he would have paid if all his employment had come under the Railroad Retirement Act.

We have been advised by the Railroad Retirement Board that the projected deficiency of the Railroad Retirement fund, under the existing law, is 9.06% of taxable payroll annually, calculated on a level basis. Based on data supplied by the Board, it is estimated that these measures, if put into effect, would reduce that projected deficiency by about 2.5% of taxable payroll annually, calculated on a level basis.

2. *A New Benefit Formula and the "Two Tier System."* The Commission on Railroad Retirement recommended that a new benefit formula be adopted. It believed that the existing formula was unduly complex and also that, projecting results over the next 30 years or so, the formula would produce benefits that would bear an unrealistic relation to wage levels. The Commmission also recommended that a so-called "two tier" system be adopted, under which railroad employees would be brought directly under the Social Security System—the first "tier"—and would receive in addition a supplemental retirement benefit calculated on a different basis—the second "tier."

The Negotiating Committee does not disagree in theory with the "two-tier" recommendation of the Commission. If the Railroad Retirement System had first been established in 1975, such an approach might very very well have merit. However, railroad employees have lived for almost four decades under a different system. In such circumstances, it is our judgment that sharp changes in the form of the retirement structure should be avoided if posssible. In particular, we consider it important, in terms of the confidence that employees repose in the system, that all the retirement benefits be administered by the Railroad Retirement Board. Accordingly, the Committee does not recommend adoption of a two-tier system in the sense visualized by the Commission.

On the other hand, the Committee does agree with many of the principles underlying the Commission's "two-tier" recommendation, as well as with its general observations about need for a revised benefit formula to replace the current railroad retirement formula. The Negotiating Committee believes that the basic goals set by the Commission can be met within the framework of the existing structure of the Railroad Retirement System.

The new Railroad Retirement formula, as recommended by the Negotiating Committee, would have as one major component a benefit calculated on the basis of the Social Security formula as applied to all of the employee's wages and service, non-railroad as well as railroad. All future increases in social security benefits would be applied, not only through this component of the new formula to people who retire after the increases, but also to people on the retirement rolls in the same way as if they were Social Security beneficiaries. Any new classes of Social Security benefits would be passed through to the Railroad Retirement System.

Under the financial interchange with Social Security, which we recommend retaining in place of direct Social Security payment and administration of this phase of the Railroad Retirement program, this Social Security component would be financed by Social Security as at present, and railroad employer and employee Social Security equivalent taxes would be transmitted to Social Security as at present. Therefore, these changes in the Railroad Retirement System would have no effect, one way or another, on the Railroad Retirement fund.

However, when taken together with the phase-out of dual benefits, we believe that these changes would accomplish the principal goal of the Commission's "two-tier" recommendation—a clear and permanent isolation of a Social Security component of Railroad Retirement benefits, from the additional component riding on top of Social Security and financed by the railroad industry. While the approach we recommend to attain that goal is different from the Commission's, we concluded, after prolonged consideration, that a large value should be placed upon preserving the long-established basic structure of the Railroad Retirement System.

This brings us to our recommendation with respect to the second part of the Railroad Retirement formula—that part that would ride above the Social Security level of benefits and that is commonly called a "staff" level of benefits.

We agree, as noted above, with many of the Commission's criticisms of the existing formula, which is based strictly on career earnings, which is unduly complex, and which suffers from various anomalies. At the same time, we believe that, as a practical matter, the problem cannot be approached in disregard of the fact that the Railroad Retirement formula has been in existence for decades.

Accordingly, we have recommended as the second component of the new Railroad Retirement formula—the "staff" part—a future service formula under which this additional benefit would be calculated upon two factors, career railroad earnings and a flat dollar amount per year of service. In the Negotiating Committee's judgment, this formula would combine the advantages of the existing formula with the advantages of retirement benefit formulas prevalent in other industries, and in addition would not represent too sharp a break with the past.

Devising an appropriate transition from the old formula to the new formula was a formidable problem. The Committee was quite aware of the desirability of insuring that present employees would not be disadvantaged. Accordingly, the recommended formula first provides that benefits based on service prior to the changeover date will be computed under the old formula, so that the new formula will apply to future service only. The recommended formula also contains two transition elements—a special credit for service prior to January 1, 1975, and an 8-year "grandfather clause" applicable to all retirement benefits except dual benefits. Taken together, these features will insure that no employee retiring in the next eight years will receive less than he would under the formula as it exists today computed under the current limit on creditable compensation, and that, indeed, most career railroad employees retiring in the next several years will receive somewhat more benefits than under the old formula as so computed.

In addition, the new formula contains a cost-of-living escalation both for employees on the rolls and for active employees. As to the Social Security component of the formula, as noted above, the Social Security automatic cost-of-living increases, as well as any other Social Security improvements would be passed through to railroad employees. As to the railroad benefit supplemental to Social Security—the "staff" benefit—there would be four cost-of-living adjustments during the six year period commencing January 1, 1975. For employees on the retirement rolls, the first of such increases would become effective for the month of June 1977 (payable as of July 1, 1977), and would be calculated on the basis of 32.5% of the preceding year's increase in the Consumer Price Index. There would then be similar adjustments payable July 1 of each of the following three years. For employees in active service, the staff part of the benefit formula would first be adjusted on January 1, 1978, and the adjustment would be calculated on the basis of 65% of the preceding year's increase in the Consumer Price Index, with an offset for increases in maximum creditable taxable compensation. There would then be three similar adjustments in the following three years.

This introduction of a cost-of-living escalator is a recent innovation so far as major private industry pension plans are concerned. It is similar to the approach taken in the recent Aluminum Industry settlement, which was precedent-setting. After lengthy deliberation, the parties agreed that it would be appropriate to adopt the proposed cost-of-living escalator for a limited period. The new formula, together with the four cost-of-living increases for the six year period, represents on the one hand recognition of the fact that, under the basically new approach to the system the parties have recommended, the staff benefit program is closely analogous to private industry supplemental pension programs, and on the other hand the desirability of maintaining reasonable continuity in a federally mandated program.

Insofar as the deficiency is concerned, while of course the cost-of-living adjustments will entail costs in the future that, under the parties' recommendations, the railroad industry will have to assume at that time, at the present time the substitution of the new formula, even with its transition protective features, would reduce the deficiency by about 5% of taxable payroll per year on a level basis. The reason essentially has to do with certain features of the actuarial model used by the Railroad Retirement Board to project the financial state of the fund.

3. Benefit inequities. The Negotiating Committee recommends three benefit improvements designed to rectify inequities in the existing benefit structure.

The first two such improvements are aimed at making fully effective the early retirement provision of last year's legislation. Under that provision, an employee is entitled to retire with his full basic benefit

upon attaining age 60, provided the employee has 30 years of service. However, the employee does not receive the so-called supplemental benefit—which ranges in net terms between $23 and $43—until the employee reaches 65, nor may the spouse receive any spouse benefit until the employee reaches age 65. This is a significant deterrent to early retirement. Accordingly, the Negotiating Committee proposes that effective July 1, 1974 an employee retiring at age 60 or thereafter with 30 years of railroad service would become eligible for the supplemental benefit, and spouses of such employees would be eligible for spouses' annuities upon reaching age 60. The cost of these changes would be approximately 1% of taxable payroll per year on a level basis.

The third change would increase the benefits received by widows and other survivors. At present, the vast majority of such beneficiaries receive benefits calculated upon the basis of 110% of the comparable Social Security benefit. The Commission on Railroad Retirement believed these benefits should be increased. The Negotiating Committee recommends that these benefits be calculated on the basis of 130% of Social Security rather than 110%. The increase would go to widows and other survivors now on the retirement rolls as well as to future beneficiaries. The cost of this increase in these benefits would be approximately 2% of taxable payroll per year on a level basis.

4. *Phase-out Costs of Windfall Dual Benefits.* The Joint Negotiating Committee, having recommended that windfall dual benefits be phased out in a way consistent with protecting equities of existing employees, also recommends that the financial interchange with Social Security be adjusted so that the Social Security fund, rather than the Railroad Retirement fund, will bear these phase-out costs of windfall dual benefits.

The Negotiating Committee regards this matter as bearing in an important way upon the question of equitable adjustments of the retirement system. The Committee, having examined this matter intensively for many months, believes that the existing financial interchange arrangement with Social Security, under which the costs of windfall dual benefits are charged to the Railroad Retirement account, has worked a grave injustice to the railroads and to their employees, who depend for retirement security upon the adequacy of the Railroad Retirement fund. Unless a proper allocation of these costs is now established, the Railroad Retirement fund will be jeopardized notwithstanding the economies that would be generated by the Negotiating Committee's other recommendations.

The background of the problem is this: In 1951, legislation was enacted that was designed to integrate, in a financial sense, the Social Security and the Railroad Retirement systems. Under that legislation, basically, an interchange of taxes and benefits between the two systems was established. Social Security was to receive from the Railroad Retirement system all employer and employee taxes calculated on the Social Security tax level. At the same time, Social Security was to reimburse Railroad Retirement for the cost of railroad retirement benefits to the extent that the beneficiaries, under the Social Security benefit formula, would have received Social Security benefits. In other words, the notion was that neither the Railroad Retirement System—by way of benefit costs—nor the Social Security System—by way of loss of tax income—would suffer by virtue of the fact that railroad employees were not formally under the Social Security System.

The only flaw in this interchange system—and it has now turned out to be a large flaw indeed—has to do with dual benefits. Consider the matter in terms of the following example: A railroad employee with 15 years of railroad service leaves the industry and works for another 15 years in an industry directly covered by Social Security. His and his railroad's Social Security taxes, and his and his new employer's Social Security taxes, are all transmitted to the Social Security fund. Upon retirement, he receives a Railroad Retirement benefit that includes a Social Security component of, say, $125.00. He also receives a "dual" benefit by virtue of his non-railroad employment of, say again, $125.00. And, under the Social Security formula, the sum of these two benefits is greater than it would be if a Social Security benefit were calculated on the basis of combined railroad and non-railroad service. This "windfall" element might be, say again, $50.00.

Since all of the Social Security taxes on both his railroad and his non-railroad employment have gone to the Social Security fund, one might suppose that both the Social Security component of his Railroad Retirement benefit and his outside industry "dual" benefit would be paid for by Social Security. But that is not the way the 1951 legislation has been construed. Rather, though the Railroad Retirement fund receives none of the tax income, it has been charged with the windfall portion of those dual benefit costs. In reimbursing the Railroad Retirement fund, Social Security deducts the Social Security benefits that it has paid, so that the "windfall" element of those benefits serves to reduce the amount of the reimbursement to the Railroad Retirement fund that otherwise would have been made.

When the financial interchange was enacted in 1951, the Congress did not focus upon this matter. The cost of windfall dual benefits at that time was relatively small because of the previous state of Social Security legislation and of restrictions (since repealed) upon dual benefits. But in the intervening years the problem has grown dramatically, so that the result of this inequitable, in our view, distribution of costs has shorn the Railroad Retirement fund of some 4 billion dollars. To put it differently, the fund would be almost twice as large as it is today, and there would be no "crisis," had the Railroad Retirement System not absorbed the cost of the windfall dual Social Security benefits. It is plainly, we suggest, time for a change.

It is true that, if our recommendation were accepted, the Social Security System would pay to protected dual beneficiaries, during the phase-out period, more than it would pay to other employees with the same service and earnings. But, unless dual benefits were terminated immediately on January 1, 1975, in all respects, someone will have to pay for the phaseout costs. And no one, we're sure, would suggest immediate termination of dual benefits. Accordingly, the question becomes one of selection of the most equitable alternative.

Since the windfall dual benefit basically is a Social Security benefit and derives from Social Security service rather than railroad service, it scarcely would be appropriate to charge the costs against the railroads who have not benefitted from that Social Security service. And since, as the Commission observed, if employees are charged with part of the costs, the burden would fall in large measure upon long-term railroad employees—and all future employees—who are not advantaged by dual benefits, that alternative also seems thoroughly unattractive. The last, and most reasonable, alternative is to adjust the financial interchange so that the Social Security fund will bear these remaining dual benefit costs. At root, the dual benefit problem arises from a defect in the Social Security law. As with other such defects, it is appropriate that the expense of correction be carried by the Social Security fund. Moreover, there is persuasive precedent. Under the Federal Civil Service retirement program, as well as under certain state and local government employee retirement programs, employees can qualify for Social Security dual benefits. The full cost of such dual Social Security benefits is assumed by Social Security.

5. Placing financial interchange on a current basis. At present, the financial interchange is on a cash basis rather than an accrual basis. This results in an 18-month lag in transmittal to the Railroad Retirement fund of monies to which it is entitled. We perceive no just basis for this situation, and accordingly recommend that the interchange be placed on an accrual basis. This accords with the Commission's recommendation.

6. Incorporating the existing temporary features of the System. Beginning in 1970, and pending final resolution by the Congress of the problems besetting the Railroad Retirement System, benefit increases have been put into effect on a temporary, rather than permanent, basis. Those increases, three in number, aggregated 45%. On a cumulative basis, they aggregate about 52%. In addition, under last year's legislation, the carriers assumed, on a temporary rather than permanent basis, the Railroad Retirement taxes that the employees had therefore paid above the level of Social Security taxes. Accordingly, the carrier's taxes went to a 15.35% level, and the employees' taxes dropped to a 5.85% level.

The Negotiating Committee recommends, as part of its overall program, that these temporary arrangements, both as to benefit levels and as to tax levels, to be incorporated into the new law.

7. Interim changes in Social Security Benefits. As noted in paragraph 2 above, the Committee proposes a pass-through of Social Security changes subsequent to December 31, 1974. The Negotiating Committee also recommends that the currently applicable Railroad Retirement Act be revised to provide that the dollar amount of any increases in Social Security benefits which may be made effective subsequent to June 30, 1974 and prior to January 1, 1975 will be passed through to railroad employees and beneficiaries subject to an offset for dual benefits, and that any other changes in Social Security benefits during this period will be extended to railroad employees and beneficiaries.

8. Summary. These are principal recommendations of the Negotiating Committee. There are a number of other recommendations, mostly of a technical nature and all of considerably lesser importance. Since one of our two main charges was to treat with the projected deficiency of the fund we recapitulate at this point what the results in those terms would be were our recommendations accepted.

The recapitulation, based upon data supplied by the Railroad Retirement Board, is as follows: Coupling the existing deficiency of about 9% of taxable payroll, on a level basis, with the additional costs of rectifying the existing inequities respecting widows, spouses, and supplemental benefits, the deficiency would be about 12%. However, the restrictions on dual benefits (about 2.5%), the new formula (about 5%), and the adjustment of the financial interchange respecting phase-out dual benefit costs (about 4%), together with a few other economies relating to other of our recommendations, should put the fund into a situation of

long-term balance for the present. Under the recommended plan, additional costs would come into play in the future when cost-of-living increases are granted. Moreover, the next periodic valuation by the Railroad Retirement Board would of course be important. But the short of it is that, if the Negotiating Committee's recommended plan is put into effect, in the Committee's judgment the fund would be placed on a sound financial basis, and existing inequities would have been eliminated. Moreover, we wish to advise you that the parties have agreed that neither the railroads nor the unions will propose any future changes in the Railroad Retirement Act to become effective prior to January 1, 1978.

Conclusion. The Negotiating Committee is confident that its recommendations will be carefully considered by your Committee and the Congress, and is hopeful that such deliberation will demonstrate the soundness of the recommendations with respect to the merits of the issues involved. The Negotiating Committee is fully aware that, on one or another issue, positions contrary to the recommendations can be advanced. We are aware of that because, important and controversial as these issues are, such contrary arguments have in fact been forcefully advanced by the parties during the many months of our discussions. Our principal hope, in that respect, is that due recognition will be given to the fact that the final test of the legislation will be whether, taking all issues into account, it represents a fair and sound approach to a permanent reformation of the Railroad Retirement System.

Finally, we would be remiss, in both a personal way and in terms of our obligation to advise Congress of the nature of our discussions, if we omitted reference to the expert assistance that has guided us in our work.

As you are fully aware, the problems we have dealt with are exceedingly complex. It is one thing for labor and management representatives to negotiate the staple ingredients of collective bargaining contracts—wages and the like. It is quite another thing for them to attempt to accommodate their respective interests in connection with matters as baffling as the intricacies of the Railroad Retirement and Social Security Systems.

We are frank to say that, without the expert assistance we have received, it would have been extremely difficult for us to discharge the obligation placed upon us by last year's legislation. But we have had in full measure the expert assistance that was necessary.

To begin with, the Railroad Retirement Board, and its staff, has dedicated itself in a most extraordinary way to assisting us in the resolution of our problems. Beyond that, we have been graced by the assistance of two outside consultants—for the unions, Dr. Robert J. Myers, for twenty-three years Chief Actuary of the Social Security Administration, and for the railroads, Mr. John W. Fisher, of Towers, Perrin, Forster & Crosby. They guided us through the intricacies of these issues and were able at crucial stages to suggest ways in which basic policy differences could equitably be compromised.

We look forward, with the assistance of those who have helped us forge our recommendations, to discussing these recommendations in detail with you, the Committee, and Congress.

Yours very truly,

WILLIAM H. DEMPSEY,
Chairman, National Railway Labor Conference.

HUGH E. GREER,
Vice Chairman, National Railway Labor Conference.

AL H. CHESSER,
Chairman, C.R.U. President, U.T.U.

C. J. CHAMBERLAIN,
Chairman, R.L.E.A., President, B of R.S.

J. R. JONES,
Vice President—Personnel, the Atchison, Topeka and Santa Fe Railway.

C. E. MERVIN, Jr.,
Senior Vice President—Personnel and Labor Relations, Seaboard Coast Line Railroad.

G. S. PAUL,
Executive Vice President-Administration, Southern Railway System.

B. G. UPTON,
Assistant to Vice President-Labor Relations, Personnel and Organization Planning, Chessie System.

H. C. CROTTY,
President, B.M.W.E.

A.T. OTTO, Jr.,
President, R.Y.A.

C. L. DENNIS,
President, B.R.A.C.

JAMES E. YOST,
President, R.E.D.

C. J. COUGHLIN,
President, B. of L.E.

S. 3612

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

TITLE I—THE RAILROAD RETIREMENT ACT OF 1974

That the Railroad Retirement Act of 1937 is amended to read as follows:

"DEFINITIONS

"SECTION 1. For the purposes of this Act—

"(a)(1) The term 'employer" shall include—

"(i) Any express company, sleeping-car company, and carrier by railroad, subject to part I of the Interstate Commerce Act;

"(ii) any company which is directly or indirectly owned or controlled by, or under common control with, one or more employers as defined in paragraph (i) of this subdivision, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad;

"(iii) any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the property or operating all or any part of the business of any employer as defined in paragraph (i) or (ii) of this subdivision;

"(iv) any railroad association, traffic association, tariff bureau, demurrage bureau, weighing and inspection bureau, collection agency, and any other association, bureau, agency, or organization which is controlled and maintained wholly or principally by two or more employers as defined in paragraph (i), (ii), or (iii) of this subdivision and which is engaged in the performance of services in connection with or incidental to railroad transportation; and

"(v) any railway labor organization, national in scope, which has been or may be organized in accordance with the provisions of the Railway Labor Act, as amended, and its State and National legislative committee, general committees, insurance departments, and local lodges and divisions, established pursuant to the constitution or bylaws of such organization.

"(2) Notwithstanding the provisions of subdivision (1) of this subsection, the term 'employer' shall not include—

"(i) any company by reason of its being engaged in the mining of coal, the supplying of coal to an employer where delivery is not beyond the mine tipple, and the operation of equipment or facilities therefor, or in any of such activities; and

"(ii) any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general diesel-railroad system of transportation, but shall not exclude any part of the general diesel-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Board, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls within the terms of this paragraph.

"(b)(1) The term 'employee' means (i) any individual in the service of one or more employers for compensation, (ii) any individual who is in the employment relation to one or more employers, and (iii) an employee representative: *Provided, however,* That the term 'employee' shall include an employee of a local lodge or division defined as an employer in subsection (a) only if he was in the service of or in the employment relation to an employer as defined in paragraph (i) of subsection (a)(1) on or after August 29, 1935.

"(2) The term 'employee' shall not include any individual while such individual is engaged in the physical operations consisting of the mining of coal, the preparation of coal, the handling (other than movement by rail with standard railroad locomotives) of coal not beyond the mine tipple, or the loading of coal at the tipple.

"(c) The term 'employee representative' means any officer or official representative of a railway labor organization other than a labor organization included in the term employer as defined in subsection (a) who before or after August 29, 1935, was in the service of an employer as defined in subsection (a) and who is duly authorized and designated to represent employees in accordance with the Railway Labor Act, as amended, and any individual who is regularly assigned to or regularly employed by such officer or official representative in connection with the duties of his office.

"(d)(1) An individual is in the service of an employer whether his service is rendered within or without the United States if—

"(i)(A) he is subject to the continuing authority of the employer to supervise and direct the manner of rendition of his service, or (B) he is rendering professional or technical services and is integrated into the staff of the employer, or (C) he is rendering, on the property used in the employer's operations, personal services the rendition of which is integrated into the employer's operations; and

"(ii) he renders such service for compensation or a method of computing the monthly compensation for such service is provided in section 3(j).

"(2) Notwithstanding the provisions of subdivision (1) of this subsection—

"(i) an individual shall be deemed to be in the service of an employer, other than a local lodge or division or a general committee of a railway-labor-organization employer, not conducting the principal part of its business in the United States only when he is rendering service to it in the United States;

"(ii) an individual shall be deemed to be in the service of a local lodge or division of a railway-labor-organization employer not conducting the principal part of its business in the United States only if (A) all, or substan-

tially all, the individuals constituting the membership of such local lodge or division are employees of an employer conducting the principal part of its business in the United States; or (B) the headquarters of such local lodge or division is located in the United States; and

"(iii) an individual shall be deemed to be in the service of a general committee of a railway-labor-organization employer not conducting the principal part of its business in the United States only if (A) he is representing a local lodge or division described in clause (A) or (B) of paragraph (ii); (B) all, or substantially all, the individuals represented by such general committee are employees of an employer conducting the principal part of its business in the United States; or (C) he acts in the capacity of a general chairman or an assistant general chairman of a general committee which represents individuals rendering service in the United States to an employer, but in such case if his office or headquarters is not located in the United States and the individuals represented by such general committee are employees of an employer not conducting the principal part of its business in the United States, only such proportion of the remuneration for such service shall be regarded as compensation as the proportion which the mileage in the United States under the jurisdiction of such general committee bears to the total mileage under its jurisdiction, unless such mileage formula is inapplicable, in which case the Board may prescribe such other formula as it finds to be equitable, and if the application of such mileage formula, or such other formula as the Board may prescribe, would result in the compensation of the individual being less than 10 per centum of his remuneration for such service no part of such remuneration shall be regarded as compensation.

"(3) Notwithstanding the provisions of subdivisions (1) and (2) of this subsection, an individual not a citizen or resident of the United States shall not be deemed to be in the service of an employer when rendering service outside the United States to an employer who is required under the laws applicable in the place where the service is rendered to employ therein, in whole or in part, citizens or residents thereof. For purposes of this subdivision, the laws applicable on August 29, 1935, in the place where the service is rendered shall be deemed to have been applicable there at all times prior to that date.

"(e)(1) An individual shall be deemed to have been in the employment relation to an employer on August 29, 1935, if—

"(i) he was on that date on leave of absence from his employment, expressly granted to him by the employer by whom he was employed, or by a duly authorized representative of such employer, and the grant of such leave of absence will have been established to the satisfaction of the Board before July 1974;

"(ii) he was in the service of an employer after August 29, 1935, and before January 1946 in each of six calendar months, whether or not consecutive;

"(iii) before August 29, 1935, he did not retire and was not retired or discharged from the service of the last employer by whom he was employed or its corporate or operating successor, but (A) solely by reason of his physical or mental disability he ceased before August 29, 1935, to be in the service of such employer and thereafter remained continuously disabled until he attained age sixty-five or until August 1945, or (B) solely for such last stated reason an employer by whom he was employed before August 29, 1935, or an employer who is its successor did on or after August 29, 1935, and before August 1945 call him to return to service, or (C) if he was so called he was solely for such reason unable to render service in six calendar months as provided in paragraph (ii); or

"(iv) he was on August 29, 1935, absent from the service of an employer by reason of a discharge which, within one year after the effective date thereof, was protested, to an appropriate labor representative or to the employer, as wrongful, and which was followed within ten years of the effective date thereof by his reinstatement in good faith to his former service with all his seniority rights.

"(2) Notwithstanding the provisions of subdivision (1) of this subsection, an individual shall not be deemed to have been in the employment relation to an employer on August 29, 1935, if before that date he was granted a pension or gratuity on the basis of which a pension was awarded to him pursuant to section 6 of the Railroad Retirement Act of 1937, or if during the last payroll period before August 29, 1935, in which he rendered service to an employer he was not in the service of an employer, in accordance with subsection (d), with respect to any service in such payroll period, or if he could have been in the employment relation to an employer only by reason of his having been, either before or after August 29, 1935, in the service of a local lodge or division defined as an employer in subsection (a).

"(f)(1) The term 'years of service' shall mean the number of years an individual as an employee shall have rendered service to one or more employers for compensation or received remuneration for time lost, and shall be computed in accordance with the provisions of section 3(i). Twelve calendar months, consecutive or otherwise, in each of which an employee has rendered such service or received such wages for time lost, shall constitute a year of service. Ultimate fractions shall be taken at their actual value, except that if the individual will have had not less than one hundred twenty-six months of service, an ultimate fraction of six months or more shall be taken as one year.

"(2) Where service prior to August 29, 1935, may be included in the computation of years of service as provided in subdivision (3) of section 3(i), it may be included as to—

"(i) service rendered to a person which was an employer on August 29, 1935, irrespective of whether such person was an employer at the time such service was rendered;

"(ii) service rendered to any express company, sleeping-car company, or carrier by railroad which was a predecessor of a company which, on August 29, 1935, was an employer as defined in paragraph (i) of subsection (a)(1), irrespective of whether such predecessor was an employer at the time such service was rendered; and

"(iii) service rendered to a person not an employer in the performance of operations involving the use of standard railroad equipment if such operations were performed by an employer on August 29, 1935.

"(g)(1) For purposes of section 3(i)(2) of this Act, an individual shall be deemed to have been in 'military service' when commissioned or enrolled in the active service of the land or naval forces of the United States and until resignation or discharge therefrom; and the service of any individual in any reserve component of the land or naval forces of the United States, while serving in the land or naval force of the United States for any period, even though less than thirty days, shall be deemed to have been active service in such force during such period.

"(2) For purposes of section 3(i)(2) of this Act, a 'war service period' shall mean (A) any war period, or (B) with respect to any particular individual, any period during which such individual (i) having been in military service at the end of a war period, was required to continue in military service, or (ii) was required by call of the President, or by any Act of Congress or regulation, order, or proclamation pursuant thereto, to enter and continue in military service, or (C) any period after September 7, 1939, with respect to which a state of national emergency was duly declared to exist which requires a strengthening of the national defense.

"(3) For purposes of section 3(i)(2) of this Act, a 'war period' shall be deemed to have begun on whichever of the following dates is the earliest: (A) the date on which the Congress of the United States declared war; or (B) the date as of which the Congress of the United States declared that a state of war has existed; or (C) the date on which war was declared by one or more foreign states against the United States; or (D) the date on which any part of the United States or any territory under its jurisdiction was invaded or attacked by any armed force of one or more foreign states; or (E) the date on which the United States engaged in armed hostilities for the purpose of preserving the Union or of maintaining in any State of the Union a republican form of government.

"(4) For purposes of section 3(i)(2) of this Act, a 'war period' shall be deemed to have ended on the date on which hostilities ceased.

"(h)(1) The term 'compensation' means any form of money remuneration paid to an individual for services rendered as an employee to one or more employers, or as an employee to one or more employers, or as an employee representative, including remuneration paid for time lost as an employee, but remuneration paid for time lost shall be deemed earned in the month in which such time is lost. A payment made by an employer to an individual through the employer's payroll shall be presumed, in the absence of evidence to the contrary, to be compensation for service rendered by such individual as an employee of the employer in the period with respect to which the payment is made. Compensation earned in any calendar month before 1947 shall be deemed paid in such month regardless of whether or when payment will have been in fact made, and compensation earned in any calendar year after 1946 but paid after the end of such calendar year shall be deemed to be compensation paid in the calendar year in which it will have been earned if it is so reported by the employer before February 1 of the next succeeding calendar year or if the employee establishes, subject to the provisions of section 9, the period during which such compensation will have been earned.

"(2) An employee shall be deemed to be paid by an employer with respect to an identifiable period of absence from the active service of the employer, including absence on account of personal injury, and the amount he is paid by the employer for loss of earnings resulting from his displacement to a less remunerative position or occupation. If a payment is made by an employer with respect to a personal injury and includes pay for time lost, the total payment shall be deemed to be paid for time lost unless, at the time of payment, a part of such payment is specifically apportioned to factors other than time lost, in which event only such part of the payment as is not so apportioned shall be deemed to be paid for time lost.

"(3) Solely for purposes of determining amounts to be included in the compensation of an employee, the term 'compensation'

shall also include cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is less than $20.

"(4) Tips included as compensation by reason of the provisions of subdivision (3) shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) of the Internal Revenue Code of 1954 or, if no statement including such tips is so furnished, at the time received. Tips so deemed to be paid in any month shall be deemed paid for services rendered in such month.

"(5) In determining compensation, there shall be attributable as compensation paid to an employee in calendar months in which he is in military service creditable under section 3(i)(2), in addition to any other compensation paid to him with respect to such months, $160 for each such calendar month prior to 1968 and $260 for each such calendar month after 1967.

"(6) Notwithstanding the provisions of the preceding subdivisions of this subsection, the term 'compensation' shall not include—

"(i) tips, except as is provided under subdivision (3) of this subsection;

"(ii) the voluntary payment by an employer, without deduction from the remuneration of the employee, of any tax now or hereafter imposed with respect to the compensation of such employee;

"(iii) remuneration for service which is performed by a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act, as amended, and which is performed to carry out the purpose specified in subparagraph (F) or (J), as the case may be;

"(iv) remuneration earned in the service of a local lodge or division of a railway-labor-organization employer with respect to any calendar month in which the amount of such remuneration is less than $25; and

"(v) remuneration for service as a delegate to a national or international convention of a railway-labor-organization employer if the individual rendering such service has not previously rendered service, other than as such a delegate, which may be included in his 'years of service'.

"(i) The term 'Board' means the Railroad Retirement Board.

"(j) The term 'company' includes corporations, associations, and joint-stock companies.

"(k) The term 'employee' includes an officer of an employer.

"(l) The term 'person' means an individual, a partnership, an association, a joint-stock company, a corporation, or the United States or any other governmental body.

"(m) The term 'United States', when used in a geographical sense, means the States and the District of Columbia.

"(n) The term 'Social Security Act' means the Social Security Act as amended from time to time.

"(o) An individual shall be deemed to have 'a current connection with the railroad industry' at the time an annuity begins to accrue to him and at death if, in any thirty consecutive calendar months before the month in which an annuity under this Act begins to accrue to him, or the month in which he dies if that first occurs, he will have been in service as an employee in not less than twelve calendar months and, if such thirty calendar months do not immediately precede such month, he will not have been engaged in any regular employment other than employment for an employer or employment with the Department of Transportation, the Interstate Commerce Commission, the National Mediation Board, or the Railroad Retirement Board in the period before such month and after the end of such thirty months. For the purposes of section 2(d) only, an individual shall be deemed also to have a 'current connection with the railroad industry' if he will have completed ten years of service and (A) he would be neither fully nor currently insured under the Social Security Act if his service as an employee after December 31, 1936, were included in the term 'employment' as defined in that Act, or (B) he has no quarters of coverage under the Social Security Act.

"(p) The term 'annuity' means a monthly sum which is payable on the first day of each calendar month for the accrual during the preceding calendar month.

"(q) The terms 'quarter' and 'calendar quarter' shall mean a period of three calendar months ending on March 31, June 30, September 30, or December 31.

"(r) For purposes of this Act, a person shall be considered to be permanently insured under the Social Security Act on December 31, 1974, if he or she would be fully insured within the meaning of section 214(a) of that Act when he or she attains age 62 solely on the basis of his or her quarters of coverage under that Act acquired prior to January 1, 1975.

"ANNUITY ELIGIBILITY REQUIREMENTS

"SEC. 2. (a)(1) The following-described individuals, if they shall have completed ten years of service and shall have filed application for annuities, shall, subject to the conditions set forth in subsections (e), (f), and (h), be entitled to annuities in the amounts provided under section 3 of this Act—

"(i) individuals who have attained the age of sixty-five;

"(ii) individuals who have attained the age of sixty and have completed thirty years of service;

"(iii) individuals who have attained the age of sixty-two and have completed less than thirty years of service, but the annuity of such individuals shall be reduced by 1/180 for each calendar month that he or she is under age sixty-five when the annuity begins to accrue;

"(iv) individuals who have a current connection with the railroad industry, whose permanent physical or mental condition is such as to be disabling for work in their regular occupation, and who (A) have completed twenty years of service or (B) have attained the age of sixty; and

"(v) individuals whose permanent physical or mental condition is such that they are unable to engage in any regular employment.

"(2) For the purposes of paragraph (iv) of subdivision (1), the Board, with the cooperation of employers and employees, shall secure the establishment of standards determining the physical and mental conditions which permanently disqualify employees for work in the several occupations in the railroad industry, and the Board, employers, and employees shall cooperate in the promotion of the greatest practicable degree of uniformity in the standards applied by the several employers. An individual's condition shall be deemed to be disabling for work in his regular occupation if he will have been disqualified by his employer for service in his regular occupation in accordance with the applicable standards so established; if the employee will not have been so disqualified by his employer, the Board shall determine whether his condition is disabling for work in his regular occupation in accordance with the standards generally established; and, if the employee's regular occupation is not one with respect to which standards will have been established, the standards relating to a reasonably comparable occupation shall be used. If there is no such comparable occupation, the Board shall determine whether the employee's condition is disabling for work in his regular occupation by determining whether under the practices generally prevailing in industries in which such occupation exists such condition is a permanent disqualification for work in such occupation. For purposes of this subdivision and paragraph (iv) of subdivision (1), an employee's 'regular occupation' shall be deemed to be the occupation in which he will have been engaged in more calendar months than the calendar months in which he will have been engaged in any other occupation during the last preceding five calendar years, whether or not consecutive, in each of which years he will have earned wages or salary, except that, if an employee establishes that during the last fifteen consecutive calendar years he will have been engaged in another occupation in one-half or more of all the months in which he will have earned wages or salary, he may claim such other occupation as his regular occupation.

"(3) Such satisfactory proof shall be made from time to time as prescribed by the Board, of the disability provided for in paragraph (iv) or (v) of subdivision (1) and of the continuance of such disability (according to the standards applied in the establishment of such disability) until the employee attains the age of sixty-five. If the individual fails to comply with the requirements prescribed by the Board as to proof of the continuance of the disability until he attains the age of sixty-five years, his right to an annuity by reason of such disability shall, except for good cause shown to the Board, cease, but without prejudice to his rights to any subsequent annuity to which he may be entitled.

"(b)(1) An individual who—

"(i) has attained age 60 and completed thirty years of service or attained age 65;

"(ii) has completed twenty-five years of service;

"(iii) is entitled to the payment of an annuity under subsection (a)(1); and

"(iv) had a current connection with the railroad industry at the time such annuity began to accrue,

shall, subject to the conditions set forth in subdivision (2) of this subsection and in subsections (e) and (h), be entitled to a supplemental annuity in the amount provided under section 3 of this Act: *Provided, however,* That in cases where an individual's annuity under subsection (a)(1) begins to accrue on other than the first day of the month, the amount of any supplemental annuity to which he is entitled for that month shall be reduced by one-thirtieth for each day with respect to which he is not entitled to an annuity under subsection (a)(1).

"(2) No individual shall be entitled to a supplemental annuity provided by this subsection for any period after he renders any service as an employee for compensation after his supplemental annuity closing date, which is the last day of the month following the month in which he attains age 65: *Provided, however,* That the supplemental annuity closing date of an individual who attained age 65 prior to January 1, 1975, shall be determined under section 3(j)(4) of the Railroad Retirement Act of 1937: *Provided further,* That for an employee whose supplemental annuity closing date occurs after he has completed at least 23 years of service but before he has completed 25 years of service and before he would have been entitled (upon filing an application therefor) to monthly insurance benefits under section 202(a) of the Social Security Act if he had no service as an employee under this Act, such closing date shall be extended to the earlier of (A) the day before the first day of the first month

for which he would (on application) be entitled to monthly insurance benefits under section 202(a) of the Social Security Act if he had no service as an employee under this Act, or (B) the last day of the first month for which he qualifies for a supplemental annuity under this subsection.

"(3) The provisions of subdivision (2) shall not supersede the provisions of any agreement reached through collective bargaining which provides for mandatory retirement at an age less than the applicable supplemental annuity closing date determined under such subdivision.

"(c)(1) The spouse of an individual, if—

"(i) such individual (A) is entitled to an annuity under subsection (a)(1) and (B) has attained the age of 60 and has completed thirty years of service or has attained the age of 62, and

"(ii) such spouse (A) has attained the age of 65, or (B) has attained the age of 60 and such individual has completed thirty years of service, or (C), in the case of a wife, has in her care (individually or jointly with her husband) a child who meets the qualifications prescribed in paragraph (iii) of subsection (d)(1) (without regard to the provisions of clause (B) of such paragraph),

shall, subject to the conditions set forth in subsections (e), (f), and (h), be entitled to a spouse's annuity, if he or she has filed application therefor, in the amount provided under section 4 of this Act.

"(2) A spouse who would be entitled to an annuity under subdivision (1) if he or she had attained the age of 65 may elect upon or after attaining the age of 62 to receive such annuity, but the annuity in any such case shall be reduced by 1/180 for each calendar month that the spouse is under age 65 when the annuity begins to accrue.

"(3) For the purposes of this Act, the term 'spouse' shall mean the wife or husband of an annuitant under subsection (a)(1) who (i) was married to such annuitant for a period of not less than one year immediately preceding the day on which the application for a spouse's annuity is filed, or in the month prior to his or her marriage to such annuitant was eligible for an annuity under paragraph (i) or (iv) of subsection (d)(1) or, on the basis of disability, under paragraph (iii) thereof, or is the parent of such annuitant's son or daughter, if, as of the day on which the application for a spouse's annuity is filed, such wife or husband and such annuitant were members of the same household, or such wife or husband was receiving regular contributions from such annuitant toward her or his support, or such annuitant has been ordered by any court to contribute to the support of such wife or husband; and (ii) in the case of a husband, was receiving at least one-half of his support from his wife at the time his wife's annuity under subsection (a)(1) began.

"(d)(1) The following described survivors of a deceased employee who will have completed ten years of service and will have had a current connection with the railroad industry at the time of his death shall, subject to the conditions set forth in subsections (g) and (h), be entitled to annuities, if they have filed application therefor, in the amounts provided under section 4 of this Act—

"(i) a widow (as defined in section 216(c) and (k) of the Social Security Act) or widower (as defined in section 216 (g) and (k) of the Social Security Act) of such a deceased employee who has not remarried and who (A) will have attained the age of sixty or (B) will have attained the age of fifty but will not have attained age sixty and is under a disability which began before the end of the period prescribed in subdivision (2), and who, in the case of a widower, was receiving at least one-half of his support from the deceased employee at the time of her death or at the time her annuity under subsection (a)(1) began;

"(ii) a widow (as defined in section 216 (c) and (k) of the Social Security Act) of such a deceased employee who has not remarried and who (A) is not entitled to an annuity under paragraph (i), and (B) at the time of filing an application for an annuity under this paragraph, will have in her care a child of such deceased employee, which child is entitled to an annuity under paragraph (iii) (other than an annuity payable to a child who has attained age 18 and is not under a disability);

"(iii) a child (as defined in section 216 (e) and (k) of the Social Security Act) of such a deceased employee who (A) will be less than eighteen years of age, or (B) will be less than twenty-two years of age and a full-time student at an educational institution, or (C) will, without regard to his age, be under a disability which began before he attained age twenty-two or before the close of the eighty-fourth month following the month in which his most recent entitlement to an annuity under this paragraph terminated because he ceased to be under a disability, and who is unmarried and was dependent upon the employee at the time of the employee's death; and

"(iv) a parent (as defined in section 202 (h)(3) of the Social Security Act) of such a deceased employee who (A) will have attained the age of sixty and (B) will have received at least one-half of his or her support from such deceased employee at the time of the employee's death and (C) will not have remarried after the employee's death: *Provided, however,* That no parent will be entitled to an annuity under this paragraph on the basis of the deceased employee's compensation and years of service in any case where such employee died leaving a widow or widower or a child who is, or who might in the future become, entitled to an annuity under this subsection.

"(2) The period referred to in clause (B) of subdivision (1)(i) is the period (i) beginning with the latest of (A) the month of the employee's death, (B) in the case of a widow, the last month for which she was entitled to an annuity under paragraph (ii) of subdivision (1) as the widow of the deceased employee, or (C) the month in which the widow's or widower's previous entitlement to an annuity as the widow or widower of the deceased employee terminated because her or his disability had ceased and (ii) ending with the month before the month in which she or he attains age sixty, or, if earlier, with the close of the eighty-fourth month following the month with which such period began.

"(3) For purposes of paragraph (i) or (iii) of subdivision (1), a widow, widower, or child shall be under a disability if her or his permanent physical or mental condition is such that she or he is unable to engage in any regular employment. The provisions of subsection (a)(3) of this section as to the proof of disability shall apply with regard to determinations with respect to disability under subdivision (1).

"(4) In determining for purposes of this subsection and subdivision (3) of subsection (c) whether an applicant is the wife, husband, widow, widower, child, or parent of a deceased employee as claimed, the rules set forth in section 216(h) of the Social Security Act shall be applied deeming, for this purpose, individuals entitled to an annuity under subsection (c) to be entitled to benefits under subsection (b) or (c) of section 202 of the Social Security Act and individuals entitled to an annuity under paragraph (i) or (ii) of subsection (d)(1) to be entitled to a benefit under subsection (e), (f), or (g) of section 202 of the Social Security Act. For purposes of paragraph (iii) of subdivision (1), a child shall be deemed to have been dependent upon his parent employee if the conditions set forth in section 202(d) (3), (4), or (9) of the Social Security Act are fulfilled. The provisions of paragraph (7) of section 202(d) of the Social Security Act (defining the terms 'full-time student' and 'educational institution') shall be applied by the Board in the administration of this subsection as if the references therein to the Secretary were references to the Board. A child who attains age twenty-two at a time when he is a full-time student (as defined in subparagraph (A) of paragraph (7) of section 202(d) of the Social Security Act and without the application of subparagraph (B) of such paragraph) but has not (at such time) completed the requirements for, or received, a degree from a four-year college or university shall be deemed (for purposes of determining his continuing or initial entitlement to an annuity under this subsection) not to have attained such age until the first day of the first month following the end of the quarter or semester in which he is enrolled at such time (or, if the educational institution in which he is enrolled is not operated on a quarter or semester system, until the first day of the first month following the completion of the course in which he is enrolled or until the first day of the third month beginning after such time, whichever first occurs).

"(e)(1) No individual shall be entitled to an annuity under subsection (a)(1) until he shall have ceased to render compensated service to any person, whether or not an employer as defined in section 1(a) (but with the right to engage in other employment to the extent not prohibited by subdivision (3) or (4) of this subsection or by subsection (f)).

"(2) An annuity under subsection (a)(1) shall be paid only if the applicant shall have relinquished such rights as he may have to return to the service of an employer and of the person, or persons, by whom he was last employed: *Provided, however* That this requirement shall not apply to individuals mentioned in paragraphs (iv) and (v) of subsection (a)(1) prior to attaining age sixty-five: *Provided further,* That, nothwithstanding the provisions of the preceding proviso and of clause (i) of subsection (c)(1) of this section, an annuity shall be paid to the spouse of an individual only if such individual shall have satisfied the requirements of this subdivision without regard to the preceding proviso: *And provided further,* That, notwithstanding the provisions of the first proviso of this subdivision and of clause (iii) of subsection (b)(1) of this section, a supplemental annuity shall be paid to an individual only if such individual shall have satisfied the requirements of this subdivision without regard to the first proviso thereof.

"(3) No annuity under subsection (a)(1) or supplemental annuity under subsection (b)(1) shall be paid with respect to any month in which an individual in receipt of an annuity or supplemental annuity thereunder shall render compensated service to an employer or to the last person, or persons, by whom he was employed prior to the date on which the annuity under subsection (a)(1) began to accrue. Individuals receiving annuities under subsection (a)(1) shall report to the Board immediately all such compensated service.

"(4) No annuity under paragraph (iv) or (v) of subsection (a)(1) shall be paid to an individual with respect to any month in which the individual is under age sixty-five and is paid more than $200 in earnings from employment or self-employment of any form: *Provided, however,* That for purposes of this subdivision, if a payment in any one calendar month is for accruals in more than one calendar month, such payment shall be deemed to have been paid in each of the months in which accrued to the extent accrued in such month. Any such individual under the age of sixty-five shall report to the Board any such payment of earnings for such employment or self-employment before receipt and acceptance of an annuity for the

second month following the month of such payment. A deduction shall be imposed, with respect to any such individual who fails to make such report, in the annuity or annuities otherwise due the individual, in an amount equal to the amount of the annuity for each month in which he is paid such earnings in such employment or self-employment, except that the first deduction imposed pursuant to this sentence shall in no case exceed an amount equal to the amount of the annuity otherwise due for the first month with respect to which the deduction is imposed. If pursuant to the first sentence of this subdivision an annuity was not paid to an individual with respect to one or more months in any calendar year, and it is subsequently established that the total amount of such individual's earnings during such year as determined in accordance with that sentence (but exclusive of earnings for services described in subdivision (3)) did not exceed $2400, the annuity with respect to such month or months, and any deduction imposed by reason of the failure to report earnings for such month or months under the third sentence of this subdivision, shall then be payable. If the total amount of such individual's earnings during such year (exclusive of earnings for services described in subdivision (3)) is in excess of $2400, the number of months in such year with respect to which an annuity is not payable by reason of such first and third sentences shall not exceed one month for each $200 of such excess, treating the last $100 or more of such excess as $200; and if the amount of the annuity has changed during such year, any payments of annuities which become payable solely by reason of the limitations contained in this sentence shall be made first with respect to the month or months for which the annuity is larger.

"(5) The annuity of a spouse under subsection (c) shall, with respect to any month, be subject to the same provisions of this subsection as the individual's annuity. In addition, the annuity of a spouse under subsection (c) shall not be payable for any month if the individual's annuity under subsection (a)(1) is not payable for such month by reason of the provisions of this subsection.

"(f)(1) That portion of the individual's annuity as is computed under section 3(a) of this Act on the basis of (A) his compensation and years of service subsequent to December 31, 1974, and (B) his wages and self-employment income derived from employment and self-employment under the Social Security Act and that portion of the individual's annuity as is computed under section 3(h) of this Act shall be subject to deductions on account of work pursuant to the provisions of section 203 of the Social Security Act in the same manner as if such portion of such annuity were a monthly insurance benefit under that Act: *Provided, however,* That the provisions of this subdivision shall be applicable to the annuity of an individual only if such individual would be fully insured under the Social Security Act on the basis of wages and self-employment income derived from employment and self-employment under that Act and on the basis of compensation derived from service as an employee after December 31, 1974, if such service as an employee had been included in the term employment as defined in that Act. Any person in receipt of an annuity subject to deduction under this subsection shall report to the Board the receipt of excess earnings as defined in paragraph (3) of section 203(f) of the Social Security Act.

"(2) That portion of the spouse's annuity under subsection (c) which is derived from the portion of the individual's annuity subject to deductions under subdivision (1) and that portion of the spouse's annuity as is computed under section 4(e) of this Act shall be subject to deductions on account of work pursuant to the provisions of section 203 of the Social Security Act in the same manner as if such portion of such spouse's annuity were a monthly insurance benefit under that Act. In addition, such portion of the spouse's annuity shall be subject to deductions if the individual's annuity is subject to deductions under subdivision (1) in the same manner as if such portion of such spouse's annuity were a monthly insurance benefit under the Social Security Act.

"(g)(1) No annuity shall be paid to a survivor under subsection (d) with respect to any month in which such survivor renders service for compensation as an employee of an employer. Survivors receiving annuities under subsection (d) shall report to the Board immediately all such service for compensation.

"(2) Deductions, in amounts and at such time or times as the Board shall determine, shall be made from any payments to which a survivor is entitled under subsection (d) until the total of such deductions equals such survivor's annuity under that subsection for any month, if for such month such survivor is under the age of seventy-two and is charged with excess earnings under section 203(f) of the Social Security Act or, having engaged in any activity outside the United States, would be charged under such section 203(f) with any excess earnings derived from such activity if it had been an activity within the United States. For purposes of this subdivision the Board shall have the authority to take such actions and to make such determinations and such suspensions of payment of benefits in the manner and to the extent that the Secretary of Health, Education, and Welfare would be authorized to take or to make under section 203(h)(3) of the Social Security Act if the survivors were receiving the annuities to which this subdivision applies under section 202 of such Act: *Provided, however,* That in determining a survivor's excess earnings for a year for the purposes of this subdivision there shall not be included his income from employment or self-employment during months beginning with the month with respect to which he ceases to be qualified for an annuity. Survivors receiving annuities under subsection (d) shall report to the Board the receipt of excess earnings described in this subdivision.

"(h)(1) In the event military service credited under section 3(i)(2) of this Act is or has been used as the basis or as a partial basis for a pension, disability compensation, or any other gratuitous benefits payable on a periodic basis under any other Act of Congress, any annuity of an individual under subsection (a)(1) which is based in part on such military service shall be reduced, with respect to a calendar month for all or part of which such other benefit is also payable, by (i) the proportion which the number of years of service by which such military service increases the years of service bears to the total years of service, or (ii) the aggregate amount of such pensions or other benefit with respect to that month, whichever would result in the smaller reduction: *Provided, however,* That in no case shall the reduction under this subdivision operate to reduce the annuity of an individual under subsection (a)(1) below the amount it would have been if military service had not been included in the individual's years of service. If the annuity of an individual under subsection (a)(1) is reduced for any month by reason of this subdivision, any annuity payable to the spouse of such individual for such month under subsection (c) shall be reduced proportionately.

"(2) The supplemental annuity provided an individual by subsection (b) shall, with respect to any month, be reduced by the amount of the supplemental pension, attributable to the employer's contribution, that such individual is entitled to receive for that month under any other supplemental pension plan: *Provided, however,* That the maximum of such reduction shall be equal to the amount of the supplemental annuity less any amount by which the supplemental pension is reduced by reason of the supplemental annuity.

"(3) If a spouse entitled to an annuity under subsection (c) or a survivor entitled to an annuity under subsection (d) for any month is also entitled to an annuity under subsection (a)(1) for such month, the annuity under subsection (c) or (d) shall be reduced, but not below zero, by an amount equal to the annuity under subsection (a)(1): *Provided, however,* That the provisions of this subdivision shall not apply if either the spouse or survivor or the individual upon whose earnings record the spouse's or survivor's annuity under subsection (c) or (d) is based rendered service as an employee to an employer, or as an employee representative, prior to January 1, 1975.

"(4) If an annuitant is entitled to more than one annuity under subsections (c) and (d) for a month, such annuitant shall be entitled to only the larger of such annuities for such month, except that, if such annuitant so elects, he shall instead be entitled to only the smaller of such annuities for such month.

"COMPUTATION OF EMPLOYEE ANNUITIES

"SEC. 3. (a)(1) The annuity of an individual under section 2(a)(1) of this Act shall be in an amount equal to the amount (before any reduction on account of age and before any deductions on account of work) of the old-age insurance benefit or disability insurance benefit to which such individual would have been entitled under the Social Security Act if all of his or her service as an employee after December 31, 1936, had been included in the term employment as defined in that Act.

"(2) For purposes of this subsection, individuals entitled to an annuity under paragraph (ii) of section 2(a)(1) of this Act shall, except for purposes of recomputations in accordance with the provisions of section 215(f) of the Social Security Act, be deemed to have attained age 65, and individuals entitled to an annuity under paragraph (iv) or (v) of such section 2(a)(1) shall be deemed to be entitled to a disability insurance benefit under section 223 of the Social Security Act.

"(b)(1) The amount of the annuity of an individual provided under subsection (a) of this section shall be increased by an amount equal to (A) the amount of the annuity to which such individual would have been entitled (without regard to the requirement that an individual's years of service be ten or more) under section 2(a)(1) of the Railroad Retirement Act of 1937 as in effect on December 31, 1974, on the basis of his compensation and years of service prior to January 1, 1975, deeming such individual (i) to be eligible for such an annuity and (ii) to be entitled to no other benefit under either that Act or the Social Security Act except a benefit under the Social Security Act in the amount computed in accordance with the provisions of subclause (ii) of clause (C) of subsection (h)(1) or (h)(2) of this section, minus (B) the amount of the old-age insurance benefit to which such individual would have been entitled (before any deductions on account of work and subject to the last sentence of this subdivision) under the Social Security Act as in effect on December 31, 1974, if all his service as an employee after December 31,

1936, and before January 1, 1975, were included in the term 'employment' as defined in that Act, and if such individual (i) were age 65 and otherwise eligible for such a benefit and (ii) had no wages or self-employment income under that Act other than wages derived from service as an employee after December 31, 1936, and before January 1, 1975. For purposes of computing amounts under clause (A) of this subdivision, the Board shall have the authority to approximate the effect of the reductions prescribed by sections 3(a)(2) and 3(a)(3) of the Railroad Retirement Act of 1937 in cases where the individual is entitled to a benefit under subsection (h)(1) or (h)(2) of this section. For purposes of this subdivision, 18 'benefit computation years' shall be used in calculating an individual's 'average monthly wage', except in computing increases in amounts determined under clause (A) of this subdivision pursuant to section 3(a)(6) of the Railroad Retirement Act of 1937.

"(2) The amount computed under subdivision (1) of this subsection shall be increased by 65 per centum of the percentage increase obtained by comparing the unadjusted Consumer Price Index for the month of September 1976 with the unadjusted Consumer Price Index for the September immediately preceding the earlier of (A) the calendar year in which the individual's annuity under section 2(a)(1) of this Act begins to accrue or (B) the calendar year 1981.

"(c) If an individual entitled to an annuity under section 2(a)(1) of this Act will have rendered service as an employee to an employer, or as an employee representative, subsequent to December 31, 1974, the amount of the annuity of such individual provided under the preceding subsections of this section shall be increased by $1.50 for each of the first ten years of service that the individual has prior to January 1, 1975, and by $1.00 for each year of service prior to January 1, 1975, that the individual has in excess of 10 years.

"(d)(1) The amount of the annuity of an individual provided under the preceding subsections of this section shall be increased by an amount equal to the sum of (A) the product obtained by multiplying such individual's years of service subsequent to December 31, 1974, by .5 per centum of his average monthly compensation for such years of service and (B) $4.00 for each of such years of service.

"(2) The amount computed under subdivision (1) of this subsection shall be increased (but subject to the reduction prescribed by the following sentence) by an amount equal to (A) the sum of (i) .5 per centum of the individual's average monthly compensation for his years of service subsequent to December 31, 1974, disregarding, for this purpose, compensation for any month after December 31, 1980, in excess of one-twelfth of the maximum annual taxable 'wages' (as defined in section 3121 of the Internal Revenue Code of 1954) for the calendar year 1980, and (ii) $4.00, multiplied by (B) the product of (i) the individual's years of service subsequent to December 31, 1974, and (ii) 65 per centum of the percentage increase obtained by comparing the unadjusted Consumer Price Index for the month of September 1976 with the unadjusted Consumer Price Index for the September immediately preceding the earlier of the calendar year in which the individual's annuity under section 2(a)(1) of this Act begins to accrue or the calendar year 1981. The amount determined under the provisions of the first sentence of this subdivision shall be reduced by the amount by which (C) the product of (i) .5 per centum of the individual's average monthly compensation for his years of service subsequent to December 31, 1974, disregarding, for this purpose, compensation for any month after December 31, 1980, in excess of one-twelfth of the maximum annual taxable 'wages' (as defined in section 3121 of the Internal Revenue Code of 1954) for the calendar year 1980, times (ii) the individual's years of service subsequent to December 31, 1974, exceeds (D) the product of (i) .5 per centum of the individual's average monthly compensation for his years of service subsequent to December 31, 1974, disregarding, for this purpose, compensation for any month after December 31, 1976, in excess of one-twelfth of the maximum annual taxable 'wages' (as defined in section 3121 of the Internal Revenue Code of 1954) for the calendar year 1976, times (ii) the individual's years of service subsequent to December 31, 1974: *Provided, however,* That the provisions of this sentence shall not operate to reduce the amount determined under the preceding sentence below an amount equal to $4.00 multiplied by the amount computed under clause (B) of the preceding sentence.

"(e) The supplemental annuity of an individual under section 2(b) of this Act shall be $23 plus an additional amount of $4 for each year of service that the individual has in excess of 25 years, but in no case shall the supplemental annuity exceed $43.

"(f)(1) If the total amount of an individual's annuity and supplemental annuity computed under the preceding subsections of this section would, before any reductions on account of age and disregarding any increases in such total amount which become effective after the date on which such individual's annuity under section 2(a)(1) of this Act begins to accrue, exceed an amount equal to the sum of (A) 100 per centum of his 'final average monthly compensation' up to an amount equal to 50 per centum of one-twelfth of the maximum annual taxable 'wages' (as defined in section 3121 of the Internal Revenue Code of 1954) for the calendar year in which such individual's annuity under section 2(a)(1) of this Act begins to accrue, plus (B) 80 per centum of so much of his 'final average monthly compensation' as exceeds 50 per centum of one-twelfth of the maximum annual taxable 'wages' (as defined in section 3121 of the Internal Revenue Code of 1954) for the calendar year in which such individual's annuity under section 2(a)(1) of this Act begins to accrue, the supplemental annuity of such individual first, and then, if necessary, the annuity amount of such individual as computed under subsections (b), (c), and (d) of this section, shall be reduced until such total amount of such individual's annuity and supplemental annuity equals such sum or until such supplemental annuity and such annuity amount computed under subsections (b), (c), and (d) of this section are reduced to zero, whichever occurs first: *Provided, however,* That the provisions of this subdivision shall not operate to reduce the total amount of an individual's annuity and supplemental annuity computed under the preceding subsections of this section below $1,200. For purposes of this subdivision, the 'final average monthly compensation' of an individual shall be determined by dividing the total compensation received by such individual in the two calendar years, consecutive or otherwise, in which he was credited with the highest total compensation during the ten-year period ending with December 31 of the year in which such individual's annuity under section 2(a)(1) of this Act begins to accrue by 24. For purposes of this subdivision, the term 'compensation' shall include 'compensation' as defined in section 1(h) of this Act, 'wages' as defined in section 209 of the Social Security Act, 'self-employment income' as defined in section 211(b) of the Social Security Act, and wages deemed to have been paid under section 217 or 229 of the Social Security Act on account of military service: *Provided, however,* That in no case shall the compensation with respect to any calendar month exceed the limitation on the compensation for such month prescribed in subsection (j) of this section. Wages and self-employment income included as compensation for purposes of this subdivision shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the calendar quarter in which credited, in the case of wages, or in equal proportions with respect to all months in the calendar year in which credited, in the case of self-employment income.

"(2) If, in the case of an individual whose annuity under section 2(a)(1) of this Act began to accrue prior to January 1, 1983, the annuity (disregarding any amount provided by subsection (h) of this section) plus the supplemental annuity to which such individual is entitled for any month under this Act, together with the annuity, if any, of the spouse of such individual (disregarding any amount provided by section 4(e) of this Act), before any reductions under the provisions of section 2(f) of this Act, is less than the total amount which would have been payable to such individual and his spouse for such month, on the basis of the individual's compensation and years of service, under the provisions of the Railroad Retirement Act of 1937 as in effect on December 31, 1974, disregarding, for purposes of the computations under such Railroad Retirement Act of 1937, compensation for any month after December 31, 1974, in excess of one-twelfth of the maximum annual taxable 'wages' (as defined in section 3121 of the Internal Revenue Code of 1954) for the calendar year 1974, the annuity of such individual and the annuity of such spouse, if any, shall be increased, without regard to the provisions of subdivision (1) of this subsection, proportionately so as to equal such total amount. For the purpose of computing amounts under this subdivision, the Board shall have the authority to approximate the effect of the reductions prescribed by sections 3(a)(2) and 3(a)(3) of the Railroad Retirement Act of 1937. For purposes of computing amounts payable under the Railroad Retirement Act of 1937, any increases in the amounts determined under the first proviso of section 3(e) of such Act which would have become effective after December 31, 1974, shall be disregarded.

"(3) If for any month in which an annuity accrues and is payable under this Act the annuity to which an individual is entitled under this Act (or would have been entitled except for a reduction pursuant to a joint and survivor election), together with the annuity, if any, of the spouse of such individual, is less than the total amount, or the additional amount, which would have been payable to all persons for such month under the Social Security Act if such individual's service as an employee after December 31, 1936, were included in the term 'employment' as defined in that Act, such annuity or annuities shall be increased proportionately to such total amount, or such additional amount: *Provided, however,* That if an annuity accrues to an individual or a spouse for a part of a month, the amount payable for such part of a month under this subdivision shall be one-thirtieth of the amount payable under this subdivision for an entire month, multiplied by the number of days in such part of a month. For purposes of this subdivision, (i) persons not

entitled to an annuity under section 2 of this Act shall not be included in the computation under this subdivision except a spouse who could qualify for an annuity under section 2(c) of this Act if the individual from whom the spouse's annuity under this Act would derive had attained age 60 or 62, as the case may be, and such individual's children who meet the definition as such contained in section 216(e) of the Social Security Act; (ii) after an annuity has been certified for payment and this subdivision was inapplicable after allowing for any waiting period under section 223(c)(2) of the Social Security Act, and after having considered the inclusion of all persons who were then eligible for inclusion in the computation under this subdivision, or was then applicable but later became inapplicable, any recertification in such annuity under this subdivision shall not take into account persons not entitled to an annuity under section 2 of this Act except a spouse who could qualify for an annuity under section 2(c) of this Act when she attains age 60 or 62, as the case may be, if the individual from whom the spouse's annuity would derive had attained age 60 or 62, as the case may be, and who was married to such individual at the time he applied for his annuity; and (iii) in computing the amount to be paid under this subdivision the only benefits under title II of the Social Security Act which shall be considered shall be those to which the persons included in the computation are entitled.

"(g) Those portions of the annuity of an individual as are computed under subsections (b) and (d) of this section shall, if such individual's annuity under section 2(a)(1) of this Act began to accrue on or before the date on which the applicable increase under this subsection becomes effective, be increased by 32.5 per centum of the percentage increase, if any, (rounded to the nearest one-tenth of 1 percent) obtained by comparing (A) the unadjusted Consumer Price Index for the calendar quarter ending March 31, 1977, with such Index for the calendar quarter ending March 31, 1976, (B) the unadjusted Consumer Price Index for the calendar quarter ending March 31, 1978, with the higher of (i) such Index for the calendar quarter ending March 31, 1977, or (ii) such Index for the calendar quarter ending March 31, 1976, (C) the unadjusted Consumer Price Index for the calendar quarter ending March 31, 1979, with the highest of (i) such Index for the calendar quarter ending March 31, 1978, (ii) such Index for the calendar quarter ending March 31, 1977, or (iii) such Index for the calendar quarter ending March 31, 1976, and (D) the unadjusted Consumer Price Index for the calendar quarter ending March 31, 1980, with the highest of (i) such Index for the calendar quarter ending March 31, 1979, (ii) such Index for the calendar quarter ending March 31, 1978, (iii) such Index for the calendar quarter ending March 31, 1977, or (iv) such Index for the calendar quarter ending March 31, 1976. The unadjusted Consumer Price Index for any calendar quarter shall be the arithmetical mean of such Index for the three months in such quarter. The increases provided under clauses (A), (B), (C), and (D) of this subsection shall be effective on June 1, 1977, June 1, 1978, June 1, 1979, and June 1, 1980, respectively.

"(h)(1) The amount of the annuity provided under subsections (a) through (d) of this section of an individual who (A) will have (i) rendered service as an employee to an employer, or as an employee representative, during the calendar year 1974, or (ii) had a current connection with the railroad industry on December 31, 1974, or at the time his annuity under section 2(a)(1) of this Act began to accrue, or (iii) completed twenty-five years of service prior to January 1, 1975, and (B) will have (i) completed ten years of service prior to January 1, 1975, and (ii) been permanently insured under the Social Security Act on December 31, 1974, shall be increased by an amount equal to the amount by which (C) the sum of (i) the primary insurance amount to which such individual would have been entitled, upon the attainment of age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, if his service as an employee after December 31, 1936, and prior to January 1, 1975, were included in the term employment as defined in that Act and if he had no wages or self-employment income under that Act other than wages derived from such service as an employee, and (ii) the primary insurance amount to which such individual would have been entitled, upon the attainment of age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of his wages and self-employment income derived from employment and self-employment under that Act prior to January 1, 1975, exceeds (D) the primary insurance amount to which such individual would have been entitled, upon the attainment of age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of his wages and self-employment income derived from employment and self-employment under that Act prior to January 1, 1975, and on the basis of compensation derived from service as an employee after December 31, 1936, and prior to January 1, 1975, if such service as an employee had been included in the term employment as defined in that Act.

"(2) The amount of the annuity provided under subsections (a) through (d) of this section to an individual who (A) will not have met the conditions set forth in subclause (i), (ii), or (iii) of clause (A) of subdivision (1) of this subsection, but (B) will have (i) completed ten years of service prior to January 1, 1975, and (ii) been permanently insured under the Social Security Act as of December 31 of the calendar year in which he last rendered service as an employee to an employer, or as an employee representative, shall be increased by an amount equal to the amount by which (C) the sum of (i) the primary insurance amount to which such individual would have been entitled, upon the attainment of age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, if his service as an employee after December 31, 1936, and prior to January 1, 1975, were included in the term employment as defined in that Act and if he had no wages or self-employment income under that Act other than wages derived from such service as an employee, and (ii) the primary insurance amount to which such individual would have been entitled, upon the attainment of age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of his wages and self-employment income derived from employment and self-employment under that Act as of December 31 of the calendar year in which he last performed service as an employee under this Act, exceeds (D) the primary insurance amount to which such individual would have been entitled, upon the attainment of age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of his wages and self-employment income derived from employment and self-employment under that Act as of December 31 of the calendar year in which he last performed service as an employee under this Act and on the basis of compensation derived from service as an employee after December 31, 1936, and prior to January 1, 1975, if such service as an employee had been included in the term employment as defined in that Act.

"(3) The amount of the annuity provided under subsections (a) through (d) of this section of an individual who (A) will have (i) rendered service as an employee to an employer, or as an employee representative, during the calendar year 1974, or (ii) had a current connection with the railroad industry on December 31, 1974, or at the time his annuity under section 2(a)(1) of this Act began to accrue, or (iii) completed twenty-five years of service prior to January 1, 1975, and (B) will have completed ten years of service prior to January 1, 1975, and is the wife, husband, widow, or widower of a person who will have been permanently insured under the Social Security Act on December 31, 1974, shall be increased by an amount equal to the smaller of (C) the wife's, husband's, widow's, or widower's insurance benefit to which such individual would have been entitled, upon attaining age 65 (or), if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974 on the basis of such person's wages and self-employment income derived from employment and self-employment under that Act prior to January 1, 1975, or (D) the primary insurance amount to which such individual would have been entitled upon attaining age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of such individual's wages and self-employment income derived from employment and self-employment under that Act prior to January 1, 1975, and on the basis of compensation derived from service as an employee after December 31, 1936, and prior to January 1, 1975, if such service as an employee had been included in the term employment as defined in that Act.

"(4) The amount of the annuity provided under subsections (a) through (d) of this section of an individual who (A) will not have met the conditions set forth in subclause (i), (ii), or (iii) or clause (A) of subdivision (3) of this subsection, but (B) will have completed ten years of service prior to January 1, 1975, and is the wife, husband, widow, or widower of a person who will have been permanently insured under the Social Security Act as of December 31 of the calendar year in which such individual last rendered service as an employee to an employer, or as an employee representative, shall be increased by an amount equal to the smaller of (C) the wife's, husband's, widow's, or widower's insurance benefit to which such individual would have been entitled, upon attaining age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of such person's wages and self-employment income derived from employment and self-employment under that Act as of December 31 of the calendar year in which such individual last performed service as an employee under this Act or (D) the primary insurance amount to which such individual would have been entitled upon attaining age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of such individual's wages and self-employment income derived from employment and self-employment under that Act as of December 31 of the calendar year

in which such individual last performed service as an employee under this Act and on the basis of compensation derived from service as an employee after December 31, 1936, and prior to January 1, 1975, if such service as an employee had been included in the term employment as defined in that Act.

"(5) The amount computed under subdivision (1) or (2) of this subsection shall be increased by the same percentage, or percentages, as primary insurance amounts under section 202 of the Social Security Act are increased during the period from January 1, 1975, to the date on which the individual's annuity under section 2(a)(1) of this Act began to accrue.

"(6) The amount computed under subdivision (3) or (4) of this subsection shall be increased by the same percentage, or percentages, as wife's, husband's, widow's, or widower's insurance benefits, whichever is pertinent, are increased during the period from January 1, 1975, to the date on which the individual's annuity under section 2(a)(1) of this Act began to accrue.

"(i)(1) The 'years of service' of an individual shall include all his service subsequent to December 31, 1936.

"(2) The 'years of service' of an individual shall also include his voluntary or involuntary military service, within or without the United States, during any war service period: *Provided, however*, That such military service shall be included only if, prior to the beginning of his military service and in the same calendar year in which such military service began, or in the next preceding calendar year, the individual rendered service for compensation to an employer or to a person service to which is otherwise creditable under this Act, or lost time as an employee for which he received remuneration, or was serving as an employee representative: *Provided further*, That such military service shall be included only subject to and in accordance with the provisions of subdivision (1) and (3) of this subsection in the same manner as though military service were service rendered as an employee: *And provided further*, That an individual who entered military service prior to a war service in a war service period with respect to any part of the period for which he entered such military service.

"(3) The 'years of service' of an individual who was an employee on August 29, 1935, shall, if the total number of his 'years of service' as determined under subdivisions (1) and (2) is less than thirty, also include his service prior to January 1, 1937, but not so as to make his total years of service exceed thirty: *Provided, however*, That with respect to any such individual who rendered service to any employer subsequent to December 31, 1936, and who on August 29, 1935, was not an employee of an employer conducting the principal part of its business in the United States, no greater proportion of his service rendered prior to January 1, 1937, shall be included in his 'years of service' than the proportion which his total compensation (without regard to any limitation on the amount of compensation otherwise provided in this Act) for service subsequent to December 31, 1936, rendered anywhere to an employer conducting the principal part of its business in the United States or rendered in the United States to any other employer bears to his total compensation (without regard to any limitation on the amount of compensation otherwise provided in this Act) for service rendered anywhere to an employer subsequent to December 31, 1936. Where the 'years of service' include only part of the service prior to January 1, 1937, the part included shall be taken in reverse order beginning with the last calendar month of such service.

"(j) The 'average monthly compensation' shall be the average compensation paid to an employee with respect to calendar months included in his 'years of service', except (1) that with respect to service prior to January 1, 1937, the monthly compensation shall be the average compensation paid to an employee with respect to calendar months included in his years of service in the years 1924–1931, and (2) the amount of compensation paid or attributable as paid to him with respect to each month of service before September 1941 as a station employee whose duties consisted of or included the carrying of passengers' hand baggage and otherwise assisting passengers at passenger stations and whose remuneration for service to the employer was, in whole or in substantial part, in the forms of tips, shall be the monthly average of the compensation paid to him as a station employee in his months of service in the period September 1940–August 1941: *Provided, however*, That where service in the period 1924–31 in the one case, or in the period September 1940—August 1941 in the other case, is, in the judgment of the Board, insufficient to constitute a fair and equitable basis for determining the amount of compensation paid or attributable as paid to him in each month of service before 1937, or September 1941, respectively, the Board shall determine the amount of such compensation for each such month in such manner as in its judgment shall be fair and equitable. In computing the monthly compensation, no part of any month's compensation in excess of $300 for any month before July 1, 1954, or in excess of $350 for any month after June 30, 1954, and before June 1, 1959, or in excess of $400 for any month after May 31, 1959, and before November 1, 1963, or in excess of $450 for any month after October 31, 1963, and before October 1, 1965, or in excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965, shall be recognized. If the employee earned compensation in service after June 30, 1937, and after the last day of the calendar year in which he attained age sixty-five, such compensation and service shall be disregarded in computing the average monthly compensation if the result of taking such compensation into account in such computation would be to diminish his annuity. If the 'average monthly compensation' computed under this subsection is not a multiple of $1, it shall be rounded to the next lower multiple of $1. Where an employee claims credit for months of service rendered within two years prior to his retirement from the service of an employer, with respect to which the employer's return pursuant to section 9 of this Act has not been entered on the records of the Board before the employee's annuity could otherwise be certified for payment, the Board may, in its discretion (subject to subsequent adjustment at the request of the employee) include such months in the computation of the annuity without further vertification and may consider the compensation for such months to the average of the compensation for months in the last period for which the employer has filed a return of the compensation of such employee and such return has been entered on the records of the Board.

"(k) The annuity of an individual who shall have been an employee representative shall be determined in the same manner and with the same effect as if the employee organization by which he shall have been employed were an employer.

"(l) In cases where an annuity awarded under paragraph (iii) of section 2(a)(1) or under section 2(c)(2) of this Act is increased either by a change in the law or by a recomputation the reduction for the increase in the annuity shall be determined separately and the period with respect to which the reduction applies shall be determined as if such increase were a separate annuity payable for and after the first month for which such increase is effective.

"COMPUTATION OF SPOUSE AND SURVIVOR ANNUITIES

"SEC. 4. (a)(1) The annuity of a spouse of an individual under section 2(c) of this Act shall be in an amount equal to the amount (before any reduction on account of age and before any deductions on account of work) of the wife's insurance benefit or the husband's insurance benefit to which such spouse would have been entitled under the Social Security Act if such individual's service as an employee after December 31, 1936, had been included in the term employment as defined in that Act.

"(2) For purposes of this subsection, spouses entitled to an annuity under clause (B) of paragraph (ii) of section 2(c)(1) of this Act shall be deemed to have attained age 65.

"(b) The amount of the annuity of a spouse of an individual provided under subsection (a) of this section shall be increased by an amount equal to 50 per centum of that portion of the individual's annuity as is computed under subsections (b), (c), and (d) of section 3 of this Act: *Provided, however*, That if the spouse is entitled to an annuity amount provided by subsection (e)(1) or (e)(2) of this section, the amount of such spouse's annuity provided by the preceding provisions of this subsection shall be reduced by the amount of which the amount computed in accordance with the provisions of clause (C) of subsection (e)(1) or (e)(2) of this section was increased by the Social Security Amendments of 1965, 1967, and 1969, disregarding (A) the amount of any such increase resulting from the Social Security Amendments of 1967 equal to, or less than, the excess of $5 over 5.8 per centum of the lesser of (i) the amount computed under clause (C) of subsection (e)(1) or (e)(2) of this section before any increases derived from legislation enacted after the Social Security Amendments of 1967 or (ii) the amount of the spouse's annuity to which such spouse would have been entitled under section 2(e) of the Railroad Retirement Act of 1937, without regard to section 3(a)(2) of that Act or to increases derived from legislation enacted after 1968 and before any reduction on account of age, on the basis of the individual's compensation and years of service prior to January 1, 1975, and (B) the amount of any such increase resulting from the Social Security Amendments of 1969 equal to, or less than, $5: *Provided further*, That if the total of (A) the amount of the spouse's annuity provided under subsection (a) of this section, or, in the case of a spouse entitled to an annuity under section 2(a)(1) of this Act or to an old-age insurance benefit or a disability insurance benefit under section 202 or 223 of the Social Security Act, the amount to which such spouse would be entitled under subsection (a) if she or he were not entitled to an annuity under section 2(a)(1) of this Act or to an old-age insurance benefit or a disability insurance benefit under section 202 or 223 of the Social Security Act, plus (B) the amount of her or his annuity under this subsection would, with respect to any month, before any reductions on account of age, exceed 110 per centum of an amount equal to the maximum amount which could be paid to anyone, with respect to such month, as a wife's insurance benefit under section 202(b) of the Social Security Act, the amount of the annuity of such spouse under this subsection shall be reduced until the total of such annuity amounts equals 110 per

centum of such amount. The Board shall have the authority to approximate the amount of any reduction prescribed by the first proviso of this subsection.

"(c) If (A) the total amount of the annuity of a spouse of an individual as computed under the preceding subsections of this section as of the date on which the annuity of such individual under section 2(a)(1) of this Act began to accrue plus (B) the total amount of the annuity and supplemental annuity of the individual subject to the provisions of section 3(f)(1) of this Act, would, before any reductions in the amounts specified in clauses (A) and (B) on account of age and disregarding any increases in such amounts which become effective after the date on which the individual's annuity under section 2(a)(1) of this Act began to accrue, exceed the amount determined under clauses (A) and (B) of section 3(f)(1) of this Act, the portion of the annuity of such spouse determined under subsection (b) of this section of the date on which the individual's annuity under section 2(a)(1) began to accrue shall be reduced until the sum of the amounts specified in clauses (A) and (B) of this subsection equals the amount determined under clauses (A) and (B) of section 3(f)(1) or until such amount under subsection (b) is reduced to zero, whichever occurs first. If, after such amount under subsection (b) is reduced to zero, the sum of the remaining amounts specified in clauses (A) and (B) of this subsection still exceeds the amount determined under clauses (A) and (B) of section 3(f)(1), the supplemental annuity of the individual first, and then, if necessary, the annuity amount of the individual computed under subsections (b), (c), and (d) of section 3 as of the date on which the individual's annuity under section 2(a)(1) began to accrue, shall be reduced until the amounts specified in clauses (A) and (B) of this subsection equals the amount determined under clauses (A) and (B) of section 3(f)(1) or until such supplemental annuity and such annuity amount are reduced to zero, which ever occurs first. Notwithstanding the preceding provisions of this subsection, the provisions of this subsection shall not operate to reduce the total of the amounts specified in clauses (A) and (B) of this subsection below $1,200.

"(d) That portion of the annuity of the spouse of an individual as is determined under subsections (b) and (c) of this section shall be increased by the same percentage, or percentages, as the individual's annuity is, or has been, increased pursuant to the provisions of section 3(g) of this Act.

"(e)(1) The amount of the annuity of the spouse of an individual determined under subsections (a) and (b) of this section, if (A) such individual will have (i) rendered service as an employee to an employer, or as an employee representative, during the calendar year 1974, or (ii) had a current connection with the railroad industry on December 31, 1974, or at the time his annuity under section 2(a)(1) of this Act began to accrue, or (iii) completed twenty-five years of service prior to January 1, 1975, and (B) such individual will have completed ten years of service prior to January 1, 1975, and such spouse will have been permanently insured under the Social Security Act on December 31, 1974, shall be increased by an amount equal to the smaller of (C) the primary insurance amount to which such spouse would have been entitled, upon attaining age 65, under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of her or his wages and self-employment income derived from employment and self-employment under that Act prior to January 1, 1975, or (D) the wife's or husband's insurance benefit to which such spouse would have been entitled, upon attaining age 65, under the provisions of the Social Security Act as in effect on December 31, 1974, if such individual's service as an employee after December 31, 1936, and prior to January 1, 1975, were included in the term employment as defined in that Act, if such individual had no wages or self-employment income under that Act other than wages derived from such service as an employee, and if such spouse were entitled to no other benefit under that Act: *Provided, however,* That the increase under the provisions of this subdivision shall not be less than 50 per centum of the portion of the annuity, if any, of such individual determined under the provisions of section 3(h)(1) of this Act prior to any increases under the provisions of section 3(h)(5) of this Act.

"(2) The amount of the annuity of the spouse of an individual determined under subsections (a) and (b) of this section, if (A) such individual will not have met the conditions set forth in subclause (i), (ii), or (iii) of clause (A) of subdivision (1) of this subsection, but (B) such individual will have completed ten years of service prior to January 1, 1975, and such spouse will have been permanently insured under the Social Security Act as of December 31 of the calendar year in which such individual last rendered service as an employee, shall be increased by an amount equal to the smaller of (C) the primary insurance amount to which such spouse would have been entitled, upon attaining age 65, under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of his or her wages and self-employment income derived from employment and self-employment under that Act as of December 31 of the calendar year in which such individual last rendered service as an employee or (D) the wife's or husband's insurance benefit to which such spouse would have been entitled, upon attaining age 65, under the provisions of the Social Security Act as in effect on December 31, 1974, if such individual's service as an employee after December 31, 1936, and prior to January 1, 1975, were included in the term employment as defined in that Act, if such individual had no wages or self-employment income under that Act other than wages derived from such service as an employee, and if such spouse were entitled to no other benefit under that Act: *Provided, however,* That the increase under the provisions of this subdivision shall not be less than 50 per centum of the portion of the annuity, if any, of such individual determined under the provisions of section 3(h)(2) of this Act prior to any increases under the provisions of section 3(h)(5) of this Act.

"(3) The amount of the annuity of the spouse of an individual determined under subsections (a) and (b) of this section, if (A) such individual is entitled to an amount determined under the provisions of section 3(h)(1) or 3(h)(2) of this Act and (B) such spouse is not entitled to an amount determined under the provisions of subdivision (1) or (2) of this subsection, shall be increased by an amount equal to 50 per centum of the portion of the annuity of such individual determined under the provisions of section 3(h)(1) or 3(h)(2) of this Act prior to any increases under the provisions of section 3(h)(5) of this Act.

"(4) The amount determined under the provisions of subdivision (1), (2), or (3) of this subsection shall be increased by the same percentage, or percentages, as wife's and husband's insurance benefits under section 202 of the Social Security Act are increased during the period from January 1, 1975, to the date on which the individual's annuity under section 2(a)(1) of this Act began to accrue.

"(f)(1) The annuity of a survivor of a deceased employee under section 2(d) of this Act shall be in an amount equal to the amount (before any deductions on account of work) of the widow's insurance benefit, widower's insurance benefit, mother's insurance benefit, parent's insurance benefit, or child's insurance benefit, whichever is applicable, to which he or she would have been entitled under the Social Security Act if such deceased employee's service as an employee after December 31, 1936, had been included in the term employment as defined in that Act.

"(2) For purposes of this subsection—

"(i) a widow or widower or a parent who is entitled to an annuity based on age under section 2(d)(1) of this Act and who has not attained age 62 shall be deemed to be age 62: *Provided, however,* That the provisions of this paragraph shall not apply in the case of a widow or widower who was entitled to an annuity under section 2(d)(1) on the basis of disability for the month before the month in which he or she attained age 60, and

"(ii) a widow or widower or a child who is entitled to an annuity under section 2(d)(1) of this Act on the basis of disability shall be deemed to be entitled to a widow's insurance benefit, a widower's insurance benefit, or a child's insurance benefit under the Social Security Act on the basis of disability.

"(g) The annuity of a survivor of a deceased employee determined under subsection (f) of this section shall, with respect to any month, be increased by an amount equal to 30 per centum of the amount of the annuity (before any deductions on account of work) to which such survivor is entitled for such month under the provisions of subsection (f) of this section, or to which such survivor would have been entitled for such month under such subsection if such survivor were entitled to no other monthly benefit under section 2 of this Act or under the Social Security Act: *Provided, however,* That if (A)(i) the amount of the annuity to which a widow or widower of a deceased employee is entitled under subsection (f) of this section, or the annuity to which such widow or widower would be entitled under such subsection if such widow or widower were entitled to no other monthly benefit under section 2 of this Act or under the Social Security Act, plus (ii) the amount of annunity to which such widow or widower is entitled under this subsection is (before any deductions on account of work) less than (B) the total of the annuity amounts to which such widow or widower was entitled (or would have been entitled except for the provisions of sections 2(e) and 2(f) or 2(h) of this Act or of section 202(k) or 202(q) of the Social Security Act) as a spouse under subsections (a) and (b) of this section (after any reduction on account of age) in the month preceding the employee's death, the annuity amount of such widow or widower under this subsection shall be increased until the total of the annuity amounts described in cluase (A) of this proviso equals the total of the annuity amounts described in clause (B).

"(d)(1) The amount of the annuity of the widow or widower of a decreased employee determined under subsections (f) and (g) of this section, if such deceased employee will have completed ten years of service prior to January 1, 1975, and such widow or widower will have been permanently insured under the Social Security Act on December 31, 1974, shall be increased by an amount equal to the amount, if any, by which (A) the sum of (i) the widow's or widower's insurance annuity to which such widow or widower would have been entitled, upon attaining age 65, under section 5(a) of the Railroad Retire-

ment Act of 1937 as in effect on December 31, 1974 (without regard to the proviso of that section or the first proviso of section 3(e) of that Act), on the basis of the deceased employee's remuneration and service prior to January 1, 1975, and (ii) the primary insurance amount to which such widow or widower would have been entitled, upon attaining age 65, under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of her or his wages and self-employment income derived from employment and self-employment under that Act prior to January 1, 1975, exceeds (B) 130 per centum of the amount of the widow's or widower's insurance benefit to which such widow or widower would have been entitled, upon attaining age 65, under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of the deceased employee's ages and self-employment income derived from employment and self-employment under that Act prior to January 1, 1975, and on the basis of compensation derived from service as an employee after December 31 1936, and before January 1, 1975, if the deceased employee's service as an employee after December 31, 1936, and before January 1, 1975, had been included in such employment and if such widow or widower were entitled to no other monthly benefit under section 2 of this Act or under the Social Security Act.

"(2) The amount determined under the provisions of subdivision (1) of this subsection shall be increased by the same percentage, or percentages, as widow's and widower's insurance benefits under section 202 of the Social Security Act are increased during the period from January 1, 1975, to the earlier of the date of the deceased employee's death or the date on which the deceased employee's annuity under section 2(a)(1) of this Act began to accrue.

"ANNUITY BEGINNING AND ENDING DATES

"SEC. 5. (a) An annuity under section 2 of this Act shall begin with the month in which eligibility therefor was otherwise acquired, but—

"(i) not earlier than the date specified in the application therefor;

"(ii) not earlier than the first day of the twelfth month before the month in which the application therefor was filed; and

"(iii) in the case of an applicant otherwise eligible for an annuity under section 2(a)(1) or 2(c) not earlier than the date following the last day of compensated service of the applicant.

"(b) An application for any payment under this Act shall be made and filed in such manner and form as the Board may prescribe. An application filed with the Board for an annuity under this Act shall, unless the applicant specifies otherwise, be deemed to be an application for any benefit to which such applicant may be entitled under this Act or the Social Security Act. An individual who was entitled to an annuity under paragraph (iv) or (v) of section 2(a)(1) of this Act for the month preceding the month in which he attained the age of 65, shall be deemed to have filed an application for an annuity under paragraph (i) of section 2(a)(1) on the date on which he attained age 65, and a widow or widower who was entitled to an annuity under section 2(d)(1) of this Act on the basis of disability for the month preceding the month in which she or he attained age 60, shall be deemed to have filed an application for an annuity under such section 2(d)(1) on the basis of age on the date on which she or he attained age 60.

"(c)(1) An individual's entitlement to an annuity under paragraph (i), (ii), or (iii) or section 2(a)(1) or to a supplemental annuity under section 2(b) shall end with the month preceding the month in which he dies.

"(2) An individual's entitlement to an annuity under paragraph (iv) or (v) of section 2(a)(1) shall end on (A) the last day of the second month following the month in which he ceases to be disabled as provided for purposes of such paragraphs, (B) the last day of the month preceding the month in which he attains age 65, or (C) the last day of the month preceding the month in which he dies, whichever first occurs.

"(3) The entitlement of a spouse of an individual to an annuity under section 2(c) shall end on the last day of the month preceding the month in which (A) the spouse or the individual dies, (B) the spouse and the individual are absolutely divorced, or (C), in the case of a wife who does not satisfy the requirements of clause (ii)(A) or (ii)(B) of section 2(c)(1) (other than a wife who is receiving such annuity by reason of an election under section 2(c)(2)), such wife no longer has in her care a child described in clause (ii)(C) of section 2(c)(1), whichever first occurs.

"(4) The entitlement of a widow or widower of a deceased employee to an annuity under paragraph (i) of section 2(d)(1) on the basis of age shall end on (A) the last day of the month preceding the month in which she or he dies or (B) the last day of the month preceding the month in which she or he remarries after the employee's death, whichever first occurs.

"(5) The entitlement of a widow or widower of a deceased employee to an annuity under paragraph (i) of section 2(d)(1) on the basis of disability shall end on (A) the last day of the month preceding the month in which she or he dies, (B) the last day of the month preceding the month in which she or he remarries after the employee's death, (C) the last day of the second month following the month in which she or he ceases to be disabled as provided for purposes of such paragraph, or (D) the last day of the month preceding the month in which she or he attains age 60, whichever first occurs.

"(6) the entitlement of a widow of a deceased employee to an annuity under paragraph (ii) of section 2(d)(1) shall end on (A) the last day of the month preceding the month in which she remarries after the employee's death, or (C) the last day of the month preceding the month in which she no longer has in her care a child described in clause (B) of such paragraph (ii), whichever first occurs.

"(7) The entitlement of a child of a deceased employee to an annuity under paragraph (iii) of section 2(d)(1) shall end on (A) the last day of the month preceding the month in which he or she dies, (B) the last day of the month preceding the month in which he or she marries, (C) the last day of the month preceding the month in which he or she attains age 18 and does not meet the qualifications set forth in clause (B) or (C) of such paragraph (iii), (D) the last day of the month preceding (i) the month during no part of which he or she is a full-time student or (ii) the month in which he or she attains age 22, and does not meet the qualifications set forth in clause (A) or (C) of such paragraph (iii), or (E) the last day of the second month following the month in which he or she ceases to be disabled for purposes of such paragraph (iii) and does not meet the qualifications set forth in clause (A) or (B) of such paragraph (iii), whichever first occurs. A child whose entitlement to an annuity under paragraph (iii) of section 2(d)(1) terminated by reason of clause (E) of this subdivision because he or she ceased to be disabled and who again becomes disabled as provided in clause (C) of such paragraph (iii), may become reentitled to an annuity on the basis of such disability upon his application for such reentitlement. A child whose entitlement to an annuity under paragraph (iii) of section 2(d)(1) terminated with the month preceding the month in which he or she attained age 18, or with a subsequent month, may again become entitled to such an annuity (providing no event to disqualify the child has occurred) beginning with the first month thereafter in which he or she meets the qualifications set forth in clause (B) or (C) of such paragraph (iii), if he or she has filed an application for such reentitlement.

"(8) The entitlement of a parent of a deceased employee to an annuity under paragraph (iv) of section 2(d)(1) shall end on the last day of the month preceding the month in which (A) such parent dies or (B) such parent remarries after the employee's death, whichever first occurs.

"LUMP SUM PAYMENTS

"SEC. 6. (a)(1) Annuities under section 2(a)(1) and supplemental annuities under section 2(b) which will have become due an individual but will not have been paid at the time of such individual's death shall be payable to the person, if any, who is determined by the Board to be such individual's widow or widower and to have been living with such individual at the time of such individual's death and who will not have died before receiving payments of such annuities. If there be no such widow or widower, such annuities shall be payable to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such individual, and to the extent that he or they will not have been reimbursed under subsection (b) of this section for having paid such expenses. If there be no person or persons so entitled, or if the total of such annuities exceeds the amount payable under this subdivision to such person or persons, such total, or the remainder thereof, as the case may be, shall be paid to the children, grandchildren, parents, or brothers and sisters of the deceased individual in the same manner as if such annuities and benefits were a lump sum payable under subsection (c)(1) of this section.

"(2) Annuities under section 2(d) which will have become due a survivor of an employee but will not have been paid at the time of such survivor's death shall be payable to the person, if any, who is determined by the Board to be such employee's widow or widower and to have been living with such employee at the time of the employee's death and who will not have died before receiving payment of such annuities. If there be no such widow or widower, such annuities and benefits shall be payable to the children, grandchildren, parents, or brothers and sisters of the deceased employee in the same manner as if such unpaid annuities and benefits were a lump sum payable under subsection (c)(1) of this section.

"(3) Annuities under section 2(c) which will have become due a spouse of an individual but which will not have been paid at the time of such spouse's death shall be payable to the individual from whose employment such annuities derived and who will not have died before receiving payment of such annuities. If there be no such individual, such annuities shall be paid as provided in the last two sentences of subdivision (1) of this subsection as if such annuities were annuities due to an individual but unpaid at the time of such individual's death.

"(4) Applications for accrued and unpaid annuities provided for in the preceding subdivisions of this subsection shall be filed prior to the expiration of two years after the death of the person to whom such annuities were originally due.

"(5) If there is no person to whom all or any part of the payments described in sub-

division (1), (2), or (3) can be made, such payment or part thereof shall escheat to the credit of the Railroad Retirement Account.

"(6) For the purposes of this subsection and subsection (c) of this section, a widow or widower of an individual shall be deemed to have been living with the individual at the time of the individual's death if the applicable conditions set forth in section 216(h) (2) or (3) of the Social Security Act, as in effect before 1957, are fulfilled.

"(7) In determining for purposes of this subsection and subsections (c) and (d) of this section whether an applicant is the widow, widower, child, or parent of an employee as claimed, the rules set forth in section 216(h) of the Social Security Act shall be applied. In determining for purposes of this subsection and subsections (c) and (d) of this section whether an applicant is the grandchild, brother, or sister of an employee as claimed, the Board shall apply such law as would be applied in determining the devolution of intestate personal property by the courts of the State in which such employee was domiciled at the time of his death, or if such employee was not so domiciled in any State, by the courts of the District of Columbia. Applicants who according to such law would have the same status relative to taking personal property as a grandchild, brother, or sister shall be deemed such.

"(b)(1) Upon the death of an individual who will have completed ten years of service prior to January 1, 1975, and will have had a current connection with the railroad industry at the time of his death, a lump-sum payment shall be made in accordance with the provisions of section 5(f)(1) of the Railroad Retirement Act of 1937 as in effect on December 31, 1974, in an amount, if any, which would have been payable under such section 5(f)(1) on the basis of (A) the individual's compensation after December 31, 1936, and prior to January 1, 1975, and (B) the individual's wages (as defined in section 209 of the Social Security Act) prior to January 1, 1975. Any lump sum payable under this subdivision shall be in an amount computed as if the individual had died on January 1, 1975.

"(2) Upon the death of an individual who will not have completed ten years of service prior to January 1, 1975, but who (i) will have completed ten years service at the time of his death, (ii) will have had a current connection with the railroad industry at the time of his death, and (iii) will have died leaving no widow, widower, child, or parent who would on proper application therefor be entitled to receive an annuity under section 2(d) of this Act for the month in which such death occurred, a lump-sum death payment shall be made in accordance with the provisions of section 202(i) of the Social Security Act in an amount equal to the amount which would have been payable under such section 202(i) if such individual's service as an employee after December 31, 1936, were included in the term employment as defined in that Act. If a lump sum would be payable to a widow or widower under this subdivision except for the fact that a survivor will have been entitled to receive an annuity for the month in which the individual will have died, but within one year after the individual's death there will not have accrued to survivors of the individual, by reason of his death, annuities which, after all deductions pursuant to sections 2(g) and 2(h) of this Act, are equal to such lump sum, a payment equal to the amount by which such lump sum exceeds such annuities so accrued after such deductions shall then nevertheless be made under this subdivision to the widow or widower to whom a lump sum would have been payable under this subdivision except for the fact that a monthly benefit under section 2(d) of this Act was payable for the month in which the individual died, if such widow or widower will not have died before receiving payment of such lump sum.

"(c)(1) Whenever it shall appear, with respect to the death of an employee, that no benefits, or no further benefits (other than benefits payable to a widow, widower, or parent under either this Act or the Social Security Act upon attaining the age of eligibility therefor at a future date) will be payable under this Act or under the Social Security Act, a lump sum in an amount computed under subdivision (2) of this subsection shall be paid to such person or persons as the deceased employee may have designated by a writing filed with the Board prior to his or her death, or if there be no designation, to the following person (or, if more than one, in equal shares to the persons) whose relationship to the deceased employee will have been determined by the Board and who will not have died before receiving payment of the lump sum provided for in this subdivision—

"(i) the widow or widower of the deceased employee who was living with such employee at the time of such employee's death; or

"(ii) if there be on such widow or widower, to any child or children of such employee; or

"(iii) if there be no such widow, widower, or child, to any grandchild or grandchildren of such employee; or

"(iv) if there be no such widow, widower, child, or grandchild, to any parent or parents of such employee; or

"(v) if there be no such widow, widower, child, grandchild, or parent, to any brother or sister of such employee; or

"(vi) if there be no such widow, widower, child, grandchild, parent, brother, or sister, to the estate of such employee:

Provided however, That if the employee is survived by a widow, widower, or parent who may upon attaining the age of eligibility be entitled to benefits under this Act or under the Social Security Act, such lump sum shall not be paid unless such widow, widower, or parent makes and files with the Board an irrevocable election, in such form as the Board may prescribe, to have such lump sum be paid in lieu of all benefits to which such widow, widower, or parent might otherwise become entitled under this Act on the basis of the deceased employee's compensation and years of service or under the Social Security Act on the basis of the deceased employee's wages from (A) employment with an employer as defined in section 1(a) of this Act or (B) service as an employee representative as defined in section 1(c) of this Act. Any election made and filed by a widow, widower, or parent pursuant to this subdivision shall be legally effective according to its terms.

"(2) The lump sum provided under subdivision (1) of this subsection shall be in an amount equal to (A) the sum of 4 per centum of the deceased employee's compensation paid after December 31, 1936, and prior to January 1, 1947, plus 7 per centum of such employee's compensation paid after December 31, 1946, and before January 1, 1959, plus 7½ per centum of such employee's compensation paid after December 31, 1958, and before January 1, 1962, plus 8 per centum of such employee's compensation paid after December 31, 1961, and before January 1, 1966, plus an amount equal to the total of all employee taxes payable by such employee after December 31, 1965, and before January 1, 1975, under the provisions of section 3201 of the Railroad Retirement Tax Act (excluding, for this purpose, the amount of the employee tax attributable to that portion of the tax rate derived from section 3101(b) of the Internal Revenue Code of 1954), plus one-half of 1 per centum of the compensation on which such taxes were payable, deeming the compensation attributable to creditable military service after June 30, 1963, and before January 1, 1975, to be taxable compensation, and one-half of the taxes payable by an employee representative under section 3211 of the Railroad Retirement Tax Act to be employee taxes under section 3201 of such Act, minus (B) the sum of all benefits paid to such employee, and to others deriving from such employee, during his or her life, or to others by reason of his or her death, under this Act, the Railroad Retirement Act of 1937, or the Social Security Act (excluding, for this purpose, payments to providers of services under section 7(d) of this Act or section 21 of the Railroad Retirement Act of 1937, any amounts by which that portion of the annuities provided the employee under section 3(a) of this Act or his spouse under section 4(a) of this Act were increased by reason of the employee's wages and self-employment income derived from employment and self-employment under the Social Security Act, that portion of the annuities provided the employee under section 3(h) of this Act or his spouse under section 4(e) of this Act, and so much of the benefits paid to the employee and to others deriving from him or her under the Social Security Act during his or her lifetime as would have been payable under that Act if such employee had not rendered service as an employee as defined in section 1(b) of this Act). In computing compensation for purposes of this subdivision there shall be excluded compensation in excess of $300 for any month before July 1, 1954; compensation in excess of $350 for any month after June 30, 1954, and before June 1, 1959; compensation in excess of $400 for any month after May 31, 1959, and before November 1, 1963; compensation in excess of $450 for any month after October 31, 1963, and before October 1, 1965; and compensation in excess of (i) $450 or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965.

"(d)(1) Every individual who will have completed ten years of service at the time of his retirement or death, but does not meet the qualifications for an annuity amount determined under the provisions of section 3(h)(1) or (h)(2) of this Act, shall, at the time his annuity under section 2(a)(1) begins to accrue, be entitled to a lump sum in the amount provided under subdivision (2) of this subsection. If an individual otherwise eligible for a lump sum under this section dies before he becomes entitled to an annuity under section 2(a)(1) of this Act, or before he receives payment of such lump sum, such lump sum shall be payable to the person, if any, who is determined by the Board to be such individual's widow or widower and who will not have died before receiving payment of such lump sum. If there be no such widow or widower, such lump sum shall be payable to the children, grandchildren, parents, brothers and sisters, or the estate of the deceased individual in the same manner as if such lump sum were a lump sum payable under subsection (c)(1) of this section.

"(2) The lump sum provided under subdivision (1) of this subsection shall be in an amount equal to the sum of (A) 1.5 per centum of so much of such individual's combined earnings for any calendar year after 1950 and before 1954 as is in excess of $3600, plus (B) 2 per centum of so much of such individual's combined earnings for any calendar year after 1953 and before 1957 as is in excess of $4200, plus (C) 2.25 per centum of so much of such individual's combined earnings for any calendar year after 1956 and before 1959 as is in excess of $4200, plus (D) 2.5 per centum of so much of such individual's combined earnings for the calendar year 1959 as is in excess of $4800, plus (E) 3 per centum of so much of such individual's combined earnings for each of the calendar years 1960 and 1961 as is in excess of $4800, plus (F) 3.125 per centum of so much of such individual's combined earnings for the calendar year 1962 as is in excess of $4800, plus (G) 3.625 per centum of so much of such individual's combined earnings for any cal-

endar year after 1962 and before 1966 as is in excess of $5400, plus (H) 4.2 per centum of so much of such individual's combined earnings for the calendar year 1966 as is in excess of $6600, plus (I) 4.4 per centum of so much of such individual's combined earnings for the calendar year 1967 as is in excess of $6600, plus (J) 3.8 per centum of so much of such individual's combined earnings for the calendar year 1968 as is in excess of $7800, plus (K) 4.2 per centum of so much of such individual's combined earnings for each of the calendar years 1969 and 1970 as is in excess of $7800, plus (L) 4.6 per centum of so much of such individual's combined earnings for the calendar year 1971 as is in excess of $7800, plus (M) 4.6 per centum of so much of such individual's combined earnings for the calendar year 1972 as is in excess of $9000, plus (N) 4.85 per centum of so much of such individual's combined earnings for the calendar year 1973 as is in excess of $10,800, plus (O) 4.95 per centum of so much of such individual's combined earnings for the calendar year 1974 as is in excess of $13,200. For purposes of this subsection, the term 'combined earnings' shall include 'compensation' as defined in section 1(h) of the Railroad Retirement Act of 1937, 'wages' as defined in section 209 of the Social Security Act, and 'self-employment' income as defined in section 211(b) of the Social Security Act.

"POWERS AND DUTIES OF THE BOARD

"SEC. 7. (a) This Act shall be administered by the Railroad Retirement Board established by the Railroad Retirement Act of 1937 as an independent agency in the executive branch of the Government and composed of three members appointed by the President, by and with the advice and consent of the Senate. Each member shall hold office for a term of five years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of the term and any member holding office pursuant to appointment under the Railroad Retirement Act of 1937 when this Act becomes effective shall hold office until the term for which he was appointed under such Railroad Retirement Act of 1937 expires. One member shall be appointed from recommendations made by representatives of the employees and one member shall be appointed from recommendations made by representatives of employers as defined in paragraph (1) of section 1(a)(1) of this Act, in both cases as the President shall direct, so as to provide representation on the Board satisfactory to the largest number, respectively, of employees and employers concerned. One member, who shall be the chairman of the Board, shall be appointed without recommendation by either employers or employees and shall not be in the employment of or be pecuniarily or otherwise interested in any employer or organization of employees. Vacancies in the Board shall not impair the powers or affect the duties of the Board or of the remaining members of the Board, of whom a majority of those in office shall constitute a quorum for the transaction of business. Upon the expiration of his term of office a member shall continue to serve until his successor is appointed and shall have qualified.

"(b)(1) The Board shall have and exercise all the duties and powers necessary to administer this Act. The Board shall take such steps as may be necessary to enforce such Act and make awards and certify payments. Decisions by the Board upon issues of law and fact relating to annuities or death benefits shall not be subject to review by any other administrative or accounting officer, agent, or employee of the United States.

"(2) In addition to administering this Act, the Board shall have all the duties and powers necessary to determine entitlement to (in accordance with the rules and regulations established by the Secretary of Health, Education, and Welfare), make awards of, and certify payments of, any monthly insurance benefits and any lump-sum death benefits payable under section 202 or 203 of the Social Security Act to (A) an individual who will have completed ten years of service creditable under this Act, (B) the wife or husband of such an individual, (C) any survivor of such an individual if such survivor is entitled, or could upon application become entitled, to an annuity under section 2 of this Act, and (D) any other person entitled to benefits under section 202 of the Social Security Act on the basis of the wages and self-employment income of such an individual, except a survivor of such an individual if such individual did not have a current connection with the railroad industry at the time of his death. Decisions by the Board upon issues of law and fact relating to such monthly insurance benefits or lump-sum death benefits shall not be subject to review by any other administrative or accounting officer, agent, or employee of the United States.

"(3) If the Board finds that an applicant is entitled to an annuity or death benefit under the provisions of this Act or, pursuant to the provisions of subdivision (2), to a benefit under the Social Security Act then the Board shall make an award fixing the amount of the annuity or benefit, as the case may be, and shall certify the payment thereof as hereinafter provided; otherwise the application shall be denied. For purposes of this section, the Board shall have an exercise such of the powers, duties, and remedies provided in subsection (a), (b), (d), and (n) of section 12 of the Railroad Unemployment Insurance Act as are not inconsistent with the express provisions of this Act. The Board is authorized to delegate to any member, officer, or employee of the Board any of the powers conferred upon the Board by this Act, excluding only the power to prescribe rules and regulations, including the power to make decisions on applications for annuities or other benefits: *Provided, however,* That any person aggrieved by a decision on his application for an annuity or other benefit shall have the right to appeal to the Board. Notice of a decision of the Board, or of an employee, thereof, shall be communicated to the applicant in writing within thirty days after such decision shall have been made.

"(4) The Board shall from time to time certify to the Secretary of the Treasury the name and address of each individual entitled to receive a payment, the amount of such payment, and the time at which it should be made, and the Secretary of the Treasury through the Division of Disbursements of the Treasury Department, and prior to audit by the General Accounting Office, shall make payment in accordance with the certification by the Board.

"(5) The Board shall establish and promulgate rules and regulations to provide for the adjustment of all controversial matters arising in the administration of this Act. All rules, regulations, or decisions of the Board shall require the approval of at least two members, and they shall be entered upon the records of the Board, which shall be a public record.

"(6) The Board shall gather, keep, compile, and publish in convenient form such records and data as may be necessary to assure proper administration of this Act, including subdivision (2) of this subsection. The Board shall have power to require all employers and employees and any officer, board, commission, or other agency of the United States to furnish such information and records as shall be necessary for the administration of this Act, including subdivision (2) of this subsection. The several district courts of the United States and the District Court of the United States for the District of Columbia shall have jurisdiction upon suit by the Board to compel obedience to any order of the Board issued pursuant to this section. The orders, writs, and processes of the District Court of the United States for the District of Columbia in such suits may run and be served anywhere in the United States. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. The Board shall make an annual report to the President of the United States to be submitted to Congress.

"(7) The Secretary of Health, Education, and Welfare shall furnish the Board certified reports of wages, self-employment income, and periods of service and of other records in his possession, or which he may secure, pertinent to the administration of this Act. The Board shall furnish the Secretary of Health, Education, and Welfare certified reports of records of compensation and periods of service reported to it pursuant to section 9 of this Act, of determinations under subdivision (2) of this subsection and section 2 of this Act, and of other records in its possession, or which it may secure, pertinent to subsection (c) of this section or to the administration of the Social Security Act as affected by section 18 of this Act. Such certified reports shall be conclusive in adjudication as to the matters covered therein: *Provided, however,* That if the Board or the Secretary of Health, Education, and Welfare receives evidence inconsistent with a certified report and the application involved is still in course of adjudication or otherwise open for such evidence, such recertification of such report shall be made as, in the judgment of the Board or the Secretary of Health, Education, and Welfare, whichever made the original certification, the evidence warrants. Such recertification and any subsequent recertification shall be treated in the same manner and be subject to the same conditions as an original certification.

"(8) Any department or agency of the United States maintaining records of military service, at the request of the Board, shall certify to the Board, with respect to any individual, the number of months of military service which such department or agency finds the individual to have had during any period or periods with respect to which the Board's request is made, the date and manner of entry into such military service, and the conditions under which such service was continued. Any department or agency of the United States which is authorized to make awards of pensions, disability compensation, or any other gratuitous benefits or allowances payable, on a periodic basis or otherwise, under any other Act of Congress on the basis of military service, at the request of the Board, shall certify to the Board, with respect ot any individual, the calendar months for all or part of which any such pension, compensation, benefit, or allowance is payable to, or with respect to, the individual, the amounts of any such pension, compensation, benefit, or allowance, and the military service on which such pension, compensation, benefit, or allowance is based. Any certification made pursuant to the provisions of this subdivision shall be conclusive on the Board: *Provided, however,* That if evidence inconsistent with any such certification is submitted, and the claim is in the course of adjudication or is otherwise open for such evidence, the Board shall refer such evidence to the department or agency which made the original certification and such department or agency shall make such recertification as in its judgment the evidence warrants. Such recertification, and any subsequent recerti-

fication, shall be conclusive, made in the same manner, and subject to the same conditions as an original certification.

"(9) The Board shall maintain such offices, provide such equipment, furnishings, supplies, services, and facilities, and employ such individuals and provide for their compensation and expenses as may be necessary for the proper discharge of its functions. All positions to which such individuals are appointed, except one administrative assistant to each member of the Board, shall be in and under the competitive civil service and shall not be removed or excepted therefrom. In the employment of such individuals under the Civil service laws and rules the Board shall give preference over all others to individuals who have had experience in railroad service, if, in the judgment of the Board, they possess the qualifications necessary for the proper discharge of the duties of the positions to which they are to be appointed. For purposes of its administration of this Act or the Railroad Unemployment Insurance Act, or both, the Board may place, without regard to the numerical limitations contained in section 505 of the Classification Act of 1949, as amended, four positions in grade GS–16 of the General Schedule established by that Act, four positions in grade GS–17 of such schedule, and one position in grade GS–18 of such schedule.

"(c)(1) Benefit payments determined by the Board to be payable under this Act or, pursuant to subdivision (2) of section 7(b), under section 202 or 223 of the Social Security Act shall be made from the Railroad Retirement Account, except that payments of supplemental annuities under section 2(b) of this Act shall be made from the Railroad Retirement Supplemental Account.

"(2) Prior to the close of the fiscal year ending June 30, 1975, and each fiscal year thereafter, the Board and the Secretary of Health, Education, and Welfare shall determine the amounts, if any, which if added to or subtracted from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund would, as of the end of each month of the following fiscal year, place each such Trust Fund in the same position in which it would have been if (A) service as an employee after December 31, 1936, had been included in the term 'employment' as defined in the Social Security Act and in the Federal Insurance Contributions Act and (B) this Act had not been enacted. Such determination with respect to each such Trust Fund shall be made, on an estimated basis subject to later adjustment (on the basis of actual experience), by the close of the fiscal year ending prior to the fiscal year to which it relates. If for any month any amount is to be added to any such Trust Fund, the Board shall, within ten days after the end of the month, certify such amount to the Secretary of the Treasury for transfer from the Railroad Retirement Account to such Trust Fund. If for any month any amount is to be subtracted from any such Trust Fund, the Secretary of Health, Education, and Welfare shall, within ten days after the end of the month, certify such amount to the Secretary of the Treasury for transfer from such Trust Fund to the Railroad Retirement Account. Any amount so certified shall further include interest (at the rate determined in subdivision (3) for the month under consideration) payable from the close of such month until the date of certification. The Secretary of the Treasury is authorized and directed to transfer to the Railroad Retirement Account from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, or the Federal Hospital Insurance Trust Fund or to any such Trust Fund from the Railroad Retirement Account, as the case may be, such amounts as, from time to time, may be determined by the Board and the Secretary of Health, Education, and Welfare pursuant to the provisions of this subdivision and certified by the Board or the Secretary of Health, Education, and Welfare for transfer from any such Trust Fund or from the Railroad Retirement Account.

"(3) For purposes of subdivision (2) for any month, the rate of interest to be used shall be equal to the average rate of interest, computed as of the end of the month preceding the close of such month, borne by all 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 shall be the multiple of one-eighth of 1 per centum next lower than such average rate.

"(4) For purposes of this subsection, the amounts of the annuities provided any person under the provisions of section 3(h), 4(e), or 4(h) of this Act or under the provisions of section 204(a)(3), 204(a)(4), 206(a)(3), or 207(3) of title II of this Act shall be deemed to be monthly insurance benefits which would have been payable to such person under the Social Security Act if (A) service as an employee after December 31, 1936, had been included in the term "employment" as defined in that Act and in the Federal Insurance Contributions Act and (B) this Act had not been enacted. The provisions of this subdivision shall be effective notwithstanding clause (B) of subdivision (2) of this subsection.

"(d)(1) The Board shall, for purposes of this subsection, have the same authority to determine the rights of individuals described in subdivision (2) to have payments made on their behalf for hospital insurance benefits consisting of inpatient hospital services, post-hospital extended care services, post-hospital home health services, and outpatient hospital diagnostic services (all hereinafter referred to as "services") under section 226, and parts A and C of title XVIII, of the Social Security Act as the Secretary of Health, Education, and Welfare has under such section and such parts with respect to individuals to whom such sections and such parts apply. For purposes of section 8, a determination with respect to the rights of an individual under this subsection shall, except in the case of a provider of services, be considered to be a decision with respect to an annuity.

"(2) Except as otherwise provided in this subsection, every person who—

"(i) has attained age 65 and (A) is entitled to an annuity under this Act or (B) would be entitled to such an annuity had he ceased compensated service and, in the case of a spouse, had such spouse's husband or wife ceased compensated service; or

"(ii) has not attained age 65 and (A) has been entitled to an annuity under section 2 of this Act, or under the Railroad Retirement Act of 1937 and section 2 of this Act, or could have been includible in the computation of an annuity under section 3(f)(3) of this Act, for not less than 24 consecutive months and (B) could have been entitled for 24 consecutive calendar months, and could currently be entitled, to monthly insurance benefits under section 223 of the Social Security Act or under section 202 of that Act on the basis of disability of service as an employee after December 31, 1936, had been included in the term 'employment' as defined in that Act and if an application for disability benefits had been filed, shall be certified to the Secretary of Health, Education, and Welfare as a qualified railroad retirement beneficiary under section 226 of the Social Security Act.

"(3) If an individual entitled to an annuity under paragraph (iv) or (v) of section 2(a)(1) of this Act would have been insured for disability insurance benefits as determined under section 223(c)(1) of the Social Security Act at the time such annuity began, he shall be deemed, solely for purposes of paragraph (ii) of subdivision (2), to be entitled to a disability insurance benefit under section 223 of the Social Security Act for each month, and beginning with the first month, in which he would meet the requirements for entitlement to such a benefit, other than the requirement of being insured for disability insurance benefits, if service as an employee after December 31, 1936, has been included in the term 'employment' as defined in the Social Security Act and if an application for disability benefits had been filed.

"(4) The rights of individuals described in subdivision (2) of this subsection to have payment made on their behalf for the services referred to in subdivision (1) but provided in Canada shall be the same as those of individuals to whom section 226 and part A of title XVIII of the Social Security Act apply, and this subdivision shall be administered by the Board as if the provisions of section 226 and part A of title XVIII of the Social Security Act were applicable, as if references to the Secretary of Health, Education, and Welfare were to the Board, as if references to the Federal Hospital Insurance Trust Fund were to the railroad retirement account, as if references to the United States or a State included Canada or a subdivision thereof, and as if the provisions of sections 1862(a)(4), 1863, 1864, 1867, 1868, 1869, 1874(b), and 1875 were not included in such title. The payments for services herein provided for in Canada shall be made from the railroad retirement account (in accordance with, and subject to, the conditions applicable under section 7(b), in making payment of other benefits) to the hospital, extended care facility, or home health agency providing such services in Canada to individuals to whom subdivision (2) of this subsection applies, but only to the extent that the amount of payments for services otherwise hereunder provided for an individual exceeds the amount payable for like services provided pursuant to the law in effect in the place in Canada where such services are furnished. For the purposes of section 10 of this Act, any overpayment under this subdivision shall be treated as if it were an overpayment of an annuity.

"(5) The Board and the Secretary of Health, Education, and Welfare shall furnish each other with such information, records, and documents as may be considered necessary to the administration of this subsection or section 226, and part A of title XVIII, of the Social Security Act.

"(e) The Board is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the railroad retirement account, to the railroad retirement supplemental account, or to the railroad unemployment insurance account, or to the Board, or any member, officer, or employee thereof, for the benefit of such accounts or any activity financed through such accounts. Any such gift accepted pursuant to the authority granted in this subsection shall be deposited in the specific account designated by the donor or, if the donor has made no such specific designation, in the railroad retirement account.

"COURT JURISDICTION

"SEC. 8. Decisions of the Board determining the rights or liabilities of any person under this Act or, pursuant to the authority granted by subdivision (2) of section 7(b), under the Social Security Act shall be subject to judicial review in the same manner, subject to the same limitations, and all provisions of law shall apply in the same manner

as though the decision were a determination of corresponding rights or liabilities under the Railroad Unemployment Insurance Act except that the time within which proceedings for the review of a decision with respect to an annuity, monthly insurance benefit, supplemental annuity, or lump-sum benefit may be commenced shall be one year after the decision will have been entered upon the records of the Board and communicated to the claimant.

"RETURNS OF COMPENSATION

"SEC. 9. Employers shall file with the Board, in such manner and form and at such times as the Board by rules and regulations may prescribe, returns of compensation of employees, and, if the Board shall so require, shall furnish employees with statements of their compensation as reported to the Board. The Board's record of the compensation so returned shall be conclusive as to the amount of compensation paid to an employee during each period covered by the return, and the fact that the Board's records show that no return was made of the compensation claimed to have been paid to an employee during a particular period shall be taken as conclusive that no compensation was paid to such employee during that period, unless the error in the amount of compensation returned in the one case, or the failure to make return of the compensation in the other case, is called to the attention of the Board within four years after the last day on which return of the compensation was required to be made.

"ERRONEOUS PAYMENTS

"SEC. 10. (a) If the Board finds that at any time more than the correct amount of annuities or other benefits has been paid to any individual under this Act or, in the case of benefits determined to be payable pursuant to the authority granted by section 7(b)(2) of this Act, under the Social Security Act or payment has been made to an individual not entitled thereto, recovery by adjustment in subsequent payments to which such individual, or any other individual on the basis of the same compensation, wages, or self-employment income, is entitled under this Act, the Social Security Act, or the Railroad Unemployment Insurance Act may, except as otherwise provided in this section, be made under regulations prescribed by the Board. If the individual to whom more than the correct amount has been paid dies before recovery is completed, recovery may be made by set-off or adjustments, under regulations prescribed by the Board, in subsequent payments due, under this Act, the Social Security Act, or the Railroad Unemployment Insurance Act, to the estate of such individual or to any person on the basis of the compensation, wages, or self-employment income of such individual.

"(b) Adjustments under this section may be made either by deductions from subsequent payments or, with respect to payments which are to be made during a lifetime or lifetimes, by subtracting the total amount of annuities or other benefits paid in excess of the proper amount from the actuarial value, as determined by the Board, of such payments to be made during a lifetime or lifetimes and recertifying such payments on the basis of the reduced actuarial value. In the latter case, recovery shall be deemed to have been completed upon such recertification.

"(c) There shall be no recovery in any case in which more than the correct amount of annuities or other benefits has been paid under this Act or, in the case of benefits determined to be payable pursuant to the authority granted by section 7(b)(2) of this Act, under the Social Security Act to an individual or payment has been made to an individual not entitled thereto who, in the judgment of the Board, is without fault when, in the judgment of the Board, recovery would be contrary to the purpose of the Acts or would be against equity or good conscience.

"(d) No certifying or disbursing officer shall be held liable for any amount certified or paid by him in good faith to any person where the recovery of such amount is waived under subsection (c) of this section or has been begun but cannot be completed under subsection (a) of this section.

"WAIVER OF ANNUITIES

"SEC. 11. Any person awarded an annuity under this Act may decline to accept all or any part of such annuity by a waiver signed and filed with the Board. Such a waiver may be revoked in writing at any time, but no payment of the annuity waived shall be made covering the period during which such waiver was in effect. Such a waiver will have no effect on entitlement to, or the amount of, any other annuity or benefit.

"INCOMPETENCE

"SEC. 12. (a) Every individual receiving or claiming benefits, or to whom any right or privilege is extended, under this Act or any other Act of Congress now or hereafter administered, in whole or in part, by the Board shall be conclusively presumed to have been competent until the date on which the Board receives written notice, in a form and manner acceptable to the Board, that he is an incompetent, or a minor, for whom a guardian or other person legally vested with the care of his person or estate has been appointed: *Provided, however*, That, regardless of the legal competency or incompetency of an individual entitled to a benefit administered by the Board, the Board may, if it finds the interest of such individual to be served thereby, recognize actions by, and conduct transactions with, and make payments to, such individual, or recognize actions by, and conduct transactions with, and make payments to, a relative or some other person for such individual's use and benefit.

"(b) Every guardian or other person legally vested with the care of the person or estate of an incompetent or minor who is receiving or claiming benefits, or to whom any right or privilege is extended, under this Act or any other Act of Congress now or hereafter administered, in whole or in part, by the Board shall have power everywhere, in the manner and to the extent prescribed by the Board, but subject to the provisions of the preceding subsection, to take any action necessary or appropriate to perfect any right or exercise any privilege of the incompetent or minor and to conduct all transactions on his behalf under this or any other Act of Congress now or hereafter administered, in whole or in part, by the Board. Any payment made pursuant to the provisions of this section shall be a complete settlement and satisfaction of any claim, right, or interest in and to such payment.

"PENALTIES

"SEC. 13. (a) Any person who shall knowingly fail or refuse to make any report or furnish any information required by the Board in the administration of this Act, including the provisions of section 7(b)(2) thereof, or who shall knowingly make or cause to be made any false or fraudulent statement or report when a statement or report is required to be made for the purpose of this Act, or who shall knowingly make or aid in making any false or fraudulent statement or claim for the purpose of causing an award or payment to be made, shall be punished by a fine of not more than $10,000 or by imprisonment not exceeding one year, or both.

"(b) All fines and penalties imposed by a court pursuant to this Act shall be paid to the court and be remitted from time to time by order of the judge to the Treasury of the United States to be credited to the Railroad Retirement Account.

"EXEMPTION FROM LEGAL PROCESS

"SEC. 14. Notwithstanding any other law of the United States, or of any State, Territory, or the District of Columbia, no annuity or supplemental annuity shall be assignable or be subject to any tax or to garnishment, attachment, or other legal process under any circumstances whatsoever, nor shall the payment thereof be anticipated: *Provided, however*, That the provisions of this section shall not operate to exclude the amount of any supplemental annuity paid to an individual under section 2(b) of this Act from income taxable pursuant to the Federal income tax provisions of the Internal Revenue Code of 1954.

"RAILROAD RETIREMENT ACCOUNT

"SEC. 15. (a) The Railroad Retirement Account established by section 15(a) of the Railroad Retirement Act of 1937 shall continue to be maintained in the Treasury of the United States. There is hereby appropriated to such Account for each fiscal year, beginning with the fiscal year ending June 30, 1975, to provide for the payment of benefits to be made from such Account in accordance with the provisions of section 7(c)(1) of this Act, and to provide for expenses necessary for the Board in the administration of all provisions of this Act, an amount equal to amounts covered into the Treasury (minus refunds) during each fiscal year under the Railroad Retirement Tax Act, except those portions of the amounts covered into the Treasury under sections 3211(b), 3221(c), and 3221(d) of such Tax Act as are necessary to provide sufficient funds to meet the obligation to pay supplemental annuities at the level provided under section 3(e) of this Act and, with respect to those entitled to supplemental annuities under section 205(a) of title II of this Act, at the level provided under section 205(a). The Board is directed to determine what portion of the taxes collected under sections 3211(b), 3221(c), and 3221(d) of the Railroad Retirement Tax Act is to be credited to the Railroad Retirement Account pursuant to the preceding provisions of this subsection and what portion of such taxes is to be credited to the Railroad Retirement Supplemental Account pursuant to the provisions of subsection (c) of this section. The Board shall make such a determination with respect to each calendar quarter commencing with the quarter beginning January 1, 1975, shall make each such determination not later than fifteen days before each calendar quarter, and shall, as soon as practicable after each such determination, advise the Secretary of the Treasury of the determination made. The Secretary of the Treasury shall credit the amounts covered into the Treasury under section 3211(b), 3221(c), and 3221(d) of the Railroad Retirement Tax Act to the Railroad Retirement Account and the Railroad Retirement Supplemental Account in such proportions as is determined by the Board pursuant to the provisions of this subsection.

"(b) In addition to the amount authorized to be appropriated in subsection (a) of this section, there is hereby authorized to be appropriated to the Railroad Retirement Account for each fiscal year, beginning with the fiscal year ending June 30, 1975, such amount as the Board determines to be necessary to meet (A) the additional costs, resulting from the crediting of military service under this Act, of benefits payable under section 2 of this Act, but only to the extent that such Account is not reimbursed for such costs under section 7(c)(2), (B) the additional administrative expenses resulting from the crediting of military service under this Act, and (C) any loss in interest to such Account resulting from the payment of additional benefits based on military service credited under this Act: *Provided, however*, That, in determining the

amount to be appropriated to the Railroad Retirement Account for any fiscal year pursuant to the provisions of this subsection, there shall not be considered any costs resulting from the crediting of military service under this Act for which appropriations to such Account have already been made pursuant to section 4(1) of the Railroad Retirement Act of 1937. Any determination as to loss in interest to the Railroad Retirement Account pursuant to clause (C) of the first sentence of this subsection shall take into account interest from the date each annuity based, in part, on military service began to accrue or was increased to the date or dates on which the amount appropriated is credited to the Account. The cost resulting from the payment of additional benefits under this Act based on military service determined pursuant to the preceding provisions of this subsection shall be adjusted by applying thereto the ratio of the total net level cost of all benefits under this Act to the portion of such net level cost remaining after the exclusion of administrative expenses and interest charges on the unfunded accrued liability as determined under the last completed actuarial valuation pursuant to the provisions of subsection (f) of this section. At the close of the fiscal year ending June 30, 1975, and each fiscal year thereafter, the Board shall, as promptly as practicable, determine the amount to be appropriated to the Account pursuant to the provisions of this subsection, and shall certify such amount to the Secretary of the Treasury for transfer from the general fund in the Treasury to the Railroad Retirement Account. The Secretary of the Treasury is authorized and directed to transfer to the Railroad Retirement Account from the general fund in the Treasury such amounts as, from time to time, may be determined by the Board pursuant to the provisions of this subsection and certified by the Board for transfer to such Account. In any determination made pursuant to section 7(c)(2) of this Act, no further charges shall be made against the Trust Funds established by title II of the Social Security Act for military service rendered before January 1, 1957, and with respect to which appropriations authorized by clause (2) of the first sentence of section 4(1) of the Railroad Retirement Act of 1937 shall have been credited to the Railroad Retirement Account, but the additional benefit payments incurred by such Trust Funds by reason of such military service shall be taken into account in making any such determination.

"(c) The Railroad Retirement Supplemental Account established by section 15(b) of the Railroad Retirement Act of 1937 shall continue to be maintained in the Treasury of the United States. There is hereby appropriated to such Account for each fiscal year, beginning with the fiscal year ending June 30, 1975, to provide for the payment of supplemental annuities under section 2(b) of this Act, and to provide for the expenses necessary for the Board in the administration of the payment of such supplemental annuities, an amount equal to such portions of the amounts covered into the Treasury (minus refunds) during each fiscal year under sections 3211(b), 3221(c), and 3221(d) of the Railroad Retirement Tax Act as are not appropriated to the Railroad Retirement Account pursuant to the provisions of subsection (a) of this section.

"(d) At the request and direction of the Board, it shall be the duty of the Secretary of the Treasury to invest such portion of the amounts credited to the Railroad Retirement Account and the Railroad Retirement Supplemental Account as, in the judgment of the Board, is not immediately required for the payment of annuities, supplemental annuities, and death benefits. 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 (A) on original issue at the issue price; or (B) 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 Accounts. Such obligations issued for purchase by the Accounts shall have maturities fixed with due regard for the needs of the Accounts, and shall bear interest at a rate equal to the average market yield, computed as of the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing notes of the United States then forming a part of the public debt that are not due or callable until after the expiration of three years from the end of such calendar month, except that where such rate is not a multiple of one-eighth of 1 per centum, the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such rate: *Provided*, That the rate of interest on such obligations shall in no case be less than 3 per centum per annum. The Secretary of the Treasury may purchase other interest-bearing obligations of the United States, or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price only if he determines that such purchases are in the public interest, provided that the investment yield of such obligations shall not be less than the interest rate determined in accordance with the preceding sentence. If it is in the interest of the Accounts so to do, the Secretary of the Treasury may sell and dispose of obligations in the Accounts and he may sell obligations acquired by the Accounts (other than special obligations issued exclusively to the Accounts) at the market price. Special obligations issued exclusively to the Accounts shall, at the request of the Board, be redeemed at par plus accrued interest. All amounts credited to the Accounts shall be available for all purposes of the Accounts.

"(e) The Board is hereby authorized and directed to select two actuaries, one from recommendations made by representatives of employees and the other from recommendations made by representatives of employers as defined in paragraph (i) of section 1(a)(1) of this Act. These actuaries, along with a third who shall be designated by the Secretary of the Treasury, shall be known as the Actuarial Advisory Committee with respect to the Railroad Retirement Account. The actuaries so selected shall hold membership in the American Academy of Actuaries and shall be qualified in the evaluation of pension plans: *Provided, however*, That these requirements shall not apply to any actuary who served as a member of the Committee prior to January 1, 1975. The Committee shall examine the actuarial reports and estimates made by the Board and shall have authority to recommend to the Board such changes in actuarial methods as they may deem necessary. The compensation of the members of the Committee, exclusive of the member designated by the Secretary, shall be fixed by the Board on a per diem basis.

"(f) The Board shall include in its annual report a statement of the status and the operations of the Railroad Retirement and Railroad Retirement Supplemental Accounts. At intervals not longer than three years the Board shall make an estimate of the liabilities created by this Act and shall include such estimate in its annual report.

"PRIVATE PENSIONS

"SEC. 16. Nothing in this Act shall be taken as restricting or discouraging payment by employers to retired employees of pensions or gratuities in addition to the annuities paid to such employees under this Act, nor shall this Act be taken as terminating any trust heretofore created for the payment of such pensions or gratuities. The annuity, except a supplemental annuity under section 2(b), of an individual shall not be reduced on account of any pension or gratuity paid by an employer to such individual.

"FREE TRANSPORTATION

"SEC. 17. It shall not be unlawful for carriers by railroad subject to this Act to furnish free transportation to individuals receiving annuities under this Act in the same manner as such transportation is furnished to employees in their service.

"CREDITING SERVICE UNDER THE SOCIAL SECURITY ACT

"SEC. 18. (1) Except as provided in subdivision (2), the term 'employment' as defined in section 210 of the Social Security Act shall not include service performed by an individual as an employee as defined in section 1(b) of this Act.

"(2) For the purpose of determining (i) monthly insurance benefits under the Social Security Act to an employee who will have completed less than ten years of service and to others deriving from him or her during his or her life and (ii) monthly insurance benefits and lump-sum death benefits under such Act with respect to the death of an employee who (A) will have completed less than ten years of service or (B) will have completed ten or more years of service but will not have had a current connection with the railroad industry at the time of his death, and for the purposes of section 203 of that Act, section 210(a)(9) of the Social Security Act and subdivision (1) of this subsection shall not operate to exclude from 'employment' under the Social Security Act service which would otherwise be included in such 'employment' but for such sections. For such purpose, compensation paid in a calendar year shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the year in which the employee will have been in service as an employee. In the application of the Social Security Act pursuant to this subdivision to service as an employee, all service as defined in section 1(d) of this Act shall be deemed to have been performed within the United States.

"AUTOMATIC BENEFIT ELIGIBILITY REQUIREMENT ADJUSTMENTS

"SEC. 19. (a) If title II of the Social Security Act is amended at any time after December 31, 1974, to reduce the eligibility requirements for old-age insurance benefits, disability insurance benefits, wife's insurance benefits payable to a wife, husband's insurance benefits, child's insurance benefits payable to a child of a deceased individual, widow's insurance benefits payable to a widow, widower's insurance benefits, mother's insurance benefits payable to a widow, or parent's insurance benefits, such reduced eligibility requirements shall be applicable, in accordance with regulations prescribed by the Board, to individuals, spouses, or survivors, as the case may be, under section 2 of this Act to the extent that such reduced eligibility requirements would provide such individuals, spouses, or survivors with entitlement to annuities under such section 2 to which they would not be entitled except for such reduced eligibility requirements: *Provided, however*, That no annuity shall be paid to any person pursuant to the provisions of this subsection if that person does not satisfy an eligibility requirement imposed by section 2 of this Act of a kind not imposed by the Social Security Act on December 31, 1974, or an eligibility requirement imposed by section 2 of this Act of a kind which was imposed by the Social Security Act on December 31, 1974, but which was not reduced by the amendment to that Act: *Provided further*, That the annuity amounts

to which such individuals, spouses, or survivors will be entitled under this Act by reason of the provisions of this subsection shall be only such amounts as are determined under the provisions of section 3(a), 4(a), or 4(f), respectively, of this Act.

"(b) If title II of the Social Security Act is amended at any time after December 31, 1974, to provide monthly insurance benefits under that Act to a class of beneficiaries not entitled to such benefits thereunder prior to January 1, 1975, every person who is a member of such class of beneficiaries shall be entitled to annuities under section 2 of this Act, in accordance with regulations prescribed by the Board, in an amount equal to the amount of the monthly insurance benefit to which such person would have been entitled under the Social Security Act if service as an employee after December 31, 1936, had been included in the term employment as defined in that Act.

"(c) If section 226 or title XVIII of the Social Security Act is amended at any time after December 31, 1974, to reduce the conditions of entitlement to, or to expand the nature of, the benefits payable thereunder, or if health care benefits in addition to, or in lieu of, the benefits payable under such section 226 or such title XVIII are provided by any provision of law which becomes effective at any time after December 31, 1974, such reductions in the conditions of entitlement to benefits, such expanded benefits, or such additional, or substituted, health care benefits shall be available to every employee (as defined in this Act), and those deriving from him, in the same manner, and to the same extent, as if his service as an employee after December 31, 1936, had been included in the term employment as defined in the Social Security Act. The Board shall have the same authority, in accordance with regulations prescribed by it, to determine the rights of employees who will have completed ten years of service, and of those deriving from such employees, to benefits provided by reason of the provisions of this subsection as the Secretary of Health, Education, and Welfare has with respect to individuals insured under the Social Security Act.

"(d) Notwithstanding the provisions of subsections (a), (b), and (c) of this section—

"(1) No annuity or other benefit shall be payable to any person on the basis of the compensation and years of service of an individual by reason of the provisions of subsection (a), (b), or (c) of this section if, and to the extent that, such annuity or other benefit would duplicate a benefit payable to such person on the basis of such compensation and years of service under a provision of the Social Security Act, or any other Act of Congress, which becomes effective after December 31, 1974.

"(2) No annuity shall be payable to a person by reason of subsection (a) or (b) of this section unless the individual upon whose compensation and years of service such annuity would be based will have (A) completed ten years of service and (B), in the case of a survivor, had a current connection with the railroad industry at the time of his death.

"(3) If the Social Security Act is amended after December 31, 1974, to remove any, or all, restriction on the receipt of more than one monthly insurance benefit thereunder, annuity amounts provided a person under section 3(h), 4(e), or 4(h) of this Act, or under section 204(a)(3), 204(a)(4), 206(a)(3), or 207(3) of title II of this Act, shall be reduced (but not below zero) by the amount of any annuity provide such person under this Act by reason of such amendment.

"(4) If and to the extent that an annuity or other benefit payable to a person by reason of the provisions of subsection (a), (b), or (c) of this section duplicates an annuity or other benefit then payable to such person under other provisions of this Act, such annuity or other benefit then payable under other provisions of this Act shall be reduced (but not below zero) by the amount of the annuity or other benefit payable by reason of subsection (a), (b), or (c).

"SEPARABILITY

"SEC. 20. If any provision of this Act, or the application thereof to any person or circumstance, should be held invalid, the remainder of such Act, or the application of such provision to other persons or circumstances, shall not be affected thereby.

"SHORT TITLE

"SEC. 21. This Act may be cited as the 'Railroad Retirement Act of 1974'."

TITLE II—TRANSITIONAL PROVISIONS

SEC. 201. The claims of individuals who, prior to the effective date of title I of this Act, became eligible for annuities, supplemental annuities, or death benefits under section 2, 3(j) or 5 of the Railroad Retirement Act of 1937 shall be adjudicated by the Board under that Act in the same manner and with the same effect as if title I of this Act had not been enacted: *Provided, however,* That no annuity, supplemental annuity, or death benefit shall be awarded under the Railroad Retirement Act of 1937 on the basis of an application therefor filed with the Board on or after the effective date of title I of this Act: *Provided further,* That no annuity under the Railroad Retirement Act of 1935, no annuity or supplemental annuity under the Railroad Retirement Act of 1937, and no pension under section 6 of the Railroad Retirement Act of 1937 shall be payable for any month after December 31, 1974.

SEC. 202. (a) Every individual who would have been entitled to an annuity under the Railroad Retirement Act of 1935 for the month of January 1975, if this Act had not been enacted, shall be entitled to an annuity under paragraph (i) of section 2(a)(1) of the Railroad Retirement Act of 1974, beginning January 1, 1975, in an amount determined under the provisions of section 3(a) of such Act, which amount shall initially be equal to the amount determined under clause (i) of section 3(a)(6) of the Railroad Retirement Act of 1937 for the purpose of computing the last increase in such individual's annuity under the Railroad Retirement Act of 1935 pursuant to the provisions of section 105 of Public Law 93–69.

(b) The amount of the annuity of an individual under subsection (a) of this section shall be increased by an amount, if any, equal to the amount by which (i) his annuity under the Railroad Retirement Act of 1935 plus his monthly insurance benefit under the Social Security Act for the month of December 1974 exceeds (ii) his annuity under subsection (a) of this section for the month of January 1975.

SEC. 203. (a) Every individual who would have been entitled to a pension under section 6 of the Railroad Retirement Act of 1937 for the month of January 1975, if this Act had not been enacted, shall be entitled to an annuity under paragraph (i) of section 2(a)(1) of the Railroad Retirement Act of 1974 in an amount determined under the provisions of section 3(a) of such Act, which amount shall initially be equal to the amount determined under this clause (i) of section 3(a)(6) of the Railroad Retirement Act of 1937 for the purpose of computing the last increase in such individual's pension under section 6 of the Railroad Retirement Act of 1937 pursuant to the provisions of section 105 Public Law 93–69.

(b) The amount of the annuity of an individual under subsection (a) of this section shall be increased by an amount, if any, equal to the amount by which (i) his pension under section 6 of the Railroad Retirement Act of 1937 plus his monthly insurance benefit under the Social Security Act for the month of December 1974, exceeds (ii) his annuity under subsection (a) of this section for the month of January 1975.

(c) The annuities of each individual under the preceding subsections of this section shall be paid on January 1, 1975, and on the first day of each calendar month thereafter during his life.

SEC. 204. (a) Every individual who was entitled to an annuity under section 2(a)1, 2(a)2, 2(a)3, 2(a)4, or 2(a)5 of the Railroad Retirement Act of 1937 for the month of December 1974, or who would have been entitled to such an annuity for such month except for the provisions of section 2(d) of such Act, and who would have been entitled to such an annuity for the month of January 1975, if this Act had not been enacted, shall be entitled to an annuity under paragraph (i), (ii), (iii), (iv), or (v), respectively, of section 2(a)(1) of the Railroad Retirement Act of 1974, beginning January 1, 1975: *Provided, however,* That if an individual who was entitled to an annuity under section 2(a)4 or 2(a)5 of the Railroad Retirement Act of 1974 is age 65 or older, on January 1, 1975, such individual shall be entitled to an annuity under paragraph (i) of section 2(a)(1) of the Railroad Retirement Act of 1974. For purposes of this subsection—

(1) that portion of the individual's annuity as is provided under section 3(a) of the Railroad Retirement Act of 1974 shall be in an amount equal to the amount determined under clause (i) of section 3(a)(6) of the Railroad Retirement Act of 1937 for the purpose of computing the last increase in the amount of such individual's annuity as computed under the provisions of section 3(a), and that part of section 3(e) which preceded the first proviso, of the Railroad Retirement Act of 1937;

(2) that portion of the individual's annuity as is provided under section 3(b)(1) of the Railroad Retirement Act of 1974 shall be in an amount, if any, equal to the amount by which (A) his annuity under section 2(a) of the Railroad Retirement Act of 1937 for the month of December 1974 (before any reduction on account of age and without regard to section 2(d) of such Act) exceeds (B) the amount of his annuity provided under paragraph (1) of this subsection for the month of January 1975: *Provided, however,* That if the annuity of any individual under the Railroad Retirement Act of 1937 for the month of December 1974, was computed under the first proviso of section 3(e) of such Act, the annuity of such individual for purposes of clause (A) of this paragraph shall be the annuity which such individual would have received under such Act for the month of December 1974, if no other person had been included in the computation of the annuity of such individual; and

(3) if the individual was entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act on December 31, 1974, or was fully insured under that Act on that date, the annuity amounts provided under paragraphs (1) and (2) of this subsection shall be increased by an amount determined under the provisions of section 3(h)(1) of the Railroad Retirement Act of 1974: *Provided, however,* That, if the individual was entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act on December 31, 1974, such amount shall not be less nor more than an amount which would cause the total of the annuity amounts provided the individual by the provisions of this subsection for the month of January 1975 to equal the total of the annuity under the Railroad Retirement Act of 1937 (prior to any reduction on account of age and without regard to section 2(d) of that Act) plus the old-age or disability insurance bene-

fit under the Social Security Act (before any reduction on account of age and deductions on account of work) which such individual would have received for such month if this Act had not been enacted.

(4) if the individual was entitled to a wife's, husband's, widow's, or widower's insurance benefit under the Social Security Act on December 31, 1974, or is the wife, husband, widow, or widower of a person who was fully insured under that Act on that date, the annuity amounts provided under paragraphs (1) and (2) of this subsection shall be increased by an amount determined under the provisions of section 3(h)(3) of the Railroad Retirement Act of 1974.

(b) The annuity provided an individual by subsection (a) of this section shall be in lieu of any old-age insurance benefit or disability insurance benefit otherwise payable to such individual under the Social Security Act.

(c) An individual who was awarded an annuity under section 2(a) of the Railroad Retirement Act of 1937, but who could not have become eligible for an annuity under paragraph 2 of such section, shall not be eligible for an annuity under paragraph (ii) of section 2(a)(1) of the Railroad Retirement Act of 1974.

Sec. 205 (a) Every individual who was entitled to a supplemental annuity under section 3(j) of the Railroad Retirement Act of 1937 for the month of December 1974, or who would have been entitled to such a supplemental annuity for such month except for the provisions of section 2(d) of such Act, and who would have been entitled to such a supplemental annuity for the month of January 1975, if this Act had not been enacted, shall be entitled to a supplemental annuity under section 2(b)(1) of the Railroad Retirement Act of 1974, beginning January 1, 1975, in an amount, the provisions of section 3(a) of such Act notwithstanding, equal to the amount of the supplemental annuity to which such individual was entitled under section 3(j) of the Railroad Retirement Act of 1937 for the month of December 1974, or to which such individual would have been entitled for such month under such section 3(j) except for the provisions of section 2(d) of such Act.

(b) An individual who was awarded an annuity under section 2(a) of the Railroad Retirement Act of 1937, but who could not have become eligible for a supplemental annuity under section 3(j) of such Act if this Act had not been enacted, shall not be eligible for a supplemental annuity under section 2(b) of the Railroad Retirement Act of 1974.

Sec. 206. (a) Every spouse who was entitled to an annuity under section 2(e) or 2(h) of the Railroad Retirement Act of 1937 for the month of December 1974, or who would have been entitled to such an annuity for such month except for the provisions of section 2(d) of such Act, and who would have been entitled to such an annuity for the month of January 1975, if this Act had not been enacted, shall be entitled to an annuity under section 2(c) of the Railroad Retirement Act of 1974, beginning January 1, 1975. For purposes of this subsection—

(1) that portion of the spouse's annuity as is provided under section 4(a) of the Railroad Retirement Act of 1974 shall be in an amount equal to the amount determined under clause (i) of section 3(a)(6) of the Railroad Retirement Act of 1937 for the purpose of computing the last increase in the amount of such spouse's annuity as computed under the provisions of section 2 of the Railroad Retirement Act of 1937: *Provided, however,* That the amount of such annuity shall be subject to reduction in accordance with the provisions of section 202(k) or 202(q) of the Social Security Act, other than a reduction on account of age, in the same manner as any wife's insurance benefit or husband's insurance benefit payable under section 202 of the Social Security Act;

(2) that portion of the spouse's annuity as is provided under section 4(b) of the Railroad Retirement Act of 1974 shall be in an amount, if any, equal to 50 per centum of the individual's annuity as computed in accordance with the provisions of paragraph (2) of section 204(a) of this title: *Provided, however,* That if (A) the amounts of the annuity provided a spouse for the month of January 1975 by the provisions of paragraph (1) and the preceding provisions of this paragraph exceed (B) the amount of the annuity to which such spouse was entitled (before any reduction on account of age) for the month of December 1974 under section 2(e) or 2(h) of the Railroad Retirement Act of 1937 (deeming, for this purpose, any increase in the amount of such annuity which, had this Act not been enacted, would have become effective January 1, 1975, by reason of an increase in the maximum amount payable as a wife's insurance benefit under the Social Security Act to have been effective for the month of December 1974), or to which such spouse would have been entitled for such month under such section 2(e) or 2(h) except for the provisions of section 2(d) of such Act, the amount of the annuity provided such spouse for the month of January 1975 by the preceding provisions of this paragraph shall be reduced until the total of the amounts described in clause (A) of this proviso equals the amount described in clause (B); and

(3) if the spouse was entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act on December 31, 1974, or was fully insured under that Act on that date, or was entitled to a wife's or a husband's insurance benefit under that Act on that date, the annuity amounts provided under paragraphs (1) and (2) of this subsection shall be increased by an amount determined under the provisions of section 4(e)(1) or, if the spouse was entitled only to a wife's or husband's insurance benefit, 4(e)(3) of the Railroad Retirement Act of 1974: *Provided, however,* That, if the spouse was entitled to a monthly insurance benefit under the Social Security Act on December 31, 1974, such amount shall not be less nor more than an amount which would cause (A) the total of (i) the annuity amounts provided the spouse by the provisions of this subsection for the month of January 1975 plus (ii) the monthly insurance benefit to which such spouse is entitled for that month under the Social Security Act (before any reductions on account of age and deductions on account of work) to equal (B) the total of (i) the spouse's annuity under the Railroad Retirement Act of 1937 (prior to any reduction on account of age and without regard to section 2(d) of that Act) plus (ii) the monthly insurance benefit under the Social Security Act (before any reduction on account of age and deductions on account of work) which such spouse would have received for such month if this Act had not been enacted.

(b) The annuity provided a spouse by subsection (a) of this section shall be in lieu of any wife's insurance benefit or husband's insurance benefit otherwise payable to such spouse under the Social Security Act.

Sec. 207. Every survivor who was entitled to an annuity under section 5 of the Railroad Retirement Act of 1937 for the month of December 1974, or who would have been entitled to such an annuity for such month except for the provisions of section 5(i) of such Act, and who would have been entitled to such an annuity for the month of January 1975, if this Act had not been enacted, shall be entitled to an annuity under section 2(d) of the Railroad Retirement Act of 1974 beginning January 1, 1975. For purposes of this section—

(1) that portion of the survivor's annuity as is provided under section 4(f) of the Railroad Retirement Act of 1974 shall be in an amount equal to the amount determined under clause (i) of section 3(a)(6) of the Railroad Retirement Act of 1937 for the purpose of computing the last increase in the amount of such survivor's annuity as computed under the provisions of section 5(q) of the Railroad Retirement Act of 1937: *Provided, however,* That the amount of such annuity shall be subject to reduction in accordance with the provisions the same manner as any widow's insurance benefit, mother's insurance benefit, widower's insurance benefit, parent's insurance benefit, or child's insurance benefit payable under section 202 of the Social Security Act;

(2) that portion of the survivor's annuity as is provided under section 4(g) of the Railroad Retirement Act of 1974 shall be in an amount equal to 30 per centum of the amount computed in accordance with the provisions of paragraph (1) of this section prior to any reductions, other than reductions on account of age, in accordance with the provisions of section 202(k) or 202(q) of the Social Security Act; and

(3) if the survivor is a widow or widower who was entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act on December 31, 1974, or was fully insured under that Act on that date, the annuity amounts provided under paragraphs (1) and (2) of this section shall be increased by an amount determined under the provisions of 4(h)(1) of the Railroad Retirement Act of 1974: *Provided, however,* That, if the widow or widower was entitled to a monthly insurance benefit under the Social Security Act on December 31, 1974, such amount shall not be less nor more than an amount which would cause (A) the total of (i) the annuity amounts provided the widow or widower by the provisions of this section for the month of January 1975 plus (ii) the monthly insurance benefit to which such widow or widower is entitled for that month under the Social Security Act (before any deductions on account of work) to equal (B) the total of (i) the widow's or widower's annuity under the Railroad Retirement Act of 1937 (without regard to section 5(i) of that act) plus (ii) the monthly insurance benefit under the Social Security Act (before any deductions on account of work) which such widow or widower would have received for such month if this Act had not been enacted.

Sec. 208. For purposes of paragraph (1) of section 204(a), paragraph (1) of section 206(a), and paragraph (1) of section 207, the fact that the amount of the annuity payable to an individual, spouse, or survivor under the Railroad Retirement Act of 1937 for the month of December 1974 may not (i) in the case of an individual have been computed under the provisions of section 3(a) of such Act or that part of section 3(e) of such Act which precedes the first provisio; (ii) in the case of a spouse, have been computed under the provisions of section 2 of such Act; or (iii) in the case of a survivor, have been computed under the provisions of section 5 of such Act, shall be disregarded, and the amount determined under clause (i) of section 3(a)(6) of such Act with respect to such individual, spouse, or survivor shall, for purposes of such paragraphs, be the amount which would have been determined under such clause (i) if the annuity of such individual had been computed under the provisions of section 3(a), and that part of section 3(e) which preceded the first proviso, of such Act; the annuity of such spouse had been computed under the provisions of section 2 of such Act; or the annuity of such

survivor had been computed under the provisions of section 5 of such Act.

SEC. 209. (a) Whenever monthly insurance benefits under section 202 of the Social Security Act are increased, the amount of each annuity provided by section 202(a), section 203(a), paragraph (1) of section 204(a), paragraph (1) of section 206(a), and paragraphs (1) and (2) of section 207 shall be increased in the same manner, and effective the same date, as other annuities of the same type payable under section 2 of the Railroad Retirement Act of 1974 are increased.

(b) The annuity amounts provided by section 202(b), section 203(b), paragraph (2) of section 204(a), and paragraph (2) of section 206(a) shall be increased by the same percentage, or percentages, and effective the same date, or dates, as other annuity amounts of the same type are increased pursuant to the provisions of section 3(g) of the Railroad Retirement Act of 1974.

SEC. 210. The election of a joint and survivor annuity made before July 31, 1946, by an individual to whom an annuity accrues under the Railroad Retirement Act of 1937 before January 1, 1975, shall be given effect as though the provisions of law under which the election was made had continued to be operative unless such election had been revoked prior to the time the annuity of such individual began to accrue.

TITLE III—AMENDMENTS TO THE SOCIAL SECURITY ACT

SEC. 301. (a) Section 202(1) of the Social Security Act is amended by striking out all that appears therein and inserting in lieu thereof the following:

"(1) If any person is entitled, or would upon application be entitled, to an annuity under section 2 of the Railroad Retirement Act of 1974, without regard to sections 2(e), 2(f), and 2(g) of the Act, or to a lump-sum payment under section 6(b) of such Act, on the basis of the earnings record of an individual who will have completed ten years of service creditable under that Act, no monthly benefit, and no lump-sum death payment, shall be paid to such person under this section or section 223 on the basis of the wages and self-employment income of such individual."

(b) Section 202(q) of such Act is amended by adding at the end thereof the following new paragraph:

"(10) For purposes of this subsection and subsection (k), the terms 'old-age insurance benefit' and 'disability insurance benefit' shall include an annuity under section 2(a)(1) of the Railroad Retirement Act of 1974 in the amount determined under section 3(a) of that Act and section 204(a)(1) of title II of that Act."

SEC. 302. Section 205(o) of the Social Security Act is amended—

(1) by striking out "(o)" at the beginning thereof and inserting in lieu thereof "(o)(1)";

(2) by striking out "section 5 of the Railroad Retirement Act of 1937" and inserting in lieu thereof "section 2 of the Railroad Retirement Act of 1974";

(3) by striking out "subsection (f)(1) of such section" and inserting in lieu thereof "section 6(b) of such Act";

(4) by striking out "section 4 of such Act" and inserting in lieu thereof "section 3(i) of such Act"; and

(5) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provisions of this section, the Secretary shall not determine entitlement to, make awards of, or certify payments of, any monthly insurance benefits or lump-sum death benefits payable under this title to (A) an individual who will have completed ten years of service creditable under the Railroad Retirement Act of 1974, (B) the wife or husband of such an individual, (C) any survivor of such an individual if such survivor is entitled, or could upon application become entitled, to benefits under section 2 of the Railroad Retirement Act of 1974, and (D) any other person entitled to benefits under section 202 of this Act on the basis of the wages and self-employment income of such an individual, except a survivor of such an individual if such individual did not have a current connection with the railroad industry at the time of his death, but shall accept the determinations with respect thereto made by the Railroad Retirement Board in accordance with section 7(b)(2) of the Railroad Retirement Act of 1974."

SEC. 303. Sections 216(b), 216(c), 216(f), and 216(g) of the Social Security Act are each amended by striking out "section 5 of the Railroad Retirement Act of 1937" and inserting in lieu thereof "section 2 of the Railroad Retirement Act of 1974".

SEC. 304. (a) Section 226(b) of the Social Security Act is amended by striking out "section 22 of the Railroad Retirement Act of 1937" from paragraph (2) and inserting in lieu thereof "section 7(d) of the Railroad Retirement Act of 1974".

(b) Section 226(d) of such Act is amended by striking out "section 21 or section 22 of the Railroad Retirement Act of 1937" each time it appears therein and inserting in lieu thereof "section 7(d) of the Railroad Retirement Act of 1974".

SEC. 305. Section 1840(b) of the Social Security Act is amended by striking out "or pension under the Railroad Retirement Act of 1937" from paragraph (1) and inserting in lieu thereof "under the Railroad Retirement Act of 1974".

SEC. 306. Section 1842(g) of the Social Security Act is amended by striking out "section 21(b) of the Railroad Retirement Act of 1937" and inserting in lieu thereof "section 7(d) of the Railroad Retirement Act of 1974".

SEC. 307. Section 1843(b) of the Social Security Act is amended by striking out "or pension under the Railroad Retirement Act of 1937" and inserting in lieu thereof "under the Railroad Retirement Act of 1974".

SEC. 308. Section 1870(b) of the Social Security Act is amended by striking out "Railroad Retirement Act of 1937" each time it appears therein and inserting in lieu thereof "Railroad Retirement Act of 1974".

SEC. 309. Section 1874(a) of the Social Security Act is amended by striking out "Railroad Retirement Act of 1937" and inserting in lieu thereof "Railroad Retirement Act of 1974".

TITLE IV—AMENDMENT TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

SEC. 401(a) Section 2(c) of the Railroad Unemployment Insurance Act is amended by striking out "Railroad Retirement Act of 1937" and inserting in lieu thereof "Railroad Retirement Act of 1974".

(b) Section 2(g) of such Act is amended by striking out "section 3(f)(1) of the Railroad Retirement Act of 1937" each time it appears therein and inserting in lieu thereof "section 6(a)(1) of the Railroad Retirement Act of 1974".

SEC. 402. Section 4(a-1) of the Railroad Unemployment Insurance Act is amended by striking out "or pensions under the Railroad Retirement Act of 1935 or the Railroad Retirement Act of 1937" from paragraph (ii) and inserting in lieu thereof "under the Railroad Retirement Act of 1974".

SEC. 403. Section 10 of the Railroad Unemployment Insurance Act is amended by striking out subsection (h) and all that appears therein.

SEC. 404. Section 11(c) of the Railroad Unemployment Insurance Act is amended—

(a) by striking out "Railroad Retirement Act of 1937 and the Railroad Retirement Act of 1955" and inserting in lieu thereof "Railroad Retirement Act of 1974"; and

(b) by striking out "such Acts" and inserting in lieu thereof "such Act".

SEC. 405. Section 12(1) of the Railroad Unemployment Insurance Act is amended by striking out "section 10(b)(4) of the Railroad Retirement Act of 1937" and inserting in lieu thereof "subdivisions (5), (6), and (9) of section 7(b) of the Railroad Retirement Act of 1974".

TITLE V—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

SEC. 501. (a) Section 3221(c) of the Internal Revenue Code of 1954 is amended—

(1) by striking out "for appropriation to the Railroad Retirement Supplemental Account provided for in section 15(b) of the Railroad Retirement Act of 1937";

(2) by striking out "under section 3(j) of such Act" and inserting in lieu thereof "at the level provided under section 3(j) of the Railroad Retirement Act of 1937 as in effect on December 31, 1974"; and

(3) by inserting after "section 3(j)(2) of the Railroad Retirement Act of 1937" "or section 2(h)(2) of the Railroad Retirement Act of 1974".

(b) Section 3221(d) of such Code is amended—

(1) by striking out "section 3(j) of the Railroad Retirement Act of 1937" and inserting in lieu thereof "section 2(b) of the Railroad Retirement Act of 1974"; and

(2) by striking out "section 3(j) of such Act" and inserting in lieu thereof "section 2(b) of such Act".

SEC. 502. Section 6413(c) of the Internal Revenue Code of 1954 is amended—

(a) by inserting "or section 3201, or by both such sections," after "section 3101" in paragraph (1) thereof; and

(b) by adding at the end of paragraph (1) the following new sentence:

"The term 'wages' as used in this paragraph shall, for purposes of this paragraph, include 'compensation' as defined in section 231(e)."

TITLE VI—MISCELLANEOUS PROVISIONS AND EFFECTIVE DATES

SEC. 601. Section 3(a)(6) of the Railroad Retirement Act of 1937 is amended by adding at the end thereof the following new sentences:

"If the individual entitled to an increase determined under the preceding provisions of this paragraph is also entitled to a benefit for the same month under title II of the Social Security Act, there shall, any provisions to the contrary notwithstanding, be offset against the total of the increase, or increases, of such individual determined under the preceding provisions of this paragraph, any amount by which such individual's social security benefit was increased during the period July 1, 1974, through December 31, 1974. For purposes of approximating any such offsets, the Railroad Retirement Board is authorized to determine the percentage figure which, when applied against current social security benefits, will produce approximately the amount of the increase, or increases, in social security benefits during the period July 1, 1974, through December 31, 1974. The amount produced by applying such percentage figure to the current social security benefit of an individual shall be the amount utilized in making the offset prescribed by the provisions of this paragraph."

SEC. 602. (a) The provisions of title I of this Act shall become effective on January 1, 1975, except as otherwise provided herein: *Provided, however*, That annuities awarded under section 2 of the Railroad Retirement Act of 1974 on the basis of an application therefor filed with the Board on or after such date may, subject to the limitations prescribed in section 5(a) of such Act, begin prior to such date, except that no annuity under paragraph (ii) of section 2(a)(1) of

such Act shall begin to accrue to a man prior to July 1, 1974.

(b) The provision of section 1(o) of the Railroad Retirement Act of 1974 which provides that a "current connection with the railroad industry" will not be broken by "employment with the Department of Transportation, the Interstate Commerce Commission, the National Mediation Board, or the Railroad Retirement Board" shall not be applicable (A), for purposes of paragraph (iv) of section 2(a)(1) of such Act, to an individual who became disabled, as provided for purposes of such paragraph, prior to January 1, 1975, (B), for purposes of section 2(b)(1) of such Act, to an individual whose annuity under section 2(a) of the Railroad Retirement Act of 1937 or section 2(a)(1) of the Railroad Retirement Act of 1974 first began to accrue prior to January 1, 1975, and (C), for purposes of section 2(d)(1) of such Act, to a survivor of a deceased employee if such employee died prior to January 1, 1975.

(c) The provisions of clause (i)(B) and clause (ii)(B) of section 2(c)(1) of the Railroad Retirement Act of 1974 shall not be applicable to the spouse of an individual if (A) such individual will have completed thirty years of service and will have been awarded an annuity under section 2(a) of the Railroad Retirement Act of 1937 or section 2(a)(1) of the Railroad Retirement Act of 1974 which first began to accrue prior to July 1, 1974, or (B) such individual will have completed less than thirty years of service and will have been awarded an annuity under section 2(a) of the Railroad Retirement Act of 1937 or section 2(a)(1) of the Railroad Retirement Act of 1974 which first began to accrue prior to January 1, 1975. For purposes of the entitlement of the spouse of an individual described in clause (A) or (B) of the preceding sentence to an annuity under such section 2(c)(1), the provisions of clause (i)(B) of such section 2(c)(1) shall be deemed to read: "(B) has attained the age of 65".

(d) The provisions of section 2(b)(1) of the Railroad Retirement Act of 1974 which permit an individual to become entitled to a supplemental annuity thereunder if he "has attained age 60 and completed thirty years of service" shall not be applicable to an individual who was awarded an annuity under section 2(a) of the Railroad Retirement Act of 1974 or section 2(a)(1) of the Railroad Retirement Act of 1974 which first begun to accrue prior to July 1, 1974.

(e) The provisions of section 7(e) of the Railroad Retirement Act of 1974 shall be effective on the enactment date of this Act and shall apply with respect to all gifts and bequests covered thereunder, regardless of the date on which such gifts or bequests were made.

SEC. 603. The provisions of title II of this Act and the amendments made by title III and title IV of this Act shall become effective on January 1, 1975.

SEC. 604. The amendments made by the provisions of title V of this Act shall become effective on January 1, 1975, and shall apply only with respect to compensation paid for services rendered on or after that date.

SEC. 605. The amendment made by section 601 of this Act shall be effective on the enactment date of this Act and shall apply with respect to any increase in annuities under the Railroad Retirement Act of 1937 which becomes effective after June 30, 1974.

By Mr. MAGNUSON:

S. 3613. A bill to amend the Rail Passenger Service Act of 1970 and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend the Rail Passenger Service Act of 1970 and ask unanimous consent that the letter of transmittal, and text of the bill be printed in the RECORD.

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

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., May 9, 1974.

HON. GERALD R. FORD,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a bill to amend the Rail Passenger Service Act of 1970 (the "Act") and for other purposes. The amendments would correct certain technical deficiencies in the Act, provide for additional authorization for appropriations in Fiscal Year 1975, increase by $200,000,000 the maximum amount of loans and other obligations that may be guaranteed pursuant to the Act, revise section 601 of the Act to provide that payments to the National Railroad Passenger Corporation (Amtrak) would be subject to terms and conditions prescribed by the Secretary of Transportation and to remove certain direct budget submittal features presently contained in that section, and amend section 801 of the Act to provide that the Commission shall annually recommend measures to assure an adequate level of service.

The "Amtrak Improvement Act of 1973" amended section 601 of the Act by removing the authority of the Secretary of Transportation to attach terms and conditions to grants to Amtrak. It also provided for the concurrent transmittal to Congress of any budget requests or estimates submitted to various elements of the Executive Branch and prohibited any agency of the Government from requiring Amtrak to submit legislative matters to it prior to submission to Congress.

These amendments to section 601 of the Act substantially decreased the stewardship role of the Executive Branch over the expenditure of funds by Amtrak. As the President indicated in his statement of November 3, 1973, on the occasion of his signing the Amtrak Improvement Act, the 1973 amendments deprive the Executive Branch of any meaningful authority to review in advance the spending plans of Amtrak or to exercise sensible budgetary and legislative control. The imposition of the restrictions upon Executive Branch control was most unfortunate, because it has become increasingly clear that the Amtrak program is becoming more expensive for many reasons, such as increases in railroad operating cost and the cost of capital equipment necessary for the continued operation of the Amtrak program. Consequently, fiscal responsibility within the Executive Branch over Amtrak's programs in light of these escalating costs is imperative.

A further consequence of the restrictions was to remove the Executive Branch from effective participation in the long-term intercity rail passenger service planning process.

The Amtrak Improvement Act permitted Amtrak to propose long-term programs with major impacts to the Congress without prior review by the Executive Branch. We are therefore recommending that section 601 be amended to provide appropriate control by the Executive Branch of the Amtrak budget and legislative program.

The Amtrak Improvement Act of 1973 amended section 801 of the Act and directed the Interstate Commerce Commission to issue regulations necessary to provide "adequate service, equipment, tracks, and other facilities for quality intercity passenger service." On December 27, 1973, the Commission issued Ex Parte 277 (Sub. No. 1), Adequacy of Intercity Rail Passenger Regulations. While those regulations may contribute to the continued improvement of rail passenger service the Department pointed out in its Petition for Reconsideration "that we would be remiss in our duty if we failed to express our forebodings about the impact of some of the regulations upon Amtrak's operations and finances."

We strongly support the need for quality rail passenger service, but such service should be provided at a cost which is reasonable to the Corporation and to the public. The imposition of mandatory regulations by the Commission will not accomplish these twin objectives. Ordinarily, the regulatory process operates within the framework of a profit motivated sector of the economy. That framework provides the necessary constructive tension and diversity of views necessary to assure that the regulations are reasonable. Amtrak does not operate in that environment. Amtrak does not have the economic incentives to question and oppose where necessary, the Commission's proposed regulations since historically Amtrak's increased deficits have been underwritten by increased subsidies from the Federal Government. In addition to the question of unnecessary costs, the Commission's control could stiffle Amtrak's introduction of new, better, and more innovative services than those required by the Commission. We, therefore, recommend deleting the present section 801, and substitute a provision authorizing that the Commission shall recommend such changes, but not have authority to order them.

The bill would amend section 602(d) to increase the maximum amount of loans and other obligations that might be guaranteed by the Secretary of Transportation from the present limit of $500,000,000 to $700,000,000. Increasing the limit is necessary to allow Amtrak to make needed capital acquisitions and improvements, vital to the successful and efficient operation of Amtrak.

Section 304(b) of the Act would be amended to remove the restriction that no more than one-third of Amtrak's common stock may be owned by a single railroad or by a person controlling one or more railroads, after the initial issue of common stock is completed. The initial issuance of common stock was completed on May 1, 1974, and two of Amtrak's four common shareholder railroads now each have more than one-third of the common stock. The situation has developed principally because most railroads that joined the Amtrak system took the tax deductions available under section 901 of the Act, rather than accept common stock in exchange for their payments. The Department believes that no harm will be done by eliminating this ownership restriction. The proposed amendments to section 304(b) would also limit any one railroad or person controlling one or more railroads from voting more than one-third of the Amtrak common stock and thus preserve the existing limitation on the number of directors that can be elected by any one railroad.

The Office of Management and Budget has advised that this proposed legislation is in accord with the Administration's objectives.

Sincerely,

CLAUDE S. BRINEGAR.

S. 3613

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That the Rail Passenger Service Act of 1970, as amended (45 U.S.C. 502) is amended by—

(1) deleting the word "owned" in section 304(b) and substituting the word "voted" in lieu thereof, and adding the following sentence at the end of section 304(b): "If any railroad or any person controlling one or more railroads, as defined in this subsection, owns, in any manner referred to in this subsection, a number of shares in excess of 33⅓ per centum of the total number of common shares issued and outstanding, such excess number shall, for voting and quorum purposes, be deemed to be not issued and outstanding.";

(2) deleting section 601 and substituting in lieu thereof the following: "There is authorized to be appropriated to the Secretary in fiscal year 1975 for payment to the Corporation pursuant to terms and conditions prescribed by the Secretary such amounts as are necessary to carry out the purposes of this Act.";

(3) deleting "$500,000,000" in section 602 (d) and substituting "$700,000,000" in lieu thereof; and

(4) deleting section 801 and substituting in lieu thereof the following: "The Commission shall recommend to the Secretary, the Corporation, and the Congress in its annual report, such measures as it considers necessary to provide adequate service, equipment, and other facilities for quality intercity rail passenger service and shall report on the effectiveness of its prior recommendations.

By Mr. MAGNUSON (for himself and Mr. JACKSON) (by request):

S. 3614. A bill to amend certain provisions of the act of July 24, 1956, relating to the restoration of tribal ownership of certain lands upon the Colville Indian Reservation, Washington. Referred to the Committee on Interior and Insular Affairs.

Mr. MAGNUSON. Mr. President, at the request of the Colville Business Council, Senator JACKSON and I are today introducing legislation that proposes to repeal three provisions of Public Law 84–772, "An act restoring to tribal ownership certain lands upon the Colville Indian Reservation, Wash., and for other purposes."

Specifically, this bill would repeal sections 4 and 5 of Public Law 84–772 altogether and would delete from section 2 of the law the following provision:

In carrying out the provisions of this Act, if non-Indian lands are involved the board of county commissioners of counties in which land is located shall by proper resolution consent before such non-Indian land is acquired for the tribe or an individual Indian.

Each of these changes in Public Law 84–772 has been unanimously recommended by the Colville Business Council in its Resolution 1973–835 and I ask unanimous consent that the resolution be printed in full in the RECORD at the conclusion of my remarks.

Mr. President, the issues involved in this legislation are quite complicated and would take far too long to adequately explain here on the floor. Ultimately, they will have to be resolved by the Senate and House Interior Committees after consultation with the Colvilles, appropriate non-Indian local officials in Okanogan and Ferry Counties, Wash., and all other affected parties. Our purpose in introducing this legislation at the Business Council's request is to bring these issues formally before the Congress so they may be dealt with through the normal legislative process. I am, of course, hopeful that the Congress will be able to act expeditiously to work out these problems.

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

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

RESOLUTION 1973–835

Whereas, the Act of July 24, 1956, PL 84–722, authorized the restoration of certain lands to the Colville Tribes, in trust, and for other purposes; and

Whereas, Section two of the Act authorized the Tribe to purchase, sell and exchange lands within the Reservation boundary for the purpose of consolidation, and further authorized the Tribes to purchase fee lands and bring same into trust with the consent of the County Commissioners in which the land is located; and

Whereas, Section three of the Act provided that title to land purchased by the Tribes or individual Indians shall be taken in the name of the United States in trust for the owner; and

Whereas, Section four of the Act ratified and approved of an Agreement dated April 24, 1954 between the Colville Tribes and Okanogan and Ferry Counties; and

Whereas, said Agreement provided that the Colville Tribes pay a certain amount annually to the two counties in lieu of taxes; and

Whereas, Section five of the Act required the Colville Tribes to submit proposed legislation to Congress within 5 years for the termination of the Colville Indian Reservation within a reasonable time; and

Whereas, the Tribe takes the legal position that the consent of the Counties to approve the taking of fee lands into trust is illegal, as the authority to buy land comes under Federal Law; and

Whereas, the Tribe takes the legal position that the Agreement dated April 21, 1954 with the two Countries is illegal as trust land owners under Federal Law and treaties are exempt from paying taxes; and

Whereas, One or more Bills for proposed Legislation have been introduced annually without success and we are of the opinion that the Tribe has fully complied with Section five of the Act.

Therefore, be it resolved, that the Business Council requests the Secretary of the Interior and the Congress of the United States to take necessary action to repeal certain portions of the Act as follows:

(1) Section 2—*Delete* "In carrying out the provisions of this Act, if non-Indian Lands are involved, the Board of County Commissioners or counties in which land is located shall by proper resolution consent before such non-Indian land is acquired for the Tribe or an individual Indian."

(2) Section 4—*Delete entire section*—"The agreement entered into by the Confederated Tribes of the Colville Reservation and Okanogan and Ferry Counties of the State of Washington on April 21, 1954, is hereby ratified and approved."

(3) Section 5—*Delete entire section*—"The Business Council of the Confederated Tribes of the Colville Reservation shall, in accordance, with resolution numbered 1955–33, dated April 8, 1955, of the Colville Business Council, submit to the Secretary of the Interior within five years from the date of enactment of this Act proposed legislation providing for the termination of Federal supervision over the property and affairs of the Confederated Tribes and their numbers within a reasonable time after the submission of such proposed legislation."

The foregoing was duly enacted by the Colville Business Council by a vote of 10 FOR; 0 AGAINST, under authority contained in Article V, Section 1(a) of the Constitution of the Confederated Tribes of the Colville Reservation, ratified by the Colville Indians on February 26, 1938, and approved by the Commissioner of Indian Affairs on April 19, 1938.

S. 3614

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2 of the Act entitled "An Act restoring to tribal ownership certain lands upon the Colville Inidan Reservation, Washington, and for other purposes", approved July 24, 1956 (70 Stat. 626), is amended by deleting "In carrying out the provisions of this Act, if non-Indian lands are involved the board of county commissioners of counties in which land is located shall by proper resolution consent before such non-Indian land is acquired for the tribe or an individual Indian.".

(b) Sections 4 and 5 of such Act of July 24, 1956 are hereby repealed.

By Mr. HASKELL:

S. 3615. A bill to authorize the Secretary of the Interior to transfer certain lands in the State of Colorado to the Secretary of Agriculture for inclusion in the boundaries of the Arapaho National Forest, Colo. Referred to the Committee on Interior and Insular Affairs.

Mr. HASKELL. Mr. President, I am introducing legislation today which authorizes the transfer of 17,000 acres of land currently administered by the Bureau of Land Management in the Department of the Interior to the Forest Service in the Department of Agriculture.

The land, located in Summit County, Colo., will be added to the Arapaho National Forest. The legislation is supported by the BLM and the Forest Service. The Board of County Commissioners of Summit County, the Colorado Cattlemen's Association, the Summit Citizens Association, and the State of Colorado Division of Wildlife are all on record in favor of the bill.

Dr. Alfred T. Whatley, chairman of the Summit Citizens Association, has characterized the need for the land transfer as "of significant importance to the future of Summit County." In a letter to me, Dr. Whatley set forth the background of the situation. He stated, in part:

All the land in the southern half of the county is now under Forest Service supervision. This bill was passed around under the 1964 sponsorship of Congressman Aspinall. Since the Forest Service has a station at Dillon in Summit County, staff with excellent personnel who have a first hand knowledge of the conditions and problems in the County and close liaison with the citizens and local governments, we feel this is where the management of Federal lands should be located. There are no BLM officers or personnel in our County.

Mr. President, because some of the Federal land in Summit County is under BLM jurisdiction, while other land is under Forest Service jurisdiction, it cannot be managed either adequately or efficiently. I can find no objection to the transfer and am pleased to be able to introduce this bill on behalf of the citizens of Summit County.

A companion bill has already been introduced in the House of Representatives by the Hon. JAMES JOHNSON, who is the Congressman representing the area. His bill, H.R. 11402, has been pending before the House Interior Committee since last session.

Mr. President, I ask unanimous consent that a resolution of the Board of County Commissioners of Summit County in support of H.R. 11402 be printed at this point in the RECORD, along with a copy of the bill I am introducing.

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

RESOLUTION No. 74-9

Whereas, Summit County, Colorado contains 290,476 acres of federally owned land, and

Whereas, management of federal lands is presently divided between the United States Forest Service, the Bureau of Land Management, and the Bureau of Reclamation, and

Whereas, this diversity of management responsibility inhibits proper, appropriate and uniform management principles, and

Whereas, Summit County, the Colorado State Forest Service, and the United States Forest Service have entered into a mutual planning program, and

Whereas, a portion of the planning program anticipates preservation of portions of the Blue River for public access and scenic value, and

Whereas, the United States Forest Service has capabilities of acquiring said land through land trades within the forest boundary, and

Whereas, the boundary of the Arapahoe National Forest does not include areas desirable for preservation, and

Whereas, there has been introduced House Bill No. 11402 in the United States Congress for the purpose of extending the boundary of the Arapahoe National Forest to include areas desirable for public access and scenic preservation,

Now therefore be it resolved that the Board of County Commissioners of Summit County has reviewed House Bill No. 11402 and do hereby find and declare that it is in the best interest of Summit County residents and taxpayers that said bill be passed and approved by the Congress of the United States, and

Further be it resolved that a copy of this resolution be forwarded to the Colorado Congressional Delegation and to such other Congressional members as are designated to expedite the purposes and intent of House Bill No. 11402.

S. 3615

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, To insure consolidation of lands in the Arapaho National Forest, Colorado, and to afford the opportunity for better management of those lands, the Secretary of the Interior is hereby authorized and directed to transfer certain lands under his jurisdiction and adjacent to the existing boundary of said National Forest to the Secretary of Agriculture. Pursuant to this Act, the exterior boundaries of the Arapaho National Forest, Colorado, shall be extended to include all of the lands not presently within such boundaries lying in township 3 south, range 78 west, township 4 south, range 78 west, township 2 south, range 79 west, township 3 south, range 79 west, and township 2 south range 80 west, sections 7 through 18, and sections 20 through 28, all of the sixth principal meridian.

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 3616. A bill to amend section 905(c) of the Merchant Marine Act, 1936. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend section 905(c) of the Merchant Marine Act, 1936, and ask unanimous consent that the letter of transmittal, statement of need, and text of the bill be printed in the RECORD.

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

THE SECRETARY OF COMMERCE,
Washington, D.C., May 10, 1974.

Hon. GERALD R. FORD,
President of the Senate,
U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are six copies of a draft bill To amend section 905(c) of the Merchant Marine Act, 1936, together with a statement of purpose and need in support thereof.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our proposed legislation to the Congress from the standpoint of the Administration's program.

Sincerely,

FREDERICK B. DENT,
Secretary of Commerce.

STATEMENT OF THE PURPOSES AND NEED OF THE DRAFT BILL "TO AMEND SECTION 905(c) OF THE MERCHANT MARINE ACT, 1936"

Prior to the enactment of Public Law 86-327, approved September 21, 1959, section 2 of the Shipping Act, 1916, provided in part that a corporation is not a citizen of the United States "unless its President and managing directors are citizens of the United States." This definition was incorporated by reference in section 905(c) of the Merchant Marine Act, 1936, and in section 37 of the Merchant Marine Act, 1920 (including the Ship Mortgage Act, 1920) for the respective purposes of those statutes. Section 4132 of the Revised Statutes (the ship registry statute) contained independent language that vessels are entitled to be registered if owned by "corporations organized and chartered under the laws of the United States or of any State thereof, the President and managing directors of which shall be citizens of the United States."

The United States Customs Service, which administers the coastwise laws under the Merchant Marine Act, 1920, and the statutes providing for registry and recordation, took the view that if a corporation had an alien on its Board of Directors and the bylaws of the corporation designated managing directors who were all citizens, the corporation was a citizen for the purpose of the foregoing statutes.

The Maritime Administration, on the other hand, which administers the laws with respect to operating-differential subsidy, construction-differential subsidy, title XI mortgage insurance, the charter of vessels to aliens, the transfer of vessels to foreign ownership and registry, war risk insurance and construction reserve funds, took the view that all directors of a corporation were managers of the corporation and, if a corporatin had an alien director, it was an alien for the purposes for the foregoing programs.

Requiring all directors of a corporation to be United States citizens if the corporation was to be considered a citizen caused problems. Metropolitan Life Insurance Company, for example, had a Canadian director and, therefore, could not be mortgagee of a preferred ship mortgage. This means that the company could not engage in financing the construction of American-flag ships, though it was engaged in financing the construction of foreign-flag ships. Gulf Oil Co. in 1958 acquired a Canadian director, and the Maritime Administration thereupon notified the company that it had ceased to be a United States citizen corporation for purposes of the programs administered by the Maritime Administration. Standard Oil of New Jersey had no alien on its Board of Directors and was a United States citizen corporation. It wanted, however, to place an alien executive of one of its affiliated companies on its Board of Directors because he showed promise of being able to make a major contribution to the corporation as a director. This could not be done, since the company would have lost its status as a United States citizen corporation. The Life Insurance Association of America stated that a number of domestic insurance companies could not participate in financing the construction of American-flag ships because they had aliens on their Boards of Directors. In addition to their inability to participate in such financing, these companies did not want the reputation of being considered alien corporations.

Congress, therefore, in 1959 enacted Public Law 86-327 which amended these statutes to provide that except for purposes of title IV of the Merchant Marine Act, 1936, a corporation is a United States citizen corporation, so far as the composition of its Board of Directors is concerned, if no more members of the Board than the minority of a quorum are aliens. Thus, if the Board is composed of fifteen members and a quorum is eight, there can be three aliens on the Board. Clearly there can be no alien control of the Board under this limitation. Under section 2 of the Shipping Act, 1916, the majority of the stock must be owned by citizens, but the rest can be owned by aliens so long as this does not constitute a controlling interest.

The Maritime Administration recommended that the operating-differential subsidy program be excepted from the provisions of Public Law 86-327, but it gave no reason for the exemption and neither do the Committee reports. The probable reason is that at that time there was no practical problem under this program so far as alien directors were concerned. It was as a result of this recommendation that Public Law 86-327 provided that all directors of corporations must continue to be citizens of the United States for purposes of title VI of the Merchant Marine Act, 1936.

The Merchant Marine Act of 1970, however, amended title VI to authorize for the first time, the payment of operating-differential subsidy to bulk carriers. Many bulk carriers are owned and operated by industrial companies, such as oil companies, which have an alien director, and the Maritime Administration is once again in the position of having to tell these companies that they are alien corporations and therefore cannot participate in this program.

In addition, when Public Law 86-327 was enacted, the tax deferred fund provisions of title VI were avaliable only to operators who were paid operating-differential subsidy. The Merchant Marine Act of 1970 amended title VI to permit all American-flag United States citizen operators in foreign trade, in the fisheries, on the Great Lakes or in the non-contiguous domestic trade to create tax deferred funds (capital construction funds.) Though the legislative history of Public Law 86-327 indicates that its purpose in providing a more restrictive corporate citizenship definition for title VI purposes was only to affect operating-differential subsidy contractors, the literal language of the provision applies as well to the new capital construction program that is intended to aid operators, whether or not subsidized, in meeting the heavy capital requirements of ship construction.

Requiring all directors of a corporation to be United States citizens if the corporation is to be eligible for operating-differential subsidy or for a capital construction fund serves no useful purpose and interferes with the maritime program as well. The draft bill would delete this requirement, and the citizenship provision would then permit a minority of a quorum to be aliens, by reference to section 2 of the Shipping Act, 1916.

S. 3616

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 905(c) of the Merchant Marine Act, 1936, (46 U.S.C. 1244(c)), is amended by striking out the words "and with respect to a corporation under title VI of this Act, all directors of the corporation are citizens of the United States" and the comma which immediately precedes those words.

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 3617. A bill to extend the Marine Protection, Research, and Sanctuaries Act for 2 years. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, on behalf of Senator Cotton and myself, by request, I introduce a bill to extend the Marine Protection, Research, and Sanctuaries Act for 2 years. I ask unanimous consent that the text of the bill together with a letter from the Environmental Protection Agency be printed at this point in the RECORD.

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

S. 3617

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That section 111 of the Marine Protection Research, and Sanctuaries Act is amended by striking "fiscal year 1974," and inserting in lieu thereof "fiscal years 1974, 1975, and 1976,".

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., May 24, 1974.

Hon. GERALD R. FORD,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are the drafts of three proposed bills. They are identified as follows:

1. A bill "To extend the Solid Waste Disposal Act, as amended, for one year."

2. A bill "To extend provisions of the Federal Water Pollution Control Act, as amended, for two years.

3. A bill "To extend the Marine Protection, Research, and Sanctuaries Act for two years."

We recommend that these bills be referred to the appropriate Committees for consideration, and we recommend that they be enacted.

The enclosed draft bill to amend the Solid Waste Disposal Act would extend our authorities under section 216(a)(2) of the Act for one more year at the funding level authorized for the last fiscal year. We are not requesting an extension of authority under section 216(a)(3).

We have suggested this extension to cover the interim period preceding enactment of the Hazardous Waste Management Act now before the Congress.

The enclosed draft bill to amend the Federal Water Pollution Control Act, as amended, would extend our authorities for two years at the funding levels authorized for the last fiscal year. It would amend section 104(u)(1)(2)(4)(5)(6), section 105(h), section 106(a)(2), and section 112(c).

We have suggested these extensions to enable us to continue the programs envisioned by the Act.

The enclosed draft bill to amend the Marine Protection, Research, and Sanctuaries Act would extend our authorities for two years at the funding level authorized for the last fiscal year. It would amend section 111 of the Act.

We have suggested this extension to enable us to continue our ocean dumping programs.

The Office of Management and Budget has advised that these legislative proposals are consistent with the program of the President.

Sincerely,

RUSSELL E. TRAIN.

By Mr. CURTIS:

S.J. Res. 213. A joint resolution authorizing the establishment of the Construction Industry Task Force to expedite the construction of energy producing facilities. Referred to the Committee on Government Operations.

Mr. CURTIS. Mr. President, I am presenting today a joint resolution to authorize the establishment of the Construction Industry Task Force for the purpose of expediting the construction of energy-producing facilities.

I think it is time to make sure all the machinery we have set up legislatively and administratively functions efficiently to meet our national energy needs—our goal of independence by 1980. We in the Senate have debated a large amount of energy legislation within a relatively short period of time. We are quite familiar with the consequences of an energy shortage.

But our action with regard to energy legislation leaves me critical of our efforts. I deplore the many instances of lack of coordinated solutions to our energy problem.

Energy legislation is vital, but its purpose may be negated if we fail to provide a means of cooperative effort towards constructing new energy-producing facilities. This cooperative effort must be established between utilities, manufacturers, contractors, environmentalists—in short, between institutions highly involved in energy research and production.

This joint resolution provides an effective, material means of establishing the necessary cooperative effort between these institutions.

The Construction Industry Task Force established by this resolution will be composed of members from associations representing general, electrical, and mechanical contractors, from associations representing construction equipment manufacturers and material suppliers, from energy, transportation and utility industries, from unions representing the various contracting specialties, and from environmentalists and other groups having an interest in its operations.

The primary aim of the task force will be to expedite the construction of energy-producing facilities. This task is an enormous one, and it can be neglected no longer.

The construction of energy-producing facilities is now being delayed by the myopia, or in pleasant terms, the lack of interaction of the concerned interests I mentioned.

A nuclear energy plant may be nearly completed when someone discovers that it does not meet even the minimum safety standards for a certain area; a fossil fuel plant may be delayed by an environmental lawsuit based on misunderstanding rather than actual environmental hazards.

We can all think of instances in which this sort of uncoordinated activity—accompanied by a lot of floundering—has resulted in accusations against contractors for noncompliance with environmental regulations, or against environmentalists for blocking essential energy construction projects. We can no longer afford this kind of bickering and distrust.

This task force will supervise the construction of energy-producing facilities to insure their completion and their ultimate acceptability to all those concerned with their operation. I think that the two means of energy production with which the task force will primarily deal are nuclear power and fossil fuel plant development.

Nuclear power presently supplies only 5 percent of our country's energy; within 10 years it will supply at least 30 percent.

If nuclear power is encouraged to develop to its full potential, 45 percent of our energy might be supplied by nuclear power in 10 years.

Such a development might eventually insure the U.S. energy self-sufficiency.

Nuclear power production is not yet endangered by depletion of uranium reserves. The Atomic Energy Commission advises me that within this country, 42 nuclear powerplants are licensed to operate. Fifty-six are being built, and another 101 are ordered.

The Construction Industry Task Force must encourage the expansion and the construction of nuclear powerplants while insuring that these facilities are both safe and nonpolluting.

Coal cannot be abandoned as an energy source. I would like to quote from the December 1972 summary report of the National Petroleum Council:

> Coal is abundant. The U.S. Geological Survey estimates the nation's coal resources at 3.2 trillion tons. Of this total about 150 billion tons of recoverable coal are presently known to be located in formations of comparable thickness and depth to those being mined by present technology. Maximum projected production in the next 15 years would use less than 10 percent of the 150 billion tons. This modest utilization of total coal reserves includes the output of coal for making synthetic fuels.

If this is the case, then we should naturally rely on coal-produced energy as a primary factor in our attainment of energy self-sufficiency. But environmental problems exist here: the majority of coal reserves must be desulfurized if they are to be converted into energy without the byproduct of air pollution. The construction of powerplants that utilize coal in an environmentally safe manner is a further area in need of the task force's attention.

I am sure that the task force, once formed, will recognize the ubiquity of construction hindrances. I must sympathetically throw the greatest immediate problem in any energy-producing facility's construction to the task force.

I have thus far presupposed the availability of the necessary capital for powerplant construction, fuel reserves, and construction manpower. But the very construction materials are lacking.

Steel and all forms of construction alloys are in short supply, a fact which is enough to severely deter the purpose of the Construction Industry Task Force.

S. 3267, the Standby Energy Emergency Authorities Act, contains provisions authorizing allocation of material and equipment supplies to the construction of energy-producing facilities. This construction could thus be given priority allocations of materials. In that case, the problem would be lessened, but such construction would still be limited. A Construction Industry Task Force investigation of this matter could provide a

much-demanded realistic means of coping with this limitation.

I challenge the task force to provide, in some measure, feasible, eminently workable solutions to several of the questions we now face in the construction of energy-producing facilities.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

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

S.J. RES. 213

Whereas, our national goal is to make the United States self-sufficient in energy requirements by 1980, and the solution of electrical requirements depends upon the operating capacity of all energy-producing facilities; and

Whereas, a massive construction effort is needed to speed completion of nuclear powerplants currently under construction as well as those announced or planned, and all other proposed energy-producing facilities, including both fossil fuel and hydroelectric power plants; and

Whereas, it is desirable for this massive construction effort to be undertaken as efficiently as possible with the right mix of labor, materials, equipment and techniques of construction; and

Whereas, to this point, there has been little or no effort made to communicate with, or benefit from the experience of contractors, subcontractors, unions, environmentalists, manufacturers, and utilities, with a view toward eliminating or minimizing problems; and

Whereas, speed is of the essence in channeling the efforts of these various groups, all of whom are actively involved in some way with the construction of energy-producing facilities: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President shall establish a special task force to be known as the Construction Industry Task Force (hereinafter in this joint resolution referred to as the "Task Force"). The membership of the Task Force shall be composed of not more than twenty members appointed by the President from associations representing general, electrical, and mechanical contractors, from associations, representing construction equipment manufacturers and material suppliers, from energy, transportation, and utiltiy industries, from unions representing the various contracting specialties, and from environmentalists and other interested groups having a legitimate interest.

SEC. 2. (a) Within the thirty-day period following the date on which a majority of the members of the Task Force are appointed, the President shall call the first meeting of the Task Force.

(b) The members of the Task Force shall elect therefrom one member to serve as chairman and one member to serve as vice chairman. Any vacancy in the Task Force shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

SEC. 3. (a) The Task Force shall have the power to appoint and fix the compensation of an Executive Director, and such additional staff personnel as it deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title, and to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $125 a day for individuals.

(b) Members of the Task Force shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Task Force.

(c) Each department, agency, and instrumentality of the executive branch of the government, including independent agencies, is authorized to furnish to the Task Force, upon request made by the Chairman, such data, reports, and other information as the Task Force deems necessary to carry out its functions under this Act.

SEC. 4. It shall be the purpose of the Task Force to help expedite the construction of energy producing facilities. In carrying out such purpose, the Task Force shall deal with specific construction problems presented to it by representatives of such associations, industries, unions, environmentalists and other groups referred to in the first section of this joint resolution by reviewing information from the planners concerned, defining the scope of the problem as it relates to the construction industry engaged in the construction of energy producing facilities, and communicating national energy requirements to local energy sources. It shall further be the function of the Task Force to make recommendations to interested parties aimed at minimizing the amount of construction time needed for the establishment of energy producing facilities without disrupting the resources of the construction industry.

SEC. 5. The Task Force shall, from time to time, submit such interim reports to the President and the Congress as the Task Force determines necessary to keep the President and the Congress apprised of the Task Force's activities under this joint resolution. On or before the expiration of the forty-eight month period following the date of the enactment of this joint resolution, the Task Force shall submit its final report to the President and the Congress concerning the activities of the Task Force under this joint resolution and its views and recommendations with respect thereto. Upon the expiration of the sixty-day period following the submission of its final report, the Task Force shall cease to exist.

SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this joint resolution.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2022

At the request, of Mr. TUNNEY, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 2022, a bill to provide increased employment opportunity by Executive Agencies of the United States for persons unable to work standard working hours, and for other purposes.

S. 2581

At the request of Mr. RANDOLPH, the Senator from Colorado (Mr. DOMINICK) was added as a cosponsor of S. 2581, a bill to amend the Randolph-Sheppard Act.

S. 3096

At the request of Mr. CRANSTON, the Senator from Iowa (Mr. CLARK) was added as a cosponsor of S. 3096, a bill to amend the Small Business Act to provide for loans to small business concerns affected by the energy shortage.

S. 3357

At the request of Mr. BURDICK, the Senator from Nevada (Mr. CANNON), and the Senator from California (Mr. TUNNEY) were added as cosponsors of S. 3357, a bill to restore to Federal civilian employees their rights to participate, as private citizens, in the political life of the the Nation, and for other purposes.

S. 3516

At the request of Mr. BROCK, the Senator from North Carolina (Mr. HELMS), the Senator from North Dakota (Mr. YOUNG), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Kansas (Mr. DOLE), the Senator from New York (Mr. JAVITS), and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of S. 3516, a bill to provide for the issuance of special series of postage stamps, in conjunction with the Bicentennial celebration of the United States, depicting the flags of each of the 50 States, Guam, the District of Columbia, Puerto Rico, and the Virgin Islands.

S. 3517

At the request of Mr. BROCK, the Senator from North Carolina (Mr. HELMS), the Senator from North Dakota (Mr. YOUNG), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Kansas (Mr. DOLE), the Senator from New York (Mr. JAVITS), and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of S. 3517, a bill to provide for the issuance of special series of postage stamps for the Bicentennial celebration depicting a historical event or individual from each of the 50 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

S. 3606

At the request of Mr. MCGOVERN, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S. 3606, a bill to establish a loan insurance program for producers of livestock.

EXEMPTION FROM DUTY EQUIPMENT REPAIRS FOR CERTAIN VESSELS—AMENDMENT

AMENDMENT NO. 1424

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

Mr. MOSS (for himself and Mr. CRANSTON) submitted an amendment intended to be proposed by them jointly 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.

AMENDMENT NO. 1427

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

AMENDMENT TO CLOSE THE LOOPHOLE FOR SYNDICATED TAX SHELTERS

Mr. KENNEDY. Mr. President, I send to the desk an amendment to H.R. 8217, the vessel repair tariff bill, and I ask that it may lay on the table and be printed.

The purpose of the amendment is to deal with the massive tax avoidance problem that now exists through syndicated tax shelters, by which weathly investors use limited partnerships to reap enormous tax benefits, far in excess of their own personal stake in the partnership. It is through this technique that large numbers of tax shelters are now packaged and sold around the country as a tax avoidance device.

In effect, the amendment would apply to limited partnerships the tax rule now applicable to subchapter S corporations under the Internal Revenue Code. Thus, the deductions available to a limited partner could be no greater than his own investment in the partnership. According to the best available estimate, the amendment would produce a revenue gain of about $1 billion in its first full year of operation.

The tax-avoidance problem and the proposed amendment are described in detail in the testimony I delivered this morning to the committee on Finance as part of the committee's current hearings on the tax laws.

Mr. President, I ask unanimous consent that the text of the amendment may be printed at this point in the RECORD. I also ask unanimous consent that my testimony today on tax reform before the Committee on Finance may be printed in the RECORD.

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

AMENDMENT NO. 1427

At the end of the bill insert the following:

SEC. . (a) Section 752 of the Internal Revenue Code of 1954 (relating to treatment of certain liabilities) is amended by adding at the end thereof the following new subsection:

"(e) Certain Liabilities of Limited Partnerships.—For purposes of this section, a limited partner shall be treated as sharing a partnership liability only to the extent that he has individual liability with respect to such partnership liability."

(b) The amendment made by subsection (a) shall apply with respect to partnership liabilities incurred on or after June 10, 1974.

TAX REFORM

(Testimony of Senator EDWARD M. KENNEDY, hearing before Committee on Finance, U.S. Senate, June 10, 1974)

I am pleased to join in these hearings this morning as a timely symbol and demonstration of the commitment of many of us in the Senate to tax reform.

We have a crisis over taxation today, since countless ordinary men and women now realize that their taxes are too large because others pay too little.

Year after year, Congress after Congress, we have allowed the loopholes and special benefits in the tax laws to accumulate, virtually without end. As a result, we allow tens of billions of dollars of income and profits to escape taxation every year. Those "loophole losses" have to be made up somehow, and we know the way they are made up—by higher taxes for every ordinary citizen.

In fact, the Internal Revenue Code is America's biggest welfare bill of all. But it is the sort of welfare that only Alice in Wonderland can understand, because the greatest benefits of tax welfare go entirely to the richest individuals and the nation's largest corporations.

Only those of substantial means are able to play the loopholes well. Middle and lower income Americans simply cannot afford the substantial sums that are necessary to take advantages of the tax level of income for effective use of tax shelters is in the neighborhood of $50,000 a year, far beyond the reach of any ordinary citizen.

To paraphrase a famous aphorism, our tax laws in their majestic equality allow the poor as well as the rich to invest in State and local bonds, to reap long-term capital gains, to drill for oil, to enjoy the fantastic benefits of owning real estate, and to hire lawyers and accountants skilled at the latest techniques of tax shelters and tax avoidance.

Wherever we look, we find the tax base being eroded by unjustified deductions and exemptions, by windfall subsidies, by questionable incentives for various industries, by benefits that have long since outlived whatever justification they had when first enacted, and even by loopholes quietly written into law for the benefit of particular individuals or corporations—"tax fingerprints" that dot the Revenue Code in silent tribute to the political muscle of the wealthy and the powerful in the nation.

And meanwhile, the taxes paid by ordinary citizens are always on the rise.

The time has come to end all that. The time has come for Congress to take the lead. We can act this session. There is still enough time to guarantee that one of the major landmarks of the 93rd Congress is legislation on comprehenive tax reform.

I see a three-part strategy.

IMMEDIATE TAX RELIEF

First, we need immediate tax relief for every citizen. Congress should act now to provide an across-the-board anti-recession tax cut for every citizen. Through such tax relief, we can provide an urgently needed shot-in-the-arm to prevent the economy from sinking deeper into the current recession, and to prevent unemployment from soaring higher.

Such tax relief would also provide a welcome and well-deserved respite from the continuing inflation and high interest rates now impose on every citizen.

Now about to come before the Senate is a proposal that I have joined in introducing with Senator Long and Senator Mondale, to provide $6.5 billion in anti-recession tax relief. The proposal contains three principal provisions:

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.

It will provide an optional tax credit of $190 in lieu of the exemption.

It will refund a portion of the Social Security payroll taxes paid by low-income workers with children, through a refundable tax credit—Senator Long's "work bonus"—equal to 10% of wages up to $4,000 in income. For incomes over $4,000, the credit is phased out at the rate of 25c per dollar, so that the credit disappears when income reaches $5,600. Because the credit is refundable, it will be paid as an income tax refund, even if the recipient has no income tax liability.

This tax relief proposal is now awaiting action by the full Senate on either the Vessel Repair Tariff Act or the Debt Ceiling Act.

My hope is that Congress will act quickly to adopt it. The health of the American economy for the remainder of 1974 and on into 1975 may well hang on the outcome of our action.

DOWNPAYMENT ON TAX REFORM

Second, both as a downpayment on comprehensive tax reform this year and as an offset to the revenue loss from tax relief, we need to enact some basic tax reforms on the tariff bill or the Debt Ceiling Act. With Senator Bayh and five other Senators, I have joined in proposing. four reforms which we think are capable of immediate enactment. I am attaching a detailed explanation to each of these reforms. Briefly, they would accomplish the following:

Repeal the oil depletion allowance, effective January 1, 1974 ($2.0 billion revenue gain in first year; $2.6 billion in third year; $3.3 billion in fifth year).

Repeal the Asset Depreciation Range (ADR) system of accelerated depreciation, effective for plant and equipment placed in service as of May 8, the date our amendment was proposed ($250 million revenue gain in first year; $1.5 billion in third year; $2.0 billion in fifth year).

Repeal the Domestic International Sales Corporation (DISC) system of tax incentives for exports, effective January 1, 1974 ($815 million revenue gain).

Strengthen the minimum tax by reducing the current exclusion from $30,000 to $10,000, and by eliminating the current deduction for taxes paid, effective January 1, 1974. This provision was passed 47–32 by the Senate on January 24, 1974 ($830 million revenue gain).

These four proposed reforms will generate new revenues totaling $4 billion in 1974, and $7 billion by 1978.

Again and again in recent years, the Senate has considered and debated and voted on these proposals. The time for final action has come. The people of America are fed up with rising taxes for themselves, soaring profits out of oil, and gaping loopholes for many others among the favored few. It is time for Congress to begin to redeem its pledge of equal tax justice for every citizen under the Internal Revenue Code. The place to start is here, with the four most flagrant loopholes in the law—oil depletion, ADR, DISC, and the minimum tax.

COMPREHENSIVE TAX REFORM

Third, we must work for final action in this Congress on comprehensive tax reform. The vehicle is in sight—the pending measure now being considered in the Ways and Means Committee in the House. Clearly, the goal of enacting such reform before adjournment is within our reach, and I urge both this committee and the Ways and Means Committee to give it the high priority it deserves.

My own view is that Congress ought to be able to enact loophole-closing tax reforms amounting to net revenue savings of at least $10 billion a year.

The list of areas that need reform is long, but there is growing agreement on what some of the major elements should be. In addition to the four immediate reforms I have already proposed, the highlights of my own agenda go as follows:

PACKAGED TAX SHELTERS

First, and most important, is a reform which, like the minimum tax, cuts across many specific areas and which will eliminate some of the worst abuses of the tax laws. We must call a holt to the increasing proliferation of tax shelter transactions now being packaged and marketed around the country on a massive assembly-line basis for the benefit of wealthy individuals anxious to keep their taxes low.

These packaged tax shelters have now become one of the most notorious abuses in our tax history, a flagrant vehicle by which high bracket taxpayers eliminate their taxes altogether or reduce them to levels that are unacceptably low. At present, such transactions are costing the American taxpayer over $1 billion a year, and the revenue loss is obviously escalating as the techniques become more familiar and more widely used. If Congress is serious about tax reform, immediate action is required.

Tax shelter transactions now run through our entire economy. The ingenuity of wealthy tax avoiders and their advisers knows no bounds. What I might call the Victorian generation of tax shelters are those widely used in real estate, and oil and gas—the two types of shelters still most widely used today.

More recently, newer generations of shelters have sprung up in areas like cattle farming, orange and apple orchards, movie production, and in jet airplanes and railroad cars and river barges and oil tankers—even including tankers that by virtue of their size cannot dock in U.S. ports.

There are also shelters in more exotic areas, such as rose and azalea bushes, pistachio nuts, thoroughbred racing stables, or masterpiece-in-the-home clubs for famous works of art, and even in chinchilla farms and cattle sperm banks and pornographic films.

Whatever the arguments for federal tax subsidies for building homes or drilling for oil or raising cattle, it can hardly be con-

tented that investments in pornography, chinchillas, azalea bushes, and exotic fruits and nuts constitute a national priority worthy of encouragement by our tax laws.

And even in those areas like real estate and oil exploration and cattle ranching, where some form of tax subsidy may be an appropriate national priority, I have grave doubts about the propriety of allowing the tax laws to be distorted in a way that serves a purely tax-avoidance purpose of a handful of wealthy citizens.

Vast amounts of funds are flowing into these activities today—not because the nation wants them; not because Congress or State or local governments want them, but because the richest percentile of the nation wants them for their tax avoidance value.

The sudden proliferation of these and other tax shelters in recent years is indicated by the rising workload of the S.E.C. In February 1972, for the first time in its history, the S.E.C. was obliged to create a specialized branch, to handle public offerings of tax shelter transactions. In July 1973, a second special branch was added in the S.E.C. Today there are three S.E.C. branches working essentially full time on tax shelters: one branch on oil and gas, a second branch on condominiums and cattle and agriculture, and a third branch on real estate and other shelters.

But the S.E.C. sees only the tip of the iceberg, the roof of the shelter. It deals only with shelters whose registration is required under the securities laws—in effect, those involving public offerings sold across state lines.

A more accurate measure of the proliferation of tax shelters can be found in the figures of the National Association of Securities Dealers. These figures cover tax shelters sold by members of the Association, whether the shelters are interstate or intrastate transactions.

As the accompanying table indicates, the number of offerings of tax shelters nearly quadrupled between 1970 and 1972, and the dollar value of the offerings more than tripled, reaching the astonishing level of $3.2 billion in 1972. Although the figures for 1973 have been cut in half, the reduction is obviously caused by the nosedive of the national economy in general and the plunging stock market in particular. No one doubts that the tax shelter entrepreneurs are waiting in the wings, their vast wares ready for the first hint that the economy is coming back to health.

TAX SHELTERS OFFERED BY NASD BROKER DEALERS 1970-73—NUMBER OF FILINGS AND GROSS DOLLAR AMOUNT OF FILINGS[1]

	1970		1971		1972		1973	
	Number	Amount	Number	Amount	Number	Amount	Number	Amount
Oil and gas	62	$664, 337, 000	155	$740, 094, 000	226	$1, 027, 500, 000	120	$514, 000, 000
Real estate	54	256, 485, 000	139	523, 534, 000	243	1, 910, 000, 000	74	467, 564, 000
Vintage and farming	3	10, 742, 000	7	30, 266, 000	21	43, 284, 000	5	13, 950, 000
Cattle farming and breeding	13	26, 764, 00	22	244, 636, 000	30	192, 012, 000	22	181, 167, 000
Miscellaneous	13	26, 336, 000	11	29, 915, 000	19	55, 256, 000	14	143, 815, 000
Total	145	984, 664, 000	334	1, 568, 405, 000	539	3, 228, 667, 000	235	1, 320, 340, 000

[1] Items may not add to totals because of rounding.

Even the NASD figure, however, fail to tell the whole story. The Association estimates that its figures cover only about one-tenth of the dollar volume of all the tax shelters offered and an even smaller fraction of the number of shelters offered, since the vast majority are sold through private placement and not through securities dealers. The best estimate therefore, is that in 1972, upward of $30 billion in tax shelters were packaged and sold around the country.

Enormous waste is involved in the nationwide syndication of these tax shelters that is taking place today.

A significant portion of the benefits are siphoned off in fees for the promoters, underwriters, lawyers, and accountants whose business is the sale of these federal tax advantages.

These transactions also constitute artificial and unfair competition for legitimate business operations. They encourage high risk and extremely speculative adventures that will not stand up to serious economic analysis. They spawn bad business practices that plague the legitimate farmer, the professional oilman, and the ordinary real estate developer. Investors in tax shelters don't need to make an economic profit on their shelters. They don't have to meet a payroll or feed a child or clothe a family or make a monthly mortgage payment out of the income from their operations. The only thing these wealthy investors want is the large deductions and other tax advantages that the shelters can produce for high bracket lawyers, physicians, investment bankers, corporate executives, and the like.

The principles of a tax shelter are fairly simple. There are a handful of basic elements that may exist alone or in overlapping combinations:

Deferral of current tax, which allows income to be realized in a year chosen by the taxpayers;

Leverage, which allows borrowed funds to be used to create tax benefits far in excess of the taxpayer's own personal stake in the property;

The shelter itself, which allows deductions from one activity to offset income from another; and

The capital gain available on disposition of the property, even though the shelter has provided deductions against ordinary income in the past.

Different tax shelters use these elements in different ways. It may be appropriate as Congress studies the problem more intently to establish rules to deal with each transaction.

It is also possible, however, to fashion an overall approach. The Administration, for example, has proposed a "Limitation on Artifical Accounting Losses," the so-called LAAL method, which would deal with shelters through their deferral aspects, by matching deductions with the income generated by the shelter project. The LAAL approach, however, is extremely complicated, and would impose heavy burdens of accounting and record-keeping on such operations. Many tax experts who have studied LAAL believe that it may well be unworkable in practice.

There is, however, one very simple approach that Congress could now take. It would deal with shelters through the leverage aspect. It would effectively end the syndication and mass marketing of such shelters, thereby eliminating most of the worst abuses.

The essence of the reform is to limit the tax advantages of a shelter to an investor's own personal stake in the project, the actual amount of his own investment. This purpose would be accomplished by requiring that limited partnerships, the most widespread form of syndicated tax shelters, must be taxed in accord with the pass-through rules now applicable to Subchapter S corporations. I am today introducing an amendment to H.R. 8217, the tariff bill now on the Senate calendar, to carry out this reform.

Under Subchapter S in present law, certain corporations are entitled to be taxed as partnerships in some respects. For present purposes, the central point is that shareholders are entitled to deductions generated by the corporation only to the extent of their actual stock investment in the corporation. The amendment I propose would apply this same principle to limited partnerships.

The effect of this amendment, as applied to a real estate transaction or other leveraged shelter, would be as follows: (1) Assume that ten wealthy individuals put up $100,000 each for a limited partnership—limited in the sense that their liability is limited to their $1 million investment, so that the partners themselves are not individually liable for the debts, work claims, negligence or other tort obligations, or other charges against the partnership;

(2) Assume also that the partnership borrows $9,000,000 to develop a luxury apartment complex, thereby producing a total capitalization of $10 million for the partnership.

(3) Assume further that the project generates $2.1 million in accelerated depreciation interest, operating expenses, and other deductions in the first year.

On these facts, under present law, each individual partner would receive a deduction of $210,000, based on his share of the $2.1 million deduction generated by the full $10 million in operating funds available to the partnership. Thus, a $210,000 deduction would be available to each partner, even though his own individual liability on the project is limited to his actual $100,000 investment.

The proposed amendment, by contrast, would allow each partner a deduction of only $100,000. The remaining $110,000 of his $210,000 share of the partnership deduction would go into his "suspense" account, to be available only as an offset against future income from the project; it would not be available as a current deduction from his other income.

By itself, this amendment should succeed in ending the insidious practice of syndicated tax shelters, without any substantial effect on legitimate business operations. It is extremely unlikely that the busy doctors, lawyers, corporate presidents, and others who enjoy the benefits of such shelters will want to be involved in the active operations of the businesses in which they have invested, even to the extent of becoming personally liable for the transactions of the shelters They only want their passive investments and handsome tax deductions, not the headaches and liabilities of the actual operations.

The more we learn about these syndicated tax shelter transactions, the more concerned we are. The practice is destroying the integrity of our tax laws. In no other area is the revenue code so dangerously eroded or the vitality of our self-assessment tax system so seriously threatened. Indeed, some tax experts have already predicted that such tax shelters will become the Achilles heel of the Federal income tax if Congress does not bring them under control.

So far, we have been too slow in awakening to the abuses that have sprung up in these dark but heavily sheltered recesses of the Revenue Code. Now is the time for Congress to tackle the issue, and end the unfair tactics being used to subvert the tax laws and distort the American economy.

TAX CREDITS VERSUS TAX DEDUCTIONS

The second major area of comprehensive tax reform I favor is also one that cuts across many other areas—the need to overhaul the relationship between tax credits and tax deductions. In the past, as part of overall tax reform, I have urged Congress to allow credits instead of deductions in a number of major areas, including the personal exemption, the homeowner's mortgage interest deduction, the deduction for medical expenses, and the deductions for State and local income and property taxes.

Our tax laws are clearly out of joint today, and nowhere is the disparity clearer than in the case of some of the most popular tax deductions:

It make no sense to me that, because of the rate structure of our revenue laws, the $750 personal exemption means a child in a wealthy family is worth a tax savings of $525 to his parents, while a ghetto child is worth a saving of only $105.

It makes no sense to me that the tax law saves the wealthy family 70 cents on every dollar in mortgage interest payments on its Scarsdale home, but only 14 cents on the dollar for the family home in Harlem.

It makes no sense to me that, through the tax laws, the United States Treasury pays 70% of the cost of a wealthy citizen's visit to his Beverly Hills physician, but only 14% of the medical bills for the family in East Los Angeles.

By allowing the use of credits instead of deductions in these and other areas of the tax laws, either on an optional or mandatory basis, we can make the income tax system far more progressive, and provide a substantial new measure of equity for millions of our taxpayers.

TAX SIMPLIFICATION

The third broad area in the drive for tax reform is the subject of tax simplication. Above and beyond the effort to close unjustified loopholes, we must also reduce the needless complexity and paperwork that now plague the ordinary taxpayer. Too often, tax reform bills become a type of public service employment for lawyers and accountants and well-meaning reforms become lost in the fog of contortions and complexities in the Code, beyond the comprehension of the average citizen.

OTHER SPECIFIC REFORMS

In addition, I also favor a number of reforms in specific areas of the tax laws. In an appendix to this statement, I have provided a more detailed summary of some of these proposals. In brief, they are as follows:

Capital gains. In the area of capital gains, I would propose four changes:

(1) increase the inclusion percentage from 50% to 60%.

(2) repeal the 25% alternative rate for the first $50,000 of capital gains;

(3) Increase the holding period for capital gains from six months to one year; and

(4) tax the accrued gain on transfers at death or by gift.

At the present time, capital gains represent one of the most significant preferences in the tax laws, yet they are available almost exclusively to the nation's richest individuals. According to recent statistics, the top three percent of taxpayers enjoy 55 percent of all capital gains, and the top one-tenth of one percent of all taxpayers enjoy 30% of all capital gains. The enormous tax advantages that now apply to capital gains are thus the special province of an extremely wealthy elite among the nation's taxpayers.

I do not support efforts to close the gap altogether between the tax on ordinary income and the tax on capital gains, but we must go part way. The changes I propose in capital gains would not substantially impair the flow of capital in the nation. A major tax preference would still exist for capital gains in the Revenue Code. And by ending the gains at death, Congress would actually free up billions of future dollars for investment, dollars that would otherwise be frozen because of the tax advantage that now occurs when property is held until death.

At the same time, I believe that Congress should resist proposals now being circulated to relax even further the current low rate of tax on capital gains, depending on the length of time a capital asset is held. Such a change would seriously increase the existing "lock-in" effect of the capital gains tax, since it would encourage investors to hold assets for longer periods of time in order to obtain the progressively more favorable tax rates that would become available. To me, the answer to the problem of the sagging stock market is a sound economy, not a further dose of special tax preferences for the wealthy few who have the wherewithal to enjoy capital gains.

Oil. In the area of oil, in addition to the repeal of percentage depletion for both foreign and domestic production described above, Congress should take two other steps to deal with the excessive tax advantages now available for foreign oil operations:

First, we should repeal the deduction currently allowed for intangible drilling costs on foreign wells. In virtually every other industry, taxpayers are required to recover these expenses through annual depreciation over the lifetime of the asset; only in the case of oil is an immediate deduction allowed for the full amount of this intangible expense, such as labor, equipment rentals, fuel and similar costs, which make up about 75% of the investment in a well.

Second, we should repeal the foreign tax credit for oil operations, and thereby end the current travesty of our tax laws, which allows foreign royalties to be treated as foreign taxes for the purpose of the credit. Under this reform, the expenses will be taken as a tax deduction, as they should; they will no longer be available as a credit against U.S. taxes.

These oil reforms are especially appropriate in these times of focus on America's energy independence. For too long our tax laws have subsidized exploration and drilling and development overseas for oil. It is time to close this loophole and bring our far flung oil corporations back to American soil.

State and local bonds. In the area of state and local bonds, we should provide an optional federal subsidy for taxable bonds issued by state and local governments, equal to 50% of the interest on the bonds.

Interest. On the interest deduction, we should do four things. (1) We should strengthen the present limitation on the deduction of investment interest by eliminating the $25,000 exemption, which serves to exempt, at present interest rates, the interest on as much as $300,000 of debt. (2) We should apply the limitation to corporations. (3) We should require net investment income to be computed on the same basis as taxable income; that is, by using accelerated depreciation, percentage depletion and other similar preferences. (4) And, the current deductions for interest on property should be limited to the taxpayer's principal residence, and should not be available for interest paid on vacation homes and similar property.

Personal deductions. On personal deductions, we should require the allocation of personal itemized deductions between taxable and tax exempt income. Obviously, an individual makes these expenditures out of both types of income, and the tax benefit of the deduction should be limited to the proportion of his total income that is taxed.

Investment credit. On the investment credit, a number of changes are desirable. The credit should be allowed only for increased investment over an average base-period level. In addition, the amount of the credit should be included in the income of the taxpayer; the credit should be limited to the actual user of the property for which the credit is granted; and the credit should be made refundable, so that a positive tax refund can be given to a taxpayer who has no other tax liability.

Other foreign income. Finally, in the area of other foreign income, we should repeal the $25,000 exemption for income earned abroad. We should repeal the Western Hemisphere Trade Corporation provisions. We should repeal the provision that allows double-counting of the foreign tax credit in the case of U.S. subsidiaries. And, we should repeal the tax deferral provisions by which the United States encourages multinational corporations to build plants in foreign lands, in order to enjoy the benefits of such "tax havens".

In closing, let me repeat my hope that in the coming weeks, Congress will make its intention clear to give tax reform the same high priority already reserved for other basic issues. Only in this way can we bring real tax justice to every citizen, and end the unjust reign of King Loophole in our revenue laws.

Whatever the final outcome of the debate over President Nixon's tax returns, the most important lesson of the disclosure of the President's tax data is that tax reform must move back to center stage as an issue for Congress and the American people.

The picture that emerges from the voluminous recent disclosures of the Joint Committee on Internal Revenue Taxation is not a pretty one, because it demonstrates the extraordinary ease with which wealthy individuals maneuver their financial affairs to avoid their fair share of taxes and take advantage of our loophole-ridden revenue laws.

Just as Watergate helped to generate important new legislative momentum in Congress for comprehensive reform of the nation's election laws, including the landmark bill for public financing of elections that passed the Senate earlier this year, so the President's tax disclosure should generate a similar momentum in Congress for comprehensive reform of the nation's tax laws.

Tax reform belongs at the top of our agenda for 1974. The country needed a spark to ignite the fire of tax reform, and the President's disclosures have provided it. It is up to us in Congress to meet the challenge, to meet our obligation as representatives of every ordinary taxpayer. And if we succeed, then in years to come, the 93rd Congress will be remembered as the Congress that at least brought tax justice to America.

DETAILED EXPLANATION OF CERTAIN TAX REFORM PROPOSALS

STATE AND LOCAL BONDS

Proposal: Provide a federal subsidy for taxable bonds issued by state and local governments, equal to 50% of the interest on the bonds.

Problem: Interest on bonds issued by state and local governments is currently exempt from the Federal income tax. This exemption creates an obvious tax inequity and is a favorite loophole of wealthy individuals and corporations.

In addition, it has been demonstrated that the exemption is a highly inefficient means of providing federal financial aid to state and local governments. The federal revenue loss under the exemption is currently estimated at $2.8 billion per year, but this federal expenditure results in only a $1.8 billion interest saving to state and local governments. The other $1 billion ends up as a kind of "commission" in the hands of high bracket individuals and corporate investors in the bonds.

For example, assume that a 70% bracket individual invests $—— in a taxable bond at an interest rate of 9%. The individual would pay a tax of $6.30, leaving a net gain of $2.70. Instead, if this 70% bracket taxpayer invested in a tax-exempt bond paying 6% interest, he would have a net gain of $3.30 (the difference between the $2.70 after-tax yield on the taxable bonds and the $6.00 tax exempt interest). The state and local

government has saved $3.00, the difference between $9.00 and $6.00, but the Federal Government has lost, in revenue, $3.30. In other words, the Treasury has paid the 70% bracket individual $3.30, so that a state or city could save $3.00.

Reasons for proposal: The proposal will eliminate the wastage in the present system of providing federal financial aid to state and local governments. The state and local governments, at their option, can issue taxable bonds and the Treasury will provide an automatic 50% subsidy for the interest payable on such bonds. Thus, if a local government issues a taxable bond bearing 10% interest, the federal government will pay 5% of the interest. Since most bond investors are high bracket taxpayers, the Treasury will not suffer any revenue loss, because it will be collecting taxes on the interest received by the investors. As a result, the "commissions" currently paid to high bracket taxpayers will be eliminated, and all of the Federal expenditure will go to intended beneficiaries, state and local governments.

This proposal has now been approved by the National League of Cities, the National Governors Conference, the National Association of Counties, the Municipal Finance Officers Association, and the U.S. Conference of Mayors.

CAPITAL GAINS

Proposals

1. Increase the inclusion percentage from 50% to 60%.

2. Repeal 25% rate for first $50,000 of capital gain.

3. Increase the holding period from six months to one year.

4. Tax accrued gain on transfers at death or by gift.

Problems: Present tax rules provide several important benefits for income that is denominated as "capital gain" income.

First, the tax on the accrued gain each year is deferred, and is not required to be paid until the taxpayer disposes of the property by a taxable sale or exchange. If the individual dies, present tax rules completely exempt the gain from tax.

Second, even when gains are realized, only one-half of those gains are subject to tax. At the present time, these tax benefits represent $9 billion in Federal subsidies each year. One half of the $9 billion in tax benefits goes to only 200,000 of the 80 million taxpayers, or less than three-tenths of one percent of the taxpayers in the country. In effect, this constitutes a Federal subsidy of $22,500 per year per family to the richest families in the country.

Third, the failure to tax gains at death permits wealthy individuals to pass on to their heirs the entire appreciation in value of their assets, free of income tax. By contrast, a wage earner who has his funds in a savings account, can pass on his estate to his heirs only after having paid income taxes in full on the amount that the heirs receive.

Fourth, even assuming that a favorable tax rate should be given to capital gains, the holding period to qualify for capital gains should be lengthened in order to distinguish speculation from true investment. Under the present six-month holding period one who invests in stock can turn over his "inventory" twice a year at capital gains rates. By contrast, the furniture dealer who turns over his inventory twice a year must pay tax at the full rates applicable to ordinary income.

Recommended solutions

1. The 50% exclusion accorded capital gains should be reduced to 40%, i.e., 60% of the gains would be subject to tax. This would mean that the tax rate paid on capital gains by 70% bracket taxpayers would be increased from the present 35% to 42%. This increase may be compared to that of 1969 when the tax rate on capital gains was increased from 25% to 35%. No deterrent to investment has resulted from the increase in capital gains rates in 1969.

2. The holding period would be lengthened to one year to insure that the favorable capital gains rate is given to persons who have invested, rather than to those who are speculating.

3. Taxation of accrued capital gains at death or by gift will insure that the property of the wealthiest passes on to their heirs after paying income taxes, just as is true in the case of the wage earner. Appropriate exemptions can be provided to phase in the change and to provide for transfers to a wife, transfers to charity, transfers to orphaned children, etc. A special program of Federal financial assistance can be provided to those estates which are composed of assets not easily marketed, notably farms and small businesses.

INTEREST DEDUCTION

Proposals

1. Strengthen the present limitation on the deduction of investment interest.

2. The current deductions for interest should be limited to the taxpayer's principal residence and not be available for interest and taxes incurred on vacation homes and the like.

Problems

In 1969, Congress imposed a limitation on the interest deduction, where the interest was incurred to invest in assets that would only be taxed at capital gains rates. The difficulty existed because taxpayers borrowed money to invest in capital assets; the interest deduction would offset ordinary income in full; but when the property was sold, only one half of the gain would be included in the tax base. In 1969, Congress moved to limit the obvious inequity that resulted from this situation, by providing that one half of the interest in excess of $25,000 plus the taxpayer's investment income would be disallowed until such future year as the taxpayer had additional investment income which was taxable in full. The theory of the Congressional action was that if the gain on the property was only going to be taxed to the extent of one half, then the interest deduction incurred to carry that property should be allowed only to the extent of one half.

2. The deduction for interest on home mortgages is presumably intended as a federal program to provide financial assistance in encouraging home ownership. However, the federal program was never intended to provide financial assistance to persons who wish to buy second or even third homes as vacation homes. Nonetheless, present rules permit the deduction of interest on mortgages incurred to purchase these homes.

Recommendations

1. The present investment interest limitation should be strengthened by eliminating the $25,000 exemption (which serves to exempt, at present interest rates, interest on as much as $250,000 of debt); by applying the limitation to corporations; and by requiring that net investment income should be computed on the same basis as taxable income, i.e., by using accelerated depreciation and percentage depletion.

2. To prevent the use of the interest deduction to help finance vacation homes, the deduction for interest should be limited to the taxpayer's principal residence.

PERSONAL DEDUCTIONS

Proposal: Require allocation of personal itemized deductions between taxable and tax-exempt income.

Problem: Present tax rules permit special deductions for certain personal expenditures—medical expenses, charitable contributions, interest, taxes, casualty losses, child care expenses, and contributions to political campaigns. Despite the fact that an individual can pay these expenditures out of either taxable or tax-exempt income, present rules permit the deductions to be taken in full against taxable income. In other words, present tax rules unrealistically assume that all of the itemized personal expenditures are paid out of taxable income. Tax-exempt income—notably the excluded one-half of capital gains, interest on state and local bonds, and income from percentage depletion, from accelerated depreciation, and from intangible drilling and development expenses—is equally available to pay these personal expenditures. Therefore, the much fairer and more logical rule is to allocate the itemized personal expenditures between taxable and tax-exempt income.

Operation of proposal: The proposed rule would require that itemized personal deductions be allocated between the taxpayer's taxable and tax-exempt income. Thus, if an individual had $50,000 of taxable income and $50,000 of tax-exempt income, and spent $20,000 for interest and medical expenses, only $10,000 of the expenditures would be allowed as deductions against the taxable one half of the individuals' income. Presumably, the other $10,000 in expenses could have been paid out of the individual's tax-exempt income, and it is appropriate to disallow the deduction, since the income is not included in the tax base. This proposal was adopted by the House of Representatives in the 1969 Tax Reform Act, but was dropped by the Senate.

INVESTMENT CREDIT

Proposal: (1) The amount of the investment credit should be included in the income of the taxpayer; it should be limited to the actual user of the property for which the credit is granted; and the credit should be made refundable, i.e., a positive tax refund can be given to a taxpayer who has no tax liability.

(2) The credit should be allowed only for increased investment over an average base-period investment level.

Problem

(1) Under present rules the taxpayer who invests $100 in equipment and machinery gets a $7 credit for that investment. However, the taxypayer is permitted to depreciate the property on the full $100, although the out-of-pocket cost is only $93. Normal rules permit a taxpayer to depreciate only its own net cost in an asset. This double tax benefit from the investment credit is unwarranted. The amount of the credit itself should be included in income, and then the taxpayer can deduct depreciation on the full $100 of investment.

The credit should also be limited to the actual user of the property. Failure to so restrict the credit at the present time has resulted in tax shelter operations in which the investment credit is used by a "lessor", notably banks. As a result of these tax shelter operations, large banks have now reduced their U.S. income tax liability to near zero, thus completely negating the reform of 1969 that was intended to place banks more on a parity with other corporations.

Finally, the investment credit, is of no benefit to a taxpayer that has no tax liability. Thus, railroads, airlines, and other industries that have no tax liability cannot use the investment credit unless they engage in tax shelter operations. Making the credit available only to the user, and making the credit refundable, would enable the government, through the investment credit, to provide assistance to taxpayers who make investments in new machinery and equipment regardless of whether these taxpayers show a federal tax liability or not. Thus, Penn Central could either lease or purchase railroad cars and it would get the benefits of the credit under this proposal, even though it might not have any positive tax liability.

Adoption of this proposal would also make it possible to provide the credit, if it is so desirable, to tax-exempt institutions. For example, the credit could be made available to hospitals which are required to invest

in very costly equipment. However, since hospitals are tax-exempt, the present investment credit is of no benefit or incentive to them to invest in modern hospital equipment.

(2) There is substantial agreement that the present investment credit simply constitutes a windfall to certain corporations for making investments that they planned to make in any event. As such, it is simply a cost-sharing by the federal government in situations in which no cost-sharing is required.

Presumably the credit was intended to operate as an incentive for industry to make investments in new plant machinery and equipment, which they would have been unable to make in the absence of federal financial aid. To insure that the credit achieves the desired purpose, and does not operate as a windfall, the credit should be restructed so that it is available only for increased investments over a taxpayer's average base period.

Thus, for example, if the taxpayer's investment in new plant machinery and equipment had averaged $10 million per year over the preceding five years, the credit would be available only for investment in plant machinery and equipment in the current year in excess of ten million dollars. Such a change would greatly improve the equities of the investment credit and would target the federal financial assistance to situations where it is most needed.

OTHER FOREIGN INCOME

Proposals

1. Repeal earned income exemption.

2. Repeal Western Hemisphere trade corporation provisions.

3. Repeal the deferral provisions that encourage foreign tax havens.

4. Repeal the provision that allows double-counting of the foreign tax credit in the case of U.S. subsidiaries.

5. Revise the loss carry-over aspect of the foreign tax credit.

Problems

1. Present rules provide an exemption of $20,000 a year for a person who is living abroad for at least a year ($25,000 for a three-year resident). Presumably, the exemption is intended to reduce the costs for U.S. employers where they utilize U.S. employees in foreign businesses. There is no justification for the rule, since the foreign tax credit is entirely adequate to prevent double taxation.

2. Present tax laws provide a special 34% tax rate for Western Hemisphere Trade Corporations, instead of the normal 48% tax paid by U.S. companies. Again, companies simply set up subsidiaries to do their exporting in the Western Hemisphere, exporting products that the parent companies would have exported in any event. The Treasury has never been able to find that the special rate has produced any increased exports.

3. Various provisions permit U.S. corporations to set up wholly-owned foreign subsidiaries until the profits are returned to the U.S. If the profits are continually re-invested overseas, the tax is avoided indefinitely.

This benefit produces a marked incentive for U.S. companies to invest in foreign activity, as opposed to domestic activity, and is one of the principal "foreign tax haven" provisions in the Internal Revenue Code. There is no reason for the U.S. to subsidize multinational corporations in their decisions to build plants overseas. The tax system should be neutral between a businessman's decision to invest abroad or in the United States, rather than provide tax preferences to export U.S. jobs. This reform is one of the principal tax provisions of the Hartke-Burke trade bill.

4. Under present rules, a parent corporation with a subsidiary in a less developed country is not required to include in income ("gross up") the foreign tax on dividends paid by the subsidiary to the U.S. parent. As a result, the parent gets a double tax benefit. The foreign tax counts both as a deduction for the subsidiary in calculating the dividend reported to the parent, and as a credit for the parent against its own taxes.

In 1962, Congress ended this unjustified benefit for such subsidiaries in developed nations by requiring that the foreign tax be counted in the dividends paid by the subsidiary to the U.S. parent. In other words, the parent is required to "gross up" the dividends it receives from its foreign subsidiaries.

However, the change was not applied to subsidiaries in less developed countries. Although the present treatment is defended on the theory that it assists less developed countries, there is no evidence to indicate that the present tax windfall encourages investment in less developed countries. The rule should be made the same for all foreign subsidiaries, regardless of where they are located.

5. The foreign tax credit should also be revised to correct some technical defects. One notable problem has to do with losses incurred by a company in a foreign country which are deducted currently against U.S. income. In subsequent years, when foreign activity produces income, a foreign tax credit is allowed in full for the taxes paid on such income, because many foreign countries do not allow an operating loss carryover, as does the U.S. The result is to obtain a double tax benefit, which primarily operates to provide a financial windfall to companies involved in the natural resources area. This defect should be cured by providing that the foreign tax credit in the subsequent year should be computed as if the loss had been allowed as a deduction in the foreign country. Such a provision was approved by the House in the Tax Reform Act of 1969.

Background of the asset depreciation range system

The ADR system permits a corporate taxpayer to depreciate capital assets within a range of up to 20 percent faster than the useful lives of these assets as defined by Treasury guidelines on useful lives in 1971. Many people believed that the Treasury was exceeding its statutory authority in administratively changing the depreciation system. In part due to public and Congressional protest, the administration submitted a modified version of ADR to Congress in the Revenue Act of 1971. On November 12, 1971, the Senate came within two votes of rejecting ADR.

ADR abandons a concept which had been an integral part of the tax laws for 40 years—namely, that deductions for depreciation of capital assets must be based on the actual useful life of the asset. Once we depart from this concept and allow tax depreciation to exceed economic depreciation, the owners of property producing taxable income are in effect receiving subsidy payments from the Treasury. There is no mathematical difference between giving an individual or business a direct handout and for giving him a like amount in taxes due.

In announcing the ADR in January of 1971, President Nixon stated that "a liberalization of depreciation allowances is essentially a change in the timing of a tax liability." This statement is mistaken and represents a confusion between the consequences of a liberalization in depreciation allowances for a single asset or assets of a single year or even a limited number of years and the permanent liberalization established by ADR. Experts in this field have estimated that by 1980 the ADR system will have resulted in up to a $30 billion permanent revenue loss to the Treasury. Thus ADR is not simply a change in the timing of tax payments or reducing payments now in return for a tax liability in the future. It represents a repeating and accumulating loss in tax revenues year after year, a loss which will ultimately grow along with the general rate of growth of the economy and in particular the rate of growth in equipment subject to the tax depreciation.

The major rationale which has been put forward to justify ADR is that it will stimulate investment and therefore the economy generally. Many experts in this area, however, do not agree that this is the case. Professor Robert Eisner of Northwestern University who has spent many years studying the subject of asset depreciation earlier this year testified before the House Ways and Means Committee that "there is little evidence that 'liberalization' of depreciation allowances of this type will have much effect on investment." He went on to note that "if the objective were to increase investment spending, economic analysis makes clear that a far more effective device, dollar for dollar of tax loss to the Treasury, would be some form of direct investment subsidy or tax credit." It should be noted that an investment tax credit to stimulate capital investment was also adopted as part of the Revenue Act of 1971 providing ample tax relief and investment incentives for corporations.

The other argument of the ADR proponents revolved around the competitive position of U.S. producers. As nearly all economists will agree, this is a spurious argument. There is no empirical evidence that those countries with the lowest taxes on capital have higher rates of economic growth. In fact, among the major industrial countries the converse appears to be true. If the goal were to stimulate capital formation, ADR is a very ineffective and costly stimulus. In part, this is reflected by the current data which show that business has moved very slowly in adopting ADR. If ADR has a strong investment incentive, why have firms not moved more quickly to adopt the new proposals? Its complexity also appears to be discriminating against the smaller business firms. The current Treasury data indicate that the system is being adopted by the large conglomerates but not the smaller proprietorships and partnerships. Apparently the complex provisions can only be interpreted by the larger firms. Major improvements in the U.S. balance of payments has come from the devaluation of the dollar rather than tax giveaways to business. The future history of ADR is likely to follow that of accelerated depreciation after 1954—a very gradual adoption with no noticeable investment stimuli, but considerable hidden long-run revenue costs.

Estimated revenue loss due to ADR

1971: $300 million.
1972: $900 million.
1973: $1.2 billion.
1974: $1.4 billion.

Estimated revenue gains if ADR is repealed

1974: $400 million.
1975: $1.0 billion.
1976: $1.5 billion.
1977: $1.7 billion.
1978: $2.0 billion.

FACT SHEET ON DISC

DISC provisions of the Tax Code allow specially organized export corporations to defer indefinitely the tax on one-half of their income. There is no evidence that DISC provisions provide an extra stimulus to exports. But they will cost the U.S. Treasury $740 million in 1974, primarily in the form of subsidies to large corporations. Our amendment would terminate the unjustified DISC subsidy.

How DISC provisions work

Under existing law, a corporation may elect to be a DISC (a Domestic International Sales Corporation) if at least 95% of its gross receipts, and at least 95% of its assets, are export-related. DISCs are completely free from normal income taxes. Shareholders, however, are taxable on one-half of the DISC's income each year, or the amount distributed as dividends, whichever is greater.

Thus, DISCs in effect allow indefinite tax deferral on one-half of export income.

In practice, DISCs are most often paper corporations established by other large corporations merely for the purpose of receiving tax benefits for exports. A DISC need not satisfy normal requirements of corporate capitalization, but need have only $2500 in assets. In 1972, 22% of the income received by all DISCs was earned by eight DISCs with gross receipts over $100 million, and over 80% of the 2,249 DISCs were owned by corporations with assets of over $100 million. These large corporations can channel their exports on either a sale or commission basis, through DISCs they have created, and thus receive substantial tax benefits.

Revenue gain from termination of DISC benefits

Terminating DISC benefits under our amendment would gain an estimated $815 million in 1974. $740 million of this amount comes from revenue which would otherwise have been lost in 1974 under the DISC provisions. And $75 million comes from the estimated tax revenue which would be payable in 1974 on DISC income deferred in prior years.

DISC provisions have had no demonstrable effect on increasing our export trade

The U.S. in 1973 enjoyed a $700 million trade surplus, with an unprecedented $70 billion in exports. But when the DISC provisions were originally enacted in 1971, the nation was facing a serious balance of payments deficit, including for the first time in recent years a deficit in trade of goods and services. According to the International Economic Report of the President, the turnaround in the U.S. trade balance was caused primarily by increased world-wide demand for our agricultural and manufactured exports, and the 15% devaluation of the dollar over the past two years. During 1971 and the first half of 1972 our demand for foreign products was strong, and economic slowdowns abroad reduced demand for exports, producing a negative trade balance. Since then, however, export demand has increased, the prices of our exports have become more competitive, and higher relative prices abroad have reduced our demand for imports.

There is no evidence that any part of this trade turn-around is due to the tax benefits provided under DISC. In fact, the GAO has reported that DISC "is not considered to have had much influence toward increasing U.S. exports to date. Neither has it resulted in exporters lowering their prices to meet competition." And a recent Treasury Department report prepared pursuant to the DISC statute gives no convincing evidence that the tax subsidy under DISC is having an effect on our exports or balance of trade. Although the Treasury analysis, which covers data from calendar year 1972, shows that selected firms utilizing DISCs increased their exports 14.1%, slightly more than the total U.S. export growth by 12.4% in that year, the Treasury makes no claim that these figures are statistically significant and admits that their conclusion is "highly tentative." The Treasury Report did show, however, that the 15% profit rate for exporters using DISCs has been about twice the 8% rate of return for those industries in which DISCs predominate, and that the revenue loss has been much higher than Congress expected when it enacted DISC in 1971. The revenue loss was an estimated $250 million in 1972 and $500 million in 1973, instead of the originally predicted $100 million in 1972 and $170 million in 1973.

Effective date

Our amendment would make DISC benefits unavailable for any taxable year beginning after December 31, 1973. Since DISCs are largely an accounting device, utilized by corporations at the end of their taxable years when export receipts, assets, and income are accounted for, terminating the DISC provisions as of this tax year would work no unfairness. Taxes on income previously deferred would be payable in equal assessments over ten years.

Relationship to the ways and means bill

The Ways and Means bill repeals depletion in gradual steps from 1975 through 1978. Its provision on depletion would have virtually no effect in 1974. Our proposal would return significant revenues to the public treasury from ballooning oil profits beginning this year. Oil industry profits in 1973 rose some 55 percent over 1972, according to *Business Week*. Company reports for the first quarter of 1974 indicate another very large jump for this year. After their accountants had done everything possible to minimize below-the-line profits, Texaco reported after-tax earnings up again by 123 percent; SoCal, 92 percent; Standard of Indiana, 81 percent; Gulf, 76 percent; Mobile, 66 percent; Shell, 51 percent; and Exxon, 39 percent.

This proposal separates the repeal of percentage depletion from the other provisions of the Ways and Means Energy Tax Package, because depletion has been the subject of hearings and public debate for many years and the issue is familiar to everyone. Action should be taken now to close this major loophole as the first step toward satisfying public demand for fair taxation of oil income. The other provisions of the Ways and Means package are sufficiently new and complex to warrant more deliberate procedures. This proposal is not intended to detract in any way from the need to consider these other measures in due course.

FACT SHEET ON PROPOSED REPEAL OF PERCENTAGE DEPLETION FOR OIL AND GAS

This provision would abolish the percentage depletion allowance as of January 1, 1974, for all oil extraction and for natural gas not under Federal price control or already committed under fixed-price contracts. The annual revenue gain over five years would be as follows:

[In billions of dollars]

Calendar year	This proposal	Revenue gain, ways and means bill	Difference
1974	2.0	0	2.0
1975	2.2	.6	1.6
1976	2.6	1.3	1.3
1977	2.9	2.1	.8
1978	3.3	2.4	.9
5-year average	2.6	1.3	1.3

Of the revenue gain from abolition, all but about $0.2 billion is traceable to the elimination of percentage depletion on domestic oil. The estimates for domestic oil are based on an average price of crude increasing gradually from $6.50 per barrel in 1974 to a world price of $9 in 1978, as assumed by the Joint Committee on Internal Revenue Taxation.

How depletion works

The percentage depletion option now permits 22 percent of the gross revenues from oil and gas extraction to go entirely free of Federal income tax, up to half of the producer's before-tax profits. For a successful well, percentage depletion can provide a total tax deduction much larger than the alternative of depreciating the investment in the well, as would be done by investors in other businesses. As a result of this and other tax preferences, major oil companies paid only about 6 percent of their income in U.S. income taxes in 1972. For instance, Gulf paid 1.2 percent; Mobil, 1.3 percent; Texaco, 1.7 percent; SoCal, 2 percent; Arco, 3.7 percent; Exxon, 6.5 percent; and Standard of Indiana, 10.2 percent.

Percentage depletion has been defended in the past as an incentive to exploration and drilling. For this purpose, it always has been a very costly form of subsidy, and it is less effective per dollar than a subsidy or tax credit applied directly to the desired activities.

The new high prices of oil render percentage depletion much more expensive than before and, at the same time, remove any justification for it, because today's oil prices provide ample incentive for oil development without any subsidy. Development activity now is constrained not by any lack of incentive but by the physical capacity of the industry and its equipment suppliers.

The recent increase in oil prices indeed presents an opportunity to abolish this aspect of undue favoritism in the tax system without reducing the incomes of oil investors from last year's levels. On the contrary, oil incomes will go up anyway. Depletion should be abolished now before it again becomes embedded in the new income levels, the asset values, and the cost structure of the oil business.

STRENGTHEN THE MINIMUM TAX

Purpose

1. Repeal the step in the calculation of the minimum tax which currently allows a deduction for other taxes paid.

2. Reduce the current $30,000 exclusion from the minimum tax to $10,000.

The proposed amendment makes no change in the list of tax preferences subject to the minimum tax, and no change in the current 10% rate of the minimum tax. It affects only the deduction for taxes paid and the $30,000 exclusion, the most obvious loopholes in the current minimum tax. The combined revenue gain from both provisions would be $860 million.

Current law

The minimum tax was enacted by Congress as part of the Tax Reform Act of 1969, in an effort to insure that persons with substantial amounts of untaxed income would pay at least a modest tax on such income. Under the present minimum tax, a person is taxed at the flat rate of 10% on the sum of his income from certain tax preferences, which include most, but not all, of the major preferences in the tax code: accelerated depreciation on real property, accelerated depreciation on personal property subject to a net lease, amortization of certified pollution control facilities, amortization of railroad rolling stock, stock options, reserves for losses on bad debts of financial institutions, depletion, capital gains, and amortization of on-the-job training and child care facilities.

Before the minimum tax is applied, however, a taxpayer gets two important deductions from his preference income: *First*, an automatic $30,000 exclusion; *Second*, a deduction for the regular income tax he pays. These two deductions are largely responsible for the failure of the minimum tax to fulfill its promise.

Deduction for taxes paid

This deduction allows substantial numbers of taxpayers to avoid the minimum tax completely, even though they have large amounts of income from tax preferences. In practice, the deduction is an "Executive Suite" loophole, since one of its principal effects is to allow highly paid executives to use the large amount of regular taxes they pay on their salaries as an offset against income they receive from tax preferences. The following example illustrates the point:

Preference income	$100,000	$100,000
Regular tax on salary	100,000	
Base for minimum tax	0	100,000
Minimum tax	0	10,000

Individual A, who has $100,000 in income from tax preferences but who pays $100,000 in regular taxes on his salary, owes no minimum tax. Individual B, who has $100,000 in income from the same tax preferences, but

who pays no regular taxes, owes a minimum of $10,000. The minimum tax should operate equally on individuals A and B, yet the deduction for taxes paid lets A escape the minimum tax altogether.

Contrary to arguments raised in the past against the proposal to repeal the deduction for taxes paid, this reform would have only a marginal impact on capital gains. For individuals, the change would increase the effective tax rate on capital gains in the highest bracket from its present level of 36.5% to 40%. But the top 40% rate would apply only to that portion of capital gains over $460,000, and it is still a bargain rate compared to the 70% tax rate on ordinary income at such levels. In the Tax Reform Act of 1969, the maximum effective tax rate on capital gains was increased from 25% to 36.5%, with no measurable effect on the investment community or the flow of capital to business. For corporations, the change would increase the effective tax rate on capital gains from 30.75% to 33.75%. The Tax Reform Act of 1969 increased the rate from 25% to 30%. For all but the smallest corporations, the tax rate on ordinary income is 48%.

The $30,000 exclusion

The second part of the amendment would reduce the existing $30,000 exclusion to $10,000. The present level was set far too high by the 1969 Act. It enables wealthy taxpayers to enjoy their first $30,000 in tax loophole income, completely free of the minimum tax. This was the provision used by President Nixon to reduce his minimum tax to zero in 1971 and 1972, and to near-zero in 1970.

By reducing the level to $10,000, substantial amounts of income that are currently tax-free will become subject to the minimum tax. At the same time, the $10,000 level will be high enough to prevent any substantial deleterious impact on low and middle-income taxpayers with modest tax preference income such as a capital gain on the sale of a home. In addition, the $10,000 level will avoid any unnecessary inconvenience in the administration of the minimum tax, since it will not require the forms to be filed or the tax to be paid on modest amounts of tax preference income.

Effect of current loopholes

Individuals.—In 1971, 100,000 individuals with tax preferences totaling $6.3 billion paid $169 million in minimum tax, for an effective tax rate of only 2.7% compared to the statutory rate of 10%. Of this group, 75,000 individuals, reporting preference income of $2.3 billion, paid no minimum tax at all.

Corporations.—In 1970, 81,000 corporations paid $280 million in minimum tax on loophole income of $5.7 billion, for an effective rate of 4.8%. Of this group, 75,000 corporations, reporting preference income of $1.6 billion, paid no minimum tax at all.

REVENUE GAIN (MILLIONS) FROM PROPOSED AMENDMENT
(1972 INCOME LEVELS)

	Repeal deduction for taxes paid	Reduce exclusion to $10,000	Combined changes
Individuals	$330	$131	[1] $585
Corporations	250	20	275
Total	580	151	860

[1] 80 percent from individuals with adjusted gross incomes over $100,000.

AMENDMENT NO. 1429

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

SINGLE TAXPAYER EQUITY AMENDMENT

Mr. HUMPHREY. Mr. President, more than 35 million unmarried Americans, widows and widowers, divorced persons, and single persons, are unfairly discriminated against by our current Federal income tax laws.

These unmarried citizens are forced to pay as much as 20 percent more income taxes than married persons with identical incomes simply because they are single. This injustice has cost our single taxpayers an estimated $1.7 billion in the past year—a huge and unfair burden on those who are unmarried.

Prior to the Tax Reform Act of 1969, the discrimination was even more onerous. Until its passage, the differential between the single taxpayer and the married taxpayer on the same income was a staggering 41 percent.

But cutting this injustice in half is not enough, equity demands that this unfair tax treatment of single persons be totally abolished.

Mr. President, I find it particularly hard to believe that under current tax law a single head of a household, bringing up children, must pay at a higher rate of tax than a married couple with no children.

Certainly, there should be some means of providing tax relief for families. Raising a family in these days of "double digit" inflation, particularly when the wife does not work, is extremely difficult. However, the proper way to work this factor into the tax equation is through personal exemptions that are realistic. It is for this reason that I have offered with several other Senators, a tax cut amendment to H.R. 8217.

Mr. President, there is much to do in achieving a truly progressive and equitable tax structure in our country. However, right now we can begin by removing this obvious inequity.

For this reason I am introducing, today, the "Single Taxpayer Equity Amendment" to H.R. 8217.

This amendment is virtually identical to a bill which I introduced in 1971, and to an amendment passed by the Senate on October 13, 1972 by an overwhelming vote of 53 to 19, but dropped, regrettably, in conference.

My amendment would result in single persons paying taxes according to the same schedule of rates as married persons with the same income. If enacted, this provision for fair treatment will become effective for the current tax year.

Mr. President, I ask unanimous consent that the full text of my "Single Taxpayer Equity Amendment" be printed in the RECORD.

I also ask unanimous consent that a recent article in Newsweek by Kitty Kelley, entitled "Singled Out for Discrimination," be printed in the RECORD.

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

AMENDMENT NO. 1429

At the end of the bill add section 4. Section 1 of the Internal Revenue Code of 1954 (relating to rates of tax on individuals) is amended—

(1) by striking out subsections (b) and (c);

(2) by redesignating subsection (d) as (b); and

(3) by striking out so much of subsection (a) as precedes the table therein and inserting in lieu thereof the following:

"(a) GENERAL RULE.—There is hereby imposed on the taxable income of every individual, other than an individual to whom subsection (b) applies, a tax determined in accordance with the following table:".

(b) Section 2 of such Code (relating to definitions and special rules) is amended—

(1) by striking out subsections (a) and (b); and

(2) by redesignating subsections (c), (d), and (e) as subsections (a), (b), and (c), respectively.

(c) Sections 511(b)(1) and 641 of such Code are each amended by striking out "section 1(d)" and inserting in lieu thereof "section 1(b)".

(d) Section 6015(a)(1) of such Code is amended to read as follows:

"(1) the gross income for the taxable year can reasonably be expected to exceed $10,000 ($5,000, in the case of an individual subject to the tax imposed by section 1(b) for the taxable year); or".

(e) The amendments made by this section shall apply to taxable years beginning after December 31, 1973

SEC. 2. The Secretary of the Treasury or his delegate shall prescribe and publish tables reflecting the amendments made by this Act which shall apply, in lieu of the tables set forth in section 3402(a) of the Internal Revenue Code of 1954 (relating to percentage methods of withholding), with respect to wages paid on or after January 1, 1974.

SINGLED OUT FOR DISCRIMINATION

Income-tax day is April 15 which, logically, should make this week the biggest of the year for marriage proposals. Roping a spouse is the only way a single taxpayer can beat the system and escape the gouge of the Internal Revenue Service, which graciously subsidizes marriage to the tune of $10 billion a year while slapping single taxpayers with a annual $1.7 billion penalty. The 38 million second-class citizens in this country who are single by choice, death or divorce must either play house or pay through the unringed nose. There is no other option.

Our Federal tax laws protect the poor, the elderly and the handicapped and provide generous loopholes for the very rich. There even used to be a well-publicized cushion for a civil servant who tried to deduct a half million dollars for a passel of papers collected during his days as second banana to President Eisenhower. Special privileges are also accorded to married individuals, who pay much lower taxes than their single counterparts. As the IRS states: "Filing a joint return often means tax savings . . . because the joint-return rates are lower than other rates." Even if only one spouse works, the IRS code permits married couples to pretend while computing taxes that half their income is earned by the other partner, and so the marrieds get the tax break.

For example, a $12,000-a-year bachelor coughs up $2,630 in taxes for 1973 while his married friend in the same income bracket pays $2,260. The senseless $370 penalty worsens as the bachelor and his married friend continue to make more money. At 1973 tax rates, by the time they reach the $20,000 bracket the penalty is $850, and at $50,000 the difference in their taxes is a whopping $3,130!

NO FRILLS

Justification for joint-return rates rests largely on the assumption that it costs married couples substantially more to live than unmarrieds. However, this is not true. Government statistics from 1970 show that a married couple without children on a no-frills budget spent $5,250 to maintain a basic standard of living whereas two single people living separately spent $7,760 to maintain the same standard of living.

Because single, widowed and divorced taxpayers do not have the option of filing

jointly, they pay considerably more in taxes than marrieds in the same taxable-income bracket. Men and women accustomed to this split-income provision experience a sudden financial jolt when they lose their spouses through death or divorce. For instance, a woman who must find a job to support herself after losing her husband usually finds she must pay more taxes on less income than she and her husband previously reported together. Meanwhile, she has to pay the same mortgage payments, the same property taxes, the same car payments and the same tuition on her children's education. And if she is an unliberated soul who relied on her husband to take care of odd jobs around the house, she must now pay a plumber or electrician or painter to do what her mate did for free. Since she is not entitled to deduct these expenses, she is penalized a second time for being single.

The Sixteenth Amendment to the Constitution stipulates a tax on income, but the connubial type in Congress apparently forgot to read the instructions on the package. Instead of taxing the income, they decided to tax the individual by designating a system that forces singles to shoulder the greatest burden of government revenue. For the past 60 years, unmarried pigeons have been feathering the Federal nest with 40 per cent more in taxes than married people.

RIPPED OFF

When singles began computing the thousands of dollars in a lifetime of earning that would be ripped off by the government, outrage mounted, and by 1968 thousands of people refused to send in their tax payments. The mutiny on this and other issues, combined with heavy lobbying in Washington, finally forced Congress to pass the 1969 Tax Reform Act, which reduced the 40 per cent inequity to 20 per cent.

The protest worked to reduce grand larceny to manageable dimensions, but there were still complaints. However, faced with the prospect of a grueling IRS audit, most singles paid up. They had no other recourse.

"They have been doing it for so long, it is now a habit," declared Robert Keith Gray, former secretary to President Eisenhower's Cabinet. "But it is an outrageously bad national habit and one that should be broken immediately." Mr. Gray, himself a Washington bachelor, finally got fed up paying higher taxes than his married friends and decided in 1971 to fight the discrimination by forming CO$T—the Committee of Single Taxpayers, a nonprofit, nonpartisan lobby to influence Congress.

Putting his money where his mouth was, Mr. Gray contributed $10,000 to finance the organization and enlisted the support of two former senators who have never agreed on anything except the Ten Commandments. With Eugene McCarthy, the liberal poet from Minnesota, and George Murphy, the conservative song-and-dance man from California, the crusade for the single taxpayer began in earnest.

BOMBARDMENT

The odd couple stalked the halls of Congress, buttonholing former colleagues to support the bills introduced by Democrats Rep. Edward Goch of New York and Sen. Abraham Ribicoff of Connecticut to give singles the same tax schedule as marrieds filing jointly. Unmarried citizens began bombarding their congressmen with letters and telegrams that helped push the bill through the House of Representatives. And it was passed in the Senate even though retrogrades like Democrat Russell Long of Louisiana and Republican Wallace Bennett of Utah interpreted the legislation as a license for living in sin. Their insistence that you must marry and multiply to get a fair shake from the IRS eventually succeeded in killing the bill in conference between the two chambers. So single taxpayers are paying their unfair share of taxes again this year.

But there is still hope for next year. CO$T is confident that with continued lobbying by the odd couple and the help of concerned singles, Congress will see its way clear to admitting the unmarried to the human race. "We're on the right track now," says Gray. "We have professional people involved. We have viable representation in Congress, and the legislators are interested because we keep pushing."

If the bills pass, the government would lose an estimated $1.7 billion in revenue collected each year from single taxpayers. But Congress should be reminded of what it cost to desegregate the South. Civil rights are always expensive. Still, the cost of righting the wrongs of discrimination is the best investment a democratic society can make.

AMENDMENTS NOS. 1431, 1432, AND 1433

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

Mr. HARTKE. Mr. President, I introduce three amendments to H.R. 8217 and ask that the text of my amendments be printed in the RECORD following my remarks.

Mr. President, the American working man and woman needs both tax relief and tax equity. The amendments I introduce today will meet both of these goals.

The first amendment increases the personal exemption on Federal tax returns from $750 to $1000. The second amendment reduces social security payroll taxes for both employers and employees. The result will be more than $15.7 billion in tax relief for Americans beginning this year.

The third amendment plugs two gaping loopholes in our tax laws. It would change the credit which U.S. corporations can take for the foreign tax liability of their subsidiaries into a deduction and would repeal the privilege which permits U.S. corporations to pay no income taxes on the profits of their foreign subsidiaries until such profits are brought back home. The result would be more than $5 billion in new revenues.

Mr. President, when these amendments are considered alongside other proposals for tax equity which have been offered by other Senators, it is clear that we can have a major tax cut for most working Americans without increasing inflation. The administration would have us believe otherwise. Earlier this week, Secretary of the Treasury William Simon warned that a tax cut would only increase inflation.

Mr. President, I believe the administration is guilty of misplaced priorities. Our tax structure is supposed to be a progressive one—that is, people are supposed to pay taxes in relation to their income and profits. But the actual result of all the loopholes is that many wealthy individuals and big corporations pay far less than their fair share of taxes. If this glaring inequity were corrected, we could afford to cut the taxes of working Americans and shift some of that burden to those who have not been paying their fair share. That is the essence of my amendments.

Those who work for a living are plagued by the twin evils of recession and inflation. The administration says to pay attention to inflation, but not to worry about recession, with its devastating effect on employment. They would have us concentrate on holding down prices while they would also hold back expansion in the economy. That is a no-win policy which will only result in higher unemployment.

I want to see our economy expand. More production and more money in the hands of consumers to buy products means more jobs and, eventually, lower prices. My amendments put billions of new dollars into the hands of consumers so that money can be pumped into the economy, the economy can expand, and new jobs will be created.

Mr. President, I believe in our free enterprise system, and I believe that we should encourage it to operate free from artificial restraints. We have tampered with it too much, imposing wage and price controls that simply did not work. Now is the time to give the economy a chance to give taxpayers justice.

Mr. President, I ask unanimous consent that fact sheets which I have prepared in support of my amendments together with *three articles* which appeared recently in Washington newspapers describing the difficulties being experienced by the social security system be printed following my remarks and following the text of my amendments.

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

AMENDMENT No. 1431

At the end of the bill, insert the following new section:

SEC. . Increase in Personal Exemption

(a) Effective with respect to taxable years beginning after December 31, 1974—

(1) section 151 of the Internal Revenue Code of 1954 (relating to allowance of personal exemptions) is amended by striking out $$750" wherever it appears therein and inserting in lieu thereof "($1,000)";

(2) section 6012(a)(1) of such Code (relating to persons required to make returns of income) is amended by—

(A) striking out "$750" wherever it appears therein and inserting in lieu thereof "$1,000";

(B) striking out "$2,050" wherever it appears therein and inserting in lieu thereof "$2,300"; and

(C) striking out "$2,800" wherever it appears therein and inserting in lieu thereof "$3,300"; and

(3) section 6013(b)(3)(A) of such Code (relating to assessment and collection in case of certain return of husband and wife) is amended by striking out "$750" wherever it appears therein and inserting in lieu thereof "$1,000", and by striking out "$1,500" wherever it appears therein and inserting in lieu thereof "$2,000".

(b) Effective with respect to wages paid after December 31, 1974, the table contained in section 3402(b)(1) or the Internal Revenue Code of 1954 is amended to read as follows:

"Percentage Method Withholding Table

"Payroll period	Amount of one withholding exemption:
Weekly	$19.20
Biweekly	38.50
Semimonthly	41.70
Monthly	83.30
Quarterly	250.00
Semiannually	500.00
Annually	1,000.00
Daily or miscellaneous (per day of such period)	2.70".

AMENDMENT NO. 1432

At the end of the bill, insert the following new section:

SEC. PAYROLL TAX FOR LOW-INCOME INDIVIDUALS.

(a) (1) Section 3101 of the Internal Revenue Code of 1954 (relating to tax on employees) is amended by adding at the end thereof the following new subsection:

"(c) ALTERNATE TAX ON LOW-INCOME INDIVIDUALS.

"(1) IN GENERAL.—In the case of a taxpayer who is married (as determined under section 143) whose adjusted social security income for the calendar year is less than $850, there is hereby imposed on the income of such individual (in lieu of the taxes imposed by subsections (a) and (b)) a tax determined under the following table:

"If the adjusted social security income is:	The tax is the following percentage of the taxes imposed by subsections (a) and (b):
Less than 0	10 percent.
0 to $49	15 percent.
$50 to $99	20 percent.
$100 to $149	25 percent.
$150 to $199	30 percent.
$200 to $249	35 percent.
$250 to $299	40 percent.
$300 to $349	45 percent.
$350 to $399	50 percent.
$400 to $449	55 percent.
$450 to $499	60 percent.
$500 to $549	65 percent.
$550 to $599	70 percent.
$600 to $649	75 percent.
$650 to $699	80 percent.
$700 to $749	85 percent.
$750 to $799	90 percent.
$800 to $849	95 percent.

"(2) ADJUSTED SOCIAL SECURITY INCOME.—For purposes of this subsection, the adjusted social security income of an individual for any calendar year in his income of an individual for any calendar year is his such calendar year (determined under section 62), minus the sum of—

"(A) $1,300, and

"(B) the amount of personal exemptions to which he is entiled under section 151.

In the case of a married individual whose spouse receives wages or self-employment income during such year, his adjusted gross income and the number of exemptions to which he is entitled shall, for purposes of this paragraph, be determined as if he were not married."

(2) Section 3102 of such Code (relating to deduction of tax from wages) is amended by adding at the end thereof the following new subsection:

"(d) WITHHOLDING ON WAGES OF LOW-INCOME INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual whose adjusted wages are less than $850 (computed at an annual rate), the employer of such individual shall deduct from the wages paid (in lieu of the amount required to be deducted under subsection (a)) an amount of the tax imposed by section 3101 determined under the following table:

"If the adjusted wages (computed at an annual rate) are:	The amount to be deducted is the following percentage of the amount required to be deducted under subsection (a):
Less than 0	10 percent.
0 to $49	15 percent.
$50 to $99	20 percent.
$100 to $149	25 percent.
$150 to $199	30 percent.
$200 to $249	35 percent.
$250 to $299	40 percent.
$300 to $349	45 percent.
$350 to $399	50 percent.
$400 to $449	55 percent.
$450 to $499	60 percent.
$500 to $549	65 percent.
$550 to $599	70 percent.
$600 to $649	75 percent.
$650 to $699	80 percent.
$700 to $749	85 percent.
$750 to $799	90 percent.
$800 to $849	95 percent.

"(2) ADJUSTED WAGES.—For purposes of this subsection, the adjusted wages of an individual for any period is the amount of wages (adjusted to an annual rate), minus the sum of—

"(A) $1,300, and

"(B) the amount of personal exemptions to which he is entitled under section 151.

In the case of a married individual whose spouse receives wages during such period, the number of exemptions to which he is entitled shall be determined as if he were not married.

"(3) CREDIT AGAINST TAX.—Amounts deducted from the wages of an employee under this subsection shall be allowed as a credit against the tax imposed on the employee under section 3101.

"(4) WITHHOLDING CERTIFICATES.—Each employee shall furnish his employer with a signed certificate setting forth such information as is necessary to enable the employer to determine whether this subsection is applicable to him, and the amount of tax to be deducted under this subsection. Such certificate shall be in such form, shall be furnished at such time or times, and shall remain in effect for such period as the Secretary or his delegate prescribes by regulations.

"(5) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this subsection and section 3101(c).".

(b) Section 1401 of the Internal Revenue Code of 1954 (relating to rate of tax on self-employment income) is amended by adding at the end thereof the following new subsection:

"(c) ALTERNATE TAX ON LOW-INCOME INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual whose adjusted social security income for the taxable year is less than $850, there is hereby imposed on the self-employment income of such individual (in lieu of the taxes imposed by subsections (a) and (b)) a tax determined under the following table:

"If the adjusted social security income is:	The tax is the following percentage of the taxes imposed by subsections (a) and (b):
Less than 0	10 percent
0 to $49	15 percent
$50 to $99	20 percent
$100 to $149	25 percent
$150 to $199	30 percent
$200 to $249	35 percent
$250 to $299	40 percent
$300 to $349	45 percent
$350 to $399	50 percent
$400 to $449	55 percent
$450 to $499	60 percent
$500 to $549	65 percent
$550 to $599	70 percent
$600 to $649	75 percent
$650 to $699	80 percent
$700 to $749	85 percent
$750 to $799	90 percent
$800 to $849	95 percent

"(2) ADJUSTED SOCIAL SECURITY INCOME.—For purposes of this subsection, the adjusted social security income of an individual for any taxable year is his adjusted gross income for such year (determined under section 62), minus the sum of—

"(A) $1,300, and

"(B) the amount of the personal exemptions to which he is entitled under section 151.

In the case of a married individual whose spouse receives wages or self-employment income during each year, his adjusted gross income and the number of exemptions to which he is entitled shall, for purposes of this paragraph, be determined as if he were not married.".

(c) Section 31(b) of the Internal Revenue Code of 1954 (relating to credit for special refunds of social security tax) is amended by striking out the heading and paragraph (1) and inserting in lieu thereof the following:

"(b) CREDIT FOR EXCESS WITHHOLDING OF SOCIAL SECURITY TAX.—

"(1) IN GENERAL.—The Secretary or his delegate may prescribe regulations providing for the crediting against the tax imposed by this subtitle of amounts deducted under section 3102 from the wages paid to the taxpayer in excess of the tax imposed on such wages by section 3101, including the amount determined by the taxpayer or the Secretary or his delegate to be allowable under section 6413 (c) as a special refund of such tax. The amount allowable as a credit under such regulations shall, for purposes of this subtitle, be considered an amount withheld at source as tax under section 3402."

(d) There is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Health Insurance Trust Fund amounts (as determined by the Secretary of the Treasury) equal to losses of revenues to such trust funds resulting from the application of sections 3101(c) and 1401(c) of the Internal Revenue Code of 1954. The amounts appropriated by the preceding sentence shall be transferred from time to time from the general fund in the Treasury to the respective trust funds on the basis of estimates by the Secretary of the Treasury. Proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the amounts which should have been transferred.

PARTIAL GENERAL FINANCING OF RETIREMENT BENEFITS

SEC. . (a) In addition to any other funds appropriated or authorized to be appropriated pursuant to other provisions of law for any fiscal year to the Federal Old-Age and Survivors Insurance Trust Fund, and in addition to any other funds authorized by other provisions of law to be appropriated to or deposited in the Federal Disability Insurance Trust Fund for any fiscal year, there are authorized to be appropriated to each of such funds the following amounts:

(1) For the fiscal year ending June 30, 1975, an amount equal to one twenty-fifth of the expenditures from such fund for such year;

(2) For the fiscal year ending June 30, 1976, an amount equal to three-fiftieths of the expenditures from such fund for such year;

(3) For the fiscal year ending June 30, 1977, an amount equal to two twenty-fifths of the expenditures from such fund for such year;

(4) For the fiscal year ending June 30, 1978, an amount equal to one-tenth of the expenditures from such fund for such year;

(5) For the fiscal year ending June 30, 1979, an amount equal to three twenty-fifths of the expenditures from such fund for such year;

(6) For the fiscal year ending June 30, 1980, an amount equal to seven-fiftieths of the expenditures from such fund for such year;

(7) For the fiscal year ending June 30, 1981, an amount equal to four twenty-fifths of the expenditures from such fund for such year;

(8) For the fiscal year ending June 30, 1982, an amount equal to nine-fiftieths of the expenditures from such fund for such year; and

(9) For any fiscal year ending after June 30, 1982, an amount equal to one-fifth of the expenditures from such fund for such year.

(b)(1) Funds authorized to be appropriated under subsection (a) shall be appropriated for any fiscal year on the basis of estimates by the Congress of the amounts which will be expended for such year from the trust fund to which funds are being appropriated, reduced, or increased to the extent of any overappropriation or underappropriation under this section to such fund for any preceding year with respect to which adjustment has not already been made.

(2) The Secretary of Health, Education, and Welfare shall furnish to the Congress such information, data, and actuarial studies as may be appropriate to enable the Congress to make estimates referred to in paragraph (1).

PARTIAL FINANCING FROM GENERAL REVENUES OF COMBINED HOSPITAL AND MEDICAL INSURANCE PROGRAM UNDER TITLE XVII

SEC. (a) In addition to any other funds appropriated or authorized to be appropriated pursuant to other provisions of law for any fiscal year to the Federal Health Insurance Trust Fund (as redesignated by section 4(a) of this Act), there are authorized to be appropriated to such fund the following amounts:

(1) for the fiscal year ending June 30, 1975, an amount equal to one-fifth of the expenditures from such fund for such year;

(2) for the fiscal year ending June 30, 1976, an amount equal to one-fifth of the expenditures from such fund for such year;

(3) for the fiscal year ending June 30, 1977, an amount equal to one-fourth of the expenditures from such fund for such year; and

(4) for any fiscal year ending after June 30, 1977, an amount equal to one-third of the expenditures from such fund for such year.

(b)(1) Funds authorized to be appropriated under subsection (a) shall be appropriated for any fiscal year on the basis of estimates by the Congress of the amount which will be expended for such year from the Federal Health Insurance Trust Fund, reduced or increased to the extent of any overappropriation or underappropriation under this section to such fund with respect to which adjustment has not already been made.

(2) The Secretary of Health, Education, and Welfare shall furnish to the Congress such information, data, and actuarial studies as may be appropriated to enable the Congress to make the estimates referred to in paragraph (1).

CHANGES IN TAX SCHEDULE

SEC. (a)(1) Section 3101(a) of the Internal Revenue Code of 1954 (relating to rate of tax on employees for purposes of old-age, survivors, and disability insurance) is amended by striking out paragraphs (5) and (6) and inserting in lieu thereof the following:

"(5) with respect to wages paid during the calendar years 1975 through 2019, the rate shall be 4.75 percent; and

"(6) with respect to wages paid after December 31, 2079, the rate shall be 5.4 percent.".

(2) Section 3111(a) of the Internal Revenue Code of 1954 (relating to rate of tax on employers for purposes of old-age, survivors and disability insurance) is amended by striking out paragraphs (1) through (6) and inserting in lieu of such paragraphs the following:

"(1) with respect to wages paid during the calendar years 1975 through 2019, the rate shall be 4.75 percent; and

"(2) with respect to wages paid after December 31, 2019, the rate shall be 5.4 percent."

(b)(1) Section 1401(b) of such Code (relating to rate of tax on self-employment income for purposes of hospital insurance) is amended—

(A) by striking out "and before January 1, 1978" in paragraph (3) and inserting in lieu thereof "and before January 1, 1975"; and

(B) by striking out paragraphs (4), (5), and (6) and inserting in lieu thereof the following:

"(4) in the case of any taxable year beginning after December 31, 1974 and before January 1, 1978, the tax shall be equal to .80 percent of the amount of the self-employment income for such taxable year;

"(5) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1981, the tax shall be equal to 1.0 percent of the amount of the self-employment income for such taxable year;

"(6) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1986, the tax shall be equal to 1.25 percent of the amount of the self-employment income for such taxable year;

"(7) in the case of any taxable year beginning after December 31, 1985, the tax shall be equal to 1.35 percent of the amount of the self-employment income for such taxable year".

(3) Section 3101(b) of such Code (relating to rate of tax on employees for purposes of hospital insurance) is amended—

(A) by striking out "calendar years 1971 through 1977" in paragraph (3) and inserting in lieu thereof "calendar year 1974"; and

(B) by striking out paragraphs (4) through (6) and inserting in lieu thereof the following:

"(4) with respect to wages received during the calendar years 1975, 1976, and 1977, the rate shall be 0.80 percent;

"(5) with respect to wages received during the calendar years 1978, 1979, and 1980, the rate shall be 1.0 percent;

"(6) with respect to wages received during the calendar years 1980, 1981, 1982, 1983, 1984, and 1985, the rate shall be 1.25 percent;

"(7) with respect to wages received after December 31, 1985, the rate shall be 1.35 percent.".

(4) Section 3111(b) of such Code (relating to rate of tax on employers for purposes of hospital insurance) is amended—

(A) by striking out "calendar years 1974 through 1977" in paragraph (3) and inserting in lieu thereof "calendar year 1974"; and

(B) by striking out paragraphs (4) through (6) and inserting in lieu thereof the following:

"(4) with respect to wages paid during the calendar years 1975, 1976, and 1977, the rate shall be 0.80 percent;

"(5) with respect to wages paid during the calendar years 1978, 1979, and 1980, the rate shall be 1.0 percent;

"(6) with respect to wages paid during the calendar years 1981 through 1985, the rate shall be 1.25 percent;

"(7) with respect to wages paid after December 31, 1985, the rate shall be 1.35 percent."

(c) The effective date of all amendments in this section shall be January 1, 1975.

SEC. Effective June 1, 1975, the Secretary of Health, Education, and Welfare shall prescribe and publish in the Federal Register such modifications and extensions of the table contained in section 215(a) of the Social Security Act (which shall be determined in the same manner as the revisions in such table provided for under section 215(i)(2)(D) of such Act, and shall be in lieu of any previously made modifications and extensions of such tables) as may be necessary to reflect the amendments made by this Act; and such modified and extended table shall be deemed to be the table appearing in such section 215(a).

AMENDMENT No. 1433

At the end of the bill, insert the following new section:

SEC. . REPEAL OF FOREIGN TAX CREDIT ALLOWED CORPORATIONS.

(a) IN GENERAL.—Section 901 of the Internal Revenue Code of 1954 (relating to taxes of foreign countries and of possessions of the United States) is amended—

(1) by revising subsection (a) to read as follows:

"(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer other than a corporation, who chooses to have the benefits of this subpart, the tax imposed by this chapter shall, subject to the applicable limitation of section 904, be credited with the amounts provided in the applicable paragraph of subsection (b). Such choice for any taxable year may be made or changed at any time before the expiration of the period prescribed for making a claim for credit or refund of the tax imposed by this chapter for such taxable year. The credit shall not be allowed against the tax imposed by section 56 (relating to minimum tax for tax preferences).";

(2) by revising subsection (b)(1) to read as follows:

"(1) CITIZENS.—In the case of a citizen of the United States, the amount of any income, war profits, and excess profits taxes paid or accrued during the taxable year to any foreign country or to any possession of the United States; and";

(3) by revising subsection (b)(4) to read as follows:

"(4) NONRESIDENT ALIEN INDIVIDUALS.—In the case of any nonresident alien individual not described in section 876, the amount determined pursuant to section 906; and"; and

(4) by striking out subsections (d) and (e).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 78 is repealed.

(2) Section 535(b)(1) is amended by striking out "and income, war profits, and excess profits taxes of foreign countries and possessions of the United States (to the extent not allowable as a deduction under section 275(a)(4)), accrued during the taxable year or deemed to be paid by a domestic corporation under section 902(a)(1) or 960(a)(1)(C) for the taxable year," and by inserting in lieu thereof "accrued during the taxable year,".

(3) Section 545(b)(1) is amended by striking out "and income, war profits, and excess profits taxes of foreign countries and possessions of the United States (to the extent not allowable as a deduction under section 275(a)(4)), accrued during the taxable year or deemed to be paid by a domestic corporation under section 902(a)(1) or 960(a)(1)(C) for the taxable year," and by inserting in lieu thereof "accrued during the taxable year,".

(4) Section 841 is repealed.

(5) Section 882(c) is amended by striking out paragraph (3).

(6) Section 884 is amended by striking out paragraph (4).

(7) Section 902 is repealed.

(8) Section 906 is amended—

(A) by striking out "and foreign corporations" in the heading thereof;

(B) by striking out in subsection (a) "or a foreign corporation" and "(or deemed, under section 902, paid or accrued during the taxable year)";

(C) by striking out in subsection (b)(3) "or 881 (relating to income of foreign corporations not connected with United States business)"; and

(D) by striking out subsection (b)(4).

(9) Section 904(g) is repealed.

(10) Section 960 is repealed.

(11) Section 1503 is amended to read as follows:

"SEC. 1503. COMPUTATION AND PAYMENT OF TAX.

"In any case in which a consolidated return is made or is required to be made, the tax shall be determined, computed, assessed, collected, and adjusted in accordance with the regulations under section 1502 prescribed before the last day prescribed by law for the filing of such return."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning on or after the date of the enactment of this Act.

SEC. TAXATION OF EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS

(a) IN GENERAL.—Part III of subchapter N of chapter 1 (relating to income from sources without the United States) is amended by inserting after subpart H thereof the following:

"Subpart I—Controlled Foreign Corporations

"Sec. 983. Amounts included in gross income of United States shareholders.
"Sec. 984. Definitions.
"Sec. 985. Rules for determining stock ownership.
"Sec. 986. Exclusion from gross income of previously taxed earnings and profits.
"Sec. 987. Adjustments to basis of stock in controlled foreign corporations and of other property.
"Sec. 988. Records and accounts of United States shareholders.

"SEC. 983. AMOUNTS INCLUDED IN GROSS INCOME OF UNITED STATES SHAREHOLDERS

"(a) AMOUNTS INCLUDED.—

"(1) IN GENERAL.—If a foreign corporation is a controlled foreign corporation for an uninterrupted period of 30 days or more during any taxable year, every United States shareholder of such corporation who owns (within the meaning of section 985(a)) stock in such corporation on the last day in such year on which such corporation is a controlled foreign corporation shall include in its gross income, for its taxable year in which or with which such taxable year of the corporation ends, its pro rata share of the corporation's earnings and profits for such year.

"(2) PRO RATA SHARE OF EARNINGS AND PROFITS.—A United States shareholder's pro rata share referred to in paragraph (1) is the amount—

"(A) which would have been distributed with respect to the stock which such shareholder owns (within the meaning of section 985(a)) in such corporation if on the last day, in its taxable year, on which the corporation is a controlled foreign corporation it had distributed pro rata to its shareholders an amount (i) which bears the same ratio to its earnings and profits for the taxable year, as (ii) the part of such year during which the corporation is a controlled foreign corporation bears to the entire year, reduced by

"(B) an amount (i) which bears the same ratio to the earnings and profits of such corporation for the taxable year, as (ii) the part of such year described in subparagraph (A) (ii) during which such shareholder did not own (within the meaning of section 985(a)) such stock bears to the entire year.

"(b) EARNINGS AND PROFITS.—For purposes of this subpart, under regulations prescribed by the Secretary or his delegate, the earnings and profits of any foreign corporation, and the deficit in earnings and profits of any foreign corporation, for any taxable year—

"(1) except as provided in section 312(m)(3), shall be determined according to rules substantially similar to those applicable to domestic corporations,

"(2) shall be appropriately adjusted for deficits in earnings and profits of such corporation for any prior taxable year beginning on the date of the enactment of this Act,

"(3) shall not include any item of income which is effectively connected with the conduct by such corporation of a trade or business within the United States unless such item is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obligation of the United States, and

"(4) shall not include any amount of earnings and profits which could not have been distributed by such corporation because of currency or other restrictions or limitations imposed under the laws of any foreign country.

"(c) COORDINATION WITH ELECTION OF A FOREIGN INVESTMENT COMPANY TO DISTRIBUTE INCOME.—A United States shareholder who, for his taxable year, is a qualified shareholder (within the meaning of section 1247(c)) of a foreign investment company with respect to which an election under section 1247 is in effect shall not be required to include in gross income, for such taxable year, any amount under subsection (a) with respect to such company.

"(d) COORDINATION WITH FOREIGN PERSONAL HOLDING COMPANY PROVISIONS.—In the case of a United States shareholder who, for his taxable year, is subject to tax under section 551(b) (relating to foreign personal holding company income included in gross income of United States shareholders) on income of a controlled foreign corporation, the amount required to be included in gross income by such shareholder under subsection (a) with respect to such company shall be reduced by the amount included in gross income by such shareholder under section 551(b).

"SEC. 984. DEFINITIONS

"(a) UNITED STATES SHAREHOLDER DEFINED.—For purposes of this subpart, the term 'United States shareholder' means, with respect to any foreign corporation, a domestic corporation which owns (within the meaning of section 985(a)), or is considered as owning by applying the rules of ownership of section 985(b), 10 percent or more of the total combined voting power of all classes of stock entitled to vote of such foreign corporation.

"(b) CONTROLLED FOREIGN CORPORATION DEFINED.—For purposes of this subpart, the term 'controlled foreign corporation' means any foreign corporation of which more than 50 percent of the total combined voting power of all classes of stock entitled to vote is owned (within the meaning of section 985(a)), or is considered as owned by applying the rules of ownership of section 985(b), by United States shareholders on any day during the taxable year of such foreign corporation.

"SEC. 985. RULES FOR DETERMINING STOCK OWNERSHIP.

"(a) DIRECT AND INDIRECT OWNERSHIP.

"(1) GENERAL RULE.—For purposes of this subpart, stock owned means—

"(A) stock owned directly, and

"(B) stock owned with the application of paragraph (2).

"(2) STOCK OWNERSHIP THROUGH FOREIGN ENTITIES.—For purposes of subparagraph (B) of paragraph (1), stock owned, directly or indirectly, by or for a foreign corporation or foreign estate (within the meaning of section 7701(a)(31)) or by or for a partnership or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(b) CONSTRUCTIVE OWNERSHIP.—For purposes of section 984, section 318(a) (relating to constructive ownership of stock) shall apply to the extent that the effect is to treat any domestic corporation as a United States shareholder within the meaning of section 984(a), or to treat a foreign corporation as a controlled foreign corporation under section 984(b), except that—

"(1) In applying subparagraphs (A), (B), and (C) of section 318(a)(2), if a partnership, estate, trust, or corporation owns, directly or indirectly, more than 50 percent of the total combined voting power of all classes of stock entitled to vote of a corporation, it shall be considered as owning all of the stock entitled to vote.

"(2) In applying subparagraph (C) of section 318(a)(2), the phrase '10 percent' shall be substituted for the phrase '50 percent' used in subparagraph (C).

"SEC. 986. EXCLUSION FROM GROSS INCOME OF PREVIOUSLY TAXED EARNINGS AND PROFITS.

"(a) EXCLUSION FROM GROSS INCOME.—For purposes of this chapter, the earnings and profits for a taxable year of a foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder under section 983(a) shall not, when such amounts are distributed directly, or indirectly, through a chain of ownership described under section 985(a), to—

"(1) such shareholder (or any domestic corporation which acquires from any person any portion of the interest of such United States shareholder in such foreign corporation, but only to the extent of such portion, and subject to such proof of the identity of such interest as the Secretary or his delegate may by regulations prescribe), or

"(2) a trust (other than a foreign trust) of which such shareholder is a beneficiary, be again included in the gross income of such United States shareholder (or of such domestic corporation or of such trust).

"(b) EXCLUSION FROM GROSS INCOME OF CERTAIN FOREIGN SUBSIDIARIES.—For purposes of section 983(a), the earnings and profits for a taxable year of a controlled foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder under section 983(a), shall not, when distributed through a chain of ownership described under section 985(a), be also included in the gross income of another controlled foreign corporation in such chain for purposes of the application of section 983(a) to such other controlled foreign corporation with respect to such United States shareholder (or to any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder in the controlled foreign corporation, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary or his delegate may prescribe by regulations).

"(c) ALLOCATION OF DISTRIBUTIONS.—For purposes of subsections (a) and (b), section 316(a) shall be applied by applying paragraph (2) thereof, and then paragraph (1) thereof—

"(1) first, to earnings and profits attributable to amounts included in gross income under section 983(a), and

"(2) then to other earnings and profits.

"(d) DISTRIBUTIONS EXCLUDED FROM GROSS INCOME NOT TO BE TREATED AS DIVIDENDS.—Any distribution excluded from gross income under subsection (a) shall be treated, for purposes of this chapter, as a distribution which is not a dividend.

"SEC. 987. ADJUSTMENTS TO BASIS OF STOCK IN CONTROLLED FOREIGN CORPORATIONS AND OF OTHER PROPERTY.

"(a) INCREASE IN BASIS.—Under regulations prescribed by the Secretary or his delegate, the basis of a United States shareholder's stock in a controlled foreign corporation, and the basis of property of a United States shareholder by reason of which it is considered under section 985(a)(2) as owning stock of a controlled foreign corporation, shall be increased by the amount required to be included in its gross income under section 983(a) with respect to such stock or with respect to such property, as the case may be, but only to the extent to which such amount was included in the gross income of such United States shareholder.

"(b) REDUCTION IN BASIS.—

"(1) IN GENERAL.—Under regulations pre-

scribed by the Secretary or his delegate, the adjusted basis of stock or other property with respect to which a United States shareholder or a United States person receives an amount which is excluded from gross income under section 986(a) shall be reduced by the amount so excluded.

"(2) AMOUNT IN EXCESS OF BASIS.—To the extent that an amount excluded from gross income under section 986(a) exceeds the adjusted basis of the stock or other property with respect to which it is received, the amount shall be treated as gain from the sale or exchange of property.

"SEC. 988. RECORDS AND ACCOUNTS OF UNITED STATES SHAREHOLDERS.

"(a) RECORDS AND ACCOUNTS TO BE MAINTAINED.—The Secretary or his delegate may by regulations require each person who is, or has been, a United States shareholder of a controlled foreign corporation to maintain such records and accounts as may be prescribed by such regulations as necessary to carry out the provisions of this subpart.

"(b) TWO OR MORE PERSONS REQUIRED TO MAINTAIN OR FURNISH THE SAME RECORDS AND ACCOUNTS WITH RESPECT TO THE SAME FOREIGN CORPORATION.—Where, but for this subsection, two or more persons would be required to maintain or furnish the same records and accounts as may by regulations be required under subsection (a) with respect to the same controlled foreign corporation for the same period, the Secretary or his delegate may by regulations provide that the maintenance or furnishing of such records and accounts by only one such person shall satisfy the requirements of subsection (a) for such other persons.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 864(c)(4)(D) is amended to read as follows:

"(D) No income from sources without the United States shall be treated as effectively connected with the conduct of a trade or business within the United States if it consists of dividends, interest, or royalties paid by a foreign corporation in which the taxpayer owns (within the meaning of section 958(a)), or is considered as owning (by applying the ownership rules of section 958(b)), more than 50 percent of the total combined voting power of all classes of stock entitled to vote."

(2) Section 951 is amended by adding at the end thereof the following:

"(e) TAXABLE YEARS BEGINNING ON ENACTMENT OF THIS ACT.—No amount shall be required to be included in the gross income of a United States shareholder under subsection (a) (other than paragraph (1)(A)(ii) of such subsection) with respect to a taxable year of a controlled foreign corporation beginning on the date of the enactment of this Act.".

(3) Section 1016(a)(20) is amended by striking out "section 961" and inserting in lieu thereof "sections 961 and 987".

(4) Section 1246(a)(2)(B) is amended by inserting "or 983" after "section 951" and by inserting "or 986" after "section 959".

(5) Section 1248 is amended—

(A) by striking out subsection (b);

(B) by revising subsection (d)(1) to read as follows:

"(1) AMOUNTS INCLUDED IN GROSS INCOME UNDER SECTION 951 OR 983.—Earnings and profits of the foreign corporation attributable to any amount previously included in the gross income of such person under section 951 or 983, with respect to the stock sold or exchanged, but only to the extent the inclusion of such amount did not result in an exclusion of an amount from gross income under section 959 or 986.";

(C) by striking out in subsection (d)(3) "section 902(d)" and inserting in lieu thereof "subsection (h)", and by adding at the end of such subsection "No amount shall be excluded from the earnings and profits of a foreign corporation under this paragraph with respect to any United States person which is a domestic corporation for any taxable year of such foreign corporation beginning on the date of enactment of this Act."; and

(D) by adding at the end thereof the following:

"(h) LESS DEVELOPED COUNTRY CORPORATION DEFINED.—For purposes of this section, the term 'less developed country corporation' means—

"(1) a foreign corporation which, for its taxable year, is a less developed country corporation within the meaning of section 955(c)(1) or (2), and

"(2) a foreign corporation which owns 10 percent or more of the total combined voting power of all classes of stock entitled to vote of a foreign corporation which is a less developed country corporation within the meaning of section 955(c)(1), and—

"(A) 80 percent or more of the gross income of which for its taxable year meets the requirement of section 955(c)(1)(A); and

"(B) 80 percent or more in value of the assets of which on each day of such year consists of property described in section 955(c)(1)(B)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years of foreign corporations beginning with the date of enactment of this Act, and to taxable years of United States shareholders which end within or with such taxable years of such foreign corporations.

INCREASE PERSONAL EXEMPTION

By raising the personal exemption from $750 to $1,000, the proposed amendment offers across-the-board relief to taxpayers at every income level, while concentrating the relief in low and middle income groups as well as those on fixed incomes. It provides immediate tax relief to those hit hardest by inflation.

Thus, 62 percent of the $8.5 billion in tax relief will go to taxpayers earning $15,000 a year or less, and 80% will go to those earning $20,000 a year or less. Below is a table prepared by the Treasury Department which provides a detailed breakdown of the tax relief by income levels.

Support of economists. Proposals for an anti-recession tax cut have the strong support of economic experts, including Walter Heller; Arthur M. Okun, past Chairman of the Council of Economic Advisors; and Paul Samuelson, Nobel laureate.

Prior Senate action. The Senate has already strongly endorsed an anti-recession tax cut. Last January, by a vote of 53–27, the Senate approved an anti-recession tax cut amendment, but the vote was nullified by later action recommitting the underlying legislation. Obviously, in light of the drastic first quarter slump, the case for a tax break is stronger today than it was in January.

REVENUE COST IF PERSONAL EXEMPTION IS RAISED FROM $750 TO $1,000

[Based on 1972 income levels]

Adjusted gross income	Decrease in tax liability (millions)	Distribution of tax decrease: Percent	Distribution of tax decrease: Cumulative percent
0 to $3,000	$95	1.1	1.1
$3,000 to $5,000	418	4.8	5.9
$5,000 to $7,000	717	8.3	14.2
$7,000 to $10,000	1,485	17.3	31.5
$10,000 to $15,000	2,608	30.4	61.9
$15,000 to $20,000	1,541	17.9	79.8
$20,000 to $50,000	1,440	16.8	96.6
$50,000 to $100,000	220	2.5	99.1
$100,000 and over	56	.7	99.8
Total	8,580	99.8	99.8

SOCIAL SECURITY TAX: BACKGROUND INFORMATION

The social security tax takes a big bite out of the already inflation-eaten paychecks of working men and women. It is America's fastest growing tax, and its most inequitable. All of the "reform" efforts of Congress have been directed at improving social security's inadequate benefits. It is time we turned our attention to those who must pay the cost of the benefits.

FACTS

1. The social security payroll tax in 1974 is 11.7% of wages and salaries up to a maximum of $13,200, with half of that tax being paid by employers and half by employees (see Table 1).

2. In 1974, 86 percent of all wages and salaries are subject to the payroll tax (see Table 1).

3. Social security taxes were $64.6 billion in 1973—32 times their level in 1949.

4. In terms of total revenue, the payroll tax now brings in almost 25 percent of all Federal revenues.

5. Social security taxes are now the second largest source of Federal revenues (see Table 2).

6. While the revenue from personal income taxes (as a percent of national income) has remained stable, and the revenue from corporate taxes has declined, revenues from the payroll tax have increased dramatically (see Table 3). In effect, there has been a shift from taxes on corporations to taxes on individuals.

7. While the proportionate amount of revenue from the personal income tax has remained stable over the past decade, the bite of this tax is actually less in 1973 than it was in 1960. For a family of 3, filing a joint return on an adjusted gross income of $12,000, the personal income tax consumed 16.1% of that income in 1960, and only 15.0% in 1973 (see Table 4). At the same time, the employee's average social security tax rose from $144 in 1960 to $632 in 1973, with employers paying an equal sum.

8. While the personal income tax exempts the first $650 of income and has provided beginning in 1972 for a liberalized standard deduction (see Internal Revenue Code Section 141), the payroll tax is a first dollar tax. It has no exemptions or deductions.

9. Under the personal income tax, the higher the income the higher the rate of tax. Under social security, the rate of tax remains the same. But, because the tax is not applied to earnings above $13,200, the rate actually drops on incomes above that level.

10. The payroll tax does not apply to property income, which is a major source of income for the high-income brackets most heavily assessed under the personal income tax.

11. Studies have concluded that both the employer and the employee portions of the payroll tax are borne by the employee. (See, for example, Brittain, John A., *The Payroll Tax for Social Security*, The Brookings Institution, Washington, D.C. 1972).

12. The combined effect of points 8 through 11 above, is a payroll tax which falls hardest on lower income workers. For example, a married worker, filing a joint return, with two dependent children, would pay no personal taxes on $4300 of income, while he would pay $251.55 in social security taxes (see Figure 1).

13. While a worker with an income of $5,000 has an effective payroll tax rate of 5.85%, a worker with $25,000 income has an effective rate of only 3.08% (see Table 5). The Brittain study referred to in point 11 above, also concludes that the combined personal and social security tax rates are regressive not only at the lower income levels but also in the middle income levels as well (i.e. $11,000 to $15,000).

14. At least one half of all workers who file tax returns pay more social security tax than personal income tax.

THE HARTKE PROPOSAL FOR SOCIAL SECURITY TAX REFORM

1. Provide graduated payroll tax rate for all wage-earners with Federal personal income tax liability of less than $850. Cost in 1975: $2.2 billion.

2. Provide partial general revenue financing of social security benefits:

a. Over a period of 9 years, phase in a ⅓ general revenue contribution to retirement benefits. Cost in 1975: $2 billion.

b. Over a period of 4 years, phase in a ⅓ general revenue contribution to health (parts A and B of Medicare) benefits. Cost in 1975: $3 billion.

3. Reduce the payroll tax on employers and employees in 1975 from 5.85% (each) to 5.55%.

TABLE 1.—BASIC DATA FOR THE PAYROLL TAX, 1969-74, EARNINGS IN COVERED EMPLOYMENT

Calendar year	Total OASDHI[1] contributions (billions of dollars)	Maximum taxable earnings	OASDHI[1] tax rate (percent)	Billions of dollars		Taxable total (percent)
				Total	Taxable	
1969	$36.1	$7,800	4.8	$508	$406	80
1970	39.5	7,800	4.8	536	418	78
1971	43.9	7,800	5.2	564	428	76
1972	50.1	9,000	5.2	620	483	78
1973	64.4	10,800	5.85	684	564	82
1974	71.0	13,200	5.85	737	632	86

[1] OASDHI stands for Old Age, Survivors' Disability and Health Insurance.

Source: Actual data from Social Security Bulletin, vol. 36, No. 3 (March 1973) table Q-3, p. 76; 1973 and 1974 estimates from Social Security Administration.

TABLE 2.—FEDERAL RECEIPTS, CALENDAR 1950-74

[Billions of dollars]

	1950	1960	1970	1973	1974 (est.)
Personal income tax	$18.1	$43.6	$92.2	$114.5	$129.5
Corporation income tax	17.0	21.7	31.1	49.8	50.2
Payroll tax	5.9	17.7	49.5	80.1	87.5
Social security (OASDHI)	2.7	11.9	39.7	64.6	71.0
Other[1]	3.2	5.8	9.8	15.5	16.5
Indirect business and nontax receipts	8.9	13.5	19.3	21.0	25.4
Total	49.9	96.5	192.0	265.4	292.6

[1] Includes unemployment insurance, contributions to the railroad retirement system and civil service retirement.

Source: "Economic Report of the President 1974," table C-68, p. 309; "Social Security Bulletin," Annual Statistical Supplement, 1971 and "Social Security Bulletin," vol. 36, No. 9, September 1973.

TABLE 3.—PERCENT OF NATIONAL[1] INCOME RAISED BY FEDERAL TAXES

	Personal income tax	Social security tax	Corporate income tax	Sales and excise taxes	Total Federal taxes
1961	8.7	3.9	4.6	2.7	19.9
1972	8.6	6.0	3.6	1.8	20.0

[1] National income at full employment.

TABLE 4.—IMPACT OF PERSONAL INCOME TAX ON FAMILY OF 3 WITH AN ADJUSTED GROSS INCOME OF $12,000 IN 1960[1]

	1960	1970	1973
Adjusted gross income	$12,000	$15,734	$18,007
Standard deductions	1,000	1,100	2,000
Exemptions	1,800	1,925	2,250
Taxable	9,200	12,709	13,757
Tax	1,928	2,437	2,699
Percent of adjusted gross income	16.1	15.5	15.0

[1] Income in 1970 and 1973 is adjusted by the Consumer Price Index.

TABLE 5.—INDIVIDUAL INCOME AND SOCIAL SECURITY (OASDHI) TAXES FOR A FAMILY OF 4 WITH 1 WAGE EARNER BY INCOME LEVELS UNDER CURRENT LAW

Adjusted gross income	Personal income tax	Percent of income	Social security tax	Percent of income	Total taxes	Percent of income
$3,000	0	0	$175.50	5.85	$175.50	5.85
$5,000	$102	2.4	292.50	5.85	394.50	7.89
$7,000	406	5.8	409.50	5.85	815.50	11.65
$10,000	905	9.5	585.00	5.85	1,490.00	14.90
$15,000	1,820	12.1	771.20	5.14	2,591.20	17.80
$25,000	3,890	15.5	771.20	3.08	4,661.20	18.64

SHIFT OF THE FOREIGN TAX CREDIT TO A DEDUCTION

Present tax laws provide that foreign subsidiaries of U.S. corporations may credit their foreign taxes paid against the income tax liability of the parent corporation on foreign source income.

Over $4 billion were claimed in foreign tax credits in 1970 and that figure is far greater today.

Foreign tax credits supposedly create tax neutrality with respect to the choice between domestic and foreign investment. Our crediting provisions, however, far overshoot the mark because the foreign tax credit applies to local as well as central taxes, whereas state business income taxes in the United States may only be deducted.

Moreover, any excess foreign tax credits claimed may be carried forward for five years or back for two years.

The following chart shows how foreign tax credit works:

	U.S. plant in nation with 11 percent corporate tax rate	U.S. plant in Pennsylvania	U.S. plant in nation with 48 percent corporate tax rate
Net profits	$1,000	$1,000	$1,000
Deduction for Pennsylvania tax		−110	
Federal income tax before credits for foreign tax	480	427	480
Foreign tax credit	−110	0	−480
Total Federal income tax	370	427	0
Total income taxes received in United States	370	537	0
Total income taxes paid by corporation	480	537	480
Effective rate (percent)	48	53.7	48

My proposal would plug this gaping loophole and save the United States Treasury over $4 billion annually. The termination of the foreign tax credit would put domestic production in a more competitive position with foreign development and create jobs for American workers.

ELIMINATION OF TAX DEFERRAL

The deferral privilege permits U.S. corporations to pay no income taxes on the profits of their foreign subsidiaries until such profits are brought back home—which may be never.

At face value tax deferral amounts to an interest free government loan to these companies. But, the tax advantages of the deferral privilege can go beyond the interest free loan aspect. Substantial amounts of corporate profits are continually invested and reinvested abroad. They do not come home. To that extent, deferral amounts to a total tax immunity for the individual corporation and continuing tax losses to the U.S. Treasury.

The following graph shows how deferral reduces corporate tax rates:

(Graph not printed in RECORD.)

Example. If $100 profit is taxed in the year it's earned at the 48 percent corporate tax rate, the tax is $48 and the company's net income after tax is $52. But if the tax is deferred, say for seven years, and the $100 profit is re-invested at a 10 percent rate of return, another $100 will be earned. If the entire $200 is then repatriated and taxed at the 48 percent corporate rate, the company's tax is $96 and its net profit after taxes on the $100 is $104. Since the profit during deferral pays the whole tax bill, the tax rate on the original $100 is zero. This total tax forgiveness, or zero tax rate, can be achieved on any amount according to the number of years deferred and rate of investment return.

Because of deferral, the Treasury is losing over $1 billion in revenues annually. My proposal to eliminate deferral would put a stop to the loss in revenues and eliminate yet another incentive for American enterprise to invest abroad rather than at home where the capital is critically needed.

[From the Washington Post, June 5, 1974]

SOCIAL SECURITY TRUSTEES WARN OF TAX INCREASE

(By Peter Milius)

The Social Security system cannot keep paying out benefits the way it has been without an additional tax increase in the next 10 years or so, the trustees of the insurance plan warned Congress yesterday.

The reason is the nation's declining birth rate, which means that there will be relatively fewer workers in the future paying taxes to support the aged and other beneficiaries of the system.

The trustees—the secretaries of the Treasury, Labor, and Health, Education, and Welfare—said there is no need to increase Social Security taxes this year or next. But five or 10 years from now, they said, unless the birth rate unexpectedly turns upward again, "it is certain" that additional income will be necessary.

The only alternatives to raising Social Security taxes would be to hold down the level of the benefits or start financing the system partly out of general revenues.

The trustees added that the need for extra income will be even greater if inflation fails to subside as much as anticipated. Under present law, benefits are automatically increased as prices rise. The system's actuaries are assuming that by 1978 the inflation rate will be down to 3.0 per cent, and will remain there. It has been 10.2 per cent in the past 12 months.

The Social Security tax rate is now 5.85 per cent for both employer and employee on a worker's first $13,200 of earnings each year.

The tax is often criticized because it is regressive; it falls heavier on poorer families than on the better-off. It has also been dramatically increased over the past few years, to meet the cost of increased benefits. Many families now pay more in Social Security taxes than income taxes.

The law tying benefits to rising prices also ties the Social Security wage base—the amount of earnings each year subject to Social Security taxes—to rising wages. The wage base was only $7,800 three years ago. The expectation is that it will be over $14,000 next year, over $15,000 in 1976, and close to $18,000 by 1978.

A rising wage base is the same thing as a tax increase for many workers. Until this year, however, the Social Security actuaries thought it would be possible to keep the actual tax rate at 5.85 per cent.

They knew that it would have to go up then because the country's aged population would go up; the "baby boom" generation, born just after World War II, would reach the age of retirement.

Now they are suggesting that it may have to go up earlier, because of the declining birth rate.

Other factors putting pressure on the system, the trustees said yesterday, are a tendency toward earlier retirement and steadily increasing claims for benefits from workers who have been disabled.

The 5.85 per cent Social Security tax covers disability as well as old-age and survivors' payments. It also covers medical payments under Medicare. The trustees said that, Medicare aside, 29.1 million Americans, or roughly one in seven, are now receiving checks each month from Social Security.

There is no need to raise Social Security taxes right away, the trustee said, because Medicare payments are not using up as much of the 5.85 per cent tax right now as it was thought they would. The extra Medicare money can be reallocated to old-age and other payments for the short run. But this will not last, they said, and "after the next five to 10 years, a tax increase or constraints in the growth of benefits will nonetheless be needed."

The trustees did not estimate how much of a tax increase the system might need. One specialist put it at 0.5 per cent for both employer and employee.

The trustees, who report to Congress every year, said their revenue projections changed this year because they used 1970 Census data for the first time. The new projection is based on a long-run fertility rate of 2.1 babies per woman, close to the rate for zero population growth. The old projections were based on fertility rates of 2.3 to 2.8.

[From the Washington Star, May 30, 1974]

THE "TIME BOMB" FACING SOCIAL SECURITY: WILL INFLATION OUTSTRIP ABILITY TO PAY?

(By Ned Scharff)

Beginning in 2010—less than 40 years from now—the babies born in the post-World War II boom will reach retirement age. All of a sudden, the number of people living on pensions will have gone from 29 million to 45 million—an increase of 55 percent.

And the gap between older and younger generations will be widest in the pocketbook.

The younger will be forced to support their elders, as they have done under Social Security since 1937. But at that future date, the price of support may be out of all proportion to the ability of workers to pay.

That is the way the Social Security system is beginning to look at its apparently growing number of critics. It takes only a little assumption—that today's inflation is likely to continue, more or less—to convince the critics that a crisis is on the way.

If it comes, they say, it will be an actuarial crisis, a financial crisis, and, most of all, a human crisis. Social Security will have become a monster—devouring wages as never before, and possibly killing workers' initiative.

These are some of the consequences foreseen:

Caring for the nation's aged and disabled, now a $67.7 billion undertaking, could in the early years of the 21st century outstrip also-rising defense as the single largest item in the federal budget.

It could even herald the ultimate Welfare State as the worker is taxed to the limit to pay for public benefits for his elders. With more senior citizens and relatively fewer workers (the ratio of workers to retirees will have fallen from 3.2 to 2.2 by 2030), society would take large amounts from the young in order to fulfill promises to the old.

Barring a sudden change in population trends, the sheer numbers of elderly people in the coming century almost surely would transform America from a youth culture to one of geriatric dominance.

Easy credit and free spending—now characteristic of the nation's youth-oriented ways—could become privileges enjoyed primarily by senior citizens no longer responsible for making a living. Such privileges are not subsidized by the current level of benefits.

The grim predictions of the system's critics may reflect elements of exaggeration and overextended trend lines but do represent increasing concern that Social Security, lumbering into the future, will seriously disrupt the financial and social bases of American society.

Part of the forlorn outlook is due to a simple reality of politics: It is very popular—well-nigh irresistible—to increase Social Security benefits, time after time.

Sen. Barry Goldwater found out just how popular an ever-growing pension system was during his 1964 presidential campaign. Citing what he considered to be abuses in Social Security, he warned that the system was "in danger of collapsing." That remark was used against him over and over, effectively.

Another Republican, Nebraska's Sen. Carl T. Curtis, estimates that he lost 10 percent of the vote in his state two years ago by arguing that a 20 percent hike in benefits, the largest in Social Security history, was too much for the system to bear.

In past years, Congress has managed Social Security in a way that has pleased nearly everyone—declaring frequent benefit increases without any sharp increase in taxes.

At the same time, the Social Security tax remained partly disguised. Since employers pay half of it without any notation on the workers' check stub, increases in the tax appear to be only half as large as they really are.

Since 1937, the real tax burden has risen from 2 percent of the workers first $3,000 in earnings to 11.7 percent of the worker's first $13,200.

Still, until 1972, Congress was able to declare frequent benefit raises without comparable tax increases by using an overly conservative accounting method which assumed that a man's wages would remain the same throughout his career.

Of course, wages did rise, and so did Social Security tax revenues. Congress simply disposed of the surpluses by increasing benefits. Then the tax schedule was recalculated and Congress began saving up surpluses for the next big increases.

By changing accounting methods to assume rising wages, Congress was able to declare the whopping 20 percent benefits increase in 1972, capping a five-year period in which benefits rose 60 percent.

But the change to the more realistic accounting procedure also assured that any future benefit increases would necessitate immediate tax hikes. That guaranteed that future benefit hikes would generate more opposition from taxpayers.

Even if no more benefit increases were approved in the next 40 years except for automatic cost-of-living increases, taxes would have to rise dramatically to meet the population shift.

For example, William G., 22, is a clerical employe earning $7,681 a year. Last year, G. and his employer paid a combined Social Security tax of $898, or 11.7 percent of G.'s earnings. In the year 2010, if G.'s earnings have increased only with inflation, his tax will have to be increased to about $998 in 1974 dollars, or 13 percent of earnings.

And if G. still were working 20 years later, his tax would have to be raised to 16.8 percent of earnings, or $1,270 in 1974 dollars.

That would be the average tax rate for workers in the future if Congress did no more than guarantee old people benefits similar to those they get under Social Security now. But in the view of some there is a serious gap already between benefits and those envisioned by the program's founders.

Created during the Depression, the program was designed originally to provide small benefits to protect the elderly amid widespread poverty and unemployment. For all the increases in benefits, the original view—that the elderly should neither get rich from the program nor be allowed to starve without it—has essentially been maintained.

There are approximately 20 million people over 65 in the United States, and half of them are estimated to be living on Social Security alone. Their average monthly check is only $181.

Whether in its present state or in its potential future state, the system of Social Security has developed increasingly harsh critics. They focus heavily upon the highly conservative economic notions used by Congress two years ago in enacting otherwise sweeping changes in the system.

Most importantly, Congress chose to assume that for the next 75 years, inflation would average only 3 percent a year—an assumption which seems doubtful in light of last year's 8 percent inflation and this year's 14 percent.

Inflation simply means the rate at which the cost of living rises. In figuring its tax and benefit tables for the long term, the Social Security Administration by order of Congress assumed the cost of living would rise 3 percent a year, while wages continued to rise 5 percent a year.

In other words, workers' wages would be a net 2 percent greater than their added costs of getting by each year.

That is central to the idea, long nutured by Social Security supporters, that each generation will be able to afford still more generous support for its old people.

Viewed that way, Social Security is not a way of buying insurance for one's own old age. Rather, it is a simple income transfer plan—from the younger to the older.

But, the spiraling inflation of the past two years suggests that all the income needed to pay the benefits might not be there to be transferred in the future. To put it in economic language, "productivity" as a base for future Social Security is apparently not rising as fast as it once did.

And if that base continues to grow ever more slowly, Social Security could develop serious income deficiencies even before the "baby boom" workers go into retirement.

The retirees of the "baby boom" era will have the most dramatic numerical impact on the program, but the phenomenon of extraordinarily large number of survivors should drop off just as dramatically when the "zero growth" individuals reach retirement age.

Defenders of the system, such as Social Security Commissioner James B. Cardwell, argue that Social Security could never get so deficient that it alone would bankrupt the country.

"If you reach that point," said Cardwell, ". . . the whole system will have collapsed.

If this population cannot sustain itself, other parts of the system will be badly damaged. I don't think this generation can or should go into the future believing this could happen."

Conservative economist Milton Friedman does not feel that way about it. He and other critics charge that Social Security, while it is not the only burden on the economy, is one of the heaviest.

"If I were in Social Security, I'd say it could never bankrupt the country, too," said Friedman. "I'd say it's a simple income transfer program that does not use up any real resources, that simply redistributes the money.

"The fact is, though, that it already has had a significant effect. Already the faction of workers between 65 and 70 has been virtually eliminated because of the program's disincentive effect, but that effect can be felt in every age group."

But Cardwel and Friedman agree on the dangers which lie ahead for Social Security as America turns into an aging society. Cardwell calls the population phenomenon "the big question of the moment." Friedman calls it "a time bomb."

A long-overdue Social Security trustees report, now scheduled for publication in late June or early July, will take 1970 Census data into account for the first time.

Social Security actuaries long have known about the existence of the baby boom, but what they have not known is that those babies, now married and in the workforce, are not bearing children at the usual rate. For the time being at least, the country has fallen below the point of zero population growth. That simply means there will be fewer workers in future generations to pay future Social Security taxes to support those then on pensions. However, following the passing of the "boom" survivors, the fewer "no growth" retirees will need less workers to maintain their support.

Last year's report, also late, contained a single critical indicator of Social Security's financial strength—it was a percentage showing how far the tax schedule was out of kilter with the system's projected expenses.

Last year's deficit, which did not take new population factors into account, was 0.38 percent—well within the 0.5 percent margin of error permitted by Congress.

This year's deficit will be close to 3 percent—many times larger than any SSA deficit in history—according to chief actuary Francisco Bayo.

The report will not lead to any cutoff of the 33 million monthly checks that Social Security mails to the nation's elderly and disabled. Nor will it halt the automatic increases in taxes and benefits brought by inflation.

What the report will indicate, though, is that in the next few decades, taxes must soar to keep Social Security going.

PAYROLL BITE ACCEPTANCE IS "WEARING THIN"

(By Duncan Spencer)

It was when Dick Rung, a 26-year-old architectural assistant, was filling out his income tax form 1040 two months ago that he noticed it. He was paying almost as much Social Security as income tax.

It was a reflection that perhaps crossed millions of harried minded this year as payroll taxes for the Federal Insurance Contributions Act (FICA) reached an historic high. Rung met his calculations resentfully.

"Before that," he said recently, "I paid no attention to Social Security at all. It's just something you accept."

But for him as for many other workers across the country, the attitude of acceptance of Social Security's bite each week is now wearing thin. This year, for the first time, over half of the country's taxpayers paid more for these "retirement benefits" than for income tax.

"Social security is a deception," Rung asserted. He sat in his cool white drafting room at Harry Weese Associates in downtown Washington where he earns $12,000 a year as assistant to a project architect working on Metro.

"There are only two types of people who really benefit from Social Security—the people who got in early and the bureaucracy. You're told you're paying money into an account that's for your own retirement, when in fact, I'm paying for my parents' retirement, and I'll have to depend on a generation yet to come."

Rung's jaundiced view may be inaccurate, at least in part, but his attitude is widespread and growing. It seems that the tax levied in the name of "contributions" to Social Security has crossed a real pain threshold for young workers.

Is Social Security a good investment? Rung thinks not, and there are calculations that would seem to bear him out. Most people have not thought at all about the question. What will they get from the system over their working lives and after retirement?

Social Security officials answer these questions by pointing out there is no private insurance plan on the market that offers a combination of old-age pension, disability insurance, health insurance after retirement, benefits to widows and dependent children.

Created during the Depression's widespread poverty and unemployment, Social Security was not envisioned as an investment program but rather as a system of limited benefits to protect the nation's elderly from problems against which they were essentially defenseless.

Some 10 million people in the United States today are estimated to live on Social Security benefits alone. The average monthly payment is only $181 a month.

The officials also argue that the strength of the system is what Rung dislikes most about it—that it is compulsory, and it is based on an unwritten pact between one generation and the next, with the older generation retiring on part of the income of the younger.

The Social Security Administration bases its predictions for the future on two key assumptions—that wages will outstrip inflation by a small percentage, and that the system itself will remain in the same basic form. Both of these assumptions are subject to challenge. But even under the predictions SSA confidently expects, the system is now uneven and seems likely to become considerably more uneven.

For example, a 22-year-old, making the U.S. median wage ($7,681), perhaps a laborer, paid $449 in payroll tax this year. When he retires in 2017, his monthly benefit will be about $2,400 in almost unrecognizably inflated dollars. In constant dollars, about $295. If he's married, the benefit will be 50 percent more.

A 22-year-old making maximum taxable earnings ($13,200) will get a monthly benefit of about $3,000 a month—in constant dollars, about $376.

A low-wage 22-year-old now making $3,200 a year will get about $1,600 a month in 2017, a sum equal to about $197 in today's dollars.

A 40-year-old making median earnings will retire in 1999 at $939 a month, worth about $277 in 1974 dollars.

A 49-year-old making maximum taxable earnings will retire in 1990 at $748 a month, the equivalent of $343 in today's dollars.

A man retiring this year at maximum taxable earnings gets a benefit of $304, while a poorer man, also 65, who is only a minimum wage earner ($3,200), will get $157 a month.

These examples show that it's a great advantage to be married; that benefits have only a slight relationship to the amount paid in; and that, in general, the future benefits for middle-income workers in constant dollars are going to decline in most cases, not increase.

There is considerable variation in the benefits paid under the system. People who pay the same amount of payroll tax may get different benefits, depending on whether they are married or not or on the year in which they retire. People who pay in different amounts of payroll tax may end up getting the same amount of benefits.

The system has been weighted throughout its history to benefit the low-wage earner, yet there are those who argue that the poor and unskilled start work younger, and die sooner, and thus get less out of the system.

"You need the money now, not when you're older," grumbled Rung. Retirement is not something he often contemplates. "I'll work until I drop," he said.

Rung's personal financial picture is bright. He earns much more than $7,681—the amount on which the average American worker pays Social Security taxes.

And his wife pulls in another $9,200 as a librarian.

The couple, with no children and no debts, lives in Arlington in a $220-a-month apartment. Their principal possessions are a $2,000 stereo set and $2,000 worth of records, some furniture and a bicycle. They have no car. "It's a matter of economics," he says. They spend about $30 per month on a big dinner in town, and they spent $1,700 on a European vacation last year.

Ironically, the reason the Rungs live this way is because of their fears of the future, related in an oblique way to Social Security.

Rung tries to put 20 percent of his take-home salary into common stocks, in spite of the fact that in the last two years he has been losing ground steadily. The fact is, he simply doesn't have any faith that Social Security will be able to provide for his own retirement, he sees savings being constantly eroded by inflation, and the stock market seems to him the last reasonable hedge.

He may be right. The changes that are coming to the U.S. population due to zero population growth will not greatly affect Rung. He will have passed out of the earnings picture to join the huge group of "baby boom" retirees in time. But inflation, according to the conservative estimates of Social Security actuaries, will just about decimate the U.S. dollar.

Inflation has been going on for a long time, but now, for the first time, the Social Security system is actually pegged to it.

Rung's present wages of $12,000 are close to the present Social Security wage base of $13,200—the amount on which FICA tax is based. As a college graduate with high chances for advancement in his profession, he is likely to earn more than the base for the rest of his career.

But counting on inflation of 3 percent a year (the current rate is 8 percent) an annual 5 percent rise in wages (below the Cost of Living Council's 5.5 percent guideline), Rung's base wage on which Social Security tax would be computed in his last working year—2012, when he will be 64—would be $84,600.

The $84,000, of course, could be mere play money compared to today's currency. It's exactly the old $13,200 blown up by steady inflation. But the percentage of Social Security tax will march steadily upward, too. By 2013 the payroll tax, SSA estimates, will have risen to the region of 7 percent—and that is a real percentage, not an inflated one.

What do the system's current assumptions mean for the Rungs? Assuming they both retire in 2013, he at age 65 and she at 62, they will have put about $111,000 into the system, according to calculations by SSA's acting chief beneficiary Francisco Bayo.

But this is by no means the true value of their compulsory "contribution" to the system, Bayo concedes.

At a moderate compound interest rate of

6.35 percent, which Bayo named as a reasonable figure, their "contribution" is actually $319,000—the amount their payroll taxes would have earned if invested outside the system.

And the "contribution" should be doubled, since the Rungs' respective employers have paid equal amounts to Social Security over the years. So the total they "gave" to the kitty is really $638,000 plus the sum paid over the years toward Medicare. This would add about 15 percent to the total, but Social Security can't estimate a dollar sum accurately because medical costs are expected to rise abruptly. The approximately total contribution grows to $731,400.

After Rung retires, he still gets no benefit out of his "contribution" to the system. Since the money is gone—paid out to others—it has earned no interest.

That represents what Social Security experts concede is a loss to him of 6.35 percent a year during his retirement years—in other words, the interest income he would have continued to receive in retirement if he had had the money to invest when he was working.

Here's how it works out in Rung's case:

He is expected to live 13 years after retiring, according to mortality tables supplied by SSA. During that time, he and his wife will receive benefits of $50,400 per year, or $4,200 per month.

Over the 13 years, he and she will be paid $655,200 in benefits. But from that, there should be subtracted the 6.35 percent loss or discount. The sum left to the Rungs is $613,495—their return on a lifetime FICA "contribution" of $731,400.

One of the most persistent criticisms of Social Security now is that it moves across every layer of society with its flat tax of 5.85 percent on the first $13,200 of wages. For the Rungs, it means: they are paying about 10 percent of their joint wages, since neither yet earns up to the maximum base.

Most economists put the tax burden on young coupls much higher—part of it, they argue, is hidden, because the employer also pays 5.85 percent towards the employe's Social Security.

"The employer couldn't care less," said Prof. Milton Friedman of the University of Chicago, one of the loudest critics of the Social Security system. "The employer's portion of Social Security is wage cost just as wages are." He calls the Social Security Administration's policy of calling the payroll tax a "contribution" and counting only the employe part of the tax burden "absolutely disgraceful and misleading."

Taking into account the employer's tax payment, too, it works out to about 20 percent of the Rung's wages. In their earning lifetime, it will rise to over 30 percent.

In 1972, the Brookings Institution published a study of the payroll tax—before the accelerating factors of fast-paced inflation and declining population were as clearly visible and before the biggest-in-history 20 percent hike in benefits was in force.

"Most taxpayers complain about the income tax, but their wrath is blunted by the general belief that it is a fair tax overall despite some inequities," wrote Brookings senior fellow John A. Brittain. "There is little visible wrath against the payroll tax because most of those who pay it do not realize how heavy and inequitable its burden actually is."

The study pointed out that the payroll tax is negligible on high incomes, that persons with income only from stocks and bonds are not taxed at all.

Clearly, however, the emphasis in the public's mind on Social Security has not been on its long-range or future problems. Rather, it has been on how good the system is.

One of the apparent reasons Social Security has had such an affirmative look about it is that Congress has never bothered to spell out specific goals or definitions so that potential problems might become more visible.

James Cardwell, the current chief of Social Security, would like Congress to do some long-term planning. But few observers expect it to do so.

And young workers also seem unlikely to do much toward planning about retirement, either. Rung, with his stocks, is an exception. A way around the system does not seem a major worry for most.

LIFE IS LEAN ON SOCIAL SECURITY

(By Duncan Spencer and Ned Scharff)

She was a large woman of 73, sitting at mid-afternoon in Hecht's cafeteria downtown. Her bill was 64 cents, for a chocolate ripple sundae; it was finished. She sat alone and talked about her $180-per-month existence on Social Security. "What's the use worrying," she said, "who knows. . . ."

Sixty-four cents is more than twice what she usually spends for lunch. It's quite close to her average daily expenditure for food, in fact, and gives something of an idea of the way life is lived by thousands of elderly Social Security annuitants here.

Another insight into her life is the monthly equation of rent and income. Her rent, moderate by most Washington standards, is $112.50. That's 62 percent of her check gone at the first of the month, with the days stretching emptily until the next official envelope pops into her mailbox.

Downtown Washington is filled, any workday, with retired people, many of them on Social Security. Most, for some reason, are women, termed "blue hairs" by irreverent waiters and sales persons.

They come to cafeterias at the big department stores with shopping bags that once contained merchandise, but now usually carry a newspaper or a sandwich. But the bag, bearing the name of one of the top downtown stores, makes it one of the little decencies and part of the game.

They ride buses and wander the streets looking for bargains like the summer dress she wears. "Do you know what this dress cost?" she asked with a quick smile of pleasure. "$5.50."

That day she had found nothing she could afford; the trip downtown in one sense was for nothing, but in another way was exciting. Even under the highest priced income-guarantee system in the world, life for today's annuitant is a race likely to be won by the quick witted and resourceful.

She had been 35 years old, a working mother with a son, when Social Security came into being. She took part-time sales jobs, lived in a city apartment as she and her husband, a shoe salesman, struggled to make ends meet at the tail end of the country's worst economic slump.

Set up during the Depression, Social Security was intended to assist the elderly in a time of an impossibly crowded job market, and it was sold on the ideal of giving them dignity besides.

The philosophy behind the system was to make it appear like an insurance plan—a fund in which the worker builds equity during working years and then draws upon it during retirement. Unlike a welfare handout, the Social Security benefit was advertised as an earned benefit—a workers deserved stake in the future of the nation's economy.

NO GUARANTEE

Experts feel the system has been remarkably successful on one count. It has encouraged old people to retire—so much so that after age 65, people are actually penalized in payments if they continue to work more than a day or two a week.

On the other hand, the system provides no guarantee of dignity in old age.

The lady at Hecht's was in no way pathetic. She carefully charted each day's course with a change purse and economies learned from life in the city. Abler than many, she nonethe less is symbolic of millions living on a Social Security check in a society increasingly geared to free spending and easy credit.

She was one of the victors, relatively independent and a burden to nobody; the sundae as a celebration represented a lifestyle that might seem incredible to wage earners or the young.

In fact, she was slightly better off than the average Social Security recipient and she is getting out of the system far more than she or her husband put into it.

Her husband died 15 years ago. At that time she had a part-time sales job at a specialty shop. She had some savings, and she wanted to continue to work. Social Security was coming.

CORNER TABLE

She did not think then it would be like this, not the shuttle between afternoon cafeterias where the waiters and waitresses are idling in the corner table, where across empty stools, another old woman reminds her of her own circumstances.

Memory of those earlier times does little now to make it easier to accept the slow loss of ground. The 1972 rise in benefits, a fat 20 percent, was eaten almost immediately by inflation. She now can find few employers who want a part-time worker whose earnings couldn't rise higher than $1,600 a year—the point at which she would start to lose benfits. The store she worked in for many years changed hands, and there were unfamiliar faces.

She went to Florida, using a good part of her savings to get established, but came back to Washington out of fear of hurricanes, and moved into a Northwest apartment building seven years ago when the rent was $74.50 a month. It is now almost twice that.

The idea that Social Security will somehow take care of the aged is lost in the lives of men and women like these, yet government experts say that more and more people because of inflation and high prices, are tending now to rely on the system as their only guardian in retirement.

POVERTY LEVEL

According to estimates by the National Council of Senior Citizens, half of the elderly have no income but Social Security. Some 3.5 million senior citizens have incomes below the poverty level, and another 2.5 million to 3.5 million have incomes just above.

Even with the new federal Supplemental Security Income program, which recently has replaced state welfare programs for the elderly, NCSC President Nelson Cruikshank does not believe income levels for older people will become adequate for another 15 to 20 years, when new maximum Social Security payments approved by Congress finally will begin to reach most retired workers.

At that point, Cruikshank said, Social Security will provide a "not bad protection system" for those who also have an industrial pension system, home ownership, or a modest savings account.

Estimates for future benefit levels, however, are pinned to hopes for a moderate amount of inflation in the national economy. If those hopes should fail over the next 20 years, elderly people dependent on Social Security will find themselves as far behind as ever.

The labor unions, increasingly concerned with fringe benefits as opposed to large salary boosts, also are exerting strong pressure on Congress to increase Social Security benefits.

"We think benefits should be increased in tune with the standard of American living—not just the cost of living," said Lawrence T. Smedley of the AFL–CIO.

Smedley, like most union officials and spokesmen for the elderly, agree that the payroll tax is now near the saturation point. Minor increases in the tax may be possible, he thinks, but not major ones.

Instead, the proponents of higher Social

Security payments are eyeing the government's general revenues as an alternative source. In its history, Social Security has never depended on any revenue besides that generated by its own special tax.

PAYROLL TAX

Now, there is building pressure to abandon the notion of self-sufficiency for the program. One argument being made for a shift is that the Social Security payroll tax is "regressive," claiming a larger part of a poorer man's paycheck than of a richer man's, while the federal income tax—the source of general revenues—is more progressive.

Theoretically, the move to general revenue financing would cost no more than increasing the payroll tax.

In practice, however, Social Security officials and lawmakers like House Ways and Means Committee Chairman Wilbur Mills, D-Ark., believe that a shift to general revenue financing would open a Pandora's box and ultimately destroy Social Security in its present form.

When politicians no longer are forced to specify the exact source of revenue, argues Social Security Commissioner James B. Cardwell, the temptation to grant wholesale benefit increases will not be resisted.

Moreover, Cardwell believes, the strength of the Social Security system rests in its independence from the rest of the federal budget and in the faith it has inspired among middle-class Americans.

Cardwell believes that the country no longer can put off deciding what it wants specifically from Social Security, a question which has never been answered finally.

MINIMUM INCOME

Is it to be a form of welfare for the elderly, guaranteeing everyone a minimum income in old age regardless of work record, or should it adhere to some idea of insurance, with retirees reaping benefits in strict proportion to the amount paid into the system?

At present, the system has a dual personality. Like the welfare concept, it weighs its payments in favor of the low-wage earner, who gets somewhat more for his investment in the system than the higher wage earner. At the same time, the system taxes a larger percentage of the low-wage earner's income.

Like an insurance plan, Social Security encourages middle-class participation by promising contributors a return. "It isn't just another tax," notes one congressman. "People don't seem to mind it like other taxes because they feel they get something in return."

Shifting to general revenue financing, perhaps the only practical way to greatly increase old-age benefits, would inevitably herald a shift away from the insurance concept, Cardwell argues. It would disenchant middle-class wage earners, and the entire system would become subject to the same public attacks as welfare now is.

To date, Congress has not made up its mind on what an old person needs for a life of simple dignity. Is it half or two-thirds of what he earned in his peak income years, or is it the full amount. That issue, if ever settled, would leave still tougher questions: Can the nation, with its aging society and uncertain economic future, afford to support the elderly at a high standard of living? If so, how strong is the commitment to be?

HUGE APPARATUS

Politicians have made policy on a short-term basis and the huge apparatus of the Social Security Administration provides the mechanics. As a result, 33 million checks a month tumble into the U.S. mails and people like the lady who had her sundae in downtown Washington count the days.

In her world, there is one morning near the beginning of the month that is the best. That's when the green check arrives at the little apartment near Walter Reed. She immediately pays the rent of $112.50 and faces the mounds of other expense that at times overwhelm her. The phone bill averages about $7 per month. She can't make long-distance calls, but the phone, like the television set, is one of the things she says she couldn't do without. Like many of the city's elderly, she has children who live here.

With her, it is a point of pride not to transfer her financial problems to her 39-year-old son, whose small business is itself the beneficiary of another government program run by the Small Business Administration. She depends on her own resources.

Among her aids in this battle are Medicare, which appears to have solved one of the worst worries of aging. Old people can now keep their teeth, for instance. Before the program came into effect, it was cheaper over the long run to have them removed and replaced by dentures.

But she does go without supper, sometimes breakfast. And she stopped smoking because she simply couldn't afford it. "Sure I'd like to live better," she said, "but I can get by on $10 a week, just like I could get by on $50 a week.

FOOD STAMPS

"I get food stamps, you know," she said with conspiracy in her tone. "My son says every day plenty of people—well-dressed people—come in to get the stamps, so he says why don't you take advantage."

The stamps are the bulwark of her budget. For $18 she gets stamps worth $44, and that is usually her total monthly grocery bill. With the month barely begun, she usually has paid out $127 of $180. "The rest of the money I can play with," as she puts it.

The problem of lunch calls forth a masterly scheme. There are eight churches and synagogues downtown that provide low-cost lunches for the elderly, and she shuttles between them four times a week. The lunches vary in price—she usually pays a quarter for a three-course meal and the added benefit of being able to take home unfinished food.

The bus fare for the long ride down from her apartment costs 25 cents, each way, thanks to a discount for those over 65. In the summer, she'll skip from one store to the next, pleasantly reminding sales persons that she's just looking. Boldly, she tries on dresses and puts them back, moving down the rows of clothes she'd like to have.

SHORT DISTANCES

One of the problems of living on $180 is that it allows for very few changes. One must be careful to walk short distances, avoid staining clothes, find newspapers on park bences, know the menus at the cafeterias by heart, not lose anything.

When calamity does occur, it's grim. Last April she was pleased to find the apartment house door opened for her by a young boy of 12, but 20 minutes later, she heard a noise from the kitchen and turned to find him in the living room holding a small knife. She says she wasn't frightened or even angry as he told her to lie on the floor. She thought of the book of food stamps, she remembered.

The youth didn't use the knife or harm her. But he found the food stamps, and to her near-despair, he also found the jar with $90 earmarked for a vacation, put by over good weeks and bad for an outing of a few days at Atlantic City, including the bus ride there and back. "I guess he took that vacation," she said. When the police came she told them she didn't care, except she wanted the money back. "They came. There were so many police, and they promised they'd find it." But they didn't. It was a lean April.

"My financial problem is this," she said. "If I needed a new television, I don't know what I could do. Without the food program (stamps), I'd be really stuck. If a single woman had $300 she would pretty well get by, but the result is I'm here, and often I don't know what I shall do."

She hesitated for a minute and went on: "A man once told me we're all getting to the same place, hitched to the same wagon, and riding on the same wheels," the old face split in a wide smile. "He was a very square man."

[From the Washington Star-News, May 31, 1974]

CARDWELL: SYSTEM'S GOAL UNCLEAR

Social Security has a lot of critics—more now, apparently, than in many years. And one of the critics these days is the man who runs the system—James B. Cardwell.

A career civil servant, he was appointed a year and a half ago to the post of commissioner of the Social Security Administration.

Cardwell argues that the system has reached a critical size without a firm decision by policymakers on what it is meant to achieve.

In his view, Social Security is an enormous economic machine without direction:

"You assume that we already know what we want of the system," he said in a recent interview. "I'm just saying that we don't.

"The theory of the system, as I've always viewed it, is that it was intended to provide insurance against lost earnings in later life, when people were expected to lose their earning capacity. The original concept was that it would never provide the full level of benefit insurance or protection that one would need at that stage, but that there would be some augmentation by a second tier—a private pension, personal savings. But there is no longer a strong consensus that that is what is expected of the system."

Instead, Cardwell continued. Social Security is continually tempting people with the thought that it will provide for them—which it won't—while continually battering the pocketbooks of the younger generation who must support it.

"The pressure from the beneficiaries is to raise benefits as they're struck by the cost of living, and you have to be sympathetic with them . . . we all develop lifestyles and standards of living . . . the poorer you are the more difficult it is. Retired people are obviously feeling that pinch.

"But this rapid rise in the wage base has created a new pressure in the other direction. It's a pressure that is heard in the voice of the middle-income worker, the man who's making 13, 14, 15 thousand a year. He sees himself paying a higher and higher tax. He feels uncertain whether he's going to continue to be taxed on a higher and higher amount and he's still young enough that he doesn't think about his old age. And that group, I think, is beginning to grumble."

Cardwell also feels that the last big hike in benefits, of 20 percent, the full impact of which will be welcomed by 29.3 million retirees in July, was a hastily researched measure.

"I thought it was an awfully big bite at one time. I think the Congress may have rationalized it as a combination of things. There had been an unattended absolute rise in the cost of living, and they thought they were patching that up, and perhaps they thought they were buying a little bit of the next round in advance. They may have felt they were correcting the base, trying to increase the replacement rate. But there's no evidence they were that analytical.

"No one has been willing to stand up and be counted on what would be an acceptable replacement rate for fear he would crystallize at either too low or too high a level. But that's where the public policy should be centered."

The picture for the taxpayer is gloomy and getting gloomier. Even with automatic increases geared to a 3 percent rise in the cost of living, it appears, from past performance, that Congress will rely on increases in benefits to help incumbents in election years.

"This is the way Congress has managed the system since beginning," Cardwell said, "liberalizing benefits throughout, and at the same time raising the tax rate and the wage

base . . . and if you looked at it three or four years ago, the same provision that escalates benefits apace with the cost of living does the same thing with the wage base. They will both go up and up and up, even if there are no ad hoc increases. That's the question, whether the political system will be patient long enough to test this theory of an even movement indexed to the cost of living."

The system is under stress as never before by the change of age in the population and from inflation. But, Cardwell points out, applying fresh thinking to an established program that has become politically invulnerable is more difficult than ever.

"That's one thing our political system does very poorly, if it does it at all, is to substitute one thing for another, and discharge the marginal to make way for a new idea. We don't do this very well. It may put me in a very uncomfortable corner, but I think there are some things we should look at. We could look at the minimum benefit."

The minimum benefit, Cardwell revealed, was established as a matter of administrative convenience. Years back, the calculations revealed that the first minimum benefit would have been something like 75 cents a month. That was considered an embarrassment hardly worth sending through the mail, so it was raised to $10. It has since grown to over $90, and is paid out mostly to persons who have worked the bare minimum of time necessary to gain coverage, and who as a result reap far more benefits than they put in.

Another reform Cardwell backs is a redistribution of the load of payroll taxes throughout the year, simply to spread the individual's payroll tax over 52 equal amounts.

But these are details. He sees the system as viable—for the present, but issues a strong warning against the trends that have come with constant liberalization of benefits.

"I think it would be a terrible mistake," Cardwell said, "for the society to condition its current generation now coming into the labor market not to worry about its old age or have the attitude 'the government will take care of you.' That in itself is a fantasy. The government is not going to take care of you. It's still taxes."

DEPARTMENT OF DEFENSE APPROPRIATIONS AUTHORIZATION ACT, 1975—AMENDMENT

AMENDMENT NO. 1425

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

Mr. KENNEDY (for himself, Mr. SYMINGTON, Mr. CRANSTON, and Mr. HUMPHREY) submitted an amendment intended to be proposed by them jointly to the bill (S. 3000) to authorize appropriations during the fiscal year 1975 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads, and for other purposes.

AMENDMENT NO. 1430

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

Mr. MONDALE submitted an amendment intended to be proposed by him to the bill (S. 3000), supra.

FULL DEPOSIT INSURANCE FOR PUBLIC UNITS—AMENDMENT

AMENDMENT NO. 1426

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

Mr. PROXMIRE submitted an amendment intended to be proposed by him to the bill (H.R. 11221) to provide full deposit insurance for public units and to increase deposit insurance from $20,000 to $50,000.

AMENDMENT OF THE RURAL ELECTRIFICATION ACT—AMENDMENT

AMENDMENT NO. 1428

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

Mr. BELLMON submitted an amendment intended to be proposed by him to the bill (H.R. 12526) to amend sections 306 and 308 of the Rural Electrification Act of 1936.

TEMPORARY INCREASE IN THE PUBLIC DEBT—AMENDMENTS

AMENDMENTS NOS. 1434 AND 1435

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

TAX RELIEF—REFORM AMENDMENT

Mr. HASKELL. Mr. President, on May 2 of this year, I introduced, along with Senator CHILES, amendment No. 1247 intended to be proposed to H.R. 8217. Since that time, other amendments have been proposed, some of which are generally along the same lines as the amendment originally proposed by Senator CHILES and me. We remain convinced of the desirability of the tax relief—tax reform package we introduced and, for that reason, Senator CHILES and I are resubmitting our proposal in the form of two separate amendments to be added to H.R. 14832, the debt ceiling bill soon to be taken up in the Senate.

These amendments are designed to accomplish several objectives. The first provides tax relief to some 55 million taxpayers—nearly 90 percent of all taxpayers by replacing the present $750 personal exemption income deduction with a nonoptional $200 personal exemption tax credit. This is a proposal originally made some time ago by the very able gentleman from Minnesota (Mr. MONDALE) and I warmly applaud him for originating what I view as an essential of tax reform.

This relief is essential, Mr. President, for the millions of middle- and low-income families presently hard hit by a galloping rate of inflation. I do want to emphasize, though, that I regard as essential to true tax reform the mandatory character of my amendment. I am aware, or course, that some of my distinguished colleagues prefer to simply add the tax credit device to the existing structure and allow taxpayers the choice of a personal exemption in the form of either a deduction or a tax credit, whichever might be the more advantageous for a particular taxpayer.

In my judgment, the optional credit-deduction mechanism is unwise and ill-advised for one very simple reason. It would create a two-tier system of tax benefits from the personal exemption. On one level would be the vast majority of American taxpayers, all of whom would benefit equally by taking the tax credit. On the second level would be the small number of wealthier taxpayers—some 6 million people—who would take the present income deduction because for them the deduction would be more valuable than the tax credit. This is not the direction of tax reform. Such a system would not be true tax equity. For this reason, I propose that we make the tax credit—a highly desirable change—a nonoptional benefit.

The second amendment is designed to insure against the dangers of further inflation that might be threatened by the revenue loss caused by the proposed tax relief. The only hope we have of insuring against more inflation is, I think, to couple with tax relief—tax reform. Senator CHILES and I propose three revenue-raising tax reform measures designed to accomplish this: first, repeal of the so-called DISC provisions; second, repeal of the asset depreciation range system; and, third, sharp limitation on the availability of the investment tax credit.

Mr. President, I ask unanimous consent that my statement of May 2, 1974, explaining the amendment further and the amendments themselves be printed at this point in the RECORD.

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

EXEMPTION FROM DUTY CERTAIN EQUIPMENT AND REPAIRS FOR VESSELS—AMENDMENT

AMENDMENT NO. 1247

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

AN INCOME TAX REALLOCATION AMENDMENT

Mr. HASKELL. Mr. President, there has been much discussion recently about the advisability of a substantial income tax cut. Today, I am submitting for myself and the Senator from Florida (Mr. CHILES) tax relief—tax reform amendment that we shall propose when H.R. 8217 is before the Senate. Senator NELSON is also introducing a tax relief—tax reform bill today. I applaud his efforts and look forward to supporting him as we pursue the goal of tax fairness.

I am convinced that some form of relief or cutback is an essential element of much needed tax reform. But we must be cautious of the manner in which such relief is provided.

Some form of reallocation of the Federal income tax burden is a wise and desirable manner in which to help millions of inflation-pressed American families to cope with which we now find ourselves. I believe, though, that we should achieve this goal without even arguably jeopardizing the economic postion of the American people as a whole.

I further believe that we have before us a unique opportunity to not only provide economic relief to the vast majority of American taxpayers, but also to do so in a way that provides them a significant measure of fair play in the operation of their Federal tax system. We should, in my judgment, seize this opportunity to reallocate, on the principle of fairness, some of the overall income tax burden.

I would like first to explain my concern over the proposals that have been made by some of a blanket tax cut without any offsetting revenue raising features. Although

many things about the present state of our economy are unclear. Mr. President, there are some things that should be abundantly obvious to all of us.

One is that inflation has not been halted.

Another is that inflation has hit hardest those Americans with middle and lower incomes. Americans are today trapped in the vise of higher prices, concurrently shrinking real wages and the unrelenting pressure of Federal taxes. It is sensible to propose that they should have the pressure of that vise loosened by having less of their wages withheld through the Federal tax system.

But taxes are not the only important variable in any income-enhancing plan. Inflation, which affects middle- and low-income taxpayers the most, also plays a decisive role in income distribution and growth. Therefore, it seems that any tax proposal must in reality have twin objectives. The first should be to place the burden of such a tax proposal more squarely on the shoulders of those who can pay; the second, to minimize any adverse price effects on the economy.

A brief perusal of recent economic reports quickly underlines the serious strains already being placed on the average American. Statistics just released by the Labor Department reveal that while the net income of the average American worker increased by 5.2 percent in the first quarter of 1974, real compensation declined by almost 5.6 percent at an annual rate. Inflation has simply more than offset any surface increase in income.

At the same time as the rate of inflation approached 14.5 percent computed annually, something quite unorthodox by traditional economic standards occurred. Both total output of goods and services in the private sector and productivity declined at annual rates of more than 5.5 percent. Such behavior is normally characteristic of economies undergoing periods of low inflation.

This anomalous behavior seems to indicate that the output recession is finding its origins not in decreasing demand at all—as has traditionally been the case—but rather in shortage of supply. Conversely, increases in inflation appear to be originating in the attempts of producers to compensate for falling production due to raw materials shortages—especially energy—by raising prices.

This rapid escalation of inflation concomitant with productivity and output "recession" presents a difficult dilemma, for forces normally working against one another to restore equilibrium now appear to be acting temporarily in concert. Thus, strategies designed to decrease inflationary pressure are likely to further aggravate high unemployment and lower output while strategies designed to spur growth in productivity and output and lower unemployment are likely to encourage higher rates of inflation.

It is in this context of "stagflation" that we must view any tax cut proposal. If we agree that any such cut should be designed to improve the plight of those Americans most seriously affected by inflation—the lower- and middle-income groups—then any such cut must be judged by reference to the income effects it will have on these individuals.

In the case of any tax cut, there is an immediate and obvious income effect: that is to increase the amount of money readily available to any wage earner. But, any such increase in the amount of money available for immediate expenditure by consumers eventually translates itself through the demand mechanism into increased inflation. Thus, one must subtract the decline in real income lost to inflation as a result of the tax cut from the addition to earnings accruing from the tax cut to determine the true income effects.

For example, if a family's income was $10,000 and the increase in inflation due to the tax cut was 2 percent, then the family's income in real terms suffered a loss of over $200. Therefore, any tax cut, to make sense, must increase this family's income by more than $200. If it does not, the tax cut is self-defeating, and any income gains are quickly erased by price losses—that is, growing inflation.

With the economy already undergoing severe strain from inflation, induced by shortages of supply, a simple tax cut is very likely to result in even higher rates of inflation, and hence, less real value to the average consumer. This is particularly true when the cut is considered in light of a deficit in the Federal budget of $5.4 billion this year and an anticipated deficit of almost $10 billion in fiscal year 1975. Any tax cut would only further aggravate fiscal problems by cutting Federal revenues in the face of increasing Federal expenditures. The logical result of this would seem to be a further erosion in the buying power of the average consumer—an effect quite opposite to that intended by the proposal to simply cut taxes.

As Prof. Otto Eckstein of Harvard University, stated in testimony before the Senate Finance Committee in March: "My feeling against a tax-cut is mainly based on the longer term needs for resources by the Federal government. We have cut taxes too much in the last four years, and we will need the tax base to meet the future social goals."

Profs. John Kenneth Galbraith and Murray Wiedenbaum echoed this concern when they also concluded, respectively:

"I am very doubtful about a tax reduction. Inflation is still a major problem. It's a tough fact that tax reduction is the wrong medicine for that, and I am concerned that the $6.5 billion estimated revenue loss (to the Federal government) would add to inflationary pressures which remain so very strong."

Thus, for many reasons, Mr. President, I am opposed to a simple tax cut. I believe the best way to accomplish the twin objectives of tax reform and price stability is to couple any tax cut with reforms designed to offset any losses of Federal revenue, thereby minimizing the danger of added inflation.

With this in mind I have proposed an amendment to H.R. 8217. I firmly believe that our proposal will provide the much-needed tax relief without posing the threat to middle- and lower-income persons of having that relief eaten away by yet more exaggerated rates of inflation. At the same time, it addresses itself to several of the most inequitable, unjustifiable, and unnecessary tax breaks presently built into the Internal Revenue Code.

Our amendment will propose to—

First, replace the present personal exemption in the form of a deduction with a non-optional tax credit of $200.

Second, repeal the code provision allowing the deferral of certain export income—DISC; terminate, with an exception, the investment tax credit; and eliminate the asset depreciation range system.

Step No. 1 in our proposal will provide tax relief for nearly 55 million taxpayers this represents nearly 90 percent of all the tax returns that are filed each year. The bulk of this relief will go to taxpayers with annual income of $20,000 per year and less.

Step No. 2 of our proposal is designed to offset the loss in tax revenues caused by step No. 1—about 6.1 billion—by repealing some of the least justifiable tax breaks presently in the Code.

First, the so-called DISC provisions of the code would be repealed. These provisions allow certain businesses engaged in exporting to defer half of their overseas income and, in the end, this deferral can be so extended as to amount to the equivalent of an initial exemption from taxation for the part of the exporter's income.

A Treasury report released just last week informs the Congress that DISC cost the Federal Government 2½ times as much as was anticipated in 1972. When enacted, the Congress was told that DISC would mean a loss of about $100 million in Federal revenues. Instead, DISC has meant a subsidization of the exporting business to the tune of $250 million. Moreover, the report states that—

"On balance, it seems likely that the 1973 income figures, and hence revenue loss, will exceed the estimated 1972 loss."

There are two disturbing elements of the tax subsidization of exporters. One is the high uncertainty of the need for the DISC provisions. We just do not know how much of the increased exporting activity in 1972 would have occurred without the help of DISC.

We know, for example, that devaluation and other general economic influences have inevitably spurred on exporting: we know, hence, that, to some extent DISC has been an utter, unjustified waste.

The other disturbing element of DISC is the fact that its incentive features all too often may result in American manufacturers exporting items that American consumers find they are unable to obtain here at home. This is an unnecessary business incentive and an unnatural tax policy. Repeal of this provision will result in a revenue gain of $250 million.

The second part of this amendment that will bring in new revenue will be a termination of the investment tax credit, subject to a limited exception. We propose to limit the credit to assets with a cost basis of $100,000 or less. The credit would be fully applicable up to a cost basis of $50,000, and would then be incrementally phased out from $50,000 to $100,000.

I seriously doubt, Mr. President, that this investment tax credit is much of a stimulus to the economy at all. If the board of directors of a corporation is convinced of the profitability of further investment, then marginal benefits accruing from a tax credit will play a very small role in their decision to invest. If the venture is inherently nonprofitable, then it should not be further subsidized by an investment tax credit. The credit is, in my opinion, a classic example of the use of the tax system to induce certain economic behavior, whether that behavior needs to be induced or not.

The effect of the tax credit is very nearly to completely offset the interest costs an investor must pay to borrow the funds to be invested. Thus, borrowing is largely at the expense, not of the investor, but of taxpayers in general. The extraction of those dollars from the average taxpayer in order to subsidize the borrowing of corporate investors ought to require a showing of compelling need if it is to be justified at all. Such a showing has not, to my satisfaction, been made. Thus, the burden ought to be shifted back to those presently benefiting to come to the Congress and demonstrate their individual need for economic subsidization by the Federal Government. The Joint Committee on Internal Revenue Taxation estimates that the change proposed by Senator CHILES and me will yield from $3.5 to $4 billion in additional Federal revenues.

The third revenue-raising element of our proposal is a repeal of the asset depreciation range system. ADR allows rapid tax depreciation of machinery and equipment, and is defended as an incentive for the purchase of new assets, much like the investment tax credit. The system is essentially a fiction, since financial accounting in shareholders' and creditors' reports uses far less rapid depreciation methods. Rapid depreciation amounts to a deferral of taxes: this deferral is a highly valuable tax reduction device. Like the investment credit, we have been shown no current evidence of the need for this tax preference. Fifty percent of the benefits of ADR, it is estimated, go to the largest 103

corporations. Eighty percent of the benefits will go to the largest 2,500 corporations—just one-twentieth of 1 percent of all U.S. businesses. What ADR, in reality, means, is that the Federal Government, at the taxpayers' expense provides these corporate giants interest-free loans of taxes otherwise due each year.

Senator CHILES and I propose to eliminate the ADR concept—a move I view as one more step in the direction of eliminating Federal Government interference through the tax system in the decision-making processes of the free-enterprise system. This repeal will net the Treasury approximately $1.5 billion.

The new revenue raised by my proposals is to be used to finance tax relief for nearly 90 percent of all Federal income taxpayers. The method by which this is to be accomplished is replacement of the deduction for personal exemptions with a tax credit for those exemptions. The credit will not be on an optional basis, although I acknowledge the attractiveness of the option, that feature would simply be unfair.

Tax reform, if to be true to the implication of equity inherent in that appealing phase must face a fundamental reality: we cannot reform the tax system by giving something to everyone. Tax relief for the many must come from those presently paying less than their fair share. The American people recognize this fact of life. So, too, should the Senate. Moreover, equity knows no qualification. True equity should not mean that some are to be treated "more fairly" than others or that some taxpayers are "more equal" than others under the law.

The present personal exemption system is backward simply because it provides tax assistance to taxpayers in proportion to their marginal tax bracket.

Thus, for the very wealthiest of taxpayers, the $750 exemption means that $750 of their income will not be taxed at the otherwise applicable 70 percent tax rate. For the wealthiest taxpayer, then, the exemption is worth about $525 in real dollars saved. For the lowest marginal bracket taxpayers, however, the exemption is worth only about $105—this notwithstanding the fact that their basic living expenses for the minimum essentials of life do not cost them less simply because they are less affluent than other taxpayers. For a family of four with an income of $15,000 a year, the exemption is worth about $185.

But, since the exemption is designed to provide tax recognition to the expenses that one incurs for the basic essentials of life, it should not be valuable to a taxpayer only in so far as he is wealthy. Thus, in my opinion, the credit that is available in lieu of a deduction for personal exemptions should not be provided on an optional basis. It would be available to all taxpayers, rich, poor, or in the middle, on an equal basis.

In the end, Mr. President, one thing must be always kept in mind regarding our tax system: every time one taxpayer does not have to pay some or all of his taxes, the rest of the American people must take up the slack.

It is the presence in the Federal tax "budget" of some $65 or $70 billion of tax subsidization like those I propose we repeal which has for years stood in the way of any meaningful tax relief. Many of these items sharply distort the progressiveness of the tax system.

Thus, there exists this independent justification for our amendment: it is never too soon to close off the most unjustifiable of the tax loopholes. And that is precisely what we proposed.

I hope that my colleagues on both sides of the aisle will be able to join in proposing tax relief for millions of the hardest pressed American taxpayers, and a noninflationary reallocation of the Federal tax burden to some who have for too long not been paying their fair share of Federal taxes.

AMENDMENT NO. 1434

Insert the following:

SEC. 3. AMENDMENT OF THE INTERNAL REVENUE CODE.

Except as otherwise expressly provided, whenever in section 4, 5, or 6 a reference is made (by way of amendment or repeal or otherwise) to a section, chapter, or other provision, the reference shall be considered to be made to a section, chapter, or other provision of the Internal Revenue Code of 1954.

SEC. 4. LIMITATION OF INVESTMENT CREDIT.

(a) IN GENERAL.—Section 46(a)(1) of the Internal Revenue Code of 1954 (relating to amount of credit) is amended to read as follows:

"(1) GENERAL RULE.—The amount of the credit allowed by section 38 for the taxable year shall be equal to a percentage (determined under the following table) of the qualified investment (as defined in subsection (c)).

"If the basis of the section 38 property is—	The applicable percentage is—
$50,000 or less	7
More than $50,000 but not more than $58,000	6
More than $58,000 but not more than $66,000	5
More than $66,000 but not more than $74,000	4
More than $74,000 but not more than $82,000	3
More than $82,000 but not more than $90,000	2
$100,000	1
More than $90,000 but not more than More than $100,000	0".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property—

(1) the physical construction, reconstruction, or erection of which is begun on or after January 1, 1974; or

(2) which is acquired by the taxpayer on or after that date.

(c) Subpart B of part IV of subchapter A of chapter 1 (relating to rules for computing credit for investment in certain depreciable property) is amended by adding at the end thereof the following new section:

"SEC. 50–1. SECOND TERMINATION OF CREDIT.

"(a) GENERAL RULE.—For purposes of this subpart, the term 'section 38 property' does not include property the cost basis of which exceeds $100,000 and—

"(1) the physical construction, reconstruction, or erection of which is begun on or after January 1, 1974, or

"(2) which is acquired by the taxpayer on or after such date,

other than second pretermination property.

"(b) SECOND PRETERMINATION PROPERTY.—The Secretary or his delegate shall prescribe regulations describing property which is treated as pretermination property for purposes of subsection (a). Such regulations shall prescribe rules similar to and consistent with the provisions of section 49(b).

"(c) LEASED PROPERTY.—In the case of property which is leased on or after January 1, 1974 (other than pursuant to a binding contract to lease entered into before such date), which is section 38 property with respect to the lessor but is property which would not be section 38 property because of the application of subsection (a) if acquired by the lessee, and which is property of the same kind which the lessor ordinarily sold to customers before such date, or ordinarily leased before such date and made an election under section 48(d), such property shall not be section 38 property with respect to either the lessor or the lessee.

"(d) PROPERTY PLACED IN SERVICE AFTER 1980.—For purposes of this subpart, the term 'section 38 property' does not include any property placed in service after December 31, 1980."

(d) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by adding at the end thereof the following new item:

"Sec. 50–1. Second termination of credit."

SEC. 5. REPEAL OF THE TAX EXEMPTION FOR A DISC.

(a) IN GENERAL.—Section 991 (relating to tax exemption of a DISC) is amended by adding at the end thereof the following: "This section shall not apply to any taxable year beginning after December 31, 1974.".

(b) TECHNICAL AMENDMENT.—Section 992(a) (relating to definition of DISC) is amended by adding at the end thereof the following new paragraph:

"(4) TERMINATION.—No corporation shall be treated as a DISC for any taxable year beginning after December 31, 1973."

SEC. 6. REPEAL OF ASSET DEPRECIATION RANGE SYSTEM.

(a) Section 167(m) (relating to the Asset Depreciation Range System) is repealed.

(b) Section 167(a) (relating to a reasonable allowance for depreciation) is amended by adding at the end thereof the following: "Such reasonable allowance shall be computed, subject to the provisions of Revenue Procedure 62–21 (including the provisions for the reserve ratio test) as in effect on December 31, 1970, on the basis of the expected useful life of property in the hands of the taxpayer.".

(c) The amendment made by subsection (a) shall apply to property placed in service after December 31, 1973. The amendment made by subsection (b) shall apply to taxable years ending after December 31, 1974, but it shall not apply to property placed in service by the taxpayer during the calendar years 1971, 1972, 1973, or 1974 if an election has been made to have the provisions of section 167(m) applicable to such property.

AMENDMENT NO. 1435

Insert the following:

SEC. 3. AMENDMENT OF THE INTERNATIONAL REVENUE CODE.

Except as otherwise expressly provided, whenever in section 4 a reference is made (by way of amendment or repeal or otherwise) to a section, chapter, or other provision, the reference shall be considered to be made to a section, chapter, or other provision of the Internal Revenue Code of 1954.

SEC. 4. CREDIT AGAINST TAX, IN LIEU OF DEDUCTION, FOR PERSONAL EXEMPTIONS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by renumbering section 42 as section 43 and by inserting after section 41 the following new section:

"SEC. 42. PERSONAL EXEMPTIONS.

"There shall be allowed, as a credit against the tax imposed by section 1 or 3, the amount determined under section 151 for personal exemptions. Such credit shall not exceed the tax imposed by section 1 or 3 for the taxable year."

(b) CONFORMING AMENDMENT.—So much of section 151 of such Code (relating to deductions for personal exemptions) as precedes subsection (b) is amended to read as follows:

"SEC. 151. CREDIT FOR PERSONAL EXEMPTIONS.

"(a) AMOUNT OF CREDIT.—The amount of the credit allowed by section 42 for the taxable year for personal exemptions shall be $200 for each exemption allowed to the taxpayer under this section for the taxable year.".

(c) CONFORMING AMENDMENT.—Section 151 is further amended by striking out "of $750" wherever it appears therein.

(d) TECHNICAL AMENDMENTS.—

(1) Sections 2(a)(1)(B), 2(b)(1), 143(b)(1), 214(b)(1)(A), 874(b), and 931(e) are each amended by striking out the word "deduction" wherever it appears and inserting in lieu thereof the word "credit".

(2) Section 37(a) (relating to retirement income credit) is amended by striking out "and" before "section 35" and by inserting before the period at the end thereof ", and section 42 (relating to personal exemptions)".

(3) Section 41(b)(2) (relating to contributions to candidates for public office) is amended by striking out "and" before "section 38" and by inserting before the period at the end thereof ", and section 42 (relating to personal exemptions)".

(4) Section 46(a)(3)(B) (relating to the investment credit) is amended to read as follows:

"(B) section 42 (relating to personal exemptions), and".

(5) Section 50A(a)(3) (relating to credit for expenses of work incentive programs) is amended—

(A) by striking out "and" at the end of subparagraph (D),

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and", and

(C) by inserting after subparagraph (E) the following new subparagraph:

(F) section 42 (relating to personal exemptions)."

(6) Section 63(b) (relating to definition of taxable income) is amended by striking out all that follows after the words "adjusted gross income" and inserting in lieu thereof "minus such standard deduction".

(7) Section 72(n)(3) (relating to special computation of taxable income) is amended by striking out subparagraph (A).

(8) Section 170(b)(1)(C) (relating to unlimited charitable deduction) is amended by striking out clause (ii).

(9) Section 172(d)(3) (relating to net operating loss deduction) is amended to read as follows:

"(3) ESTATES AND TRUSTS.—No deduction shall be allowed for the personal exemption allowed an estate or trust under section 642(b)."

(10) Section 443(c) (relating to return for short period) is amended by striking out "a deduction under section 151 (and) any deduction in lieu thereof)" and inserting in lieu thereof "as a credit under section 151 or a deduction under section 642(b)".

(11) The last sentence of section 642(b) (relating to estates and trusts) is amended to read as follows: "The deductions allowed by this subsection shall be in lieu of the credits allowed under section 42 (relating to credit for personal exemptions).".

(12) Section 703(a)(2) (relating to partnership computations) is amended by striking out subparagraph (B).

(13) Section 873(b)(3) (relating to nonresident aliens) is amended to read as follows:

"(3) CREDIT FOR PERSONAL EXEMPTION.—Except in the case of a nonresident alien individual who is a resident of a contiguous country, only one credit shall be allowed for exemptions under section 151.".

(14) Section 891 (relating to citizens of foreign countries) is amended by striking out "under section 151 and".

(15) Section 933(1) (relating to residents of Puerto Rico) is amended by striking out "(other than the deductions under section 151, relating to personal exemptions)".

(16) Section 1211(b)(3) (relating to deduction of capital losses) is amended by striking out "the deductions provided in section 151 (relating to personal exemptions) or any deduction in lieu thereof" and inserting in lieu thereof "any deduction allowed by section 642(b)".

(17) Section 1402(a) (relating to self-employment income) is amended by striking out paragraph (7).

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1973.

AMENDMENT NO. 1436

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

FOREIGN TAX CREDIT AMENDMENT TO H.R. 14832—DEBT CEILING BILL

Mr. HASKELL. Mr. President, on March 1, 1974, I introduced S. 3095, a bill designed to deny tax credit treatment to any payment to a foreign government which is in reality, not an income tax but a royalty payment. S. 3095 is cosponsored by Senators MCINTYRE, CRANSTON, CASE, CHURCH, CANNON, TUNNEY, AND HUMPHREY.

This matter is a clear-cut one: royalties ordinarily are deduction business expenses and are not creditable against Federal tax liability. The amendment I introduce today will extend that principle to multinational petroleum companies which too long have been encouraged by the foreign tax credit provisions of the tax code to engage in operations abroad rather than there at home.

Recently, I proposed S. 3095 as an amendment to H.R. 8217. Since it now appears that the debt ceiling bill will be taken up by the Senate first, I think it appropriate to reintroduce the amendment.

I do not object to the allowance of a tax credit for bona fide income tax payments to foreign governments. To administer our tax laws otherwise would, in effect, cause a double income taxation of foreign-source income and would thereby put American businesses operating abroad at a distinct disadvantage relative to foreign corporations.

The dangers of those disadvantages, however, must be balanced against the inequities caused here at home by fundamentally unfair advantages that are afforded multinational corporations alone. It is not an overstatement of fact to suggest that the abuse of the foreign tax credit provisions of the Internal Revenue Code—an abuse for which the Internal Revenue Service must claim a part of the blame since its interpretation alone allows royalties to be credited against taxes—is one reason that the oil and gas giants often pay little or no Federal income taxes.

Under this amendment, royalty payments will not be creditable against taxes due the Federal Government. Only true income taxes will be creditable against taxes; any so-called taxes that are imposed on a per-volume basis, including per-barrel taxes, must, of course, be treated as royalties and not as income taxes paid to foreign governments.

I ask unanimous consent, Mr. President, that my proposed amendment be printed at this point in the RECORD.

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

AMENDMENT NO. 1436

At the end of the bill insert the following:

That (a) section 903 of the Internal Revenue Code of 1954 (relating to definition of creditable taxes) is amended to read as follows:

"(a) IN GENERAL.—For purposes of this subpart and sections 164(a) and 275(a), the term 'income, war profits and excess profits taxes' means a tax paid in lieu of a tax on income, war profits, or excess profits otherwise generally imposed by any foreign country or by any foreign possession of the United States.

"(b) ROYALTIES.

"(1) IN GENERAL.—For purposes of this subpart and sections 164(a) and 275(a), in the case of taxes paid or accrued to any foreign country with respect to income derived from the extraction, production, or refining of oil or gas in such country, the term 'income, war profits, and excess profits taxes' does not include any amount paid as a royalty.

"(2) DETERMINATION BY SECRETARY OR HIS DELEGATE.—The Secretary or his delegate shall determine, in accordance with the provisions of paragraph (3), with respect to payments made to any foreign country in connection with income from the extraction, production, or refining of oil or gas in such country, what portion (if any) of that payment constitutes the payment of a royalty.

"(3) BASIC RULES.—In the case of any foreign country which imposes an income, war profits, or excess profits tax on income from activities other than the extraction, production, or refining of oil or gas in that country, any part of a payment made to that country as an income, war profits, or excess profits tax which is not reasonably similar (in terms of the rate of tax, or of the amount of tax paid for the income or profits involved) to the amount payable with respect to income or profits arising out of other activities, as determined by the Secretary or his delegate, is considered to be a royalty payment. In the case of any other foreign country, any part of a payment made to that country as an income, war profits, or excess profits tax which is determined by the Secretary or his delegate, on account of the manner in which it is determined, the rate or amount involved, or any other reason, to constitute the payment of a royalty is considered to be a royalty payment.".

(b) Section 904(f)(4) of such Code (relating to transitional rules for carrybacks and carryovers) is amended by adding at the end thereof the following new subparagraph:

"(C) Carryovers to years beginning after December 31, 1973—

"(i) Whenever pre-1974 taxes are, under the provisions of subsection (d), deemed to be post-1973 taxes, the pre-1974 taxes shall be redetermined in accordance with the provisions of section 903(b) (relating to royalties) as if those provisions applied to the taxable year in which the pre-1974 taxes were paid or accrued.

"(ii) For purposes of this subparagraph, the term 'pre-1974 taxes' means taxes paid or accrued to any foreign country or possession of the United States in any taxable year ending before January 1, 1974, and the term 'post-1973 taxes' means taxes paid or accrued to any foreign country or possession of the United States in any taxable year beginning after December 31, 1973.".

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

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1335

At the request of Mr. BROCK, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of amendment No. 1335, intended to be proposed to the bill (S. 1486) to authorize the Secretary of Commerce to engage in certain export expansion activities, and for related purposes.

AMENDMENT NO. 1371

At the request of Mr. HUDDLESTON, the Senator from South Dakota (Mr. MCGOVERN), the Senator from Wyoming (Mr. MCGEE), the Senator from North Dakota (Mr. YOUNG), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Washington (Mr. JACKSON), the Senator from Michigan (Mr. HART), and the Senator from Pennsylvania (Mr. SCHWEIKER) were added as cosponsors of Amendment No. 1371, intended to be proposed 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, 1972.

AMENDMENT NO. 1375

At the request of Mr. HATHAWAY, the Senator from Tennessee (Mr. BROCK), the Senator from New Jersey (Mr. CASE), the Senator from Iowa (Mr. CLARK), the Senator from Kentucky (Mr. COOK), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Ohio Mr. METZENBAUM), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. MOSS), the Senator from Georgia (Mr. NUNN), the Senator from Oregon (Mr. PACKWOOD), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of amendment No. 1375, intended to be proposed to the bill (S. 2351) to prohibit sex discrimination by education institutions whose primary purpose is the training of individuals for the military services of the United States or the merchant marine.

AMENDMENT NO. 1405

At his own request, Mr. SCHWEIKER was added as a cosponsor of amendment No. 1405, intended to be proposed by Mr. JACKSON to the bill (S. 3000), Defense Department of Defense Appropriation Authorization Act of 1975.

AMENDMENT NO. 1418

At the request of Mr. MCGOVERN, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of amendment No. 1418, intended to be proposed to the bill (H.R. 8217), supra.

NOTICE OF HEARINGS ON NOMINATIONS

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 17, 1974, on the nomination by President Nixon of Mr. Marmaduke Robert Ligon, Mr. Leonard B. Pouliot, Mr. John W. Weber, and Mr. Eric Roger Zausner, to be Assistant Administrators 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 each of these gentlemen be included in the RECORD at this point in my remarks.

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

BENJAMIN FRANKLIN STATION,
Washington, D.C.

BIOGRAPHY OF LEONARD B. POULIOT, ASSISTANT ADMINISTRATOR FOR MANAGEMENT AND ADMINISTRATION

Leonard B. Pouliot joined the Federal Energy Office on April 14, 1974, as Assistant Administrator for Management. In this role, Mr. Pouliot serves as the senior adviser to the Administrator and principal manager on all aspects of management and administration for the Agency.

Prior to this appointment, Mr. Pouliot served as the Associate Assistant Secretary for Administration (Organization, Management and Personnel) at the Department of Labor. Before that, he was the Deputy Administrator for Management with the Food and Nutrition Service, a 4½ billion dollar program at the U.S. Department of Agriculture.

A career professional, his 26 years of Federal Service include the Smithsonian Institution, where he was the Director of Management and Personnel Resources; the Department of State, where he served in the Assistant Secretary for Administration's office with responsibility for overseas administration; and later as First Secretary at the U.S. Embassy in Bonn, Germany. He has also held responsible positions with the Department of the Army.

Mr. Pouliot is currently completing a Ph.D. program with the University of Cincinnati. He receved an M.A. degree from the George Washington University and a B.A. degree from the University of the Americas (U.S. Mexico City College). He also completed the U.S. Navy V-5 Education and Training program at Middlebury College Vermont, the University of North Carolina and Naval Aviation Schools.

Born in Worcester, Massachusetts, December 22, 1923, he is married to the former Marguerite Dormieres of France and resides in Arlington, Virginia.

BIOGRAPHY OF DUKE R. LIGON, NOMINATED TO BE ASSISTANT ADMINISTRATOR FOR ENERGY RESOURCES DEVELOPMENT, FEDERAL ENERGY ADMINISTRATION

Since December 1973, Mr. Ligon has served as Assistant Administrator for Policy, Planning and Regulation at the Federal Energy Office. In that role, he was responsible for the formulation and development of all price, allocation and rationing regulations promulgated by the agency.

From March to December 1973, Mr. Ligon served as Director of the Office of Oil and Gas, Department of the Interior, where he directed the development of basic data and analysis used by the Energy Policy Office of the White House and the Oil Policy Committee in making national decisions on energy. Mr. Ligon was also Executive Secretary of the Oil Policy Committee, a cabinet-level, interagency group responsible for the Nation's oil import policies.

Before becoming oil and gas advisor to Treasury Secretaries John B. Connally and George P. Shultz, Mr. Ligon served as an administrative assistant in the Continental Oil Company. A native of Oklahoma, Mr. Ligon was on General C. B. Abrams' briefing staff in Viet Nam in 1969 and 1970.

Mr. Ligon earned a doctorate degree in jurisprudence from the University of Texas Law School (1969), has completed graduate work in business and finance at the University of Texas (1966), and holds a B.A. in chemistry.

Mr. Ligon is 33 and is married to the former Linda Griffin.

As Assistant Administrator for Energy Resources Development, Mr. Ligon would develop and implement national policies and programs to increase the production of domestic energy sources, including coal, petroleum, natural gas, synthetic fuels, nuclear, shale, geothermal and solar energy.

The Energy Resources Development division, under Mr. Ligon's leadership, would also be responsible for formulating and implementing policies and programs to facilitate the siting, construction and operational regulation of facilities required for the production, conversion and distribution of energy in ways consistent with environmental standards.

In addition, Mr. Ligon would initiate, direct and coordinate policies and programs to provide an appropriate combination of financial, tax, regulatory and other measures to encourage expanded production of domestic energy supplies consistent with the public interest.

BIOGRAPICAL SKETCH OF JOHN W. WEBER

John W. Weber, Assistant Administrator for Operations and Compliance, Federal Energy Office, and Acting Director, Office of Petroleum Allocation, Department of the Interior, has the principal responsibility in FEO to operate and manage the fuel allocation program. This includes overseeing field operations, compliance activities, relations with State and local governments, as well as directing the application and interpretation of the regulations to industry and the public.

Since 1971 Weber has served as President of Chayes Virginia, Inc., a Connecticut-based manufacturing company. From 1960 to 1971 he was a principal of the management consulting firm McKinsey and Company, in Chicago. He has been a consultant to the energy industry in the United States and abroad, working with petroleum companies and electric and gas utilities.

An Ohio native, Weber graduated from Yale with a bachelor's degree in industrial engineering and later earned a Master of Business Administration degree at Harvard.

Weber holds an Ohio certificate as a Registered Professional Engineer. He is a past member of the American Institute of Industrial Engineers, a Certified Management Consultant, and the author of several scientific and technical publications.

Weber is married to the former Nancy Tieken. They have three children: Lisa, 15; Bruce, 12; and Zeff, 8.

ERIC R. ZAUSNER—ASSISTANT ADMINISTRATOR FOR ECONOMIC AND DATA ANALYSIS AND STRATEGIC PLANNING; AND ACTING ASSISTANT ADMINISTRATOR FOR ENERGY CONSERVATION AND ENVIRONMENT

Eric R. Zausner serves as Assistant Administrator for Data Analysis and Strategic Planning for the agency, and Acting Assistant Administrator for Energy Conservation and Environment. His most immediate responsibilities are to oversee the analysis of data on energy supplies and consumption; the analysis of effects on the economy and to direct formulation and evaluation of strategic plans and policy based on these analyses. In addition, Mr. Zausner directs transportation, residential, commercial and industrial energy conservation policy; coordinates Federal, state and local energy

conservation programs, energy conservation studies; and assessments of environmental impact.

Prior to this appointment Mr. Zausner served as Deputy Assistant Secretary of the Interior for Energy. His responsibilities included the development and direction of three new energy staff offices—the Office of Energy Conservation, the Office of Energy Data and Analysis and the Office of Energy Research and Development. Other line agencies under his supervision were the Office of Oil and Gas, the Office of Coal Research and the energy-related activities of the Bureau of Mines and the Geological Survey. In addition to this, Mr. Zausner assisted the Assistant Secretary for Energy and Minerals in overall energy policy matters.

Previously he was a Senior Staff Member on the Council on Environmental Quality, Executive Office of the President. His responsibilities included the direction of all economic and quantitative analyses and policy development in solid waste and energy. Prior to his position with the Council, Mr. Zausner was Chief of the Management Sciences Section, Bureau of Solid Waste Management, now the Office of Solid Waste Management Programs of the Environmental Protection Agency.

Mr. Zausner received his Master of Business Administration degree in Finance from the Wharton School, University of Pennsylvania, and a Bachelor of Science degree in Electrical Engineering from Lehigh University.

POSTPONEMENT OF HEARINGS ON S. 2755

Mr. GOLDWATER. Mr. President, on behalf of the chairman, I wish to announce that the hearings on S. 2755, to require the Administrator of the National Aeronautics and Space Administration to study the feasibility of entering into certain international cooperative programs involving the utilization of space technology and application, previously scheduled by the Committee on Aeronautical and Space Sciences for Wednesday, June 12 at 9:30 a.m., have been postponed.

ADDITIONAL STATEMENTS

THE PRESIDENT'S TRIP TO MOSCOW

Mr. ROTH. Mr. President, it was announced on Friday that President Nixon is scheduled to depart on June 27 for the summit meeting in Moscow. Prior to this announcement, there had been considerable debate as to whether or not the President should make the visit to the Soviet Union in light of the impeachment investigation being conducted by the House Judiciary Committee. The purpose of the summit is to continue the momentum of détente and, hopefully, to reach some agreement helping to restrain the arms race.

I frankly have had reservations about the President making this trip, but have decided that so long as there are no impeachment proceedings in the full House, we should not cripple our foreign policy or jeopardize the steps we have already made in our relations with the Soviet Union. While the House investigation is going on the President must be permitted to act as the Chief Executive. I do not believe that domestic difficulties will cause the President to be less likely to make a good agreement in Moscow. On the contrary, the President will be much more constrained now than if he were riding the crest of popularity. He knows that he must bargain tough and that if an agreement can be made, it must be a good agreement because it will be examined with utmost care by Congress, the media, and the public, as indeed it should be.

However, in order to dispel some of the doubt that has surrounded the trip, I think the President would be wise to invite a member of each party from both the House and the Senate to accompany him on this important mission.

As the Christian Science Monitor pointed out in a recent editorial, bipartisanship of this nature has had great benefits to U.S. foreign policy in the past.

The policy of containment, constructed in the late 1940's and early 1950's around NATO and the Marshall plan, was rooted in strong bipartisan support in the Congress.

The chances of a successful policy of détente will be strengthened if it too is given a broad bipartisan base. Détente is not a straight or easy road. There will be many disappointments along the way, and it will require great patience and maturity on the part of the American people. It will require strong and responsible leadership from America's chief executives and Members of Congress.

In a case of the proposed summit meeting in Moscow, a bipartisan congressional delegation would help impress upon the Soviet that both the executive and the legislative branches share powers and responsibilities in foreign policy. I also believe such a delegation would show that there is a broad consensus in both parties on such issues as the importance of mutual restraints on the arms race and the need for greater Soviet attention to individual liberties.

It is imperative that the Soviets be disabused of any notions they may have that they can play off the President against the Congress or the Republicans against the Democrats on issues of such great importance to all Americans.

Finally, I think such a delegation could be very helpful in helping Congress evaluate any agreement which is made.

Mr. President, I ask unanimous consent that the editorial from the Christian Science Monitor be printed in the RECORD.

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

WHO GOES TO MOSCOW?

Sen. Edward Brooke of Massachusetts thinks that President Nixon should call off his prospective trip to Moscow in June. The Senator doubts that the Soviets will want to make any agreements with a beleaguered President. Hence the meeting in Moscow could be a "hollow shell."

We are reluctant to see any trip by anyone postponed which just might help to put a lid on the nuclear arms race and thereby improve the defenses of the human race against disaster. And we do not for a moment believe that Mr. Nixon, as some other senators have suggested might be inclined to give away too much to the Soviets for the sake of a temporary political advantage at home. That is: we don't think that there is anything to lose from Mr. Nixon making the trip even though there may be some doubt as to what may be gained. Any possible gain for peace is worth the trip.

But we would suggest that the White House could improve the chance of gain from the trip and remove the anxiety of his critics if Mr. Nixon would borrow from the past experience of his predecessors and make this a bipartisan expedition. Specifically, we suggest that he invite to join his delegation and go with him two senators and two members of the House of Representatives—from opposite sides of the political aisle, of course.

The biggest thing which could possibly come out of the Moscow visit would be a ceiling on offensive nuclear weapons. The most urgent task, if the arms race is to be curbed at all, would be a cutoff, at once, on deployment of Soviet MIRVs. There would of course have to be a compensating American contribution. The desirability is bipartisan. The responsibility should be shared. The security of the human race is too important for partisanship.

American diplomatic experience is clear on the value of bipartisan delegations. Woodrow Wilson's failure with the League of Nations stemmed from his refusal to take Republicans with him to Versailles. The enormous success of Truman-Acheson foreign policy was solidly built on Republican Sen. Arthur Vandenberg of Michigan and Republican foreign policy expert John Foster Dulles.

President Eisenhower used a different formula, but one equally bipartisan. Every foreign policy move he made was carefully coordinated in advance with the leadership of both parties of the Congress.

So far President Nixon has played foreign policy without help from Democrats. His great spectaculars—the trips to Peking and Moscow—were made without Democrats, indeed without anyone from the Congress.

Of course to take senators and congressmen of both parties along means forgoing a personal political advantage. But it would also be a protection to Mr. Nixon against the suspicion that he might give too much away. We recommend that he make it a bipartisan expedition.

NATIONAL AND INTERNATIONAL IMPLICATIONS OF PRODUCTIVITY

Mr. BIBLE. Mr. President, our colleague from Utah, Senator Moss, who has a great deal of expertise in the area of minerals and materials, gave a very succinct speech at the University of Missouri in May which bears repeating.

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

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

NATIONAL AND INTERNATIONAL IMPLICATIONS OF PRODUCTIVITY

(Speech of Senator Frank E. Moss)

The subject assigned to me is the national and international implications of productivity. After such a delicious dinner, I would like to simply tell you that the average annual rate of growth is "x". Productivity equals "y" and the trend is so and so, and let you all go home. But the script calls for a full fledged speech, so bear with me.

In less than ten years time we have run the gamut from too much to too little. Ten years ago we trumpeted of "the affluent society" in books and papers. Today we are shaking our heads and murmuring dolefully of "the scarcity society." Hopefully, one side effect of the, (expletive deleted) energy crisis has been to sharpen our awareness of other pos-

sible shortages and to cause us to do a great deal of introspection into our collective national souls about our national selves, and what we are doing with the mineral wealth which has made this country great. I believe this introspection has been particularly true of the Congress. All agree that for almost two hundred years the American system has served us well. Despite the imbalances that have occurred from time to time. The average person, let alone the impersonal corporation, has not felt constrained to examine the system and all of its intricate philosophical and moral underpinnings. Heretofore, we have not had to look inward at our value system . . . nor outward at the planet earth. Now we are beginning to do that—and it is slightly traumatic.

Our current national introspection reminds me of the story of the six-year-old boy who in all the years of his life had never been known to utter a word. His parents were distressed and had resigned themselves to the fact that their son would never talk. But, one morning, over breakfast, he looked up and declared in perfectly clear English, "My oatmeal is cold."

The parents were overjoyed, but at the same time dismayed. They asked if he could speak so well, why had he never said a word?

The son replied, "up until now, things have been going pretty well."

Our society and our national standard of living are based upon our rich resource availability, and superb utilization of American know-how. Things have been going pretty well. But now this may no longer be true. During the next few minutes I would like to discuss the following points:

First—A strong mineral position is a valued asset in our economy.

Second—We have been profligate in our depletion of the world's supply of various metals and minerals.

Third—We face world-wide socio-economic realignment which could affect our lifestyles and patterns of consumption, and

Fourth—It is essential that we increase our productivity both domestic and international and keep open lines of international trade.

A STRONG MINERAL POSITION

Let's begin with the value of a strong mineral position. There is no need with this group to dwell upon the value of minerals. According to data assembled by the Bureau of Mines, U.S. Department of Interior, during 1972, the U.S. required about four-point-four billion tons of new basic mineral and nonfood organic materials. This is equivalent to about 42 thousand 500 pounds per person. The total value of such materials to the United States in 1972 was approximately $50 billion or $237 per person. An examination of the impact of the metal industry on the United States shows that the mining industry plays a critical part in the national economy. After processing and refining, the raw materials are worth over $150 billion to American industry.

At this point the materials are still recognized as raw resource products which will provide the basis for a large portion of the U.S. gross national product. Even in the simple processed state these metals, in addition to 6 billion in imports, account for approximately 15 percent of the gross national product.

DEPLETION OF SUPPLY

Second, we have been profligate in our depletion of the world supply of metals and minerals. We Americans have been using our own minerals in a rather cavalier manner and we have also been gobbling up minerals from around the world to satisfy our industrial needs in the same way. We are, of course, not self-sufficient in all the basic minerals.

Other growing industrial areas of the world are increasing their demands for essential raw materials. The final report of the National Commission of Materials Policy released in June of 1973, indicated that U.S. and World requirements for the ferrous and nonferrous metals will rise steeply during the balance of the century. According to a research project prepared by Dr. W. Malinbaum for the Wharton School, University of Pennsylvania (March, 1973) the demand for raw materials will be particularly heavy for the four major industrialized areas—Western Europe, Japan, USSR and the United States. It is obvious that competition among the developed countries for the basic minerals will intensify. It is also obvious that developing countries will scramble to acquire their share. They have seen the United States in its 200 year history create from its materials system the highest standard of living in the world. The Congress officially recognized and adopted a National Policy for Minerals and Materials. That policy, written in such glowing terms in 1970, calls for an economically sound and stable domestic mining and metal industries and the orderly and economic development of domestic mining resources. At the same time Congress recognized that our prodigious use of raw materials and energy excessively taxed our environmental resources. We now face the associated problems of increased consumption requirements in an atmosphere of a deteriorating environment. So far we have done very little to carry forward the policy expressed in the 1970 Act.

It is high time that we realistically examine our needs in light of those of the rest of the world. Because the rest of the world supplies us with many items we are unable to supply ourselves, and rest of the world has needs which must be weighed with ours.

CHANGING LIFESTYLES AND PATTERNS OF CONSUMPTION

My Third point concerns world-wide socio-economic changes which may affect our lifestyle and patterns of consumption. The simple formula of applying economics to a raw minerals situation to determine whether it is economically feasible for a company to proceed in a mining venture is called "Minerals Economics." The problems of mineral economics are no longer confined to the individual firm but to the nation and the international community. The Arab embargo has focused our attention upon resources and man's use of them. No study or efforts of academic or business groups had succeeded in doing this before. We are being told that we have been living in an age of abnormal abundance. William Orphus, writing in the April issue of Harper's says: "All the philosophies, values and institutions typical of modern capitalist society—for example, the legitimacy of self-interest, the primary of the individual, economic laissez-faire and democracy as we know of, cannot continue in their present form when we reach the normal condition of scarcity."

In a society where there is scarcity the traditional response has been conflict to acquire needed resources from others. When we look at the energy crisis we see not only a problem of resource supply and demand, but a money crisis. The oil importing countries will end up this year owing the oil producing countries something like 50 billion dollars. That $50 billion is net after subtracting the costs of everything we can sell to the oil producers from fertilizer to bombers in a valiant effort to obtain balance of payments.

James P. Grant, in a council report entitled "Energy Shock, the Development process." said: "Paradoxically, to most Americans, the United States may be the only major industrialized country currently able to take a lead in a cooperative global effort to counteract the effect of these recent price changes. The United States is least dependent upon oil imports and is benefitting by about $6 billion in FY 1974 from higher prices for its food exports. Its balance of payments in 1974 and 1975 should be strongly favorable despite a possible trade deficit, reflecting the fact that the United States will provide the most attractive investment opportunity for the oil exporting countries with their potential $50 billion to $66 billion annual capital surplus. However, the moral and logical position of the United States in urging essential OPEC action to ease the world crisis would be greatly strengthened by an initiative to use our dominance (together with that of Canada and Australia) of the world food supply to work together with the OPEC countries who dominate the world's energy."

The energy crisis was the beginning.

In steel and aluminum the U.S. production rate is falling in relation to the rest of the world. In twenty years we have gone from a producer of 47 percent of the world's steel to a producer of 19 percent of the world's steel in 1972. Exploration is down. Building of refineries and smelters is down. Our dependence on foreign imports is up. Senator Mansfield in a Senate speech of April 11, 1974, cited from a survey of the Morgan Guarantee Trust Company, under date of March 1974, a list of U.S. import dependence as a percent of consumption in 1973. We import bauxite for 84 percent of our aluminum. We do not have bauxite domestically. Sixteen percent is reclaimed scrap. For chromiu, our dependence is 100 percent; cobalt, 100 percent; copper, 8 percent; iron ore, 29 percent; lead, 19 percent; manganese, 100 percent; mercury, 82 percent; nickel, 92 percent; tin, 100 percent; tungsten, 56 percent; zinc, 50 percent. With respect to three-quarters of these critical materials, the United States depends far more than half its needed supplies on sources outside of our country. In many cases, we are 100 percent dependent.

In this atmosphere, nonaligned countries are meeting together and organizing to form a development fund, banks and other organizations. They are learning to use their natural resources with the greatest benefit for their own independent growth. The Arabs taught an invaluable lesson to them and to us. The trick is to refrain from becoming nationalistic. At long last we may be on the verge of development of a movement for a world economy and hopefully for world market stability. As Henry Kissinger said at the Sixth special session of the United Nations General Assembly in New York, last month: "Whatever our ideological belief or social structure, we are part of a single international economic system on which all our national economic objectives depend . . . The contemporary world can no longer be encompassed in traditional sterotype. The notion of the northern rich and the southern poor has been shattered. The world is composed not of two sets of interest, but many developed nations which are energy suppliers and developing nations which are energy consumers; market economies and nonmarket economies; capital providers and capital recipients.

"The world economy is a sensitive set of relationships in which nations can easily set off a vicious spiral of counteractions deeply affecting all countries, developing as well as technologically advanced."

INCREASED PRODUCTION AND INTERNATIONAL TRADE

My fourth point is the necessity for increased production, both domestic and international, and for open lines of international trade. It is no secret that production of minerals, mining and refining in the United States has been at a decline. According to the latest minerals yearbook, published by the Department of Interior, the most recent data on labor productivity in the mineral industry generally showed declines in output per employee, output per production worker and output per production worker man hour.

Mining developments in the United States have been influenced by mine health and

safety requirements. By mine disasters and by environmental considerations. There is a constant need for re-examination of mining technology, and for meeting the challenges of our new awareness of environmental and pollution problems. In addition to all of this we must look to the fact that the laws which govern the broad area of mineral resources are in a period of a major change. There is legislation pending on:

1. Mined Land Reclamation;
2. Reorganization of the Executive branch Energy Research and Development Agency and a new Department of Natural Resources.
3. Federal Land Use.
4. Revision of Federal Mining Laws.
5. Revision of Federal Laws.
6. Designation of Wilderness areas.
7. Tariff and Trade Regulations, and
8. Taxation of Mineral Industries.

The uncertainty of all these matters contributes to the reluctance of investment houses and corporations to commit risk capital to new production facilities. Without these investments, production and exploration falter. And around and around we go. For example, look at the U.S. position in zinc.

During the past four years, seven out of fourteen U.S. zinc smelters have closed; the eighth smelter is scheduled to close in mid-1975. There has been a steady decline in U.S. zinc metal production; from 1.1 million tons in 1969 to 575 thousand tons last year if reprocessed stockpile metal is excluded from the production figures. The decline in U.S. production has been the principal cause of a world-wide shortage of zinc. The shortage in the United States has been severe for two years. The diminished U.S. industry has been unable to meet the strong domestic demand for zinc. Imports and stockpile releases have only partially filled the gap.

And this is only one of our basic minerals. Increasing productivity requires more than simply finding more minerals.

As David Rose suggested in a recent edition of Scientific American our present energy difficulties were largely caused not by ignorance, but by irresponsibility. I suggest that it is our responsibility now to better prepare for the next crisis.—because the energy crisis will not be our last crisis. In reality, the term energy crisis is a catch-all phrase for many shortages and problems we face.

Just as we must work harder to sort out and predict these problems, we need to do a better job of planning the utilization of our vast national scientific and technological resources. The ups and downs, the stops and starts, that have plagued federal research and development efforts ever since we embarked on federal support for R & D have created a continuing state of chaos and uncertainty. Facilities are built and closed, scientists and engineers are trained, employed and laid off, all with little apparent foresight. A few short years ago we were simultaneouly rushing headlong toward an energy crisis and laying off engineers and scientists by the thousands.

It is time for us to bring these two shortcomings—poor planning and poor use of resources—into focus together, to examine them, and to do something about them.

We need within the Executive Branch of the government an improved mechanism, an improved climate, and improved funding for making projections of critical domestic problems. Many of these problems may be solved, in whole or in part, by science and technology. We need to bring into that process careful consideration of the projected availability of the necessary scientific and technological resources. Those resources can be applied to the problems before they reach crisis proportion. This country needs to begin to recognize science and technology as one of our most valuable natural resources. The scientific and engineering professions should be the leaders of a new American technological era. And that technology should be shared with the world.

The chaos of the Arab embargo is an example of the chaos the world community could suffer in other minerals as well. Look at the statistics. 142 countries import a substantial part of their energy requirements, only 18 nations export most of their output. If that isn't a situation to force world understanding and accommodation, nothing is. But what do we do first? We decide, of course, that we must increase domestic capacity. That's good. We must. During the embargo, our neighbors started careening around the world looking for oil and deals and scrambling to outbid each other.

Some also set out a protective screen—Canada taxed oil to the U.S. to balance its cost across the country. The United States—in a similar move with an export product—foresaw a shortage of soybeans. So we broke contracts and stopped soybean exports. There are examples all around us.

The major problem of international economic relations is how to realize the benefits of an international economic system while operating in a political system governed by strong national interest. One thing for sure—trade must be with, and consist of, all Nations. It is a matter of necessity for all Nations, and the Arab embargo proves it.

In summary, we are at a cross-road of decision making. That decision making must involve not only the public sector, but the private sector as well. Forward movement by lateral consultation, if you will, because the decisions at which we must arrive, require all of us—government, academic community and private sector. Strong control must be exercised which will require national and international decision making. The political actions, or the failure to make such action, will affect other men and women in other fields of policy. Referring again to my first point, Achievement of a strong mineral position, we must find ways to implement the mining and minerals policy act, to train more engineers and technicians, and to create a climate for the use of new technology. As to my second point, depletion of the world's supply of various metals and minerals we must take strong measures worldwide to reverse the profligate use of our mineral supplies. We can do this through conservation, reclamation, and the development of substitutes. As to point three, the threat of world-wide socioeconomic realignment, we have the expertise and the know-how to avert a scarcity society if we plan now to take appropriate and carefully considered action. As to point four, the problem of increasing productivity both domestic and international: It is a simple economic rule that inflation can be stopped with greater productivity. The productivity of the United States and the world can be increased and the benefits of such productivity applied worldwide to achieve a stable world economy and a better standard of living for more of the world's inhabitants.

The United States must provide appropriate leadership if a world economy is to be achieved.

TRIBUTE TO JAMES CRAWFORD WINDHAM

Mr. STENNIS. Mr. President, in a time when many of the eternal values of our beloved country are being challenged by some, it is refreshing to think of the many instances of service to humanity and to our country that is being rendered by many of our people. We get strength from this and also get strength from the fact that this is the land of opportunity.

A fine illustration of both this unselfish service as well as a life of success and attainment is the record of Mr. James Crawford Windham, who was awarded an honorary degree of doctor of laws by Marquette University on May 19, 1974. Mr. Windham was born in Alabama and spent part of his young adult life in Mississippi, where he graduated from East Mississippi Junior College and showed every promise as a man of dedication with a strong will to serve.

I am proud of the outstanding record of this fine patriot, whom I am privileged to call my friend, and want to share with Senators as well as all others who read the RECORD, some parts of the story of his life and his attainments. I, therefore, ask unanimous consent that the article about the conferring of the degree on Mr. Windham be printed in the RECORD.

I present him as representing those who constitute much of the foundation strength of our great Nation. We are glad to have him again as a resident citizen of Mississippi, where he is highly esteemed, and where he is noted for his philanthropic nature, as he was in Milwaukee.

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

[From the Macon (Miss.) Beacon, May 23, 1974]

DOCTOR OF LAW CONFERRED

An honorary doctor of laws degree was conferred upon James Crawford Windham at Marquette University, Milwaukee, Wisconsin on May 19.

The candidate was presented by the Rev. Richard F. Ryan, S.J., assistant to the president, with the following remarks:

"James Crawford Windham is a southern gentleman who has demonstrated conclusively for northern gentlemen the tactic of a commanding general, the finesse of an honest politician, and the dedication and service of a consummate martyr, who happened to be your older brother!

"He was born in Alabama where he grew up as a lad until, as a young man, he gravitated to Washington, D.C. for his college experience and his first government service with the Reconstruction Finance Corporation. Before he was thirty years old, he had demonstrated an extraordinary capacity for executive management, business acumen, and leadership within several departments of the federal government.

In 1942, he left Washington for Duke University and Officers' Candidate School, to prepare for the function he had in 1943-45 for doing the fiscal planning and budget administration for the First Army of the United States. In 1945 he was called to the White House for duty in fiscal planning. Major Windham was honorably discharged from the United States Army in 1946.

"Subsequently he proved, in private enterprise, to be a natural specialist in marketing . . . auto parts, or men and women's clothing, or beer; and an effective leader with institutions he loves . . . the Domocratic party, the City of Milwaukee, Marquette University, and more. It is little wonder James Windham was invited to serve as National Chairman of the Pere Marquette Tercentenary Commission, for this extraordinary civil leader had catalyzed Marquette University itself as an institution of dovic leadership.

"Because of his service as a Trustee of Marquette University, as a first citizen of Milwaukee and the State of Wisconsin, as a loyal patriot in national life, as a leader of business and industry, as an energized friend of youth, and as a respectful son of God, I hereby recommend, Reverend President, this man

of high principle, strong ideals, consummate courage, indomitable will, and a heart that could easily break for his fellowmen . . . James Crawford Windham . . . for the Marquette University degree Doctor of Law—honorois causa."

PRESIDENT'S PROPOSED TRIP TO RUSSIA

Mr. ERVIN. Mr. President, I am in receipt of a letter from Dr. Edward W. Phifer of Morganton, N.C. Dr. Phifer is a great physician who is interested in public affairs and all things that concern men. I am sure that the opinion he expresses in this letter is shared by countless other Americans. For this reason, I ask unanimous consent that a copy of the letter was ordered to be printed in the RECORD, as follows:

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

EDWARD W. PHIFER, Jr., M.D.,
Morganton, N.C., June 3, 1974.

Senator SAM J. ERVIN, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ERVIN: Everyone I talk to seem to be ill at ease about Nixon going to Russia and possibly making binding commitments. He can't possibly be in the proper emotional or mental condition to negotiate any agreements during the impeachment proceedings. It seems to me that the Senate should take a firm and open position immediately about agreements made with Russia or any other foreign power until the impeachment process has been completed.

Best wishes to you in the fine work you are doing. Please do not reply to this letter.

Very cordially yours,

E. W. PHIFER, Jr., M.D.

P.S.—I have written several members of the foreign relations committee about this.

THE ENERGY CRISIS

Mr. McCLELLAN. Mr. President, no challenge facing our Nation in recent years has been more serious than the energy crisis. At stake is the American way of life as we have known it.

To find a solution to this crisis will require hard and unremitting labor, individual sacrifice, and the mobilization of large amounts of capital from both the public and private sector.

I am confident that the American people will exhibit the same resolution and determination in meeting this challenge as they have in the past.

I have no doubt of the willingness of individual Americans to make any sacrifice, to meet any demands, to take any step required and found necessary to assure our country of independence in the field of energy resources.

But, Mr. President, we need not only to discover and develop new and cheaper sources of energy. We must also find a prudent way to finance these efforts so that energy may be made available to consumers at realistic and acceptable prices.

As we legislate and appropriate in this area, we must be mindful of the alarming situation that has recently risen throughout our privately owned utility industry.

For example, Consolidated Edison of New York recently failed to pay a quarterly dividend for the first time in 89 years. Faced with rising costs and shrinking returns, Board Chairman Charles F. Luce has suggested that the State of New York might purchase two uncompleted generating plants at a price of $450 million.

The debilitating effects of Con Ed's difficulties has already spread across the land. Stocks in privately owned utilities have been battered and their bond ratings have been driven downward. Individual investors depending on their dividends from these utilities have suffered.

It has been reliably estimated that investor-owned utilities might have wished to spend $99 billion on construction by 1978. But at least two-thirds of this sum would have to be raised by the sale of stocks and bonds to a public whose faith has been severely shaken by the Con Ed difficulties.

The shares of Boston Edison fell from 25⅜ on April 22 to 15⅛ on May 14. Toledo Edison cut a stock sale in half. Detroit Edison was obliged to postpone an issue of $150 million of bonds, and eventually cut the issue by $50 million to get it sold. And the fallout was not confined to the urban companies. Duke Power's stock dropped 12½ percent, and the fall was directly attributed to the Con Ed dividend cut.

So, Mr. President, the dilemma is not just developing new energy sources. We also are confronted with the equally difficult task of providing the capital to exploit and transmit the energy that we can develop.

We must provide the confidence and the capital that will permit our privately owned utilities to provide the service and the power that we require to maintain America's industrial greatness.

Mr. President, I wish to call to the attention of my colleagues recent articles in the Wall Street Journal and Business Week which highlight this problem. I ask unanimous consent that these articles be printed in the RECORD.

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

[From the Wall Street Journal, May 17, 1974]

THE MUGGING OF CON ED

(By Irvng Kristol)

New York City is an interesting place to visit, and there are those of us who even find it a desirable place to live in. But is it a safe place to do business in? The question has assumed some urgency in view of the fact that the city's largest taxpayer. Consolidated Edison, has just been mugged and robbed in broad daylight. Moreover, this sensational deed was done, not by ordinary criminals, but by elected public officials—who had previously prepared themselves for self-exculpation by giving the victim a bad name.

The event has not passed unnoticed, of course; but neither has it caused the kind of public outcry and commotion one might have expected. Most of the excitement has been limited to the confines of the financial community, where Con Ed's passing its dividend—the first time since 1885—and the subsequent 66% decline in its stock resulted in a fierce devaluation of the securities of all utilities. But even here, there seems to have been very little appreciation of the fact that what happened to Con Ed was no mere transient economic disaster but a political phenomenon of some significance. I notice, for instance, that neither Moody's nor Standard and Poor's seem to be aware that what occurred could have some bearing on New York City's own credit-worthiness, not simply on Consolidated Edison's or any other utility's. There is almost no public recognition that the mugging of Con Ed marks another step in New York City's faltering progress toward the condition of a banana republic.

In truth, for many years now there has been a growing body of evidence that New York City aspired to become the Uruguay of North America. One-third of all New Yorkers are now on the public payroll—one-sixth on welfare, one-sixth working for government. Ever since World War II, rent control has gradually expropriated a substantial portion of the city's landlords—most of them middle-class people who owned one or two modest multi-family dwellings. In more recent years, the city has negotiated pension schemes with its employes which all actuaries agree are self-bankrupting. All the golden geese inherited from our industrious forefathers are being killed off, one by one. The port becomes less competitive, and shrinks in significance, with every passing year, as politically powerful unions pile corruption upon inefficiency. The garment industry—still the city's largest—is dying from an overdose of taxes and petty regulations. Consolidated Edison, with its 21,500 employes is now on its way to being expropriated and socialized. And so on and so forth.

A FAMILIAR PROCESS

The political dynamics of this process are familiar to all those who have studied the history of republican decay, whether it be in ancient Rome or modern Latin America. The dominant political tone of New York is set by a segment of the upper-middle-class who, bored with the idea of making money and thirsting for political distinction, comes forward as "tribunes of the people." Assembling a populist program, and employing all the resources of populist demagogy, these political "activists" offer a whole spectrum of liberal programs while exhausting the economic resources of the city to pay for them. In New York, most of these ambitious tribunes are successful lawyers, though some are prosperous businessmen and others are the beneficiaries of inherited wealth. Perhaps because of this—because it is hard to believe that such people are "really" up to anything radical—the business and financial communities are never wildly alarmed, and prefer to regard each offensive action as a passing, isolated incident. Adjustment is quick and easy, on the assumption that "business as usual" will continue for the survivors.

What has saved New York from economic disaster so far has been financial aid from the state and federal government. It is widely believed that such aid is a matter of right and that, if enough political noise and pressure are generated, it will be forthcoming indefinitely and on an ever more generous scale. Nothing else could explain the bland—even smug—statement of The New York Times editorialist that it really might be a good idea for the state to own all the power plants, with Cond Ed acting simply as a distributor. The merit of this idea is less than obvious. No one has even suggested that any economies of operation would be effected. And the state will surely not continue to pay out the $250 million in property taxes which Con Ed now contributes annually to the city and adjoining counties. Since the Times is not about to call for either an increase in taxes or a cut in spending to cope with this sudden deficit, and since Con Ed will need another $3 billion for capital expenditures in the years immediately ahead, one can be certain that arguments will soon be forthcoming to the effect that the provision of urban energy—like the provision of urban mass transport—is really a federal responsibility, and that it is Washington's duty to subsidize a socialized Con Ed, after harassment by local government has

successfully brought it to the brink of bankruptcy.

The sad and simple story of Con Ed is easily told. The provision of energy in New York City is an extremely difficult operation. Not only do most of the power lines have to be buried beneath the crowded streets, not only are construction and maintenance costs much higher than elsewhere, not only does New York's "rush hour" economy produce a wildly fluctuating (and therefore very expensive) demand for electricity—but approximately one-third of Con Ed's billings represent a tax on the consumer which the company surreptitiously collects for the city. (This is distinct from, and in addition to, the taxes Con Ed pays on its own property.) This consumer tax is not specified as such on one's electric bill—it is simply hidden in the total. That practice, of permitting the city to tax its citizens while making it appear that Con Ed was charging them for service, was instituted by the company long ago, as part of its strategy to pacify revenue-hungry politicians by quietly appeasing them. The strategy did not work. Those high electricity bills naturally caused Con Ed to be unpopular with its customers, and consequently made it a target of opportunity for every political candidate who wished to posture as a defender of "the people" against "the interests."

Just how vulnerable Con Ed had become was revealed by the way the "environmentalist" movement succeeded in frustrating it at every turn. This movement, in New York City, is not nearly so much pro-environment as it is antibusiness. Just as anti-Semitism has been called the "socialism of foots," so New York's version of "environmentalism" can be fairly characterized as the socialism of upper-middle-class malcontents. They have transformed the environmentalist idea into an antibusiness crusade, refusing ever to weigh costs and benefits, but fanatically insisting that business not contribute one jot or tittle to air pollution, noise pollution, traffic pollution, population pollution, and just about any other kind of "pollution" a man of ingenuity can contrive.

The upshot has been that Con Ed has been unable to build generating plants—whether for coal, oil, or nuclear energy—in or around New York. Moreover, it is required by law to use the most expensive (i.e., lowest sulphur content) fuel, regardless of price. Furthermore, and incredibly, even as the city has delayed for months on end the paying of its own bills to Con Ed, so the politicians have encouraged Con Ed's individual customers not to pay their bills, as a way of protesting service which the politicians had made both inadequate and expensive; and these same politicians have also made it practically impossible for Con Ed to cut off service to those who do not pay—or who calmly delay the paying of—their bills. Add to this the fact that these very politicians—at the head of various "consumer groups"—fiercely resist any increase in rates as a form of "exploitation." Is it then any wonder that the company is in deep financial trouble?

As I have already said, Con Ed's general strategy in the face of this situation has been one of quiet accommodation, and the avoidance at all costs of anything resembling confrontation. It has relied heavily on tacit agreements with the city's political leaders—permitting them to denounce the company in public so long as they quietly refrained from emasculating it in fact. It has also supported a corps of lobbyists in Albany whose job it was to persuade upstate legislators to prevent the city from actually ruining the company—a situation which the city's politicians rather liked, since it permitted them to be infinitely irresponsible in their rhetoric. One did not have to be a prophet to foresee that, eventually, this strategy would fail and a major crisis would erupt.

IMPORTANT FORESHADOWINGS

In fact, the crisis did not erupt as suddenly as all that. There were important foreshadowings. Con Ed did pay its dividend last year—but its earnings did not actually cover the payment. What happened was that Con Ed and the regulatory authorities came up with an "accounting change" which significantly inflated its earnings, and permitted it to bleed itself to death to meet its dividend payments. One can understand the regulatory authorities conniving in such an arrangement—they are political creatures, after all. One can even, though with difficulty, understand how Con Ed's management participated in this little deception. They were desperately trying to buy time, in the hope that the politicians would give them a rate increase, or do *something*, which would enable them to survive. One does, not, however, understand how all those eagleeyed security analysts on Wall Street permitted this conspiracy—not too strong a word, I think—to pass without fuss or uproar. Perhaps they just couldn't believe that New York City would really dare to travel the Latin American route to the end.

Meanwhile, the 308,000 stockholders of Con Ed have been fleeced. In the state legislature, New York City's representatives are actually insisting that, whatever financial aid Con Ed receives, none of it should go to the restoration of dividends. This leaves the stockholders forever out in the cold. Almost all of these stockholders are individuals of modest means; 40% are women, elderly widows for the most part. Who is speaking up for them? Not the financial or business community, which seems indifferent to any event that does not immediately affect its pocketbook. Not the media, which has no compassion to waste on stockholders. Not any of those "public interest" law firms, who do not regard stockholders of any kind as part of their constituency. Not even the stockholders themselves—unorganized as they are and utterly unaccustomed to the arts of political warfare.

So no one speaks up for them. More and more, with every passing day, the mugging of Con Ed begins to look like the perfect crime.

[From Business Week, May 25, 1974]

CON EDISON: ARCHETYPE OF THE AILING UTILITY

"Con Ed is out of the equity market, and New York State is in the power business—forever," says Donald C. Cook, chairman of the American Electric Power Co. The senior statesman of the power industry makes that judgment unhesitatingly in the wake of Consolidated Edison Co.'s decision to omit, for the first time in 89 years, its quarterly dividend, and to raise cash by persuading New York State to purchase two uncompleted generating plants for $450 million.

The waves that those decisions generated are battering the stocks and driving down the bond ratings of most other power companies. This week, too, they were pounding the Con Edison management at one of the most boisterous annual meetings on record. There, management faced irate stockholders protesting the loss of their dividends and angry customers furious about steep increases in Con Ed rates.

Most Wall Streeters and power company people think that Con Ed Chairman Charles F. Luce had no idea of the furor his decision would produce. Says one analyst: "Luce is a power man, not an investment man. He just didn't realize that big utilities don't cut their dividends." Others, like Cook, believe that Con Ed and some other urban power companies that are under their cost pressures must face up to a wholly different future. Says one: "Con Ed lost the institutions long ago, but its dividend allowed it to count on the little old lady in tennis shoes. Now it has lost her, too. And lost her for a lot of other utilities."

Basic questions. The early effects of the Con Ed debacle are spreading rapidly through the industry, prompting many utility managements to reexamine ambitious construction plans. Questions are also being asked about the difficulties under which Con Ed is obliged to work—for instance, the high tax load that it must pay in New York City—and about the quality of the company's management. And there will be some fundamental questions raised about the turn-of-the-century methods by which the utilities—and some other industries—are regulated.

THE PROBLEMS OF RAISING CAPITAL

Charles A. Benore, a vice-president at brokers Mitchell, Hutchins, Inc., who is regarded by financial institutions as Wall Street, top utility expert believes that investor-owned utilities will want to spend $99-billion on construction by 1978. But roughly 66% of this staggering sum would have to be raised from the public. And the Con Edison debacle has made it most unlikely that the public will pay.

A pall of doubt hangs over the stocks, bonds, and financing prospects of every utility in the U.S. Most of them, particularly the exurban utilities whose difficulties are much different from Con Ed's, should eventually be able to get much of the money they need. But the most prudent of their managers, such as American Electric Power's Cook, are already slashing construction budgets. "We're thinking of drastic cutbacks," says Cook, and AEP will hack at least $250 million out of its planned spending through 1976.

For many utilities, the effect of Con Ed's action was immediate, direct, and cataclysmic. The shares of Boston Edison fell from 25 on Apr. 22 to 15 on May 14. Toledo Edison cut a stock sale in half. Detroit Edison was obligated to postpone an issue of $150-million of bonds, and eventually cut the issue by $50-million to get it sold. And the fallout was not confined to the urban companies. Duke Power's stock dropped 12½%, and Vice-President Robert F. Frazer attributed the fall directly to Con Edison's dividend cut. At Florida Power & Light Co., President McDonald told Business Week: "It really clobbered the utilities. They have long been considered the best stocks for widows and orphans, and now we have the largest of them in trouble and passing its dividend. This throws the viability of the entire industry in doubt. It makes it more difficult for us to sell securities at a time when we need to sell them more than ever."

Range of problems. While the managements of most major utilities agree with McDonald's assessment of the "Con Ed syndrome," many hasten to emphasize the wide differences between their problems and those of the New York company. Pacific Gas & Electric's vice-president for finance, Donald L. Bell, stresses that while Con Ed hurts all utilities, "it hurts them in varying degrees."

Nonetheless, Con Ed's difficulties in the financing area, at least, are common to most of its counterparts. Morgan Stanley & Co. is the investment banking firm that has managed more utility underwriting than any other, and partner Roger T. Gilmartin, who handles utility financing, says unequivocally: "The Con Ed thing has had an immense effect. Until—or if—it is forgotten, it will be very serious."

As long ago as Dec. 27 last year, Con Ed approached the New York Public Service Commission with the disquieting news that it faced a serious financial crisis. Had the

PSC not authorized a change in the company's accounting methods. Con Ed would have been obligated to show a loss of $10.5-million for December alone. Even more serious from the long-term viewpoint, its "interest coverage" would have fallen so low that it could not have sold more debt securities to raise capital.

Key ratio. Interest coverage (gross income, plus federal taxes, divided by total interest) is the bugbear of the utility industry: This key ratio plunged from 4.8 in 1967 to 3.1 in 1973, and analyst Benore estimates that this year it will drop to 2.5. This, he warns, indicates that more and more utility bonds will be downgraded by the rating services.

Utilities fear this fate with good reason. In the first place, downgrading cuts them off the "approved buy" lists of many of the stodgier institutions. Detroit Edison cut back its offering to $100-million partly because its Standard & Poor's bond rating was reduced from AA to A, thus eliminating a number of potential buyers. Downgrading also drives up interest costs. When Detroit Edison, as an A rating, sold its issue at 9.95%, the estimated rate on AA's was 9.25%—70 basis points lower.

When a utility's interest coverage falls below a certain level (for most utilities, below 2), it produces another unwanted effect: The utility's bond indenture then prohibits further capital-raising via debt. Last November, subpar interest coverage prohibited a Georgia Power bond offering of $150-million, just as sub-par interest coverage nearly stopped Con Ed from making the $150-million issue that kept it going in March.

WHERE UTILITIES PLAN TO GET CONSTRUCTION MONEY

[Billions of dollars]

	Total	Internal cash generation	Sale of common stock	Sale of bonds and preferred stock
1974	$18.0	$5.4	$2.6	$10.0
1975	18.9	6.3	3.0	9.6
1976	19.9	7.1	3.3	9.5
1977	21.8	8.0	3.6	10.2
1978	24.5	9.0	3.9	11.6

Data: Mitchell, Hutchins, Inc.

Given their continuing needs for fresh capital, utilities just cannot afford to be cut off from the debt market which gives them nearly 60% of external financing. But neither can they afford to allow their debt-equity ratios to deteriorate, because a declining debt-equity ratio also rapidly gets a utility's bonds downgraded. Utilities are forced, therefore, to sell common stock in quantities surpassed only by the quantities in which they sell debt—and for most utilities today, this is the crunch.

Equity role. In the mid-Sixties, utilities were selling around $200 million worth of new common stock a year. From now through 1978, in Benore's estimate, they will be asking the markets to buy an average of $3.3 billion. But in the aftermath of Con Ed's downfall, their chances of getting this amount appear slim.

Although there is a glut of new bond offerings this year, and although the bond markets are bordering on chaos (BW-May 18), there are always buyers for respectable bonds—at a price. For equity securities, however, price does not necessarily guarantee a sale. There just may not be any buyers, at almost any price.

To get stocks sold, utilities are accepting the hitherto unthinkable as commonplace: They are offering it way below book value. "As recently as last fall," says Morgan Stanley's Gilmartin, "it was a dramatic decision for a utility to sell below book value." Today, with the average utility stock selling at 80% of book value, most utilities have no option, even though they are well aware that selling below book doubles the difficulty of improving earnings per share and dilutes new stockholders' real ownership—thus compounding the problem of selling equity in the future.

In a sense, Con Ed's problems did not altogether surprise the stock market, even though Luce's solution—omitting the dividend—amazed it. The market has been steadily discounting utility securities for years. While the Dow-Jones utility average plummeted nearly 15% on Con Ed's news, it had fallen before that to half of its 1965 high. What Con Ed did was make a bad situation worse. According to John H. Gutfreund, a partner of Salomon Bros., it caused "a harsh reassessment" of utility securities, and this has driven stocks down and interest up.

General malaise. While the utility stock index reached a level it last saw in March, 1958, utility stocks and bonds are by no means the only securities looking sick today. The capital markets in general are in disarray, and they appear singularly unprepared to provide all the money that business needs.

In today's circumstances, suggests analyst Benore, it is improbable that investors will ante up for the common stock of utility companies. He points out that 10 years ago, with U.S. government bonds yielding 4.1%, there was a difference between their yield and the utilities' return on common equity of 8.5%. Last year the difference in favor of the utility had dropped to 3.6%. And this year, with the latest government bond yielding 8.5% and the utility common only 9.5%, the difference is down to 1%.

Investors might be tempted to ignore the greater risk and take this miserly extra reward if the utilities, from an earnings growth viewpoint, were a growth business. Unfortunately, they are anything but.

Nobody is trying to guess Con Ed's future carryings, but prospects for the industry as a whole are somewhat less than rosy. Benore looks for an over-all per-share earnings growth of 2.3%, a year over the next five years. And he expects that, while industrial company profits in 1974 will be up 9% those of utilities will be down 10%, making the immediate outlook for new utility issues particularly unattractive.

Profit outlook. Immediately after the dividend cut, Walter R. Grant, Con Ed's executive vice-president for finance, blithely told Business Week that "once our cash shortage is alleviated, we will go back to normal financing." But it is generally felt on the Street that Con Ed has burned its bridges in the capital market. And the overall profit outlook enhances the feeling that capital raising prospects are bleak for other utilities, too. Some, like American Electric Power, are sensibly responding by cutting back. Boston Edison, for instance, is cutting its construction plans 25% this year, and Detroit Edison will reduce planned spending $650-million in the next five.

It seems probable, moreover, that market forces will also work to reduce the amount of capital required. Some recent studies (BW-Feb. 2) suggest that there is a substantial elasticity in demand for electric power—perhaps an elasticity of 10 or more, meaning that a 10% increase in price causes a decline of 10% or more in usage. Rate increases totaled $526-million in the first quarter, and if rates continue to rise at this pace, they will cut deeply into the growth of demand. Con Ed believes that conservation by its customers will cut sales by $100-million this year and although it sees the sales reduction as a contributor to its cash shortage, the fact is that a drop in incremental demand would do the rest of the industry a favor in disguise: it would cut down and stretch out a desire for capital that the markets, in the aftermath of Con Ed's debacle, cannot meet.

WHY CON ED IS IN SUCH DEEP TROUBLE

"People don't realize the cost of doing business in New York," says Joseph R. Crespo, director of utility rate services for Ebasco Services, Inc., an engineering and consulting firm based in New York. "Con Ed's situation is pretty damned unique." The utility charges more for electricity than just about anyone else in the world, but the geography, political climate, and economics of New York City make the company's operating costs far higher, too.

Last year, for example, Con Ed paid $360.4-million in state and local taxes, which gobbled up more than 24% of its electricity operating revenues. Nationwide, only about 10% of the industry's electricity revenues go to state and local taxes. On a per-kilowatt-hour basis, Con Ed pays more than three times as much as other metropolitan utilities. The company accounts for a surprising 8% of New York City's real estate taxes because the city considers Con Ed's generators real property, along with the plants that house them.

Labor is more costly, too, and rising faster than the national average. The average pay of Con Ed's weekly employees last year was $260.27, up from $157.31 in 1968. During the same period, the company's construction payroll leaped from $53-million to $117-million. Con Ed has more buried cable than the rest of the industry combined, and each mile of it costs perhaps 20 times as much to install and maintain as overhead wiring. But because of this underground network, New Yorkers enjoy one of the best records of uninterrupted service in the country.

Low load factor. An even greater problem inherent to New York is the heavy commercial load. "Everybody works from 9 to 5," says Crespo. "So from 3 p.m. to 4 p.m., there's a terrible peak crunch." Then the commuters go home to Long Island, New Jersey, and Connecticut, and Con Ed's generators are idle much of the night. The company's load factor—its ratio of average output to installed capacity—is only about 50%. Even Boston Edison, which as an older metropolitan utility faces many of the same problems as Con Ed, has a load factor of 59%. Detroit Edison, which has a hefty industrial load—much of it from two-shift and three-shift operations—achieves 62%.

And there is no way for Con Ed to escape. Unlike any other metropolitan utility, the company is completely hemmed in by major power companies. Its service area, the five boroughs of New York plus Westchester County, is a mere 660 sq. mi. Chicago's Commonwealth Edison, for example, covers 1,800 sq. mi. "Everybody thinks of Commonwealth as serving the city of Chicago," says Abraham Gerber, vice-president of National Economic Research Associates (NERA). "Actually, it has a very large area outside the city with a subtsantial industrial lead." Manufacturers and residents have migrated from the city, and Con Ed has not had the opportunity to pick up new industrial parks and subdivisions.

As a result, the company has been stagnating along with its service area. Though Con Ed still serves more customers and has greater operating revenues than any other utility, it is only eighth in terms of peak generating capacity. Even Texas Utilities ranks higher. Thus Con Ed has not retired its aging equipment as fast as other big U.S. power companies.

Pollution problems. What increase in demand the company does see each year comes in a densely populated service area that makes new plant siting a nightmare. Even with the very best pollution control equipment, coal-area power stations are out of the question. The company has run into such bitter opposition over nuclear plants that Chairman Luce, practically alone among utility executives, has given up on this route out of the energy crisis. Local groups have

delayed for a decade the pumped storage plant that the company is now building at the foot of Storm King Mountain to ease its peaking problems.

Such opposition has left Con Ed 85% dependent on oil when most utilities are moving to coal and nuclear fuel. And local regulations have for some time limited the sulfur content of the oil to 0.3% Philadelphia Electric must meet a 0.5% limit within the city, but 95% of PE's service area lies outside Philedelphia, where the company has coal-fired plans that account for nearly one-third of its output.

With its generators gulping nearly 160,000 bbl. of low-sulfur oil daily—most of which had to be imported—Con Ed was defenseless during the recent onslaught of oil price increases. Fuel now accounts for about half the cost of every kilowatt Con Ed sells, and some observers blame the sharp hike in oil prices following the Arab embargo for the company's present predicament "Con Ed certainly had problems before October," says Lester M. Stuzin, chief of power rates and valuation for the New York State Public Service Commission. "But since then they've been aggravated in ways that seriously affected the company's cash flow." First, when the Arabs ratcheted the cost of oil skyward, Con Ed suppliers insisted that the company pay its bills in five days instead of 30. At the same time, Con Ed's customers, who normally take a cash-draining 50 days to pay these bills, started holding back even longer.

All electric howl. The most vocal were the owners of all-electric homes in Staten Island and Westchester. In the mid-1960s, when it seemed that more and more of Con Ed's power would come from nuclear plants, the company decided that electric heat would be a smart way to make use of the generating capacity during the winter. But last year's three-fold increase in the price of oil brought backbreaking bills for these luckless customers. Con Ed says its typical bill for residential electric heat this March was about $250, up from around $135 in March, 1973.

Dramatic as their case seems, residents of all-electric homes are a small portion of Con Ed's collectibles problem. "Con Ed's ratio of unpaid bills to revenues is the highest in the industry," says NERA's Gerber. "And the problem is not just in poverty areas. There are substantial losses from the business community, as well."

Gerber points out that in New York small businesses routinely open, run up big electricity bills for two or three months, then fold without ever paying. Last year, Con Ed had to write off $28.8-million in bad accounts. By contrast, Detroit Edison lost only $2.2-million on roughly half the billings. For the 12 months ended Mar. 31, Con Ed's receivables stood at $367-million on revenues of $1.9-billion.

New regime. Critics maintain that Con Ed has brought its customer-relations problems on itself. Indeed, for many years the company had an arrogant, overstaffed management. Then in 1967, Luce took over and swept in an entirely new top management team. Some critics said these men were as limited in their qualifications as their predecessors had been in their attitude. Several of the executives had no background whatever in the power business. Luce even gave a public relations man operational responsibilities.

In 1969, Luce added Louis H. Roddis, Jr., a former executive with General Public Utilities Corp. who had been an associate of Admiral Hyman Rickover, the Navy's crusty nuclear chief. Outsiders say Roddis was hired to help tighten the ship, and they note that six of the original Luce team have left as Roddis has climbed through the ranks. He is new vice-chairman. "It's difficult to say whether they have people off all their fat," says consultant Gerber, "but Con Ed is a far different company than it was 10 years ago."

Some observers are not impressed, however. "Our experience is that Con Ed is still very uncooperative," says Martin A. Lauterbach, vice-president of National Utility Service, Inc., a consulting firm that tells business clients how to get cheaper rates from their utilities. When NUS recommends a change from one service classification to another, it advises its client to ask the utility for comparison billing over the past 12 months. "Every utility anywhere else will provide the information eventually," says Lauterbach. "Con Ed out and out refuses."

Commission study. Stuzin of the Public Service Commission notes that while Con Ed's performance last summer was "better than anticipated," the utility has regularly lagged behind others in preventive maintenance. And Con Ed's customers, he adds, account for 85% of the complaints brought before the commission, even though they represent only 50% of the state's electricity users. The commission is now starting a full-scale study of Con Ed's management. "The rate payer," says Stuzin, "deserves a better explanation than just being told about the difficulties of doing business in New York City."

Executives of other investor-owned utilities are also unsure of Con Ed's management, though for an entirely different reason. Luce once headed Bonneville Power Administration, the giant federal power system that serves the Northwest. When he arrived in New York, he horrified the industry by suggesting that he would be willing to sell Con Ed's power plants to the state, and many feel that last week's decision by the legislature to bail Con Ed out is the beginning of a state takeover. "Luce has always felt that public power is better than private power," says one executive. "And the chairman of the state commission is a public power man. What they seem to want is a TVA system in New York."

THE FINANCIAL DANGERS OF RICKETY REGULATION

While the search for the cause of Con Ed's problems will range all the way from Arab oil fields to the utility's own management, a fundamental cause could lie in a regulatory policy that has long been accepted without question by both utilities and regulators. Signs of similar trouble have come to light recently in other utilities and regulated industries.

At the top of the list is the failure of the Eastern railroads, which went down in a similar vicious spiral of rising expenses, taxes, and cost of capital. And although American Telephone & Telegraph's powerful Bell System may tend to mask the problem, capital shortages loom in the telecommunications industry, and some of its weaker elements are troubled. Western Union Telegraph Co. is in financial straits, with its stock at a low and its commercial paper rating rescinded. The recent government takeover of Puerto Rico Telephone Co., a subsidiary of International Telephone & Telegraph, shows that even telephone utilities can founder in the midst of rapid growth and great potential.

Part of the fault can be found in the regulatory framework under which these industries operate. There is evidence that these rules are obsolete.

While regulation of nearly all utilities is balkanized in state or sometimes a combination of federal and state jurisdictions, it retains one common thread: Utility profits are both measured and regulated solely on the basis of return on investment. It is a singularly one-dimensional measure, often resulting in the paradox of capital-short companies reporting pretax profits of 20% to 30% on revenues.

The bind. Regulatory policy forces management to charge everything possible to capital, to buy instead of lease, and to minimize depreciation charges in order to maximize permissible profits under the return-on-investment formula. Utilities and regulatory agencies alike have always scorned the use of rapid—some would say realistic—depreciation of plant for book purposes to generate funds internally for plant expansion. The net effect is not only misapplication of capital to uses that other businesses usually charge off to expenses, but also a cumulative distortion of the true value of utility plant.

The "rate base' method works well for utilities in times of stable interest rates, deflation, and during periods when technology or economies of seals lead to declining unit costs. Then, regulatory agencies tend to lag in ordering downward adjustments in rates, and utilities' profits tend to be higher than statutory limits. In such times, dividends have increased. But utilities get in a bind when the situation is reversed and both operating costs and interest rates are rising. They need more outside money than ever for new plant and to cover maturing debt.

Equity as debt. Totally dependent on outside capital, utilities are forced to go to the market, diluting their stock and obligating themselves to ever larger dividend payments to protect the price of their shares. In effect, the sacrosanct dividend turns equity into a kind of subordinated senior debt. When profits do not cover the dividend, utilities are almost forced to milk themselves, as Con Ed did last year. Ultimately, the cow runs dry.

Unfortunately, neither regulators nor elected officials are willing to challenge the conventional wisdom, and they resist the suggestion that regulatory policy needs reexamination. None wants to fight the fundamental battle over regulated monopolies again—even though old regulatory laws may be the greatest threat to the financial viability of the nation's power and communication networks.

ERTS SEMINAR IN UTAH

Mr. MOSS. Mr. President, a conference on the practical uses of the Earth Resources Technology Satellite (ERTS) System was held recently at the University of Utah. The meeting showed clearly that ERTS and other satellite-obtained images have broad application in mineral exploration, water resources, forestry, agriculture, land use and planning and that experts in these areas can benefit greatly by exchanging views and information on ERTS.

I believe it is imperative that users of such information analyze their needs and work directly with NASA in making the data as relevant as possible to their practical concerns. User involvement is necessary if the taxpayer is to receive full value from the dollars spent on ERTS, and the Utah conference was right on the mark in accomplishing this goal.

This conference brought together over a hundred Federal, State, and local officials, educators, and representatives of the private sector from a wide variety of disciplines. Cosponsors of the 2-day session were the University of Utah, the Utah State Department of Natural Resources, the U.S. Department of Agriculture's Western Aerial Photographic Laboratory, State offices of the U.S. Geological Survey, Bureau of Land Management and Bureau of Mines, as well as

the National Aeronautics and Space Administration. I especially want to salute the cochairmen who were most directly responsible for the success of the conference: Dr. M. L. Jensen, professor of geology, and Dr. Roger McCoy, professor of geography, both of the University of Utah, and Dr. Stanley C. Freden, ERTS project scientist at NASA's Goddard Space Flight Center.

This conference demonstrated that Utah is in the forefront in using ERTS data today and in planning for even greater use of the system in the future. Approaching ERTS as a source of information, instead of only a picture-taking satellite, places a burden on users to understand the kinds of data available, analyze their needs and work with developers of the system to achieve maximum value. All three of these requirements were amply met at this meeting.

An important next step in the ERTS program, in addition to the need for more launchings to assure continuously available data, is the development of better ways to convert raw data into information directly needed by users. Emphasis needs to be placed on careful definition and analysis of various user requirements, and attention given to providing the combination of satellite, computer system and communications necessary to meet those requirements.

I am proud of the initiative taken by the people of Utah in holding this conference and appreciative of the assistance provided by NASA in making it a success. Meetings such as this are vitally important not only to the future of ERTS, but also to the overall success of our Nation's space program and to the public's understanding of its benefits.

CARL T. DURHAM—AN AUTHORITY ON ATOMIC ENERGY

Mr. ERVIN. Mr. President, all of his acquaintances in the Senate and the House of Representatives were saddened recently by the passing of Carl T. Durham, who served for many years with great ability and distinction as a Representative from North Carolina in the House of Representatives. He was particularly distinguished for his study and work in the atomic energy plan.

The Winston-Salem, N.C., Journal for May 6, 1974, carried an editorial concerning him which was entitled "Atomic Energy Authority." I ask unanimous consent that a copy of this editorial be printed in the RECORD.

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

ATOMIC ENERGY AUTHORITY

Carl T. Durham's lamented death last week recalls an era of powerful North Carolina influence in the national House of Representatives. He himself served as ranking member and chairman of the Joint Atomic Energy Committee. Among his contemporaries, Robert L. Doughton, of the old Ninth District, was chairman of the Ways and Means Committee; Harold Cooley, of the old Fourth, chairman of the Agriculture Committee; Graham A. Barden, of the Third, chairman of the Education and Labor Committee; and Hebert C. Bonner, of the First, chairman of the Merchant Marine and Fisheries Committee.

An outstanding example of the legislator who mastered the intricacies of technical legislation through hard study, Mr. Durham was regarded as a leading congressional authority on atomic energy. One of the original members of the committee, he was chosen because of his deep interest in what was then a fresh and frightening problem. To the work of this committee, Carl Durham brought not only the fruits of intensive study, but also a perspective consistent with the national tradition and with the public interest. He was a staunch advocate of civilian control of atomic energy.

Mr. Durham was instrumental in establishing the International Atomic Energy office in Vienna and in securing American participation. His friend and colleague, W. Sterling Cole, was named first director of the International agency. Friends recall that one of Mr. Durham's opponents in a congressional race undertook to misrepresent his advocacy of the international agency as favoring the surrender of atomic secrets to the Soviets, an unfair charge which Mr. Durham's constituents in the old Sixth District happily refused to accept.

His distinguished work in atomic energy legislation alone entitles Carl Durham to rank as a statesman. Though vitally concerned about this matter of national and international consequence, Mr. Durham never neglected his district. He kept his home fences in good repair, and he terminated his notable congressional career by declining to seek reelection in 1960. An unpretentious, unassuming man, Carl Durham was never too busy for a constituent and he never lost his love for his native Orange County. National fame did not spoil him.

INFLATION

Mr. ROTH. Mr. President, the current economic policies of the administration and the Congress are based on a policy of wishful thinking and political ploys.

The President's recent statement concerning inflation that "the worst is behind us" can best be described as wishful thinking.

The quickie gimmicks and increased spending plans proposed by some Members of Congress will only stimulate inflationary pressures and further retard consumer purchasing power.

Inflation is this country's most serious problem, and it is high time that the President and Members of Congress recognize that there are no easy solutions.

I do not believe that the worst of the inflation is behind us just because the increase in the most recent Consumer Price Index did not break another record.

And, two of the most knowledgeable economic advisers to the President—Federal Reserve Board Chairman Arthur Burns and Cost of Living Council Director John Dunlop—do not believe that the worst of inflation is behind us.

Dr. Burns said in a recent speech that "the gravity of our current inflation problem can hardly be overestimated." And, both he and Dr. Dunlop have disputed the President's claim that the two primary causes of inflation are food and fuel.

Higher health, construction, and automobile prices can be expected. The critical shortages of raw materials will inevitably lead to increased industrial prices. Inflationary expectations will lead to further price increases by business and could erode the commendable wage restraints labor has shown over the past year.

But, the greatest danger is the continuing Federal deficit. If we adopt policies to "prime the pump" or head off a recession we will only increase inflationary pressures without increasing employment or industrial capacity.

A huge Federal deficit will not increase the supply of copper or steel or automobiles. It will not produce jobs or improve the housing industry.

Strong stimulation would only bring a substantial increase in the potential for higher prices this year and for years to come.

A large Federal deficit this year would increase Federal borrowing, further increase interest rates, and help destroy the housing industry.

The higher costs of inflation could produce wage demands that would wind through the economy for years to come. And consumer confidence, destroyed by the fear of increasing inflation, will be further eroded.

For these reasons, I am appalled and dismayed at the President's fiscal 1975 budget. The administration received an overwhelming mandate from the voters in 1972 partly on its pledge to put an end to excessive Federal spending.

Yet, this year's budget calls for a Federal deficit of $11.4 billion under the unified budget concept, and a deficit of nearly $20 billion on the Federal funds basis.

A year ago, the Congress was under intense pressure from the President to put a stop to wasteful and futile spending programs.

I, along with many other Members of Congress, supported his efforts to persuade the Congress that economic and social problems would not go away simply by "throwing money at them."

For the first time in this country's history, a budget proposes spending in excess of $300 billion. Only 4 years ago we had our first $200 billion budget.

The proposed budget outlays for fiscal 1975 represent an 11 percent increase over fiscal 1974 outlays, which in turn is estimated to show an 11 percent increase over fiscal 1973.

Last year's budget message included a detailed listing of inefficient and wasteful Federal programs and agencies recommended for termination or reduction.

But this year that list has disappeared, and we are told by the President and his budget director that all of the spending increases are necessary.

We are kidding ourselves and the American people if we believe that such rapid increases are all "uncontrollable" or "unavoidable."

Is it necessary to increase civilian employment in the executive branch by 58,500 persons in 1974 and an additional 22,200 in 1975?

Is it necessary to pay $41.8 billion for civilian personnel in 1974 and another $44.6 billion in 1975?

I am a strong supporter of a solid defense budget, but I am absolutely opposed to using defense funds to "prime the pump."

I cannot believe that there is no room in the Federal budget for belt-tightening.

We are going to have to learn to live without an expansion of every Federal program every year.

The administration has said that spending cuts in the fiscal year 1975 budget are not possible, but that it will aim for a balanced budget in fiscal 1976.

I believe that if we are going to be successful in balancing the budget in fiscal 1976, we have to take the first steps right now. Both the administration and the Congress have to make a concerted effort to cut Federal spending this year.

Therefore, I will shortly introduce legislation to require the Director of the Office of Management and Budget to reexamine the fiscal 1975 budget and submit to the Congress within 30 days a report setting forth proposed reductions of total budget outlays to the maximum extent possible.

A 2-percent reduction would reduce total outlays to $299.3 billion. A 3-percent reduction would reduce total outlays to $296.3 billion.

Neither figure would be too restrictive, but the reductions would reduce inflationary pressures. And most importantly, it will signal the American people that the Federal Government is willing to make sacrifices to hold the line against inflation.

But even a 2- or 3-percent reduction in Federal spending will not be enough to slow the disturbing growth in Federal spending.

A little over 2 years ago, in November 1971, I proposed a spending ceiling of $229 billion. Four short months later, in March 1972, I proposed a spending ceiling of $246 billion. By October 1972, the projected level of spending was estimated at $260 billion, and the administration began a national campaign to limit Federal spending to $250 billion. By June 1973, I was calling for a spending ceiling of $268 billion.

These spending ceiling campaigns ultimately led to the development of the Congressional Budget Act, but we should not delude ourselves into believing that this legislation will in itself be a cure-all.

First of all, it will not go into effect until 1977. And, second, the budget legislation will not force the Congress to set airtight spending ceilings.

Deficit spending and inflation are self-perpetuating under our present tax system. One of the main reasons that the administration and the Congress have been able to continue this spending spree is the inflation-induced growth in Federal revenues.

In fiscal 1973, the Federal Government collected over $232 billion from the American people. In fiscal 1975, it is estimated that the Federal Government will collect $294 billion.

Yet, no tax increase was ever proposed by the President, or voted by the Congress. In fact, the President and many Members of the Congress ran in 1972 on a campaign pledge not to raise taxes.

But, despite these political pledges not to raise taxes, the Federal Government has subjected each and every consumer with a hidden tax—an inflation tax. This inflation tax is one that none of us here in the Congress ever has to vote on but it is one that every consumer feels. The tax is a result of the effect that inflation has on a tax system which is based on a progressive tax rate. Under this progressive system, a person must pay a greater percentage of his income in taxes as his income increases.

Although this system appears to be conceptually sound and fair, it has no way of determining whether or not an individual's income is real, or the result of inflation and as long as inflation continues to rise, the Federal Government is assured of receiving more and more money each year to spend.

For this reason, I, along with a number of other Senators, have called for the consideration of proposals to reduce future tax rates by the rates of inflation. These proposals would insure that a person will no longer be forced to pay more taxes simply because inflation has pushed him or her into a higher tax bracket. Most importantly, the proposal would reduce the amount of inflated revenues that the Federal Government collects and spends each year.

Perhaps such a system would finally break the Federal Government of its habit of throwing money at every single problem our society encounters. Rather than relying on increased revenues each year to finance these programs, the Congress would be forced to vote for every spending and tax increase.

These proposals would apply to the future, when the Federal budget can be planned accordingly.

The Federal tax laws are too complex and interrelated to make quickie changes to achieve instant results. Any changes that are made should take into account the full effects on the Federal budget and inflation.

The Senate Finance Committee, of which I am a member, began hearings last week on tax reform. The House Ways and Means Committee is also holding hearings on tax reform. Inflation is a cruel burden on every American citizen and we should take a long, hard look at our tax laws to formulate changes to reduce that inflation burden.

In conclusion, we must all recognize that inflation is a serious problem that will not go away through wishful thinking or simple gimmicks. The Federal Government, business, labor, and every consumer must be willing to show self-restraint. The Federal Government must slow the alarming growth in spending, and should consider changing the tax laws to remove the Federal Government's built-in incentive to cause inflation.

We should work for meaningful tax reform, and we should encourage an increase in the supply of goods to help combat the shortages and capacity problems that lead to higher prices.

The fight against inflation is not an easy fight, and there are no easy solutions. But, that is no excuse for turning our backs and giving up the fight.

FREEDOM OF EXPRESSION IN SOUTH VIETNAM

Mr. GOLDWATER. Mr. President, in the fifth of his reports to me about his investigations in Vietnam from May 26 to June 1, my legal assistant, Mr. Terry Emerson, describes in detail the extensive evidence of freedom of expression and thought which he observed in South Vietnam.

I am particularly impressed by the fact that the day-to-day schedule of Mr. Emerson's fact-finding trip to Vietnam was built around the persons and locations which he and his visiting group of Americans requested to see. In other words, the Government of South Vietnam permitted my legal assistant to go anywhere and meet with anyone, to explore any subject, which he wished.

As his report on the subject indicates, this itinerary included several meetings with oppositionists. Mr. Emerson points out, however, that these antigovernment figures were united in their rejection of communism. From this fact, Mr. Emerson raises an interesting analogy between the origin of this country as a self-governing Republic, buffeted by foreign intrigues and conflagrations that threatened to split apart our new unity, and the present struggle of the people of South Vietnam to establish the right of their Republic to govern.

As Americans of the Federalist period united in agreement that the central government headed by George Washington was the only force capable of binding the people together in safety, so the great majority of the South Vietnamese people are united today in a belief that the present administration of their Republic must continue to govern or the country will face certain anarchy and ruin.

Mr. Emerson concludes that the ability of the Thieu administration to govern rests therefore not only on the natural support which its programs have built with the population, but also upon the underlying decision of the people not to risk any other presently available alternative, which may lead down the road to communism, a future they clearly reject.

Mr. President, I ask unanimous consent that the fifth report from Vietnam, by Mr. Terry Emerson, on the subject of political freedom in South Vietnam, be printed in the RECORD.

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

REPORT FROM VIETNAM: V

(By J. Terry Emerson)

POLITICAL FREEDOM

One American participant in the free press seminar held in Saigon May 27 through May 31 was overheard to remark: "I don't know about censorship in Vietnam, but there is one thing I am very sure about and that is there is plenty of freedom of speech in this country." The five day series of events at which press freedom was thoroughly dissected coincided with the fact-finding visit to Vietnam of our group of ten staff members from U.S. Congressional offices.

The occasion of the media seminar was symbolic of the great extent of freedom of thought and expression which clearly exists in South Vietnam. The event was sponsored by the U.S. Information Service and held at the Vietnam-American Association Little Theater. All sessions were in both Vietnamese and English; posters announcing the seminar were distributed in various Saigon schools about two weeks ahead of the event. Journalist students and journalists themselves were fully alerted to the event at least a

week ahead of time. The interested Vietnamese public was adequately informed about the schedule beforehand.

By the third day of the sessions, three hundred people attended, mostly Vietnamese students of journalism and newspapermen. At the seminar, the audience and panelists engaged in a free exchange of questions and ideas. Students were not afraid to complain about the situation of the press in South Vietnam and many Vietnamese newspapermen voiced complaints about difficulties they felt they encountered in their profession.

No one was locked up who complained. No one was thrown out of a job who criticized. No troops stormed the doors of schools or newspapers whose representatives challenged the government. In fact, the seminar was given extensive coverage in the fifteen Vietnamese language newspapers published daily in Saigon.

The press seminar reflects most of the elements about the press situation in South Vietnam. The sessions were made known to the public. Anyone could attend who wanted to do so. Reporters could write freely about what went on at the meetings. The local press widely covered the sessions. Reporters took the opportunity to demand more freedom than they now have.

In other words, the Saigon media seminar revealed the presence of an active and diverse press in South Vietnam. Of the fifteen daily newspapers published in the Vietnamese language at least three are oppositionist, five are generally independent, one is allied with the Catholic Church, three might be styled as sensationalist, and only the three remaining are pro-Government.

Do these papers have total, unbridled discretion to print whatever they choose? No, apparently not. But the Government does tolerate criticism. The Government does allow the printing and distribution of positions critical of its own administration. Government scandals, if and when they occur, and news about opposition political activities can be and are printed. Journalists can make a living who question the Government policies.

There are some wartime restrictions. I was told by one opposition columnist, who apparently is a follower of General "Big" Minh, that the Government does confiscate particular issues of papers. He even contended this might happen as often as once a week. He further charged that publishers or reporters who persist in diseminating the wrong kind of news can be taken to court, where they are subject to a possible fine or "tax."

But, when I asked him if the fines were so severe that they endangered the continued existence of a newspaper, he did not contend that this was a device for extinguishing unfriendly papers. The presence of fifteen Vietnamese daily newspapers of a wide variety of positions alone would refute this argument. Moreover, there is a special immunity granted to publishers or journalists who are Deputies or Senators in the Parliament, as my associate is. Nor did I learn of any documented instances in which opposition journalists are being jailed for the views they print.

Given wartime conditions, it is not unexpected that temporary restrictions are set concerning reports about the military defense effort and protecting the fundamental survival of the Republic. The significant factor is that an opposition can exist; the critic is not removed from his job or dispatched to a mental institution; and the opposition can pressure for improvements in the system. The Vietnamese public is highly literate and supports a variety of publications.

Newsstands are proliferate with papers, magazines, and books of all descriptions. The contrast between being in Saigon and in Moscow or Leningrad, the showcase of Communism, as this writer has been, is dramatic. Where one is starved for outside news in the Soviet Union and cannot find Free World publications in any language, not even in the major tourist hotels, the visitor to Saigon easily and quickly can purchase printed materials with which he is familiar, many of which will be critical of the Government of South Vietnam.

One of our group was able to locate for purchase a copy of the Paris Peace Accord, which some American politicians who have never visited Saigon charge is not available there, and the same individual even found some Communist writings for sale.

If the American critics of South Vietnam would only visit the country for themselves, and, in particular, compare the situation in the Republic of Vietnam with that in a Communist-governed society, which is the alternative that must be considered, he would readily see extensive and healthy signs of a strong, free press competing for the attention of an educated and inquisitive public.

When our Congressional staff delegation was in South Vietnam, we saw at least six opposition personalities. I wonder how many "opposition" persons one would be allowed to meet in a Communist society? Among the non-Government aligned individuals our group met, and enjoyed a long and free conversation with, are Senators Nguyen-Duy Tai and Tran Quang Thuan, both connected with the Buddhist faction; Duong Minh Kinh, a Catholic Independent Deputy of Parliament; Nguyen Huu Chung, a Deputy supporter of "Big" Minh, a former editor, and now a columnist for the Vietnamese newspapers, Dai Dan Toc and Dien Tin; Professor Nguyen Ngoc Huy, Chairman of the Progressive Party, allied with the Vietnamese Labor Union; and Tran Cuoc Buu, President of the Vietnamese "AFL–CIO," the Vietnam Labor Union.

One member of our party, who requested it, was able to arrange independent interviews with Madame Ngo Ba Than, a spokeswoman for the radical "Third Force," and Father Chan Tin, the anti-Government activist who has publicized the political prisoner attack against the Thieu Government.

The fact that our group was allowed to arrange visits with anybody in the country whom we desired to see, and to travel to any facility or location throughout the Government-controlled territory of South Vietnam that we wished, is proof in itself that South Vietnam is an open society. The Government does not hide the fact that it has its doubters. It is willing to meet them on the ground of on honest presentation of the truth.

Men and women of intelligence and good will differ in their interpretations of Government actions and the priorities they would set upon different goals. The opposition leaders in South Vietnam do want to change the position of the Government in many areas. But, one theme that comes through intensely from the varied message of the oppositionists in South Vietnam is their universal agreement that the Republic must survive against the challenge of the Communist invaders.

The oppositionists know of the terror and calamity that follow Communist rule. They are aware that over a million and a half refugees have fled from Communist tyranny either in the North or in Communist-occupied territory of the South. They know there would be no room for doubters such as themselves in a Communist ruled society. They know the press situation in South Vietnam today is a paradise compared with the stifling censorship that would accompany a Communist regime.

Opposition does exist today in South Vietnam and not only in the newspapers. I have mentioned some oppositionist or independent figures with whom our group met. In all, there are nineteen Anti-Administration members in the Senate of Parliament, out of a total membership of sixty. In the Lower House, there are 58 oppositionists, and seven independents, among the 158 Members of the entire Chamber. These Deputies and Senators who oppose the Government are granted parliamentary immunity.

But the South Vietnamese Government claims that the convincing proof of its reliance upon, and acceptance by the general citizenry, is demonstrated by its action in dispensing arms to half a million local militiamen and a million members of the People's Self Defense Force, in addition to the 500,000 man regular Army. The Government asks, if it was widely unpopular with its own people, would it put into the hands of these same people the guns and ammunition which could be turned against it? Obviously, the Government trusts the people and the people, regardless of any disagreements they may have with individual Government policies, support the Government against the Communist alternative and are making a deliberate choice to defend the Republic and regime which governs it from the disaster that would surely follow its collapse.

To understand the Vietnamese situation, Americans need only remember their own history, when in the aftermath of the War of Independence and the internal turmoil accompanying the French Revolution, the political followers of the most diametrically opposed philosophies, led by Thomas Jefferson and Alexander Hamilton, could agree among themselves that George Washington must remain at the helm or the Government would founder. The good sense of the American people caused them to fear that a total and irresponsible opposition to the new central Government headed by Washington would bring ruin to the American political experiment in popular self-rule.

As Americans of the Federalist period feared to cross the brink to the extreme opposition that would pull apart the solidarity of the central Government, so the divisive forces in South Vietnam recognize that the Government of their Republic is not yet so firmly established that they can risk attempting to topple the Government, or so weaken it that it could not govern. The opponents know that the greatest evil that could befall their country at the present time is the disappearance of the general Government without an acceptable alternative.

The oppositionists believe their country will stay together if they have the present Government, giving time for what they see as wise changes in policy to be made over future years. Indeed, much of the country, probably the majority, accepts the present Administration as their first choice, but what Americans must realize is that the failure of the opposition to muster enough strength to defeat the Thieu Government in elections or in the Parliament does not mean the people are prevented from doing so by a dictatorial military regime, but by their own sensible judgment that the destruction of the Present Government would be critically hazardous to the safety of the Republic.

Herein, the analogy with the history of our own birthpangs as a young Republic, lies the secret of comprehending the political situation in South Vietnam. Where our emerging nation was threatened by Indian warfare incited by the British and Spanish within our borders, by the continued British occupation of forts inside the American Northwest contrary to the peace settlement ending the Revolutionary War, by the Spanish blockade of American trade on the Mississippi River, and by the intrigues of European nations to draw the United States into their wars, the Republic of Vietnam faces similar external threats that endanger the stability of self-government before the popu-

lation has had time to solidify its unity as a free Republic.

The Thieu Administration continues in office not because it is a dictatorship, but because it is the choice of the people not to risk the anarchy and eventual tragedy that would follow any other presently available alternative and because it is responsive enough to the basic needs of the people to hold onto their support. The issue in South Vietnam is whether tyranny from outside will prevail or whether a republican government shall be granted the right to govern.

THE CENTER FOR DEVELOPMENTALLY DISABLED

Mr. HUMPHREY. Mr. President. I wish to call to the attention of the Senate an article that appeared in the St. Paul Pioneer Press, St. Paul, Minn., of Monday, June 10, entited "For People in Need A Friend Indeed."

This article refers to the work of the Center for Developmentally Disabled. It pays proper commendation to the director, Mr. Spencer Lonetree, and his assistant, Mrs. Nokomis Swan. The work of this center merits careful study and evaluation. It can well serve as a model for other communities. I congratulate Mr. Lonetree and Mrs. Swan, and I take pride in noting that the Center for Developmentally Disabled is in St. Paul, Minn.

I ask unanimous consent that the article to which I refer be printed in the RECORD.

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

FOR PEOPLE IN NEED A FRIEND INDEED

(By Ann Baker)

For three years a small office on Selby Avenue has been trying to find special answers for the people who fall into the very special circumstances of being poor, handicapped and black.

The Center for Developmentally Disabled helps people find medical care, counseling, special schools, sometimes even food and shelter. It makes appointments, gives rides, befriends and follows through. It speaks for those who tend not to speak well for themselves, the retarded, epileptic and those with cerebral palsy in particular.

What the center wants to do most of all is help its adult clients find jobs they can perform in sheltered workshops.

"We have placed a number with existing facilities," says the center's director Spencer Lonetree. "The success rate is zero. That's because there's a lack of sensitivity in dealing with minority people."

Services for the handicapped, he says. "are all administered by whites—with their PhDs I imagine—who try to pound their philosophy into the minorities without understanding their culture or background."

Not understanding, says Lonetree and his assistant Mrs. Nokomis Swan, means a variety of minor and major tragedies:

It means the young overweight black retarded man who was heavily criticized at a sheltered workshop for being badly shaven and wearing torn clothes and whose fellow workers called him "something other than his name."

It means the retarded Indian and white youths who learned how to get by bus to a sheltered workshop west of Minneapolis, then at break time came home, thinking it was quitting time.

It means the little girl from a large, poor family who was switched from speech therapy to a class for the retarded because she had an "odor."

It means the black retarded man who a few years ago was employed by a sheltered shop where he was frequently harassed by co-workers and supervisors til! one day he went home, got a gun, returned and killed his boss.

Many black, Indian and Chicano handicapped people are further frustrated, says Mrs. Swan, when their own families are hostile to whites. They experience racial tension coming from both sides. "And in the meantime the programs are not trained to cope with these kinds of things."

Black herself, she says she knows what it means to learn to cope with name-calling. But when you're singled out as black, handicapped and maybe overweight or badly groomed too, then "you've got so many things you've got to deal with."

Minorities have always tended to keep their handicapped children home with them, says Lonetree, who is an Indian. They didn't have to wait for the top sociologists of the 1870s to tell them "normalization" is better than "institutionalization," that home provides a warmtn and security and loving family that no institution can.

Mrs. Swan agrees. But, she says, the very attitudes that have kept the children home—protective attitudes that often include suspicion and sometimes downright resentment of outsiders—makes it doubly difficult for them to venture out to school or job.

"People aren't told about alternatives," says Mrs. Swan. "I know that from personal experience." She cites difficulties in finding care for her son, who lived seven years "as a vegetable" after an auto accident as one example.

Another example is herself; on welfare following an accident, it was only by an acquaintance's chance remark that she heard of the Division of Vocational Rehabilitation, which got her the college training as a counselor that led to her present job.

"My reason for getting involved in this work is I know there are services available that people don't know about. Restrictive, binding policies are set up that make it impossible to get the services you need. I feel there are families who need an advocate, someone to look up and see what's available."

The center, originally under the wing of Model Cities, has been serving people of all races from the entire metropolitan area. It is currently working with 30 families.

In September the Center for Developmentally Disabled hopes to open a work activities center of its own somewhere in the Summit University neighborhood, as a stepping stone to sheltered workship jobs.

"We want to train these people in an environment that would enable their unique qualities to surface," says Lonetree. "They should be able to work like anyone; they can't without training."

A small residence would be attached, for those needing to ease themselves away from home.

Federal authorities, who last year provided a $45,000 budget for the center, have agreed to double the grant for this fiscal year, which starts Sunday, so the center can enlarge its staff and establish its own workshop.

Funds come from the Department of Health, Education and Welfare.

THE VICE PRESIDENT PRESENTS ADDRESS AT UTAH STATE UNIVERSITY COMMENCEMENT EXERCISES

Mr. BENNETT. Mr. President, this past weekend Vice President FORD spoke at the graduation exercises of Utah State University. While his remarks were directed to the students of that fine institution I feel that they have meaning for everyone who has faith in this great country of ours. For this reason I ask unanimous consent that the Vice President's remarks be printed in the RECORD for my colleagues to read.

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

REMARKS BY VICE PRESIDENT GERALD R. FORD

You have every reason to be proud of reaching this academic milestone and of the splendid institution which honors you with its degree. In less than 90 years Utah State, along with other beneficiaries of the far-sighted Land Grant Act of 1862, has become one of the nation's most advanced and diversified institutions of higher learning and has contributed in countless ways to the betterment of our society and the world. Your Exceptional Child Center is a model for such enlightened endeavors. And your possession of the Beehive Boot has earned you considerable renown on the sports pages.

I have already spoken this year with the graduates of my own Alma Mater, the University of Michigan, and of Eastern Illinois, Texas A & M, and the Air Force Academy. These are all great schools, and they are all different, just as Utah State is different. Diversity in education is one of the basic strengths of America. One of the differences I sense about Utah State is that here you can still feel the exicting challenge of the American West, the magnificent harmony between God and Man, between Nature and Civilization, which exists amid your rugged mountains and fertile valleys and between your bustling cities and your silent skies.

When I first saw this wonderful part of our country I was about your age. Whenever I return—as often as I can—I am reminded that it was a birthright member of the Eastern Establishment, Horace Greeley, who popularized the phrase "Go West, Young Man." But it was Brigham Young who knew where to stop.

I suppose that is a roundabout way of telling you that you will get a lot of advice about how to run your lives from a lot of well-meaning people, and it is well to listen to it politely and even take some of it so long as you keep your own eyes and ears and minds open and do what you think is right.

As a matter of fact, I have been getting quite a bit of free advice myself lately, so I know how you feel.

The people who offer me advice are mostly my friends, whether we have met formally or not. Some of them whisper to me at receptions, or shout in hotel lobbies. Some write me long, earnest letters or wire or telephone me late at night. Some share their concerns with millions on television or radio or print them in editorials or columns.

Whatever means they use I'm sure they wish me well and I am grateful for their counsels. Nobody in public office can have too many conscientious critics and candid counselors.

After six months in my new job, the kind of advice I get runs along two main lines. First, why don't I stop flying around the country meeting people and making speeches and stay in Washington doing my job? And second, if I must make speeches and permit press questions wherever I go, why do I uphold the President one day and the next day side with the Congress which is deliberating his impeachment?

In short, why don't I sit down and shut up like a good Vice President should.

As I say, I really do appreciate these well-meaning warnings by my friends—I even get them from my family. But I happen to think that what I am doing is my job, that it flows directly from the solemn oath I took to support as well as to defend the Constitution of the United States, and that it is both necessary and right at this time in our nation's history. As for what I say, it is what I believe to be true.

I have always enjoyed and benefited from visiting various parts of this great land of ours and talking with, as well as to, Americans of all kinds and of all shades of opinion. I like to listen to Americans—and would hope to do so in every one of our 50 States. I categorically reject the demand that I listen only to the strident words on the banks of the Potomac. I am not going to barricade myself in Washington just because I suddenly find myself bearing heavier burdens of official duties and potential responsibilities.

On the contrary, I am simply going to work a little harder—a few more hours every day—and do both. I happen to like work, and that is not so unusual as some cynics think. I also like people, and I like to listen to their problems—or I wouldn't have been doing it for 25 years. So I'm going right on meeting my fellow citizens around the country as I have already done in 34 of the 50 States.

It is not so much what I am telling the American people that matters, but what they are telling me. After 13 elections I can modestly claim a fairly good ear for the so-called voice of the people. And what I hear from Hawaii to New Hampshire and from Utah to Georgia and from Michigan to Oklahoma—yes, even in Massachusetts—is a lot different from what I hear in Washington, D.C. And I like it a lot better.

Americans are telling me that ours is a great and good country, but one that can become greater and better if we all work hard at it. Our people are stout of heart and decent in demeanor. Our institutions are strong and sound and they are not crumbling around us—rather they are dealing daily with great firmness of purpose with both domestic and foreign difficulties.

Like our ancestors who crossed unknown oceans and deserts in search of peace and freedom, like your fathers and grandfathers and like some you who recrossed the seas to fight for peace and the freedom of others, we are not today without fears and failures. We have our share of discouragement and tragedy, as have Americans before us.

But we also have faith—faith not only in our religious traditions and the basic moral values common to all of them—but faith also in our Constitution and the unique political and economic system it sustains.

We have faith in a heritage of law and equal justice which holds every person innocent until proven guilty beyond reasonable doubt, but places none above the law. We have faith that determination and shared purpose can unite us as a people more than differences of race, religion, politics or partisanship can ever divide us.

How well our Constitutional system works was demonstrated during the past year when after a saddening series of events I was picked by President Nixon to fill a vacancy in the Vice Presidency under a new, untried procedure. After exhaustive inquiry the Congress, with only a few dissenting votes, confirmed my nomination. At that time I pledged my best efforts to be "a ready conciliator and calm communicator between the White House and Capitol Hill," between the Republican President and the Democratic Congress, in the controversial climate of Washington.

So I ask my friends and counselors, why is it so surprising that I sometimes voice the viewpoint of the Legislative Branch of which I was a part for a quarter-century, and at other times see things much the same way as the Chief Executive who chose me, my friend for the same span of years?

In all those years I have never seen a controversy in which one side was all wrong and the other 100 percent right; nor have I seen a human being who was totally good or altogether bad. Truth is the glue that holds government together, and compromise the oil that makes government go. Our three separate branches of government were designed to check and balance each other's abuses and excesses, but not to produce stalemate and paralysis. So I consider it my duty to try and head off deadlock and seek a reasonable and prompt resolution of the nagging Watergate issue that is sapping the valuable time of our elected leaders and the political strength of our nation.

So long as I have the physical capability and so long as I can contribute to the climate of reason and truth in this country. I will remain my own man and fly my own course and speak my own convictions. Put yourself in my boots—what would you do? I know you would be fair, candid and constructive. That is my objective.

Having confided to you some of the difficulties I have in taking the best-intentioned advice, and having used up most of my time doing it, let me leave you with a final counsel. Nothing that has happened in your college years is more significant than the first steps President Nixon and Secretary Kissinger have made toward a just and durable peace. The shadow of war has hung over each of you since you were born. In my own lifetime—and I don't feel too ancient—more than 600,000 Americans have died in four wars.

The President leaves Monday on a mission of peace to nail down the tremendous accomplishment of his Secretary of State in bringing about a cease-fire in the Middle East. Everybody thought this impossible, just as a few years ago everybody thought it impossible to end the American involvement in Vietnam. Both of these giant steps on the long road to permanent peace make this Commencement Day of yours an extra joyous occasion.

All Americans are proud of the diplomatic skill and success of our great Secretary of State Henry Kissinger but I trust, in all fairness, that we recognize the guiding role of President Nixon. We pray for our President's safety and success in the Middle East and on his forthcoming trip to Moscow. Just as neither Lincoln nor Grant could have won the Civil War without the other, we cannot divide the peacemaking achievements of Richard Nixon and Henry Kissinger that began with the historic initiative to reopen communications with China's mainland.

Building a new structure of peace in this nuclear-armed world on realistic terms is going to be a long and difficult task that will demand the best efforts of your generation, and of mine. But I believe you have the determination, the patience and the understanding to complete the work we have begun. You are starting the greatest of earthly adventures—an adult life in the service of God and your fellow man. May you also know the greatest blessing—a life of peace.

COMMENCEMENT ADDRESS AT COLBY COLLEGE

Mr. NELSON. Mr. President, I commend to my colleagues the reading of the commencement address of the junior Senator from Maine (Mr. HATHAWAY) given at Colby College in Waterville, Maine, on June 2. Also, worthy of attention is the editorial from the Lewiston, Maine, Daily Sun immediately following Mr. Hathaway's speech.

I ask unanimous consent that the address and the editorial be printed in the RECORD.

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

COMMENCEMENT ADDRESS AT COLBY COLLEGE

President Strider, distinguished members of the faculty, guests, members of the graduating class and families: It is a great honor to be invited to speak to you here this morning and a pleasure for me to join with you in the marking of this occasion. I am especially honored by the Degree the College has chosen to bestow on me and appreciate being made a part of the Colby family. I have always felt a special closeness to this place, having attended conventions in your field house and political caucuses in your classrooms as well as having met with students and faculty on numerous non-political occasions. It is always nice to be back among good friends.

When thinking back over the events of the past 18 months since I was sworn in as a member of the Senate, I am constantly reminded of the ancient Chinese curse: "May you live in interesting times." Never in such a short period have so many things happened to generate serious questions about the viability and future of our government system.

Obviously, I refer to Watergate and its many subsidiary issues: the influence of big money on politics, the relationship between government and business; the use of governmental agencies toward political ends, and other facets now under study in the House impeachment inquiry. But Watergate has also obscured other issues which were beginning to surface in early 1973, issues which raise equally serious questions about the functioning of the system.

When I started work in the Senate, the major preoccupation of official Washington was the looming "battle of the budget," which was being billed as a fight to the death between the President and Congress over the fundamental question of who would determine national priorities. This problem had been smoldering for many years, but had usually been resolved through grudging compromise—or occasionally, amicable agreement when Congress and the President found themselves on the same side of the fence. But by resurrecting and inflating beyond all precedent—the doctrine of impoundment, the President in 1973 escalated the confrontation to a much more serious level. The President was saying to the Congress, in effect, "regardless of the fact that you authorize a program, override my veto, and appropriate money for it. I simply won't spend the money if I don't like the program."

Had Congress failed to respond to this challenge, its role in making national policy would surely have been at an end. Fortunately, Congress did respond, and with the help of watergate and the courageous decisions of about 20 Federal Courts, has, for the time being, turned back the challenge.

But the questions raised by these events still persist and are made more pressing by a succession of events that did *not* occur during this period. We have *not* been able to develop and implement an effective—or even coherent—policy with regard to two problems of profound importance to our citizens—inflation and the energy shortage.

Despite demonstrated need and widespread demand, we have *not* been able to move in the areas of health care, tax reform, aid to education, or reform of campaign finances. And, obviously, we have not been able to move swiftly to get to the bottom of Watergate and begin the slow and difficult process of restoring public confidence in the institutions of government.

What are the problems of our government which the events—and non-events—of the past year have so dramatically pointed up?

First, and I believe of utmost importance, what we have seen are the fruits of hopelessly fragmented authority. Without clear lines of responsibility and authority, the government is precluded from acting as a unit, in all but the most unusual circumstances. Instead of coherent national policy in the face of serious national needs, we get, at best, policy strongly influenced by special interests, regional interests and a non-productive rivalry between the executive and legislative branches. At worst, of course, we get no policy at all.

I should point out in this regard that the problem does not simply involve two or three

branches of government. Rather, it involves institutions which over the last fifty years have developed into sub-governments unto themselves.

There is, of course, the Supreme Court which through the unique doctrine of judicial review has established itself as the arbiter of the system as well as a maker of policy in many significant areas of our national life. Then comes the Congress, whose rigid committee structure, rules of seniority and close ties with parochial interests, produce a system of feudal baronies which can act with unity and dispatch only in the most unusual of circumstances and even then only when near unanimity exists on the course to be followed. The Executive, in turn, constitutes at least three governments: the White House, the cabinet departments—which take on a life of their own through the professional bureaucracy, and the ubiquitous Office of Management and Budget.

This latter, I should note, the now famous OMB, comes the closest to being the actual source of Federal policy of any of the branches I have mentioned. And ironically, it is the least known to the public as well as being the least responsible and accountable to anyone. It is truly a tail which wags the dog.

Finally, there are the so-called independent agencies—the Civil Aeronautics Board, the Interstate Commerce Commission, the Federal Trade Commission, and others, which are not really independent—they read the election results like everyone else—but are not really accountable to the public, either.

A second problem, and one related to this bewildering multiplicity of responsibility, is a lack of accountability for what decisions *are* made.

If responsibility is unclear, then holding someone to account when things don't work is almost impossible. No wonder the voters are frustrated and becoming alienated: they elect new candidates in an effort to "throw the rascals out" but nothing much changes and things continue to go down hill. Meanwhile, Congress, the President and the heads of the various agencies spend much of their time blaming each other for what is actually a collective failure. Of course, compounding the difficulty of determining responsibility are the widespread practices of official secrecy, and the invocation of the doctrines of "national security" or our old favorite, "executive privilege."

But there are similar problems beyond these well-publicized and high level efforts to frustrate accountability. I refer, to the difficulty an ordinary citizen has in finding out exactly who has the power to make a specific decision affecting his life and then in finding out what the basis was for the decision in question. This problem is rarely the result of anything so majestic as "executive privilege", but is usually simply a case of bureaucratic fuzziness. You would be amazed at the time and effort expended by my office—and the offices of all of my colleagues—on simply tracking down the elusive bureaucratic responsibility. Perhaps this is just a function of human nature and the nature of any large organization, but I am convinced that increased accountability at the top, with cabinet members responsible to someone beside just the President, would have a positive influence all the way down.

I should conclude my comments on these problems with the observation that they are not entirely the making of one Richard M. Nixon. They stem, instead, from evolutionary changes which have taken place in our government in response to the pressures and needs of 20th Century life in a country of over 200 million people. Even those most critical of the present administration concede that its actions are consistent with a pattern which has been developing since the turn of the century.

And it is this pattern, these fundamental changes in the way our government actually works, that should concern us, not just the actions of a particular President. Indeed, by pushing the authority of the executive beyond its tolerable limits, the President may have inadvertantly rendered his most significant service to the country. As one commentator put it, "he finally inflated the authority of the Presidency until it burst," thereby liberating us from an unhealthy dependance on executive leadership.

The problems I have mentioned are serious ones which will not be solved by the simple expedient of removing the President (or the present members of Congress). Thus, the question of necessary changes in the present structure must be faced. And when such change is contemplated, a basic decision is in order on whether to tinker with existing institutions or make more radical alterations in institutional relationships themselves.

While I feel that short-term improvements are certainly in order, I believe it is also time to begin a public re-examination of some of the premises upon which our system is based, with an eye toward more far reaching change.

In the short-run, measures are already being taken to remedy some of the more obvious deficiencies. Congress has enacted, over the President's veto, a clear definition of the power of the executive to embroil this nation in war. Legislation has passed the Senate and is pending in the House which would define and narrow the scope of executive privilege. The Freedom of Information Act, which was strengthened by the Senate just this week, is beginning to open the closed files of the bureaucracy. Through the combined action of Congress and the courts, the practice of impoundment has been severely curtailed.

Other moves in this direction are contemplated, but have not yet been acted upon. Among these is a limitation on the size of the White House staff, the creation of a Congressional equivalent of the O.M.B., and increased Congressional attention to its oversight function—that is, seeing how the agencies are actually carrying out their legislative mandate. On the point of the size of the White House staff, it is interesting to note that Franklin Roosevelt managed the New Deal and World War II with a personal staff of 11, compared with the five or six hundred we have today. It doesn't take a Ph.D. in public administration to realize that that many people are going to find themselves something to do—and when they do, what ever it is will suck authority out of the cabinet departments and the Congress and further muddy the prescribed lines of authority.

Finally, it is clear that before Watergate is all over, the Courts also will be involved in defining and narrowing the prerogatives of the executive.

But in spite of all this movement, I feel it is not enough. The frightening aspect of all we have seen over the past year is not what happened but that they almost got away with it. Many have commented on the ineptitude of the administration in perpetrating its misdeeds and then trying to cover them up. But what if they had not been so inept? What if they had been competent? What was attempted was nothing less than a systematic take-over of the entire United States Government by a small group of men, and it might have been successful except for an alert night watchman, two persistent reporters and a determined Federal judge. That such an event could happen and, at the same time, that the government could fail to deal with problems such as inflation, makes me think that something more than definitions of executive privilege is in order.

I start with the premise that the demands and needs of a modren technological state can only be met by a "positive government"—one that can formulate coherent policy in a reasonable amount of time and act decisively. My second premise is that such a government should be responsive to the wishes of the people and accountable in a direct, practical way for its actions. It seems to me that the current situation raises doubts about the ability of our present system to satisfy adequately either of these goals. And it is for this reason that I think we should give serious consideration to moving toward a system more parliamentary in form.

What we are getting now is an attempt at positive government through a vehicle expressly designed to thwart such a development. And the result is the worst of all worlds—a kind of stumbling, patchwork autocracy. What the framers of the Constitution had in mind was the antithesis of positive government: As Jefferson put it, "That government governs best which governs least" and they designed a structure whose express purpose was to insure the fulfillment of this goal. Thus, the division of power and responsibility, the checks and balances, the invitation to interest group politics all contributed to the creation of an institution whose natural state was inaction and which could move positively only under circumstances of national emergency.

It can be argued that the framers were right in 1787, or even in 1850. But the changes in society in the last hundred years have made this argument moot. The question is no longer whether we (or any other developed country) will have an active or status quo government, but, rather, how our active government will be structured. When viewed in this way, and with the realization that we seem to be moving perilously close to a kind of 8 year monarchy, suggesting serious consideration of the parliamentary approach seems a little less radical.

Under this system, the chief executive and the members of his cabinet are also members of the legislature and derive their authority from the legislative majority. The members of the legislature are elected by the people, of course, on their own merits, but also on the basis of their public support for an identifiable government program. If the program proves unsatisfactory to the people, a new government can be elected with some assurance that a new approach will ensue. By unifying the executive and legislative functions in this way, the recurring paralysis to which our system is so subject can be eliminated, while actually increasing the accountability of the government to the people. And this higher level of accountability would inevitably filter down, even into the ever-present bureaucracy.

Richard Goodwin, one of the most thoughtful commentators on the modern scene summed it up in the single phrase: "structure is policy". In the present case, this means that a fragmented, cumbersome system is going to produce, if anything, fragmented policy. I believe that the challenge is for us to come to grips with this fact and to begin to design governmental structures which will allow positive action while retaining democratic control and a protection of minority interests. Government, inevitably, will be involved in all of our lives; the choice left to us, then, is between acquiescence in the development of an "imperial presidency" or the creation of more humane and responsive institutions.

But all this discussion about forms and structures is worthless unless the people involve themselves in the process with vigor and imagination. I think that you will find that to do so will be important to you personally as well as important to us as a nation. For it is only through active participation in all aspects of life—not the least of which is our continuing effort to discover the secret of self-government—that you will find a

true sense of satisfaction. I am convinced that part of the key to happiness lies in being active in pursuit of our goals—and thereby risking failure—rather than passively accepting what appears to be our lot.

In the last analysis, there is very little satisfaction in a "safe" life, a life free of failure which is also, inevitably free of real achievement. By continually playing it safe, we doom ourselves to mediocrity and to an old age filled with thoughts of what might have been.

President Teddy Roosevelt was a man identified with the life of participation; he once explained it in this way:

"The credit belongs to the man who is actually in the arena—whose face is marred by dust and sweat and blood . . . who knows the great enthusiams, the great devotions—and spends himself in a worthy cause—who at best if he wins knows the thrills of high achievement—and if he fails, at least fails while daring greatly . . . his place shall never be with those cold and timid souls who know neither victory nor defeat."

But simple involvement is not enough: the quality of your participation is equally important. For in a democratic society, we only get the kind of government we deserve; a perfect structure can become an engine of evil if its control is in the wrong hands. And it is easy to be misled in the realm of politics—to be pushed into choices of emotion rather than reason, prejudice rather than concern. There will always be those prepared to turn whatever institutions we create to their own ends; it is our responsibility to keep this from happening.

Of course, these decisions must be our own, on one can prescribe the answers for his fellows. I believe with Thoreau that each should be allowed to "step to the music which he hears, however measured or far away" and not be compelled to march to the drum of his companions. As long as the goal is a society of justice achieved in an atmosphere of respect for our fellow man, there is plenty of room for differences on the course that should be followed.

Making decisions and taking action on the basis of principle is not easy; it can often affect our material, social or political standing. And, even then, our efforts can seem small or futile. But the fundamental tone of the nation's life is set by the aggregate of these individual moral decisions. In the end, each of us does have an influence.

Shortly before he died, Bob Kennedy said something along these lines to a group such as yourselves; his words offer us a fitting conclusion:

"Each time a man stands for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope. And crossing each other from a million different centers of energy and daring, those ripples build a current that can sweep down the mightest walls of oppression and resistance.

Few are willing to brave the disapproval of their fellows, the censure of their colleagues, the wrath of their society. Moral courage is a rarer commodity than bravery in battle or great intelligence. Yet it is the one essential vital quality for those who seek to change a world that yields most painfully to change.

And I believe that in this generation those with the courage to enter the moral conflict will find themselves with companions in every corner of the globe."

[From the Lewiston (Me.) Daily Sun, June 6, 1974]

PARLIAMENTARY GOVERNMENT

The recommendation by our junior United States senator, William D. Hathaway, that serious consideration should be given to adopting a parliamentary form of government is meritorious. The fact that the proposal comes from a member of the Senate, who has had experience as a member of the House, makes it even more worthy.

In a commencement address at Colby College, Sen. Hathaway said that the current situation in Washington raises doubts about our system's ability to satisfy the goal of a positive, responsive and accountable government. It is for that reason, he added, that he feels the parliamentary form of government should be considered.

The system which has been in effect in this country since the Constitution was adopted has led to "hopelessly fragmented authority," he contended, pointing out that the parliamentary form of government could reverse the "50 year pattern of concentrated authority in the presidency."

Under a parliamentary form of government the legislative and executive branches would be under the control of the same political party. Moreover, if the government could not command a vote of confidence in Congress, it would mean new elections.

One of the basic weaknesses of our current form of government is that it allows one party to control one or both houses of Congress, while the other major political party controls the presidency. The net result is confrontation followed by frustrating delay or inaction.

The principal weakness of the parliamentary system, in other countries, has been the development of splinter parties. France has suffered the most from that malady. It may be possible, however, to adopt a parliamentary system which would preserve the benefits of the two party system.

If ever the American people needed persuasive evidence, it is to be found in the Watergate Affair, which has all but stalled the federal government, and the experience in Israel, France, Britain and West Germany, where crises of equal proportions, although not necessarily of the same nature, have been dealt with effectively.

Instead of more than a year of agonizing and divisive turmoil, such as has gone on in Washington and America, there were orderly and prompt transitions in the governments of the countries named. The vacancies created by resignations, loss of confidence in parliament, or, in the case of France, death, did not put the government and the people on the rack of doubt and disenchantment.

The need for changes in our federal government never has been more pressing nor more evident. Public antagonism to current office holders obscures the fact that it is the system which has allowed the bad apples to contaminate the barrel. Sorting out the bad ones is not enough. There must be a new system if the barrel is to be kept clean.

Sen. Hathaway's proposal should awaken some soul searching in Washington and even more so among the American people. The change would not come easily, but it could mean the salvation of a free United States.

THE STRENGTH AND VITALITY OF THE FREE ENTERPRISE SYSTEM

Mr. BROCK. Mr. President, today I would like to share with my colleagues two letters I have received on the energy crisis.

The first, written by Mr. Andrew Hines the president of the Florida Power Corp., describes the effects that the energy crisis has had on the Florida Power Corp., and its customers. The second, from Mr. Harry Daugherty, president of General Oils of Chattanooga, Tenn., details the problems that the small businessman in the oil industry has faced in dealing with the Federal bureaucracy.

Mr. President, taken together these two letters show the strength and vitality of the free enterprise system and its ability to respond to all kinds of demands. They also show the folly of governmental controls on the economy.

Mr. President, I ask unanimous consent that these two letters be printed in the RECORD.

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

GENERAL OILS INC.,
Chattanooga, Tenn., April 29, 1974.

Hon. BILL BROCK,
U.S. Senate,
Washington, D.C.

DEAR BILL: The time has come when we feel that our representatives in Congress make a concerted effort to get the Federal Government out of not only the oil business, but all businesses.

We have encountered, over the past several months, most trying times, in attempting to deal with the various regulations, and attempting to be in compliance, when from day to day, the regulations would change.

We, as a small oil distributor, are under the same rules and guidelines as the large major oil companies. We are subject to the same audits by the Internal Revenue, except that it is considerably easier to audit a small company, such as ours, than it would be to audit say, Exxon, or Shell, or Texaco, or Gulf. We find it a continual hassle in attempting to just keep up with the various and sundry regulations, whether it be Coast Guard regulations or pollution control, or the Environmental Protection Agency, or OSHA, or the wage and hour law, or you name it.

The small business man is going to find himself out of business, simply because he cannot keep up with the various bureaucracies and their changing moods and regulations.

Under the present regulations, within the oil industry, which I understand are to remain in effect through at least February, 1975, we are told, who we can sell to, how much we can sell, to that particular customer, and what price we can charge; nor, are we allowed to take on any additional business, even though we are in a position to supply the product, without prior approval of the Federal Energy Office. This leaves us nothing to do but keep records for the government.

We find ourselves, as a small business, with the largest inventory of petroleum products that we have ever had in our life, but we are afraid to make a move in one direction or the other, since we are not sure we are in compliance, as the rules are so ambiguous and difficult to understand. We cannot afford to have an attorney and an accountant on either side of us each day, as we make these decisions.

Maybe it's the little things that bug you most, but we have a regulation whereby we are to report our inventory to the Federal Energy Office, weekly. This regulation was unknown to us until possibly two months ago, at which time we were advised that we were to report our inventory to the Federal Energy Office in Atlanta, which we did concientiously and regularly. We were then advised, possibly a month later, that this was wrong, that we were supposed to report our inventory to the Federal Energy Office in Washington, D.C. We began doing this by simply mailing them a copy of our inventory, each Friday morning, so that they would have it on Monday morning, as was their request. We were then called by the Federal Energy Office in Washington, and advised that this must be done by Mailgram, and for the last three weeks, we have done it by Mailgram; however, each time, we get a call from Washington, telling us they received it by telegram instead of Mailgram, which was improper. This, of course, we cannot under-

stand, since we have actual copies of the Mailgrams.

In the last instance, this past week, a lady called and wouldn't believe us when we told her we had actually sent it by Mailgram. We mentioned the fact to her that reporting our inventory as such, was costing us $10 a week, by mailgram, which comes to over $500 a year. She said, "Well, would you prefer to spend $10 a week, or be fined $5,000 a week for not complying?" Naturally, we would prefer to spend the $10, but we don't feel that it is right that we should have to spend any amount of money to report our inventory to the Federal Government. We are not Exxon or Texaco, with their profits.

We also must call the Coast Guard, long distance, 24 hours in advance of transferring fuel from barges to our shore facilities. If we do not do this, we are also subject to a fine. Since the barges do not operate on a time-table, such as buses or airplanes, but are many times fog bound, or lock bound, for days, we find ourselves reporting daily to the U.S. Coast Guard. The whole thing has become rediculous.

For the past three weeks, or more, we have had two to three representatives of the Internal Revenue, checking our prices, to see if we were in compliance. None of these people had any idea as to how the oil business is run, or any knowledge as to the oil industry and it's complicated method of operation. We, as honest business people, who have been in business for over 50 years, attempted to understand and read all of the various and sundry regulations and remain in compliance.

They now tell us that part of the inventory we had was illegally acquired, which is of course an absurdity; consequently, by throwing out this particular quantity of inventory, they contend that we were not in compliance. We, of course, are not going to sit back and take this, because we feel that we have made an honest effort to do the right thing; however, it is going to be a continuous battle of harassment, and it certainly doesn't help your ulcers or your heart condition. It is difficult enough to run a business, with the everyday problems that you have with personnel, equipment, etc., without having to be constantly concerned with some arm of the Federal Government checking your every move.

The thing that concerns us most is the fact that America, as it has developed over the years, is fast approaching Socialism, whereby the Federal Government dictates and runs the affairs of most all Americans. The free enterprise system, competition, supply and demand, and the incentive to make a profit, have been really the success of this country.

What we are trying to say is, please, do whatever you can to get the Federal Government out of business. We don't need anymore Federal Energy Laws, and we would like to see controls removed from the oil industry, at the earliest possible date. We feel that if we had the money and the time, and wanted to exert the effort, we could bring about a lawsuit, contending that most of the present regulations were unconstitutional, particularly, since all industry, with less than 60 employees, have been out from under strict controls for sometime. All except the oil industry. In other words, the fellow who runs the service station and has one or two employees is under the same rules and regulations as the large integrated oil companies who have thousands of employees. If, at least, controls were removed from those of us in the oil industry with 60 or less employees, as they have been for sometime in all other industries, then the small businesman, such as ourself, could operate with some degree of efficiency.

We have had three or four people, in our office, for the past several months, spending all of their time making up reports, filling out forms, in an attempt to stay in compliance with the Federal Energy Office's maize of ambiguous regulations.

The time is fast approaching when the American people are going to rebel and will not care who runs our government, when election time comes, as long as those in office are no longer there, regardless of whether they have done a conscientious job or not. This, we would hate to see come about, since you have done a commendable job, to our way of thinking, since you have been in office.

We could go on and on, relating various experiences and incidents, where we have contacted the Federal Energy Office, sent them forms, written them letters, only to be ignored. Plus the fact that they didn't know what they were doing and couldn't give you an answer, and if they did give you an answer, the rules of the game were changed with the next publication of the Federal Register. Really and truly the only thing that saved our nation from a severe shortage, this past winter, was the conscientious conservation by the American public, and Mother Nature, who had a hand in it with a mild winter. We, in the oil business, are unable to make any accurate projections, because we never know when natural gas will be curtailed, and we are indeed sorry that the Federal Government has designated this as the Federal Energy Office, since it should be the Federal Petroleum Office, and Mr. Simon was not Czar of the energy problem, but Czar of the petroleum industry. If controls are going to be placed on one type of energy, they should be placed on all types of energy, whether it be electricity, gas, oil, or coal.

We find ourselves with a poor image, within the oil industry, trying to compete with the gas and electric utilities. We hear daily about an oil shortage, but actually it's a natural gas shortage. We find the utilities giving lip service to conservation of energy, while out promoting the additional use of natural gas or electricity, particularly where the revenue is the highest, in the home or small commercial user, and in turn, curtailing that shrinking supply of natural gas to the interruptible users, putting a greater load on the oil industry to take up the slack; consequently, causing what has been termed an oil shortage.

Our representatives need to remove controls from the natural gas industry, then you would see prices rise, and additional gas become available, and then let competition determine who gets the business, not the Federal Government.

Your very truly,

GENERAL OILS, INC.,
HARRY M. DAUGHERTY, Jr.,
President.

FLORIDA POWER CORP.,
St. Petersburg, Fla., March 15, 1974.

Mr. HARRISON FOX,
First Federal Savings & Loan,
St. Petersburg, Fla.

DEAR MR. FOX: The energy crisis has become a pressing concern for every one of us today. While capturing public attention, this issue has become extremely confusing due to conflicting reports and statements made by many well-known people. In order to clarify the energy crisis, as it affects Florida Power Corporation and our consumers, I have taken this means of sending some important facts to you and other community leaders. After you have digested these facts, I hope you will respond to my request for action at the end of this letter.

For the sake of clarity, I have broken the subject down into several categories:

OIL FOR ELECTRIC POWER PLANTS

Florida Power Corporation used an average of 45,000 barrels of oil per day to produce electricity in 1973. This oil is primarily a type known as residual or Bunker "C". The Company purchases residual oil from Exxon and Amerada Hess, two of the major American petroleum companies.

OIL PRICES

During 1972, the Company paid a contract price of $1.68 per barrel for residual oil. In late 1972, the world market began to reflect the coming fuel shortage and the market was averaging approximately $2.50 per barrel at the time our contract expired at the end of 1972. New contracts with the above suppliers provide for a firm supply of residual oil, but no oil company would contract for oil at a fixed price; rather, the oil companies would only agree to supply oil at a price that was to be determined for each shipment, based upon market conditions. Thus, in January of 1973, we had an immediate increase of almost $1.00 per barrel, and the price has been increasing monthly since that time. Our most recent cost of residual oil is $9.41 per barrel. Further increases may occur; however, we are somewhat encouraged by the recent announcement of the possible lifting of the oil embargo by Arab countries and the fact that we have not been notified of an increase so far this month.

These increases are the result of taxes and royalties levied by foreign governments who have taken advantage of the world-wide oil shortage. It is a small consolation, but the price that Florida Power Corporation pays for residual oil is one of the lower prices paid by the Nation's electric utilities. Many utilities have been paying between $12 and $24 per barrel for residual fuel oil. If we can locate a supply of residual oil at a more favorable price, the terms of our contracts permit us to puchase such oil. Unfortunately, the hard fact of the matter is that we simply can't find any, except for a small quantity in domestic refineries, which is kept by those refineries for their own use.

OIL AND THE ADJUSTMENT CLAUSE

Florida Power relies on oil to generate 85% of its electricity. The price of oil has increased tremendously and, therefore, a substantial increase in electric bills has to follow. This has been happening. Basic electric rates have remained virtually constant throughout this situation. We have recovered the increased costs of fuel through a provision approved many years ago by the regulatory agencies and the courts. This is known as the fuel adjustment clause. Our rates have included this clause for over twenty years. Basically, this allows increases as well as decreases in the cost of fuel to be applied to the consumer's monthly bill. Consequently, increases in residual oil prices will result in increases in the consumer's bill. As a consumer, I don't like to see this any more than you do.

COMPARATIVE ELECTRIC BILLS

You might ask—if Florida Power Corporation has one of the better oil prices in the Country, why are their rates so high? First, you must understand that the rates of all electric utilities have increased and will continue to increase. Our rates are not out of line with other utilities. For example, 1,000 kilowatt hours for the month of March would cost you these amounts if you were a customer of the following companies: Tampa Electric Company—$26.45; Florida Power & Light Company—$27.01; and Florida Power Corporation—$27.27. I do not consider this differential out of line. Secondly, even though we are paying less per barrel for oil than most companies, we are almost completely dependent upon oil at the present time. Therefore, our rates are more sensitive to oil-price increases. Tampa Electric Company uses coal almost exclusively and Florida Power & Light Company has two nuclear generating units.

I want you to know that the stockholders of Florida Power Corporation receive no economic benefit from the increased bills resulting from higher residual oil costs. As a matter of fact, because of the way in which the fuel

adjustment clause is applied, last year the Company's stockholders suffered a severe financial loss from operation of the fuel clause. This has been reflected in a drastic drop in the price of the Company's stock, which is now selling below book value.

OIL AND THE FEDERAL ENERGY OFFICE

While our price of residual oil has been subject to market conditions, we considered our supply firm. However, the mandatory fuel allocation program of FEO which went into effect the first of this year has resulted in monthly allocations below our projected needs. Since there is a severe national deficit of residual oil, the FEO has found it necessary to allocate lesser quantities than the projected needs for most companies, requiring them to reduce their inventories to meet consumer demands. Electric utilities have traditionally carried thirty to forty days' supply of oil in inventory. These inventories assure continuous electric service. They are especially important for Florida companies, where hurricanes might interrupt shipments or unseasonable demands cause heavy oil usage. In February, the FEO directed our suppliers to deliver only 62% of our projected need. We filed strong objections with the FEO and advised them that this condition was threatening the electric supply of Florida. We also advised that, if the lights went out in Florida, waiting in line for gasoline would seem very unimportant. Our March allocation, just received, is much more in line with our projected need. We hope that this is indicative of an improvement in the supply problem.

WHY NOT CONVERT TO COAL OR NUCLEAR

We plan to convert two of our residual oil-fired units at Crystal River to coal as soon as a reliable supply can be found and the necessary plant changes can be made. These are the two largest generators on our system at the present time. These units were originally built to burn coal, and did for several years. We utilized a low-cost, high-sulphur coal. Our experience resulted in a considerable amount of down-time on the units to remove slag from the boilers, which was detrimental to our system reliability. We then converted one unit to oil in 1969. In view of changing environmental standards and high maintenance costs, we decided to convert the second unit in 1971. There was no feasible way for us to meet the Environmental Protection Agency standards at Crystal River burning high-sulphur coal.

All of this, of course, transpired prior to the oil shortage. While some environmental standards involving the burning of coal have been suspended during the current oil shortage, we know these suspensions to be temporary. Unfortunately, a supply of low-sulphur coal is almost non-existent at the present time. Most coal companies, in fact, are very reluctant to invest large sums of capital to reopen mines or to establish new mines. Their obvious fear is that an easing of the oil shortage will renew strong, active environmental standards and again place coal in a secondary role. Their reluctance is certainly understandable. When we convert back to coal, we will have to do so in a manner which will let us meet the EPA standards, for they are certain to be reinstated.

Early next year, we will begin operation of our first nuclear unit at Crystal River. This will help ease our heavy reliance on oil, since it will provide generating capacity almost equal the generating capability of the two units now existing at Crystal River. This nuclear unit is almost three years late. This has generally been the experience throughout the United States in constructing facilities of this type. The normal complexities of massive construction in a new technology have been intensified by the regulations and procedures of the Atomic Energy Commission. No one can contest the intent, but the implementation makes engineering and construction a tangled process.

You should know that the requirements of the Environmental Protection Agency and the Florida Department of Pollution Control are continuing to impose unreasonable and costly burdens upon the Company. We have under construction at our Anclote Plant in Pasco County two 515,000 KW generators, the first of which is scheduled for service this summer and the second to follow in 1975. They were designed and are being constructed within the terms of the permits we obtained from the agencies through normal procedures in 1971 and 1972. In November of last year, the Environmental Protection Agency advised us that we would have to install cooling towers for off-stream cooling. We can find no scientific, biological or engineering foundation for this decision. It completely ignores the benefit cost analysis principles envisioned by Congress when they enacted legislation creating the Environmental Protection Agency. If EPA is successful in this matter, the Company will be required to invest approximately 15 million dollars for unproven, salt water cooling towers.

The fixed charges and operating costs on these cooling towers will amount to approximately 3 million dollars a year, which the consumer must pay for no additional service. In addition, approximately 100,000 barrels of oil each year will be required to produce electricity just to drive the auxiliary equipment associated with these cooling towers and overcome the poorer efficiency of the plant. We consider this the heavy hand of Government not serving the public interest. We will vigorously oppose this action and you may receive a plea from us later to express yourself in this matter.

COMPANY SEEKING RATE RELIEF

As I have stated earlier, dollars generated through the fuel adjustment clause do not in any way benefit the Company's net income.

We filed a rate case in mid 1971, upon which the Florida Public Service Commission issued an order in December of 1972, granting us approximately 10% of what we requested. This was totally inadequate and it has contributed to our earnings decline. We are currently asking the Commission for approximately a 12.3 million dollar increase in base rates, which will permit us to earn the rate of return which they approved in 1972. We plan a further request later in the year. The proposed increase amounts to a little less than a 6% across-the-board increase to all customers in our base rates, or about $1.24 in the base rates of a customer using 1,000 kilowatthours. Without this relief, our ability to finance our construction program this year is seriously threatened. We must maintain high quality service. When you consider the huge sums going directly to foreign nations, our requested increase is a small sum that *will* benefit the consumer. You may well have heard of opposition developing to this increase. Any citizen is free to oppose a utility rate increase, one of the few areas of the economy where he is permitted to be directly involved. In my judgment, this opposition is based on a lack of understanding of the basic issues.

WHAT CAN YOU DO TO HELP?

The first thing you can do is continue your fine effort towards energy conservation. We have asked your effort in this regard and the results have been outstanding. For the months of February and March, the actual fuel clause factor on your bill has been considerably less than projected and directly related to your conservation efforts. By that I mean, your efforts at conservation have permitted us to minimize the use of our peaking generation. These units use home heating-type oil, which is considerably more expensive than the residual oil.

The solution to high fuel prices lies in some firm leadership on the part of our Federal Government. The Federal Government has made *no known efforts* to persuade opportunistic foreign governments to lower their unconscionable taxes and royalties on oil. Therefore, I am asking you to join in a concerted telegram and letterwriting campaign addressed to President Nixon and Secretary of State Kissinger urging both of them to direct their energies toward lowering these foreign taxes and royalties. It is my opinion that this Nation has maintained an international policy of economic assistance and fairness to foreign countries for many years and we are continuing to do this at the same time that they are imposing heavy and unfair burdens on us. Our economy, which is already in serious difficulty, cannot stand continued stress from this type of action on the part of foreign governments. While we may never go back to the oil prices of early 1973, we certainly should have susbtantially lower prices than those now prevailing. I would sincerely appreciate any assistance you can render in this regard by way of public reaction.

I appreciate your indulgence and patience in reading through this lengthy letter. It is a complex matter and I simply had many things which needed to be said and I wanted people of your stature to hear them. I am ready to discuss this matter with you at any time, to any extent, and would welcome your reaction to my request.

Sincerely yours,

FLORIDA POWER CORP.,
ANDREW H. HINES, Jr.,
President.

FOLLY OF "CONVERGENCE" NOTION

Mr. THURMOND. Mr. President, an editorial entitled, "Folly of 'Convergence' Notion" by Anthony Harrigan appeared in the May 30 issue of the Aiken Standard newspaper, Aiken, S.C. The author correctly points out in his editorial that convergence, when considered in the context of the Soviet and American systems, is not a historical inevitability.

Apparently a number of so-called thinkers in our society are promoting the belief that great historical forces will eventually bring the United States and Soviet systems reasonably close together.

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD at the conclusion of my remarks.

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

FOLLY OF "CONVERGENCE" NOTION

(By Anthony Harrigan)

For more than a decade, it has been fashionable in liberal intellectual circles to say that the Soviet and American systems are converging. The notion behind this is that Americans are adopting more collectivist policies while the Soviets are edging towards freedom.

Unquestionably, our free market system is being eroded as Congress institutes more controls leading to an authoritarian economy. But it is absurd to say that there are any signs of emerging freedom inside the Soviet Union. The recent case of Alexander Solzhenitzen, the Soviet writer banished to Western Europe, illustrates again that tyranny is the fixed character of the Soviet system.

Nevertheless, there are those who continue to insist that the USSR is mellowing and thus on the path of convergence. Those who persist in describing Soviet realities as rosy would do well to note the remarks of Suzanne Labin, the brilliant French writer, at the

recent World Anti-Communist League Conference in Washington.

Miss Labin is a distinguished author and social analyst who helped draft the French Consitution and whose writings have been published in the U.S. since the early 1960's. In a superbly witty address, Miss Labin exposed the rationale for "convergence" as an intellectual sham. She pointed out that the prophets of convergence pass over the question of what form "convergence" would take.

"If we had to figure out a regime located truly halfway between our democracy and their communism," she said, "then we ought to imagine—that they reduce their concentration camps to a half, while we build the same number; that they tear down their Iron Curtains along one half of their borders, while we erect an Iron Curtain long half of our own borders; that they suppress their rationing cards for bread, and we introduce them for cars; that dissenting writers will be confined no more in lunatic asylums, but, on both sides, in nice farms for nervous people, etc.

"In one sector, I must confess, a true midway convergence would be advantageous for the free world. The Soviets and Red Chinese maintain 600,000 professional revolutionaries in our world, while we have none in theirs. It would be a good bargain for us, to have them reduce to 300,000 the number of their activists spreading Leninism on our side and to have us maintaining 300,000 activists to spread Goldwaterism on their side. Unfortunately, the convergence in political warfare is one that our leftists never mention."

This exercise in gallic wit illustrates the folly of the "convergence" notion. The free and unfree worlds cannot converge except at the cost of freedom. We need to remind ourselves of that truth when the apologists for communism seek to give it an acceptable image in the West.

For their part, the Soviets won't accept convergence, though their rigidly controlled economy is a failure. The mistakes made by Soviet economic planners should cause them to turn to capitalist economics, but ideology prevents any such turning. Ironically, as Miss Labin pointed out in her Washington talk, "no economic failure is invoked to explain the trend in the free world towards more state controls." This trend results only from the pressure of the left ideologues in Western societies.

Therefore, as Miss Labin rightly explained it, "convergence is not an historical inevitability; it is only the secret dream of our leftist intellingentsia."

THE NATIONAL BROTHERHOOD AWARD

Mr. HUMPHREY. Mr. President, on the occasion of the 18th annual brotherhood banquet of the Minnesota-Dakotas Region of the National Conference of Christians and Jews, a prominent and very respected citizen of Minneapolis, Minn., Mr. Cecil E. Newman, was honored by being designated the recipient of the National Brotherhood Award.

The guest speaker for the occasion was the Reverend Father Colman J. Barry, O.S.B., who served as president of St. John's University, Collegeville, Minn., from 1964 to 1971, and is now dean of religious studies at the Catholic University of America, Washington, D.C.

Born in Lake City, Minn., Father Barry graduated from St. John's University and received his M.A. and Ph. D. from the Catholic University of America. He became a faculty member of St. John's University in 1953.

Long interested in ecumenical developments, he was instrumental in establishing the Jay Phillips Chair of Jewish Studies at St. John's University. This was a great assist in bettering interreligious understanding in our State.

Father Barry has received honorary doctorates from Gustavus Adolphus College, St. Martin's College, University of Portland, and Belmont College. Just a few days before addressing this banquet, he was honored by St. Olaf's College, Northfield, Minn., where he was the first Catholic to give the commencement address at this prestigious college of Lutheran sponsorship and heritage.

The chairman of the evening's proceedings and the banquet committee was Mr. Bruce G. Schwartz, president of Northwestern Bell Telephone Co. Community leaders covering the upper Midwest were present at this gathering. It was the largest dinner ever to be held in the Minnesota-Dakotas region under the auspices of the National Conference of Christians and Jews.

The recipient of the National Brotherhood Award, as I have indicated, was Mr. Cecil E. Newman. It was my privilege to present the award to him. He has been a long-time personal friend and one who has helped and inspired me throughout the years.

I ask unanimous consent that a copy of my remarks of introduction and certain biographical data on Cecil Earl Newman be printed in the RECORD.

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

ADDRESS OF SENATOR HUBERT H. HUMPHREY

It is an understatement to say that it warms my heart to be able to present the National Brotherhood Award of the National Conference of Christians and Jews to a brother in the struggle for human rights, Cecil Earl Newman.

Cecil Newman's role as editor, publisher, businessman, and community leader in Minneapolis-St. Paul and Minnesota has been a constant source of inspiration to me and to countless other citizens, community leaders, and government officials.

Cecil Newman is my very close personal friend so I must admit that I am very biased in my opinion of him, but my bias is obviously the general feeling of this group and those who know Cecil Newman's work in our community and State.

Cecil Newman has been a stalwart and brave figure in the struggle for authentic equality in American life.

Cecil Newman gave this community a new meaning for "equality."

Equality is the greatest of all doctrines but it is the most difficult to understand. Cecil Newman has helped Minneapolis and Minnesota understand the meaning of equal rights, of equal opportunity, of equal justice.

As editor and publisher of the Minneapolis Spokesman and the St. Paul Recorder since 1934, Cecil Newman has reminded this community that we are all one and that in order to survive we must trust one another.

Cecil has been a constant reminder of the meaning of equality in the terms of William Saroyan:

"Be the inferior of no man, nor of any man be the superior. Remember that every man is a variation of yourself. No man's guilt is not yours, nor is any man's innocence a thing apart."

Cecil Newman is a builder of understanding in our community.

For five decades he has written of equal opportunity, human dignity, and mutual respect and he has helped us all to understand in our hearts and spirits what is meant by equal rights and equal justice.

Cecil has built understanding between blacks and whites in Minneapolis-St. Paul and our state by always speaking firmly and responsibly through five very dramatic decades of the human rights struggle.

Cecil has not only written about human rights but has been an active force in the struggle for human dignity.

He has openly attacked the unjust and the powerful through his papers, in the courts, through boycotts, through political action and he has won.

Cecil Newman's role has not only been one of editor and newspaperman but one of educator and political activist.

He has been successful in quiet and undramatic ways from his early days in Minneapolis, but Cecil is not one to boast of his accomplishments.

As is said in the Midrash (Genesis Rabbah 16:3):

They say to Fruit Bearing trees, "Why do you not make any noise?" And the trees reply, "Our fruits are sufficient advertisement."

We need to make some noise for Cecil tonight.

All of us in Minneapolis and Minnesota know Cecil's fine virtues and his great accomplishments and tonight we honor him.

CECIL EARL NEWMAN

Born: Kansas City, Missouri, July 25, 1903.

Editor, Twin City Herald, 1927–34.

Editor and Publisher, Timely Digest (magazine), 1931–32.

Editor and Publisher, Minneapolis Spokesman and St. Paul Recorder, 1934 to date.

Board of Directors, Glanton Construction Company.

Board of Director, Midwest Savings and Loan Association.

Chairman, Midwest Improvement Association.

Member of the Board, Minnesota Guthrie Theatre Company Foundation.

Honorary Member of the Board, Minneapolis Urban League.

Honorary Member of the Board, St. Paul Urban League.

Honorary Member of the Board, North Star Research and Development Institute.

Trustee, and Founder Minnesota United Negro College.

Fund Recipient Citation of Merit for Outstanding performance in Journalism, Lincoln University.

Member of the following: National Newspaper Publishing Association, Minneapolis Board of the NAACP, Minnesota Press Council, Minneapolis Civic and Commerce Association, Minnesota Newspaper Association.

Minnesota Newspaper Association.

Past President and Director, Minnesota Press Club.

Sigma Delta Chi (Press).

Vice-Chairman, Minnesota Advisory Commission of Civil Rights Commission.

CECIL EARL NEWMAN

Born in Kansas City, Mo., July 25, 1903 to Horatio O. and Cora Lee Newman. Education public schools of Kansas City Mo. Settled in Minneapolis, Minn., May 22, 1922. Worked as dining car waiter, bellman and pullman car porter.

As high school student worked as reporter and school editor on the weekly Kansas City Call, of Kansas City, Mo. In Minneapolis he joined the staff of the N.W. Bulletin-Appeal on a part-time basis in 1924 selling subscriptions, making collections and selling advertising space.

While in the employment of the Pullman Co., he along with J. E. Perry, a printing firm owner organized a company to publish a

weekly paper which was the Twin City Herald.

Mr. Newman edited that paper from 1927 until 1934 leaving it to establish the Minneapolis Spokesman of Minneapolis and the St. Paul Recorder of St. Paul, of which he is still editor and publisher and president of the firm which publishes the two papers.

During his career in Minnesota Mr. Newman has been involved fully in the cause of advancing the American Negro in all progressive areas of American life locally, regionally and nationally. In addition he has worked always to build interracial rapport and cooperation at all levels of society.

His activity involved race discrimination by insurance companies, especially auto risk firms, attack on Gov. Harold Stassen's refusal to allow enlistment of Negroes in state militia, attack on violations of: Minnesota public accommodations laws; agitation against job discrimination in private industry and government employment, organized boycott on local brewing industry for lack of Negro employee; initiated court cases against police brutality against minorities; campaigned actively to build interest of black community in political activity at precinct, ward, county, state, and national levels; regularly urged black support of organized churches, the fraternal groups, and civic organizations.

He was the first Minneapolis black to serve as president of a local community chest (United Fund Agency), the Minneapolis Urban League.

Awards: Named in statewide poll as one of "The One Hundred Living Great of Minnesota", Lincoln University of Missouri's "Citation of Merit for Outstanding Performance in Journalism" in 1957. Honorary Dr. of Laws Degree, Allen University, 1965. U.S. Commission on Civil Rights 1960, Accolade of Appreciation Shriners, Palestine Lodge of Masonic Lodge, WLOL Mike Award, St. Paul Urban League Outstanding Service Award, WCCO Good Neighbor Award. Citation of Minneapolis Urban League 1972. Citation by B'nai B'rith Foundation of America 1973.

Was the first American black elected president of a recognized press club, the Minnesota Press Club of Minneapolis. Was a founder of the United Negro College Fund in Minnesota and is still a trustee.

In 1967 became first Negro elected to the board of directors of a major U.S. financial institution, the Midwest Federal Savings and Loan Association. Was subject of book "Cecil E. Newman Newspaper Publisher" written by L. E. Leipold in 1969.

Was a co-founder and first chairman of the board of Twin Cities Opportunities Industrialization, Inc.

During World War II he engineered a program for Charles L. Horn of the Federal Cartridge Corp., which brought wide praise for full integration and equal opportunity for minority workers at the New Brighton Arms Plant.

Has served as a member, officer of 42 odd organizations in the past 40 years.

Has been long time close personal friend of former Vice-President Hubert H. Humphrey from the early days of his political career.

He is currently vice-chairman of the Minnesota Advisory Commission of the Civil Rights Commission.

Chief recent interest was in development of three low income housing redevelopments. Two of which were built and are now serving the needs of 200 families. Newman served as the Board Chairman of the non-profit group developing the project.

Partial list of Organizational Affiliations: Urban Leagues of both cities (honorary board member); Life Member NAACP; member Minnesota Press Council; Minnesota United Nations Association; Minneapolis War Memorial Blood Bank; Minnesota United Negro College Fund Board of Trustees; Minneapolis Club; Sterling Club; TSTC Club; Sigma Delta Chi Fraternity; Minnesota Newspaper Association; National Newspaper Association; North Star Research and Development Institute; Masons, Elks, and others.

Mr. HUMPHREY. It is appropriate to make note of the truly constructive and significant work of the National Conference of Christians and Jews. The National Conference of Christians and Jews is a civic and educational organization. It seeks the support of all religiously motivated people to help promote justice, amity, mutual understanding, and civic cooperation among all men.

NCCJ was founded in 1928 by a group of eminent Americans, including Charles Evans Hughes, Newton D. Baker, S. Parkes Cadman, Roger W. Straus, and Carlton J. H. Hayes, following the vicious anti-Catholic Presidential campaign against Al Smith. They recognized an urgent need for an organization to combat all forms of bigotry and ignorance which would turn one group of Americans against another, thereby undermining the great promise of democracy.

NCCJ's purpose is positive: to approach more closely the national ideal of "one nation, under God, indivisible, with liberty and justice for all." It is concerned with all areas of conflict based on race, socioeconomic interests, and political belief, as well as those of religious differences. It does not serve any area of vested interest, but rather the interests of all Americans of every race, creed, and national background.

The NCCJ program is educational. Solutions to difficult intergroup problems require continuing conference and confrontation, opportunities for exchange of ideas and feelings. The program method of the conference is to stimulate and contribute to this much-needed communication across group lines.

The NCCJ program is however, a profoundly important and basic form of action. By promoting the fundamental religious and democratic traditions of civility, it is helping citizens in a plural society to arrive at consensus through which they can act humanely and wisely in dealing with the complex problems of human relations.

We are especially proud that three of Minnesota's leading citizens—Mr. Robert G. Cerny, Mr. Neil R. Messick, Jr., and Mr. George J. Rutman serve as the regional cochairmen.

LAND USE LEGISLATION MUST PASS

Mr. JACKSON. Mr. President tomorrow the House of Representatives will be voting on H.R. 10294, a critically important measure—as the New York Times terms it: the "bill of the year." H.R. 10294, the Land Use Planning Act of 1974, is similar to S. 268 which passed the Senate by a vote of 64 to 21 on June 21, 1973, and to S. 632, which passed the Senate by a similar 3-to-1 vote—60 to 18—in the 92d Congress. H.R. 10294 is also similar to the Coastal Zone Management Act which was enacted into law last Congress. With this background, the bill would normally be expected to receive a very favorable House vote.

Unfortunately, Mr. President, this bill has been the target of an unprecedented campaign of misrepresentation and outright falsehood. In addition, it has become a principal pawn in what some have characterized as "impeachment politics."

As my colleagues know, H.R. 10294 is one of the finest examples of a major policy initiative by the Congress. The first land use policy measure was introduced in the Congress in January 1970. That measure was reported by the Senate Committee on Interior and Insular Affairs later that same year. It was not until over a year later that the President proposed his own bill. Since then, the Senate version has been reported and passed by the Senate on two occasions by two votes of better than 3 to 1. The latest version of the administration's proposal, submitted this Congress, was virtually identical to the measure reported out of the Interior Committee and passed by the Senate by an overwhelming vote in 1972.

This initiative justly deserves and enjoys widespread support. The near unanimous support of the Governors, the labor movement, and the environmentalists is well known. However, the last minute campaign of obfuscation by the opponents of H.R. 10294 has obscured the fact that the measure also enjoys strong business support. Business Week and the Wall Street Journal have editorialized in the bill's favor and a number of trade associations, including the National Association of Realtors, the Mortgage Bankers Association, the League of New Community Developers, the International Council of Shopping Centers, the National Association of Industrial Parks, and the National Realty Committee have voiced strong support for the measure.

Mr. President, until very recently land use legislation enjoyed the strong support of the President, as well. I deeply regret the President's recent retreat and reversal on this issue. His repeated statements on the need for land use legislation—most notably in his three environmental messages to Congress and his second state of the Union message last year—are apparently being traded away for support on other matters which may be before the House and Senate in the months ahead. Contrary to arguments of the opponents, the President did not just support his own bill, nor was his bill weaker. In fact, the administration's bill is much stronger in some respects than H.R. 10294 or S. 268. The administration's bill has the so-called cross-over sanctions, absent from the two bills. Furthermore, the President has specifically endorsed land use legislation sponsored in the Senate. In his second state of the Union message last year he listed S. 268, as it passed the Senate, among the 40 "must" bills in this Congress and said:

> I am pleased * * * that the Senate has passed legislation incorporating many of the policies I have proposed. This legislation properly delineates the respective roles of the Federal, State and local governments in land use legislation.

Mr. President, I ask unanimous consent that my letter to the President of

March 8, 1974 quoting some of his favorable comments on the land use legislation be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. JACKSON. I would note that I did not receive a response, except for a letter of acknowledgement, until the Secretary of the Interior Rogers C. B. Morton wrote me on May 7. He states that the President asked him to reply and he then speaks in favor of land use legislation generally. Seven days later, a different official, Kenneth Cole, director of the Domestic Council, spoke on behalf of the President in a letter to Rhodes, supporting the very weak Steiger-Rhodes bill. The implications of the two statements conflict completely.

The Steiger-Rhodes bill—the alternative bill which enjoys the support of those who are opposed to effective land use policy legislation—is an insult to the efforts of all who have worked on this legislation. This alternative proposal has not been through the lengthy hearing process over the last three Congresses and the regimen of committee markups. It was drafted after the first Rules Committee hearing on H.R. 10294 in March. It is very close to the earlier Steiger bill which was drafted by the Chamber of Commerce and introduced at the last second in the House Interior Committee markup. The House Interior Committee specifically rejected a motion to substitute the earlier Steiger bill in markup. This measure cannot be presented as a wise congressional initiative in that it provides almost a complete delegation of legislative authority to the regulation writers in the executive branch.

This administration, more than anyone else, has proposed planning legislation which call for heavy Federal intervention in State and local land use decisions. The numerous drafts of the yet-to-be-submitted energy facility siting bill all call for an extraordinary amount of Federal preemption of land use decisionmaking. The President's powerplant siting bill and deepwater port measure provide for Federal preemption if the States do not act. Finally, the President's surface mining proposal would establish a complete Federal control program in any State which fails to come up with a program of its own which meets Federal standards.

Mr. President, the bill scheduled for House action tomorrow calls for much less Federal intervention than the several administration proposals and less than the Coastal Zone Management Act which we enacted into law last year. Those who wish to avoid increasing Federal intervention in State and local land use decisionmaking should vote for this "States rights" bill. This legislation is the Nation's best and probably last chance to preserve and to invigorate State and local land-use decisionmaking and to insure that basic property rights are not infringed by faceless Washington bureaucrats, far removed from the sites of land-use problems.

The bill is an affirmation of States rights. It provides grants to the States to assist them to develop their own innovative land use policies and procedures to meet the land-use crisis. It is a statement of belief that, if urged an aided, State and local government, working together, can provide a better design for tomorrow—a design which embodies all legitimate values and goals, local, regional, and national.

If State and local governments do not accept this challenge and do not implement this bill, the only solution will likely be the usual solution for national problems: Federal control. No one wants national zoning; but, unfortunately, I believe that, if we turn our backs on the opportunity and shirk our responsibility to improve land use decisionmaking, that is what we will have by the end of the decade.

In addition, the bill contains specific provisions which guarantee constitutionally protected property rights and access to courts for those who feel their rights have been denied. These provisions are stronger than language in other Federal land-use legislation already enacted into law: the Coastal Zone Management Act; the House Act of 1954, as amended; and so forth.

Again, if the Land Use Planning Act is not enacted and if the challenges it provides are not met—if, instead, in a crisis atmosphere we turn to national zoning—then many property rights may not survive.

Mr. President, I believe the many naysayers of this bill do a real disservice to their own constituency. This bill constitutes the best protection possible for basic property rights and against Federal intervention in State and local land use decisionmaking. It is too important a bill to become a pawn in impeachment politics. The product of countless days of hearings—26 days in three Committees over three Congresses in the Senate alone—this bill should not be lost to a campaign of obfuscation and misrepresentation.

Mr. President, I hope that my colleagues in the House will join the Senate in endorsing effective land use legislation—in taking the basic step to insure that the present generation will not bequeath an unsightly, productive, and rewarding land resource to our children and our children's children.

Exhibit 1 follows:

EXHIBIT 1

U.S. SENATE,
March 8, 1974.

The PRESIDENT,
The White House.

MY DEAR MR. PRESIDENT: As you are aware, on February 26, 1974, the House Rules Committee voted to defer consideration of a rule for H.R. 10294, the Land Use Planning Act. As one who has devoted over four and one-half years to the development of land use legislation, I was extremely disappointed to learn that testimony was given at the Rules Committee hearing to the effect that you personally had withdrawn the Administration's support for this measure. In light of your Administration's past support of land use legislation, I am, quite frankly, concerned and confused as to why, if the reports are true, you have changed the Administration's position on this critically important bill.

The nation is and has been faced with a national land use crisis. Our advanced technology and our expanding population are placing uprecedented demands on our limited land base. We are not making any more land, yet we are demanding more and more of it to house, feed, school, transport, and supply the material and recreational needs of our people. Between now and the end of the century, urban sprawl will consume an area of land approximately equal to all the urbanized land now within the Standard Metropolitan Statistical Areas—the equivalent of the total area of the States of New Hampshire, Vermont, Massachusetts, and Rhode Island. Each decade, new urban growth will absorb an area greater than the entire State of New Jersey. The equivalent of two and one-half times the housing in the Oakland-San Francisco metropolitan region must be built each year to meet the nation's housing goals.

By 1990, an additional 18,000 miles of freeways and expressways will be required within the boundaries of just the urbanized areas—two and one-fourth times the total mileage existing in 1968. In short, between now and the year 2000, we must build again all that we have built before.

Your Administration, under the leadership of Secretary Morton and then-Chairman Train of the Council on Environmental Quality, recognized this land use crisis by submitting not only national land use proposals very similar to S. 268 and H.R. 10294, but other important land use measures—bills on surface mining and reclamation, deepwater ports, power plant siting, and national resource lands planning.

National land use legislation designed to meet this crisis has now been carefully considered through the last three Congresses. The original bill was a Congressional initiative which I introduced in January 1970. The measure was reported by the Senate Interior Committee late that year but was not considered by the Senate.

I again introduced this measure early in the 92nd Congress. In your 1971 Environmental Message to the Congress, you endorsed national land use legislation and transmitted an Administration bill to the Congress. The Senate Interior Committee again reported a measure, incorporating many of the provisions of the Administration's 1971 bill, and, on September 19, 1972, it passed the Senate by a vote of 60 to 18.

As the House failed to act on a similar measure in the 92nd Congress, I introduced the Senate-passed bill again last year and you transmitted a virtually identical Administration bill. After you had endorsed the legislation again in your 1972 and 1973 Environmental Messages to Congress and in a letter to me, the Interior Committee again reported a bill, very similar to the Administration's and my 1973 proposals. On June 21, 1973, by a vote of 64 to 21, the bill passed the Senate.

You identified the legislation in the State of the Union Message as one of the high priority matters before the 93rd Congress. When the House Interior Committee, by a 26 to 11 vote, favorably reported a complementary bill, H.R. 10294, those of us who have long supported national land use legislation believed that our four and one-half years of efforts would be successful and that such legislation would be enacted.

As you know, the legislation's purpose is to provide grants to State and local governments to assist them to improve land use decision-making and make planning more democratic. A few points about this legislation should be emphasized:

"Neither S. 268 nor H.R. 10294 requires a whole new set of land use controls. They contain specific language which insures that no land use controls can be applied in violation of constitutional guarantees of property rights.

"Both bills encourage changes in the zoning and other land use controls, not necessarily to place greater restrictions on land, but to insure that the controls we already have consider and balance social, economic,

and environmental needs—that they provide a middle road between the equally untenable paths of "no-growth" and "growth at all costs".

"Both bills are an affirmation of States rights. The grants they provide are to assist the States to develop their own innovative land use policies and procedures to meet the land use crisis at the local and State level. Neither bill provides for Federal second-guessing of State and local land use decision-making."

If the Congress does not pass this legislation and if the States and local governments do not accept the challenge to improve land use decision-making and implement the legislation, then, I am afraid, the only solution will be the usual solution for national problems: Federal control. If press reports (copies enclosed) are correct concerning the controversy surrounding the various drafts of the Administration's proposed energy facility siting measure, your Administration, in the absence of comprehensive land use planning legislation, has already felt the pressure to call for such a Federal solution which overrides States' rights in the land use planning area.

I and other Members of Congress believed that the land use legislation deserved and had the support of your Administration. Your letter to me of April 24, 1972, for example, was an important factor in securing Senate passage of the legislation. In that letter you stated unequivocally:

"As a Nation we have taken our land resources for granted too long. We have allowed ill-planned or unwise development practices to destroy the beauty and productivity of our American earth. Priceless and irreplaceable natural resources have been squandered . . . The country needs this [legislation] urgently."

As I have noted, you also personally expressed your support in your Environmental Messages to Congress in 1971, 1972, and 1973. In the 1973 message, you said:

"Our greatest need is for comprehensive new legislation to stimulate State land use controls. We especially need a National Land Use Policy Act authorizing Federal assistance to encourage the States, in cooperation with local governments, to protect lands of critical environmental concern and to regulate the siting of key facilities such as airports, highways and major private developments. Appropriate Federal funds should be withheld from States that fail to act."

Finally, in your second State of the Union Message last year, you placed land use legislation among the bills which you stated must receive Congressional approval this Congress. Also, in your message, "National Legislative Goals", you specifically endorsed S. 268:

"We first transmitted the proposed National Land Use Policy Act to the Congress in 1971, but there has been no law enacted since then. I am pleased, however, that the Senate has passed legislation incorporating many of the policies I have proposed. This legislation properly delineates the respective roles of the Federal, State and local governments in land use legislation."

During the four and one-half years in which we have considered this legislation, Rogers C. B. Morton, George Romney, Russell Train, John Quarles and other members of your Administration reiterated support for the legislation in numerous hearings before the Senate Interior Committee and other committees in the House and Senate.

In light of these many statements and the land use crisis we are facing, I would appreciate it if you would furnish the Congress with a clear and unequivocal statement of your current position on this important matter.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

REFORM OF PRESIDENTIAL SUCCESSION SYSTEM

Mr. HATHAWAY. Mr. President, on November 9 of last year I introduced a bill to provide for a special election in the event that the offices of President and Vice President were simultaneously vacant. While that proposal was aimed at the specific situation facing us upon the resignation of Spiro Agnew, the general principles underlying the bill are applicable now. For the first time in our history we face the possibility that both the President and the Vice President could be appointed, rather than elected, officials. Clearly that is not in keeping with our democratic traditions, nor, I would argue, is it in keeping with the spirit of the Constitution.

Arthur Schlesinger, Jr., noted historian and currently Schweitzer Professor of the Humanities at the City University of New York, recently published an article in the Atlantic wherein he convincingly argues the case for reform of the Presidential succession system, and presents a number of interesting reform proposals.

I would like to share Professor Schlesinger's article with my colleagues, and I ask that it be printed in the RECORD.

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

IS THE VICE-PRESIDENCY NECESSARY?

(By Arthur Schlesinger, Jr.)

We have a Vice President again, and Mr. Ford deserves all our sympathy. He enters into a job of spectacular and, I believe, incurable frustration. He, like his predecessors, will receive those soothing presidential assurances that he, unlike his predecessors, will be given tasks of substance and responsibility. One can be absolutely certain that these shining prospects will disappear whenever he reaches out to grasp them. Mr. Nixon, even in his present feeble shape, will no more yield power to Mr. Ford than he yielded power to Mr. Agnew or than President Eisenhower yielded power to him ("What major decisions of your Administration has the Vice President participated in?" "If you give me a week, I might think of one"—Dwight D. Eisenhower, August 24, 1960) or than any President has ever yielded power to his Vice President.

It is a doomed office. No President and Vice President have trusted each other since Jackson and Van Buren. Mistrust is inherent in the relationship. The Vice President has only one serious thing to do: that is, to wait around for the President to die. This is hardly the basis for cordial and enduring friendships. Presidents see Vice Presidents as death's-heads at the feast, intolerable reminders of their own mortality. Vice Presidents, when they are men of ambition, suffer, consciously or unconsciously, the obverse emotion. Elbridge Gerry spoke with concern in the Constitutional Convention of the "close intimacy that must subsist between the President & Vice President." Gouverneur Morris commented acidly, "The vice president then will be the first heir apparent that ever loved his father."

At the Constitutional Convention, Roger Sherman noted that if the Vice President did not preside over the Senate, "he would be without employment." Sherman's observation was prophetics, except that the Vice President's constitutional employment is a farce. Mr. Agnew as Vice President, for example, never went near the Senate if he could help it. Early Vice Presidents of a philosophical bent filled their days by writing attacks on the power of the national government. Jefferson wrote the Kentucky Resolution as Vice President, Calhoun the South Carolina Exposition. Their successors have lacked a taste for political philosophy. Richard M. Johnson ran a tavern as Vice President. Thomas R. Marshall and Alben Barkley made jokes. But most Vice Presidents, especially in recent times, have lacked a taste for humor too.

But cannot Presidents give the Vice President serious work to do? Until rather recently they thought themselves constitutionally forbidden to do so. Most Presidents and most Vice Presidents have believed with Truman (in 1955) that the Vice President "is not an officer of the executive branch" and with Eisenhower (in 1963) that the Vice President "is not legally a part of the Executive branch and is not subject to direction by the President."

The notion of having the Vice President at Cabinet meetings, for example, is relatively new. In 1896 Theodore Roosevelt wrote that it would be desirable "to increase the power of the Vice-President. . . . It would be very well if he were given a seat in the Cabinet." But, when he became President himself after a brief interlude as Vice President, he did not give his own Vice President, Charles W. Fairbanks, a seat in the Cabinet or anywhere else. Vice President Thomas R. Marshall presided at Cabinet meetings when Wilson was at Versailles. But, since he regarded himself as a "member of the legislative branch," he questioned the propriety of doing so and carefully explained to the Cabinet that he was acting "in obedience to a request" and "in an unofficial and informal way." Harding was the first President to make his Vice-President, Calvin Coolidge, a regular at Cabinet meetings, Coolidge expected his own Vice President to follow this example; but Charles G. Dawes rejected any such entanglement with the executive as a "wrong principle" and in due course supported from his office on Capitol Hill farm legislation that his President opposed and eventually vetoed. Franklin D. Roosevelt, who from the time of his own vice presidential candidacy in 1920 had cherished the hope of making something of the office, re-established the idea of attendance at Cabinet meetings, and it became routine thereafter. Truman got Congress in 1949 to make the Vice President a member of the National Security Council by statute. But Vice Presidents continued to operate out of an office at the Hill. It was not till Kennedy became President that a Vice President was given space in the Executive Office Building.

Nor, despite ritualistic pledges at the start of each new term, have Presidents ever given real power to Vice Presidents. FDR did make Henry Wallace head of the Board of Economic Warfare—the only big job handed a Vice President in the 185 years of the American presidency—but this merely proved the embarrassment bound to arise when an agency chief who happened to be Vice President got into fights with powerful members of the President's Cabinet. Mr. Nixon as Vice President appointed himself the campaign hit man of the Eisenhower Administration and subsequently as President assigned the same delicate responsibility to Mr. Agnew, thereby making him, as Eugene McCarthy wittily said, "Nixon's Nixon." Mr. Nixon is evidently trying to stuff Mr. Ford into that slot today. This is hardly a promising development. If there is anything certain to ruin the vice presidency forever, it is the theory that the Vice President is the mandatory instrument for an administration's partisan rancor.

For the rest, the vice presidency is make-work. Presidents spend time that *might* be put to far better use trying to figure out ways of keeping their Vice Presidents busy and especially of getting them out of town. The vice presidency remains, as John N. Garner said, "a spare tire on the automobile of gov-

ernment." As Gertrude Stein said of Oakland, California, there is no there there.

But what of Theodore Roosevelt's suggestion that the power of the Vice President might be increased? Carl Kaysen, director of the Institute for Advanced Study, has made the ingenious proposal that the presidential nominee promise the convention that he will appoint his Vice President to one of the four great Cabinet offices, State, Treasury, Defense, or Justice, and specify the particular one. This would provide a there there. But it would create problems if the Vice President turned out to disagree with the policy or to fail at the job and, unlike other dissidents or incompetents, could not be easily dismissed. Also this would have to be an informal, and hence unstable, arrangement; for any formal allocation of power to the Vice President would violate the clause in the Constitution vesting "the executive power" in the President.

Ben Cohen, that wise old New Dealer, has a different approach. He would frankly recognize that there is no there there and have presidential and vice presidential candidates separately voted upon in the general election. This would have meant in 1968, for example, that Nixon would have been elected President and Muskie Vice President. The fact that Muskie could not have taken part in a Nixon Administration would have made no difference, since the Vice President has nothing to do anyway; and Muskie would have been an infinitely more attractive heir apparent. But this proposal raises the possibility of a shift in party control of the White House without the intervention of a new election.

Neither of these ideas goes to the heart of the matter. Nor certainly do the flurry of reform proposals generated by the Agnew and Eagleton fiascoes. In 1973 the Democrats appointed a Vice Presidential Selection Committee under the chairmanship of Hubert Humphrey, whose own vice presidential wounds had hardly healed. Its recommendation was that the parties slow up the process of nominating the second man by prolonging the convention and even offering the presidential nominee the option of turning the choice over to a later meeting of the party's National Committee. This procedure, it need hardly be said, would not have saved the Republicans from twice anointing the late Spiro T. Agnew. Senator Robert Griffin of Michigan, the Republican whip, in what he calls, presumably as a recommendation, "a small step in the direction of the parliamentary system," would do away altogether with party participation in the nomination and have the new President submit his choice to Congress in the manner Mr. Nixon chose Mr. Ford under the Twenty-fifth Amendment. This would be another formula for Agnews.

Fiddling with the way vice presidential nominees are chosen is totally beside the point. The real question is why have a Vice President at all? "His importance," as Woodrow Wilson said, "consists in the fact that he may cease to be Vice-President." The only conceivable argument for the office is that it provides an automatic solution to the problem of succession. No doubt it does, but does it provide the *best* solution?

It is said in political science departments that the vice presidency justifies itself as a "learning" office where men train themselves for the great responsibility that may one day be theirs. Even if the Vice President has nothing to do, at least—we are assured—he can watch what others are doing and prepare himself to take over if calamity strikes. This implies, I fear, an unduly romantic view of Presidents.

Presidents, whatever they may say, do not choose their running mates because they want to train them as successors. All Presidents see themselves, if not as immortal, as good for two terms at least. They pick a running mate not because he is the second citizen of the republic and fully qualified for the presidency but because of intricate and generally mistaken calculations about the contribution he will make to victory at the polls. "Whether they should or not," Congressman James G. O'Hara, Democrat of Michigan, has well said, "they will not, in the final analysis, choose their Vice-Presidential candidate to succeed them. They will choose them to help them succeed." Such calculations, I say, are generally mistaken. It is an exceedingly rare case when the vice presidential candidate makes a difference. Very likely Johnson made a difference in 1960. But much more typical is the outcome in 1948. Earl Warren was the most popular governor California had had in a generation, but Truman carried California against the Dewey-Warren ticket. The "balanced ticket" is in any case a fraud on the public. It pretends that the Vice President's views "balance" the views of the President when all our history testifies that they have no impact at all on the President.

Moreover, the way Presidents treat their Vice Presidents steadily erodes their capability to succeed to the presidency. A Vice President will learn only as much as a President is willing to have him learn—which, given presidential dislike of Vice Presidents, is not ordinarily very much. Truman, recalling how little he had been told as Vice President, tried harder than most Presidents to clue in his second man. His conclusion about the learning process was not encouraging. "No Vice-President," he wrote three years after he left the White House "is ever properly prepared to take over the presidency because of the nature of our presidential, or executive, office." In the nature of things, "it is very difficult for a President to take the Vice-President completely into his confidence." The President "by necessity" builds his own staff and makes his own decisions, "and the Vice-President remains an outsider."

Moreover, seeing things as an ill-informed, impotent, and often sullen outsider, the Vice President will very likely "learn" the wrong things. Lyndon Johnson thought Kennedy too cautious at the time of the Cuban missile crisis and in Vietnam. What Johnson "learned" as Vice President led him on to policies of overkill in the Dominican Republic and Indochina. In any case, where does a successor's responsibility lie? "A Vice-President might make a poor President," said Thomas R. Marshall, who was Wilson's Vice President and had to reflect on this question in Wilson's season of disability, "but he would make a much poorer one if he attempted to subordinate his own mind and views to carry out the ideas of a dead man."

A learning office? With Presidents less generous than Truman—and that in this context is most Presidents, however generous they may be in other relationships—the vice presidency is much less a making than a maiming experience. McKinley, wrote Theodore Roosevelt as Vice President, "does not intend that I shall have any influence of any kind, sort or description in the administration from the top to the bottom. This he has made evident again and again." Fortunately for T.R., he had to endure only six months of frustration. When he acquired a Vice President of his own, he could not have been more destructive of poor Charley Fairbanks. He used to regale Washington with Finley Peter Dunne's crack after the President told him he was thinking of going down in a submarine: "You really shouldn't do it—unless you take Fairbanks with you." Tom Marshall, who at least extracted a good deal of shrewd humor out of his predicament, concluded that the Vice President "is like a man in a cataleptic state: he cannot speak; he cannot move; he suffers no pain; and yet he is perfectly conscious of everything that is going on about him."

In recent years, as men of larger aspirations and capacities have responded to the actuarial attractions of the office, the damage to Vice Presidents has increased. The more gifted and ambitious the Vice President, the more acute his frustration—and the less his President is inclined to do to alleviate it. Everyone knows the humiliation that Eisenhower repeatedly visited on Nixon. Only a man who has the overpowering ego of a Lyndon Johnson and is treated by his President, as Johnson was, with relative consideration can survive the vice presidency; and even Johnson was a subdued and shrunken man by 1963. "It's like being naked in the middle of a blizzard with no one to even offer you a match to keep you warm—that's the vice presidency," said Hubert Humphrey in 1969, eight months after he had been released from confinement. "You are trapped, vulnerable and alone, and it does not matter who happens to be President."

There is no escape, it seems to me, from the conclusion that the vice presidency is not only a meaningless but a hopeless office. Truman said, and many have repeated, that "there is no officer in our system of government besides the President and Vice President who has been elected by all the voters of the country," as if this somehow sanctified the vice presidency. Truman's proposition, advanced nine weeks after Roosevelt's death, was natural enough to a man interested in legitimating his own recent succession to the presidency. But it is an amiable myth. No one votes for a Vice President. He is a tie-in sale, an inseparable part of a package, "a sort of appendage to the Presidency" (Truman's own phrase), not an independent choice. And, once carried to the vice presidency as second rider on the presidential horse, where is he? If he is a first-rate man, his abilities will be wasted, turn sour, and deteriorate. If he is not first-rate, he should not be in a position to inherit the presidency. Why not therefore abolish the vice presidency and work out a more sensible mode of succession?

Such a revision of the Constitution would not be a serious affront to the Founding Fathers. They had no great belief in the vice presidency. Though they had had considerable experience with governors and lieutenant governors in the colonies, and though ten states maintained this system after independence, the Constitutional Convention did not turn automatically to the vice presidential idea. It slipped in as an afterthought. The August 6 draft of the Committee of Detail had proposed that, in case of a vacancy in the presidency, "the President of the Senate shall exercise those powers and duties, *until another President of the United States be chosen*" (my emphasis). Gouverneur Morris objected that this gave too much power to the legislative branch but then curiously proposed the Chief Justice as the provisional successor. Madison for a moment suggested that executive power during a vacancy be administered by a Council of State. All these proposals were regarded as interim schemes to tide things over until the voters could choose a new President. Then a fortnight before adjournment a new drafting committee invented the vice presidency over a weekend and submitted the idea to the Convention. There was no great enthusiasm. Elbridge Gerry said he was "agst. having any vice President." He was the only member of the Convention who ever became Vice President. Edmund Randolph was opposed. But no one could think of anything better, and the clause went into the Constitution. Hamilton later noted in the 68th Federalist that the office "has been objected to as superfluous, if not mischievous" but defended it in perfunctory fashion because the Vice President's tie-breaking vote could prevent deadlocks in the Senate and because the Vice President himself would provide a

"constitutional substitute" for the President. There was even a dispute in the First Congress as to whether the Vice President should receive an annual salary.

The vice presidency was put into the Constitution for one reason, and one reason alone. Hugh Williamson of North Carolina, a member of the committee that originated the idea, conceded in the Convention that "such an office as vice-President was not wanted. He was introduced only for the sake of a valuable mode of election which required two to be chosen at the same time." This is an essential but neglected point. The theory of presidential elections embodied in the Constitution was that if electors had to vote for two men without designating which was to be President and which Vice President, and if one of these men had, as the Constitution required, to be from another state, then both men who topped the poll would be of the highest quality, and the republic would be safe in the hands of either.

This ingenious scheme did produce Adams and Jefferson as the first two Vice Presidents. But the rise of the party system, a development unanticipated by the Founding Fathers, quickly put the "valuable mode of election" under severe strain. As early as 1796 the Federalists gave their second ballots to Thomas Pinckney, who was manifestly not the second citizen of the country. Adams himself, the top Federalist candidate, would have preferred, if defeated, to lose to Jefferson rather than to his fellow Federalist. In 1800 the Republicans gave the same number of electoral votes to Jefferson, their presidential choice, as they gave to Aaron Burr, a man of undoubted talents who, however, was trusted by no one in the long course of American history, except his daughter Theodosia and Gore Vidal. Burr was nearly chosen President, though the voters never intended him for the presidency. The fear of comparable slipups in 1804 led to the adoption of the Twelfth Amendment requiring the electoral college to vote separately for President and Vice President.

The abolition of the "valuable mode of election" canceled the purpose of the Founding Fathers in having a Vice President at all. Separate voting ended any prospect that the Vice President would be the second man in the country. The office could no longer be counted on to attract men of the highest quality. It would become, as was immediately noted, a bargaining counter in the presidential contest—"a bait to catch state gudgeons," in Gouverneur Morris' contemptuous phrase. Samuel White, a senator from Delaware, summed up with admirable prescience the consequences of the Twelfth Amendment: "Charter, talents, virtue, and merits will not be sought after in the candidate. The question will not be asked, is he capable? is he honest? But can he by his name, by his connections, by his wealth, by his local situation, by his influence, or his intrigues, best promote the election of a President?" Roger Griswold of Connecticut said that the vice presidency would thereafter be "useless, worse than useless." A number of political leaders, Republicans and Federalists—John Randolph of Roanoke, former Speaker of the House, now Senator; Jonathan Dayton; Matthew Griswold; Samuel W. Dana—drew the logical conclusion. The vice presidency was an organic part of a particular mode of election, and that mode of election had now been constitutionally abolished; therefore let us abolish the vice presidency too. Unfortunately for the republic this effort failed.

But the dismal predictions were correct. The Twelfth Amendment sent the vice presidency into prompt decline. The first two Vice Presidents had moved on directly to the presidency. After the amendment was enacted, the vice presidency became a resting place for mediocrities. Who can remember Burr's successors—George Clinton, Elbridge Gerry, Daniel D. Tompkins? For a generation the office of Secretary of State became the stepping-stone to the presidency; thereafter Presidents were elected from anywhere except the vice presidency. In the 170 years since the Twelfth Amendment only one Vice President—Martin Van Buren—has advanced directly to the presidency by election. More than half our Vice Presidents in the nineteenth century were actually *older* than their Presidents. William R. King, when selected as Vice President with Franklin Pierce, was known to have an incurable disease and died six weeks after inauguration. Nor was King the only Vice President to die in office. Apart from their families, few cared or even noticed. The vice presidency was nothing. "It is not a stepping stone to anything except oblivion," said Theodore Roosevelt when Boss Platt conned him into accepting the vice presidential nomination in 1900. "I fear my bolt is shot." For thirty-eight years—almost a quarter of the time that has passed since the ratification of the Twelfth Amendment—the republic has been without any Vice President at all. No catastrophe has resulted.

T.R. described the vice presidency as an utterly anomalous office (one which I think ought to be abolished)." He was plainly right. But what would the alternative mode of succession be? Here it would seem appropriate to return to the principles of the Founding Fathers. That principle was accurately stated by the constitutional historian Lucius Wilmerding, Jr., in a letter to Walter Lippmann in 1946: "A man who has not been voted on for the Presidency [as, of course, Vice Presidents were till the ratification of the Twelfth Amendment] ought not to hold the office for longer than it takes to choose a new President."

The Constitutional Convention, having agreed on the idea of a vice presidency, decided to empower Congress to designate the next in line of succession in the event that the elected President and Vice President were no longer available. The first proposal was that the successor designated by Congress should act as President "until the time of electing a President shall arrive." Madison promptly observed that "this, as worded, would prevent a supply of the vacancy by an intermediate election of the President" and offered the language now in the Constitution—that the designated officer "shall then act as President . . . until the Disability be removed, or *a President shall be elected*" (my emphasis). The new wording was plainly intended to authorize special presidential elections in the event of a double vacancy—a double vacancy because, according to the original theory of the electoral process, the Vice President had also been voted on for the presidency.

Madison's idea of an "intermediate election" was quickly enacted into law. In 1792 the Second Congress, containing men who had served in the Constitutional Convention five years before and were therefore well versed in the intentions of the Founding Fathers, passed the first Presidential Succession Act. This act provided that, in the case of a double vacancy, the president *pro tempore* of the Senate would become Acting President "until a President be elected" and that a special election would be called to elect a new President unless the vacancy occurred in the last months of the presidential term.

Then came the Twelfth Amendment and the decline in vice presidential quality. By retaining the vice presidency, as Wilmerding pointed out in a trenchant piece in this magazine in May, 1947, the amendment achieved precisely what it was designed to prevent—that is, it made it possible for persons who had not been voted on for the presidency to become President. After 1804 Vice Presidents were not men chosen by the electors for the presidency except in a highly metaphysical sense. But the retention of the office and the ambiguity of the Constitution enabled Vice Presidents to make themselves President.

The Founding Fathers, so far as we can tell, assumed that if a President died, the Vice President would inherit the powers and duties of the President but not the office itself; he would only be Acting President. The constitutional language was a cryptic condensation by the drafting committee of two resolutions adopted by the Convention. One had said, "The Vice President shall exercise those powers and duties [of the President] *until another be chosen* or until the inability of the President be removed" (my emphasis). The other spoke of the authority of the President to "perform the duties of the office of the President"; it did not say that he would hold that office. The Constitution, in a rare lapse from precision, now said that, if the President could not "discharge the Powers and Duties" of his office, "the same shall devolve on the Vice President." Did "same" mean powers and duties or the office as well? E. S. Corwin, the great constitutional scholar, judged it "clearly the expectation of the Framers that [if there were a vacancy in the presidency] the Vice-President should remain Vice-President, a stopgap, a locum tenens, whatever the occasion of his succession, and should become President only if and when he was elected as such." The Twelfth Amendment said specifically that if a presidential choice went to the House and could not be completed before inauguration day, "the Vice-President shall *act* as President, *as in the case of the death or other constitutional disability of the President*" (my emphasis). This reaffirmed the assumption that a Vice President could only become Acting President.

Then, in 1841, William Henry Harrison died a month after his inauguration. Now there was brought to test, as John Quincy Adams noted, "that provision of the Constitution which places in the Executive chair a man never thought of for that place by any body." Vice President John Tyler in effect staged a constitutional coup by successfully insisting—"in direct violation," Adams said, "both of the grammar and content of the Constitution"—that, when a Vice President took over the powers and duties of the presidential office, he took over the office too and became not Acting President but President in his own right—a view that finally received constitutional blessing in the Twenty-fifth Amendment.

The United States lived under the Succession Act of 1792 for ninety-four years. Since a double vacancy never occurred, however, the intermediate-election feature, evidently intended by the Founding Fathers as a routine part of the process, never came into play. In 1881 the shooting and lingering death of Garfield renewed public interest in the problem of succession. Four years later, with the Republicans in control of the Senate, Grover Cleveland's Vice President died in the first year of the administration. This meant under the 1792 law that the Republican president *pro tempore* of the Senate would take over if anything happened to Cleveland. There had also been occasions when the country had been not only without a Vice President but without a President *pro tem* of the Senate and a Speaker of the House as well; in which case, had anything happened to the President, the presidency would have been in limbo.

The cry for reform produced the Presidential Succession Act of 1886. The new law put the line of descent through the Cabinet, thereby making succession automatic and preventing the mechanics of succession from transferring the presidency from one party to the other without an election. The 1886 law did not, however, eliminate the idea of intermediate elections. It provided that the Cabinet successor should "act as President until

the disability of the President or Vice-President is removed, or *a President shall be elected*" (my emphasis). It was "the powers and duties of the office of President," and apparently not the office itself, that developed upon the Cabinet successor, and "it shall be the duty of the person upon whom said powers and duties shall devolve" to convene Congress within twenty days, presumably in order to provide for special election.

The republic operated under this law for another sixty years. Again no occasion arose to call the provision for intermediate elections into play. Then in 1945 Harry S. Truman, abruptly translated to the presidency, faced the prospect of serving the balance of Roosevelt's term—nearly four years—without a Vice President. The law of 1886 put the Secretary of State next in line. But Truman thought it undemocratic for a President to have the power to name his successor—a scruple discarded by Congress twenty-six years later when it acquiesced in Mr. Nixon's interpretation of the Twenty-fifth Amendment as making a Vice President chosen in case of a vacancy not a choice shared with Congress but a presidential appointment subject to congressional confirmation. This ill-considered amendment contains further prizes. If Mr. Nixon should be removed, then Mr. Ford, who was not elected by the people to the office, would appoint his own successor. "For the first time in the history of this great Nation," Senator Pastore has observed with pardonable senatorial grandiloquence, "the President and Vice President will both be appointed—not elected by the people . . . the Nation will no longer be democratically governed."

Truman thought that the Vice President should always be what he called an "elective officer." So he proposed a reversion to the principle of the Succession Act of 1792, though with the Speaker of the House first in the batting order and the president *pro tem* of the Senate second. There were objections to this scheme. The Speaker of the House, for example, does not even have to be a member of the House and therefore may not be an elective officer. If he is, his speakership is partly the result of seniority, which means long tenure in a safe and therefore unrepresentative district. James F. Byrnes and George C. Marshall, Truman's second and third Secretaries of State, were far more national figures and far better equipped for the presidency than Joseph Martin of Massachusetts, who, as Speaker of the House, was heir apparent under the Truman reform when it was enacted two years later.

Truman, however, saw this succession scheme as provisional. Reaffirming the conviction of the Founding Fathers, he said, "No matter who succeeds to the Presidency after the death of the elected President and Vice President, it is my opinion he should not serve longer than until the next congressional election or until a special election called . . . to fill the unexpired term of the deceased President." As Walter Lippmann put it in 1946, the Founding Fathers "thought the country should never for more than a few months have a President who had not been elected. They did not believe, as we now assume, that there could never be a Presidential election except once every four years." If the country was without an elected President, it should proceed as expeditiously as possible to elect a new one. There was nothing sacrosanct about the four-year election system.

Truman's proposal that the intermediate election fill the unexpired term has latterly given some trouble to constitutional scholars who read the language on the presidency in Article II, Section 1, of the Constitution—"He shall hold his Office during the Term of four Years"—as guaranteeing every new President four years in the White House. The Succession Acts of 1792 and 1886, both providing for intermediate elections, were both mute on how long intermediately elected Presidents were to serve. But it is far from self-evident that the Constitution forbids elections to fill unexpired terms. We have such elections every day for senators and representatives, though they, no less than Presidents, serve for terms specified in the Constitution. The House Judiciary Committee, under the chairmanship of that rugged old Texan strict constructionist Hatton W. Sumners, went into this question at length in 1945 and saw no constitutional problem in the case of the presidency.

The Constitution, the House Judiciary Committee said, "does not provide that the term of each incumbent shall be 4 years, but that the President shall hold his office 'during the term of 4 years.' This language appears to have reference to a fixed quadrennial term, permitting the filling of an unexpired portion thereof by elections. The tradition of special elections for unexpired terms of other officers also supports the provision." "During" often means "in the time of"; it does not necessarily mean "throughout the entire course of." Had the Constitution said "*for* a Term of four years," this would assure a four-year term to every new President. But the Constitution does not say this.

And if John Tyler was correct in saying that a Vice President became President, not just Acting President, and if it is correct to construe the Constitution as assuring every President a four-year term, then this reading must surely apply to Presidents who gain the office by inheritance quite as much as to those who gain it by election. This would mean that when a President dies, the Vice President who succeeds him is entitled to a four-year-term of his own. Ben Butler made this point during the impeachment trial of Andrew Johnson. "Whose presidential term is the respondent now serving out?" he asked. "His own or Mr. Lincoln's? If his own, he is entitled to four years up to the anniversary of the murder, because each presidential term is four years by the Constitution." But no one has argued, not even John Tyler, that a Vice President has any right to do more than serve out his President's unexpired term. Why, if there is no Vice President, should a specially elected "constitutional substitute" be in a different legal position?

The House unfortunately deleted the provision for special elections before passing the bill in 1945, and the Senate took no action. In 1947 Congress fell under Republican control. The Republican leadership, seizing its opportunity, decided to make Joe Martin Truman's absolute and not provisional successor and confirmed the deletion of intermediate elections from the bill. The law as finally enacted therefore departed from Truman's original purpose, though he signed it in order to shift the line of succession back to elective officers.

The deletion of intermediate elections was a bad mistake. It is not beyond repair. The thing to do is to adopt a constitutional amendment abolishing the vice presidency, an office that has become both more superfluous and more mischievous than Hamilton could have imagined when he wrote the 68th Federalist, and provide for the succession in the spirit of Founding Fathers through a congressional statute restoring the principle of special elections. This principle, announced by Madison in the Constitutional Convention, authorized by the Constitution, applied by the Second Congress in 1792 to the prospect of a double vacancy, reaffirmed in this context by the Forty-eighth Congress in 1886, reaffirmed again by Truman in 1954 (and actually again by Eisenhower in 1965), would, if the vice presidency were abolished, work fully as well for a single vacancy. More than this: it would repair the fatal error of the Twelfth Amendment and make it certain that the republic would never have to suffer, except for a limited period, a chief executive who, in the words of J. Q. Adams, was never thought of for that office by anybody.

It may be objected that special elections in a time of national disarray—as, for example, a presidential assassination or a successful impeachment—might only deepen popular confusions. This could happen. But the special election would necessarily be held after an interval, and it might equally help the country to resolve its confusions and recover its nerve. At the very least it would result in placing in the White House a man chosen by the people to be President.

It would take three or four months to hold a special election. In the meantime the show must go on. If the vice presidency were abolished, who would serve as Acting President?

One proposal is to make the Speaker of the House Acting President for thirty days while Congress chooses a President to fill out the remainder of the term. This proposal has the disadvantage, given the number of times in recent years that one party has controlled the legislative branch and the other the executive, of risking an unvoted changed in party control of the White House and in the direction of government—a change that might itself be quickly reversed in the special election, thereby compounding the confusion in Washington. The confusion would be even greater in the event of temporary presidential disability, in which case the presidency might shuttle back and forth between the two parties in a period of a few months.

The argument is overriding, it seems to me, for keeping the Acting President within the executive branch for the few weeks before the people have a chance to speak. A convenient way would be simply to make the Secretary of State, if qualified, the first successor. If the Secretary of State is foreign-born or under thirty-five or has some other disqualifying eccentricity, then the Secretary of the Treasury could be the automatic successor, and so on down the 1886–1947 line of succession. But this first succession would be momentary until an Acting President is selected to run things during the, say, ninety days to the special election. This Acting President, in order to assure continuity of policy until the people speak, should come from the Cabinet. Congress might select an Acting President from the Cabinet—a device that would preserve continuity, spread responsibility, afford a choice of sorts, and perhaps stimulate Presidents to choose better Cabinets. Or the Acting President might be selected by the Cabinet itself using the corporate authority already bestowed on it to some degree by the Twenty-fifth Amendment, which gives a majority of the Cabinet, plus the Vice President, power to declare the President *non compos mentis*. However chosen, the Acting President would be declared ineligible as a candidate in the special election, this in order to avoid the advantage created by the inevitable rush of sympathy to the new person in the White House.

Then, as soon as possible, let the people make their choice. If the President vanishes in his last year in office, it would be simpler to let the Acting President serve out the term and await the next regular election. If it be said that three or four months is not time enough to prepare an election, the answer is that this is only an election to fill out a term and thus does not require the elaborate preliminaries of the quadrennial orgy. Let the national committees, which have become increasingly representative bodies under the new party rules, canvass opinion and make the nominations. Short campaigns, federally financed, would be a blessing, infinitely appreciated by the electorate. Perhaps short intermediate elections might have a salutary impact on the quadrennial elections, which in recent years have stretched out to intolerable length.

In doing this, we would not be departing

from the spirit of the Founding Fathers: quite the contrary. "We have only to operate the Constitution as the men who wrote it thought it should operate," Walter Lippmann wrote a quarter of a century ago on the question of intermediate elections. "If we are the prisoners of a rigid system to-day, the fault lies not in the Constitution but in our own habits which have only rather recently become so hard and so fixed."

DROUGHT IN THE SAHEL

Mr. HUMPHREY. Mr. President, I wish to point out an article, "Drought," in the June 9 issue of the New York Times Magazine by Martin Walker.

The author, who has spent some 5 weeks in the Sahel, describes the serious struggle and how the drought has changed the way of life for people in the area.

These adjustments are painful, and many people will have to migrate. Food shipments from the outside, including by airplane, will again be sorely needed.

Nonetheless, an estimated 5 million people may perish because of the famine. This is a bitter story of changes in the climate combined with overpopulation of people and animals on a fragile ecological system.

Mr. President, I have spoken many times on this disaster and its serious nature.

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:

DROUGHT

(By Martin Walker)

BOUTILIMIT, Mauritania.—"We are living in a catastrophe," said Dr. Moustapha Siddatt. "Last year, the babies started to die in May when the measles came. This year, they started to die in March, with the flu. We are all that much weaker this year."

Above us on a hill brooded the curiously squat shape of an old French fort. It had once been three stories high, but now the two lower floors were filled with drifting sand. This part of the dry season was always windy, but years of drought had killed off what little vegetation held down the sand. The sandstorms had never been so bad.

Boutilimit—a garbled phrase of the Legionnaires' that means "the end of the line"—was home last year to 4,000 people. This year, there are 12,000, and more arrive every day from the desert that has finally proven too much for them. They arrive without their animals. Mauritania had some 11 million head of cattle last year, and a million people. This year, says the Minister of Health, there are perhaps two million cattle left. Even the camels have died. In Boutilimit, they saved five camels to haul up the water from the wells. The water level has fallen so far—it is now more than 200 feet deep—that the men are too weak to haul up the buckets.

It was 140 degrees Fahrenheit in Boutilimit, and it had taken us a day to drive the 160 miles from the Mauritanian capital of Nouakchott in a four-wheel-drive Land-Rover. Much of the time was spent digging the truck free from drifting sand, and it had become horribly clear to us why no food trucks had reached this place since the week before Christmas, why the food ration for the 12,000 people had been cut to less than 200 grams per person per day, why the French doctor who came here went back to the capital and told the Ministry of Health: "There is nothing to be done. These people are lost."

Dr. Siddatt led me through the crowded tents that made up his hospital. One hundred and thirty-four families had trekked in from the desert in the last week. Their tents surrounded the little mud building where the dwindling supplies of drugs were kept, sprawled across what had been the main street, and crept up the hill to the old fort. "Here is where we keep those with TB. There are the typhoid patients. They all have anemia, and soon they will all have jaundice. There is not very much I can do. I write to doctors who were at medical school with me in France, asking for the free samples. But what they really need is protein—meat and milk from the animals that died last year."

The flu came to Boutilimit in March and killed more than 400. Nobody had the time or the strength to keep exact figures. Now chicken pox was racing through the tents. We stopped at one tent, where three children had died recently of chicken pox. The other four children were still sick. Dr. Siddatt thought that two would live.

We walked through the tents, looking at feet that had swollen, like footballs, from protein deficiency, at eyelids chalk-white from anemia, at limbs so like sticks that the knee joints looked gross and deformed. Something seemed to be missing, and it suddenly occurred to me that there were no children following us. In most villages in Africa, a white man strolling around bears a long train of giggling, thumb-sucking children. But here, not one child had the strength to play or to follow or even to wave away the flies that crawled on his sores.

The drought that afflicts Boutilimit stretches across the African continent, all the way to Mecca. As well as Mauritania, its dry hand has touched the adjoining countries of Mali, Niger, Chad, the Central African Republic, the Sudan and Ethiopia. It has crept down to Kenya and it has killed the animals in the game park outside Nairobi. It has divided huge Lake Chad into four ponds. (The fishing village of Bol once stood on the lake's shore but now is stranded 18 miles from water.) Right across the waist of Africa, the belt of drought stretches 4,000 miles long and 1,000 miles wide. And beyond the Indian Ocean, in a similar latitude, the drought continues through India's Maharashtra province, into China's Yangtze Valley and right on around the world into Central America.

It is such a vast calamity that our statistical machinery is unable to measure it meaningfully. In the African drought belt, observers think there are about 50 million people, of whom one-third have been severely affected. Bill Price, the British Overseas Development Minister who has just returned from West Africa, reckons that five million now face starvation. Kurt Waldheim, the Secretary General of the United Nations, says that up to 10 million may face starvation across Africa. Nobody really knows for sure.

It is perhaps easier to comprehend in geographic terms: As a result of the ongoing drought, the Sahara Desert has been creeping south, reclaiming huge sections of the marginal land between the desert and the great River Niger, an area known as the Sahel, from the Arabic word meaning shore. The Sahel supports the herds—cattle, camels and the ubiquitous goats—of such desert-dwelling nomads as the Fulani and the Tuareg in the dry season, as well as thousands and thousands of tiny villages and hamlets that exist on subsistence crops of millet and sorghum. Last year, the desert advanced about 60 miles, leaving behind village after village where only sand blows through abandoned huts, where the desert has already covered the stubble of millet.

Thus, in addition to causing widespread physical suffering and death, the drought has incalculable social consequences. The scarcity of food and other resources has aggravated existing tensions in the underdeveloped societies of the Sahel—in recent months, the Governments of Niger and Ethiopia have fallen, and in both countries the drought has contributed to unrest.

The ancient nomadic and peasant cultures of the Sahel were already under considerable pressure as the national boundaries of new African nations cut across their traditional paths of migration and as modern cash economies disrupted their normal way of making a living. The drought has proved a final blow in many places, and some observers of the Sahel have come to believe that the traditional cultures are no longer viable. Meanwhile, Sahel governments must cope with the problem of feeding and caring for settlements of refugees that begin to look more and more permanent.

Rain still falls in the Sahel—enough each summer, in fact, to wash out fragile roads necessary to transport food stores—but in recent years these rains have been sharply diminished. In normal times, 200 millimeters of rain would fall on Boutilimit between July and September, but last year only 41.6 millimeters fell. That was typical—it was a lucky Sahel zone that received even half its normal rainfall last year, and any area that received that much was immediately deluged with refugees. Rosso, on the Senegal River, gets 350 millimeters in a normal year. Last year, 164.5 millimeters fell, and the town exploded from 8,000 to 35,000 people in eight weeks.

It is becoming increasingly clear, furthermore, that this drought is no temporary meteorological aberration, but a basic shift in weather patterns that is causing a progressive reduction in Sahel rainfall. For centuries, weather in the Sahel had been governed by the shifting of a body of cold polar air. In spring and early summer, it would begin to recede to the north. As it did so, temperate air masses would follow, and so, in turn, would moist air belts that carry monsoon rains. Then in October, the polar air would begin moving south again, bringing the dry season to the Sahel. Now, however, an increasing number of climatologists believe the polar air mass is not receding so much with summer, and so the temperate air, and the monsoon bearing moist air, cannot move so far north. No one knows for sure why this has happened, although some scientists believe it has to do with the recently observed fact that the temperature of the earth has dropped gradually over the past few decades. This has resulted in an expansion of polar air masses, in a way that keeps monsoon rains below a line that corresponds closely to areas now experiencing drought.

If the theory of the polar air mass is valid, however, the implications are dire for the Sahel, for there is little man can do to deal with it. Thus, the British meteorologist Derek Winstanley argues that massive reforestation projects in the Sahel will have little effect on the southward march of the Sahara. For the rain will still not fall.

The effects of the drought are compounded by an ironic factor: Well-meaning aid projects over the last decade or so have resulted in an over-population of men and livestock that makes the current reduced ability of the land to support them far more disastrous in terms of lives than it might have been before. In the Sahel, the good years began shortly after 1961. There were six years of unusually high rainfall, which improved the thin and scraggly desert pasture. Then came the aid projects—U.S.A.I.D. built more than 1,400 wells where people seemed to need them most, which meant where there were most people and most cattle. In a desert society, which exists in a subtle ecological balance, one of the key restraints upon the size of herds has been the amount of water the tribe can haul up for its cattle by hand. The new power wells were soon surrounded by too many cattle for the available pasture.

And with the vaccination programs, fewer cattle died prematurely. The human population explosion, fueled by the beginnings of health care, needed the extra cattle, and the frail ecology of the Sahel began to crumble. Even in 1968, a relatively mild drought led to the desertification of vast areas, as the herdsmen cut down trees so their cattle could eat the foliage, as the hungry and numerous goats ate the very roots in the ground. Nineteen-sixty-nine was an almost normal year for rains, and the crisis was avoided, but the diminished rains of 1970, '71 and '72 condemned the bulk of the Sahel herds to death in 1973, and brought the Sahara into thousands of square miles of hitherto fertile land. The sheer scale of the human population increase terrifies local aid officials. Achim Kratz, the director of the European Development Fund mission in Niger, last year produced an authoritative report that concluded that even with good rains for the next 10 years, the food-population ratio will be worse in 1982 than in disastrous 1973.

There are a handful of towns scattered through the Sahel, most of them, like Agadez and Timbuktu, centuries old—the only reminder of the great and prosperous civilizations that flourished here six centuries ago when the desert was fertile. When the nomads and the peasants, their traditional way of life shattered by the drought, decide to flee, they move to these towns and to the modern cities on the Niger. There they live in pathetic and disease-riddled shantytowns. Fewer and fewer people remain on the land to plant next year's harvest, to tend what cattle are left. Food production has thus declined and can be expected to continue at reduced levels, but the uprooted nomads and peasants gathered in the towns must still be fed. And though the crisis that has left them starving is awesome in magnitude, organized attempts to help them have shown an appalling lack of urgency and competence.

The major food donors and local officials have agreed that about seven million people in the Sahel will need emergency food aid this year, and an investigating committee of donors decided after a factfinding tour last September that some 650,000 tons of food would be required. The food itself was not a problem—in fact, almost 600,000 tons were pledged by various donors (in particular, the U.S. and the European Economic Community) by January of this year. But the food is useless unless it can be shipped to northern areas where the hungry people are.

Roads are few in the Sahel. When they exist, they are simple dirt tracks that are covered by drifting sand in the dry season and washed away by the rains. On the average, a Land-Rover can cover 100 miles a day. The normal life of a truck, in these conditions, with few servicing facilities, is about 1,000 hours. There are also four old and frail railroads that go from the ports on the coast up to the southern part of the marginal zone. The capacity of these road and rail links is about 100,000 tons of food per month, and so if the required 600,000 tons of food is to be moved into place by the time the rains come in July, the shipments should have begun in January.

That should have been possible. Last year, when an emergency program was hastily patched together to deliver 400,000 tons, so little time was left to deliver before the rains came that aircraft were being used from May. But the airlift was so cumbersome and expensive that local aid officials hoped to avoid it this year. They worked out a plan for transporting food by land and forwarded it to Brussels, Rome and Washington last October. That left more than three months for the bureaucratic work and for the shipments to be arranged.

But on Jan. 31, the Food and Agricultural Organization's Sahel Relief Office (OSRO) issued report No. 8. Clause 6 reads: "The timely shipment of donated commodities is of considerable importance. OSRO has prepared tentative shipping schedules for each country by month and by port, taking into account port and internal transport capacities. These schedules will be discussed at a meeting of major donors called by the E.E.C. in Brussels on 12 February 1974."

In other words, by the time that meeting began, six vital weeks of delivery time had been wasted. And it was not until mid-March that the Council of Ministers in Brussels gave the full and final agreement for the deliveries. Only in April did the food begin to arrive in any real quantity. In Niger, for example, a steady supply of 23,000 tons a month was needed. Anything less meant transport capacity wasted. Anything more meant transport capacity swamped and food stockpiled on the wharfs at the mercy of rats and weather. But the monthly arrivals at the ports for Niger look like this:

[All figures are in tons]

February	10,438
March	7,662
April	49,102
May	20,252
June	11,017

It takes five weeks to get the food from the ports to the distribution points, so anything delivered after June will be blocked by the rains, which close the roads. The transport plan was never put into effect.

So another airlift will have to be undertaken this year, a fact that amounts to an indictment of the international aid community. President Hamani Diori of Niger pointed out to me shortly before he was ousted in a military coup that "the international community spent over $40 million on transporting food to Niger last year. Most of that money went on the airlift. For that kind of money we could have irrigated 11,000 hectares of land near the Niger River, which would have produced 110,000 tons of food. That is not far from our total needs—the economics of airlifts simply does not make sense."

Moreover, aircraft need fuel. The Belgian Air Force Hercules planes were using 19 tons of aviation fuel to deliver one ton of medical supplies to northern Chad last year. The U.S. Air Force used a ton of fuel for every ton of grain it flew from the railhead at Bamako to the refugee camps at Gao. That aviation fuel has to compete with food for limited rail space on the long slog from the ports.

The delay in approving food shipments was not the only administrative mistake. The multidonor mission that visited the Sahel last September to ascertain the total food needs agreed with the Mauritanian Government that Mauritania needed 100,000 tons in 1974, in addition to the 40,000 tons already in the pipeline for the country. Once back in the F.A.O. office in Rome, that 100,000 ton requirement was cut to 60,000 tons, to the horror of the Mauritanians.

To quote from a confidential World Food Program report dated Dec. 8, 1973, the reduced F.A.O. estimates were "based on either a misinterpretation of the recommendation made by the members who visited Mauritania or on a misunderstanding of the situation by the latter. It had been agreed between the mission and the Government that 100,000 tons of cereal would be required in 1974 in addition to the 40,000 tons in the pipeline at the beginning of October, 1973."

In other words, somebody had put a minus sign where there should have been a plus sign. The immediate result was that the Mauritanian Government cut the food ration to below 300 grams per head per day—a level of slow starvation.

The confidential report goes on: "In a report of the proceedings of the multidonor mission in Rome it is claimed that Mauritanian Government indicated that it could only handle the distribution of 58,000 tons of food aid or relief supplies. This is absolutely inaccurate. No such statement was ever made, nor is it contained in any report originating in Mauritania." In fact, the report went on, Mauritania could distribute about 120,000 tons a year. Although this mistake was uncovered last December, Dr. Abdallahi Ould Bah, the minister in charge of the Mauritanian relief program, told me at the end of March that he had still not been promised the extra 40,000 tons. Belatedly, this food is now on it ways.

The organization that should have detected this error was the Sahel nations' own emergency committee, which was established more than a year ago. Based in the Upper Volta capital of Ouagadougou, it was meant to coordinate food deliveries and provide the link between the bulk deliveries of the donor nations and the local transport of the individual nations. In fact, it has done little, largely because the various nations of the Hahel, each jealous of its own authority, have given the committee no real executive authority. Its major action so far has been to undermine its own credibility in Western eyes by presenting last year an unrealistic shipping list of unrelated and ambitious aid projects, with a price tag of $1-billion. According to one American soil expert, the committee's estimate of fertilizer needs would have poisoned every river and every acre of the Sahel for a decade.

We should not forget that the bureaucratic standards of the West are not applicable in the Sahel. These nations are among the poorest in the world. Insofar as the figures mean anything, Upper Volta has an annual G.N.P. per capita of about $60. Niger's is about $80. Independence 14 years ago found these countries with but a tiny band of educated leaders. Niger had but one high school. Education facilities, civil administrations and the accouterments of statehood had to be assembled from scratch. In "normal" years, about 40 per cent of Tuareg children die before the age of 5. The fragile administrative structures of the Sahel nations were barely adequate to cope with the strains of underdevelopment, let alone with a drought that made half the population into refugees.

This fundamental economic and administrative incapacity to handle a crisis of this scale was aggravated by the prickly pride of these newly independent nations. It is never easy for a government to announce to the world that it is incapable of saving its own citizens, and this kind of confession can be politically dangerous in countries where traditional tribal hostilities and jealousies are in an uneasy state of truce. Nowhere was this official reluctance to face up to the problems as marked as in Ethiopia. In November, 1972, its Ministry of Agriculture circulated a confidential report on the failure of the rains and crops, which would necessitate "major food imports" in 1973. The Cabinet chose to suppress and virtually ignore this report. And then in February, 1973 the first batch of starving refugees approached the capital and the tourists of Addis Ababa. They were swiftly turned away by the police and the alarmed Government was soothed by the report of the Governor of Wallo Province that there was "a problem of drought," but all was under control.

This official complacency meant that the local U.N. aid agencies, whose charter forbids them to work in anything but close association with the host Government, were not able to mobilize any effective relief. A stormy meeting took place in Addis Ababa on Aug. 14 last year, when an ex-Peace Corps UNICEF official presented a report saying that 60,000 people had already died in Wallo Province and the area was devastated. The Minister of Health suppressed this report, and said that such events could not occur in the great Empire of Ethiopia. But a copy of this report found its way to Britain, and journalists and TV crews went to Ethiopia and reported the crisis to an alarmed world. Then the Government, with incompetence

and corruption, began to handle its "problem of drought." Terrified that adverse news would ruin the tourist trade, the Government refused to admit that Wallo Province was raging with cholera. The Government insisted that the ailment be called "gastroenteritis C." But the Government was only too happy to accept doses of free cholera vaccine—and then to sell them for the equivalent of two American dollars a shot. The people who had to pay were the desperate, starving, impoverished victims of Wallo.

These were the events that led to the student and military outrage which erupted early this year and led Emperor Haile Selassie to dismiss the Government of Premier Akilou Wold and install the avowedly reformist regime of Endalkachew Makonnen. That old and discredited Government is gone, but the inflation and the national trauma that drought has brought have injected a basic instability into a system that has preserved Ethiopia in feudal stasis for centuries. For the drought's effects are all the more vicious in the context of that archaic system. Drought or no drought, the church, owning one-third of all the land, has demanded its rents from the impoverished peasants. And so has the aristocracy. The peasant farmers of Ethiopia have paid about 90 per cent of their crops in rents and taxes. Corrupt officials have abused their power to enrich themselves at the expense of drought victims.

The results have often been violent. In April, I drove deep into southern Ethiopia, towards the Kenyan border, where the drought of last year had left the inhabitants desperate. Encouraged by the political unrest in the capital, peasants who had been docile for generations exploded into a sudden rural revolt. All down the fertile Rift Valley the sky was trailed by the smoke from the burning farms. In the town of Arba Minch, we had barely crossed the only bridge before the local people tried to blow it up. Fifteen people were shot dead in the town that day, three by the nervous police, and the rest by landlords defending their farms against angry mobs of peasants. The provincial Governor had fled back to Addis Ababa, leaving his home in flames behind him. He was no great loss—he had persistently refused to distribute any of the aid food until every last bushel of his own harvest had been sold at three times the normal price. The local priest fled with him. The Governor had been donating $500 a month to the church, and the priest had threatened the townsfolk with mass excommunication if they attacked the Governor. They attacked anyway. The local Mayor was in hiding from a lynch mob.

In Ethiopia, whether the Emperor lives or dies, whether the rains come or not, life will never be the same again. The new Government has already begun to draw up more radical programs of land reform, because its first timid proposals were howled down by an outraged National Assembly. The peasants have shaken off the apathy of centuries. The Emperor has been forced to name an heir. The armed forces have come of political age.

Besides contributing to political unrest, the drought has cut savagely into Government revenues. In Mali, almost 20 per cent of the tax revenues came from poll taxes on cattle. And in Niger, the relatively mild drought of 1968 cost $20-million in lost agricultural production and $14-million in lost livestock—this in a country with a budget of $65-million. The oil crisis served to twist the economic knife inside the wound. The third world as a whole faces an oil bill that is $11-billion higher than last year, and yet total financial aid to the third world is only $8.5-billion. Even in relatively wealthy Senegal, this year's higher oil bill is costing over $70-million, which is slightly more than a quarter of the national budget. And one cannot relieve a famine without gasoline. In Senegal, the Government even has to take water in trucks to the people who live along the shores of the mighty Senegal River, because its flow is now so weak that the water is salt 80 miles from the sea. It has not passed unnoticed in the Sahel Governments that their fellow Moslems control the oil and have some say in the final gasoline prices, but the desperate Sahel governments are still paying the full commercial cost.

The prostration of the Sahel countries by the drought has undermined their economic negotiating position, particularly since the oil price rise has emphasized oil-rich Nigeria's role as Africa's new superstate. Diplomats and aid officials are already suggesting that the Sahel's future lies in much closer economic and political links with the stronger nations that surround them. Traditionally, these nations have been firmly tied to the apron strings of France, the original colonial power. But at the end of March, France agreed to withdraw her last troops from Senegal, and to hand over the key naval base of Dakar. The death of President Pompidou has simply accelerated an established trend of diminishing French influence. The oil-rich neighbors, Libya, Algeria and Nigeria, are increasingly concerned about who governs the nations in their rear. And the trans-Sahara road, from Algeria down through Niger to Nigeria, is arguably the single most strategic road in Africa. Although the social problems and dislocation of the drought were the underlying reasons for the recent coup against Niger's President Diori, its immediate cause was the defense treaty he had just signed with Libya, a move that upset the delicate new balance in the area and alarmed the neighboring Nigerians. Power politics has come to the Sahel, and the impact of the drought has left the Sahel nations with pitifully few cards to play.

If these countries are to stand on their own at all, they will need to solve the basic problems of underdevelopment that the drought has masked. They will need an agricultural revolution, producing cash crops with adequate roads to move the harvest to the markets. And yet, any change in the economic structure of the Sahel will need the agreement and cooperation of the markets for their cattle and manpower in the south. In addition, the Sahel nations argue that they need guaranteed prices for their primary produce from Europe, which will give their farmers incentives to increase production for export. But after the Arabs' use of the oil weapon and the explosion of commodity prices in general, Europe is wary of guaranteed price structures; the third world countries seem quite capable of getting better prices for themselves.

More profoundly, any attempt to modernize agriculture in these countries will require massive adjustments in attitude on the part of the people. Mauritania, a nation that is perhaps 90 per cent nomad, has already decided that the desert has become too much for the old way of life to continue. The Minister of Health, in charge of drought relief, openly suggests that the future of his country lies in having the vast majority of the population settle down to a static, peasant life in the fertile strips along the coast and along the Senegal. "There will be oases inland, and no doubt many of the older people will return to the desert if they can. But if this drought has given us the opportunity to modernize our society, we must not ignore it," he argues. In Niger, the only country which had a Minister for Nomads (who was himself a Taureg), the future is seen to lie in irrigated farming along the banks of the Niger, with non-nomadic stock-raising in the marginal zones. Man has endorsed the verdict of nature.

A massive re-education project will be needed to turn the nomads into settled farmers, and to take the peasant refugees from the shanty-towns and out to new, irrigated areas near the fertile river. In Mauritania, this is beginning to happen; a network of local radio stations to focus on agricultural education is being established. But there is little sign of such prescience elsewhere. This drought, and its social effects, has come as a tarumatic psychological shock to the people of the Sahel. When a peasant loses faith in his land, and when a nomad loses his trust in the fertility of the desert, the effect is a kind of psychological castration.

Aid officials, too, are despondent, having seen the drought's brutal negation of a decade of development. In northern Senegal, the rice plantations and sugar-cane groves, all developed in the last 10 years, are dead poisoned by the salt water that has crept up the river from the sea. In Mauritania, the famous gum trees of Medera, whose gum arabic was a key source of foreign exchange, are dead. Small market-gardening projects, stock improvement programs—so many are now wasted by drought. The panic of the last two years and the overriding need to keep people alive have left little time for the planning of long-term reconstruction. The World Bank is looking at a $70-million dam project on the Senegal, but there are fears that the reduced water flow may make such a dam superfluous.

Meanwhile, to the frustration of those who hope for rural development, many of the refugees are digging in to become a permanent feature of urban life. In Nouakchott, for example, whose population swelled, from 40,000 to 120,000 last year, walls of mud brick are beginning to appear around the tents in the shantytowns.

Inevitably, the old ways will pass, and the passage may not be very smooth. What few nomads the desert will support will have to give up their goats, the basis of their old way of life, for goats eat the bark from trees, the roots from the ground and, in terms of erosion, are the advance guard of the Sahara. The Governments of Mauritania, Mali and Niger have already—with reluctance—decided to follow the example of Tunisia and declare war on the goat. The few remaining herdsmen will also have to learn to sell their beloved cattle for slaughter when they are 5 years old, rather than cherish them until they die, for reasons of custom and prestige, as they still do. The herds will be rebuilt, up to a point, but they will never be allowed to overpopulate again. This can and will be attacked as cultural rape, but the Sahel governments have little choice but to try and absorb the nomads into the developing economy.

And so there is a deeper sadness about the drought, beyond the immediate despair and suffering. The archaic feudal system of Ethiopia can pass unmourned, perhaps, but the nomad way of life in the Sahara, the style of the Tuareg, has probably contributed something utterly intangible but rather valuable the human experience. It was a strikingly effective way of using limited resources to the best effect, and more than that, it generated an ethic of freedom and eternal challenge against the most hostile environment in the world. In that sense, it was always in some indefinable manner inspiring, and in a particular way the human race may never see again.

TO CURE INFLATION

Mr. NELSON. Mr. President, I was encouraged to read an editorial in yesday's New York Times entitled "To Cure Inflation." It makes a recommendation very similar to the one which I proposed in Concurrent Resolution No. 88, and introduced on Wednesday, June 5, along with Senators HART, JAVITS, and HUMPHREY. The Times calls on Congress to take the reins and provide leadership to combat our Nation's economic problems. Specifically, the editors recommend

drawing on "the best economic business and political minds available" to help formulate policies which deal more successfully with our current economic crisis.

I ask unanimous consent that this editorial be reprinted in today's RECORD. In addition, I am pleased to announce that Senators JOHNSTON, MCGOVERN, MCGEE, CLARK, STEVENSON, and HATHAWAY have joined us in cosponsoring this important measure.

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

TO CURE INFLATION

Here in the United States and throughout the world, inflation has become a problem of unexpected intensity and baffling complexity.

Some economists consider it a purely monetary phenomenon caused by the excessive creation of money and credit. Others regard inflation as mainly the result of misguided government fiscal policy—too much spending, too little taxing, too great use of deficit financing. Still others stress concentrated market power in the hands of great corporations and labor unions or, in this time of worldwide commodity inflation, in the hands of international cartels.

Neo-Malthusians see inflation as a symptom of uncontrolled economic and population growth, depleting the natural resources on which life itself depends. And all these only begin the list of asserted causes—a list that includes the wastage of resources on wars and preparations for wars, the heightened competition among social groups for larger shares of an economic pie that cannot grow fast enough to satisfy all demands, the weakness of governments and the breakdown of the world monetary system.

Admittedly, the general disease called inflation could be quickly wiped out if Government were to crack down hard enough by cutting off the supply of money and credit or by chopping Federal expenditures or raising taxes. But policies tough enough to eliminate inflation quickly could throw the economy into deep depression—a cure most people would regard as worse than the disease. Nevertheless, inflation at anything like its present rate is no minor ailment; it cannot be tolerated long without lasting damage to the social structure and danger to world economic and political stability.

The need for the best possible policies for dealing with inflation is urgent. In the absence of any discernible will in the White House to provide leadership in that direction, the most promising approach lies in a thoroughgoing Congressional investigation of the causes and cures of inflation. Such a study should draw upon the best economic, business and political minds available, as did the Temporary National Economic Committee studies of the concentration of economic power in the late nineteen-thirties and the Joint Economic Committee studies in the early sixties.

The great value of such investigations is that they concentrate the public mind, telescope (rather than lengthen) the learning process for Congress and the Administration, and help establish a firmer base for essential changes in national policies.

The present inflationary crisis calls for just such a broad-ranging effort to increase public understanding of inflation and to improve national policy on a wide range of issues from the sources of excess demand to the inhibitions on adequate supply, productivity and jobs for a growing labor force. Congress is the appropriate vehicle for launching such an inquiry into ways of improving the economic well-being of the American people.

KEEPING THE RECORD STRAIGHT IN RESPECT TO THE SENATE SELECT COMMITTEE ON PRESIDENTIAL CAMPAIGN ACTIVITIES

Mr. ERVIN. Mr. President, the printed press has reported on several occasions that Mr. Robert Bennett of the Mullen Co. in Washington, D.C., made the following report to the officials of the CIA on or about March 1, 1973:

. . . Mr. Bennett mentioned the 12 February, 1973 meeting among himself, Mullen and Lukoskie when he stated his opinion that the Ervin Committee investigating the Watergate incident would not involve the Company. He said that, if necessary he could intercede with Senator Ervin. His conclusion then was that he could handle the Ervin Committee if the Agency can handle Howard Hunt.

Mr. Bennett reported that he is well acquainted with a Charlotte, N.C. attorney named McConnell to whom Senator Ervin offered the position of Chief Investigator of the Congressional Committee investigating the Watergate incident. Mr. McConnell, according to Bennett, declined the offer because he is a millionaire in his own right and doesn't need to put up with all the grief associated with such a position. Mr. Bennett said he asked McConnell to inform Senator Ervin that Mullen, Bennett, and the Company are 100% clean of any involvement in the Watergate. Bennett is certain that Senator Ervin has no desire for revelation of legitimate arrangements or to harm the Agency and would avoid questions concerning our overseas cover placements. Mr. McConnell subsequently told Bennett that he and Senator Ervin were the only passengers on a private plane recently and he discussed Bennett, et. al., as requested by Bennett. Mr. McConnell believes Senator Ervin accepted his comments and will not attempt to further involve the Mullen Company people. Bennett believes he and his Agency affiliations will not be raised again. He has the Ervin Committee shut off and feels the Agency has the responsibility to persuade Howard Hunt to avoid revealing what he knows of the history of such arrangements with the Company . . . .

The Mr. McConnell mentioned in this statement was obviously my good friend of long standing, David M. McConnell of Charlotte. Merely for the purpose of keeping the record straight, I wish to say that I never had any conversation of the nature of that set forth above with Mr. McConnell at any time or in any place, and that Mr. McConnell has made statements to the press in complete harmony with the statement which I now make.

COMMUNIST VIOLATIONS OF THE PEACE AGREEMENT IN SOUTH VIETNAM

Mr. GOLDWATER. Mr. President, my legal assistant, Mr. Terry Emerson, has returned from South Vietnam with documented evidence of widespread violations of the January, 1973, Paris Peace Agreement by the North Vietnamese and Vietcong.

These violations include: The sabotage of U.S. efforts to account for the remaining 1,100 American MIA's.

The cold-blooded killing of an unarmed American team leader of a U.S. MIA search unit on December 15, 1973.

The mass murder of over 50 Vietnamese schoolchildren by Communist mortar attacks at Cai Lay and Song Phu.

Communist terrorist activities against villagers and refugees averaging almost 1,000 cases a month.

Several Communist attacks against military bases of the Republic of Vietnam.

The infiltration by the Communists of tremendous quantities of war materials far exceeding the amounts possessed by them in the South before the ceasefire.

The introduction of at least 50,000 more troops into the South than were present before the ceasefire.

Mr. President, the report by Mr. Emerson of wholesale Communist violations is particularly relevant in light of present congressional consideration of continued American military assistance to South Vietnam, and I ask unanimous consent that it be printed in the RECORD.

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

REPORT FROM VIETNAM: VI

(By J. Terry Emerson)

COMMUNIST CEASE-FIRE VIOLATIONS

The cruelest violation of the Paris Cease-Fire Agreement by the North Vietnamese and Viet Cong from the American standpoint is probably the blatant sabotage of United States efforts to account for the remaining United States military personnel and civilians who are listed as missing in action. Article 8(b) of the Vietnam Peace Agreement unequivocally provides that:

"(b) The parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains, and to take any such other measures as may be required to get information about those still considered missing in action."

Despite this clear language, carefully separated from being conditioned on any other of the provisions of the Peace Agreement, the Communists have refused American requests to enter Communist-controlled territory to conduct searches of probable crash or grave sites. Most tragic of all, the Communists committed a cold-blooded attack on the last, unarmed American MIA search team that investigated a known crash site in territory of the Republic of Vietnam.

On December 15, 1973, a United States unit of the four party joint military team, which has the single responsibility of implementing the MIA article of the Peace Accord, was attacked immediately upon landing at a site where the team had conducted a publicized operations for the preceding two days. The American team leader raised his hands in the international sign of surrender and shouted in Vietnamese that the group was unarmed. He was killed almost instantly by the attackers. One of the South Vietnamese assisting in the search was also killed. Four other Americans and three Vietnamese were wounded.

The Communist attack on an openly announced, peaceful mission was a precursor of Communist shellings of innocent school children lined up for classes at Cai Lay on March 9, 1974, and Song Phu on May 4, 1974. These massacres, which resulted in the killing of more than 50 young school children and the wounding of over an additional 100 children, are discussed in detail in my Report from Vietnam: III. The Communists have even been so flagrant as to shoot down a

helicopter operated for the International Commission of Control and Supervision, causing the death of 9 passengers and crew members, including 4 ICCS delegation members.

Returning to the subject of Article 8(b) violations, the North Vietnamese and Viet Cong have not allowed official United States' teams to enter areas they control. Yet it is in these areas that some 95% of the known crash and grave sites are located. At the time of the signing of the Peace Agreement, the United States had listed more than 1900 Americans as being captured or missing. Since the signing, this list has been reduced to 1100. If these remaining Americans are to be accounted for, our Government must find some means for pressuring compliance by the Communist side with the terms of the Peace Accord.

One technique guaranteed to end all hope for American efforts to search for our missing in action, in this writer's opinion, is to walk away from South Vietnam entirely. By continuing to some extent American financial assistance to the economy and military capability of South Vietnam, the United States will visibly demonstrate its continued interest in the situation. So long as there is some American identity in South Vietnam, the Communists must be uncertain as to how great this aid will continue to be or how sudden it might be enlarged. This uncertainty will bring at least some influence to bear upon the Communists which they must reckon with in calculating how much they shall comply with the Paris Peace Agreement.

Except for one or two possibilities, I must regretfully report of learning of no new information that indicates that any of the listed MIA's are known to be still alive; but the possibility always exists and the United States government would not live up to its humanitarian heritage of caring for each individual as a valued creation of the Divine Being unless we persisted in our efforts to be certain what happened in the case of each and every one of these MIA's.

Continuing my report of the Communist violations of the Paris Agreement, it cannot go unnoticed that Communist terrorist actions against villagers and refugees have averaged almost 1,000 instances a month since the signing of the Agreement. If elementary principles of civilized society are not adequate to condemn these practices, Article 3(c) of the Paris Agreement provides that:

"(c) The regular forces of all services and arms and the irregular forces of the parties in South Vietnam shall stop all offensive activities against each other and shall strictly abide by the following stipulations:

"All acts of force on the ground, in the air, and on the sea shall be prohibited.

"All hostile acts, terrorism and reprisals by both sides will be banned."

In the face of this provision, the Communists have conducted a regular program of violence against civilians in government-held areas of South Vietnam. While in Vietnam for a one-week investigation, from May 26 to June 1, I visited a temporary refugee camp where villagers were awaiting the recovery of their homes by the South Vietnamese forces. Communist attackers had already been repulsed from the Village, but they were still bombarding it from a distance with artillery in order to prevent the population from returning and resuming normal lives. The sounds of the firings were distinctly heard at the refugee camp.

The Communists have violated the Cease-Fire Agreement by numerous military activities. Major Communist attacks have occurred against several South Vietnamese defense posts. Swollen with military aid from Communist nations, the enemy is firing mortars and artillery like fireworks against the South Vietnamese bases. On the other hand, I learned from the Commanders in three military regions of South Vietnam about the strict rationing of fuel and ammunition which is forced upon the armies of the Republic.

Since the Cease-Fire, there have been drastic reductions in materials, weapons, and ammunition for troops of the Republic of Vietnam. Even C-rations are in poor supply which causes losses to the enemy because the army cannot avoid ambushes by the Communists when its troops must stop at known water spots for the nourishment which could have been supplied by the absent C-rations. In sharp contrast with the stringent rationing and shortage of supplies by the South Vietnamese defenders, since the Cease-Fire, with no bombing, the Communists are now able to reinforce their armies in ten days instead of three to four months. Formerly at least half or these Communist reinforcements were lost in bombing.

American intelligence confirms Vietnamese reports that the Communists have brought in enormous quantities of ammunition, weapons and troops since the signing of the Cease-Fire. For example, the Communists now have at lease two SAM missile sites located within the Republic of South Vietnam. At least fifteen SAM-2 and SAM-3 missile launchers have been installed below the 17th parallel after the Cease-Fire. Related to these sites are two Communist air fields which have been built since the Cease Fire, one of which is suitable for Communist MIG aircraft.

In MR I alone, the Communists have infiltrated after the Paris Agreement, some 87 tanks and 570 artillery pieces. In all, American intelligence evidence shows that the North Vietnamese have tripled the strength of their armor in the South since the Agreement by moving in, by various means, 400 new armored vehicles, mostly Soviet and Chinese built T-54, T-55, and PT-76 tanks. These tanks have been used in battle by Communist armies against the South Vietnamese troops in at least two military regions, MR I and MR III.

The Communists have also added numerous light artillery pieces, plus well over 100 heavy artillery, mostly Soviet and Chinese built 130mm and 122mm field guns. I was shown photographs of these field guns openly being pulled down the Communist supply route into the South.

I was also told by both United States and South Vietnamese experts of a very serious build-up in anti-aircraft artillery and devices by the North Vietnamese. The Communists have sent South more than 1,000 field artillery and anti-aircraft pieces. These include hand-held devices which radically change the picture in some areas of the South and create a situation which did not exist at the time of the 1972 offense by the Communists.

Moreover, the Communists have brought into the South new troops on the order of 120,000 men after the Cease Fire. These deployments have not only replaced the sick and wounded who were incapable of fighting, but resulted in a net increase of North Vietnamese forces in the South by approximately 50,000 troops. At the same time, the North Vietnamese have significantly improved their logistic system, especially the road network leading into the South and have replenished their depleted armament stock piles.

The ironic development to this observor is that the more the Communists violate the Cease-Fire Agreement, even to the extent of staging an attack on an American MIA recovery team, the more vocal becomes the resistance in the United States Congress to continuing the military and economic assistance which is required in order to fulfill our past commitments to enable the South Vietnamese to have a serious chance of defending their own homeland and building a new Republic.

This writer returned from a week's visit to South Vietnam convinced of the will and capacity of the people to establish their own style of freedom closely aligned with the American model. It would be a human tragedy of gigantic proportions if America would abandon the people who admire and seek to follow in our footsteps at the moment when they are so close to self-sufficiency, but still need infusions of financial assistance to bridge the gap between the previous major United States involvement and a self-reliant capability on the part of the South Vietnamese people alone in their quest for freedom.

CONSUMERS AND THE DEPARTMENT OF AGRICULTURE

Mr. HUMPHREY. Mr. President, I wish to call to the attention of the Senate a report by the U.S. Department of Agriculture's Young Executive Committee, entitled "Consumers: A Restless Constitutency."

The Young Executive Committee is selected annually to give broad experience to promising young Department of Agriculture employees. This group has been an outstanding success, and it is an idea which other agencies should adopt.

The report basically suggests that the Department is not as responsive to consumers as it should be. Its orientation has been to serve farmers and the agriculture community.

With consumer interest on the increase, the young executives assert that the Department must make a greater effort to acquaint consumers with its programs and how decisions are made.

I find the conclusions of this study very interesting and worth serious consideration.

Mr. President, I ask unanimous consent that the report be printed in the RECORD.

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

CONSUMERS: A RESTLESS CONSTITUENCY

The public has discovered the U.S. Department of Agriculture. Many people, other than farmers, find that activities of the Department of Agriculture have a direct bearing on their well-being. Since they hold this notion, they want to know what is going on in the Department, and they want to be able to influence the outcome.

A prominent concern is inflation, which is largely centered on food prices. Other matters that draw attention to the Department include food safety, consumer information, the needs of the poor, environmental quality, economic concentration, and government-industry relationships.

This sudden interest in the Department of Agriculture is welcomed in some quarters of USDA while it is viewed with alarm and hostility in other quarters. This is a strange development. When the Department was formed over a hundred years ago, President Lincoln termed it the "People's Department." And to a large extent it has been just that. Many farmers have risen from subsistence to affluence, school children and the poor are being fed, our supermarkets display abundance and variety unimagined at earlier times or in other places, we no longer fear food-borne diseases, and rural residents enjoy the convenience of electrical power and telephone communication. Many of these things have come about through the efforts of the

Department of Agriculture. With this record of accomplishment, it is reasonable to ask, "What more can the public want?"

Times have changed and the American people have changed. Yesterday our fathers or grandfathers were farmers. Today our children find us in the cities. We depend no less on agriculture now than we did a century ago, but we are no longer intimately associated with the land nor the man who tills the land. We view agriculture as an amorphous system that delivers food to our table, and we expect it to function continuously, efficiently, and honestly.

Such things as volatile supermarket prices, beef shortages, rumors of monopoly, suspected carcinogens in food, and a host of issues alarm the public, and the public reasonably expects an accounting from agriculture as an industry and from the Government agencies that serve it. The public feels that an adequate accounting has not been given.

Many consumers feel the Department of Agriculture has a credibility problem. Large numbers of people feel the Department represents only the special interests of agriculture and not the general public. They feel that little information relevant to public issues has been forthcoming from the Department and that the information that has been made available is meant to be persuasive rather than informative. The public prefers to influence the policy choices of the Department rather than be persuaded that the correct choices are being made on their behalf.

These feelings have serious implications for the Department of Agriculture and for the industry it serves. Three-fourths of the American people live in urban areas. Urban people are represented by urban congressmen. As their constituents lose confidence in the Department of Agriculture, these congressmen can be expected to give greater attention to agricultural issues and agricultural legislation. For good or for evil, these views are likely to reflect the biases and beliefs of the urban population in general. The results may be new impediments to the passage of agricultural legislation and attempts to undermine the authority now vested in the Department of Agriculture. Unless public confidence is enhanced, the Department of Agriculture can be expected to fade as an instrument of public policy.

The above observations arise from the efforts of the Young Executives Committee to gain a perspective on the relationship of the public, especially the consumer, to the Department of Agriculture. We interviewed the Secretary of Agriculture, the Under Secretary, assistant secretaries, administrators, directors, and other members of the Department who could comment on consumer issues. We also visited with members of Congress and representatives of public interest groups and consumers throughout the Nation to record their views.

We found general agreement that little is being done to involve the general public in USDA decisions. Differences arose over whether there should be a great deal of public involvement. Comments received from some members of the Department were genuinely hostile to public involvement:

"The movement is kind of an offshot of the antiprogress, environmental, extremist groups,"

"Agricultural policy questions are complex, it is doubtful that outside advocate groups can contribute,"

"Their interests are shortterm."

Many representatives of consumer groups, on the other hand, exhibited a measure of naivete about the Department of Agriculture and decisionmaking processes employed in the Department. They complained that efforts to become better informed and to make contacts with the Department were frustrated. Some mentioned that they had to resort to picketing, in their view an extreme measure, to gain a hearing with the Secretary of Agriculture.

As a result of our interviews with people within and outside the Department of Agriculture, we identified two broad areas of concern. The first of these is communication, the second deals with the nature of the decisionmaking process.

COMMUNICATIONS

Historically, the U.S. Department of Agriculture has operated a massive information delivery system aimed at farmers and rural residents. Only recently, have efforts been made to serve urban residents. An important step in this direction was the appointment of a special Assistant to the Secretary for Consumer Affairs. These efforts, however, are modest in comparison to the magnitude of the problem and not well known among the people meant to be served.

The Department of Agriculture also employs a large variety of media for communicating with the public. Numerous mailing lists are maintained for distributing publications, news releases, and ideas for better farming and living. Information sent out of the Department can be designated for whatever group a particular mailing list represents. It is significant, however, that only now is a mailing list for consumer leaders being established.

The great volume of information emanating from the Department is used by farm editors, city food editors, farm organizations, industry groups, and some individual members of the public. However, most of the effort to inform has been oriented to the needs of the individual farm or the individual home rather than to issues confronting farmers as a group or households as a group. Helpful home and farm hints have a great deal of value, and continued dissemination of such information deserves support. But questions on national food policy or economic policy have at least as much value to individual economic units, and it is this area that the information services of the Department of Agriculture have been reluctant to tread. Furthermore, when these issues are discussed in the public forum, the intent is often to persuade rather than inform and the public reacts with skepticism.

In spite of massive efforts to inform the public, albeit on noncontroversial issues, many people seek more information about particular problems than is normally available. The typical approach used to obtain information is to write a letter (to the Secretary of Agriculture—who else?) Another approach is to make a phone call (to the "Department of Agriculture" as listed in the local telephone directory). Both of these approaches lead to frustration. Letters are answered, often with some delay, but the replies are sometimes not satisfactory. A phone call leads to the General Services Communication Center (in Washington) or to an agency field office that only coincidentally may deal with the problem.

We found that much of the public, represented by consumer spokesmen, simply does not know how to get information from the Department, even if it is noncontroversial. A few members of the Department argue that a person can get the information he needs if he perseverses. We question whether success is securing information should depend on the stamina or native ingenuity of the inquirer.

Requests for information on sensitive issues may not be well received. However, if the inquirer has credible political resources, delays are reduced and replies are more responsive. Some parties have resorted to court action to get such information.

The basic problems we see in the communications area are:

1. Little urban access to USDA information.

2. Reluctance on the part of USDA to inform on sensitive issues.

3. Poor knowledge on the part of the public of the structure, activities, and goals of USDA.

4. Limited efforts to facilitate public inquiries.

DECISIONMAKING PROCESS

Problems in the communications area relate to the difficulty in getting information from USDA. Problems with the decisionmaking process relate to getting information to USDA.

Decisionmaking processes in USDA are not well understood by the public, and are therefore suspect. To many persons it appears that Department policies are established behind closed doors by government officials and representatives of industries with vested interests. This is an exaggeration, but it leaves a citizen with the feeling of helplessness and despair. It is easy, then, to reject any and all proposals of the Department of Agriculture as serving the selfish interests of agribusiness. Greater consumer involvement in the decision process will result in better understanding and commitment to final decisions.

Most significant farm program decisions remain the prerogative of the Secretary of Agriculture. These include the establishment of price-support levels, acreage restrictions, commodity purchases, and export subsidies. In some cases, public comment is solicited, but there is no requirement to make use of it. Consumer representatives feel their views are systematically excluded from these decisions, because they are made in private by officials with suspected industry bias.

Problems associated with the decisionmaking process can be dealt with more specifically in the several areas where USDA employs formal means for getting public input into government decisions. These form means include *Federal Register* procedures, advisory committees, and public hearings.

The most commonly used vehicle for securing public comment on USDA proposals is the *Federal Register*. This process is very formal and includes a specific sequence of events. A tentative proposal is published with a statement of considerations, and a limited amount of time is allowed for the filing of views and comments. At the close of the filing period the proposal is reevaluated in light of the comments received, and ultimately the final decision is published, with a review of the comments, and incorporated in the Federal Regulations.

Consumer representatives expressed dissatisfaction with current *Federal Register* procedures. In the first place, few individuals are aware of the *Federal Register* or proposals made in it. Second, for those who know about and use the *Federal Register*, several problems exist. Aside from concern about the origin of proposals, consumer representatives feel that the statement of considerations does not identify the broad context of the proposed change and that little effort is made to describe the impact of the proposed change on any group other than the regulated group. Federal regulations administered by the Department of Agriculture are complex, and unless a reader is generally familiar with a particular regulation, it becomes difficult to place a proposed change in its full context. Without an appreciation for the context of the proposed change, it becomes even more difficult to project the impact on one's own interest. Frequently, the statement of considerations placed in the *Federal Register* puts a heavy burden of understanding on the reader. Without this understanding, much of what is presented is not clear.

Another complaint from the consumer groups who offer comments on *Federal Register* proposals is that their views are not adequately considered. Such complaints may arise because there is often no evidence that consumer views were considered.

USDA uses official advisory committees

which are established to provide public input and make recommendations in specific policy areas. We would add to this list the Federal marketing order administrative committees.

By law, advisory committees must be representative of the interests related to the policy area under review. Our cursory examination of the membership of advisory committees turned up only one member representing any well-known consumer organization. In the eyes of the Department we are all consumers; therefore, the consumer has unanimous representation on advisory committees. We prefer the narrower definition that a person be classified by the economic interest of his organizational affiliation.

It is argued that representatives of consumer groups lack the expertise or sophistication to contribute much of a technical nature to an advisory committee. But many committees that deal with questions of food prices and supplies, grades and standards, research priorities, food safety, or environmental quality could benefit from the addition of a consumer member. He represents the ultimate user. He can keep the committee constantly abreast of the up-to-date concerns, attitudes, and interests of the consuming public. Furthermore, some consumer groups have access to technical experts.

The hearing process is an extension of the *Federal Register* procedure and is used mainly for making changes in Federal milk, fruit, and vegetable marketing orders. It adds several preliminary steps before a formal proposal is made in the *Federal Register*. From time to time interested parties recommend particular changes for marketing orders. If the proposal is legal, and if it is deemed substantive, the Department announces its intention to hold a hearing and solicits additional proposals from other interested parties. After the time for filing proposals has passed, a "notice of hearing" is published in the *Federal Register* listing the proposals and designating the time and place for hearing.

A hearing is usually held in a local area and is presided over by an administrative law judge. Any member of the public can attend and give testimony on the proposals being considered. In practice, participation is usually by Department specialists and industry representatives. The proceedings are rather informal and are designed to develop an official record on which the decision is based. After the hearing, USDA specialists study the record and formulate a recommended decision for publication in the *Federal Register*.

The structure of the hearing process does not seem to present formal barriers to participation by individual members of the public, whether they be producers or consumers. However, it is a rare occasion when a consumer representative or an interested citizen is present and offers his views. Public participation is probably restricted because the notice of hearing is written in technical jargon, unintelligible to all but the specialist. Failure to appear means that his views are excluded from the hearing record and consequently are not explicitly taken into account when a decision is made.

In addition to the formal methods, USDA also utilizes informal relationships between employees and industry groups to obtain comments. In the area of regulatory activity, formal proposals often come about as a result of unsolicited advice from an interested industry group. Over a long period of time, these groups, organized mainly to work with government, have identified decisionmakers in the Department, and have developed close working relationships with them. We see no evil in this approach but we did find that consumer groups seek to form the same sort of relationship with the Department. To date they have had less than satisfactory results. Consumer representatives are convinced that they have valid recommendations to offer, and want their suggestions entered into the decision process. They especially want to enter the formative stage before proposals are drafted and published in the *Federal Register*.

GENERAL RECOMMENDATIONS

The Young Executives Committee recommends two long-run objectives for the Department of Agriculture.

1. Broaden the constituency of the Department of Agriculture. Our interviews with Department officials made it clear that most of them believe the constituent of the Department of Agriculture is the commercial farmer. In practice, however, agricultural business, whether they be cooperatives or proprietary firms, also receive substantial attention.

Concentration on the interests of farmers and agricultural businesses narrows the vision and potential for service by the Department of Agriculture. American consumers represent a vital client group for the Department of Agriculture. This is the group that buys most of the food in the United States. Consumers must see themselves as beneficiaries, and not the victims, of agricultural programs. Otherwise, other institutions will arise and eclipse the authority now held in the Department as agriculture's political base declines. In fact as well as in principle, the actions of the Department must reflect the interests of consumers and producers.

The Department must broaden its working relationships with Congress. Currently, the Department of Agriculture maintains its closest working relationships with rural-oriented congressmen and agricultural committees of the Senate and the House of Representatives. This is fine, but the same set of relationships should be cultivated with other congressmen and committees that are concerned with the impact of agricultural programs on their urban constituents.

2. Develop a national food policy which would include farm policy. This national food policy would be set with the interests of the consuming public in the forefront. With such an approach, farm programs would be derived from national food goals relating to nutrition, food supplies and prices, foreign food aid, and agricultural trade, as well as from the needs of farmers. Then farm programs would be established to contribute to these goals. However, the primary responsibility for the development and administration of the national food policy should remain where the information and expertise is in the Department of Agriculture.

A well considered national food policy must reflect the longrun interests of consumers. Consumer needs are fundamental, and only by satisfying these needs can farmers maximize their returns in the long run.

It is frequently argued that the best way to assure plentiful food supplies and reasonable prices is to maintain a prosperous agriculture. If this argument holds, then agriculture will fare better under a national food policy than under a separate farm policy.

SPECIFIC RECOMMENDATIONS

Apart from the general recommendations, a number of measures can be adopted in the short run by the Department of Agriculture that would improve understandings between agricultural policymakers and much of the public. We urge the following actions.

I. Initiate and fully support effort to facilitate public access to USDA:

(A) List a special USDA consumer information number in each major metropolitan telephone directory. Then man the phone with a well-trained professional who can direct inquirers to the proper person in the department. This would reduce the time and frustration often experienced as inquirers are shuffled from person to person before a satisfactory answer is given, or the question is given up. It would also reduce the number of irrelevant calls handled by members of the Department.

(B) Prepare and widely distribute a brief up-to-date popularized publication to aid the public, including consumers, in communicating with USDA. This publication should describe the Department's goals and general organizational structure. It should list the managers of major programs along with their phone numbers. These managers could be identified from the Department's program elements.

(C) Publish a list of USDA experts to serve as a speakers bureau. These experts should be identified by specific subject area and the list contain persons from throughout USDA. A separate list should be made for different localities or regions. Members of the bureau will be made available to consumer groups or other interested parties to give the Department's view on pertinent issues. This activity will allow consumer groups, as well as others, an opportunity to get the facts.

(D) Launch a national campaign on how to get information from USDA. Using mass media channels, a nationwide public service campaign should be conducted to inform people on the proper procedures for making inquiries of the Department. The theme, "It's a People's Department," or "It's Your Department," should be stressed, but the campaign must not be a platform for a "look how good we are" operation. Instead it should, actively solicit questions and explain procedures for best getting them answered—such as using complete addresses, asking for only one type of information per inquiry, etc. This campaign should take advantage of all types of mass media:

1. Radio-TV Spots. A series of these, taking advantage of public service time, could advertise phone numbers and addresses to which people could direct inquiries on specific topics. The organizational outline publication could be advertised. The fact that USDA has speakers available for groups could be announced.

2. Newspaper and magazine articles could be generated around inputs from the radio-TV spots. For instance, a story could say the Department received x number of letters objecting to y last week, or that mail is running 4 to 1 in favor of the decision on z. Stress that the Department wants public comment and how to make it.

3. Popular Publications should all contain a statement saying: "For more information on this subject—or other selected topics—here's where to write or call."

II. Incorporate consumer views in the decisionmaking process. This could be accomplished by:

(A) Forming a consumer advisory committee with members also serving on program advisory committees. We feel at least 24 advisory committees could benefit from the inclusion of a consumer spokesman. Appendix A lists these committees. Such a structure will assure consumer representation and input into the advisory committee system. These representatives can be a part of the individual advisory committees and still have a forum of the full consumer committee to exert influence. National, State, and local consumer organizations should recommend individuals to serve on the consumer advisory committee.

(B) Placing the Assistant to the Secretary for Consumer Affairs on the Commodity Credit Corporation Board of Directors. The CCC Board plays a central role in the policy and decisionmaking role of the Department's farm income programs. The Board also is used extensively by the Secretary to obtain advice on other issues of concern to the Department. Greater consideration of the consumer viewpoint by this body, given the

close and necessary relationship between the consumer and the farmer, would prove beneficial to both parties.

(C) Actively soliciting consumer views on program decisions.

1. Encourage the advance publication of program options to solicit comments from interested parties before recommended decisions are made. Decisions can be improved by allowing a wider and diverse group to examine the options.

2. Press releases should spell out the impact of proposals and upcoming hearings on consumers. The release should be distributed through a consumer mailing list. Language should be understandable to the layman. This could be done by adding to or rewriting the releases that currently go out. Most releases are now issued in a form that lends support to charges that they are intended only to inform industry interests.

3. Expand the use of public briefings, such as the briefings on the net weight proposal, to inform the public of proposals and to obtain comments. These meetings afford consumers as well as industry representatives an opportunity for open discussion with Departmental specialists. Such briefings could be valuable to the Department in getting input on issues of consumer interest prior to the drafting of proposals.

III. Establish an Office of Consumer Affairs as a staff office of the Secretary. The present position and staff of the Special Assistant to the Secretary for Consumer Affairs could be the nucleus of this office. The function of the Special Assistant is to explain what the Department of Agriculture is and does, provide information and coordinate briefings on policy issues, and assist the public in making comments on policy proposals. The Office we propose would expand the capability of the Department to undertake these activities. The director of this office should also be a member of the consumer advisory committee.

CONCLUDING REMARKS

The Department of Agriculture has not adequately considered or involved the consuming public in its programs and decision-making processes. Consumers are dissatisfied and vocal in expressing this dissatisfaction. Increasingly consumers are urban oriented and are represented by urban Congressmen without expertise in agricultural issues. Unless the Department increases its consideration of consumer needs we fear both agriculture and the consumer will be adversely affected. We believe the need for a broader constituency for the Department is indicative of the need to establish a national food policy. The Department should take bold steps towards improving communications with consumers and specifically represent their interests.

Recently the Department has moved in this direction. The establishment of a special assistant to the Secretary for Consumer Affairs is an effort to recognize, inform and involve consumers. The Food Editor's conference held in January, the public briefings on the net weight issue and individual agency efforts to inform and involve the public are positive steps. However, current efforts are not consistent with the magnitude of the problem facing the Department. Therefore a need clearly exists for the enactment of our recommendations.

HERNÁNDEZ COLÓN CALLS FOR STRENGTHENED TIES BETWEEN PUERTO RICO AND THE UNITED STATES

Mr. McGOVERN. Mr. President, the unique character of the relationship between Puerto Rico and the United States has been of considerable interest to me as an historian and as a long-time friend of the Commonwealth. I was, therefore, gratified to read the thoughtful and sensitive statement made by the Governor of Puerto Rico, Rafael Hernández Colón to the Ad Hoc Advisory Group on Puerto Rico, describing his concept of this compact between two freely associated people—the people of the United States and the people of Puerto Rico. The statement was reprinted in the CONGRESSIONAL RECORD of May 2, 1974, and I commend it to my colleagues' attention.

In a world torn by violence, Puerto Rico seeks a larger share of self-government and self-determination through peaceful and constitutional means, within the context of the established relationship between the two signators to the compact. Puerto Rico has demonstrated repeatedly that it does not want statehood nor does it wish to sever its ties with the United States. It wants permanent union with maximum self-government—a unique experiment in Commonwealth. And the dynamic young Governor of Puerto Rico, Mr. Hernández Colón has eloquently articulated these principles and hopes in his statement before the Ad Hoc Advisory Group on Puerto Rico which is now deliberating on improvements in the status of Puerto Rico.

An excellent editorial on this question appeared in the May 27, 1974, issue of the Washington Star News and I ask unanimous consent that it be printed in the RECORD.

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

PUERTO RICAN FREEDOM

It is almost 22 years since Puerto Rico, a spoil of the Spanish-American War, became a commonwealth in free association with the United States. The arrangement should be overdue for revision, if not a basic overhaul, in the light of two decades of trial and error and the hectic pace at which the island has been transformed.

So it is surprising, at the outset of an official review of Puerto Rico's status, that the changes sought by the island's political leadership are rather modest. This is a tribute, mostly, to the soundness of the commonwealth idea and the fact it has served the welfare of the great majority of Puerto Ricans.

In initial testimony before the recently created Ad Hoc Advisory Group on Puerto Rico, Governor Rafael Hernandez Colon has stressed the goal of "maximum self-government" along with "permanent union" with the United States. His principal proposal would make it less automatic for acts of Congress (in which Puerto Rico has a delegate but no vote) to be applicable to the island; laws would have to include Puerto Rico specifically in order to apply, rather than be applicable in the absence of a specific exclusion. This makes sense, although we would like to see debate on two examples of areas where Hernandez would like Puerto Rico to be free of national legislation: environmental law, and the jurisdiction of the Federal Communications Commission over radio and television.

The important point in the present review of Puerto Rico's legal standing is that it can demonstrate the voluntary nature of the link between island and mainland, to the consternation of Cuban propagandists seeking to label Puerto Rico a colony. The Ad Hoc Group, co-chaired by former Governor Luis Munoz Marin and Senator Marlow Cook, was named by both Hernandez and President Nixon to recommend improvements of the commonwealth arrangements, preferred by most islanders as it was in 1952. With statehood the goal of a sizable minority (though this would bring the federal tax man and much more control from Washington), Hernandez noted that "more than 95 percent of Puerto Ricans want to continue close, permanent ties with their fellow-citizens in the United States."

The lonely independence movement, of course, could grow in time, but not if the commonwealth with its large measure of economic interdependence with the United States works as well as it has since 1952.

THE FOURTH OF JULY REVISITED

Mr. ERVIN. Mr. President, Dr. Bower Aly, who was a distinguished professor of speech at the University of Oregon, wrote an excellent article entitled "The Fourth of July Revisited" which was published by the Speech Association of America, New York, N.Y., in 1970, in the volume entitled "Essays in Honor of Claude M. Wise." Acting for the editors of the copyright of this book, Arthur J. Bronstein has given me permission to have this article inserted in the CONGRESSIONAL RECORD with this statement: "Reprinted from 'Essays in Honor of C. M. Wise,' edited by A. Bronstein, C. L. Shaver, and C. J. Stevens, the Speech Communication Association, New York, 1970."

Pursuant to this permission, I ask unanimous consent that Dr. Aly's article be printed in the RECORD in order that it may have the widest dissemination.

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

THE FOURTH OF JULY REVISITED

(By Bower Aly,* University of Oregon)

THE SPIRIT OF '76

On July 4, 1793, John Quincy Adams, scion of the famous Massachusetts family, fulfilled his obligation as orator for the Town Authorities of Boston with an oration deemed by his hearers to be a veritable model of eloquence. In a burst of fervor, the orator exclaimed, "Americans! let us pause for a moment to consider the situation of our country at that eventful day when our national existence commenced."[1] In his exhortation Adams adopted the view held generally in 1973, and for a century thereafter, concerning the observance of the Fourth of July. Of all the holidays, saints' days, and days of celebration, none has been observed throughout the United States of America with more enthusiasm or with greater consistency than Independence Day. The Fourth of July, celebrating, somewhat incongruously, an event that occurred on July 2, 1776, thus tended to unite Americans and to provide them with the occasion for their most characteristic epideictic oratory.[2]

In the nineteenth century, who delivered the Fourth of July orations? Who heard them? What was said? What were the circumstances? The answers to these and comparable questions provide an avenue to understanding the development of nationhood in the United States and the uniting of her people.

In some degree the Fourth of July oratory doubtless became the conscious instrument of nation-makers. Ebullient oratory, extolling Americans and viewing with disdain the effete nations of Europe, could and did on occasion make the judicious grieve; but it also served to voice the pride and to build the confidence of popular audiences in their

Footnotes at end of article.

institutions and in their destiny. To praise the Americans in America was not more difficult than to praise the Athenians in Athens. The Missouri editor admonishing his fellow-citizens may thus have written more shrewdly than he knew when he complained that a Fourth of July "passed off rather more silently than might have been expected. . . . we should think that in a town like ours the public spirit would speak from the mouth of a tolerable sized cannon on the anniversary day of our country's independence." [2] Surely the Missouri editor would have applauded the sentiments expressed in Wisconsin when, since the Fourth of July fell on a Sunday, no provision was made for its celebration:

It should be taught to our youth as a part of their duty to themselves and posterity, to keep alive the "vestal fires" of liberty—to revive [the] spark which burned so steadily and strongly in the days that tried men's souls,—and it is a solemn duty, by orations, by reading the declaration—by patriotic speeches and toasts—to vivify and refresh the memory of all, of the great event it commemorates.[4]

THE FESTIVITIES

During the nineteenth century, Independence Day—almost invariably referred to as "The Fourth of July"—occasioned celebration in cities, towns, and countryside. Someone, perhaps the local schoolmaster or some exceptionally favored youngster, read the Declaration of Independence. Normally an invited orator spoke at length to a great public gathering; additional speeches were often scheduled throughout the day. Frequently the festivities took place in a grove, and in the early days of the republic the orator might literally speak from a stump. The militia were sometimes in evidence; parades, with floats and banners, appeared in the towns; and firecrackers and cannon fire were not unknown. In the countryside the people gathered to consume quantities of food served at rude tables in "brush arbors"; in the towns and cities the celebrating patriots were more likely to resort to a hotel or tavern. In either case, the toasts drunk in any available beverage were not likely to be perfunctory. The toasts of two sorts—regular (or announced) and voluntary (ostensibly on the spur of the moment) were sometimes in such number as to place in question the ability of the celebrants, after the thirteenth libation, to give thoughtful attention to any speaker. The voluntary toasts varied from year to year and from place to place; but for a hundred years or more the regular toasts conformed so fully to type as to be predictable. They are exemplified by some of those offered at a foregathering of Americans in Montreal on July 4, 1811:

Our country—May she never doubt the fidelity of her absent sons in the hour of danger.

Patriots of '76—Your children best know your worth when bore down by overbearing spirits.

Sojourning Americans—May you all be ready at your country's call.

Brother Jonathan—May his great gun be loaded with true American principles, wadded with traitors, and pointed at the enemies of liberty. Yankee doodle.

* * * * *

Many in one (*epluribus Unum*) the motto of the United States.

The American Constitution—The greatest piece of human ingenuity, the safeguard of our union, and the shield of our liberty.

Our native country—May she have a speedy and amicable adjustment with all nations.

Yankee doodle—More powerful than the shouts of rams' horns, which brought down the walls of ancient Jericho.[5]

Footnotes at end of article.

THE ORATIONS

For the most part the Fourth of July orations might well have taken their cue from the toasts. In varying degrees of sophistication, the orators expressed pride in the past, satisfaction in the present, and confidence in the future of their country. These expressions of pride, satisfaction, and confidence permeated American oratory when the United States was a loose alignment of commonwealths along the Atlantic seaboard; they continued to characterize Fourth of July speeches of the continental nation emerging into the twentieth century. Moreover, certain phrases recurred so consistently as to become well-nigh ritualistic. They were heard eventually in Springfield, Oregon, as they had been heard in Springfield, Massachusetts; and in the state of Washington as well as in Washington, D.C. The language, the rhythms, the prosody can be observed to vary in time and place, but the views expressed by John B. Henderson on July 4, 1847, will be found over and over again in the Fourth of July orations:

"Though all former governments have fallen and yielded to the corroding influences of time, and shared the fate of all other human concerns, yet there are principles, firm as the unchangeable rocks of Adamant, upon which the fabric of government will stand, until human affairs shall have ceased and Heaven's Messiah shall fill the throne of peace. Those principles are founded upon the equality of mankind, upon truth, reason and justice; and the government whose foundations rest upon these, and whose strength is dependent upon the free will of a vigorous people, will only fail when time shall grow hoary with age, and nature herself shall decay." [6]

IV. THE EXCEPTIONS

Not all the Fourth of July orations conformed to the pattern. As sometimes happens the variant speeches may prove more interesting, if less instructive about the general practice, than those conforming to custom. The sober discourse that Henry James (the elder) delivered in Newport, Rhode Island, although patriotic enough in its Jamesian way, could hardly be confused with the fustian of the backwoods orator whose sublimest art consisted in twisting the British lion's tail and making the American eagle scream. In distinctive phrases Henry James expressed on that fateful Fourth of July following Abraham Lincoln's first inauguration and the firing on Fort Sumpter the perturbations that he shared with many of his countrymen:

"No doubt many men, whose consciences have been drugged by our past political prosperity, do fancy some such inevitable destiny as this before us,—do fancy that we may become so besotted with the lust of gain as to permit the greatest rapacity on the part of our public servants, the most undisguised and persistent corruption on the part of our municipal and private agents, without forfeiting the Providential favor. From that sort of spread-eagle-ism I told my friend that I hoped we were now undergoing a timely and permanent deliverance.

* * * * *

"As Americans, we love our country, it is true, but not because it is ours simply; on the contrary, we are proud to belong to it, because it is the country of all mankind, because she opens her teeming lap to the exile of every land, and bares her hospitable breast to whatsoever wears the human form.

* * * * *

"For my part, if I thought that our rules were going to betray in this agonizing hour the deathless interest confided to them,—if I thought that Mr. Lincoln and Mr. Seward were going at last to palter with the sublime instincts of peace and righteousness that elevated them to power and give them all their personal prestige, by making the least conceivable further concession to the obscene demon of Slavery—then I could joyfully see Mr. Lincoln and Mr. Seward scourged from the scared eminence they defile, yea more, could joyfully see our boasted political house itself laid low in the dust forever, because in that case its stainless stars and stripes would have sunk from a banner of freemen into a dishonored badge of the most contemptible people on earth; a people that bartered away the fairest spiritual birthright any people ever yet were born to, for the foulest mess of material pottage ever concocted of shameless lust and triumphant fraud." [7]

The Fourth of July orations of Henry David Thoreau are likewise atypical. In his speech delivered at Framingham, Massachusetts, on July 4, 1854, Thoreau, endeavoring to demonstrate the superiority of private conscience over public law, reported his discovery: "I did not know at first what ailed me. At last it occurred to me that what I had lost was a country." Six years later, on July 4, 1860, he was called to North Elba, Ohio, to deliver an address commemorating "Old John Brown of Osawatomie." There he spoke not for John Brown's life, for the old man had been hanged on December 2, 1859, but for John Brown's character, his immortality [8]

Surely no fourth of July oration—at least during the nineteenth century—could have run more directly counter to the prevailing lines of discourse than that delivered in Rochester, New York, by Frederick Douglass, a slave escaped from bondage, a black man of unconquerable spirit, who told to his white audience the story as it was in 1852:

"This Fourth July is *yours* not *mine*. *You* may rejoice, *I* must mourn. To drag a man in fetters into the grand illuminated temple of liberty, and call upon him to join you in joyous anthems, were inhuman mockery and sacrilegious irony.

* * * * *

"What, to the American slave, is your 4th of July? I answer; a day that reveals to him, more than all other days in the year, the gross injustice and cruelty to which he is the constant victim.

* * * * *

"Go where you may, search where you will, roam through all the monarchies and despotisms of the old world, travel through South America, search out every abuse, and when you have found the last, lay your facts by the side of the every day practices of this nation, and you will say with me, that, for revolting barbarity and shameless hypocrisy, America reigns without a rival." [9]

THE OCCASIONS

To suppose that the speeches of Henry James, Henry David Thoreau, and Frederick Douglass truly represent Fourth of July oratory would be delusive. They do not. Almost equally delusive would be the supposition that the celebration of Independence Day was given over entirely to the celebration of independence. The expectation of throngs of citizens suggested to many enterprisers of varying degrees of private interest and public spirit that the Fourth of July could be a good day for events somewhat extraneous to commemorating the birth of the United States of America.

The Fourth of July thus became an occasion for laying cornerstones. In 1795 Massachusetts combined the celebartion of Independence Day with the laying of the cornerstone of the State House on Beacon Hill.[10] In 1815 the city of Baltimore found "the Fourth" a convenient day for laying the cornerstone of a monument to George Washington.[11] With such good precedent, the citizens of Missouri did not hesitate to lay the cornerstone of the new University of Missouri on July 4, 1840; [12] and six years later the citizens of Springfield, Missouri, thought it well to lay the cornerstone of the Southwest Missouri High School on July Fourth.[13] The precedent established in 1795 and 1815 was further confirmed in Washington, D.C., on July 4, 1851, with the laying of the cornerstone of the enlargement of the Capitol.[14]

Doubtless the expectation of good summer

weather in an era when auditoriums, if available at all, could hardly accommodate throngs of citizens, suggested the expediency of holding great public events out of doors on the Fourth of July. The Fourth thus became the great gathering day, and not only for the laying of cornerstones. In 1817, the chief stockholders in a super bridge "now erecting over the Susquehannah river at a place called *Rock Run*" met to observe the work in progress and to celebrate the day with "an elegant entertainment." [15] In the years to follow, great crowds gathered on "the Fourth" to witness the breaking of ground for the new Erie Canal; [16] the commencement of the Cumberland Road westward of the Ohio; [17] the opening of the Croton Aqueduct into New York City; [18] the breaking of ground for the new railroad out of St. Louis to the West; [19] and the opening of navigation between Lake Erie and the Great Hydraulic Canal at Niagara Falls.[20]

The passing years saw the Fourth of July employed as an occasion to denounce the British and their high-handed actions at sea; [21] to aid the ladies of the Methodist church,[22] to promote the building of a railroad and telegraph to San Francisco; [23] to celebrate at Marquette, Michigan, the completion of the St. Mary Canal; [24] to dedicate before 20,000 spectators, in New York, the equestrian statue of George Washington in Union Square; [25] to organize a pioneer society for all who had lived in Greene County, Missouri, since 1838; [26] and eventually, in 1892, to plead on behalf of a Woman Suffrage Club that women be given the same rights as those accorded to four million slaves.[27]

As the years passed, the Fourth of July seemed to become more and more available to causes or private concerns even less related to Independence Day than the laying of a cornerstone or the breaking of ground for a new railroad. Temperance societies, seeing the temptations present even on the very grounds provided for the Fourth of July celebration, found the time and place auspicious for temperance sermons.[28] Candidates for public office, from Sheriff to Congressman, endeavored if not to speak then at least to see and be seen. The great day tended to become tainted, in the opinion of some dedicated patriots, by party politics. In Philadelphia, on July 4, 1838, John J. McCahen thus employed the national birthday to attack the "activities of the Federal Party." [29] In Augusta, Georgia, a year later, Elijah Anglin sought to celebrate the day with a partisan toast:

"*Gen. Jackson*—He has whipped the British, he has out Generalled the French, he has choaked down the Bank, and gutted nullification." [30]

Perhaps less partisan and certainly more acceptable, the Fourth of July and Grief Meeting held six years later in Springfield, Missouri, permitted the delivery of not one but two lengthy orations "especially descanting upon the virtues . . . of the Hero of Orleans who had recently died." [31] The celebration held on July 4, 1849, in Orangeburgh, South Carolina, at which secessionist toasts were offered, could hardly qualify as a commemoration of the spirit of 1776; [32] and in Charleston on the same day the toast offered by T. S. Blanding might well have been

"Sacred to the memory of Thomas Hart Benton, who, in a feeble attempt to injure our right arm, has been crushed by our Foote." [33]

Despite all the causes served by the Fourth of July, however, great numbers of Americans doubtless attended the celebrations for the same reason that prompted Fisher Ames in 1794 not only to go hear the oration but also, as he said, "to see the bustle of the Boston frolic." [34] Often, as inveterate participants could report, "A good time was had by all."

Yet not every one had a good time at all of the many thousands of observances. Sometimes, as with the magnificent celebration planned by the Pilot Grove and Pisgah Rangers for July 4, 1844, the rains descended and the floods came to abort all plans.[35] Sometimes untoward accident occurred on the Great Day, as at Geneva and Auburn, in 1835;[36] and at Portsmouth, New Hampshire, in 1840, when a large pavilion erected in the form of an amphitheatre gave way and came tumbling down with a horrible crash, so that nearly a thousand persons were thrown to the ground amid "screams of affright, and . . . groans of pain." [37] Even when no untoward event occurred, the day was sometimes solemn, as it may well have been at Old Fort Schuyler, when on July 4, 1796, General Philip Schuyler chose to announce his retirement:

"The last sands of my political life, as one of your representatives, are nearly run out; but whilst I continue in that honourable station, be assured that my best abilities will be exerted to promote the interest and happiness of the community at large, and that of my Fellow-Citizens of the Western Counties in particular; by whose industry a howling wilderness is reducing to smiling and fertile fields." [38]

Thirty years later both John Adams and Thomas Jefferson, with a felicity that did not go unobserved, died on Independence Day and thus gave themselves and the anniversary a certain unanticipated dignity.[39] The observances of the Fourth before, during, and after the Civil War often proved to be sobering and sometimes sombre. In Detroit, on Independence day, 1857, a fight occurred in which Deputy Sheriff Small was fatally injured.[40] In 1861, Captain Howell of the Canton Guards was shot and the troops were called out.[41] On the same day Ex-Senator Green, after reading the Declaration of Independence, was pursued and captured by Col. Palmer's troops.[42] Two years later the Fourth of July address delivered by Brigadier General Bartholow inveighed against the rebels and their sympathizers.[43] In 1866, the Civil War having been concluded, General John A. Logan delivering the Fourth of July oration at Salem, Illinois, asserted that Independence Day belongs to loyal men and not to traitors, who have no civil rights except those specifically granted to them by the victors;[44] and at Hibernia, Missouri, in 1868, the people announced a Fourth of July meeting to raise funds for the widows and orphans of the Confederate dead.[45]

THE HEARERS

In Pontiac, Michigan, on the Fourth of July, 1854, Mrs. T. J. Drake declared, "Everybody has gone to the grove to hear the speeches." [46] Her assertion could stand with but slight modification for innumerable communities throughout the United States for more than a hundred years. The audiences for the speeches on the Fourth of July included, as some of the old folks could say with slight exaggeration, "Everybody who *is* anybody."

Even in sparsely settled areas, the audiences often numbered thousands of persons, eager for sociability, amusement, and speechmaking of the kind that came to be expected on July Fourth. In days when men and women walked, rode horseback, or came in horse and buggy, the pioneers traveled from miles around on the Fourth of July to watch Adam Cobb walk to and fro on the platform, flourish his bandanna, and occasionally weep, as he gave his famous oration. Happily a text of his speech has been preserved and inasmuch as some understanding of the hearers can be developed from a knowledge of the speeches they enjoyed, a portion of the text of Adam Cobb's oration is reproduced:

"I appear before you, at this time, in behalf of our beloved Washington and our forefathers. I have come to speak their praises, for it was them that bore the *brunt* of our sorrows and made us a free and a happy people.

"Yes, my friends and enemies, it was my forefathers and anchestors as well as yours that fit with our beloved Washington when he whipped the great battle of the cow pens in the State of old North Carolina. When the Red Jackets came to beguile us from our homes, besides the Red Man of our native land. Our forefathers and our *anchestors* had to work their *craps* the best they could, with the rifle in one hand and the Brazin seikle in the other, and the hot broiling sun shining down on their backs.

"But our glorious, beloved Washington is no more, for he is buried way down on old Faginia shore. Whar the willows wave over his grave, and we see him no more, for he is buried way down on old *Faginia* shore, where willows wave over his grave, and we see him no more. So *Swcet-Li* let him Lye, and sleep for ever more." [47]

Presumably the Wisconsin pioneers never heard Adam Cobb's oration; but Mrs. Gratiot's description of a Fourth of July audience in the early settlement of Wisconsin suggests that he might have been well received:

"The first insight I had in border society was at the Fourth of July celebration, of the same year . . . Several very polished persons, of course, were present; but it was the contrast that made it original: Capt. Comstock, Maj. Farnsworth, Dr. Newhall, Capt. Hardy, Mr. Meeker and others. Col. Strode delivered the oration. But of miners with uncut hair, red flannel shirts, and heavy boots drawn over their pants, there was a great number, all eager to dance and enjoy themselves to the worth of their money; but I must say to their praise, that they all behaved like gentlemen. The ladies were few." [48]

In 1825, in the new Marion County, Missouri, an estimated 500 persons assembled "with all that enthusiasm which the remembrance of our birth-day as a nation so justly inspires" to hear the reading of the Declaration of Independence and the delivery of an oration.[49] On the same day in Licking Summit, Ohio, eight to ten thousand spectators heard "with universal satisfaction" an oration pronounced by Thomas Ewing, Esq.[50] At Springfield, Illinois, the "young men's convention and old soldier's meeting" held on July 4, 1840, attracted 5,000 delegates and 5,000 spectators.[51] On the same day at the Buttonwoods, Rhode Island, 10,000 people met for the Harrison celebration in conjunction with the Fourth; [52] at Concord, Massachusetts, 6,000 delegates attended a similar meeting; [53] and at Salisbury, North Carolina, 12,000 persons assembled in "the most immense crowd of people that ever was congregated in North Carolina." [54]

On July 4, 1851, 500 people met in Marysville, Oregon Territory, to celebrate the Fourth, with an appropriate anthem, a national prayer, the reading of the Declaration of Independence, an oration, a dinner, and numerous toasts.[55] On July 4, 1859, a crowd estimated at 4,500 people met at Syracuse, Missouri, in circumstances described in the following account:

"By noon, the place seemed to be one living, moving mass of human beings, composed of old, young, middle aged,—grave and venerable sires and matrons, the young men, rigged out in their Sunday best—the handsome young ladies, *spreading* themselves, (we mean their hoops) arrayed in gaudy attire, their smiling and lovely faces beaming with pleasurable emotions—the young juveniles, intent upon the full enjoyment of the great day, with rosy cheeks and curly hair—and lastly a host of Africa's sable race, all looking sleek and happy; making up such a mass of human beings as is seldom seen on occasions of the kind, in country towns." [56]

The responsibility for celebrating the anniversary was normally placed with a com-

Footnotes at end of article.

mittee whose members exerted themselves to accommodate different types of hearers. During the celebration held at Lucas Spring in St. Louis, Missouri, on July 4, 1819, the principal chiefs of the Osage Indians were in evidence, as was a "native American eagle in full life." [57] At Danby, Michigan, a generation later, whites and Indians joined in a celebration at which short addresses delivered by speakers of both races were interpreted for mutual edification.[58] At Atoka, Indian Territory, on July 4, 1875, some 3,000 Indians celebrated the anniversary for the first time. They heard, among others, their Chief, who spoke in the Choctaw language.[59]

A year later, at the centennial of American independence, Carl Schurz, the eminent Missouri stateman of German birth, spoke in Lafayette Park to a huge audience of Germans who throughout the day had celebrated the centennial with a procession that included marching bands, household illuminations, a liberal display of flags, banners, union lanterns, the bursting of rockets, and the glare of thousands of torches.[60]

Usually the audiences gathered for the Fourth of July could expect a meeting on dry land, a speech by a man to whom women were permitted to listen, and a season of merriment unclouded by sorrow. Anticipating the occasion at Carterville, Illinois, James A. Washburn described the circumstances, composition, and mood of a fairly typical Fourth of July audience:

"Our folks are preparing to celebrate the 4th hugely. At Marion 'the old folks' have a big meeting, and at Carterville they propose to have ebullition of Patriotism and spread Eagle Oratory, and possibly of beer and ice-cold lemonade with a spike in it—accompanied by a regular "Hoe down" or Barndance. They make things lively on the glorious Fourth, those Cartervillians do—even if it requires a regular "Knock-down" and Drag-out or so.[61]

Sometimes unexpected events intervened to defeat expectations and thus to create an unusual audience or unusual conditions. In 1875, General Sherman, in a party that included members of his staff as well as dignitaries from Iowa, Illinois, and Missouri, denied the force of custom. The party celebrated the Fourth not on dry land but aboard the excursion steamer *J. H. Johnson* on the Mississippi River near Quincy, Illinois, and heard a speech in which General Sherman complimented the young men of Iowa, Illinois, and Missouri.[62]

In Augusta, Maine, on July 4, 1834, Miss Green turned the world upside down when she did the speaking to an audience including men who were permitted to listen—and cheer:

"If I shall have been so happy as to gain the approbation of those for whose sake I have so far departed from the strict limit which ancient prejudices have too long prescribed to our sex, I shall be amply repaid for all the sneers of whitlings and fools. [Cheers] I have been only desirous of winning the approving smile of the nobler sex for my sentiments, not for myself. And I say unto you, lords of creation, as you call yourselves, if you doubt my sincerity, I proclaim it here in the face of all Augusta, now assembled around me, and you may believe me or not as you please—but there is not one among you, Tom, Dick, or Harry, that I would give a brass thimble to call 'husband,' tomorrow." [63]

On July 4, 1881, many Americans who had expected to celebrate a day of joy were subdued to learn that on July 2 Charles J. Guiteau had shot their President, James A. Garfield. When Samuel Odell in his Fourth of July oration, paid tribute "to the President and his dear, despairing wife, his aged mother and the loving kiss she gave to her beloved son on the 4th of March last, it was easy to see how earnestly the speaker felt what he was saying, and the tears that filled the eyes of young and old told how sincerely the vast audience felt and appreciated the dreadful calamity that now hangs over our republic." [64]

The 30,000 people gathered in Richmond, Virginia, in 1896, formed an audience with little reason for the usual merriment. They listened to General Stephen D. Lee deliver a eulogy on Jefferson Davis, late President of the Confederacy; [65] and some of them heard General John B. Gordon, addressing the United Confederate Veterans in their National Encampment, praise the state of Virginia and its people.[66]

THE CRITICISM

As Wichelns observed in 1925, "Histories of criticism, in whole or in part, we now have, and histories of orators. But that section of the history of criticism which deals with judging of orators is still unwritten." [67]

In 1969, the history of the criticism of oratory remains unwritten. Even so, the annalists and some of the newspapers of the nineteenth century took oratory seriously and endeavored to pass judgment on it. If the judgments disclosed an imperfect knowledge of rhetoric and a limited range of concepts, they nevertheless formed a body of folk-criticism revealing, as criticism so often does, as much of the prejudices of the critic as of the abilities of the criticized.

The popular critics of oratory tended to deal with delivery rather than with invention, except as the orator was observed to inculcate principles of morality. Although notable exceptions can be found, the folk-criticism tended toward generalized praise, particularly for moralistic or patriotic themes, rather than caustic comment. The critic of O. H. Travers' oration thus observed that it was "in all its essentials of the high character, and such as should be impressed upon the minds of the youth of the present age." [68] The oration of Prof. D. DeMott Woodmansee was "spoken of by those who heard it, and are competent to judge, as an effort worthy of a scholar, a deep thinker, and a true orator." [69] On one anniversary Champ Clark was expected to "jerk tail feathers from the American eagle;" [70] but on another he delivered to the Law Class of the University of Missouri an address stressing that young lawyers should not feel that they must be atheists to be successful." [71]

In an age that did not know microphones and yet sometimes required the voice of the orator to compete with the wails of children and the barking of dogs, not to mention occasional outbursts from convivial cronies on the outskirts of a crowd, the most elementary of critiques—"I could hear every word"—might represent a triumph not lightly to be regarded. Even some practiced orators did not always attain it. When Dr. Pope Yeaman delivered a Fouth of July oration in 1892, he succeeded with a good-natured audience, even though one scrap occurred "and the police gathered in the combatants." [72] But when Dr. Yeaman spoke four years later, the hum of conversation was so loud that it finally forced him to stop speaking.[73] Even though the oration delivered by Hon. W. W. Thayer on July 4, 1892, was adjudged to be a brilliant effort, "which contained a large amount of deeply interesting food for thought for all," great dissatisfaction was expressed "because the greater part of the audience was unable to hear it." [74]

The folk critic was much concerned with diction, voice, and delivery generally. Of Dr. Pope Yeaman one critic observed that his "words are each distinctly uttered, dropping from his lips like coins from the mint. His sentences are polished and rounded and full of thought. . . . It was thought by some that he approached perilously close to politics in certain parts of his speech, but as he left his hearers to make their own applications of the doctrine he preached on that occasion, each political party may apply the remarks to the other and no harm done." [75]

However, not every critic concerned himself exclusively with diction. For example, one country editor reported of a speaker (referred to as "colored") that—

"He raised himself above prejudice and above malice. Indeed, his speech was remarkable, and shows that Mr. Tandy has a well balanced head, a fine education, an excellent character and a pure heart."

Concerning a second speaker the editor opined that he "is not as pleasant a speaker as Tandy but a closer and better reasoner." [76]

The editor-critic of *The Oregon Oracle* found the oration of G. M. Miller to be not of the usual "spread eagle" style but one *full* of facts and practical suggestions.[77] The flamboyance that came to be expected of the Fourth of July orator appears to have been both enjoyed and deprecated. It could hardly have persisted without approval of some sort; yet deprecatory references to the "spread eagle" style abound. One account has it that "the Eagle was spread by so many orators (?) the 4th, that his birdship is as flat as a leather apron, and it will take him the rest of the season to organize himself into a rounded form again." [78]

Apparently fervent speeches for the Fourth of July were less objectionable prior to the Civil War. The oration delivered by John L. Blair at Madison, Wisconsin, on July 4, 1850, was adjudged to be "a beautiful and spirited composition, creditable alike to the head and heart of the author, and was listened to with intense interest by an immense audience." [79] At the Fourth of July celebration in Madison nine years later the "oration was attentively listened to, and abounded with apt references to the history of the day and congratulatory allusions to the comparatively prosperous condition of the country. It was delivered in the forcible and attractive style that characterizes Hon. Arthur McArthur's oratory." [80]

For comprehensive criticism of Fourth of July oratory one must turn to *The Hundred Boston Orators*, a volume published before the Civil War. Unavoidably parochial, admittedly not without error, and couched in the phrases of another day, the work of James Spear Loring nevertheless takes oratory seriously. It provides texts and criticism of Fourth of July orations delivered in Boston from 1783 to 1851, together with an account of the orator and the occasion. The judgments rendered reveal a respect for oratory as a form of intelligence engaged in the expression and the forming of opinion.[81]

Although a noteworthy earlier work, perhaps by William Cullen Bryant, is not limited to Fourth of July speeches, it does formulate views applicable to their criticism. Some of these views are colored by an optimism to which a present-day critic of oratory might not subscribe:

However people may be captivated with prettily turned speeches and holyday orations, and delight in the play they give to the fancy and taste, they will not be led by them to responsible action on important emergencies. There is an instinct, as it were, among the ignorant and vulgar, as well as those of better taste and sounder judgment, which prevents them from being imposed upon by these superficial and heartless speech makers. There is an earnestness and naturalness of manner in all those who speak from feeling and from just views of their subject, and who themselves participate in the passions they would communicate, which cannot be put on. Such persons rarely fail to find forcible, if not elegant expressions, and to arrest the attention and influence the minds of their hearers. It is such oratory we wish to see encouraged in this country, and such only we believe is likely to succeed.[82]

Footnotes at end of article.

THE APOGEE

On July 4, 1917, the Fourth of July and its observance came full circle; for on that memorable day, in London, by order of King George V, the British joined unreservedly in the celebration of the 141st anniversary of American independence. The Stars and Stripes flew from the Victoria Tower of the Houses of Parliament. The Welsh Guards played American airs at the Palace of St. James. Distinguished Englishmen, including the Rt. Hon. Arthur James Balfour, the British Foreign Secretary, attended the reception held by Walter Hines Page, the American Ambassador and the Secretary made Fourth of July speeches. Ambassador Page said:

"This kingdom is the stedfast friend of freedom. In the celebration of this birthday we therefore dedicate ourselves not only to our own ideals but likewise to the additional task of strengthening our close friendship with this other great branch of the English-speaking world."

To this speech, Secretary Balfour replied: "Are we not bound together for ever? Will not our descendants, when they come to look back upon this unique episode in the history of the world, say that among the incalculable circumstances which it produces the most beneficient and the most permanent is, perhaps, that we are brought together and united for one common purpose in one common understanding—the two great branches of the English-speaking race?" [83]

Perhaps the Englishman and the American alike were bearing witness to the prescience of Otto von Bismarck, who—it is said—on being asked, "What is the most important fact for the twentieth century?" replied, "That North America speaks the English language."

On July 4, 1917, the Fourth of July may be said to have reached its apogee. Thereafter the Americans, as they became perhaps more sophisticated and certainly more urban in their civilization and its accompanying commitments, tended less and less to observe the Fourth of July at all; or if they observed it to do so not with the reading of the Declaration of Independence, which had become to many of them an antique relic of the long ago, nor with speeches in praise of their forebears and in recollection of their nationhood, but in frolics at the beaches or other playgrounds. It seemed that as the Americans became more and more involved in saving the world, they tended to become less and less appreciative of their own heritage and consequently, as they thought, had less need to be reminded of it. In gaining the world perhaps the Americans, like Henry David Thoreau, lost a country.

FOOTNOTES

*Bower Aly (Ph.D., Columbia University, 1941), Professor of Speech, The University of Oregon, is the author of *The Rhetoric of Alexander Hamilton* and other works. He wishes here to express his indebtedness to the Huntington Library, and to the State Historical Society of Missouri, for courtesies extended during the preparation of "The Fourth of July Revisited"; and to innumerable students who have contributed to his understanding of the history of American public address.

[1] James Spear Loring, *The Hundred Boston Orators Appointed by the Municipal Authorities and Other Public Bodies, from 1770 to 1852; Comprising Historical Gleanings, Illustrating the Principles and Progress of Our Republican Institutions* (Boston: John P. Jewett and Company, 1852), p. 233.

[2] Carl Becker, *The Declaration of Independence: A Study in the History of Political Ideas* (New York: Random House, 1942), p. 3. See also Howard H. Martin, "The Fourth of July Oration," *The Quarterly Journal of Speech*, XLIV (December, 1958), 393–401. See also Merle Curti, *The Roots of American Loyalty* (New York: Columbia University Press, 1946), pp. 136–141.

[3] *Missouri Register* [Boonville], July 9, 1844.

[4] *The Argus* [Madison, Wisconsin], July 10, 1849.

[5] *Niles Weekly Register* [Baltimore, Maryland], October 12, 1811, p. 103.

[6] *Democratic Banner* [Louisiana, Missouri], August 16, 1847.

[7] Henry James, *The Social Significance of Our Institutions: An Oration Delivered by Request of the Citizens at Newport, R. I., July 4th 1861* (Boston: Ticknor and Fields, 1861), *pasim.*

[8] Henry David Thoreau, "Slavery in Massachusetts," *A Yankee in Canada, with Anti-Slavery and Reform Papers* (Boston: Ticknor and Fields, 1866), pp. 97–116. See also "The Last Days of John Brown," as published in *The Liberator*, July 27, 1860 and in *Anti-Slavery and Reform Papers by Henry D. Thoreau, Selected and Edited by H. S. Salt* (London: Swan Sonnenschein & Co., 1890), pp. 82–90.

[9] Frederick Douglass, *Oration, Delivered in Corinthian Hall, Rochester, by Frederick Douglass, July 5th, 1852* (Rochester: Lee, Mann & Co., 1852), *passim.*

[10] Loring, *The Hundred Boston Orators*, p. 254.

[11] *Niles Weekly Register*, July 8, 1815, p. 329.

[12] *Columbia Herald* [Missouri], February 11, 1892.

[13] *The Advertiser* [Springfield, Missouri], August 8, 1846.

[14] *The Oregon Statesman*, August 12, 1851.

[15] *Niles Weekly Register*, July 19, 1817, p. 336.

[16] Martha Lamb, *History of the City of New York* (New York: A. S. Barnes & Company, 1877), II, p. 676.

[17] *Missouri Republican* [St. Louis], August 15, 1825.

[18] Lamb, *History of the City of New York*, II, p. 730.

[19] Walter B. Stevens, *Missouri—The Center State:* 1821–1915 (Chicago: The S. J. Clarke Publishing Company, 1915), I, pp. 132–133.

[20] *New York Tribune*, July 7, 1857.

[21] "Political Portraits with Pen and Pencil . . . ," *Democratic Review*, IX (October, 1841), 388.

[22] *Missouri Register*, June 11, 1844.

[23] *Fulton Telegraph* [Missouri], July 27, 1849.

[24] *Report of the Pioneer and Historical Society of the State of Michigan* (Lansing: Thorp and Godfrey, 1886), VIII, p. 156.

[25] *Tri-Weekly Messenger* [Hannibal, Missouri], July 17, 1856.

[26] *Tri-Weekly Patriot* [Springfield, Missouri], June 15, 1867.

[27] *The Express* [Springfield, Missouri], July 22, 1892.

[28] *Oregon Argus* [Oregon City], July 4, 1857.

[29] *The Southern Missouri Advocate* [Jackson], September 1, 1838.

[30] *Jeffersonian Republican* [Jefferson City, Missouri], August 3, 1839.

[31] *The Advertiser*, July 5, 1845.

[32] *Jefferson Inquirer* [Jefferson City, Missouri], August 11, 1849.

[33] *Fulton Telegraph*, July 27, 1849.

[34] Seth Ames, ed., *Works of Fisher Ames with a Selection From His Speeches and Correspondence* (Boston: Little, Brown and Company, 1854), I, p. 146.

[35] *Missouri Register*, June 11, 1844; July 9, 1844.

[36] *Jeffersonian Republican*, August 15, 1835.

[37] *Niles National Register* [Baltimore, Maryland], July 18, 1840, p. 307.

[38] *The Minerva, & Mercantile Evening Advertiser* [New York], July 30, 1796.

[39] *Tri-Weekly Messenger*, August 28, 1856. See also Lawton T. Hemans, *Life and Times of Stevens Thomas Mason—The Boy Governor of Michigan* (Lansing, Michigan Historical Commission, 1920), p. 31.

[40] *New York Tribune*, July 7, 1857.

[41] *Weekly Missouri Democrat* [St. Louis], July 16, 1861.

[42] *The Liberty Tribune* [Missouri], July 26, 1861.

[43] *The Macon Gazette* [Missouri], July 26, 1863.

[44] *The Loyal Missourian* [California], July 12, 1866.

[45] *The People's Tribune* [Jefferson City, Missouri], June 17, 1868.

[46] Letter, Mrs. T. J. Drake to Eddie Smith, Michigan Pioneer and Historical Society, *Historical Collections* (Lansing: Wynkoop Hallenbeck Crawford Company, 1907, p. 676.

[47] William S. Bryan and Robert Rose, *A History of the Pioneer Families of Missouri* . . . (St. Louis: Bryan, Brand & Company, 1876), p. 512, *et seq.*

[48] Ellis Baker Usher, *Wisconsin: Its Story and Biography 1848–1913* (Chicago: The Lewis Publishing Company, 1914), I, p. 42.

[49] *Missouri Republican*, July 18, 1825.

[50] *Independent Patriot* [Jackson, Missouri], August 13, 1825.

[51] *Niles National Register*, July 18, 1840, p. 309.

[52] *Ibid.*, July 18, 1840, p. 307.

[53] *Ibid.*

[54] *Ibid.*, August 1, 1840, p. 345.

[55] *The Oregon Statesman*, July 22, 1851.

[56] *California News* [Missouri], July 9, 1859.

[57] *Missouri Gazette and Public Advertiser* [St. Louis], July 7, 1819.

[58] *Report of the Pioneer Society of the State of Michigan* (Lansing: W. S. George & Company, 1883), IV, p. 32.

[59] *The Advertiser* [Boonville, Missouri], July 9, 1875.

[60] *St. Louis Globe-Democrat*, July 4, 1876.

[61] Letter, James M. Washburn to S. A. Lancaster, June 11, 1882 (Private Collection).

[62] *The Canton Press* [Missouri], July 10, 1875.

[63] *Jefferson Republican*, August 30, 1834.

[64] *Springfield Express*, July 8, 1881.

[65] *Lexington Intelligencer* [Missouri], July 11, 1896.

[66] *Ibid.*

[67] "The Literary Criticism of Oratory," *Studies in Rhetoric and Public Speaking in Honor of James Albert Winans by Pupils and Colleagues* (New York: The Century Co., 1925), p. 181.

[68] *Springfield Express*, July 8, 1881.

[69] *The Press* [Carthage, Missouri], August 24, 1882.

[70] *Missouri Statesman* [Columbia], July 1, 1898.

[71] *The Paris Mercury* [Missouri], June 12, 1896.

[72] *The Brookfield Gazette* [Missouri], July 8, 1896.

[73] *The Paris Mercury*, July 10, 1896.

[74] *Corvallis Gazette* [Oregon], July 8, 1892.

[75] *The Brookfield Gazette*, July 8, 1892.

[76] *North Mo. Herald* [Huntsville], July 6, 1870.

[77] *The Oregon Oracle* [Philomath], July 9, 1885.

[78] *The National* [Memphis, Missouri], July 9, 1885.

[79] *The Argus* [Madison, Wisconsin], July 9, 1850.

[80] *The Daily Wisconsin Patriot* [Madison], July 5, 1859.

[81] Loring, *op. cit.*

[82] "Modern Oratory: A Review of *The Speeches of Charles Phillips, Esquire* . . . , *The North American Review*, VII (July, 1818), 225.

[83] *The Fourth of July in London* (London: Darling & Son, Ltd., 1917), *passim.*

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, a perennial criticism of international agreements on human rights in general and of the Genocide Convention in particular is that such accords lack adequate constitutional foundations. However, this

clearly is not the case with respect to the Genocide Convention.

The Supreme Court in Geofroy against Riggs (1889) described the rather broad power to enact a treaty in the following expansive language:

It would not be contended that it (the treaty-making power) extends so far as to authorize what the constitution forbids, or a change in the character of the government or in that of one of the states, or a cession of any portion of the territory of the latter, without its consent. But with these exceptions it is not perceived that there is any limit to the questions which can be adjusted touching on any matter which is properly the subject of negotiations with a foreign country.

The major substantive provisions of the Genocide Convention—those establishing the crime defining the crime, prescribing the punishment, calling upon the United States to execute the treaty by appropriate legislation, providing for the settlement of disputes, providing for concurrent jurisdiction and asking for extradition in accordance with the laws and treaties in force—are not violative of the Constitution and have been included in principle in many of the treaties to which the United States is a party—some of them going back to the 18th century. These provisions have not only not denied our citizens any of their constitutional rights but have, in many cases enhanced them.

Further, Mr. President, even if the articles of the Genocide Convention were, on their face, violative of the Constitution, the Supreme Court has consistently recognized that a treaty cannot authorize what the Constitution forbids—Reid against Covert; see also Missouri against Holland and Geofroy against Riggs. Thus, the Genocide Convention provisions will not and cannot violate the Constitution.

THE APPROACHING DEPRESSION

Mr. JAVITS. Mr. President, I wish to draw the attention of my colleagues to a very important article from the Economist, entitled "The Approaching Depression." Although there is great public concern with the rate of inflation, and warnings from such leaders as Arthur Burns that a continuation of inflation at present levels could undermine the very framework of this society, insufficient attention has yet been paid to the grave danger of worldwide recession.

In fact, as the Economist article points out, fears of a world recession have receded as the oil embargo was lifted and fuel became relatively plentiful once again. However, higher oil prices are exacting a huge toll on the economies of both developed and developing countries. The reduction in demand caused by the higher oil prices is not being offset by reflationary steps by national governments, with the possible result a demand-induced depression.

It is also becoming clearer that the recycling of oil revenues back into investment in oil importing countries will not be the easy task. The Eurodollar market is showing severe strains. The oil producers have tended to put their new money into short-term deposits, while borrowers need credits on much longer terms. The process is creating increasing strains for the banks and other lending institutions could strain the limits of permissible risk.

For example, David Rockefeller, Chairman of Chase Manhattan Bank, said recently:

My own view is that the process of recycling through the banking system may already be close to the end for some countries, and in general it is doubtful that this technique can bridge the (payments) gap for more than a year or at the most 18 months.

Yet today's New York Times reports that Italy is urgently seeking a loan of more than $1 billion from the United States or West Germany, even while Italy has pushed her borrowings on the Eurodollar market to the limit.

Peter L. Bernstein in an article in Sunday's New York Times on the whole recommending the purchase of U.S. stocks at present levels but pointing out that there is an outside grave danger of disaster listed in the existing conditions that could produce a 1929 style crash:

A banking system with a thin capital structure and many illiquid assets, an explosion in debt by most businesses (including many of the largest and most prestigious), a complex Eurodollar credit system without any lender of last resort, a simmering financial crisis in the real estate area, a multinational scramble to accumulate inventories at swollen prices and the balance-of-payments crisis for many nations in the wake of the oil embargo of last winter.

To which catalog of disastrous conditions must be added the continuing and extremely serious inflation now raging around the world.

Mr. President, I ask unanimous consent that the articles from the Economist of June 1, 1974, be printed in the RECORD.

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

[From the Economist, June 1, 1974]

THE APPROACHING DEPRESSION

The rich world's economic troubles are very much the rich world's fault. The Arabs' quadrupling of oil prices was an unfriendly act, but a self-righting one. Ministers from the member countries of the Organisation for Economic Cooperation and Development were wasting their time when they spent the greater part of this week in Paris talking about how to tackle oil prices, and then signed a pledge not to make trade war upon each other for at least another year. They might just as well have promised to jump out of a window without breaking any bones. They do not want a trade war and the slump it would produce, but that is where the steps they have severally taken can collectively lead them.

There has never been a problem about how to set about neutralising the effect of higher oil prices and the huge Arab trade surplus they produce. If the Arabs do not choose to use their extra revenue to buy goods and services from the rest of the world, there is no transfer of real resources from it to them. There is therefore no need for real incomes elsewhere to be cut in order to release resources that will not be called upon. The cost of oil puts up prices and reduces real demand, leaving the Arabs' customers all the poorer. But that can be offset by roughly equal cuts in indirect taxes, which put down prices and increase real demand and bring each country's growth prospects back to as-you-were. The tax cuts should preferably stimulate forms of consumption that do not involve the use of much oil, but that is a detail.

This would still leave most non-Arab countries with large balance-of-payments deficits on current account, since the Arabs' surplus has got to be balanced by someone's deficit somewhere. But this would be automatically financed by an equal outflow of oil money on capital account, invested in the rest of the world. The problem is to recycle this money from the strongest economies, where it will be invested, to the weakest, where it will be needed. The figures for oil imports are readily available for most countries, so nothing could be easier than for the strong to set up an exchange equalisation account to lend money to the weak.

Why has none of this been done? No major country has deflated demand with indirect tax cuts to offset the effect of higher oil prices. There has been no general agreement on recycling. Most countries have allowed oil costs to push up consumer prices, so deflating demand. They have compounded this by increased monetary stringency and higher interest rates. Instead of living with oil deficits, many countries are hoping to do the contrary. Almost every finance minister is emulating Mr. Denis Healey in trusting that export-led growth will help to keep up output and incomes, while making it easier to limit inflation; none seems perturbed by the thought that one country's export-led growth must be another country's import-led recession, and that attempts to pass on this dirtier end of the stick will soon start. The rich are almost doing everything possible to ensure a trade war and a slump.

What has caused this? The fear of an oil crisis started in October when the Arabs threatened to reduce supplies drastically, although at that time they were talking of putting prices up by less than they have done. For a time output in the oil-importing countries was physically constrained by all sorts of emergency regulations designed to ward off the expected shortage, by dislocations in distribution and a general panic seen at its worst in Japan. This led to an absolute fall in gross world product in the early months of this year. Most big industrial countries thought in November that oil supplies were likely to be cut by anything up to 20 per cent in 1974; they deemed that with 20 per cent less oil they would have to allow total output to fall by at least 2 or 3 per cent. There therefore seemed no point in taking reflationary steps to offset the drop in output which the shortage of oil caused. Thus far, the world behaved rationally enough.

When oil started moving with increasing freedom after about January, many people were lulled into thinking that the danger of a world slump had passed. They were right to think that there need no longer be a supply-induced recession. But they did not see that (1) the danger of a demand-induced recession is now very much bigger because, on top of last autumn's already weak trend in demand, there has now been added the huge check to consumption caused by the quadrupling of oil prices since that autumn; (2) this is being disguised for a time because of a rebuilding of stocks after they were run down in the brief supply-induced recession in the first quarter of 1974. Because they are blinding themselves to these facts, almost all governments are now cheerfully discarding most of the more alarming forecasts of falling output in 1974, which they adopted during the disruption to oil supplies. Most finance ministries' official forecasts for growth in the world's largest economies are reassuring. Some people are even forecasting the start of a boom in 1975.

But the truth is that consumer and investment demand (not of stockbuilding) in most industrial countries has been slowing

down ever since the short and sharp 1972–73 boom blew its top early in 1973. Naturally, when the oil was turned on again, output rebounded to make good the deficiency of stocks. But nothing has happened meanwhile to reverse the steady slide in demand. Instead, the failure to neutralise the effect of higher oil prices must have done much to hasten the slide.

This need not show up immediately. In economic storms the time-lag between lightning and thunder is often quite long. The build-up of oil producers' revenue from higher prices is a slow process. Real incomes are not immediately squeezed to the full extent. None of this means that higher oil prices will not hurt, it simply means that the industrial countries have a breathing space to prepare for what is coming.

This breathing space is in danger of being thrown away by a generation of economic Winnie the Poohs following their own footsteps round and round a bush, convinced by the discovery of each new set of tracks that they are on the heels of countless woozles and wizzles. Forecasters in each country begin from a universal belief in the continued growth of the volume of world trade and a fast growth in manufactured exports at inflated current prices. Each country then assumes that it will increase its own share of world trade, and thus be able to reduce its national trade deficit. On the back of these trade forecasts, all countries predict for themselves a high domestic growth rate.

Other forecasters then take these domestic growth estimates to confirm their own predictions about growing world trade and Winnie the Pooh takes another turn round the bush. By these means, the forecasters convince themselves there is nothing to worry about.

As long as these rich countries believe that nothing awful can happen to them, they will not take action to avert their approaching domestic recessions. Nearly all of them are worried by domestic wage-push inflation (sometimes without realising that, in countries with progressive income tax systems, this in itself will intensify demand deflation). This wage-push inflation is making them reluctant to neutralise the demand deflation (and cost inflation) caused by the new oil prices. Wage and price controls have generally become unfashionable or are considered impractical. Governments therefore see no alternative but to use fiscal and monetary restraint to deflate domestic demand, rather than face the internal and external collapse of their currencies. Any country which stepped out of line and dared to reflate demand would see its balance of trade plunge and its exchange rate collapse.

All countries are playing this game because all are suffering from cost-push inflation. But if there are winners there must also be losers. The winners will be the countries with the lowest rate of wage and price inflation for any given rate of growth or level of unemployment, the countries with the greatest competitive edge at present exchange rates, and those best able to capture export orders because the general slide in world demand (after the present stock-building spree) does not hit their sorts of manufacturers. The fewer problems a country has, the more easily it can solve them at others' expense. The strongest will set the pace, and the weakest will then have to protect their currencies from collapse by deflating more savagely or staving off imported unemployment by trade restrictions. Italy has already been forced into this. France or Japan could be next. The disease is contagious.

It does not stop with the rich. Any slump will accelerate the fall in commodity prices and hit the poorer countries of the world. For some of them a world recession would not be a matter so much of belt-tightening, as of near-starvation. The developed world would not escape the backlash. Some developing countries have borrowed heavily on the Eurodollar market on the strength of their earnings from high commodity prices. If these disappear, there could be major defaults among some big banks and the world's financial markets would rock. This may sound spine-chilling. It is. Every rich country should look again at its own economic forecasts and eliminate from them the growth which it is assuming from a supposed rise in net exports to other countries, whose own high forecasts of gnp spring from an assumption that they will instead be increasing their net exports back to it. They should then start on a campaign for large-scale cuts in indirect taxation round the world.

SQUEEZE YOUR NEIGHBOUR

The economic policy followed by each industrial country in 1974–75 will depend mainly on four factors: its inflation record, its growth rate and pressure of demand for labour, its balance of payments, and its governability. The last decides what sorts of controls could be introduced, if they have to be introduced. It becomes crucial whenever a wage freeze is under consideration.

Guess who's top country

Herr Helmut Schmidt, the new German Chancellor, claims that:

"There is no other country which has performed as well as we have, either on the prices front or on employment."

He could also claim balance of payments success, in the sense that Germany, the world's second largest economy, is likely to be just about the only non-oil-producing country to run a large trade surplus in 1974, thus further beggaring all other non-oil-producing countries.

The economic gloom caused in Bonn by last autumn's oil disruption evaporated as soon as it was realised that Germany could get all the oil it wanted by paying for it. The Germans paid up, over the odds where necessary, and their economic forecasts cheered up. The talk of zero growth or worse in 1974 was rapidly discounted; now the pundits are tipping growth at 2–2½ per cent this year, accelerating in the second half, aided by those booming exports. Germany has the lowest inflation rate of any industrial country. Consumer prices in the year to March rose a modest 7¼ per cent, half of the British rate. This relative stability owes much to the appreciation of the D-mark, which has risen 20 per cent against other currencies since the Smithsonian agreement in December, 1971, but without putting off German exports. The OECD expects Germany to run a current balance of payments surplus of around £2 billion in 1974. The surplus would be even larger if all the orders already on German exporters' books were actually eventually paid for.

With this sort of surplus at this sort of time, Germany has a clear duty to expand its domestic demand by cutting indirect tax rates and cheapening its interest rates. It should hold inflation in check by direct wage controls if necessary. Instead, Herr Schmidt has reiterated his opposition to wage and price controls, and indicated that any relaxation of Germany's tight money policy will be cautious.

America's catching up

Huff, puff, in America, the world's largest economy, inflation is running at an annual 12 per cent. America suffered one of the sharpest cuts in output when the Arabs embargoed oil shipments to it. In the first quarter of 1974, its real gnp was falling at an annual rate of 6 percent. Optimists say that the setback was concentrated on the motor industry and on building; that American businesses remain confident; that borrowing to finance expansion continues apace; and that there should be a recovery in the second half of this year, with output rising by the last quarter at an annual 6 percent. Even so, for 1974 as a whole, the optimists are not expecting more than 1 per cent growth. Pessimists say that, since the rebuilding of inventories is over, there is little reason why output should continue to recover.

The Administration hopes that by the end of 1974 prices will be rising at only an annual 7 per cent, because this summer's explosion of some prices should moderate once the steam from the end of controls has dispersed. The expected good harvest and a probable fall in world commodity prices should help. So will the moderation shown by unions, who have not built a wage explosion on top of the price explosion despite declining, real incomes. But President Nixon, in a breather from Watergate, has said that restrictive monetary policies will continue because of inflation. Dr. Arthur Burns, at the Federal Reserve Board, certainly intends to keep the pressure on the money supply, which has carried interest rates to record levels. The OECD is expecting America's external payments to be more or less in balance.

Jog-along Canada

Next door neighbour, Canada, with its own oil, kept up 5 per cent annual growth even in the first quarter of 1974, and thinks it should maintain that rate in the year as a whole. But prices are now rising almost as fast as in America. The government tried to meet this with a mildly anti-big business budget, but has been defeated on its budget proposals. The general election has been set for July 8th. If the Conservatives win, a wage freeze has been promised. But it seems more likely that Mr. Trudeau will come back for another spell of minority rule, and continue with a policy of jog-along. On overseas trade Canada expects to break even in 1974.

France faces a freeze

France is still going for growth. It is one of the few countries, which has kept output growing since the middle of 1973, while most other countries have slowed down. It needs growth of roughly 5 per cent a year to absorb its rising labour supply without increased unemployment. The official price index shows a rise of 13¼ per cent on a year ago. Last year France cut its indirect taxes. The right policy later this year would be a repetition of this treatment, but the new finance minister may feel that what happened to the balance of payments forbids this. In the first four months of 1974 France's balance of payments was running on course for a $1.8 billion deficit this year; but the April figure suggests something over $3 billion. This is much worse than the £1½ billion deficit M. Giscard d'Estaing was predicting earlier in the year. France wil be especially hard hit by the Italian measures to limit imports.

The deficit can be financed for a while. France has some £3½ billion of reserves and has already borrowed over £1 billion abroad this year. But M. Francois Mitterrand's narrow defeat by M. Giscard d'Estaing in the election has left the unions in a sour mood. Up to now wage controls have been ruled out as unworkable, politically and administratively. Price controls are already applied and could be tightened, but only at the expense of limiting the investment needed to continue 5 per cent annual growth. Even so, a total wage-price-dividends freeze for 4–5 months is on the cards. Unfortunately, it seems very likely that France will precipitate another round in the international trade war by new measures to restrict imports. The tax system might be tipped against imports, particularly by pushing up value-added tax on oil and oil products. But direct import controls are an alternative being considered.

Europe's mixed bag

All of the smaller European economies are vulnerable to outside pressures because of their dependence upon overseas trade. Bel-

gium says its order books, especially for exports, are full; prices showed a 10½ per cent rise in the year to April, which counts as a modest inflation these days. It had a small current account surplus in the first four months of 1974, but this is now being whittled away.

The Netherlands had less than 10 per cent inflation to March, and expects a continuing balance of payments surplus. But growth this year is expected to be only 2½ per cent, half the rate achieved in 1973.

In Norway, the oil scare had limited effect as 75 per cent of industry uses hydro-electric power. Two upvaluations last year, each by 5 per cent, have helped to keep inflation down to 9 per cent. The government expects growth to be maintained in the region of 3½–4 per cent, despite a large balance of payments deficit; much of this deficit reflects the cost of developing North Sea Oil, and is therefore not a cause for worry. The agreement negotiated between the government and unions promises industrial peace for two years. Sweden has slightly faster inflation, at 11 per cent, and is also expecting a balance of payments deficit. Denmark is in much bigger trouble. Price inflation is almost as bad as in Britain: with a rise in the last three months of 14 per cent on a year ago, and a 2 per cent jump in April alone. Wages are index-linked with increases payable in September, so price inflation is built into the system. In the first quarter of 1974 Denmark's current balance of payments deficit may have been running at an annual rate of over £500m. The minority government has met this crisis with precisely the wrong policy. Indirect taxes have been sharply increased to cut back both imports and domestic demand.

Whitlam's worries

Outside Europe, demand in Australia is still buoyant and raw materials are scarce. Inflation is in double figures, and the current balance of payments was in deficit in the first quarter of 1974. Mr. Gough Whitlam, with his small majority, will have difficulty in keeping growth going and holding wages in check. Already the country is suffering an epidemic of strikes.

Japan looks for another miracle

The world's third largest economy seems in greater trouble. Consumer prices in Japan are up a record 24 per cent on a year ago. In the first quarter of 1974 output dropped 1½ per cent because of energy shortages, and Japan ran a current account deficit of nearly £1½ billion. The unions' spring offensive has led to wage increases of over 30 per cent, and this alone will add at least another 8 per cent to prices.

The Japanese are meeting these crises with their usual policy of tight money and high interest rates (which have already led to bankruptcies, including that of Nihon Netsugaka Kogyo) and are delighted at the signs that the old medicine is working its usual magic by rapidly expanding Japanese exports. The government now believes that export-led growth will sustain output and productivity, and help to restore a degree of price stability as well as reducing the payments deficit to manageable proportions. It is not made clear who is to run the import-led recession to allow Japan's export-led growth to proceed.

Britain needs one

Britain is also hoping for salvation by export-led growth, and starts with the two advantages of competitive export prices and depressed home demand. The latest trade figures are good. But the retail price index in April soared to more than 15 per cent above a year ago, and added £1.20 a week to 6–7m workers' before-tax pay under the threshold agreements. If nothing is done to control wages, British inflation is bound to accelerate. This may not immediately hit the trade balance, but will increase domestic stagnation as company profits are squeezed and as Britain's now very tough income tax cuts the increase in pay to well below the increase in prices.

Italy needs one most of all

The rise in oil prices hit Italy just as the Italians were expanding out of their difficulties after two years of slow growth. The original hope was that last year's 6 per cent growth would be repeated. That hope has gone. Italy's current balance of payments was in deficit by over £1½ billion in the first four months of this year, and inflation accelerated to an annual 16–18 per cent this spring. Wage escalator clauses threatened to keep it going, by further raising employers' wage bills which have already had to absorb a rise of 22 per cent in minimum industrial wage rates over the past year.

Italy's borrowing on the Eurodollar market has been pushed to the limit, with loans of over £3 billion since the beginning of last year. So the government felt it had no alternative to a quickening collapse of its currency except to cut both imports and home demand. It has forced importers of many products to deposit 50 per cent of their cost, interest free, for six months, and has cracked down on bank credit and raised the banks' base rate to 14½ per cent. But the latest signs are that the crisis is likely to persist for some time.

DR. THEODORE C. MARRS, A DISTINGUISHED AMERICAN

Mr. THURMOND. Mr. President, a distinguished American, Dr. Theodore C. Marrs, recently concluded 12 years of service in the Pentagon, most of which was involved in connection with Reserve and Guard forces.

Dr. Marrs has served for the last 4 years as Deputy Assistant Secretary of Defense for Reserve Affairs. Just recently he has accepted a position as counsel to the President but will continue to work in the policy area involving national defense.

Dr. Marrs rendered an outstanding service during his years in the Pentagon and is especially proud of his successful efforts in connection with improving the readiness of our Reserve forces. His service deserves recognition of the Congress.

Mr. President, on the occasion of Dr. Marrs' departure from the Pentagon he authored a brief article which appeared in the June issue of the Air Reserve magazine. I ask unanimous consent that this article entitled, "Insight" be printed in the RECORD at the conclusion of my remarks.

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

INSIGHT

(By Hon. Theodore C. Marrs)

For 12 years my efforts have been dedicated to one objective . . . increasing the readiness of Reserve Forces.

During this 12 years, a variety of attitudes toward the Guard and Reserves have been present. Some of this opposition to the development of Reserves has been subtle and sophisticated—some has been crude and callous.

Despite or because of this milieu of conflicting attitudes or prejudices—the basic objective of readiness of Reserve Forces has become more clearly defined in the past few years. And the ability to develop timely responsiveness has been demonstrated—particularly with Air Force fighter, tanker and airlift units. The simplistic but reliable parameters of readiness have become evident—equipping, manning and training.

The importance of moving administrative actions, training and testing, into pre- rather than post-mobilization is now increasingly recognized.

The inherent economy of lower people cost in the Reserve Forces has become more widely understood.

Airlift plans and capability make early deployment increasingly feasible for Guard and Reserve as well as Active Forces. These facts have led logically to the conclusion that Reserve Forces can be a major national security bargain as we approach 1976 just as truly as was the case in 1776.

They have also led logically to the essentiality of supporting Reserve Forces to the level of readiness and responsiveness called for to meet national security requirements.

And, finally, these facts coupled with termination of the draft have forced acceptance of the role of the Reserve Forces as the initial and primary augmentation for Regular Forces. Even the most tradition bound and protective holdouts have begun to realize that the survival of our nation's military forces and our nation itself is dependent on how well we equip, man, train and deliver in theatre a combined force of Active, Guard and Reserve Americans.

Equipping for the Guard and Reserve has been a continual challenge. The war in Southeast Asia took place following what was for the most part a period of inadequacy of planning and providing for combat serviceable Reserve Force equipment. The resources funded for Reserve and Guard were repeatedly diverted, As a result, many units of the Guard and Reserve were bled of equipment to the point of not being a viable alternative in 1965 when additional forces were needed in Vietnam.

Readiness involves the ability of the forces on hand to carry out operations with equipment in working order and adequate supplies of ammunition, fuel, spare parts, etc. Our principal readiness problems, in the Active Force, remain centered upon the maldistribution of assets and personnel turbulence engendered by the Southeast Asian conflict.

With the increased reliance on the Guard and Reserve, there has been increased emphasis on upgrading the readiness capability of the Reserve components. This has been accomplished primarily by increasing modernization, mission changes, and unit conversions. Presently, the Secretary of Defense directed study of the Guard and Reserve in the Total Force is underway. It is including in its study efforts: the availability, force mix, limitations and potential of the selected Reserve in a national emergency. Now initiatives to improve the readiness of the Guard and Reserve hopefully will result from this effort, which is scheduled to terminate this year.

The Secretary's policy of being able to get there first with the most—and getting there with peacetime economical and wartime effective forces—can determine the future of this nation and the world.

It is a fact that combat ready Reserve Forces have been produced in some areas and can be produced in others at a lesser cost in the Reserve Force. It is imperative that DOD and the Congress take full advantage of the corollary that we can through judicious development and use of Reserve Forces get more forces—ready forces—for the same money or equal (ready) force structure for less money.

To some extent we can jointly move in the directions I have indicated in FY 75. In FY 76 we have to equip, man and train Reserve Forces or we fail to profit from the built-in potential for economy in time of peace and effectiveness in time of war.

CONFLICT OF INTEREST ON VITAMIN RECOMMENDED DIETARY ALLOWANCES

Mr. PROXMIRE. Mr. President, the Food and Drug Administration proposal to regulate safe vitamins and minerals as dangerous drugs if they exceed 150 percent of the so-called recommended daily allowance or recommended dietary allowance (RDA) of vitamins and minerals, is based on an arbitrary, unscientific, and tainted standard. The RDA standard is established by the Food and Nutrition Board of the National Research Council which is influenced, dominated, and financed in part by the food industry. It represents one of the most scandalous conflicts of interest in the Federal Government.

As author of a bill, S. 2801, which has 38 Senate cosponsors which would prevent the FDA from putting its regulations into effect next January I am particularly interested in this matter.

There are a dozen or more reasons why the so-called recommended daily allowance (RDA) is a capricious, unscientific, and illogical standard.

CONFLICTS OF INTEREST

First and foremost is the unconscionable conflict of interest of those on the Food and Nutrition Board which establishes it. The board is both the creature of the food industry and heavily financed by the food industry. It is the narrow economic interest of the industry to establish low official RDA's because the lower the RDA's the more nutritional their food products appear.

The board's industry liaison panels include breakfast food companies, candy makers, soft-drink producers, baking firms, and chemical corporations.

The present chairman of the Food and Nutrition Board, for example, occupies an academic chair funded by the Mead-Johnson baby food company. He appeared at the FDA vitamin hearings not only as an FDA-Government witness but also on behalf of such firms and groups as Mead-Johnson and Abbott Laboratories.

He was also scheduled to appear on behalf of the Pet Milk Co. and Distillation Products. His research was funded to the tune of about $40,000 by the FDA and he had additional Government grants of about $90,000 in the year he appeared for the FDA.

In the latest—1974—edition of the Food and Nutrition Board's recommended daily allowances, most values that were changed were lowered from previous standards. There is a very simple and quite unscientific reason for this.

With low RDA's the food companies which advise the Food and Nutrition Board can then print tables on their food packages making their products appear to contain a higher level of nutrients than if higher or optimum levels were established. When milk and fruit together provide as much nutritional value as the breakfast food they are eaten with, one can see how ridiculously low and self-serving the new low RDA standards really are.

VALUES FLUCTUATE CAPRICIOUSLY

A second reason why the RDA standards are suspect is that they have fluctuated capriciously from year to year both in the nutrients listed and in the recommended daily allowance. For example, in the recommendations by the board for pantothenic acid, a B complex vitain, in the period 1964–74, it was not on the 1964 list, was listed at 5 milligrams on the next list, was not on the third list, was back at 5 milligrams on the fourth list, was doubled to 10 milligrams on the fifth list, and was removed completely from the latest 1974 edition.

Is it a drug? Is it not a drug? Under the proposed FDA regulations, 10 milligram capsules would have been regulated as a drug after the second and fourth editions of the RDA's, as a food or a food supplement under the fifth change, and ignored after the 1974 list.

In the 1968 RDA list, there were 55 changes in value from the 1964 list, varying from 20 to 700 percent. The latest—1974—list shows similar subjective and unscientific variations. In the 1964–74 period the RDA's recommendad by the Food and Nutrition Board for a child of 4 have varied by 100 percent for vitamin A, 230 percent for vitamin E, 700 percent for folacin, 150 percent for vitamin B–1, 122 percent for vitamin B–6, and 300 percent for vitamin B–12.

How can such an unstable standard be used to regulate vitamins? The RDA's are not scientific standards. They are little more than subjective, off-the-cuff and, in many cases, prejudiced values.

Mr. President, I ask unanimous consent that a table giving the RDA's for 16 nutrients as recommended by the Food and Nutrition Board since 1964, be printed in the RECORD.

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

TABLE I.—RDA VALUES SINCE 1964 FOR 16 SELECTED NUTRIENTS

Nutrient and individual	A	B	C	D	E	F	Minimum to maximum variation of RDA (percent)	Latest variation and direction (percent)
Vitamin A, I.U.:								
Child of 4	2,500.0	3,500.0	2,500.0	3,500.0	5,000.0	2,500.0	100	50
Pregnancy	6,000.0	8,000.0	6,000.0	8,000.0	8,000.0	5,000.0	60	38
Vitamin E, I.U.:								
Child	None	15.0	10.0	15.0	30.0	9.0	230	70
Pregnancy	None	30.0	30.0	30.0	30.0	15.0	100	50
Vitamin C, mg.:								
Child	50.0	60.0	40.0	40.0	60.0	40.0	50	33
Pregnancy	100.0	100.0	60.0	60.0	60.0	60.0	67	----
Folate/folacin, mcg.:								
Child	None	50.0	200.0	300.0	400.0	200.0	700	50
Pregnancy	None	100.0	800.0	800.0	800.0	800.0	700	----
Vitamin B_1, mg.:								
Child	.6	.8	.8	1.1	1.5	.9	150	40
Pregnancy	1.0	1.2	1.1	1.7	1.7	1.4	70	18
Vitamin B_2, mg.:								
Child	1.0	1.3	.9	1.2	1.7	1.1	67	35
Pregnancy	1.5	1.9	1.8	2.0	2.0	1.5	33	25
Niacin, mg.:								
Child	11.0	14.0	11.0	15.0	20.0	12.0	82	40
Pregnancy	16.0	21.0	15.0	20.0	20.0	16.0	25	20
Vitamin B_6, mg.:								
Child	None	1.0	.9	1.2	2.0	.9	122	55
Pregnancy	None	2.0	2.5	2.5	2.5	2.5	25	----
Vitamin B_{12}, mcg.:								
Child	None	2.5	4.0	5.0	6.0	1.5	300	75
Pregnancy	None	5.0	8.0	8.0	8.0	4.0	100	50
Pantothenic acid, mg.: Child	None	5.0	None	5.0	10.0	None	100	0
Biotin, mg.: Child	None	None	None	None	.3	None	0	0
Iodine, mcg.:								
Child	None	80.0	80.0	110.0	150.0	80.0	87	47
Pregnancy	None	150.0	125.0	150.0	150.0	125.0	20	17
Magnesium, mg.:								
Child	None	200.0	200.6	250.0	400.0	200.0	100	50
Pregnancy	None	300.0	450.0	450.0	450.0	450.0	50	----
Iron, mg.: Child	10.0	12.0	10.0	10.0	18.0	10.0	80	45
Copper, mg.: child	None	1.0	None	2.0	2.0	None	100	0
Zinc, mg.: Child	None	None	None	None	15.0	10.0	50	33

A: 1964 FNB's RDA's Exh. 0-14-1863.
B: 1966 FDA's RDA's in stayed regulations.
C: 1968 FNB's RDA's Exh. P-651.
D: 1970 FNB's RDA's introduced by Sebrell Exh. 0-391-3A.
E: 1973 FDA's RDA's in final regulations.
F: 1973/74 FNB's RDA's, published 1974.

Mr. PROXMIRE. Mr. President, third, not only do the RDA's fluctuate capriciously and are established by those with overwhelming economic conflicts and self-serving interests, but there is a very considerable body of scientific evidence that the RDA's are ridiculously low. For example:

EXAMPLES OF LOW VALUES

Folacin. The RDA for folacin for some categories of individuals has varied by 700 percent in the last 10 years. It is now 400 micrograms for mature adults. The latest pronouncement cut the RDA for children in half. This has come at the very time the Canadian Government's nutritional survey found that half of all Canadians had "moderate deficiency" levels of folacin in their blood and that 10 percent of all Canadians were in the range of "high risk" deficiency.

There is strong evidence that the lack of folacin produces congenital deformities and increases the danger of accidental hemorrhage by fivefold. It is considered by some authorities as the most widespread deficiency in the United States, especially among pregnant women.

In light of such evidence, the RDA established for folacin by the Food and Nutrition Board appears to be dangerously low.

Vitamin B–6. The 1974 RDA for vitamin B–6 in 23–50-year-old females is 2 milligrams. But Dr. Paul Gyorgy, the eminent scientist who discovered vitamin B–6 recommended in 1971 that the general RDA for B–6 should be 25 milligrams a day or 12.5 times the present RDA. Women on the pill are especially subject to vitamin B–6 deficiency. Yet millions of women in the 23–50-year-old age group are told by the FDA and the Food and Nutrition Board that they can get a sufficient amount of B–6 at one-eighth the level which its discoverer recommends.

Vitamin C. There is now a very wide body of scientific evidence, in addition to the recommendation of Dr. Linus Pauling, the Nobel laureate, that the daily requirement for vitamin C is many times the 45 milligrams RDA now recommended by the Food and Nutrition Board.

The double blind test performed at the University of Toronto by Professors Anderson, Reid, and Beaton in which half the subjects got 1 gram—1,000 milligrams a day—or 22 times the present RDA—and the other half a placebo, for 90 to 120 days—Canadian Medical Association Journal, September 1972—showed some amazing results. The number of illnesses, the duration of illnesses, the days confined at home, the days lost at work, and so forth, were all "statistically significantly" lower for the vitamin C as opposed to the placebo group.

The 45 milligrams RDA level now proposed by the Food and Nutrition Board is actually less than the traditional 50 milligram level said to be needed merely to prevent scurvy. But after next January, vitamin C in 100, 250, or 500 milligram tablets will be called a drug and regulated accordingly.

UNSCIENTIFIC STANDARD

The proposal to subject safe vitamins and minerals to regulation as drugs by the FDA if they are sold in quantities of 150 percent or more of the so-called RDA is a biased, unscientific, and capricious standard. At best the RDA's are only a "recommended" allowance at antediluvian levels designed to prevent some terrible disease. At worst they are based on the conflicts of interest and self-serving views of certain portions of the food industry. Almost never are they provided at levels to provide for optimum health and nutrition.

UNJUSTIFIED OIL PRICE INCREASES GRANTED IN DECEMBER BY COLC

Mr. JACKSON. Mr. President, on Friday of last week, the Interior Committee held hearings on the confirmation of Mr. John C. Sawhill as Administrator of the Federal Energy Administration. In the course of these hearings, we explored various facets of the energy problem. One of the most important matters addressed at the hearings was the Administration's policy on petroleum pricing.

In the course of the hearing, certain internal documents of the Cost of Living Council were made available to the committee by Mr. Ralph Nader, which indicate that there was no justification for the December 1973 $1 increase in the controlled price of domestic crude oil. In fact, these memoranda show that the COLC in granting this increase, did so with the understanding that "no additional costs were involved," that this increase would not elicit new supplies, and would only result in short term increased profits for producers. These memos further indicate that the $1 price increase granted in December would have a serious adverse impact on the independent sector of the industry and would result in windfall profits to producers. One memorandum points out that the $1 increase in crude prices would constitute a shock of extraordinary magnitude to the economy that could not be offset, and would provide an upward push to world oil prices.

Let me cite a few of the more astounding quotes from these memorandum.

From a December 7, 1973, Issue Paper: "Old Oil Ceiling Prices" prepared by the Energy Division, Cost of Living Council:

Increasing the price ceiling of domestic crude may trigger additional price increases by countries exporting crude to the United States. Apparently these countries are not reluctant to increase prices without a corresponding U.S. increase but would be even more likely to do so with a domestic increase. A higher base for ceiling crude will probably also mean a higher price for new and released oil.

As no additional costs are involved and a ceiling increase in the price of crude would be based on other factors such as world market prices and the desire to increase domestic prices of products to deter demand, this is an arbitrary decision.

A substantial increase in crude prices which is not based on cost increases would mean increased profits for producers. Oil companies with crude resources would show even higher profits than have already been so highly publicized. Oil companies lacking crude resources will object to paying the higher crude price unless costs can be passed on to the consumer.

Gross profit at each stage of price increases listed above, based on 256 million barrels per month of ceiling crude production would be $89.6 million per month at 35 cents per barrel; $256 million per month, at $1.00 per barrel; and $512 million per month at $2.00 per barrel.

From a December 18, memorandum "Notes on the 9 a.m. Meeting, Tuesday, December 18 Concerning the Price of Domestic Crude Oil" prepared by William Walker, General Counsel, Cost of Living Council:

It was agreed that about 200,000 barrels per day of additional oil would be obtained through secondary and tertiary recovery during the first six months or so of next year. This increase would result even absent a rise in the price of domestic crude through operation of the existing two-tier system limitations on additional crude production result from supply limitations on such commodities as rigs, drilling bits, steel tubing, etc. The long-run concern expressed about the two-tier system was that as the spread increases between the price of new oil and the price of old oil, there is increasing incentive to cheat."

Herb Stein pointed out that the higher the initial price increase for domestic crude the sooner we will reach the point of equilibrium. He opted for $12.00 per barrel, stating that "it's big enough to avoid the need for rationing.

From a December 19, 1973, memorandum "The Pricing of Domestic Crude Oil" prepared by John T. Dunlop for George P. Shultz:

Such a large jump would further escalate the bidding in the international markets and raise the price still further that the producing countries could expect to get.

The economic system confronts major uncertainties. A shock of this magnitude is likely to help set off a number of inflationary reactions which will preclude any further orderly withdrawal from controls. Decontrol would become a rout.

It is recommended that the price of domestic crude be raised now to $5.00 by the Cost of Living Council (with a tax announcement at the White House) and that a further increase of about the same amount be considered in several months (not to be announced now). The $5.00 old oil price (and $8.00 new oil) would yield an immediate average price of $5.75.

From a December 16, 1973, issue paper: "Crude Oil" prepared by Stanford Research Institute consultants to the Energy Division, Cost of Living Council:

Increase ceiling prices for old crude oil:

Impact: The size of the impact is directly related to the amount of price rise allowed and is covered in Part II. Other potential impacts are seen primarily as:

1. Possible world price response of still further increases.

2. Creation of sizeable windfall profits to producers which would be hard to justify unless some means were found to either recapture these through taxes or by a requirement that the profits be used for exploration and development.

3. Uneven consequences of such price rises as between the integrated refiners (who would benefit from the increased crude prices received as producers) versus the independ-

ent refiners (who could merely pass on the costs they actually incurred).

Magnitude of price increases:

Impact: An increase to $5.00 per barrel from the present $4.17 per barrel would increase total costs on the order of $2.5 billion per year (based September 1973 volumes of old crude). These would, of course, be passed on to the consumer in product price increases. An increase to $6.00 per barrel would cost an additional $3 billion.

All of these increased prices will be reflected as larger profits to independent producers.

A more direct and more palatable solution seems to be possible in terms of effecting price rises through a public mechanism such as taxation and pricing rules which could be designed to deal appropriately with refinery yield mixes and safeguarding of downstream levels of distribution.

In view of this information, it is difficult to argue against the merits of reducing the price of domestic crude oil.

Mr. President, I ask unanimous consent that these documents together with Ralph Nader's letter of transmittal to me be printed in the RECORD.

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

JUNE 7, 1974.

Hon. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: Enclosed are copies of several memoranda and issue papers provided to my office by John Dunlop of the Cost of Living Council in response to a request, under the Freedom of Information Act, for data and analyses supporting the CLC decision of December 19, 1973 to raise the ceiling price for domestic old oil by $1.00 per barrel. These documents contain no economic data or analyses that justify the decision to increase the ceiling price for old oil. On the contrary, they contain conclusions which provide arguments against the price increase. For example, a paper prepared by CLC's Energy Division concedes that a price increase for old oil could not be justified as eliciting increased production because old oil fields were already producing at maximum levels (Tab B, p. 5). Another document admits that any increase in production of old oil due to increased secondary and tertiary recovery would have occurred without any increase in the price of old oil (Tab D, p. 1).

A report prepared for the CLC by the Stanford Research Institute (SRI) concluded that a price increase for old oil would not increase production because the bottleneck on domestic production was an equipment shortage, not the price ceiling on old oil (Tab E, p. 4). The SRI report also predicted that no significant decline in demand for refined products would result from a moderate increase in the price for old oil and argued that the incentive for domestic producers to export crude oil to the higher priced international market could be constrained by export regulations and taxes (Tab E, p. 5). As one of the CLC papers says, the increase in the price ceiling of old oil was an "arbitrary decision" (Tab B, p. 6).

This "arbitrary decision" will transfer from 2.5 to 3 billion dollars from consumers to oil producers in 1974. Authority to maintain or alter the price ceiling on old oil was transferred from CLC to the Federal Energy Office late in December of 1973. Despite the lack of justification for the price increase and the repeated complaints of Congressmen and consumer groups, FEO has maintained the price increase for almost six months. During the confirmation hearings which you are beginning today on Mr. Sawhill's nomination as Administrator of the Federal Energy Administration, he should be required to explain his maintenance of this unjustified gouging of consumers in order to provide a handout to oil producers.

Sincerely,

RALPH NADER.

COST OF LIVING COUNCIL,
ECONOMIC STABILIZATION PROGRAM,
Washington, D.C., April 15, 1974.

MEMORANDUM

Subject: CLC Staff Papers Regarding the Decision Made December 19, 1973, to Raise the Ceiling Price for Domestic Crude (Old) Oil.

The material attached to this memorandum includes all CLC staff papers prepared and sent to me prior to December 19, 1973, which have a direct bearing on the decision made and announced that day to raise by one dollar the ceiling price for domestic erude petroleum. A memorandum prepared by me and handed to Secretary George Shultz at 8:00 a.m. on December 19, 1973, including my own recommendations on this subject is also included.

Tab A—Undated Memorandum prepared by the Energy Division, Cost of Living Council and sent to the Director around the middle of December on the long-run supply price for petroleum.

Tab B—December 7, 1973, Issue Paper: "Old Oil Ceiling Prices" prepared by the Energy Division, cost of Living Council.

Tab C—December 18, 1973, Memorandum prepared by the Energy Division, Cost of Living Council, on petroleum supply and demand elasticities.

Tab D—December 18, 1973, Memorandum "Notes on the 9:00 a.m. Meeting, Tuesday, December 18 Concerning the Price of Domestic Crude Oil" prepared by William Walker, General Counsel, Cost of Living Council.

Tab E—December 18, 1973, Issue Paper: "Crude Oil" prepared by Stanford Research Institute consultants to the Energy Division, Cost of Living Council.

Tab F—December 19, 1973, Memorandum "The Pricing of Domestic Crude Oil" prepared by John T. Dunlop for George P. Shultz.

The December 19 decision to raise the ceiling price for "old" oil was made by the Secretary of the Treasury as Chairman of the Cost of Living Council after consultation with several administration officials including Mr. William Simon, Mr. Herbert Stein, myself and others. The critical discussion preceding this decision took place in Mr. Shultz's office at 7:00 p.m., on December 18, 1973, where the long-run supply price for petroleum and appropriate tax policies, including an excess profits tax on the oil companies was discussed. The staff papers presented to this meeting were prepared largely by the tax staff of the Department of the Treasury and by the Federal Energy Office and provided the basic data and analysis for the decision. Mr. Shultz, Mr. Simon, Mr. Stein and I participated in this discussion as well as members of the Treasury Department and Federal Energy Office staff.

My December 19 memorandum to Secretary Shultz (Tab F) was written after this meeting. It was based on the staff papers presented at this meeting, and includes my own recommendations concerning what the decision should be.

JOHN T. DUNLOP.

MEMORANDUM PREPARED BY THE ENERGY DIVISION, COST OF LIVING COUNCIL

The "long-run supply price" for petroleum is that price which would return to investors in the petroleum industry about the same rate of return as it would earn in other lines of enterprise. The time required to achieve this condition is believed to be as little as 3 years by some and as much as 8 or 10 years by others. The lower end of the time range is supported by the fact that the Alaska pipeline is expected to be completed at the end of 1976, and it alone will add more than one billion barrels annually to U.S. production.

Obviously, the "long-run supply price" depends upon:

a. The degree of self-sufficiency to be achieved (foreign oil is cheaper).

b. The elasticity of U.S. demand for petroleum.

Given the degree of self-sufficiency, say 80–90 percent of consumption, which is the pre-embargo state of affairs less Arab-bloc imports, the long-run supply price for U.S. crude is thus that price which will elicit an annual production of 80–90 percent of consumption, at that price.

"Consensus" estimates of the long-run supply elasticity for petroleum suggests that it is at least one. H. Houthakker, of Harvard University, stated in a telephone conversation that he has surveyed the opinions of industry experts and that their estimates of the supply elasticity clustered around one. Professor Phil Gramm, Texas A&M University, stated in a telephone conversation that the supply elasticity is at least one. If these estimates are correct, a one percent increase in the price received by oil producers will result in approximately a one percent increase in the quantity of petroleum supplied. With domestic production at about 4 billion barrels per year and a price of about $3.50 per barrel (the situation prevailing at the end of 1972), output would be about 8 billion barrels if producers expected the price to be maintained at $7.50.

This quantity is in excess of the total amounts which would be consumed at the prices for petroleum products implied by a $7.00 per barrel price for crude petroleum. Consumption for the first quarter of 1973—before any "short fall"—was running at the annual rate of about 6 billion barrels.

The sources of expansion in the supply of crude petroleum which will limit price rises include (1) primary recovery from new wells, (2) deep drilling (including that on the continental shelf), (3) secondary and tertiary recovery, (4) extraction of oil from oil shale and tar sands and (5) gasification and liquidation of coal. It is generally believed that one ceiling on the price to which crude petroleum obtained from conventional sources may rise is imposed by the price at which a substantial volume of production would be forthcoming from the processing oil shale. While only pilot plant data are available on which one can base cost estimates, they suggest that at a price per barrel of $6 to $8 for crude petroleum, it would be profitable to process sufficient oil shale to eliminate any petroleum shortages. (See "Supply Elasticity and Parametric Study—Phase II" (July 31, 1972), by the Oil Shale Task Group of the Other Energy Resources Committee, of the National Petroleum Council's Committee on U.S. Energy Outlook.)

The long-run elasticity of demand for petroleum products may be sufficiently large so that the price will continue below the level at which shale would become economically feasible for a considerable period of time in the future. William Nordhaus of Yale University, in a paper to be published in the next issue of *Brookings Papers on Economic Activity*, estimates that crude oil from oil shale in the U.S. can be produced at $5.60 per barrel, whereas sufficient petroleum from conventional sources to clear the U.S. market can be produced at about $6.00 per barrel (1973 prices).

Thus, the evidence from almost all sources indicates that from $6 to $8 represents the range of prices which could be called long-run supply price of oil from domestic sources.

There is no danger in establishing a price larger than this as a ceiling, since the price can always fall below the maximum imposed. However, there is danger in imposing a ceiling which is lower than the long-run price because the supply will not be forthcoming to permit the removal of this ceiling.

OLD OIL CEILING PRICES

Issue I. Should old oil price ceilings be raised?

Issue II. If they should be raised, by what amount should the ceiling be increased and should there be requirements or limitations associated with the increase?

Issue I.

Pro. 1. When Phase IV was initiated it was stated that the ceiling price for old oil would be reexamined periodically and adjusted upward, if necessary, to approach world prices. It was indicated in press conferences that this would be done probably to approach world prices. It was indicated in press conferences that this would be done probably on a quarterly basis which would be by the first of the year.

2. PIMS statistics for November, based on October sales, indicate new and released oil was commanding a price of $6.17 a barrel or roughly $2.00 over the average ceiling price for old oil at $4.17 a barrel (Table I). Volume of new oil is more difficult to calculate but a combination of new and released oil amounted to approximately 30 million barrels in September, or 10.87% of total domestic production of 276 million barrels of crude for the month.

In the rising crude market, there is good reason to believe that current new oil prices are roughly at least a dollar higher than the $6.17 figure. A press report in *The Oil Daily* of December 3, 1973, states that new and released old oil prices for U.S. crude have "surged as much as $4.19 a barrel over 'old oil' prices in Wyoming" reaching $8.50 a barrel at the lease. Also, the *Daily* cited a published report to the effect that Mid-American Pipe Line was paying a "new Oil" margin of $2.71 a barrel but quoted a crude buyer as saying "Nobody knows exactly what prices are being negotiated."

* * * * *

The new oil price increases reported to PIMS have been reinforced by a telephone survey by Policy of the Department of Interior's field offices which have charge of Federal royalty oil sales. The attached memorandum shows that new oil is bringing as much as $7 a barrel with the average for new oil at around or just over $6 a barrel.

3. The near east situation is still sufficiently confused to prevent an accurate reading of the price and volume of crude imported from that area. There are reports, however, that indicate companies are swapping embargoed crude for nonembargoed crude which can be used in the United States so that price increases in all near east countries have at least an indirect bearing on U.S. costs. Near east posted prices can be misleading as most importers actually have been paying well below those prices under long term agreements. A number of countries, however, have arbitrarily increased prices under old agreements and the gap between actual and posted prices is narrowing. Posted prices for near east crude ranged from $4.95 to $9.25 a barrel (Table II) on November 1, 1973. Press reports in *Petroleum Intelligence Weekly* indicate the changeability of the near east situation. The November 12 issue reports bids for non-embargoed oil at Tunisia of $12.64 per barrel. The December 3 issue reports bids of up to $16.80 a barrel in Nigeria and bidding as high as $15.50 a barrel for crude in Tunisia. These bids are described as "survival" bids by the *Weekly* and are considered by many experts to be in the nature of panic buying. There is also speculation that the countries are encouraging these bids to exert pressure on companies purchasing under long term agreements.

* * * * *

Crude imported from Canada, which accounts for a third of U.S. imports, was priced at an average of $6.17 a barrel on November 1, 1973, including a 20¢ per barrel pipeline charge.

The Canadian government had earlier this year requested that the oil industry voluntarily freeze prices at the levels then prevailing through January, 1974, presumable to protect the Canadian consumer from inflation. As some U.S. oil prices continued to rise and Canadian oil prices were frozen, Canadian oil was being sold in the U.S. market at prices lower than the prevailing market. The Canadian Federal government then placed a 40¢ a barrel export tax on the oil. The Province of Alberta, where most of the country's oil and gas is produced, protested and announced its oil and gas laws would be changed to provide for higher royalty percentages and to require that the province, which owns most of the mineral rights in the province, be paid for royalty oil at world market prices regardless of the actual price received on selling the oil. The Canadian Federal government then increased the export tax to $1.90 per barrel. Canadian oil producers have requested that world market prices be allowed to prevail in Canada after January.

The cost of imported crude, therefore, varies greatly from spot purchases approaching $17 per barrel to regular imports as low as $5.17 (if not embargoed) and Canadian imports currently, with tax and transportation, are at $6.14 a barrel. It is fairly safe to say that very little, if any, imported oil is reaching the United States at the $4.17 domestic crude ceiling price.

4. Exports of crude petroleum from the United States are minuscule at this time but rumors presist that at least some crude is going abroad.

* * * * *

With the widening relative price of domestic ceiling crude and foreign crude, though, the temptation to export must increase. Export controls or export prohibitions could prevent legal loss of crude but would also probably disrupt international trade and bring reprisals with other countries restricting U.S. imports of other commodities. Placing U.S. crude prices closer to world prices would decrease the advantage of exporting.

5. The U.S. oil industry has consistently maintained that low domestic crude prices have depressed exploration for crude petroleum. An increase in the ceiling price would stimulate, following this line of reasoning, attempts to find new supplies of crude. (Other factors which will be discussed under the "Con" section may diminish this advantage.)

6. The allowance of additional price increases will provide resources which may result in accelerated use of secondary and higher priced recovery methods thus improving the longer run supply position. Reopening of some wells would be probable although there is disagreement on the technical ability to do so on any large scale.

7. Higher prices for crude when passed on in cost of products can have an effect on depressing demand.

8. Higher prices for crude could make production from other sources more feasible economically.

Con 1. The increased cost to the consumer would vary with the amount of the increase granted. Very generally, a $1.00 increase in crude would increase all petroleum products on the order of .024c per gallon. It could be expected to increase the WPI by * * * and the CPI * * * by * * *. This of course would be in addition to other costs which refiners can pass through. In view of this month's petroleum increase of * * * in the WPI, a large additional increase may bring an adverse public reaction.

2. The increased price would not materially increase production, at least in the immediate future. Although higher crude prices would encourage increased production and stimulate additional recovery methods, production is already at the maximum in almost all domestic fields and recovery methods require time to install. Stripper wells usually benefit most from crude increases as they are economically marginal to operate but they have already been exempted from controls. Increased production from new fields is also exempt. Some wells, however, on which production has been dead to allow qualification as strippers may increase production.

3. A substantial increase in crude prices which is not based on cost increases would mean increased profits for producers. Oil companies with crude resources would show even higher profits than have already been so highly publicized. Oil companies lacking crude resources will object to paying the higher crude price unless costs can be passed on to the consumer.

4. Increasing the price of ceiling domestic crude may trigger additional price increases by countries exporting crude to the United States. Apparently these countries are not reluctant to increase prices without a corresponding U.S. increase but would be even more likely to do so with a domestic increase. A new base for ceiling crude will probably also mean a higher price for new and released oil.

TABLE I.—COMPOSITE COST OF AVERAGE BARREL OF CRUDE OIL CONSUMED IN THE UNITED STATES

Country of origin	Consumption (percent)	Jan. 1, 1973		Aug. 1, 1973		Oct. 16, 1973		Nov. 1, 1973	
		Actual cost	Weighted cost	Actual cost	Weighted cost	Actual cost	Weighted cost	Actual cost	Weighted cost
Domestic (old)	56.62	$3.40	$2.53	$3.86	$2.88	$4.17	$2.36	$4.17	$2
Domestic (new)	17.88					6.17	1.10	16.7	1
Percent total domestic	74.50								
Imports plus WS 100									
Canada	8.32	3.58	.30	4.23	.35	4.64	.39	6.14	
Middle East:									
Iraq	.02	3.93	.00	4.48	.00	5.23	.00	5.27	
Kuwait	.34	3.32	.01	3.70	.01	5.14	.02	5.17	
Qatar	.02	3.46	.00	3.86	.00	5.70	.00	5.74	
Saudia Arabia	3.42	3.37	.12	3.75	.13	5.25	.18	5.25	
United Arab emirates	.60	3.42	.02	3.82	.02	5.83	.03	5.87	

Country of origin	Consumption (percent)	Jan. 1, 1973 Actual cost	Jan. 1, 1973 Weighted cost	Aug. 1, 1973 Actual cost	Aug. 1, 1973 Weighted cost	Oct. 16, 1973 Actual cost	Oct. 16, 1973 Weighted cost	Nov. 1, 1973 Actual cost	Nov. 1, 1973 Weighted cost
Mediterranean:									
Algeria	1.19	$2.55	$0.03	$2.65	$0.03	$4.20	$0.05	$6.90	
Libya	1.12	3.44	.04	4.02	.05	6.82	.08	6.98	
Non-Arab countries:									
Indonesia	1.54	3.14	.05	3.58	.06	4.44	.07	5.19	
Iran	1.46	3.37	.05	3.75	.05	5.39	.08	5.43	
Nigeria	3.51	3.19	.11	3.91	.14	6.42	.23	6.47	
Venezuela	2.47	2.58	.06	3.78	.09	4.58	.11	5.67	
Other	1.49	3.55	.05	3.95	.06	5.10	.08	5.60	
Percent equals total imports	25.50								
Composite cost per barrel of crude consumed in United States			3.37		3.87		4.78		$4

TABLE II.—PRESENT POSTED CRUDE PRICES PER BARREL

	Nov. 1	+WS 100
Domestic:		
Old	$4.17	
New	6.17	
Canada	6.14	
Iraq	5.12	+$1.50
Kuwait	4.95	+1.50
Qatak	5.89	+1.50
Saudi Arabia	5.12	+1.50
United Arab Emirate	6.11	+1.50
Algeria	9.25	+.60
Libya	9.06	+.60
Indonesia	6.00	+.91
Iran	5.40	+1.50
Nigeria	8.40	+.60
Venezuela	7.80	+.25

ISSUE II

A. If crude price ceilings are raised, by what amount should the price be increased?

As no additional costs are involved and a ceiling increase in the price of crude would be based on other factors such as world market prices and the desire to increase domestic prices of products to deter demand, this is an arbitrary decision.

Assuming it is decided to increase prices of ceiling crude, several stages may be considered.

An increase of 35¢ a barrel would be somewhat in the nature of a traditional increase. It was the amount that CLC authorized as an addition to May 15, 1973 prices.

An increase of $1.00 a barrel would bring domestic ceiling crude up to the lowest of mideast prices but leave it below Canada and almost all other exporters to the U.S.

An increase of $2.00 a barrel would bring domestic ceiling crude up to the Canadian imported crude (including tax) and to about the midlevel of other exporters to the U.S.

Gross profit at each stage of price increases listed above, based on 256 million barrels per month of ceiling crude production would be $89.6 million per month at 35¢ per barrel; $256 million per month at $1.00 per barrel; and $512 million per month at $2.00 per barrel.

B. Should there be any requirements or restraints on profits associated with the price increase?

Option 1. Allow producers to reap the additional profit.

Pro. This would well be received by the producers and can stimulate investment.

Con. The general public would object.

Option 2. Require that only a portion of the additional costs can be passed through by he refiner to the consumer.

Pro. This would be popular with the public.

Con. Oil refiners will say they can not absorb the costs. Those with crude reserves will not be effected as much as those without crude reserves (mainly independents).

Option 3. Require that profits in whole or in part be used for exploration, secondary recovery investment, additional refinery capacity or research and development of other energy sources.

Pro. Would lead to additional long term supplies.

Con. Would be difficult to supervise to prevent unnecessary expenditures. Lack of additional drilling rigs, and other supplies and labor may physically prevent exploration activities.

Option 4. Recoup profits by an excess profits tax or decreased depletion allowance.

Pro. Would prevent windfall profits.

Con. Would require Congressional action which may not be forthcoming. Would remove profits which can be reinvested in exploration or other supply activities.

Presently, we may take as a benchmark the following facts: at the beginning of the embargo, our consumption was at a rate of 6.2 billion barrels per year. Domestic production covered roughly 4 billion of that consumption, and was paid prices less than $4.

Such evidence as is available indicates that domestic supply responds to price with an elasticity of unity:

(1) The 4 billion barrels of domestic output could be increased to 6 billion barrels by a price increase of 50 percent (1973 prices).

(2) This increase would begin to take place immediately. Additional output would be extracted from existing reserves. But the greater response, that resulting from exploration and development, would occur in the 3–5 year period after the price increase.

(3) In any event, Alaskan oil (which would have been forthcoming under pre-existing conditions) would begin to add 1 billion barrels per year.

On the demand side, a $6 per barrel price represents a 30 percent increase in price. (Free domestic and imported oil yielded an average of $4.60.) This could be expected to reduce amounts consumed by 6 percent, so that, allowing for an annual rate of growth of 5 percent, 1977 consumption would equal approximately 7 billion barrels at (1973) prices of $6 per barrel of crude.

85 percent of this is about 6 billion barrels, which is about equal to the expected domestic supply of crude in 1977.

ECONOMIC STABILIZATION PROGRAM,
COST OF LIVING COUNCIL,
Washington, D.C.

Memorandum for John T. Dunlop.

Subject: Notes on the 9:00 a.m. Meeting, Tuesday, December 18 Concerning the Price of Domestic Crude Oil.

Attendees: Chairman Stein, Bill Johnson of Treasury, Oz Brownlee of Treasury and McLane, Kosters, Owens and Walker of Cost of Living Council.

SUPPLY ELASTICITY

It was agreed that about 200,000 barrels per day of additional oil would be obtained through secondary and tertiary recovery during the first six months or so of next year. This increase would result even absent a rise in the price of domestic crude through operation of the existing two-tier system. Limitations on additional crude production result from supply limitations on such commodities as rigs, drilling bits, steel tubing, etc. The long-run concern expressed about the two-tier system was that as the spread increases between the price of new oil and the price of old oil, there is increasing incentive to cheat.

DEMAND ELASTICITY

The Treasury group estimated .2 demand elasticity, or an estimate that for the first dollar increase in crude, demand would be reduced about 4%.

PRICE SPREAD

It was generally agreed that the spread between new oil and old oil is increasing rapidly. There are some confirmed quotations in the neighborhood of more than $8 per barrel for new oil. It was agreed that the average price of new oil is now about $6.25, or $2.00 over old oil prices.

HOLD-BACK

It was generally agreed that while there is some obvious incentive to hold back production of refined product and to hoard product, there is no evidence to suggest that this phenomenon is occurring in any widespread way. Bill Johnson cited statistics which show a continuing slightly downward trend in crude production and stated that there has been no acceleration in this downturn in recent months.

LONG-RUN EQUILIBRIUM PRICES

Herb Stein pointed out that the higher the initial price increase for domestic crude the sooner we will reach the point of equilibrium. He opted for $12.00 per barrel, stating that it's big enough to avoid the need for rationing." He said that there are two stopping points for a crude price increase: the first would be a long-run equilibrium price which he was not prepared to identify. The second is a short-run equilibrium price which he is prepared to say is $12.00, with knowledge that if it is too high, the price will come down. Stein couples the $12.00 price with a windfall profits tax which will yield the companies at least $6.50 per barrel, and he would do away with the two-tier system except for the stripper well exemption. Stein concedes that there is no short-term supply elasticity.

Johnson is in general agreement. He stated that an increase to $10 would, over a period of three or four years, bring out additional supplies and, in eight or nine years would produce very significant increased supplies. He believes that $6.50 is a long-term equilibrium prices, as that is the price at which shale oil becomes economical to produce in commercial quantities. (Both Johnson and Stein dismissed Houttakher's figure of $5.50.) Brownlee strongly favors decontrol, but would settle for $12.00 per barrel. He uses the soybean analogy (i.e., what goes up must come down, though he is prepared to concede that there is no oil harvest immediately ahead.) Brownlee feels that after three months or thereabout the price would settle back at about $8.00 per barrel, though he had no data to support this figure.

I pointed out that the Allocation Act prohibits price decontrol of any petroleum product except upon a finding by the President that regulation of prices for the product in question is not necessary to carry out the Act, that there is no shortage of the product

and that exempting the product from the regulation will not have an adverse effect upon the supply of any other oil or refined petroleum product. Such a finding and proposed exemption must be submitted to the Congress and both Houses given at least five days to disapprove it.

WILLIAM N. WALKER,
General Counsel.

ISSUE PAPER—CRUDE OIL

ISSUE

What should be the near term pricing policy for domestic crude oil.

BACKGROUND INFORMATION

At the time the petroleum price control regulations were revised to establish the two-tier price structure for domestically produced crude oil a ceiling was placed on old oil while new oil was decontrolled. It was recognized, and publicly stated, that it was intended to reconsider ceiling prices for old oil periodically and to adjust them at intervals so that ultimate price parity between domestic and foreign oil would be achieved. Initially an upward adjustment of 35¢ per barrel was allowed to prices prevailing on the base date of May 15, 1973. There has since been no further adjustment to the ceiling price for old oil.

New oil has begun to appear and on November 1, 1973, was priced at $6.17 per barrel as compared to $4.17 per barrel for oil oil. Though approximately 20,000,000 barrels (667,000 barrels per day) of new oil were produced in September, the latest month for which data are available, it is still too early to assess the effectiveness of the two-tier system in increasing total production. Prices for imported crude oil have risen to an average of $5.84 per barrel as of November 1, 1973 (range of price is from $5.19 to $6.98 per barrel). Indications are that further increases can be expected. There have been reports of individual transaction prices as high as $15 per barrel for Tunisian oil.

It would appear appropriate to consider the need for, and the effects of, continuing or adjusting the price of domestically produced old oil for a number of reasons outlined below.

A ceiling adjustment would follow through on the announced policy to consider readjustment to achieve ultimate parity between domestic and foreign crude oil prices.

The rise in both new domestic and foreign crude due in part to the Arab embargo has widened rather than narrowed the gap between these crudes and old oil.

The exemptions of stripper wells from price control will free a portion of old oil and may actually create disincentives to increase or even maintain production from oil wells that are only marginally above the stripper level of production.

The allowance of additional price increases will provide resources which may result in accelerated exploration and both primary and secondary development, thus improving the longer run supply position.

In the shorter run, the higher prices for crude when passed on to product costs can have some effect on depressing demand.

Domestic oil crude prices have not kept up to the same rates of increase as were experienced by refinery products.

Following sections of this paper deal with a number of the above points in greater detail. Also discussed are alternative means of addressing the price adjustment problem, their implications and their advantages and disadvantages.

PRICE AND MARGIN TRENDS

Prices in the petroleum industry were generally comparable with those in overall wholesale and consumer markets through 1972. Since that time, there has been significant divergence in their rates of increases. To the degree that data are available, Chart 1 illustrates these trends.

Prices for domestic and imported crude oil rose in parallel between January and August 1973. At that point, the domestic old oil price continues its gradual increase under the two-tier system. By November, domestic new oil prices were established at about $2.00 higher than old oil, as import prices had risen rapidly, averaging just under $6.00 in November, with substantial increases projected when the full effect of the Arabian production cutback and embargo takes hold.

Refinery realization on petroleum products rose at a more rapid rate then crude oil between January and the beginning of the freeze in June, resuming its rise in August at a higher rate of increase which reflected the pass-through of imported refinery feedstocks at ever increasing prices.

The rate of price increases on wholesale gasoline roughly paralleled that of domestic crude in 1973 until August. Retail gasoline prices are relatively flat until September. Thereafter, at both levels the effect of expensive crude imports is evident.

The trend lines for WPI industrial commodities and WPI overall have a noticeably lower rate of increase than the rates of petroleum crude and products.

Chart 1 also includes the trend lines for refiner and retailer gross margins, both of which have risen substantially in 1973, especially beginning in November. No data are available on crude margins.

OBJECTIVES

These are four possible desirable effects of an increase to the domestic crude price:

(1) To reduce the demand for crude oil or its products.

(2) To increase the supply, by providing an incentive which would encourage additional production and additional exploration and development.

(3) To discourage exports by pricing nearer the world price.

(4) To provide oil producers with a more equitable share of petroleum profits.

The desirability of raising the oil price is discussed below in terms of these factors.

INCREASE SUPPLY

It has been suggested that increasing the price of crude oil will encourage (1) increased development and (2) maximum efforts toward secondary and tertiary recovery.

CLC contacts indicate that the current two-tier system, which provides for a free-market price for increased production over 1972, has generated substantial new activity which indicates that it is adequate incentive for increasing the supply. The real bottleneck now is not the lack of incentive prices, but the lack of availability of drilling tools and equipment.

Even with appropriate incentives and equipment, our discussions indicate that it will take many months to affect the supply to any degree. However, one advantage of increasing the old oil price is that the rise may counteract the tendency of producers to reduce production of wells producing just over 10 barrels, so as to qualify them for exemption as strippers.

Reduce Demand.—The demand problem is at the product level, not the crude level. An increase in the domestic crude oil price of $6.00 would generate a price rise in petroleum oil and fuel products of approximately 5c per gallon. Under most elasticity assumptions we have seen, an increase of this size would not in itself be large enough to effect a significant reduction in demand. Larger rises would generate windfall profits to producers.

A more effective method, one which could be applied in greater depth and more precisely, would be a tax on the products.

Discourage Exports.—A price rise would effectively meet the export problem, which is currently small but will probably rise. So would export controls or export taxes, provided their use is consistent with our foreign trade policy.

Provide Producers More Equitable Share of Petroleum Profits.—The record in 1973 indicates that crude oil prices have lagged behind refinery product prices. There are no comparable data with regard to profits, largely because much of the production is by integrated companies. However, since the Phase IV price adjustment there has been no strong pressure by oil companies to raise crude prices, under the rationale of an imbalance in profits. There has been such pressure at the product wholesale/retail level.

Rather than to generate profits at the producer level, it would seem more equitable to channel such a rise in profits into the levels which will be hardest hit by petroleum shortages (the refiner, wholesale and retail levels) so as to offset the losses attendant to these shortages.

ALTERNATIVES

(1) Provide for an increase in the ceiling price of old oil but continue the two-tier price system so as to allow increases for new and released old oil.

(a) *Impact.* This would maintain some restraint on the upward movement of the price of petroleum products to the consumer. The producer could only earn price increases as a given property. It is still too early to assess affects of the two-tier policy on crude oil production. Informal information from industry indicates that is looking well and that there is no evidence of disatisfaction.

(b) *Advantages and Disadvantages:*

Pro

1. Maintains a posture of continued interest in controlling upward price movements.

Con

1. Does not provide for the promised gradual attainment of ultimate price parity between domestic and imported crude.

Pro

2. Use the price mechanism as a means of stimulating production.

Con

2. Would be viewed as adverse discrimination by the producers since price rises of refinery products have been significantly greater than for old domestic crude oil.

Pro

3. Avoids windfall profits to producers which a significant price increase would generate.

Con

3. May cause some producers of old oil to reduce production (especially those only marginal above the stripper well category.

Con

4. Could lead to increased export of crude oil because of price differentials between domestic and world market prices.

(2) Increase ceiling prices for old crude oil.

This alternative is discussed in two parts. Part I addresses the issue of whether or not there should be a price rise. Part II addresses options as to how much of an increase is to be allowed if an increase is to be permitted.

Part I—Should there be a price rise?

(a) *Impact:* The size of the impact is directly related to the amount of price rise allowed and is covered in Part II. Other potential impacts are seen primarily as:

1. Possible world price response of still further increases.

2. Creation of sizeable windfall profits to producers which would be hard to justify unless some means were found to either recapture these through taxes or by a requirement that the profits be used for exploration and development.

3. Uneven consequences of such price rises as between the integrated refiners (who would benefit from the increased crude prices received as producers) versus the independent refiners (who could merely pass on the costs they actually incurred).

(b) *Advantages disadvantages—*

Pro

1. Consistency with commitments to achieve ultimate parity between domestic and foreign crude.

Cons

1. Possible tendency to further U.S. price increases to cause further world price increases.

Pro

2. Provision of added revenue to producers which may in the longer run result in increased production.

Con

2. Windfall profits to the producers.

Pro

3. Reduction of risk of diversion of crude through expert channels.

Con

3. Differing severity impact on integrated versus independent refiners.

Pro

4. Increased prices could to some degree have the effect of reducing product demand.

Con

4. Could be viewed as discriminatory against independent refiners who by the Emergency Petroleum Allocation Act of 1973, are accorded preferential treatment.

Cons

5. Other methods (taxable) refinery yield adjustment could be used to reduce product demand.

6. Probable adverse public reactions

Part II.—Magnitude of price increases. The magnitude of price increase to be allowed can be determined in a number of ways, none of which can be identified as more "right" than another except perhaps in terms of severity of impact or effectiveness in achieving overall objection.

Two possibilities are suggested:

An old oil price at a point intermediate between the current level and the average landed cost of foreign crude (Say $5.00 per barrel).

An old oil price roughly equivalent to the average landed cost of foreign crude (Say $6.00 per barrel).

(a) *Impact:* An increase to $5.00 per barrel from the present $4.17 per barrel would increase total costs on the order of $2.5 billion per year (based September 1973 volumes of old crude). These would, of course, be passed on to the consumer in product price increases. An increase to $6.00 per barrel would cost an additional $3 billion.

(b) *Advantages and disadvantages*

In addition to the general pros and cons enumerated for the concept of a price rise, the specifics for the levels of rise mentioned above are:

Pro

1. Would cause substantial upward product prices and thereby tend to reduce demand.

Con

1. Given the uncertain regarding demand elasticity for petroleum products it is uncertain that demand will fall sufficiently to adjust to reduced supplies under embargo conditions.

2. Profit enhancement to the degrees cited would be subject to considerable criticism because of the repressive nature of price increase on the major products (gasoline and heating oil.

CONCLUSION

While the objective of reducing demand would be supported by significant increases in ceiling price it is not clear that such increases are sufficient or even necessary to accomplish this end.

Though it would be reasonable to allow some increases in the light of earlier commitments to move toward domestic/foreign crude price parity it is likely that more modest allowances would suffice, and avoid windfalls, excess profits and other attendant problems. Since informal industry opinions indicate satisfaction with the two tier system it is by no means certain that substantially higher prices will stimulate substantially more new production in the short and long run. Equipment shortages will in any case limit short run potential.

A more direct and more palatable solution seems to be possible in terms of effecting price rises through a public mechanism such as taxation and pricing rules which could be designed to deal appropriately with refinery yield mixes and safeguarding of downstream levels of distribution.

ECONOMIC STABILIZATION PROGRAM,
COST OF LIVING COUNCIL,
December 19, 1973.

THE PRICING OF DOMESTIC CRUDE OIL

At the present time the price of "old oil" is approximately $4.20 and the price of new oil (and stripper well oil) is about $7.00. This makes for an average price of about $4.90.

The proposal to try to move now in one step to something called the "long run supply price for domestic oil that would create approximate independence" by an increase of $2.30 or $3.30 per barrel is subject to many objections:

a. An increase of so large amount in the price of old oil could not stop at the range of $6.50 to $7.50 since new oil prices (and stripper well oil) would be above this level and would continue to rise tending to put pressure for still higher prices of old oil.

b. Such a large jump would further escalate the bidding in the international markets and raise the price still further that the producing countries could expect to get.

*c. The effects of such a large jump in my view could not be absorbed under the prenotification procedures we have with a 30-day lag. In a great many industries such as petrochems, carbon black and tires the pressures of a further 70 to 80 percent price increase in a large component of costs would destroy "spreading out of the price bulge". Instant cost pass through could not be resisted. In hospitals, for instance, the proposed regulations we have could not resist instant pass through above our proposed 7.5 percent budget ceiling. It would be impossible in my view to maintain the cost of absorption system due to the lag that we now have in place.

d. At the retail gasoline level a 70 to 80 percent jump in crude prices would be perceived as warranting upping margins from about 8 cents to 12–15 cents. "They are getting theirs".

e. The only practical way to approach a price of $6.50 to $7.50 and maintain other controls in place is in several steps.

2. The economic system confronts major uncertainties. A shock of this magnitude is likely to help set off a number of inflationary reactions which will preclude any further orderly withdrawal from controls. Decontrol would become a rout.

a) The Teamsters and the airline employees have already served notice that they intend to reopen their collective bargaining agreements. This could well lead to a general wave, as in Britain, with strikes for "voluntary" increases to offset employment effects or cost of living effects.

b) It is agreed that there are no short run supply increases likely in the next few months.

It is recommended that the price of domestic crude be raised now to $5.00 by the Cost of Living Council (with a tax announcement at the White House) and that a further increase of about the same amount be considered in several months (not to be announced now). The $5.00 old oil price (and $8.00 new oil) would yield an immediate average price of $5.75.

If a price of $7.00 to $8.00 is now established. I recommend full decontrol of the economy immediately because even orderly phasing out of a controls system cannot be viable under such a shock.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business. If not, morning business is concluded.

DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1975

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 3000, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 3000) to authorize appropriations during the fiscal year 1975 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads, and for other purposes.

The PRESIDING OFFICER. The pending question is the amendment of the Senator from New Hampshire (Mr. McINTYRE). Time for debate on the amendment is limited to 4 hours, to start at 12:45 p.m., to be equally divided and controlled by the Senator from New Hampshire (Mr. McINTYRE) and the Senator from Mississippi (Mr. STENNIS).

Mr. ROBERT C. BYRD. Mr. President, if there should be recess until 12:45 p.m., the time would not run against anyone. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

RECESS UNTIL 12:45 P.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until 12:45 p.m. today.

The motion was agreed to; and at 12:25 p.m. the Senate took a recess until 12:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CLARK).

The PRESIDING OFFICER. Who yields time?

AMENDMENT NO. 1380

Mr. McINTYRE. Mr. President, I believe at this time, in accordance with the previous order, my amendment, cosponsored by the Senator from Massachusetts (Mr. BROOKE), becomes the pending business.

The PRESIDING OFFICER. It is the pending business.

Mr. McINTYRE. Mr. President, this amendment is a very important amendment because we find that our Nation

quietly, without too much fanfare, is about to change a national policy that has been in effect for a generation.

I would like to read into the RECORD this amendment. It states:

On page 4, between lines 18 and 19, insert a new section as follows:

SEC. 202. No funds authorized pursuant to this or any other Act may be expended for the purpose of enhancing the United States counterforce capability by developing, testing, or procuring improved guidance technology for the Minuteman III missile, the Mark 12A reentry vehicle and warhead for the Minuteman III missile, or a terminally guided MARV (maneuverable reentry vehicle) until after a report has been submitted to the Congress by the President stating that the strategic arms limitations talks between the Soviet Union and the United States have been unable to achieve substantial controls over multiple independently targetable reentry vehicles (MIRV).

This amendment, Mr. President, involves this year only a $77-milion outlay but, Mr. President, if we should go ahead and develop these three programs the present-day estimate of the total cost would be $1.5 billion for a program that, as I will argue extensively today, particularly during the executive session, we do not need.

I would like to read into the RECORD an editorial of the New York Times this morning which states the case very well. The title of the editorial is "Missile Danger." It goes on to say:

MISSILE DANGER

Almost unnoticed by the country and little debated in the Congress, a dangerous and drastic tranformation of American nuclear strategy is in the making. From a long-standing policy of deterrence—based on a stable, second-strike, retalitory force—the Pentagon is now seeking a silo-killing capability that the Soviet Union may perceive as a first-strike force.

In past years, President Nixon has made firm commitments against weapons development in the direction of a first-strike capability. The Defense Department itself, in 1971, opposed a Senate proposal favoring a counterforce strategy, saying "It is the position of the United States not to develop a weapons system whose deployment could reasonably be construed by the Soviets as having a first strike capability. Such a deployment might provide an incentive for the Soviets to strike first."

Nevertheless, the $21.9 billion military procurement bill now on the floor of the Senate contains three new nuclear weapons programs that can provide a capability for destroying large numbers of Soviet missiles in their hardened underground silos. These programs would greatly increase the accuracy of American landbased Minuteman III ICBMs, double their yield and develop a terminally-guided MARV (maneuverable reentry vehicle) which would give submarine-launched missiles, as well as Minuteman, nearly perfect accuracy.

There are other potentially destabilizing missile-development plans in the pending defense budget, but these three are clearly the most dangerous, although only $77 million is being asked to get them started. An attempt to block these funds and force a serious debate on the Administration's counterforce strategy is being made by Senator Thomas McIntyre of New Hampshire. His amendment would tie up these funds until the President notifies Congress that efforts to place adequate limits on Soviet MIRV multiple warhead missiles in the strategic arms limitation talks (SALT II) have failed.

The Pentagon has sought to justify its strategic initatives as a warning to Moscow that it will "match" the current Soviet missile buildup unless it is curbed by a SALT agreement. But the new American programs are more likely to confirm the argument of the Soviet military leadership that Russia must overtake the American effort to maintain qualitative superiority.

There are safer ways to "match" the Soviet missile buildup, if that should become necessary, and there is no need to hurry to start. Present programs already assure American nuclear superiority until the mid-1980s. Instead of spurring a SALT II agreement, the new missile programs are more likely to block it and stimulate a qualitative arms race that may make significant arms limitation virtually impossible.

Mr. President, I submit that presenting this case for the distinguished Senator from Massachusetts and myself and our cosponsors involves a difficult and complicated set of facts. So for that reason, at the appropriate time, so that I may talk freely and be able to talk in terms of feet, yields, and accuracy, I shall move for an executive or secret session, and I would want to have as good attention as I possibly can receive; so I shall ask, probably simultaneously with the request for an executive session, for a live quorum call.

At this time, Mr. President, I suggest the absence of a quorum, to be charged to my time.

The PRESIDING OFFICER. On whose time?

Mr. McINTYRE. On my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Who yields time?

Mr. McINTYRE. I yield 10 minutes to the distinguished Senator from Iowa.

Mr. HUGHES. Mr. President, I am pleased to be a cosponsor of this amendment offered by the distinguished Senators from New Hampshire and Massachusetts (Mr. McINTYRE and Mr. BROOKE).

The issue we face today is not really one of money, for the amounts involved are small. Nor is it one of management, or ideology.

Rather, the question before us is whether or not to go ahead immediately with new, dangerous, and destabilizing programs which will provoke another round in the nuclear arms race.

Until now we have talked about the defense budget. Today the issue is the offense budget, for these improved yield and accuracy programs add nothing to our ability to survive an attack, but rather make it easier for us to strike first against an enemy.

If these programs go ahead unimpeded it will mark a sudden reversal in the policy several times declared by the Senate and every recent Secretary of Defense.

In 1971, the Senate rejected a proposal for improved accuracy of our Minuteman missiles by a 66 to 17 vote.

In 1972, the Senate insisted on deleting a hard-target kill program from the package of programs proposed just after the first SALT agreements.

That same year, in approving the interim agreement on offensive weapons, the Congress wrote into law a provision first offered by myself and Senator BROOKE which declared that the success of that and future agreements was "dependent upon the preservation of longstanding U.S. policy that neither the Soviet Union nor the United States should seek unilateral advantage by developing a first strike potential."

Defense Secretary Laird had assured the Congress that we would not develop weapons which might be construed as having a first strike capability.

When Secretary Richardson came before the Armed Services Committee for his confirmation hearing, I asked him whether he also supported that policy, and he gave an affirmative reply.

Secretary Schlesinger, in his confirmation hearing, responded to a similar question from me by saying:

I share the views of previous Secretaries of Defense that we do not have and are not seeking a disarming or first strike capability.

When I asked Secretary Schlesinger this year how he could reconcile that statement with his new hard target kill programs, he sidestepped the issued by arguing that no nation could ever achieve a first-strike capability so long as nuclear submarines remain invulnerable.

This position ignores the many previous arguments that we could not tolerate a Soviet capability to destroy at one blow any component or our strategic forces. In particular our ICBM's.

By Mr. Schlesinger's logic, we should not worry about current Soviet missile programs because our subs remain invulnerable. I think we should worry—not by overreacting but rather by pressing more quickly for a permanent arms control agreement.

The Russians should worry even more about our hard target kill programs, since they rely on ICBM's for the bulk of their strategic force. We at least have intercontinental bombers which help to give us a 3-to-1 superiority in deliverable warheads. But if Soviet ICBM's were subject to attack by U.S. missiles with increased yield and accuracy, Soviet leaders would surely consider that threat dangerous and destabilizing.

Why should we reverse our policy now? One reason given is that we need flexibility to destroy a few silos rather than attacking cities. But Secretary Schlesinger himself has testified.

We can devise selective, flexible strikes with our existing array of weaponry.

In other words, we do not need these hard target programs in order to have a flexible response to the full range of hypothetical nuclear exchanges. These new programs merely increase the efficiency and probable effectiveness of our existing weapons.

Nor do we need these programs to "catch up" with the Russians. Secretary Schlesinger has testified:

We now have greater operational counterforce capabilities than they have.

Therefore, we have flexibility now and we are ahead in counterforce capability. Why should we rush ahead with these new programs?

What about the future? Clearly, the Soviet Union is engaged in a vigorous missile development program. After all, they are inferior to the United States in technology and capability.

But the costs for them to complete all of these programs would be enormous, and probably prohibitive. Secretary Schlesinger has estimated that it would require a Soviet willingness to spend the equivalent of $30 billion to replace the current SS–11 force with SS–19's, and $12 to $15 billion to replace the SS–9's with the SS–18.

To avoid or limit those costs, the Russians surely have an incentive to reach a new SALT agreement.

Even if they went ahead, even if the current round of SALT failed, we would still have plenty of time to respond with these or other programs.

Current national intelligence estimates indicate that the Soviets could not have the capability for a disarming strike against Minuteman before several years in the future. Research and Development chief, Dr. Currie, places that time period at when "we approach the mid-1980's."

To hedge against that development a decade hence, the Air Force is developing the advanced ICBM which could provide a new missile, less vulnerable than Minuteman, in time to counter the hypothetical threat.

In other words, we are already proceeding with other programs to overcome this threat to Minuteman survivability. We do not need increased yield and accuracy at this time.

So what are we talking about? Three new programs, costing $77 million this year and possibly several billions of dollars in the next few years. Such huge expenditures would leave us poorer in resources, less secure because of a less stable military balance, and only slightly more capable to make selective nuclear attacks.

And if we proceed now, we jeopardize our current SALT negotiations. Suppose that we planned to deploy only limited numbers of new hard target weapons. How could we assure the Russians that we were not going all-out for a first strike potential? We could not. In fact, the Pentagon admits, even boasts, that "such assurances would be extremely difficult, if not impossible, to give or obtain, particularly if verification were limited to national technical means."

In other words, we would let the genie out of the bottle and would never be able to confine it again.

Already our land-based missiles have an accuracy of less than a quarter of a mile, which is sufficient to destroy above-ground structures and, to some degree, even hardened missiles. Further improvements, by reducing the current uncertainty about the effects of an attack, actually increase the likelihood of war.

A nation threatened by a high probability of a one-shot obliteration of its ICBM's would prudently adopt a hair-trigger launch on warning strategy in order to use its missiles before they were destroyed in their silos. In a crisis, ambiguous evidence from early warning systems could thus prompt a kill-or-be-killed decision.

And once one nation has successfully demonstrated a hard-target system, no other nation could verify or be sure that that capability had been extended to enough of the force to provide a disarming first-strike potential.

Furthermore, if national leaders think that they can get away with limited, selective strikes, they may be more willing to try them. And such strikes would have substantial collateral damage, killing millions of civilians.

To avoid this, we must preserve the clear line between conventional and nuclear war.

The time to stop is now—before we are caught in another costly round of the arms race, before we go beyond what we can control by international agreements and until we know for sure whether SALT has succeeded or failed.

This amendment would give us breathing space and would give both sides a powerful incentive to limit strategic arms as soon as possible.

Mr. President, I believe that this proposed amendment is a reasonable offer by the chairman of the subcommittee and the cosponsors, after a total study of the situation, that would show that what we are doing is minimal in the overall defense position of the United States of America.

It would place us in a better position in the SALT talks, in a better position to avoid an international nuclear exchange, and a more reasonable position for the hopeful and eventual defanging of totally destructive weapons systems.

For all these reasons, Mr. President, I wholeheartedly support the amendment of the distinguished Senator from New Hampshire (Mr. McINTYRE) and the distinguished Senator from Massachusetts (Mr. BROOKE).

Mr. McINTYRE. Mr. President, I want to thank my distinguished colleague from Iowa not only for his fine statement but also for the good work he does on the Subcommittee on Research and Development. We work on things behind closed doors, with policemen on guard outside, as we take a look at the facts.

I should like to ask him what his reaction is to the flexible response theory.

Does the Senator from Iowa agree with me that there is a great deal of danger in getting involved in discussions like—say they shoot a limited number, three missiles, into our silos and we say, "I tell you what we will do, we will do the same and shoot three back at you," and we knock out their radar centers guarding their air defense.

Then they retaliate with a limited attack on, say, a command center on some of our silos at Maelstrom.

What is the opinion of the Senator from Iowa of that sort of nuclear exchange? Does he think that would be viable or academic?

Mr. HUGHES. As the distinguished Senator knows, the Senator from Iowa believes that this sort of theoretical thinking is totally out of line with the realities of an exchange once it begins. Once an exchange begins, so far as I am concerned, the capacity to limit it is very remote, because the danger is always there that the opposing force would take advantage of preempting by a first strike. Once the potential enemy believes that we have that potential capacity for a first strike, then they will develop a hair-trigger which will give them the capacity to respond totally before their missiles could be killed in the silos. So I believe that the flexible reaction theory would be nil, for all practical purposes, in that sort of warfare.

Mr. McINTYRE. Has the Senator ever seen pictures of the destruction at Hiroshima and Nagasaki?

Mr. HUGHES. This Senator has not only see the pictures but he has been there and viewed the local photography of the aftermath and the destruction. When I first visited Nagasaki at the site of the shrine commemorating where the bomb had dropped, the only thing I could do, with tears streaming down my face, was silently to pay,

God forgive us for what we have done in developing this potential for destroying civilization, for making possible the total destruction of all humanity.

It is almost impossible for anyone to conceive of the death-dealing capacity of modern nuclear warfare in comparison to what would now be called primitive bombs.

Mr. McINTYRE. Does the Senator from Iowa know what the yield was on the Hiroshima and Nagasaki bombs?

Mr. HUGHES. I am sorry to say that I cannot recall it at this moment.

Mr. McINTYRE. They were 20 kiloton—20,000 tons. Our present Minuteman yields many times that figure. So that is a pretty lethal weapon that we have in the present force—and the Senator has seen the results of what a 20 kiloton bomb can do. So I want to thank my good friend from Iowa.

I think that in the closed session, where we will talk about the actual accuracy that the Secretary of Defense seeks, and we show our colleagues what they are striving for, they will realize that this is not a just question of launch on warning where we see a few blips—our potential foes—a few blips on the radar and decide that we will not take a chance as to whether a group of bombs are coming. This is a situation where we get into the hair-trigger period of international tension and the prospect of thinking that we have the power to knock out his silos and destroy his counterforce, so that there will not be a prelaunch, but he will take no chances and fire first. Does the Senator agree?

Mr. HUGHES. I agree that this step, which would give us that capacity, in my opinion, would develop hair-trigger international nuclear warfare such as never existed before in our history and which would be a threat to the survival of the human family itself, in my opinion.

Mr. McINTYRE. Mr. President, I thank my good friend from Iowa.

Mr. President, I suggest the absence of a quorum, on my time.

The PRESIDING OFFICER (Mr. MONTOYA). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McINTYRE. 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. STENNIS. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending business is the amendment offered by the Senator from New Hampshire.

Mr. STENNIS. How much time do I have, Mr. President, in opposition to the amendment?

The PRESIDING OFFICER. The time on the amendment is limited to 4 hours, equally divided, 2 hours to each side.

Mr. STENNIS. I thank the Chair, and I yield myself 10 minutes.

Mr. President, I understand that the Senator from New Hampshire, in his good judgment, will request—and I will second the motion—a closed session on this amendment, but there are some matters that we can bring out for the record, even if some matters are repeated.

Mr. President, this debate is about a provision in the bill, authorizing a certain sum of money, $77 million in round numbers, to cover research, and only research, that concerns the question of improving the accuracy and yield for missiles, both land based and sea based, that we already have and that are already in operation.

Reference has been made to the fact that this matter has been before the Senate before in one form or another.

I recall when the matter was before the Senate on an amendment from the floor by the Senator from New York (Mr. BUCKLEY). It came before the Senate then without a recommendation or testimony from the administration, from the Department of Defense, or any branch of the administration.

It was proposed near the end of the debate. At the time I have in mind, the war was still in progress in South Vietnam and amendments were being offered to terminate the war by cutting off funds. That was the atmosphere and background.

I did not think this matter ought to be raised at that stage of the proceedings on that bill, without a budget estimate, and without testimony directly on the matter.

I believe I voted in more than 1 year against amendments that were proposed to put similar items in the bill.

At that time, too, or near that time, the SALT talks were in progress.

Mr. President, the issue of the capability for a first strike—which, with all deference, I think has always been overemphasized—has already been raised by the administration in requesting the money. Hearings have already been had, even though in closed session.

Editorials have already appeared in the newspapers, and that is entirely all right, too. But one can tell from those editorials that the writers have a great deal of information about this matter that I had understood was classified.

Since this matter was last before the Senate, the Soviets have moved forward considerably, greatly one might say, in this field of weaponry. So this is a new day and certainly a different day and a new start with reference to the consideration of these R. & D. funds. This question goes solely to the accuracy and the volume or yield for weapons we have already.

I think accuracy is always desired in weaponry. I do not know of any case where it is not. I am not a good quail shot, but I hunt quail some. I do not want to oversimplify the matter, but, Mr. President, you do not get very far just shooting into the covey; you do not kill many birds that way. The hunter has to swing with the moving target; he has to have the gun on the moving target; it increases his potential.

Mr. President, even thinking about firing one of those weapons is serious business. It is unpleasant even to think of, having a weapon that is so destructive.

But we start with the fact that we already have these weapons. They are in being and we think we know what they will do approximately. We know, too, that our possible adversaries have these weapons, and they know approximately what their weapons will do and we think we know approximately what they will do; and I refer to the weapons of our possible adversaries.

That brings us to the proposition here: What are we going to do about improving the effectiveness of weapons we already have? This is not going to change our minds one bit about not making a first strike. We have said that from the beginning, and I am not sure we are fully believed by our possible, potential adversaries.

At the same time I think it is infinitesimal, almost, what difference this will make—whether or not we sharpen our accuracy some and our effectiveness in this field.

It seems to me, and I have been in on this matter for a few years, that contrary to logic, the good that may come out of the SALT talks is not based upon what is being done toward stopping arms but what has been done already, and I am thinking now about the ABM.

We had a very fine debate, and on one occasion I remember that there was a tie vote and an amendment failed for the lack of a majority, even though it got as many votes as the opposition. One of the arguments in favor of the ABM was that we should start and then time will make it more likely that we can get an agreement. That is what happened. I do not know if it is because of what we did or not, but I do know that until we started to build the ABM we had not been able to get an agreement and after we started we got an agreement, when we got the agreement everyone accepted the fact that nonprohibited improvements would move forward.

MIRV was the outstanding example. I know I assumed the Soviets were going to have a capacity in the future for MIRV-ing their missiles, and they were developing that capacity. I knew that already we were developing, and that we would utilize the advantages obtained from MIRV, and that is what happened. Since the agreement we have gone into MIRV-ing and they have, too.

So when we move into this field of accuracy more pointedly—we have been in it all the time, bringing this matter down to as fine a point as we could—but in the field under debate this matter of pinpointing the accuracy has become a political question.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STENNIS. Mr. President, I yield myself 3 additional minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. STENNIS. Mr. President, if I may have the attention of Senators who are present, this is not just another field in which we are improving our weaponry. If we do not need improvement in weaponry, one can argue that we do not need Trident. Why add to our sea-based ballistic missiles, because that certainly makes it more probable we would have a capacity to make a first strike with increased range, and the increased concealment for submarines.

The matter at issue here today pertains to the Trident II of the future with increased accuracy. Now, unfortunately, I think we are going to be in this missile business a long, long time, even assuming we get more agreements from year to year. I assume they will, and assuming they are carried out, We are going to be in this business for a long, long time.

No one has any finer respect for and greater appreciation for the work of the Senator from New Hampshire, for his outstanding honor and outstanding ability in any situation he handles, than I. But when his amendment requires the President of the United States to certify certain things before this research can go forward, the President's certification is a signal that things have gotten beyond hope, almost.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STENNIS. Mr. President, I yield myself 1 additional minute then I shall yield the floor. I think we must improve the accuracy and yield of the weapons we have. We shall get into the details of all that later. But the Executive head of this Nation should not be pinned down too severely, as this amendment would do, in my judgment. We should give him such running room as we can in order to get some agreements that might lead inch by inch to a solution or part solution for the situation we are in with respect to nuclear weapons, not only with the Soviets but also with other nations coming into this family of nuclear powers.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. McINTYRE. I yield 5 minutes to the Senator from California.

Mr. CRANSTON. Mr. President, I believe very firmly that amendment No. 1380, offered by the distinguished Senators from New Hampshire and Massachusetts, should receive the clear-cut support of the Senate.

By adopting this important amendment, the Senate would delay development of counterforce capability until

such time as the President of the United States reports that the SALT II negotiations have failed to achieve substantial controls over multiple independently targeted reentry vehicles.

We all deeply hope that the SALT negotiations will be successful. We all hope that an agreement to control MIRV's will be reached—and reached soon.

The great importance of these sensitive negotiations is beyond question. They represent an attempt to bring a dangerous and potentially disastrous arms race under the control of reasoned agreement. Nothing must be allowed to jeopardize these vital talks.

Mr. President, I believe that development of an American counterforce capability would threaten the success of these negotiations.

It would do so by introducing a new, dangerous, and destabilizing element on to the scene—a risky new posture which would seriously undermine the presently existing level of nuclear stability.

I want to outline why I so strongly believe that development of a counterforce capability would be a serious—and perhaps—disastrous mistake.

To begin, Mr. President, circumstances do not yet justify development of a counterforce capability. We have yet to exhaust the full possibilities of the present SALT II negotiations.

Negotiations are a painfully slow, and often frustrating, process. And we might indeed wish that tangible results were forthcoming much more quickly. But until such time as the SALT II negotiations have clearly broken down—until it is apparent that they have failed to control MIRV development—then I maintain that counterforce capability is premature.

Why is it premature? How would counterforce capability jeopardize the present negotiations?

It would do so, Mr. President, by improving the efficiency with which the United States can successfully attack "hardened" targets within the Soviet Union. It would increase our ability to knock out protected Soviet missile silos.

We already have that ability—but only to a limited extent. Secretary Schlesinger would have us do it more efficiently, by developing the capacity to fire fewer, more accurate missiles.

Very clearly, Mr. President, this would greatly increase the vulnerability of the Soviet Union to an American nuclear attack.

What would be the ramifications of such increased Soviet vulnerability? How could the Soviets be reasonably expected to view this new development?

It seems to me, Mr. President, that such a development might well increase the likelihood of a Soviet first strike—something we very plainly want to avoid if we can.

The Soviets, knowing full well that their own capacity for a retaliatory strike would be severely diminished by an American attack, would indeed be given a greater incentive to strike the first blow.

Moreover, an American counterforce capability would give the Soviets a clear incentive to proceed as rapidly as possible with deployment of their own MIRV's, so as to increase the firepower of their own surviving missiles, should they be the victim of an attack.

We Americans accept as self-evident the maxim that the United States would never launch a first-strike attack. And I firmly believe that is indeed the case.

But in the sphere of international relations, we must consider the perceptions of others. What might seem self-evident to us may indeed seem highly questionable to decisionmakers in another country. And in thinking about counterforce, we must make a realistic effort to understand Soviet perceptions of the situation.

I fail to see how a Soviet leader could view American development of a counterforce capability as anything but a dangerous new threat. And certainly no reasonable decisionmaker, entrusted with the survivability and well-being of his or her own nation, could be expected to stand idly by as such a threat took shape. The Soviets can be expected to react firmly to development of an American counterforce capability.

And it is equally clear that their efforts would be met by even more stringent efforts in the United States.

A new—and potentially devastating—phase of the arms race would be under way.

America's resources would be further drained off to buy more and more expensive new weapons of war, and the many problems which cry out for solution within our country would starve for both attention and funds.

In a word, Mr. President, that is why it is so crucial that the SALT II negotiations be given a full and fair chance to succeed.

That is why counterforce capability should be delayed until it becomes evident that a negotiated settlement cannot be reached.

And that is why this amendment must be passed.

But there are a number of other reasons, Mr. President, why the counterforce proposals of Secretary Schlesinger are unwise. And I think we should examine each of these reasons very carefully. Without going into minute detail, let me outline my own further reasons for opposing counterforce development.

Let us examine the military justification for counterforce. Quite simply I believe it is virtually nonexistent.

To begin with, counterforce does nothing to reduce the vulnerability of our own Minuteman missiles to Soviet attack. Nor does it in any way enhance the survivability of our own deterrent.

In fact, it can be plausibly argued that counterforce even weakens our deterrent by giving the Soviets greater incentive to knock out our own missiles as quickly as possible in any potential attack.

Second, I think it can be shown that the question of flexibility, raised by Secretary Schlesinger, is a false one.

Our present American strategic arsenal is a large and varied one. With that vast arsenal, we already have the capacity for a flexible response.

Secretary Schlesinger has admitted that we indeed already target Soviet military targets as well as Soviet cities.

Moreover, our present strategic triad clearly gives us the capacity to assure the destruction of those targets. The criteria set down by former Secretary of Defense Robert McNamara are still relevant today. He defined an adequate deterrent as the ability to destroy one-fifth to one-fourth of the population, and the ability to destroy one-half of the industrial capacity of a potential enemy.

It is beyond dispute that our present nuclear arsenal is quite capable of inflicting that—and even higher levels of destruction—upon the Soviet Union.

Barry Carter, formerly of NATO and the Department of Defense, writes in the Scientific American of May of this year, that the delivered warheads of 220 Minuteman III ICBM's could kill about 21 percent of the Soviet population and destroy about 72 percent of Soviet industrial capacity.

We have over a thousand ICBM's, including 550 Minuteman III's.

On top of this, we have our submarine fleet and our strategic bombers. The delivered warheads from 170 Poseidon missiles—and that is fewer than the total carried by a dozen submarines—could inflict a similar degree of damage.

And that still leaves our strategic bombers, of which it is agreed by most experts that enough could get through to satisfy the assured destruction criteria.

We have, then, the ability to attack both Soviet cities, as well as Soviet military and industrial installations. Why must we develop the ability to destroy Soviet hardened missile silos with greater efficiency? What do we gain? How is our security enhanced? I would argue that we gain little. And that our security would, in fact, be diminished.

Counterforce seeks to make nuclear war a more "thinkable" option—by moving away from the mutual assured destruction concept—which is basically a euphemistic way of talking about the deaths of million of human beings.

The Secretary of Defense says we must avoid such policy—and that we must develop the flexibility to respond more selectively.

But do we not already have a significant degree of flexibility? I would argue that we do.

Experts from the Department of Defense itself have testified that the United States does indeed have the capacity to destroy a whole range of targets, including military and industrial ones. We are not locked into a policy of aiming only at Soviet cities—and of inflicting maximum human casualties.

Moreover, it should be obvious that when we are talking about warheads with 3 to 11 times the explosive power of the Hiroshima bomb, improved accuracy of 800 to 1,000 feet really is not going to reduce substantially what the Secretary has called "unintended collateral damage." Only if we picked targets well away from cities could we possibly avoid massive civilian casualties.

So what is the point, Mr. President, of adding marginally to our efficiency in employing our present flexibility by in-

troducing what is widely regarded as a destabilizing new development?

We lose more than we gain. A small increase in missile accuracy hardly balances the much larger increase in danger to nuclear stability.

In what other ways is counterforce unwise?

Secretary Schlesinger has advanced the notion that an American counterforce would somehow enhance the credibility of the American deterrant among our European allies. But this argument also seems dubious.

Many in Europe do indeed doubt that the United States would resort to nuclear war to defend the European continent. But how does counterforce change that? The question is one of political will—and of broad European-American relations—not of missile accuracy.

Moreover, it should be remembered that present American forces in Europe can already respond in a variety of ways to a Soviet attack. Our conventional forces—and tactical nuclear weapons backed up by our strategic force—already provide Europe with a credible defense—one that seems likely to deter a Soviet attack. Counterforce adds little—if anything to that deterrent.

Finally, Mr. President, a word needs to be said about the cost of counterforce. The initial request is for a relatively modest $77 million, but total development costs would run to at least $1.5 billion. Barry Carter estimates that conversion of the 550 Minutemen into Minutemen III would cost between $5–$6 billion, and says that the full cost of counterforce, while still uncertain, is clearly quite high. We have an obligation to ask ourselves if counterforce is worth such vast sums.

When we consider the other crying needs for money and the need to balance the President's budget, I think the answer should be a resounding "no" to counterforce.

I say "no" to counterforce because of cost, and for all the other reasons I have outlined, Mr. President.

To summarize: Counterforce gives us a marginal increase in missile accuracy and efficiency while injecting a major new destabilizing element into the nuclear scene. It would not add significantly to our existing flexibility, nor would it guarantee that major civilian casualties could be avoided.

It would not really serve to reassure our present friends—but it would seriously alarm our potential foes.

By giving the Soviets the incentive to take out our missiles and to strike first in any nuclear exchange, counterforce weakens our own security and severely damages existing nuclear stability.

It would endanger—perhaps destroy—the SALT negotiations—and it could once again send the United States and the Soviet Union down the unending road of a vicious, spiraling, draining arms race.

That is a course we simply must avoid, for it leads only to disaster. We should adopt the McIntyre-Brooke amendment and we should do so by a firm and clear-cut margin.

Mr. President, I have much more to say, but I will now yield to the Senator whose magnificent work has led to this amendment.

Mr. McINTYRE. Mr. President, let me congratulate my distinguished colleague, the Senator from California, who is always a strong ally in matters of this type.

I noticed that in his remarks he mentioned the fact that we now have the ability to destroy medium Soviet hardened targets.

Mr. CRANSTON. We plainly have that capacity now, but we have not developed it to the fine, far-reaching point that counterforce would do.

Mr. McINTYRE. In the closed session we will get into some detail about the type of accuracy they are seeking, but I just wanted to ask the Senator: Is it not true, in regard to the policy of flexible response the Secretary of Defense has enunciated at our posture hearings, we have at the present time the full ability, the clear ability, to respond flexibility toward limited attacks upon us?

Mr. CRANSTON. We plainly have a flexible stance now, and I think the proposal by Secretary Schlesinger has the exact opposite effect of reducing flexibility, because it is quite likely to lead to a situation where any potential foe equipped with mighty missiles might feel it would have no alternative but to strike an all-out blow at us before we decided to strike an all-out blow against them. I think this has the potential of not only increasing the arms race but increasing the speed with which we would move toward nuclear war, rather than decrease the speed with which we would move toward nuclear war, as Secretary Schlesinger said.

Mr. McINTYRE. I want to affirm to the Senator that the Secretary, in his appearance in February before the Armed Services Committee, and then subsequently in his appearance before the Foreign Relations Committee—I think a subcommittee chaired by the Senator from Maine (Mr. MUSKIE)—affirmed and stated that we had sufficient ability to follow a doctrine of flexible response today and we did not need any improved accuracy to fulfill that particular mission.

Mr. CRANSTON. It is really difficult to understand the real reasons. I wonder if there are other reasons that have not been stated that have led the Secretary to propose this move.

Mr. McINTYRE. I want to thank my colleague from California.

Mr. CRANSTON. I thank my colleague.

Mr. McINTYRE. Mr. President, I yield 5 minutes to my distinguished colleague from Maine (Mr. MUSKIE).

Mr. MUSKIE. Mr. President, I thank my friend from New Hampshire, and I compliment him for the effectiveness and the persistence of his fight on this issue, which I think is the key issue on the pending legislation.

To amplify what he has said about Secretary Schlesinger's testimony earlier this year, may I make the point that in response to the Secretary's call for a national debate on his new strategic doctrine, Senator SYMINGTON—as chairman of the Foreign Relations Subcommittee on Security Agreements and Commitments Abroad—and I—in my capacity as chairman of the Foreign Relations Subcommittee on Arms Control—held a series of joint hearings on U.S. nuclear strategy. In the course of the hearings, we held both a closed and an open session with Secretary Schlesinger, who was kind enough to agree to sanitize and release the transcript from the closed session.

In the context of today's debate on authorizations to significantly improve the accuracy and yield of our land-based ICBM's, I would like to emphasize three points that Secretary Schlesinger made in his testimony before the Foreign Relations Committee earlier this year.

First, the Secretary of Defense made it quite clear that improvement of the yield and accuracy of our warheads is not "essential" for the implementation of a targeting doctrine of selective and flexible response. And he has pointed out on several occasions since those session that with our present arsenal of nuclear weapons and our present targeting capability, we can now launch selective, small-scale strikes if we choose to do so.

A recent issue of Defense Monitor, which is published by the Center for Defense Information, carries two tables of interest in identifying the accuracy and hard target kill capability of U.S. strategic missiles and Soviet strategic missiles, and I ask unanimous consent that those two tables, and additional material relating thereto, be included in the RECORD at this point.

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

U.S. STRATEGIC MISSILES—1974

Name	Number	Accuracy [1] (miles)	Yield	Hard target kill capability [2]
ICBM's:				
Minuteman I	100 (will be none by mid-1975).	0.75	1.0 megatons	PK=18 percent.
Minuteman II	500 (will be 450 by mid-1975).	.35	1.5 megatons	PK=60 percent
Minuteman III (3 MIRV's)	400 (will be 550 by mid-1975).	.20	160 kilotons per RV (reentry vehicle).	SSKP=56 percent; PK=92 percent.
Titan II	54	.75	10 megatons	PK=58 percent.
SLBM's:				
Polaris A-2	272 (will be 160A3's by 1977).	1.00	800 kilotons	PK=9 percent.
Polaris A-3 (3 MRV's)		.70	200 kilotons per RV.	SSKP=7 percent; PK=20 percent.
Poseidon C-3 (10 MIRV's)	384 (will be 496 by 1977).	.30	40 kilotons per RV.	SSKP=13 percent; PK=76 percent.

[1] Accuracy is measured according to circular error probable (CEP) in nautical miles. CEP is a statistical estimate that on the average 50 percent of the missiles will land within a circle with a radius from the target of the CEP value.

[2] Hard target kill capability is measured in terms of the probability of kill (PK) of single shot kill probability (SSKP) in the case of MIRV's of a missile against a 300 PSI target (the approximate hardness of most U.S. ICBM silos). The General Electric missile effectiveness calculator was used to make these estimates. The values are very approximate and the relative capabilities between various missiles are probably more accurate than the absolute values. Reliability factors make such estimates even more complicated. A PK or SSKP of above 90 percent is considered a good hard target kill capability.

U.S.S.R. STRATEGIC MISSILES—1974

Name	Number	Accuracy[1] (miles)	Yield	Hard target kill capability[2]
ICBM's				
SS-7	100	2.00	5 megatons	PK=8 percent.
SS-8	109	1.50	do	PK=13 percent.
SS-9	288	.50	20 to 25 megatons	PK=96-97 percent.
SS-11 Mod 1	970	1.00	1 megaton	PK=10 percent.
SS-11 Mod 3 (3 MRV's)	40	1.00	500 kilotons per RV (reentry vehicle).	SSKP=7 percent. PK=20 percent.
SS-13	60	.75	1 megaton	PK=18 percent.
SLBM's				
SS-N-6	528	1.00	do	PK=10 percent.
SS-N-8	108	.75	do	PK=18 percent.

[1] Accuracy is measured according to circular error probable (CEP) in nautical miles. CEP is a statistical estimate that on the average 50 percent of the missiles will land within a circle with a radius from the target of the CEP value.

[2] Hard target kill capability is measured in terms of the probability of kill (PK) or single shot kill probability (SSKP) in the case of MIRV's of a missile against a 300 PSI target (the approximate hardness of most U.S. ICBM silos). The General Electric Missile effectiveness calculator was used to make these estimates. The values are very approximate and the relative capabilities between various missiles are probably more accurate than the absolute values. Reliability factors make such estimates even more complicated. A PK or SSKP of above 90 percent is considered a good hard target kill capability.

STUDYING AND MEASURING DENSITY OF THE AIR

"Because density of the air has a great influence over the inaccuracies of a reentry vehicle. By these tests we hope to get some standard patterns so we might even be able to forecast density in target areas under hot war conditions, thus by using this data improve the accuracies of our ICBMs."

Major General P. T. Cooper,
Air Force Systems Command. 1971.

GEOPHYSICAL MOTION STUDIES

"Sophisticated testing of advanced inertial subsystems for the evaluation of geophysical and environmental effects in order to reduce missile CEP . . . Initiate a geographical motion study of an entire operational guidance system at a missile site in support of missile circular error probability (CEP) reductions." Air Force environment R&D Program, 1972.

EXTRA-GALACTIC RADIO SOURCES

"A series of very long baseline interferometry experiments have been conducted using extra-galacitc radio sources as a means of determining the distance between sites several thousand miles apart. . . This achievement should have an immediate impact on improvement of the earth-centered world geodetic system serving the requirements of the ballistic missile systems, and aerospace defense."

Advanced Research Projects Agency. 1973.

PRECISE GEODETIC LOCATIONS AND GRAVITY DATA

"Defense Mapping Agency provides all the precise geodetic locations and gravity data required to build the missile trajectories for U.S. strategic missile systems . . . Missile systems are provided precise launch positions, target positions and the variations in the pull of gravity on the missile from the time they leave the launch silo until they arrive at the target. This data is provided for strategic missiles such as Minuteman, Polaris, and Poseidon."

Liutenant General H. W. Penney,
Director,
Defense Mapping Agency. 1973.

THE U.S. FOURTH STRATEGIC FORCE: FORWARD BASED AIRCRAFT

In Europe: 72 F–111Es in the United Kingdom; 244 F–4Cs and Ds in the United Kingdom, Spain, and Germany; 72 A–7s, on board 2 aircraft carriers in the Mediterranean; 24 A–6s, total 412.

In Asia: 72 F–4Ds in Korea; 36 F–4Ds in Taiwan; 108 A–7s on board 3 aircraft carriers in the Western Pacific 36. A–6s, total 252.

Grand total 664 tactical aircraft capable of carrying nuclear weapons against the Soviet Union and China.

EFFECTS OF RAIN AND ICE

Air Force requested $6.6 million in fiscal 1974 to study the effects of rain and ice on ballistic missiles to improve the reliability and accuracy of reentry vehicles.

CAN U.S. DEFENSE SECRETARIES COUNT NUMBER OF STRATEGIC WEAPONS?

In 1972 then-Defense Secretary Melvin Laird said in his Posture statement that the Soviet Union would have 2,500 strategic nuclear weapons in mid-1972. In 1973 then-Defense Secretary Elliot Richardson said that the Russians had 2,500 strategic nuclear weapons in mid-1972 and would have 3,600 strategic nuclear weapons in mid-1973. The latter figure may have been a misprint for 2,600. At his nomination hearing in June 1973, Defense Secretary James Schlesinger said that in mid-1972 the Russians had 2,200 strategic nuclear weapons (300 less than what both Laird and Richardson had said) and that in mid-1973 the Russians had 2,300 strategic nuclear weapons (still less than what Laird and Richardson said the Russians had in mid-1972). In 1974 Defense Secretary Schlesinger said that in mid-1973 the Russians had 2,200 strategic nuclear weapons (100 less than he said the Russians had a year ago and the same number he had said they had in mid-1972). Secretary Schlesinger said that the Russians would have 2,600 strategic nuclear weapons by mid-1974 (only 100 more than Laird and Richardson had said the Russians had in mid-1972).

SOVIET STRATEGIC NUCLEAR WEAPONS

Laird (1972), mid-1972: 2,500.

Richardson (1973), mid-1972: 2,500, mid-1973: 3,600 (2,600?).

Schlesinger (1973), mid-1972: 2,200, mid-1973: 2,300.

Schlesinger (1974), mid-1973: 2,200, mid-1974: 2,600.

Conclusion: the jump of 400 Soviet strategic weapons alleged by Secretary Schlesinger between mid-1973 and 1974 is suspect, particularly as the Soviets have not yet begun to deploy MIRVed missles. Are numbers juggled to exaggerate Soviet "strategic momentum"?

NEW UNITED STATES AND SOVIET STRATEGIC MISSILES AND NUCLEAR WEAPONS SINCE 1970

	United States		Soviet Union	
	Missiles	Nuclear weapons	Missiles	Nuclear weapons
ICBM's:				
Fiscal 1971	100	300	40	40
Fiscal 1972	100	300	0	0
Fiscal 1973	100	300	20	[1] 60
Fiscal 1974	90	270	20	[1] 60
Total	390	1,170	80	160
SLBM's:				
Fiscal 1971	112	1,120	112	112
Fiscal 1972	96	960	108	108
Fiscal 1973	96	960	120	120
Fiscal 1974	64	640	72	72
Total	368	3,680	412	412
Grand total	758	4,850	492	572

[1] MRV.

Note: During this period since 1970 the United States has also deployed about 1,000 SRAM missiles on its strategic bombers. The Soviets have deployed no new bomber-carried missiles.

STRATEGIC COMPARISONS

Perceptions of relative military capability are perhaps as important as actual relative military capabilities between the United States and the Soviet Union, says Defense Secretary Schlesinger. Paradoxically, however, it is representatives of the Defense Department who are most eloquent in exaggerating the Soviet threat and in running down and belittling U.S. strategic capabilities. The Center for Defense Information has prepared a list of strategic comparison between the U.S. and the U.S.S.R. which indicates important U.S. advantages. These are all areas of real U.S. strength but which the Defense Department often overlooks or fails to highlight in its efforts to sell the American people and the U.S. Congress on buying new weapons systems by creating doubts about U.S. power.

NUCLEAR WEAPONS

1. The U.S. has three times as many strategic nuclear weapons as the Soviet Union (7940 versus 2600). In 1971 the U.S. had 4700; the Soviets had 2100. The U.S. lead has increased since the SALT I agreement in 1972.

2. The U.S. is producing new strategic nuclear weapons at a rate of about 4 per day; the Soviets at a rate of probably less than 1 per day.

3. All new U.S. strategic missiles deployed since 1970 have been MIRVed. Continued U.S. MIRV deployments will mean that the U.S. lead will continue to grow at least through 1977.

4. The U.S. is superior to the Soviet Union in nuclear weapons technology. Our weapons are more efficient; we get more explosive power (bank) for the size and weight. This fact makes "throw weight" calculations almost meaningless.

MIRV

5. The U.S. has more than 750 operational MIRVed missiles; the Soviets do not have any. They have just begun to test the complex MIRV technology.

6. The U.S., having mastered and deployed MIRV, is moving to MaRV (maneuverable nuclear warheads) and other new advances in strategic weaponry.

ICBM'S

7. The U.S. has fewer land-based missiles (1054 versus 1575) but Admiral Moorer, Chairman of the Joint Chiefs of Staff, estimates that over the next few years the number of Soviet ICBMs will decline toward 1400 as about 200 old Soviet ICBMs are retired. Soviet practice in the past has been to hang on to old missiles; U.S. practice has been to trade in the old missiles for better ones.

8. The U.S. has 1000 modern solid-propel-

lant ICBMs with penetration aids and on-board computers. The Soviets have only 60 solid propellant missiles and no operational missiles with penetration aids and on-board computers.

9. U.S. missiles are much more accurate than Soviet missiles; we can destroy all kinds of targets, including Soviet missiles, with smaller weapons. U.S. advantages in accuracy will probably be retained for a long period because of the very advanced technology required to improve accuracy, particularly below about a quarter of a mile CEP.

STRATEGIC SUBMARINES

10. The U.S. has 41 submarines that carry 16 missiles each; the Soviets have only 33 submarines that carry 16 missiles each. The U.S. has 24 submarines with MIRVed missiles; the Soviets have none. The Soviets usually have far fewer submarines actually on-station.

11. U.S. strategic submarines are quieter and less vulnerable to anti-submarine warfare than are Soviet submarines. U.S. underwater technology for protecting its submarines and finding Soviet submarines is much superior to Soviet technology.

12. The U.S. has forward deployed bases for its submarines (in Scotland, Spain and Guam). The Soviets have no forward bases for submarines.

13. U.S. allies Britain and France have strategic submarines. The Soviet Union has no allies with strategic weapons.

14. The U.S. has submarine detection networks such as SOSUS for locating Soviet submarines; the Soviet Union has no such network and is at a severe geographic disadvantage for establishing such networks.

BOMBERS

15. The U.S. has almost four times as many strategic bombers as the Soviet Union (496 versus 140) and is testing a new model, the B–1. In fact, it is possible that none of the alleged Soviet strategic bombers have been configured as strategic bombers for the past 5 to 10 years.

ABM

16. When the U.S. ABM site in North Dakota is completed in about a year the U.S. will probably have more antiballistic missiles than the Soviet Union. U.S. ABM technology is far advanced over the Soviet Union.

FORWARD BASED SYSTEMS

17. The U.S. has about 650 aircraft in Europe and Asia and on aircraft carriers that can deliver nuclear weapons on the Soviet Union (and China). The Soviet Union has no such "4th strategic force" for threatening the United States.

EQUIVALENT MEGATONNAGE

18. The Defense Department makes much of the Soviet lead in megatonnage. The Soviet Union has in 1974 more than a 2 to 1 advantage in "raw megatons". However, when measured in equivalent megatons, which takes account of the fact that much of the explosive energy of very large weapons is wasted, the U.S. has about 4,100 equivalent megatons in its strategic forces versus about 4,300 equivalent megatons in the Soviet strategic forces.

U.S. STRATEGIC MOMENTUM: ASTONISHING BREADTH AND DEPTH

Contrary to impressions created by the Defense Department, the U.S. has not dropped out of the strategic arms race. The U.S. has not reached a technological plateau in searching for new ways to spend billions on strategic weapons. On the contrary, the U.S. is rushing forward into new realms of strategic weaponry that apparently far outstrip current Soviet efforts. In recent years, particularly since SALT I in 1972, the U.S. has been deploying new strategic weapons at a pace far in excess of that of the Soviet Union. The future holds more of the same if the DOD momentum continues. Programs that are proposed in the fiscal 1975 defense budget add up to an extraordinary variety of continuing and new strategic innovations that include the following:

1. Continued installation of MIRVed Minuteman III ICBMs to reach 550 missiles and 1650 nuclear warheads by mid-1975.

2. Continued deployment of MIRVed Poseidon submarine-launched missiles to reach 31 submarines, 496 missiles, and 4960 nuclear warheads by 1977.

3. Preparation for installing up to 1,000 MIRVed Minuteman III missiles.

4. Improving the accuracy and reliability of U.S. missiles through extensive and sophisticated testing programs.

5. Improvements in the existing guidance system for Minuteman III to increase its accuracy and hard-target kill capability.

6. Development of terminal guidance maneuverable reentry vehicles (MaRV) for Minuteman III and other missiles to achieve extremely precise delivery of nuclear weapons with almost no margin of error. Could mean U.S. knock out capability against all Soviet fixed strategic systems.

7. Development of an entirely new strategic system, the air-launched cruise missile.

8. Development of an entirely new strategic system, the submarine-launched cruise missile.

9. Development of an entirely new strategic system, the land-mobile ICBM.

10. Development of an entirely new strategic system, the air-mobile ICBM.

11. Development of a new large throw weight ICBM to fit in Minuteman silo.

12. A new high-yield warhead for the Minuteman III and other advances in packing more explosive power into small packages (improved yield to weight ratios). These and other advances in miniaturizing make conventional conceptions of missile throw weight measurement almost meaningless.

13. Testing of Minuteman missiles from operational sites in order, among other objectives, to explore the possible multiple launch capability for Minuteman launchers. Exploration also of "cold launch" or "pop-up" launch techniques for attaining refire capability. This "MIRVing" of missile launchers would severely complicate efforts to control strategic weapons deployments through SALT.

14. Development of more than 3 MIRVs (possibly up to 10 warheads) for the Minuteman III missile.

15. Improvements in rocket motor technology to increase the amount of missile throw weight per pound of propellant (increased propulsion efficiency). This advancement also renders alleged Soviet throw weight "advantages" almost meaningless.

16. Improved Poseidon missiles (exact nature of improvements is classified but probably includes better accuracy and throw weight).

17. Continued deployment of the SRAM missile on U.S. strategic bombers to have 1140 operational by the mid-1970s. The SRAM missile significantly increases the capability of U.S. strategic bombers to attack Soviet military targets.

18. Development of an entirely new strategic bomber, the B–1.

19. Development of an entirely new strategic submarine, the Trident.

20. Procurement of the Trident I missile for 10 Poseidon submarines.

21. Development of an efficient counterforce SLBM, the Trident missile.

22. Improved guidance systems for SLBMs to increase their accuracy.

23. Development of an entirely new strategic submarine that will be smaller than Trident, the SSBN–X, using a Narwhal-type propulsion plant.

24. Increased emphasis on civil defense, including plans for rapid evacuation of U.S. cities and "high risk" areas in case of crisis. This will make it possible for U.S. leaders to more "credibly" threaten the use of nuclear weapons.

25. An operational ABM system in North Dakota by mid-1975.

26. Development of new ABM systems, including Site Defense, light area defense systems, maneuverable ABMs, and ABMs using lasers. Under SALT restrictions the U.S. is permitted to do anything except actually begin to deploy new operational systems beyond a total of 200 launchers.

27. A vast array of sophisticated ASW systems for locating and being able to destroy Soviet strategic submarines. These include sensor systems at points where Soviet submarines must transit, satellite sensors, and the Captor mine for bottling up Soviet submarines in or near their homeports.

28. Development of new strategic tanker armed with cruise missiles.

Mr. MUSKIE. It may be that classified information would indicate even more reassuring information to those who are concerned about the accuracy of our missiles, but these public tables disclose clearly, on the point of accuracy and hard target kill, we have a superiority over that of the Soviet Union at the present time without the implementation of the programs which are touched by Senator McINTYRE's amendment.

The second point the Secretary made, Mr. President, in our hearings earlier this year was this:

Secretary Schlesinger pointed out that neither side can achieve "a high confidence disarming first strike," because both sides possess invulnerable sea-based missile forces. So no matter how we or the Soviets improve accuracy or otherwise improve ICBM warheads, the possibility of carrying out a first strike that would leave the opponent defenseless is foreclosed.

Third, Secretary Schlesinger as well as Secretary Kissinger has indicated that the accumulation of efficient counterforce weapons—that is, ICBM's with multiple, accurate, high-yield warheads—contributes to instability of the nuclear balance. The reason for this is that in a crisis, it puts both sides in a position of fearing that the other will be tempted to make the best of a threatening situation by launching its own missiles before they are destroyed in their silos. This is the condition that Senator McINTYRE aptly describes as "putting a hair-trigger on the launch console." And this is presumably what was on the minds of President Nixon and former Defense Secretary Laird when they stated a few years ago that the United States would resist any initiative that gave even the appearance of going for a first-strike or silo-smashing nuclear force, because it would be destabilizing and provocative.

In view of these three points made by the Secretary of Defense, I see no compelling reason to invite these risks by embarking on programs to improve the accuracy and yield of our land-based ICBM's. Accordingly, I intend to vote for the amendment before us today to defer approval of the requested $77 million in authorizations until the President reaches the conclusion publicly that the effort to negotiate with the Russians new limits on MIRV's has failed.

The argument is made that we need to spend money on these programs for

the express purpose of enhancing the possibilities for agreement on MIRV's at SALT. I am concerned about the reverse possibility—that such new programs are more likely to weaken, rather than enhance, our national security. For if our goal is to encourage Soviet restraint in their ICBM development—and I agree that this should be our goal—we can hardly expect to accomplish it by showing no restraint ourselves. Indeed, plunging into these programs will more likely have the reverse effect of stimulating the Soviets to increase their own efforts. And if an arms control agreement is subsequently reached, it will be concluded at a higher plateau of arms spending, with each side enjoying less security.

Mr. President, I think it is of concern to us to understand the reaction of the Soviets to these developments.

On Friday, when discussion of the pending amendment began, the distinguished Senator from New Hampshire asked me in a colloquy how I thought a Soviet military planner would view our going ahead with these three programs. In response, I cited a press report on a speech by Soviet Marshal Grechko at a rally in Moscow last week. He warned that the United States is beginning an arms buildup by embarking upon a refinement of its enormous nuclear war-making machine. That refinement could have had reference to nothing but the very items pinpointed by this amendment.

It is conceivable, of course, that Marshal Grechko was propagandizing against the Department of Defense budget proposal. But, on his record, I think this unlikely. I think he is making use of the argument to make the case in which he believes—the case to maximize the Soviet nuclear posture and to achieve superiority, if possible. I, for one, think he will use developments such as those under consideration today to fuel his arguments and enhance his bargaining power.

If I am correct, and if he had his way, what we will be doing by approving these programs is approving a further escalation of the nuclear arms race, in my judgment.

As the Senate debates the amendment under consideration, I hope that my colleagues will not lose sight of the primary purpose of our nuclear forces—to deter aggressors from initiating hostilities. In this regard, I believe we must do everything possible to enhance the survivability of our deterrent forces and to lessen tensions with such potential aggressors. As my remarks indicate, I have serious doubts whether Secretary Schlesinger's proposed changes in our strategic forces will help achieve these goals. On the contrary, improvements in the accuracy and yield of our land-based missiles and the development of a terminal guidance MARV program run the very real risk of escalating the arms race with the Soviets taking countermeasures which could both increase the threat to our land-based missiles and heighten tensions between the world's two major nuclear powers.

So in terms of adding to our security, I have serious doubts about going ahead with these improved warhead programs. I have no doubts, though, about the importance of going ahead with the strategic arms limitation talks on MIRV's. Indeed, it would be inconsistent, perhaps even self-defeating, if we were to proceed simultaneously with talks aimed at reducing nuclear war risks and with weapons programs which, by Secretary Schlesinger's own admission, may well increase those risks in future years by increasing instability. We must put these things in their proper sequence.

The amendment before us today does that. It emphasizes in unequivocal terms our primary interest in achieving limits on weapons which increase the instability of the nuclear balance. But it leaves open the option of our going ahead with the proposed warhead improvements if the SALT talks do not produce an effective MIRV limitation—one which will reduce doubts and fears about first-strike counterforce attacks.

Mr. President, it seems to me that to proceed on any other course will but serve to undermine the SALT negotiations by making it appear that we are bargaining in bad faith. Any other course will also give aid to Soviet military hardliners. And any other course will be but the first step down an even more destabilizing path that will likely see both sides afflicted with first-strike jitters. If we want to send a message to Moscow demonstrating this country's interest in its own defense and underlining our mutual interest in reducing nuclear war risks, the amendment before us today is the proper vehicle.

In October of 1971, the Senate rejected an amendment offered by the junior Senator from New York (Mr. BUCKLEY) to improve the accuracy of our Minuteman missiles by a vote of 66 to 17. In 1972, the Senate conferees were firm in insisting that a $20 million Pentagon request for silo kill accuracy be dropped in a post-SALT supplemental authorization bill. In both instances, there was an appreciation on the part of the Senate that the proposed programs would set this country on a new course, a course laden with so many military, political and economic uncertainties that the requisite expenditures were not in the national security interest of the country.

I am hopeful the Senate's action today will reflect a similar appreciation. For I am hopeful that the Senate will again have the good sense not to approve increased accuracy and yield warhead programs while there is still hope for a MIRV agreement with the Soviets and that it will support the McIntyre-Brooke amendment.

Mr. HELMS. Mr. President, the question put before us by the distinguished Senator from New Hampshire (Mr. McINTYRE) and the distinguished Senator from Massachusetts (Mr. BROOKE) raises painful ambiguities and contradictions.

A basic premise of their amendment is that our strategic missile forces will become "provocative" if their accuracy is increased to the maximum within the current state of the art. Since the Soviets have already developed high-yield strategic missiles, and with the addition of the Soviet MIRV will have a capability for a counterforce "first strike," then the U.S. strategic forces will be useless as a deterrent, and useful only for a first strike. If we boil down this reasoning, it maintains that our weapons have become provocative because the Soviets have us outgunned. And if we take steps to rectify the balance, then we will become even more provocative.

But the truth is, the Soviets have never been affected by U.S. restraint. Their planning appears to have been independent of U.S. activity in the arms field.

The SALT I agreement with the Soviet Union concluded and signed in May 1972 provided for Soviet numerical superiority in offensive missiles with the understanding that the United States will offset this quantitative superiority of the Soviet Union by the qualitative characteristics of the U.S. missiles. This qualitative advantage of the U.S. missiles consisted in the U.S. capability and deployment of the multitarget warheads (MIRV), and the reliability and better accuracy of the U.S. missiles.

In the 2 years since May 1972, the Soviet Union has succeeded in developing, testing and partially deploying MIRV systems on their mssiles. In addition, the Soviet Union continued to develop and produce new and larger offensive missiles—the SS–17, the SS–18 and recently the SS–19. All these new systems can be accommodated to use the MIRV principle and thus multiply the number of launches by the factor of four or even six. All these outstanding Soviet developments are bringing the SALT I's expected "adequacy" and "equivalency" of the U.S.-Soviet offensive missile ratio completely out of balance in favor of the Soviet Union. The U.S. research and development program must be not only maintained on the level previously approved, but has to be definitely expanded and broadened in qualitative characteristics to assure a level of equivalency necessary for our national security. The leadtime for weapon development is such that it is completely essential to maintain a permanent research and development capability to assure a response level preventing the United States from staying behind in matters of security. The decisions made in 1974 will affect our comparable defense posture vis-a-vis the Soviet Union in 6 to 8 years from now. It would be a high degree of irresponsibility to permit the matter now to become an item of political bargaining or trade-off deals only to find out in 2 years that our neglect of concentrating the necessary resources this calendar year has irrevocably dislodged the balance of forces to the point of no return.

The growth of Soviet strategic forces in relation to our strategic capabilities has been unabated since 1960. That was the year when the Soviet Union created a new independent force—the strategic missile troops—under a separate commander elevated to the position of Deputy Minister of Defense of a level comparable to other forces—air force, navy, and ground forces. The Soviet strategic missile forces were constantly expanding since that time without any regard to the comparable U.S. strength in the strategic force area. The U.S. Minuteman missile

program initiated about the same time was completed by 1969 with about 1,000 missiles deployed and without any addition to it since. The Soviet missile program was not deterred by the U.S. restraint in missile production and deployment since 1969. There was no "provocative" expansion of the U.S. missile program since that time but the Soviets continued maximizing their effort in this area to the detriment of their economic development in many other areas (including in particular agriculture and transportation). There are no reasons to believe that the U.S.'s "non-provocative" policies now will affect the Soviet defense posture one way or the other, just as they did not change them in the past. There are all sorts of reasons to conclude on the basis of the Soviet developments since 1945 and in particular since 1964, after the present power group took over the control of Soviet policies, that the Soviet Union will take all possible steps in economic and military areas to maximize its military-economic capabilities, notwithstanding the U.S. position or reaction now or in the future.

In fact, the "Basic Principles of Negotiations on the Further Limitation of Strategic Offensive Arms" signed by President Nixon and General Secretary Brezhnev on June 18, 1973, stated as follows:

Fifth. The modernization and replacement of strategic offensive arms would be permitted under conditions which will be formulated in the agreements to be concluded.

Better accuracy is only one sort of improvement that could be expected. Others include improved trajectory control, more flexible targeting through the command data buffer, and replacement of all Minuteman I's and II's with MIRVed III's. If it is anticipated that SALT II will allow modernization, then surely modernization is appropriate even during the negotiation period.

Senator McIntyre's amendment purports to set up a bargaining chip to force the Soviets to agree on MIRV limitations at SALT II. It says, in effect, that we will improve accuracy unless the Soviets agree to MIRV restraints.

But it is not at all clear that we, ourselves, should want MIRV restraints. With most qualitative improvements, including accuracy, MIRV is virtually impossible to detect by the national technical means of verification. Therefore we would only have the Soviets' word that they are keeping to the agreement. It is much easier for a totalitarian society to keep its military planning secret than for an open society like ours to do so. I should think the Soviets would be happy to give us an agreement on MIRV, knowing that to do so would blunt our accuracy program. They could secretly break the treaty and we would be none the wiser until nuclear war broke out. They could even go ahead with their own accuracy program.

The problem is that SALT I left a dangerous asymmetry in the opposing nuclear forces. The tremendous Soviet advantage in numbers and throwweight was balanced only by our qualitative advantages. Yet this proposal asks us to bargain away our two most important qualitative advantages, MIRV and accuracy. Even supposing that the Soviets did keep to the agreement, an equivalent restraint on quality on both sides would leave us naked to the Soviet advantage in numbers and throweight we would be reducing the one area where we are ahead, leaving the asymmetry in the Soviet favor. If one pile has three blocks and the other pile has two, removing one equally from both sides increases the disproportion from 3–2 to 2–1.

It is clear then that quality should not be in the forefront of negotiations at SALT II. What we should be doing is to try to restore the balance in numbers and throwweight. We should negotiate agreement only on those things which can be detected plainly by the national technical means of verification. The leverage of the McIntyre amendment is in the reverse direction. It pressures the Soviets to make empty concessions on MIRV in order to stop our accuracy program. For the Soviets, it is a sweetheart deal. If this amendment becomes law, they will be blinking their eyes and congratulating each other.

To put it succinctly, this amendment is a strange bargain: It forces the Soviets to give us something we do not want in exchange for something they want very much. It forces them to give us meaningless MIRV restraints in exchange for our pledge to do the one thing—improved accuracy—which could be our main avenue of deterrence. Normally, the custom is to use bargaining leverage to force the other side to give up something they want to hang on to. But here the leverage works doubly to our disadvantage: We are giving up our accuracy program for the right to give up our MIRV. We lose on both counts, and I hope the Senate will reject the proposal.

Mr. President, I have in my hand two perceptive articles on nuclear strategy which pertain to this debate and I ask unanimous consent that they be printed in the Record at the conclusion of my remarks. The first is by Gen. Bruce K. Halloway, USAF (ret.), former Commander-in-Chief of the Strategic Air Command, and the second is by the distinguished physicist, Dr. Arthur G. B. Metcalf, who is chairman of the board of the U.S. Strategic Institute. Both articles were published in the quarterly journal Strategic Review.

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

SALT II—Some Principles

(By Arthur G. B. Metcalf)

An analysis of the elements crucial to the outcome of the second round of strategic arms limitation negotiations, SALT II, already initiated pursuant to the Moscow accords of May 26, 1972, must begin with an assessment of the SALT I accords—both the ABM treaty and the interim agreement on offensive strategic nuclear launchers.

At the outset it is worth noting that the strategic arms limitations talks curiously have become increasingly sacrosanct as a subject for debate, enjoying something like the exemption from critical examination heretofore accorded only religious dogma or enshrined national legend. This is dangerous. No issue which can hold the national future in the balance should be barred from discussion unless couched in terms of unquestioning reverence.

The 1972 accords

Since this paper is addressed to SALT II, it suffices to say that the net result of the SALT Treaty was to halt, at a moment when the Soviets lacked comparable technology, construction of all U.S. ABM systems but one silo-defending installation, with the option to construct an ABM system in the Washington, D.C. area, each limited to 100 defensive missiles. The Washington-sited installation will most probably never be built, since to deploy such a system there would be unsound. It, no doubt, was included in the agreement because the Soviets had already "used up" one of the two ABM systems allowed, by the deployment of the Galosh ABM installation located, reasonably enough, around Moscow, the largest Soviet city, their nerve center, one of their ICBM sites, and on incidentally their capital. Thus a strategy to which the Soviets were already committed, but unreasonable for us, was accepted and ratified by the U.S.

At all events, a single token ABM installation requiring only 100 missiles at most to saturate the system is meaningless from the point of view of insuring survivability of land-based U.S. retaliatory strike forces, consisting of 1,054 ICBMs confronted with 2,359 offensive nuclear launchers, the maximum ceiling allowed the Soviets. The SALT Treaty, by forcing an apparently "symmetrical" deployment of ABM installations, achieved the fullest measure of advantage of all existing asymmetries favoring the Soviet Union: the geostrategic asymmetry and, most important of all, the overriding asymmetry of the Soviet 313 SS–9 "go-first" missiles, which alone possess a nuclear yield many times that of all U.S. nuclear strike forces, land-and-sea-based, and roughly the same numerical advantage in warheads whenever the Soviets are ready to MIRV them. By reason of the 25 megaton yield each, the softer-siloed giant SS–9's can only be purposed as a first-strike counterforce missile, a weapon without counterpart in the U.S. inventory. The numerical advantage granted the Soviets by the Moscow accords, about 40% superiority for both ICBMs and SLBMs (a ceiling of 2,359 versus 1,710 U.S. total launchers), thus permits the Soviets a disarming first-strike capability *and* the credible threat of destruction of U.S. cities, were we to retaliate with our seaborne strategic strike force after a Soviet first-strike had wipe out our ICBM force. This is an ominous scenario for which the arms control strategists offer no saving solution.

Moreover, we have given up the right to develop large missiles of our own having comparable yield and consequent counterforce capability. Thus, the SALT I accords freeze the United States in a position of strategic nuclear inferiority to the extent of a 4 to 1 disadvantage in missile payload and at a 3 to 2 disadvantage in numbers of launchers. This massive distortion of the strategic balance, uncorrected, can only reduce the chances for peace.

In general, far from "putting the brakes" on Soviet strategic arms deployment, we settled for halting the only weapon system we had under construction, the ABM Safeguard, in return for only a ceiling on Soviet nuclear ballistic strategic submarines to continue at current rates of construction, as if Soviet ability to maintain peak production rates of such weapon systems at about a ¼ billion dollars per boat was without limit. It was this argument which was used to justify the U.S. being frozen into an inferior SLBM position. The overall SALT I result was that we scrapped all but one system of our ABM Safeguard program already underway; the Soviets were assured a 40% numerical ICBM edge having a 6 to 8

preponderance of nuclear yield as compared with U.S. land-based strike forces, and were allowed to continue for at least five years at their current rate of Yankee-class and/or Delta-class missile submarine construction also to reach 40% margin of numerical superiority. The Soviets did not even have to tear up a blueprint.

But that is not all. The 1972 Moscow accords appears to have left the U.S. arms control community and more importantly, our own negotiating team convinced that the Soviets have bought the concept of minimal deterrence. Doing the thinking for both sides, they "reason" that the Soviets have accepted the notion of mutual vulnerability, or population hostages, as the basis for deterrence. This theory called "mutually assured destruction" (MAD) presupposes that each side is willingly defenseless—Dr. Kissinger's "free ride"—so that almost any degree of nuclear retaliatory capability surviving an aggressive first strike threatens the aggressor with national devastation unacceptable to him, and in this way provides deterrence.

In this, our opponents, as with other substantive matters relating to arms limitations, are quite willing to listen to us do the reasoning for both sides but are silent and make no commitment, beyond acknowledging the date, as to the numbers of Soviet strategic systems frozen by the agreement.

Under the SALT Treaty we have, in the light of existing Soviet strike force levels, abandoned a defensive system which could be the only guarantee of the basic prerequisite to deterrence: the certain survivability of a portion of our retaliatory strike forces. Moreover, by projection of parallelism of thought sufficient to suspend our own critical faculties, we have ascribed to our adversary full participation in a mutual suicide pact. The most rudimentary knowledge of Soviet military doctrine as well as long experience with the Russian pattern should rule out such a fancy. Indeed, the feverish Soviet build-up and provision for waging nuclear war—both offensively and defensively—belie any such unlikely preoccupation.

Hazards of SALT II

Nevertheless, it is this implausible supposition which is the aftermath of SALT I. To approach SALT II with such a premise could endanger the security requirements of the U.S. and the maintenance of the traditional extension of our nuclear umbrella to our allies—NATO and other—which has been the rationale for discouraging nuclear proliferation.

Thus, in SALT II there is need to caution against misinterpretation as to Soviet purpose, self-delusion as to Soviet strategic doctrine, and, most of all, doing the reasoning for both sides.

The Jackson Amendment was a valiant and wholly admirable attempt to signal to our adversaries that, however they may be pinching themselves to see if they were not dreaming with regard to our SALT I commitment, or however accommodating its terms, we had not left our senses entirely; that we looked to future negotiations to restore that balance essential to stability and peace.

I fear that the Soviets will not look at it that way. What is past is settled—not prologue. Indeed, it would be a character for them to charge bad faith on our part were we to suggest that accords solemnly signed with such summit ceremony were to be regarded merely as the basis for further negotiations to recapture what it was our duty to preserve in the first place and which, for whatever reasons, we had let slip through our fingers.

The announced rationale for accepting so disparte an arrangement in matters closely affecting our national survival was that we had reason to believe that the technological quality of our strategic strike forces, in terms of warhead guidance accuracy, MIRV capability and yield/weight factors, provided enough margin to offset the impressive advantage in numbers and overall thermonuclear yield of Soviet nuclear delivery systems, deployed and projected. As we open negotiations for SALT II, one hears that this *quality*, which is all that stands between the U.S. and engulfment by overwhelming Soviet superiority of strategic weaponry, is proposed as a basis for SALT II bargaining. What there is to bargain about in the only balancing element possessed by the weaker side (it is hard to get used to the term) is difficult to envision. We hear of new weapon systems, the B–1 bomber, the Trident submarine, ASW, warhead accuracy terminal trajectory control, etc., as having utility as bargaining chips in SALT II. They may, in fact, be all that we have to parry overwhelming raw nuclear strategic power in the hands of a ruthless and implacable foe. We characterize our strategic posture as "the triad"—land, sea and air strategic forces—and stress that we have not put all our eggs in one basket. The fact is that our opponent has (or will have) more eggs in every basket.

Casting about for SALT II "bargaining chips," it is already being articulated by the arms control specialists that U.S. land-based strike forces are worthless as a deterrent because their MIRVed warheads, with such accuracy as they presently possess, could provide a capability somewhat better than that of simple area or city devastation and thus are a limited threat to Soviet ICBMs, and therefore provocative. Moreover, their credibility to provide a U.S. second-strike retaliatory capability will disappear with the MIRVing of Soviet high-yield missiles, which will then have certain capability in a first-strike to destroy the entire U.S. ICBM force. The argument runs that our ICBMs will then contribute nothing to deterrence since they can only be fired in an aggressive first-strike; thus, they will be destabilizing and useless, and should be dismantled in favor of SLBM systems, which are thought to be "ideal" for deterrence by reason of the fact that strategic submarines are believed to be untargetable and threaten only populations—not ICBMs. This is another fallacious article of faith of the arms control community. Polaris-Poseidon strategic submarines may be untargetable by land-based missiles, but they are vulnerable to attack piecemeal or *in toto* by Soviet surface vessels and attack submarines, both nuclear and diesel-powered, of which the Soviets have an overall decisive superiority. The possibility that this attack force could destroy or immobilize all U.S. ballistic missile submarines at sea, in concert with an ICBM attack on U.S. land-based strike forces is quite real. The proposition that our ICBMs face a future in which, by reason of Soviet qualitative improvements, they cannot be used except in a pre-emptive first-strike and thus are "provocative" may be expected to find shrill advocacy on the part of those who—however intentioned—seek to disarm the United States. That whatever validity such a theorem may possess would apply with even more force to the fact of even longer Soviet possession of "provocative" and "destabilizing" counterforce first-strike forces seems not to signify.

There is more. However grotesque, it has been seriously proposed that ICBM's costing billions of dollars to deploy are only useful as a deterrent (not destabilizing) when they are useless as target weapons, this to be accomplished by limiting or degrading their quality (accuracy or MIRV) to a counter-people targeting capability. In this vein, cries of "uselessness" can be combined with a solemn concern for "cost effectiveness" to the end that the U.S. is impelled yet another step along the road of military inferiority and political impotence; unilateral withdrawal from the most effective weapon of the strategic "triad" and very symbol of nuclear power. As we move into the SALT II negotiations, there is evidence that arguments will be put forward proposing that our land-based strategic strike forces be castrated by blunting their accuracy, or perhaps be altogether eliminated. This being so, those concerned with the security of the nation must guard against the degradation or dismantlement of U.S. nuclear strike forces on the basis of word-game logic or preoccupation with deterrence to the point of overlooking the minimum requirements of survival. In this connection, it is worth noting that qualitative factors are not possible of detection by satellite surveillance or any other "national means," so that it is difficult to understand what is meant by SALT II "proposals" directed toward limitation of quality of weapons.

Furthermore, a restriction in SALT II on MIRV and/or accuracy would be in the direction of throwing away the ability to upgrade enormously the effectiveness of our strategic deterrent at relatively negligible cost as compared with any other means. Failure to provide for continuity in modification of Minuteman beyond "the target of 550 Minuteman III"[1] to the full Minuteman inventory of 1,000, with the attendant dismantling of costly production lines, could well be regarded as the most financially extravagant, if not irresponsible, move in the history of funding of nuclear weapons. Matching Soviet high-yield missile counterforce capability by modifying our Minuteman inventory to the recommended "absolute limits of achievable targeting accuracy"[2] can be accomplished in no other way at so low a cost. To discard this opportunity would throw into question the sincerity of any concern as to the cost of nuclear deterrence.

The Soviets have contempt for counter-value capability (Minuteman I and II) but look very soberly at our counterforce capability (Minuteman III), which they manage to have interpreted as being provocative. Word has come out[3] that Congressional fear is being openly expressed that the Administration "may have made MIRV concessions already—in [its] eagerness to get a firm treaty on offensive missiles." Congressman Floyd Spence of the House Armed Services Committee is reported to have said on June 7th that "preparations were so far advanced toward the limitation of multiple warhead missiles that the armed services are reportedly investigating the means whereby existing production contracts (for installing MIRVs) can be cancelled on the Minuteman III programme."[4] If this is the fact, it should receive critical re-examination and study, since such action at this time would, as a practical matter, foreclose the option of continuing Minuteman III production and mean the disbanding of scientific and testing teams. Also, operational testing of Minuteman III would have to cease in mid-1978 unless test assets were taken from deployed systems. Thus we would have a missile system which we could not test or one that would have to undergo steady degradation from the quantities specified in SALT I. The dangers of such a policy are so clear as to hardly necessitate warning.

At the root of all this appears to be a determined effort to prevent us from improving the accuracy of our strategic offensive systems. Minuteman III's significantly increased targeting flexibility against military targets and potential counterforce capability, which is generally believed can be bettered, makes them anathema to the assured destructionists. It would be inconceivable for the United States to foreclose irreversibly the ability to maintain and extend this capability without the widest possible informed discussion and debate, since to do so would greatly weaken American security and contribute to instability, thus endangering the peace. To do so as a precondition to SALT II negotiations would be

Footnotes at end of article.

to abandon *a priori* the substance of our bargaining position as well.

Moreover, small, accurate, ballistic-missile warheads have a clear military function. With these available, discrete targets can be engaged without needlessly killing people . . . . Without some changes in international relations, highly accurate guidance should be expected. It alone should not and cannot be prevented by treaty. As it arrives, however, it could allow a dramatic reduction in the size of individual warheads. If war starts, it could allow the humane alternative to deliberate actual strike against cities but still preserve the deterring threat. It could give the military and political leaders more choice of action, more selectivity in choice of discrete military targets, more freedom and incentive to avoid massive killing, and more possibilities for war-termination action.[5]

If the static pattern is one of weapon imbalance, the dynamic picture is one of unmatched Soviet momentum. The Moscow accords, failing their abrogation by either party, contemplate five years of Soviet crash production of nuclear submarines and sea-launched ballistic missiles. MIRV technology and improved accuracy guidance programs must, of course, be expected. The Backfire bomber, already flying, is the Soviet answer to the U.S. B–1 six years before we test-fly it, if it is ever built. For the five year period of the interim offensive agreement, the U.S. has programed nothing like the new production of strategic weapons allowed the Soviets. And at the end of that time, the Soviet armament industry will be completing scheduled weaponry, while ours will have been long since dismantled and dispersed beyond economic recall, a vital military consideration that seems to have been overlooked.

Guidelines for SALT II

So much for SALT I and its consequences.

We approach SALT II with Ambassador Gerard C. Smith gone and Dr. Kissinger perhaps involved with other matters. Nevertheless the principles underlying the first SALT accords, which reflect the idea that diplomatic propensity can substitute for understanding the military and technical aspects of weaponry, have not been discarded or deemed unserviceable and may well find their way to shaping the second round of strategic arms limitation negotiations unless their weaknesses are revealed and a fresh approach taken.

In this connection a new SALT negotiating team is essential to a recasting of SALT terms along lines responsive to the Jackson Amendment. Strategic reality requires a new team to break new ground and discard postures of tacit agreements on issues already covered, as well as to present new negotiating patterns to our opponents. Mr. Smith's replacement by Mr. U. Alexis Johnson does not alter the fact that the present team has been overridden and upstaged by presidential intervention in the last-minute, hastily concluded Moscow accords. The effect of this must necessarily be to diminish the team's influence in Soviet eyes and to render its own perception of authority and accountability unclear.

Arms limitation or disarmament is at best an uncertain and hazardous undertaking, to be entered upon with caution rather than faith; with skepticism rather than trust. Capabilities should always outweigh intentions. And intentions should always be taken at their worst. Contracts would not be worth negotiating if their letter—strictly construed—were not governing.

If a mandate were to be given to the U.S. delegation, delineating SALT II objectives, postures to be rejected, and negotiating procedures to be adopted, it would be so wordy as to quite engulf the elements essential to the interests of the United States and its allies. Consequently, a charge in the form of a check list is offered: incomplete, perhaps, but inclusive of many of the views expressed in Congressional hearings[6] and elsewhere. It is at least, is a reminder of the pitfalls which shaped the SALT I accords, and points to the lessons to be learned from them.

Senator Jackson[7] suggests that these lessons comprise three general needs:

a. for an up-dated U.S. nuclear strategy

b. to discontinue basing U.S. proposals on our perception of what is acceptable to our opponents, i.e. "stop negotiating with ourselves"

c. to stand firm on essential objectives.

SALT II CHECK LIST

(under *a.* For the Joint Chiefs of Staff)

First of all, it should be emphasized that in generating military strategic doctrine vital to the security of the United States, only the Department of Defense is charged by law with this responsibility and possesses the credentials and the competence as well. Vital security determinations should not be overshadowed by presidential assistants nor compromised by short-term political objectives.

1. Develop a joint U.S.-NATO strategic doctrine based upon the existing massively reversed strategic asymmetry, as a yardstick against which to measure realistic military objectives, formulated and made known. Lacking this, SALT II at best will be a waste of public money and at worst the prelude to national catasthrophe.

2. Examine inconsistencies of "assured destruction—minimum deterrence" philosophy against the longstanding U.S. "nuclear umbrella" guarantee to our NATO allies, in the light of the declining U.S. strategic posture *vis-a-vis* the Soviet Union.

3. Quite apart from SALT II, it is necessary that the U.S. and its allies jointly review their present strategic posture in the light of the shifted strategic balance and the continuing momentum of Soviet weapons build-up conceded by the Moscow accords.

SALT II CHECK LIST

(under *b.* For the U.S. SALT II Delegation)

1. As a principle of procedure, it is basic to understand clearly that it is the *condition* of *balance*—a state of stable equilibrium of forces—that is to be negotiated. To negotiate proposals on weapons or weapon technology a detail at a time, such as MIRV, accuracy, numbers of missiles, numbers of submarines, nuclear yield or throw weight, etc., *per se,* can lead to arguments that can be quite irrational. An example is offered from testimony before the U.S. Senate Armed Services Committee in connection with the 1972 Defense budget[8] relative to Minuteman MIRVing:

Expenditure of $5 billion to put three warheads on each missile on the ground that 95 percent of them may be destroyed hardly seems a good investment.

Furthermore, by such unnecessary deployments, we are making it impossible to achieve a MIRV limitation at SALT and are fueling an arms race which, because of the larger Russian missile payload capacity, could, in the long run, be a much greater threat to the United States than the U.S. MIRV is to the Soviet Union.

Of course. There exists no technological means to compensate U.S. strike forces when outnumbered and outgunned, which, if applied to massively superior Soviet forces, would not "be a much greater threat to the United States." All this argues for is permanent U.S. strategic inferiority—a condition of unstable equilibrium, soon exploited, for which there is no answer but nuclear war or surrender. It is worth noting that the proper SALT proposal, a move to restore the condition of balance by reducing Soviet forces to the U.S. level, is not even considered. Consequently, one must seriously question the motives or the understanding which prompts such proposals.

Our opponents are becoming increasing skillful in using U.S. public opinion to put pressure on our government to respond to proposals reflecting Soviet interests. Senator Jackson noted that in the course of SALT I negotiations "interested Americans purported to have information on proposals put forward by the Russians and the supposed U.S. 'non-response' to those proposals. Naturally enough, pressures developed on the American government to demonstrate its 'sincerity,' even though the 'flexibility' supposedly shown by the other side was in fact nonexistent.

"If we persist in seeing SALT II as a forum for the exchange of elaborate intellectual constructs, rather than as an arena of political competition," he said, "we will delude ourselves about what we are accomplishing in the talks and our strategic position will deteriorate even further."[9]

Curiously, some newspapers, with sedulous follow-up, print editorials and pieces attributed to non-technical writers and ordinary columnists urging highly technical arms limitation concepts (MIRV, accuracy, etc.) consistent with ideas being put forward by the disarmament lobby and reflecting current Soviet objectives. These are described as "opportunities to control a runaway arms race," with the saving of billions of dollars as the goal. Mention is made of Pentagon fears so that their dismissal in the name of a higher purpose—putting an end to "the cost of the arms race"—cannot incur the charge of failing to take such fears into account. Reference to the U.S. as being "the stronger of the two" in MIRVs, accuracy, or whatever U.S. qualitative element the Soviets want to get on the block at the moment, introduces a note of fairness. And, finally, there is included a carefully balanced exhortation to Washington and Moscow both to accede to the pressures of economy and common sense, as if Moscow had at any time to contend with anything remotely resembling pressure in matters of major politico-military policy.

A ploy often used is to warn darkly against upsetting the strategic balance. The strategic balance has long since been "upset" by the massive Soviet build-up during the two and one half years of SALT I negotiations. It was further distorted by the terms of the five-year interim agreement on offensive weapons. Negotiation of MIRV or any other technological weapon characteristics can only preserve or further distort the existing imbalance. That such imbalance threatens peace is the reality of SALT I, not the prospect for SALT II.

Negotiations begun under conditions of gross imbalance can only further weaken the weaker side if addressed to *things* or *technologies* rather than to the *condition of balance.*

Thus, equal or balanced force concessions can only amplify initial force disparities. A form of this game is "give-away" checkers: the initially weaker side becomes increasingly weaker with each "equal" exchange and, in the end, loses willy-nilly. If negotiations in SALT II address the *condition of balance,* the achievement of that objective is simple: if not, we should decline to participate in a stupid game in which we cannot but lose. The overriding objective of SALT II must be to find out if the economically-distressed Soviets seriously seek strategic arms limitations or if SALT II is regarded as an opportunity to expand the principle of Soviet superiority by further imposing upon U.S. eagerness to institutionalize, on almost any basis, the idea of arms limitation.

2. Stop projecting *our* logic and *our* interpretations in assessing what motivates the other side. Such a course can be full of

Footnotes at end of article.

surprises, and permits the Soviets to exploit the advantages which inhere in a military situation where an adversary is trapped in the error of doing the reasoning for both sides.

3. Realize that there is no basis for believing that the Soviets have lent themselves to a participatory role in word-game, "mutual assured destruction" philosophies or the mistaken notion of population hostages. The Soviet massive build-up of nuclear strategic power, with the attendant strain upon their ailing economy, contradicts on its face the suggestion that the Soviets have any belief in minimum deterrence, or the twin orthodoxies of the arms control specialists: that there is no such thing as nuclear superiority and that nuclear power confers no political advantage.

4. Senator Jackson has stated, "minimum deterrence is the orthodoxy of the arms control community that planned and negotiated the American side of the Moscow accords." [10] If that statement is true, it must be asked to what degree it is possible for any special-interest faction to find itself in a position to make fateful decisions for the American people.

Minimum deterrence philosophy is not credible and is therefore not serviceable as a nuclear strategy or as a basis for arms limitation. If deterrence is to be the *sine qua non* of arms limitation agreements, then it is useful to define deterrence with more precision than a general expression of dissuasion:

The minimum and sufficient condition for deterrence of nuclear assault is satisfied only if an aggressor knows that he cannot with certainty, by a first-strike, exact surrender from his victim, and is impressed with the degree of probability that he may, by the victim's retaliation, incur unacceptable damage or surrender.

This definition is offered as serviceably precise and one which distinguishes from aggregations of words seeming to define deterrence but which often do not. The expression "mutual deterrence" is a misnomer to the extent that it suggests a static, omnidirectional design. The concept of mutual deterrence involves, terrifyingly enough, the double calculus of the triple asymmetries of capabilities, intentions and geostrategic factors as perceived from opposing sides. Thus, any SALT result looking toward superficial "parity" is simplistic and can be wholly inequitable. Deterrence envisions an *aggressor—victim* equilibrium. Unless one of the adversaries wishes to duplicate the entire panoply of nuclear weaponry for both roles (as the Soviets seem to be doing), with the attendant instability encouraging an arms race, deterrence or stability dictates a strategic posture determined by section of the victim role, assessment of the aggressor threat capability, and deployment of strategic weaponry—offensive and defensive—such that there exists no scenario where the victim is prevented from retaliating with full targeting flexibility.

Thus, as measured by the Soviet (*aggressor*) counterforce first-strike capability, adequate defensive ABMs should be deployed by the U.S. (*victim*) to counter the weight of the offensive counterforce threat; or, alternatively, Soviet counterforce capability must be reduced below the level where a disarming first-strike is possible using only a fraction of the offensive force, with the remainder sufficient "to threaten the destruction of American cities should the United States actually launch a retaliatory strike in response to the initial Soviet attack." [11]

5. The strategic *condition of balance* may be more nearly restored by:

a. Reducing the number of Soviet launchers, land-based and sea-based, in existence or permitted by the SALT I accords, or,

b. Reducing the throw weight or total nuclear yield of Soviet weapons, especially destabilizing systems such as the SS–9 and its even larger successor, or

c. Increasing the warhead accuracy of U.S. strategic missiles;

d. Increasing the number of U.S. silo-defending ABMs (forclosed by the SALT I Treaty) and, of course,

e. Increasing the number of U.S. launchers;

f. Increasing the throw weight or total nuclear yield of U.S. weapons.

Neither *e.* nor *f.* is permitted the United States under the interim agreement although the Soviets are accorded the right to MIRV and improve the accuracy of their missiles.

At all events, arms control orthodoxy which ignores geostrategic asymmetries, which does not counter offense with defense, and is blind to nuclear blackmail and the reality that a retaliatory strike has to be credible, should not be allowed to influence U.S.-NATO nuclear strategic planning, much less determine the outcome of SALT II.

6. Any deterrent equation proposed must face up to the reality that a counter-cities retaliation to a counterforce strike has a built-in humanistic restraint, whatever the initial provocation. Here a weighing up of the moral asymmetries of the parties—on the record—is useful.

7. Arms control proposals should be based on essential objectives unilaterally assessed, not based upon Soviet "acceptability" or their "negotiability."

"I am hopeful that enough people involved in the SALT deliberations have become aware of the foolishness of filtering our own positions before presenting them and that this will be remedied in SALT II" [12] was the way Senator Jackson put it.

SALT II CHECK LIST

(under c. For the U.S. SALT II Delegation)

1. Define U.S. objectives based on a U.S.-NATO strategic doctrine.
2. Avoid the haste of the Moscow accords.
3. Hold firm on key issues.
4. Seek NATO counsel and use all resources of the Western Alliance.

The specter of Soviet assault on Western Europe, possible by reason of vastly superior conventional forces backed up by some 600 Soviet intermediate range nuclear missiles targeted on its cities, will increasingly overshadow European and Middle Eastern policy, with the withdrawal of the restraining influence of U.S. strategic superiority, and adjustment to the new realities of the strategic balance.

The Jackson Amendment looks toward seeking "rough parity" (an illusion) in strategic offensive weapons, not, as Senator Jackson has stated,[13] by building up to the Russian level, but by bringing their numerical strategic capability down to something more nearly like what we have, thus stopping the arms race. Apart from the difficulty, if not impossibility, of determining just what "parity" is, by reason of lack of any standard of measurement and the existence of a multiplicity of variables both as to weapon characteristics and whether launched in the first-strike of retaliatory mode, the Soviets, up until now, have never evidenced a willingness to scrap or dismantle weapons which they have produced at the cost of great strain on their meager resources. It has been suggested that SALT II might provide an exception by reason of what the U.S. can do to help the Soviet economy. It is submitted that any assistance the United States can render the Soviet economy in the dimension of the massive Soviet margin of strategic superiority would necessarily take the form of a strain upon our own economy in the shape of financial tribute to "purchase" a more equitable strategic balance. The Soviet Union has always had the option of building up its economy at the expense of its military budget. Their choice, then and now, has always been one of building up a superior military capability, both conventional and nuclear. On the other hand, U.S. defense budgets are the lowest, in equivalent dollars, since 1950 and in considerable measure fail even minimally to exploit the one U.S. advantage of a broad scientific and technological base.

In this connection, it is hard to see how, in the strategic arms limitation accords, we have, up until now, turned to the account of world peace the central facts of the Soviet Union's desperate need for U.S. goods and technology, on the one hand, and, on the other, the ominous and present danger which the People's Republic of China poses on her border, as much by the threat of engulfing hordes of Chinese manpower as by a newly found, if crude, nuclear capability. The high probability Soviet planners must assign to the prospects for war in the East must necessarily exert an overriding influence upon Soviet strategy and world policy.

This stark reality and its grim presage of even a single-front war with China dictate the stern necessity for the Soviet Union to be completely free of concern from attack from the West while employing her land armies and, in the event, the greater part of her weapons, in the East.

In these circumstances, while the Soviet Union must seek U.S. industrial and trade assistance, it must, for reasons equally compelling, accept accommodation with the West—and especially the U.S.—on any terms she can get. This is indeed an "era of negotiation," not by any *tour de force* of U.S. diplomacy but by a fortuitous concatenation of circumstances. It is an opportunity which should not be missed in making SALT II proposals equitable and meaningful.

While our intelligence as to Soviet military *capability* has never been the best we would hope for, their *intentions* have always, necessarily, been more obscure. Reports of new Soviet "blockbuster" missiles, believed to have twice the SS–9 nuclear yield (50 megatons) as compared with the U.S. Minuteman yield of 1 to 2 megatons, should shed some light on the direction of Soviet strategic purposes, as well as be cause for concern. That this and the massive SLBM effort heavily burden the clanking Soviet economy appears to be secondary to the attainment of clear nuclear superiority, a goal we are told by the arms control specialists is without meaning.

Soviet hostility to the West has undergone no perceptible change from its long range Marxist-Leninist goal of enslavement of the peoples of the world through a dynamic strategy of "proletarian internationalism" conducted under the protective shield of "peaceful coexistence," code words known throughout the length and breadth of the Communist world signifying the Communist strategy of protracted conflict to subvert free governments without fear of reprisal.

Although a U.S. Secretary of State on a national television network has referred to the Soviets as "our former adversaries," only one who would discard entirely a belief in experience as a guide to the future would much rely on Soviet good faith to achieve mutually fair and enforceable disarmament. A more realistic assessment of the hazards of SALT II is contained in the following, written by members of the President's own Blue Ribbon Panel in connection with the negotiations of SALT I:

It is possible that the Soviet Union sees SALT as an opportunity to assure indefinitely for itself, by agreement, a position of military superiority. This would be accomplished if we were foolhardy enough to agree to an arms limitation which left the U.S. vulnerable to a Soviet first-strike capability or which otherwise undermines the credibility of our capacity effectively to retaliate. But one may as-

Footnotes at end of article.

sume that U.S. negotiators will not commit such egregious folly.

and

There is always the danger of fatal concessions or even of a deliberate trap.[14]

It is hardly a prospect upon which to hazard the national substance.

In all fairness, one must allow for the fact that the Soviets in company with all Communists, in negotiations since World War II, have openly demonstrated a conception of negotiation that is radically different from our own.[15] "They view it as a component of conflict, with the objective of gaining an advantage without conceding anything." [16]

Notwithstanding the foregoing, it is the considered judgment of many respected leaders of our time that the U.S. should seriously continue with strategic arms limitation talks and that SALT II may hold promise not only of redressing the gross inequities regularized by the ratification of SALT I, but of initiating a real halt to future arms production by both sides, with the ultimate goal of true disarmament not beyond the bounds of human aspiration. That is all very well. But in the final analysis, SALT, at best, can only result in possible annual dollar savings which in no circumstances could exceed two or three percent of our GNP—a tiny fraction of the productivity of our people. SALT negotiations, at worst, can be at the cost of the lives and freedom of all our people. There is no parallel in rational human experience for the hazarding of so much for so little. Such is the temper of our times, a caveat directed toward making sure of preserving the gains of the past risks the censure of obstructing the future. But times change and so do circumstances. In easier times much that was mutable, now is irreversible. In an age of ultimate weapons, a single fatal mistake could spell the loss for all time of our life and liberty.

In SALT I, the achieving of some kind of strategic arms limitation agreement clearly impressed the U.S. side as so desirable as to negate the fact that the accords were, on their face, counter to U.S. interests. That a more equitable balance will result from SALT II may be unrealistic.

And finally, whatever the argument for substituting paper for power as the guarantee of peace, it is the lesson of history that such a course does not reduce but multiplies the chances for war. Agreement with the enemy beforehand is an ancient folly that can endanger the peace by further distortion of the power asymmetries which exist between a peaceful *status quo* nation and the state seeking political transformation.

We live in a time of detached, if chastened, examination *post-mortem*, of grievious politico-military miscalculation, as General Maxwell Taylor's recent book, *Swords and Plowshares*, bears witness. Such acknowledgement of well-intentioned error on the highest level of government may well be commendable in all but immutable national catastrophe.

Dr. Fred Iklé, the new Director of the Arms Control and Disarmament Agency, recently revealed cause for concern by his statement in *The New York Times* for July 11, 1973, "that the most recent stage of the strategic-arms talks was negotiated secretly by Mr. Kissinger and Soviet officials in Washington and Moscow, therefore the American negotiator at the talks was not responsible for 'essential parts' of the agreement, anyway."

Apart from the danger of perpetuating earlier fallacies, secret undertakings by trusted presidential aides is a flawed procedure presently in the process of being thoroughly discredited.

Understandings vital to the national interest, it is submitted, should be formulated by duly constituted agencies of Government possessing the necessary technical expertise and accountable in some way or another to the American people.

The grave and perhaps irreversible consequences of SALT negotiations merit the most sober public attention and governmental caution.

FOOTNOTES

[1] The *Military Balance 1972–1973*, International Institute for Strategic Studies, London.

[2] General Bruce K. Holloway, USAF (Ret.), "Reflections on Nuclear Strategy and the Nixon Doctrine," *Strategic Review*, Spring, 1973, p. 13.

[3] *Foreign Report*, The Economist Newspaper Limited, No. 1299, June 20, 1973.

[4] Ibid.

[5] D. G. Hoag, "Ballistic-missile Guidance," *Impact of New Technologies on the Arms Race*, The MIT Press, Cambridge, Mass., 1971, pp. 104–105.

[6] International Negotiation—"Hearings before the Subcommittee on National Security and International Operations," with William R. Van Cleave, Part 7, July 25, 1972.

[7 10 11 12] Senator Henry M. Jackson, *Credible Deterrence in a SALT II Environment*, an address, Bonn, Germany, November 1972.

The writer has drawn extensively upon this address for many of the ideas expressed in this paper.

[8] "Hearings—Committee on Armed Services, U.S. Senate, Fiscal Year 1972, Authorization for Military Procurement, Research and Development, Construction and Real Estate Acquisition for the Safeguard ABM, and Reserve Strengths," Part 2 of 5 Parts, page 1759.

[9] "Washington Roundup," *Aviation Week & Space Technology*, March 5, 1973.

[13] Senator Henry M. Jackson, "Face the Nation," February 4, 1972.

[14 15] "Supplemental Statement to Report of Blue Ribbon Defense Panel Submitted to The President and The Secretary of Defense on The Shifting Balance of Military Power," September 30, 1970.

[16] Admiral C. Turner Joy, USN (Ret.), *How Communists Negotiate*, Fidelis Publishers, Inc., Santa Monica, Calif., 1970.

BASIC PRINCIPLES OF NEGOTIATIONS ON THE FURTHER LIMITATION OF STRATEGIC OFFENSIVE ARMS

The following texts of agreements signed during the week of June 18 by President Nixon and General Secretary Brezhnev, by Secretary of Agriculture Earl L. Butz and Foreign Minister A. A. Gromyko, by Secretary of the Treasury George P. Shultz and Minister of Foreign Trade N. S. Patolichev, and by Secretary of Transportation Claude S. Brinegar and Minister of Civil Aviation B. P. Buyagev are excerpted from The Department of State (weekly) Bulletin, July 23, 1973.

The President of the United States of America, Richard Nixon, and the General Secretary of the Central Committee of the CPSU, L. I. Brezhnev,

Having thoroughly considered the question of the further limitation of strategic arms, and the progress already achieved in the current negotiations,

Reaffirming their conviction that the earliest adoption of further limitations of strategic arms would be a major contribution in reducing the danger of an outbreak of nuclear war and in strengthening international peace and security,

Have agreed as follows:

First. The two sides will continue active negotiations in order to work out a permanent agreement on more complete measures on the limitation of strategic offensive arms, as well as their subsequent reduction, proceeding from the Basic Principles of Relations between the United States of America and the Union of Soviet Socialist Republics signed in Moscow on May 29, 1972, and from the Interim Agreement between the United States of America and the Union of Soviet Socialist Republics of May 26, 1972 on Certain Measures with Respect to the Limitation of Strategic Offensive Arms.

Over the course of the next year the two Sides will make serious efforts to work out the provisions of the permanent agreement on more complete measures on the limitation of strategic offensive arms with the objective of signing it in 1974.

Second. New agreements on the limitation of strategic offensive armaments will be based on the principles of the American-Soviet documents adopted in Moscow in May 1972 and the agreements reached in Washington in June 1973; and in particular, both Sides will be guided by the recognition of each other's equal security interests and by the recognition that efforts to obtain unilateral advantage, directly or indirectly, would be inconsistent with the strengthening of peaceful relations between the United States of America and the Union of Soviet Socialist Republics.

Third. The limitations placed on strategic offensive weapons can apply both to their quantitative aspects as well as to their qualitative improvement.

Fourth. Limitations on strategic offensive arms must be subject to adequate verification by national technical means.

Fifth. The modernization and replacement of strategic offensive arms would be permitted under conditions which will be formulated in the agreements to be concluded.

Sixth. Pending the completion of a permanent agreement on more complete measures of strategic offensive arms limitation, both Sides are prepared to reach agreements on separate measures to supplement the existing Interim Agreement of May 26, 1972.

Seventh. Each Side will continue to take necessary organizational and technical measures for preventing accidental or unauthorized use of nuclear weapons under its control in accordance with the Agreement of September 30, 1971 between the United States of America and the Union of Soviet Socialist Republics.

Washington, June 21, 1973

For the United States of America:

RICHARD NIXON,
President of the United States of America.

For the Union of Soviet Socialist Republics:

L. I. BREZHNEV,
General Secretary of the Central Committee, CPSU.

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE PREVENTION OF NUCLEAR WAR

The United States of America and the Union of Soviet Socialist Republics, hereinafter referred to as the Parties,

Guided by the objectives of strengthening world peace and international security,

Conscious that nuclear war would have devastating consequences for mankind,

Proceeding from the desire to bring about conditions in which the danger of an outbreak of nuclear war anywhere in the world would be reduced and ultimately eliminated,

Proceeding from their obligations under the Charter of the United Nations regarding the maintenance of peace, refraining from the threat or use of force, and the avoidance of war, and in conformity with the agreements to which either Party has subscribed,

Proceeding from the Basic Principles of Relations between the United States of America and the Union of Soviet Socialist Republics signed in Moscow on May 29, 1972,

Reaffirming that the development of relations between the United States of America and the Union of Soviet Socialist Republics is not directed against other countries and their interests,

Have agreed as follows:

ARTICLE I

The United States and the Soviet Union agree that an objective of their policies is to remove the danger of nuclear war and of the use of nuclear weapons.

Accordingly, the Parties agree that they will act in such a manner as to prevent the development of situations capable of causing

a dangerous exacerbation of their relations, as to avoid military confrontations, and as to exclude the outbreak of nuclear war between them and between either of the Parties and other countries.

ARTICLE II

The Parties agree, in accordance with Article I and to realize the objective stated in that Article, to proceed from the premise that each Party will refrain from the threat or use of force against the other Party, against the allies of the other Party and against other countries, in circumstances which may endanger international peace and security. The Parties agree that they will be guided by these considerations in the formulation of the foreign policies and in their actions in the field of international relations.

ARTICLE III

The Parties undertake to develop their relations with each other and with other countries in a way consistent with the purposes of this Agreement.

ARTICLE IV

If at any time relations between the Parties or between either Party and other countries appear to involve the risk of a nuclear conflict, or if relations between countries not parties to this Agreement appear to involve the risk of nuclear war between the United States of America and the Union of Soviet Socialist Republics or between either Party and other countries, the United States and the Soviet Union, acting in accordance with the provisions of this Agreement, shall immediately enter into urgent consultations with each other and make every effort to avert this risk.

ARTICLE V

Each Party shall be free to inform the Security Council of the United Nations, the Secretary General of the United Nations and the Government of allied or other countries of the progress and outcome of consultations initiated in accordance with Article IV of this Agreement.

ARTICLE VI

Nothing in this Agreement shall affect or impair:

(a) the inherent right of individual or collective self-defense as envisaged by Article 51 of the Charter of the United Nations.

(b) the provisions of the Charter of the United Nations, including those relating to the maintenance or restoration of international peace and security, and

(c) the obligations undertaken by either Party towards its allies or other countries in treaties, agreements, and other appropriate documents.

ARTICLE VII

This Agreement shall be of unlimited duration.

ARTICLE VIII

This Agreement shall enter into force upon signature.

DONE at Washington on June 22, 1973, in two copies, each in the English and Russian languages, both texts being equally authentic.

For the United States of America:

RICHARD NIXON,

President of the United States of America.

For the Union of Soviet Socialist Republics:

L. I. BREZHNEV,

General Secretary of the Central Committee, CPSU.

REFLECTIONS ON NUCLEAR STRATEGY AND THE NIXON DOCTRINE

(By Gen. Bruce K. Holloway, USAF (Ret.))

The United States of America is indeed a land of contrasts. Its passions and indifferences seems to stretch endlessly and restlessly onward in an ever-undulating and often frightening pattern, and if they have a common denominator, it probably is *vigor*. Even those who endorse our being Number Two amongst world nationalities—or some number other than One—do so with vigorous argument and strongly-declared convictions.

This common denominator is one of the uncommon things in the order and character of my country today that give me hope for a recognizable future. It is one of the few things with which we started two hundred years past—so very strongly and courageously—that have not changed. I do not believe it *will* change, and it is priceless.

As we turned into 1973, there seemed little doubt that our current center-stage passion was football. I am not an addict but merely a fan, and thus found myself a member of a minority group. Those who were not on the scene at packed stadia too numerous to count were bonded to a television set as games went on in marathon succession. Whether there was too much of this is reasonably debatable, but of minor importance. The important point is that it was clean, and that these majority participatrons reflected a genuine and powerful will to win.

Bob Devaney, a great coach, declared during the undefeated 1971 season of his Nebraska Cornhuskers: "It is everything to be Number One." He reflected the views of virtually the entire population of Nebraska, and an attitude typical of the great majority of all Americans. An outsider with no background knowledge suddenly thrust into the living room of a typical American home on New Year's day could not help but be convinced of this attitude, from the players, from the coaches, from the viewing audience—all Americans.

Jumping back twenty-seven years to another American scene, I shall never forget the headlines on August 5, 1945. My first reaction was that somebody had grossly erred in describing the energy release of our first atomic weapon on Japan. As I gradually realized there had not been an error, the next thought was of the sweeping strategic implications, and closely on its heels the fleeting and comforting mental flash that at last there was, in the affairs of men, an absolute weapon—and we had it!

A lot of other people seemed to think so too, and said so in vigorous and prophetic terms. They were scientists, politicians, journalists, armchair strategists and other taxpayers of every description. Books appeared almost overnight, and the initial beliefs were that everything was now much simpler; that so long as we could maintain the secret and custody of this gigantic stick, the chances for world peace and accord were very high, and that even tribal arguments would be inhibited by its existence and sole ownership.

Things did not work out exactly that way. Although the massive restoration of Western Europe through the Marshall Plan and the sword-and-shield strategy of SHAPE did succeed with magnificent results, nationalist uprisings soon appeared everywhere. There was great fear of the might of American air power with atomic armaments, but unlike the era of British sea power a century before, there was great fear of its use on the part of the *owners* as well as the smaller nations, states, and colonial governments who were, for various reasons, disenchanted with their lot. Accordingly, the water was tested everywhere. Nationalist uprisings became very much in vogue, and local violence seemed to be encouraged by the realization that nobody—great or small—wanted ever to see atomic warfare. Those outside the Soviet embrace who were unhappy with colonialism—protective or otherwise—knew that the time had come to arise. They knew that the situation was vastly different from that of the 1850s when a major part of the British Eighth Army went from Karachi to the central highlands of Ethiopia to rescue a handful of minor diplomats, and, in the process, deposed the Emperor Theodore.

By the mid-1950s it was quite clear that the atomic weapon did not simplify anything; that it was not an absolute weapon in any sense of the word; and that the American strategy for external security of protective oceans, a balance of power in Europe and a weak Asia (which served so well from 1898 to 1948) was knocked into a cocked hat.

Our strategic power since August of 1945 has gone from monopoly to supremacy to comfortable superiority to inferiority. This inferiority is apparently comfortable to some Americans, even though the statistic realities are available for everyone to see, and the long-term consequences of remaining this way are suicidal. The grim facts of international negotiation from a position of relative weakness are appallingly misunderstood in spite of the good and articulate efforts of the President, the Secretary of Defense, and a great many other concerned citizens in and out of government service to explain them. One of the best expressions of the facts of modern strategy and its weapons—which everyone should read and respectfully ponder—is a report by seven members of the President's Blue Ribbon Defense Panel in 1970. These men were bankers, industrialists, editors, lawyers and business executives of the highest caliber. A slightly condensed version of the report was published in the July 1971 issue of *Reader's Digest*.

Throughout the 1950s, we wisely built up our strategic forces. Their strengthening and maintenance took priority over all other defense programs, and since most of the money and resources initially went into the Strategic Air Command, a considerable bitterness developed within the other military services and, to a lesser degree, within other parts of the Air Force. The priorities were indeed overwhelming. Personnel stability was so strong as to be essentially static. Wholesale spot promotions were authorized; manning documents were generous in the extreme; new weapons enjoyed prolific funding and accelerated procurement; people, money, logistic support—everything that was needed was available. It was one of our greatest all-time investments. It made possible a successful rebirth of a devastated free Europe; it prevented Communist take-over in Greece, Iran, Lebanon, Taiwan and probably Italy; and it prevented major war, even though it did not prevent lesser wars and smaller insurgencies and uprisings under the banner of nationalism too numerous to recount.

It did one other thing that should serve as a great history lesson: it made the USSR back down—at great loss of prestige and control in the Communist world—and take their offensive nuclear missiles out of Cuba.

Now—and until some other major change in the nature of total military power occurs—the possession of relative superiority in strategic forces is an absolute prerequisite for successful international negotiation.

Ironically, at the same time we experienced this confrontation in Cuba and were reminded of a cardinal lesson in power diplomacy, we slacked off in improving our strategic forces. The priorities shifted rather drastically to tactical or general purpose forces. President Kennedy started that ball rolling by announcing that in the year succeeding his inauguration at least $500 million would be spent on tactical aircraft and munitions. This was done—and more, and tactical air has enjoyed high priority in defense budgeting ever since.

This would have been all to the good were it not for the relative neglect of strategic forces, the adequacy of which gives credence to all other types of military endeavor. Without strategic power, general purpose forces—no matter how good—have very little meaning. The strategic situation today is precarious in the extreme, and the

need for vigorous action is vital and immediate.

Since 1962, the United States has deployed Minuteman III and Poseidon ballistic missiles—both with multiple warheads. These are, in very important respects, improvements in the effectiveness of our strategic weaponry. Concurrently, however, we have steadily decreased bomber forces, and, since 1967, have held the total number of ballistic missile vehicles constant (1,000 Minuteman, 54 Titan, 41 submarines of Polaris/Poseidon missiles). We have introduced no new bombers, and have practically eliminated our air defense forces.

The Russian story is precisely the opposite. Since the Cuban confrontation, the Soviets have relentlessly built up their armed forces in every department without constraints other than the natural ones of manpower and brainpower availability. There have been no budgetary constraints, no minority group pressures, no "voices crying in the wilderness," no conscientious objectors, religious leagues, welfare lobbies, or any other kind of constraint. The steady strengthening of their military machinery—and particularly its nuclear and strategic elements—has taken precedence amounting to absolutism over all other national actions. It has gone much beyond what even our most radical experts feel they should need for external defense. And yet there are many people—vigorous Americans—who are not worried.

From 1948 to 1963, our grand strategy was to maintain unmistakable strategic superiority. It was not articulated with emphasis, nor did it need to be so long as this unquestioned superiority existed. But the situation began to change after this period, somewhat gradually at first, then more and more rapidly through the double indemnity of our cutback and level-offs and the giant strides forward of the USSR. We accommodated to this with budget-inspired rationalizing. We invented a new strategy, and called it "assured destruction." It was not a product of the military leadership.

In either the simplest or most complex terms, "assured destruction" is a simple strategy simply explained. Perhaps this can be claimed as a virture, but only in a sense comparable to the argument that the best automobile is one without wheels, because it is the safest and does not cause highway congestion.

"Assured destruction" is a proposition for deterring nuclear attack upon the United States through fear of reprisal. The reprisal would consist of atomic destruction of the economy of the attacking nation—people and things—of sufficient magnitude to be unacceptable to the government of that nation. This reprisal would be accomplished with U.S. forecs which would survive the enemy attack in sufficient quantities to inflict this unacceptable demographic and industrial destruction; and the extent or threshold of destruction wherein it became unacceptable would be a matter of judgment on our part. Thus it can be seen that whether or not the strategy has real-world merit for external security, the determination of this unacceptable level of destruction could have a direct and near-term effect in establishing budgetary levels of defense programming.

It is dangerous, and fortunately is being seriously questioned by many people in positions of high responsibility. President Nixon in his last three year-end messages to Congress questioned it, and in January, 1972, said: "No President should be left with only one strategic course of action, particularly that of ordering the mass destruction of enemy civilians and facilities. We must be able to respond at levels appropriate to the situation."

"Assured destruction" is also unconvincing. Who believes we would do it? What would it accomplish? Since when has the United States been obsessed with revengefulness? Why would we indulge in such monstrous immortality?

The United States is the most compassionate nation of all time, and we have become more and more so, not less and less so. There has been such extreme concern in the recent past for noncombatants in Viet Nam that we have conducted operations counter to almost every rule in the book designed for decisive action. Our record is not one to lend credibility to a big-war strategy of mass killing and wholesale economic eradication. In World Wars I and II, casualties and destruction of the general economy were high, but this was so because in reducing the wherewithal for waging war, people and things happened to be in the way. The closest we have ever come to laying waste people and their possessions as a major objective in war was what we did to ourselves when General Sherman and his forces went through Georgia.

But suppose those who differ with us—those whose ideologies are so diametric to ours—were to consider attacking the United States with nuclear weapons, and they did believe that we would retaliate with a targeting scheme which ensured maximum death and general destruction. Would this deter them? It might, but a better question to ask first is: "What are we trying to deter?"

Surely our strategic policy should be designed to deter more than just attack—a first strike with atomic weapons. It seems to me it should address deterrence of the loss of our way of life—all that we believe in and have vowed over and over that we would fight to defend. We have fought to defend it many times, and we will do it again, if necessary and as necessary. This, to me, is what we are trying to deter; an inflexible strategy with inflexible forces for monstrous revenge will not suffice.

We could lose our way of life—the freedoms, particularly—by being outnegotiated. Prudence, patience, dispassion, insight, and interpretative skill are premium requirements for international negotiation, but the ingredient for success that completely overshadows these is *strength*. Whether or not this is distasteful or expensive is begging the question, because it is the essence of the contest, and should be indelibly remembered by those who ask: "Can we afford to remain as strong as the other side?" or those who declare: "It is just too expensive to maintain Number One status."

Extension of power is as dogmatic for the Communists as preservation of freedom is for ourselves. It is not a "sometime" tactic, but rather a doctrinal objective which all tactics serve. War as a tactic is just as undesirable to them as it is to us, but the wherewithal for waging war successfully at any level is regarded as imperative.

Every American should know this. He should also know that a massively inhumanitarian strategy with forces geared accordingly might not worry the leadership of a materialistic orthodoxy the way it would worry those who believe in the rights and divinities of the individual. People and things have a common set of values in the Communist world, and are categorized according to how much they contribute or are thought to contribute to the welfare or security of the state. So, even if those whose ideologies and methodologies are in opposition to our own should believe we would carry through with our "assured destruction," I am not at all confident they would be deterred thereby from their multifrontal efforts against the Free World nearly so much as they would by a flexible strategy which more credibly threatened their means for waging war.

Let us suppose that the conditions of 1962 were switched end for end in favor of the USSR so that their relative military strength were four times ours. Then let's suppose they declared that the Montreux Convention of 1936 affecting the Dardanelles had run its course and that, in the interests of world peace all shipping proceeding east of 15° East longitude would henceforth check through a control point established thereabouts by them. What would we do? Would we, after failing through all negotiating courts, run the blockade? If we then had a few ships sunk, would we start shooting? If the war escalated, would we stay in the game? How far would we go? If this should happen, the need for a more flexible strategy, and associated versatility and effectiveness of weaponry, would probably become more apparent. Certainly the need for not being Number Two would become more apparent.

President Nixon's doctrine accepts the changing nature of power in the world. It calls, *inter alia*, for a disengagement of American troops from limited conflicts on foreign soil; for increased stature of United States strategic forces; for increased assistance for our allies; for technological improvement; and for more versatile, higher quality, and more mobile non-nuclear American forces. As to the President's foreign policy statement to the Congress, previously quoted, it would be proper for anyone to ask: "What does he mean?"

I think he means, first, that we need more realism in our nuclear strategy. I think he has misgivings about its inflexibility, which stem from the shortcomings mentioned above. I think, further, that he means:

a. We must not ever, under any circumstance, either knowingly or through neglect, sacrifice qualitative superiority. The greatest advantage the United States has and can continue to have in maintaining adequate defenses for minimum expenditure is our technological know-how and initiative.

b. We must spend our defense money more wisely and get more convertibility and adaptation out of carefully chosen and tested weapons. Strategic weapons, especially, must have greater effectiveness against all types of military targets, and not be just people- and merchandise-killers.

c. We will never have all that the military planners feel is needed. Reflectively, this underscores more than ever the wisdom of points *a* and *b* as we face the demands for broader weapons effectiveness and narrower budgetary margins.

Many times in the last four years I have been asked what I felt was most needed for keeping our strategic forces strong and adequate. My answer has been: "A better understanding of what they are for; less worry about whether we can afford them; and more worry about whether we can afford not to afford them." Usually this answer has invoked surprise, and sometimes a rejoinder of, "Yes, but I mean *weapons* and associated things." I will review my response to the rejoinder, and then return to the basic question.

Strategic force improvements fall generally under the headings of people, resource management, control apparatus, and weaponry. Great strides have been made in the care and handling of military people. Somewhat lesser but nevertheless significant strides have been made in overall resource management; fair progress in control—against rapidly escalating and increasingly complicated demands; and relatively poor progress in weapons improvement. Since the latter two pertain most directly to strategy and its credibility and since they seem to be the least understood, only these will receive further discussion here.

"Command and Control" is a hackneyed and often misleading label. The two words are lumped together like coal and coke, but they usually refer only to the control apparatus which enables a commander to exercise command of military forces. This is a small point to belabor, but perhaps important to make clear since the following re-

marks apply to the control apparatus, or man-made system, and not to the commander or command organization—a subject unto itself, which needs improvement and, so long as people are involved, always will.

The military operational control apparatus includes essentially all elements for conducting war except the weapons themselves, their vehicles and logistic support. Intelligence, intelligence processing, distillation and presentation of essential information therefrom for decisionmaking, the communication system for running things, relaying decisions, and reporting, the action nerves for firing weapons and security for the whole works are all part of it. It is a large subject, difficult to manage and plan, where the problems change rapidly and long lead times are involved. This applies too, of course, for weapons development and production but the intermeshing of their determinants is not quite so complex.

The two big variables, which seem to get mercilessly tougher from day to day in planning a viable nuclear war control system, are time for decision and target complication. If one regards the extreme case for nuclear action—that of a massive surprise attack on the United States, which, of course, we must continue to regard with topmost priority because it would be the most disastrous—the big decision which has to be made by the President will have to be made ultrafast. Former command decisions involving weapons of war have been easier in comparison by exponential orders of magnitude. Will the intelligence and its analysis be rapid enough? (Tactical warning times get ever shorter.) Will it be reliable and accurate enough? If so, it is a big order, and requires modernization of warning systems.

Perhaps a massive surprise attack on the United States is the least likely way in which nuclear weapons would first be used. I think it is the least likely possibility but certainly not out of the question. Therefore it must be the beginning point in testing our strategy and our strategic programs for adequacy, but certainly not the end-point, as has principally been the case under "assured destruction." Suppose, as the next least likely case, that the President were confronted with information regarded as unequivocal that a limited number of ICBMs were headed our way toward military targets. What would he do? First, he would probably want to know exactly where they are headed, and we should be able to tell him that. Next, he would want all evidence of what might be coming along in the second section. This would probably, at best, be an estimate conditioned largely by the first answer and by recent relationships with the country from which the missiles were launched or, in shorter terminology, strategic warning.

He would then have to do something—immediately.

I believe this hypothetical situation demonstrates the vital need for a greater flexibility than that of a spasm-like response against people and things. If such a response were the only possible choice—if we did not have fast-reacting controls for optional targeting at optional levels—and weaponry to match—he would indeed be faced with the decision of either grabbing the hot-line to ask what the ultimatum was, or shooting the works. I cannot believe any President would choose the latter. If he did, it would certainly be assured destruction for everybody.

Working these thoughts in reverse is, to me, the central reality of sound strategic planning. We want to deter all incursions against America—and against our allies of the Free World. If we have the flexibility of planning and application of nuclear weapons for meeting the pressures from the lowest to highest levels of intensity against any type or system of targets, instantly and effectively, then the President will probably never have to face up to such an awesome decision.

Here are the principal things that are needed.

For system control:

Better warning systems. The submarine-borne ballistic missile gives only half (at most) of the warning time of that of an enroute ICBM. Advanced development is under way on much-improved warning systems. These must continue to enjoy high priority support because the problem will continue to get tougher and the premium for reliability greater.

Improved targeting flexibility for our ICBM force. This means instant aiming or re-aiming without sacrifice of effectiveness. What we have now is good, but to meet the situations postulated above, improvements to the limit of technological possibility are of first importance.

Improved communications with Polaris/Poseidon submarines.

Improved secure control systems. The new airborne command post addresses this need.

For weaponry:

A new bomber. Much has been written and stated about the versatility, on-board intelligence, and accuracy of the bomber and of its ground-alert and penetration security problems. This is why we need a bomber and especially why we need a new one.

It is the only one of our three principal weapons systems that can be recalled after launch and, by virtue of being essentially immune to attack when airborne over friendly territory, is a vital and essential element of deterrence. An airborne alert of a sizable bomber force might be the deciding input for a would-be attacker to ponder.

We need a *new* bomber principally because it will become increasingly expensive for old ones to penetrate ever-improving defenses and because faster reaction times and lower escape distances are needed for ground alert.

The Trident Undersea Missile System. The requirement for our TRIAD of bombers, ICBMs and SLBMs will become greater, not less, and they all need qualitative regeneration.

The absolute limits of achievable targeting accuracy for our ICBMs and SLBMs. There is no reason to duplicate the Russian SS–9 as a behemoth weapon if we can approach bull's-eye reliability with the Minuteman. It would then destroy or seriously impair any kind of target and would also minimize undesirable collateral or inhumane damage. Damage effectiveness increases exponentially with improved accuracy, and the wisdom of seeking the best possible pin-pointing capability stems from axiomatic truths even more elemental, fundamental, and universal than the principles of war themselves. Why would we not want to?

The objections are, if not emotional, obscure. There is considerable opposition at high levels of budgeting control to seeking further accuracy in our strategic missiles, and the reasons which surface concern "first-strike"—arguing that our policy is never to strike first with nuclear weapons, that a more accurate weapon would be a more suitable first strike weapon because it would do more damage to military or counterforce targets, that this would be more provocative and unsettling—and so on.

The "so on" part is the most baffling. Is it because the military are not trusted, and that a man on horseback could grab control at any time? If so, I cannot imagine it happening. There are too many details involving too many people at widely-spread places. This is almost incomprehensible in our country of checks and balances, of military loyalty and dedication to civilian leadership.

It is also argued that qualitative improvement would provoke acceleration or intensification of the arms race. How could it be more intensified or accelerated than it already is in the USSR? Why doesn't the unabated Soviet build-up provoke those who worry about these things from our point of view?

I am a dedicated believer in putting all the talent and vigor and patience and persistence that our storehouse has to offer into controlling the arms race. If it is not somehow brought under control, atomic arms will sooner or later be used—or else we will disappear in more degrading ways. It must be brought under control, but it cannot be done in a fashion suitable to us unless we negotiate from strength—and it cannot be done in short order. It will take a long time—perhaps forever, if one thinks in terms of achieving Utopia.

Almost as many times as I have been asked, "What do you think we need most?", I have heard the self-serving remark: "What I don't understand is why we need any more, when each side already has enough to kill each other X times over." X usually falls somewhere between five and twenty-five. Some very prominent and influential people have said this publicly, and it always leaves me chilled and weak. I believe this feeling comes not so much from my amazement at how anyone could reason so simply and didactically, but rather from the realization that they do not question the foundations and basic immoralities of a strategy of "assured destruction"; that this is it: we can kill Y million people, and would do it if struck first—and that the requirements for doing it are static so that we don't have to "keep up with the Joneses" to maintain adequate strength.

My responses vary according to the estimated intelligence and sincerity of the questioner, but one argument frequently used is that we could probably kill all of the potential enemy—no matter which one is named—without spending another penny, provided there was complete accommodation and organized cooperation by the enemy: that they offered no defense; that everyone stood out in designated open spaces in concentrated masses; and that they provided us with local air mass patterns so that we could target our weapons to achieve maximum fallout. In this way we could probably kill everyone X times over—with weapons which survived after we were struck—or better yet, kill everybody one time over with a fraction of our force. This is a pretty facetious answer, but it is given to an appallingly naive question, if asked seriously. Moreover, the most disturbing thing about the whole interchange is that the questioner has either been conditioned to believe that he has a rational challenge with an easy way out, or is unable to think rationally for himself, or both.

There are over 200 million people who are supposed to govern the United States. This excludes all those under 18, but even they have influence, rights, and freedom of speech. In spite of this, one of the most often heard expressions is, "Why don't they do such and such?" "They" are *us:* the doers and the watchers; the voters and those who are too busy; the readers and the talkers; the thinkers and the unquestioning; the leaders and the followers—the whole lot—all with blessings never before paralleled in human experience. The vigor and productivity of these 200 million has also been unparalleled and for those who would question it, I offer the record of 1942–45. It was incredible, beyond the forecasts of even the most optimistic, and possible only because almost everyone was convinced that we were in deep trouble and knew why we were. They supported a seven-day work week, with no steaks and limited gas and a 35-mile-per-hour speed limit, and became quite upset with anyone who complained or tried to beat the system.

We are in even more danger now, but many people do not believe that we are, or know why we are. There is just as much vigor, and I believe just as much will to defend our

way of life, but understanding and attention are lacking. There is too much egregious opinion and innuendo constantly bombarding the average citizen and not enough hard information to stimulate his interest to think for himself and come to proper and balanced judgments. What does it take to correct this? There is no single or simple impellent like Pearl Harbor, but it would help if every American stopped to think about who "they" are, when parroting the old complaint of "Why don't they . . .?"

It would also help if the silent majority changed their tactics and remembered that in the United States the squeaking wheel gets the grease and that the most powerful tool of government, next to the vote, is constituent mail. The vigor and the potential for action—the majority support for our problems—is all there, but it needs the facts and the meaning of the facts for activation.

These are not harsh words. The harshness is in the consequences of misconception—what will happen if we don't strip away the obfuscations and misunderstandings—however generated—and make all people realize that bargaining cannot be successful except from a position of strength; that weapons improvement leads to more meaningful deterrence; that it also leads to a better negotiating position for mutual arms reduction without getting the short end of the stick; that adequate defense is not a static thing; and that worrying about provoking somebody because we want to be prepared is not one of the qualities that made the United States of America great.

These are the things that need simple understanding and remembrance by those who would have peace at any price. The United States is strong, but not strong enough. It will not become strong enough unless communication of these truths improves, and unless it does, we will indeed be Number Two, or Number Last—for there is very little difference in the long haul.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. I yield 5 minutes to the Senator from——

Mr. MANSFIELD. Mr. President, if I can have the attention of the Senator from New Hampshire, did the Senator intend to make a motion at a quarter of two?

Mr. McINTYRE. The Senator from New Hampshire chooses to make a motion at the present time.

Mr. MANSFIELD. The Senator from Massachusetts has been recognized for 5 minutes.

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

The PRESIDING OFFICER. On whose time?

Mr. McINTYRE. On my time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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 the bill (H.R. 10701) to amend the act of October 27, 1965, relating to public works on rivers and harbors to provide for construction and operation of certain port facilities, in which it requests the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 10701) to amend the act of October 27, 1965, relating to public works on rivers and harbors to provide for construction and operation of certain post facilities, was read twice by its title and referred to the Committee on Public Works.

CLOSED SESSION

Mr. McINTYRE. Mr. President, pursuant to rule XXXV, I move that the Senate go into closed session to discuss matters that require secrecy.

Mr. CRANSTON. I second that motion.

(At 1:46 p.m. the doors of the Chamber were closed.)

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate return to open session.

At 4:35 p.m. the doors of the Chamber were opened, and the open session of the Senate was resumed.

DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1975

The Senate continued with the consideration of the bill (S. 3000) to authorize appropriations during the fiscal year 1975 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads, and for other purposes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from Florida, under the order already agreed to, be recognized.

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

Mr. CHILES. Mr. President, I call up my substitute

The PRESIDING OFFICER. Will the Senator from Florida send up a copy.

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

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. How much time is there on this amendment?

Mr. MANSFIELD. One hour altogether.

The PRESIDING OFFICER. One hour, to be equally divided.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order at this time to ask for the yeas and nays on the Chiles amendment.

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

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

The yeas and nays were ordered.

Mr. CHILES. Mr. President, I ask unanimous consent that during this debate Lester Feddig and Colin Bradford, of my staff be given permission of the floor.

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

Mr. CHILES. Mr. President, I suggest the absence of a quorum?

The PRESIDING OFFICER. On whose time?

Mr. CHILES. I ask unanimous consent that the time not be charged.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The Secretary 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.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a vote occur on the amendment by Mr. CHILES at the hour of 5:20 p.m. today, with the time between now and 5:20 p.m. to be equally divided between Mr. CHILES and Mr. McINTYRE, and with a vote to occur on the McIntyre amendment immediately thereafter.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment of the Senator from Florida will be stated.

The assistant legislative clerk read as follows:

In lieu of the language contained in amendment No. 1380 to Senate bill 3000, insert the following:

SEC. 202. Funds authorized pursuant to this or any other Act to be expended for the purpose of enhancing the United States' counterforce capability by developing, or testing improved guidance technology for the Minuteman III missile, the Mark 12A reentry vehicle and warhead for the Minuteman III missile, or a terminally guided MARV (maneuverable reentry vehicle) shall be expended until a report has been submitted to the Congress by the President stating that the Strategic Arms Limitations Talks between the Soviet Union and the United States have been able to achieve substantial arms controls, including limitations on MIRVs and throw-weight, to insure equivalence in strategic offensive capability after which time no such funds shall be expended for these purposes.

The PRESIDING OFFICER. Who yields time?

Mr. CHILES. Mr. President, I yield myself 5 minutes.

Let me first spend a moment to make sure that my colleagues understand what my substitute would do.

First. The substitute would authorize counterforce R. & D. to go forward until SALT results in comprehensive arms control agreements.

The McIntyre-Brooke amendment does not permit counterforce R. & D. to go forward until SALT has failed to reach results.

Second. The substitute seeks to insure strategic equivalence by linking the halting of R. & D. expenditures to substantial arms controls, including limitations of MIRV's and overall throw-weight. The substitute specifically includes throw-

weight, where the U.S. is at a disadvantage.

The McIntyre-Brooke amendment is narrower, covering only agreement on MIRV, where we have an advantage.

I believe the substitute has some essential advantages over the McIntyre-Brooke amendment:

First. Because of the advantage the Russians now have in throw-weight, we need to proceed with R. & D. on accuracy to offset them now.

Second. We need to proceed with R. & D. as a bargaining chip. It is better to tell the Russians that we have got the MIRV technology but will agree not to produce and deploy it than it is to say we will only proceed with R. & D. if they do not agree to negotiate limitations on MIRV.

Third. The incentive in the substitute would be for the Soviets to seek agreement with us in order to get us to stop our R. & D. This way we will find out if counterforce R. & D. is really a threat to them or not. If it is, rather than having the destabilizing effect that people fear, it will motivate them to talk seriously with us at SALT II.

Finally, the incentive is greater in the substitute for the President to report to Congress a successful agreement, whereas in the McIntyre-Brooke amendment there is a disincentive for the President to report to Congress that the SALT talks have failed.

I wish now to now address some points to demonstrate why Senators should vote to support the policy position in my amendment.

First, to those who would support the McIntyre-Brooke amendment, the argument of the distinguished Senator from New Hampshire (Mr. McINTYRE), the distinguished Senator from Maine (Mr. MUSKIE), and the distinguished Senator from Massachusetts (Mr. BROOKE) is very sound. Their arguments reflect far more than an intimate knowledge and understanding of our defense program, and I think the chairman, the distinguished Senator from Mississippi, has agreed that there is no Member of the Senate who has devoted more time and effort to the R. & D. efforts than the chairman of the R. & D. Subcommittee.

But my point is that the Senator's arguments reflect more than just knowledge—they reflect a sense of conscience; a sense of foresight; and a sense of concern for the greatest danger this world has faced and will face, the threat of nuclear war.

So I certainly sympathize with the motives behind the McIntyre-Brooke amendment.

That is why I sympathize with my colleagues who favor the amendment because we, as the world's strongest power must show our determination to stabilize the nuclear balance and to exert our leadership in bringing meaningful controls over strategic arms.

But to these Senators I say this: We will not accomplish these ends by a unilateral fasting in strategic R. & D. programs.

We will not bring pressure to reach effective arms control by foreclosing our options on R. & D.

We will not strengthen our bargaining position at SALT by requiring the President to come here to report failure in negotiations.

We will not be serving this Nation's security by legislating a pressure to limit MIRV's, one of our advantages, and not exerting pressure to adjust throwweights where SALT I has left us deficient.

And finally—and I make this my strongest appeal to those Members who would support the McIntyre-Brooke amendment—we will not serve the cause of nuclear stability if we leave this chamber today with only a vote to reject the McIntyre amendment. I repeat, if the sentiment of this body is to simply reject a unilateral halt in counterforce R. & D., we have left the wrong signal.

That is why I appeal to Senators to support and vote for my substitute in place of the McIntyre-Brooke amendment.

Mr. McINTYRE. Mr. President, I yield myself such time as I may require to state my opposition to the amendment.

Mr. President, I oppose the amendment offered by the distinguished junior Senator from Florida. This amendment, as the Senator has said, is being offered as a substitute for amendment No. 1380 introduced by the Senator from Massachusetts (Mr. BROOKE) and myself.

As I have stated throughout the debate on S. 3000, the counterforce proposals put forward by the Pentagon this year are a drastic and dangerous change in long-established policies, and I believe it would be particularly unwise, given the present state of the SALT negotiations, to enact such changes.

I believe that the amendment of the Senator from Florida is ill-advised for three reasons. First, there is little difference between the approach of the distinguished Senator from Florida and that of the Pentagon. The substitute amendment would allow the Pentagon to spend money on dangerous counterforce programs until substantial agreements have been reached at SALT. This stands the amendment I have offered with the junior Senator from Massachusetts on its head, and defeats its purpose.

Second, it is most important, Mr. President, to prevent the development of counterforce programs before they are begun. Once the Pandora's box of counterforce is opened, we will never be able to restrain it. One thing those of us on the subcommittee have learned is that once an R. & D. program comes into being, whether it happens to be on accuracy, additional yield, or on a new type of submarine, once that R. & D. program starts, it is a major problem to try to arrest it or bring it to a close.

The amendment offered by the Senator from Florida would retain the nuclear hair-trigger environment of which I spoke earlier. Even if we in good faith stop deployment after a SALT agreement, the Soviet Union would have no means—and this is a very important point—no means of independently verifying that fact. Thus, they would never be sure we were not building a first strike or going for a first-strike capability. Even though I agree with the Secretary of Defense that a preemptive first strike is beyond us at the present time—and let us hope forever, the uncertainties and the tension created by counterforce would still exist. So I urge the rejection of the amendment.

Mr. TAFT. Mr. President, I want to make very clear that I am unalterably opposed to the McIntyre amendment, as I have indicated in a prior statement today. I am also opposed to the Chiles amendment. I would like to point out that one thing in the Chiles amendment that seems to me to be conclusive is that it is so vague. The question of what will happen seems to me to be capable of raising some very great difficulties. There is no obligation on the part of the President to send his report as discussed here, or to believe, as the President does at this time, that we should proceed with the initiatives, as I believe we should, so that there would be every incentive for the President never to send such a report.

Mr. CHILES. It would seem to me that every argument I have heard anyone make as to why we need to go forward with this, is that we are afraid the Russians will have an advantage in throw weight and we are afraid that we will not be able to conclude a successful agreement at SALT II. If we do conclude a successfull agreement at SALT II, which includes throw weight under the language of my amendment, so that we could not go off without it, do you not think that the President would be very happy and send us a little note——

Mr. TAFT. I certainly think this: That if we have an agreement there, it should cover the area the Senator is talking about. If the Senator does not think we should try to cover it here, but if we do cover it here, then the President will still be under the same duty to make a decision whether to send a report. There is no obligation, no standards are prescribed, and there are no findings of any kind. At least the McIntyre amendment is in good order to that effect. It seems to me there is a feasible standard involved here. I do not think the standard of the Senator from Florida in his amendment is a feasible standard, because I do not see how the President knows whether he is or is not to send a report. There is no obligation for him to do so. I think we are terribly complicating the negotiations.

Mr. CHILES. Would we not be sending a signal, loud and clear to the Russians? If they are concerned about our counterforce initiatives, if they are concerned about research and development that we are conducting, then we give them the signal that if they are concerned, all they have to do is come to the table.

Mr. TAFT. I agree, but I do not believe the Senator's amendment will have that effect at all. It will unalterably confuse us.

Mr. President, I would like to correct the record in a statement the Senator from Florida made where he referred to MIRV's. Apparently he indicated that the McIntyre amendment had some effect on going ahead with MIRV. It does not; I believe the distinguished Senator meant the effect of going ahead with MARV. The record should stand clear that we are not in any way intending to limit ourselves as to our present deployment with regard to MIRV.

Mr. STENNIS. Mr. President, let us look at this proposal here. We are proposing to authorize appropriations to start three programs in research and development: improved guidance for Minuteman III, improved yield, and the terminally guided MARV. These three programs would be in motion.

It is proposed here that the President of the United States, in the SALT talks, would have all this amendment wrapped around him, in that he is going to stop this research program the way Congress has set it up unless he can come back and make three certificates to the Congress: First, that he has been able to achieve substantial arms control; second, including limitations on MIRV's and, third, throw weight limitations, and even fourth, to insure equivalence—what ourselves free to go either way we want is equivalence in strategic offensive capability?

Now unless he does that, those funds are cut off. Congress is supposed to be passing on SALT agreements, if any come back, and we are supposed to leave ourselves free to go either way we want to. So we are tying up, as I see it, the President of the United States if he goes to that conference, with all kinds of cobwebs and all kinds of conditions around him as to a research program. It puts us in the position of saying that we do not know what we want.

We will just pass the thing around here, pass the buck to the President, and let him go to the SALT talks. It might be, as I have said, that when he comes back he has got to make certification to us that all these things have been done, otherwise we lose this research and development.

What kind of legislative action would that be? I think we should put this program in or put it out, and stay out of the Executive's business, and make him stay out of our business in making these decisions. Then go as we see fit when the SALT talk programs, if any, come back in.

So I hope that we can reject this amendment because of its uncertainty and ambiguity, leaving ourselves free to act as we may see fit to act when the SALT agreements, if any, come back. Then I hope we will reject the McIntyre amendment and start this research program in the way it should be started without anyone else having any strings on it except the ones who should have the strings on it; that is, the Congress.

If we live up to that responsibility, it is, of course, a matter of judgment whether we should put in the McIntyre matter or not; but I think tie up the President and the Congress if we put in this uncertain equivalence language that does not have a sharp, positive, or definite meaning, without knowing where we are. The President would not know where he was with respect to the SALT talks, nor would those representing us. But those on the other side would certainly know they had an advantage if the Congress passes such an amendment as this. So I hope that this proposed substitute will be rejected. Of course, I am still opposed to the amendment of the Senator from New Hampshire (Mr. McINTYRE).

I yield back such time as I may have left.

Mr. McINTYRE. Mr. President, how much time remains to me?

The PRESIDING OFFICER (Mr. NUNN). Four minutes.

Mr. McINTYRE. Mr. President, I yield 4 minutes to the distinguished Senator from Massachusetts (Mr. BROOKE).

Mr. BROOKE. Mr. President, I thank the Senator from New Hampshire for giving me this time. I have several points I should like to make on the proposed amendment. One has to do with the throw-weight.

Throw-weight: Missile throw-weight by itself is a meaningless asset. As Secretary Kissinger has noted:

> It is not throw-weight, that kills people, it is warheads.

In order to harm the large and well-hardened American ICBM force, throw-weight must be combined with uniformly reliable, highly accurate warheads or reentry vehicles (RV's). The United States has a minimum 5-year lead in this technology. Focusing on missile throw-weight is like comparing the size of battleships without addressing the amount and accuracy of their guns, their speed, or their range. Multiple warheads are the crucial issue, not throw-weight. The Brooke-McIntyre amendment focuses on this crucial issue. The Chiles amendment complicates an already complex negotiation by gratuitously adding a secondary concern.

Accuracy and reliability. U.S. strategic forces have long possessed a counterforce capability. The Chiles amendment ignores this fact. Moreover, the greater reliability and accuracy of U.S. missiles already offsets any Soviet edge in mere carrying capacity or throw-weight.

Former Defense Department official and National Security Council staff member Morton Halperin, formerly an advocate of increased warhead accuracy, has said that U.S. missiles no longer need more accuracy and that to obtain it would destabilize the nuclear balance. What the Brooke-McIntyre amendment would do is forestall the development of efficient hard-target killers until all possibilities in SALT are exhausted.

Leadtime: Both Secretary Schlesinger and Director of Defense Research and Engineering, Dr. Malcolm Currie, have estimated that the U.S.S.R. will not have the advanced weapons that could create an imbalance favorable to them until about 1985—See Schlesinger testimony before Muskie subcommittee, page 34, and Currie testimony before Senate Armed Services Committee. With its 5-year lead in MIRV deployment, the United States has time to seek mutual limits on counterforce weapons—limits which are in the interest of both parties. ACDA Director Fred C. Ikle has estimated that the United States has at least 2 years before a final decision on counterforce would be required.

Essential equivalence: Secretary Schlesinger has stated that the possession of efficient counterforce capability by both sides increases instability and should be limited or controlled through SALT. The intention is to forgo the capability mutually, achieving strategic parity without efficient counterforce weapons on either side. The Chiles amendment misses this key point. The Brooke-McIntyre amendment, conversely, addresses itself to this objective of attaining equivalence without destabilizing weapons. It will convey American intentions unambiguously without committing the United States to first strike weapons or to a renewed arms rivalry in this field.

Bargaining chips: The United States needs no further bargaining chips for SALT, since it has a number of strategic weapons programs which the Soviet Union does not have—B–1 bomber, Trident submarine, advanced strategic air-launched missile (ASALM), submarine-launched cruise missile (SLCM), air-launched cruise missile (ALCM) to name but a few. More importantly, strategic arms experts, such as former SALT Ambassador Gerard C. Smith, have criticized bargaining chips as unproductive and bargaining chip theories as bankrupt.

Verification: If a SALT bargaining chip is needed, warhead improvement programs make a very poor choice, since these qualitative advances can never be verified except by onsite inspection of the missiles. Once developed, these efficient warheads escape surveillance by national means of detection and will plague current or future efforts to forgo or control them.

Mr. President, this really has not been emphasized today. It was raised earlier by the Senator from Washington, in the closed session, but it has not been discussed.

Once R. & D. on them is begun, no adversary can ever be quite certain that they have not also been deployed. The overwhelming likelihood is that, if the United States proceeds with these destabilizing warheads, it will have to live with the first-strike fears that they create as well as the possibility that their existence will be the trigger for nuclear war. This is the crucial point about warhead improvements that separates them from other weapons programs. The Chiles amendment overlooks this serious problem; it fails to recognize that a counterforce commitment will likely be irreversible. The Brooke-McIntyre amendment does not.

Incentives: R. & D. programs in progress made notoriously bad bargaining incentives because they are ambiguous signals of U.S. intent. They are likely to be counterproductive, causing an already suspicious and hostile adversary, and especially hardline elements in the Soviet defense ministry, to redouble their efforts rather than to curtail their own strategic offensive weapons programs. The new Soviet ICBM programs are a case in point. They are the Soviet response to our MIRV which was once claimed to be a negotiating incentive for SALT I. The best incentive for the Soviets, as Secretary Schlesinger has pointed out, is the recognition now that, with efficient counterforce weapons, both sides will be losers. The Brooke-McIntyre amendment sends this message unequivocally. The Chiles amendment does not and is based on a naive appreciation of negotiations with the Soviet Union.

Regarding incentives for the President to make reports, this is quite beside the point. In any case, the Chiles amendment provides no incentive at all but rather a disincentive to act in SALT.

Arms control: The purpose of mutual arms limits is to reduce the risk of nuclear war. Efficient counterforce weapons increase this risk by creating fears and uncertainties about a first strike. It is necessary to put the cart before the horse, exhausting the possibility of agreed limits before committing resources to irreversible and destabilizing weapons programs. The Brooke-McIntyre amendment recognizes this proper sequence and makes it into national policy. The Chiles amendment, by putting the weapons ahead of negotiations, has the wrong perspective. Because it communicates an intention to build first-strike weapons, it sends the wrong signal, it undermines the SALT, and it is a gamble with the national security.

Mr. CHILES. Mr. President, the McIntyre amendment, I believe, makes a very good point, and that point is that if we start this research and development, or counterforce, we may, if nothing else, scare some of the Russian hawks, and they might well use that in their arguments against détente, against a further reduction of arms limitation, about accelerating military expenses. That argument could even be carried to the extent that they have to make a first strike because it looks as though we are seeking that kind of capability. That argument makes some sense, and it cannot be dismissed.

It seems to me that the Committee on Armed Services and its chairman, the Senator from Mississippi (Mr. STENNIS), have an equally compelling argument. That argument is that we cannot sit back and just dismiss the fact that the Russians are going forward with their counterforce, that the Russians are trying to develop accuracy, that they already have a weight advantage, that they already have a numerical advantage that they are not sitting back and waiting, worrying about whether we are concerned that they are doing something else. They are going forward as fast as they can.

We are going to lose the advantage we have enjoyed to date, our technological advantage, because we are going to sit back and not develop the research and development. That is a compelling argument. It makes all kinds of sense. It is the kind of argument as to why I cannot support the McIntyre amendment.

It seems to me that if we reach the proposition that both sides have a compelling argument, we try to find some way to put the two together, and that is what I have tried to do.

If the Russian generals are afraid, if we are worried about the forces of detente and being able to reach a meaningful arms limitation, it seems to me that we give a positive signal to the Russians and we do not take away anything from the President. We arm the President as he goes into the SALT talks by saying, "Yes, we are going forward, and we are going to do something with R. & D., but only until you give us a meaningful agreement at SALT; second, only if you will do something about weights, and if you will do something about quantitative arms. The minute you do that, we will stop. We don't have any great feeling that we have to develop these things. We are only doing it because we don't have a meaningful agreement for you."

It seems to me that we are arming the President. We are not taking away any of his options. He is being given more options. The way the amendment is drawn, it does not narrow his limitations in any way. He has to be satisfied that he has an agreement on weight and all these features before he gives us notification.

It seems to me that there is every reason he would like to give us that signal, if he gets a meaningful agreement, if he gets one that he knows is good, because then he can say, "We have succeeded."

At the same time, we do not lose the one advantage we have, which the distinguished chairman of the Armed Services Committee is so worried about, that we are going to sit back and lose the time on research and development; that every day that is gone forever; that we wake up and find that the Russians have been dragging their feet at SALT II; that they have not been trying to conclude a meaningful agreement; that they are going to sit back and take advantage of their weight requirements and numerical requirements and develop their technology as fast as they can; that we are going to be sitting back, because we are the good guys, trying not to give a false signal, and we do not develop.

It seems to me that if we can adopt the substitute, we really end up being able to do both things. We go forward with the research and development, which we believe we almost have to do because the Russians are going forward with theirs and because we have not concluded a meaningful agreement and do not know whether they will come to the table in good faith. But, at the same time, we give a strong signal that we are not doing it because we are seeking a first-strike capability; that we are not doing it because we want to escalate the arms race for its own sake; that we are really doing it only because we are trying to conclude a meaningful arms limitation agreement; that as soon as we get that arms limitation agreement, we will stop everything we are doing.

It seems to me that if one buys the logic of the most pressing argument that each side has, then that logic would dictate that we would be much better off if we went ahead and adopted the substitute.

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

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida (Mr. CHILES). 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 Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Hawaii (Mr. INOUYE), the Senator from Montana (Mr. METCALF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Wyoming (Mr. HANSEN), the Senator from Maryland (Mr. MATHIAS), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Arizona (Mr. FANNIN) and the Senator from Nebraska (Mr. HRUSKA) are absent on official business.

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

The result was announced—yeas 10, nays 76, as follows:

[No. 239 Leg.]

YEAS—10

Beall	Dominick	Nunn
Byrd, Robert C.	Huddleston	Weicker
Chiles	Mansfield	
Domenici	McClellan	

NAYS—76

Abourezk	Fong	Montoya
Aiken	Fulbright	Moss
Allen	Goldwater	Muskie
Baker	Gravel	Nelson
Bartlett	Griffin	Packwood
Bellmon	Gurney	Pastore
Bennett	Hart	Pearson
Bible	Hartke	Pell
Biden	Haskell	Proxmire
Brock	Hatfield	Randolph
Brooke	Hathaway	Roth
Buckley	Helms	Schweiker
Burdick	Hollings	Scott, Hugh
Byrd, Harry F., Jr.	Hughes	Scott, William L.
	Humphrey	
Cannon	Jackson	Stafford
Case	Javits	Stennis
Clark	Johnston	Stevens
Cook	Kennedy	Stevenson
Cotton	Long	Taft
Cranston	Magnuson	Talmadge
Curtis	McClure	Thurmond
Dole	McGovern	Tower
Eagleton	McIntyre	Tunney
Eastland	Metzenbaum	Williams
Ervin	Mondale	Young

NOT VOTING—14

Bayh	Hruska	Percy
Bentsen	Inouye	Ribicoff
Church	Mathias	Sparkman
Fannin	McGee	Symington
Hansen	Metcalf	

So Mr. CHILES' substitute was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MCINTYRE and Mr. MOSS moved to lay the motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. The question now recurs on the McIntyre amendment.

Mr. STENNIS. Mr. President, what is the pending question before the Senate?

The VICE PRESIDENT. The pending question is on agreeing to the McIntyre amendment (No. 1380). 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 Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr.

CHURCH), the Senator from Hawaii (Mr. INOUYE), the Senator from Montana (Mr. METCALF), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Wyoming (Mr. HANSEN), the Senator from Maryland (Mr. MATHIAS), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Arizona (Mr. FANNIN) and the Senator from Nebraska (Mr. HRUSKA) are absent on official business.

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

The result was announced—yeas 37, nays 49, as follows:

[No. 240 Leg.]

YEAS—37

Abourezk	Hatfield	Moss
Biden	Hathaway	Muskie
Brooke	Huddleston	Nelson
Burdick	Hughes	Packwood
Case	Humphrey	Pastore
Clark	Javits	Pell
Cranston	Kennedy	Randolph
Eagleton	Mansfield	Schweiker
Fulbright	McGovern	Stevenson
Gravel	McIntyre	Tunney
Hart	Metzenbaum	Williams
Hartke	Mondale	
Haskell	Montoya	

NAYS—49

Aiken	Curtis	McClure
Allen	Dole	Nunn
Baker	Domenici	Pearson
Bartlett	Dominick	Proxmire
Beall	Eastland	Roth
Bellmon	Ervin	Scott, Hugh
Bennett	Fong	Scott,
Bible	Goldwater	William L.
Brock	Griffin	Stafford
Buckley	Gurney	Stennis
Byrd,	Helms	Stevens
Harry F., Jr.	Hollings	Taft
Byrd, Robert C.	Jackson	Talmadge
Cannon	Johnston	Thurmond
Chiles	Long	Tower
Cook	Magnuson	Weicker
Cotton	McClellan	Young

NOT VOTING—14

Bayh	Hruska	Percy
Bentsen	Inouye	Ribicoff
Church	Mathias	Sparkman
Fannin	McGee	Symington
Hansen	Metcalf	

So Mr. MCINTYRE's amendment (No. 1380) was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote whereby the amendment was rejected.

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

The motion to lay on the table was agreed to.

LEGISLATIVE PROGRAM

Mr. HUGH SCOTT. Mr. President, I rise to ask the distinguished majority leader the order of business for the rest of the day and for tomorrow, because my hopes do not extend beyond then.

Mr. MANSFIELD. Mr. President, the distinguished assistant majority leader will be making a unanimous consent request on that part which I hope the Senate, in its understanding, will agree to; but in the meantime, following the disposition of the pending business tomorrow, the next order of business will be Calendar No. 876, S. 3523, a bill to establish a temporary National Commission on Supplies and Shortages.

Following that, on Wednesday morning or sometime Wednesday, it is anticipated that we will return to the consideration of Calendar No. 875, H.R. 14434, an act making appropriations for energy research and development activities of certain departments, and so forth.

Following that, we will take up Calendar No. 868, S. 585, a bill to amend section 303 of the Communications Act.

It is anticipated that beginning this week, we will hopefully get a majority of the appropriation bills from the House of Representatives; and now that the distinguished Chairman of the Committee on Finance is in the Chamber, I would like to ask him if it would be possible to get the debt limit legislation to the Senate floor this week, so that we will not go up against a deadline, as we usually do, with little opportunity to debate it or amend it.

Mr. LONG. Mr. President, if the Senator will yield, I have been discussing the problem about the tax-cut amendments and the various so-called tax reform amendments, which, generally speaking, would remove some tax advantage or some tax consideration that one group or another receives under the tax laws for the purpose of raising revenue. It is clear that while we have kept the commitment in putting H.R. 8217, a minor tariff measure for repair of vessels, on the calendar, if they are to fight a battle with tax cuts and tax reform on that bill, there is a distinct possibility that that bill might not even reach the President's desk, and those who feel strongly about these issues have already indicated to me and to others and for the record that they would not be satisfied with this, and that they would propose to offer those same amendments, if they think they could muster a majority vote for them, on the debt limit bill.

I cannot feel very strongly about a Senator wanting to offer such an amendment in a bill, he feels, is going to the President's desk. That being the case, it seems to me it is a complete waste of time for us to fight the same battle over the same amendments twice, and make the same speeches twice, and I think we would be well advised simply to let the vehicle on which those amendments will be considered be the debt limit bill itself. Otherwise, as I say, we will simply fight the same battle twice. If one feels strongly enough about the matter to want to offer his amendments on the debt limit bill, he is going to do it anyway, if he has the votes to do so, and there will not be much difference between the number of votes he would get offering them to the debt limit bill and offering them to some less consequential measure.

So I think we would be well advised to let the committee turn immediately to the consideration of the debt limit bill, try to conclude our hearings and deliberations this week, and let it be available to the Senate next week, if that is what the leadership has in mind. I believe that is the way to move for the expeditious consideration of some important votes and, for that matter, a confrontation between the Executive and Congress. If that is in the offing, I think we may as well face it rather than go through the motions one time and then again the second time, on an important issue which must be debated and voted on in any event.

I have discussed this matter with the sponsors of some of the major amendments, and they seem to think that would be the appropriate procedure. If we do that, I think it should be done before the debt limit expires, so that if possible the bill will reach the President's desk in time so that if, as he has indicated he has every intention to do, he is going to veto any bill with those amendments on it, he would have the opportunity to do so, and give Congress the opportunity to vote on it before the debt limit expires. I think he should have the privilege of doing so.

So I think it would be the major part of valor for the Senate to act on that basis, and regardless of how it finally works out, after we have concluded that fight, we will then go on and let the other tax measures be considered on their own later.

Mr. MANSFIELD. Then, Mr. President, I take it we can look forward, barring exceptional developments, if not this week, to having the bill taken up on Monday next.

In addition to the legislation already mentioned, there will be other legislation beyond Wednesday, which we will discuss tomorrow in greater detail, and I take this occasion to thank the Senate for the cooperation it has shown the leadership in helping keep the calendar as clear as possible up to this point in the session.

Mr. HUGH SCOTT. May I inquire whether the distinguished majority leader expects any additional votes tonight?

Mr. MANSFIELD. At this point, I turn to the distinguished assistant majority leader, so that he can propound a unanimous consent request which he has worked out with the interested parties, which hopefully will be concurred in by the Senate.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader.

I ask unanimous consent that if there are any further rollcall votes ordered on additional amendments today, they go over until tomorrow, in accordance with the following request:

I ask unanimous consent that the Humphrey amendment—the so-called ceiling amendment—which was to be called up by Mr. HUMPHREY tomorrow at 1 o'clock, may be called up at 2 p.m. tomorrow instead, and that upon the disposition of that amendment, the vote on final passage of the bill occur immediately thereafter.

That would mean that the final vote would be about 3:30 p.m. tomorrow, and that the Mathias amendment, which was ordered to come up at this time, but which cannot be called up because Mr. MATHIAS is not present at the moment,

go over until tomorrow and be called up immediately upon the disposition of the vote on the Kennedy-Cranston-Symington amendment; and that there be a limitation of 30 minutes instead of 1 hour on the Mathias amendment; and that upon the disposition of the Mondale-Mathias amendment tomorrow, the votes, if such there be, which are ordered on further amendments tonight, then occur.

The PRESIDING OFFICER (Mr. NUNN). Is there objection to the request of the Senator from West Virginia?

Mr. STENNIS. Mr. President, reserving the right to object—and I am not wanting to object at all, understand—how much time are we going to have for the Mathias amendment?

Mr. ROBERT C. BYRD. Thirty minutes.

Mr. STENNIS. That is the submarine amendment. That will start off the program costing $1 billion plus. The committee unanimously left that out of the bill. It seems to me that that is worth more than 30 minutes.

Mr. ROBERT C. BYRD. I am sorrry, but——

Mr. STENNIS. That is in addition to the Trident which will be an ongoing submarine. We may get the other before we let the contract for the Trident.

Mr. ROBERT C. BYRD. Let me say to the distinguished Senator from Mississippi that if we stretch it beyond 30 minutes, we will have some problems tomorrow with our time situation.

Mr. STENNIS. I want to cooperate, of course, but we are up against it. The matter of aid for South Vietnam is coming up. That is a matter that anyone can bring up whc wants to, but the committee was unanimous on that. Then we have the Jackson amendment. That is a far-reaching matter. Then we have the Mathias amendment which we had set for tonight. Then there is another one somewhere, the so-called ceiling amendment—and then final passage.

Mr. ROBERT C. BYRD. Those are already locked in. I was just trying to flesh out the work schedule for tomorrow.

Mr. HUGH SCOTT. I would suggest to the Senator from Mississippi that it is already late enough for the demolition charges to take care of tomorrow.

Mr. STENNIS. We have three more amendments tonight, then?

Mr. HUGH SCOTT. If so, the votes will go over until tomorrow, I understand.

Mr. STENNIS. These are for tomorrow. I am complaining mainly about the 30 minutes, with 15 minutes to a side, on the submarine amendment. I believe it should have more time than that.

Mr. ROBERT C. BYRD. Mr. President, I revise my request as follows: I ask unanimous consent that the so-called ceiling amendment by Senator HUMPHREY be called up tomorrow at 2:30 p.m.; that there be a limitation thereon of 1 hour and 15 minutes, as previously agreed to; with the vote on final passage to come upon disposition of the Humphrey amendment. That will allow the additional 30 minutes the distinguished chairman would like to have on the Mathias amendment.

Mr. STENNIS. If the Senator will yield further, what time do we have for vote on final passage of the bill?

Mr. ROBERT C. BYRD. That would mean that the vote on the Humphrey amendment would occur at 3:45 p.m., with a vote on final passage to come at 4 p.m.

Mr. STENNIS. Well, three amendments are up for consideration tonight. What is the suggestion as to them?

Mr. ROBERT C. BYRD. My understanding is that the amendment by the Senator from Iowa (Mr. HUGHES) may be accepted; that the amendment by the Senator from Ohio (Mr. METZENBAUM) will not take long to discuss, and the vote would go over until tomorrow; and the amendment by the Senator from New York (Mr. JAVITS) would not require long. Whether there is to be a rollcall vote on his amendment remains to be seen. Those three amendments should not take too long.

Mr. STENNIS. I have not seen the Hughes amendment. It was not offered in committee. The Metzenbaum amendment has been voted on once before.

Mr. ROBERT C. BYRD. Here is the situation. We already have an agreement that we are going to have to live up to. If we cannot change it, we are going to live up to that agreement, and we will vote tomorrow on final passage at 2:30 p.m. This would mean that if we are going to call up other amendments tonight, we will have to vote on them tonight because we cannot carry them over until tomorrow. We are faced with the clock situation. I was trying to accommodate Senators all the way around, let me say to my distinguished chairman.

Mr. STENNIS. I see that we have got to have more time here. I could not object to extending it 1 day longer. I just want more time on that submarine amendment—30 minutes to a side would be sufficient.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. THURMOND. Mr. President, reserving the right to object, there is one amendment, the MASF amendment, which has 1 hour to be considered. That is a very important matter. That should be made 45 minutes to a side.

Mr. ROBERT C. BYRD. Which amendment is that?

Mr. THURMOND. The MASF amendment concerning South Vietnam.

Mr. STENNIS. Aid to South Vietnam.

Mr. KENNEDY. Is there any objection to my amendment's going over into the afternoon? I would be glad to be here, but we have already moved our witnesses to come in earlier on the Health Committee, to bring us to a quarter to 10. We have many out-of-town witnesses who are coming in. I would be glad to adjust and accommodate Senators. It seems to me that as this is a quarter to 10, and we have already moved it back earlier, it seems to me—although I am prepared to come in at any time—I want to have a full house here—this deals with cutting back on military aid to South Vietnam. That is an important amendment. I would like to have my colleagues around here as well, and I am prepared at any time tomorrow, but at 9 a.m. I do not think we will have the kind of attention to this amendment that it deserves.

Mr. ROBERT C. BYRD. The amendment is presently scheduled to go at 9:30. The Senator's attendance will be about as good at 9 a.m. as at 9:30.

Mr. KENNEDY. I am not objecting to having it considered earlier but I would like to have it taken up later in the day.

Mr. MANSFIELD. Mr. President, I hope the Senators from Massachusetts, Mississippi, and South Carolina would recognize the difficulties in which the joint leadership some times finds itself when we reach what we think is a bona fide agreement, an agreement reached in good faith, and then one Senator, when he found out that there would be other amendments to be offered tonight as of a certain time, raised an objection and felt that he was being put upon. He was not. But I cite this only to indicate that the joint leadership does have difficulties and that what we need is more understanding from the membership if we are going to keep the calendar as clear as possible. So far as 9 or 9:30 is concerned. I do not think it will make any difference.

Mr. KENNEDY. I will be glad to have my amendment called up at 9 o'clock.

Mr. THURMOND, Mr. President——

Mr. MANSFIELD. The Senator has got it. Leave it alone.

Mr. THURMOND. Mr. President, I felt it was important but if there is any serious objection to it, we will leave it as it is.

Mr. MANSFIELD. All right—all right. Leave it as it was.

Mr. THURMOND. I just want to accommodate the Senator.

Mr. KENNEDY. I thank the Senator.

Mr. MANSFIELD. 9:30.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, if I may synthesize what has been said here, there will be no further votes tonight—no further rollcall votes to be taken tonight. As agreed to, the votes will be put off until tomorrow.

Mr. JAVITS. Mr. President, in view of the fact that Senators may be late tomorrow, I would like to ask unanimous consent that it may be in order to ask for the yeas and nays on my amendment.

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

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

The yeas and nays were ordered.

Mr. STENNIS. Mr. President, may I ask the Senator one question? Does he have his amendment worked out?

Mr. JAVITS. Yes; I do.

Mr. STENNIS. I wish the Senator would supply it.

Mr. ROBERT C. BYRD. Mr. President, I ask whether the distinguished manager of the bill and the distinguished ranking minority member will agree to cutting the time on the Humphrey amendment, so that it would be 1 hour on that

amendment, rather than 1 hour and 15 minutes.

Mr. STENNIS. Which amendment is that?

Mr. ROBERT C. BYRD. That is the ceiling amendment.

Mr. STENNIS. I think so.

Mr. THURMOND. Mr. President, reserving the right to object, what is the amendment?

Mr. ROBERT C. BYRD. The so-called ceiling amendment.

Mr. THURMOND. I have not seen the amendment. I do not know what it contains. I would like to see a copy of it.

Mr. ROBERT C. BYRD. I am sorry; I cannot produce it.

Mr. THURMOND. I have been trying to get it, and I have not been able to do so.

Mr. STENNIS. Is anything in it besides dollar figures—any conditions, limitations, things of that sort?

Mr. ROBERT C. BYRD. May I ask the clerk of the committee? Perhaps he knows. He indicates in the negative.

Mr. STENNIS. We have not seen any amendment.

Mr. THURMOND. We have not seen it. We cannot get it.

Mr. STENNIS. We have been agreeing to time limitations and everything, and they will not turn in the amendments.

Mr. ROBERT C. BYRD. Mr. President, there comes a time when I just have to sit down.

Mr. METZENBAUM. Mr. President, I ask unanimous consent to call up an amendment at the desk, for the purpose of asking for the yeas and nays while sufficient Members are present.

The PRESIDING OFFICER. Will the Senator just ask unanimous consent that it be in order to order the yeas and nays?

Mr. METZENBAUM. I so request.

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

Mr. METZENBAUM. I ask for the yeas and nays.

The yeas and nays were ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HUGHES. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HUGHES. Mr. President, I ask unanimous consent that the 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 17, between lines 20 and 21, insert a new section as follows:

SEC. . (a) Chapter 401 of title 10, United States Code, is amended—

(1) by adding the following new section at the end thereof:

"4314. United States Army Command and General Staff College degree

"Under regulations prescribed by the Secretary of the Army, and with the approval of a nationally recognized civilian accrediting association approved by the Commissioner of Education, Department of Health, Education, and Welfare, the Commandant of the United States Army Command and General Staff College may upon recommendation by the faculty confer the degree of master of military art and science upon graduates of the college who have fulfilled the following degree requirements: a minimum of thirty semester hours of graduate credit, including a masters thesis of six to eight semester hours, and a demonstration of competence in the discipline of military art and science as evidenced by satisfactory performance on a general comprehensive examination. These requirements may be altered only with the approval of such association. The Secretary of the Army shall report annually to the Committees on Armed Services of the Senate and House of Representatives the following information: (1) the criteria which must be met to entitle a student to award of the degree, (2) whether such criteria have changed in any respect during the reporting year, (3) the number of students in the most recent resident course graduating class, (4) the number of such students who were enrolled in the master of military art and science program, and (5) the number of students successfully completing the master of military art and science program."; and

(2) by adding the following new item at the end of the analysis of such chapter:

"4314. United States Army Command and General Staff College degree."

(b) The Commandant of the United States Army Command and General Staff College may confer the degree of master of military art and science upon graduates of the college who have completed the requirements for that degree since 1964 but prior to the enactment of this Act; but the number of such degrees awarded for such period may not exceed 200.

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

Mr. HUGHES. I yield to the distinguished Senator from Massachusetts.

AMENDMENT OF FREEDOM OF INFORMATION ACT

Mr. KENNEDY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 12471.

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. 12471) to amend section 552 of title 5, United States Code, known as the Freedom of Information Act, 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. HART, Mr. BAYH, Mr. BURDICK, Mr. TUNNEY, Mr. MCCLELLAN, Mr. THURMOND, Mr. MATHIAS, Mr. GURNEY, and Mr. HRUSKA conferees on the part of the Senate.

DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1975

The Senate continued with the consideration of the bill (S. 3000) to authorize appropriations during the fiscal year 1975 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads, and for other purposes.

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

Mr. HUGHES. I yield to the distinguished Senator from Mississippi.

Mr. STENNIS. Mr. President, for the Senator from West Virginia, the assistant majority leader, I ask unanimous consent that the time on the so-called ceiling amendment be reduced to 1 hour rather than 1 hour and 15 minutes. I believe the Senator from Minnesota and the Senator from South Carolina join me in that request.

Mr. THURMOND. I have not expressed myself on that, Mr. President, but I will agree to it.

The PRESIDING OFFICER. Is there objection?

Mr. HUGHES. Mr. President, reserving the right to object, I would like to know what was said. May I inquire what the request is?

Mr. STENNIS. That the time for debate on the Humphrey amendment, which is to put a ceiling on the dollars in the bill, be limited to 1 hour, equally divided.

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

Mr. ROBERT C. BYRD. I thank the distinguished chairman.

Mr. HUGHES. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. HUGHES. Mr. President, will the chairman give me his attention? He is about the only one I am interested in speaking to at present.

Mr. STENNIS. I have just turned over my duties to the Senator from Nevada.

Mr. HUGHES. Mr. President, the amendment I am offering, together with Senators EASTLAND, MCGOVERN, DOLE, and GOLDWATER, is a rather simple one. It is to authorize the Commandant of the U.S. Army Command and General Staff College to award the degree of master of military art and science.

The amendment:

First. Lists the specific requirements to obtain the degree of master of military art and science.

Second. Provides that the requirements may be altered only with the approval of a nationally recognized civilian accrediting association approved by the U.S. Commissioner of Education.

Third. Provides that the Secretary of

the Army shall report annually to the Committees on Armed Services the criteria which must be met to entitle a student to award of the degree, whether such criteria have changed in any respect during the reporting year, the number of students in the most recent resident course graduating class, the number of such students who were enrolled in the master of military art and science program, and the number of students successfully completing the master of military art and science program.

The U.S. Army Command and General Staff College, Fort Leavenworth, Kans., is the Senior Tactical School of the Army educational system. The stated purpose of the college is:

To prepare selected officers for duty as commanders and as principal staff officers with the Army in the field from division through Army group and at field Army support command and theater Army support command; to provide these officers with an understanding of the functions of the Army command staff and of major Army, joint and combined commands; and to develop their intellectual depth and analytical ability.

Commencing in 1963, the college has conducted a graduate program accredited by the North Central Association of Colleges and Secondary Schools. This program, participated in voluntarily and after rigorous screening, has been appraised as highly successful by competent civilian authority. By accrediting the program, the North Central Association recognized military art and science as a distinct academic discipline, and certified the college as an educational institution meeting customary standards for awarding a master's degree. The association withdrew its accreditation of the college's graduate program on June 30, 1966, solely for the reason that the college did not have degree granting authority.

Enactment of this amendment will recognize the rigorous academic endeavor of those graduates who fulfill the specific requirements for the degree, encourage the further development of the discipline—military art and science, and provide a stimulating incentive to the entire officer corps. There are no facilities or existing institutions that could be used for the purpose of which the bill proposes for the reason that there are no civilian colleges or universities that specifically offer a program directed to this unique degree. However, I want to emphasize that instruction is provided in a significant part by civilian professors from participating universities. The curriculum is not solely military subject oriented.

Mr. President, there are several specific points relative to this amendment which I should like to discuss briefly.

First. If it is adopted, it will not require an appropriation. It merely authorizes a degree to be granted to outstanding students.

Second. The positions of professors of military science and tactics at the various colleges and universities throughout the country which have Army ROTC units are being filled only with individuals who possess advanced degrees. What more logical advanced degree could a professor of military science and tactics have than one in his chosen field—military art and science. Current professors received their advanced degrees from civilian institutions at a far greater cost in terms of time and money than would be the case if they had received a master's degree from the Army's Command and General Staff College.

Third. I would like to emphasize that the master's degree program I am advocating is a highly selective one. Less than 2 percent of the students at the college have completed the very strict requirements for a master's degree. As a matter of fact, there have been on an average only 17 students per year during the last 11 years to meet the exacting standards and it is contemplated that the percentage of future classes to receive a master's degree will not be appreciably increased.

Fourth. Both the Navy and Air Force currently are permitted by statute to award advanced degrees. The Army lacks that authority.

Finally, the legislation I am proposing passed the House of Representatives in a similar form in 1968. I assume that the press of other business that year made consideration of the House bill by the Senate Armed Services Committee impossible. However, it now seems appropriate to address this issue in fairness to those who have worked so long and hard to earn this degree.

Recognition of the rather small number of the college's students who will be granted a master's degree if my amendment passes is, in my judgment, but a slight token of compensation for the efforts they are required to expend.

I hope the distinguished manager of the bill will see fit to accept the amendment for consideration in conference.

Mr. President, I am happy to yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I rise to support the amendment. I would hope that the chairman of the committee would accept it. This amendment is similar to legislation which the Senator from Kansas (Mr. DOLE) and I introduced in 1971. Hearings were never held on that legislation. Why, I do not know.

The course offered by the Army War College I think certainly demands the necessary respect to call for a master's degree. If this is a successful venture, I hope that sometime in the future we might extend the same honors to the Air Force College and the Industrial College. They also provide a very high standard curriculum.

Mr. President, I am pleased to join today with the senior Senator from Iowa (Mr. HUGHES), in proposing an amendment which will provide long overdue recognition for the outstanding graduate level program offered by the Department of Army at its Command and General Staff College. The amendment is similar to legislation, S. 1105, which I introduced in 1971.

It will authorize the college to award a formal master's degree to the select number of officers who successfully complete the graduate program at the institution. The degree will be designated as the discipline of military art and science, and the program leading to its award will meet all the standards of professional discipline required by our civilian graduate system.

Mr. President, the Army's Command and General Staff College, which is located at Fort Leavenworth, Kans., has been offering a graduate degree course of study for the past several years. By July of 1974, the college will have graduated 182 officers in its degree program. These individuals have undergone a rigorous 10-month course of study and an extensive personal research project. And yet their only recognition has been limited to a notation on their personnel records.

This is entirely inequitable when viewed against the great efforts these officers have made and the important qualities they have developed which will benefit the public good. For if the American public wishes its military services to be lead by officers who are influenced and guided by habits of the highest rational, ordered thought processes, then we should encourage and reward in every way possible participation by qualified officers in a disciplined educational program designed to develop a corps of military scholars. And if we want our military leaders to be skilled in critical, analytical, thoughtful decisionmaking, then we should promote the military's efforts to stimulate the growth of military scholarship.

The military profession itself is striving mightily to provide a greater and wider range of intellectual challenges for its higher officers, and a society that rejects the idea of rigid conformity and anti-intellectualism among its officer corps should give every ounce of support and recognition it can to the cause of advanced military education. In this way Americans can be confident U.S. military commanders and planners will make sound, ethical decisions based on a large range of considered courses of action.

Let me review the Army's educational program at its Fort Leavenworth College and demonstrate how deep its degree granting mission is. The Army Command and General Staff College is the senior tactical school of the Army's educational system. It prepares highly qualified officers for duty as commanders and as principal staff officers with the Army in the field. In addition, officers from other U.S. military services may be admitted to the college.

The Army selects only about half of its officer corps to attend the regular course at its command college. These men are hand-picked between their 8th and 16th years of service. The regular course extends for 39 weeks over a 10-month period. Officers spend an average of 7½ hours per day in classroom instruction and 3 and 4 hours in homework. There are also special briefings, a speaking and writing program, and other extra duties. In addition, students must submit a written treatise of at least 3,000 words in length. Remember this is only the regular course I am talking about.

When we examine the master's degree program, we will find all the same

requirements included in the regular course plus the additional assignment of extensive individual research. Degree candidates must prepare a thesis of at least 15,000 words compared to the much shorter 3,000-word research paper for nondegree officers.

What is more, entry into the degree program is limited to officers in the regular course who hold an accredited baccalaureate degree. Even then, candidates must take and score well on the graduate record examination aptitude test before they can be admitted to the program. And, once they enter the program, they have to maintain a class standing within the upper half of their class.

In addition, the degree candidate, but not the regular course officer, is required to pass a 6-hour comprehensive written examination covering the entire range of the curriculum and successfully defend his research thesis in an oral examination. In order to accomplish this, the officers are retained for an additional month beyond the graduation of the regular college class. To make it doubly tough, outside examiners from the civilian higher education field participate in reviewing each officer's thesis and in conducting the final oral examinations. Furthermore, an advisory committee consisting of distinguished civilian educators monitors the entire degree program.

Mr. President, these high standards have won for the Army College the solid approval of the academic community. Indeed, in 1963, the North Central Association of Colleges and Secondary Schools granted preliminary accreditation to the college and its degree program. This was the first time that the academic community has accredited a military educational institution which offers courses solely in military art and science. Although this accreditation was withdrawn 3 years later, it was only because of the failure of Congress to grant the college the necessary legislative authority.

As further indication of the college's measure of acceptance by the civilian academic community, I am pleased to mention the American Council on Education has expressly informed the House and Senate Armed Services Committees that it has no objection to passage of the college's degree granting legislation.

Not only is the proposal backed by the civilian sector of the educational field, but the U.S. Office of Education has examined this program inside out, upside down, and every other way before reaching its own independent decision endorsing the Army's requested legislation. Incidentially, the Federal agency's approval was founded on a report prepared by a panel of civilian educators.

Within the military establishment itself, the bill is solidly based on support from the Joint Chiefs of Staff and a general Departmentwide policy. As recently as April of 1970, the Department of Defense reaffirmed its unequivocal support of the Army's request in a letter presented to the Senate Armed Services Committee.

Frankly, I do not know where the opposition is coming from that has prevented the bill's enactment before this. Maybe it is just plain inertia, because I have not heard a single criticism made of this proposal. A similar bill was once approved by the House of Representatives in 1968, but for some reason the measure never budged in the Senate.

Mr. President, the enactment of this proposal will not cost the American taxpayer one extra cent. The degree program is already being funded under the Army's present budget and the only difference is that degree candidates would receive a formal certificate once my bill passes. In other words, the enactment of this legislation will not lead to the construction of any new buildings or facilities, or the hiring of additional faculty members, or even the expansion of a library. All these needs are presently satisfied by the staff, equipment, and facilities of the existing Army College.

The only conceivable roadblock might be the question of a precedent. But this can be easily answered.

First, the Army has no plans to award a Ph. D. degree.

Second, I can report both the Department of the Navy and the Department of the Air Force have indicated their satisfaction with their current degree granting programs in cooperation with civilian colleges and do not contemplate granting degrees at their own schools in the foreseeable future.

In this connection, we might remember the degree program at the Army College is open to officers from other services. Thirteen Air Force and Marine officers have successfully completed the master's program to date, and there is no quota limiting officers from other branches. Also, it is interesting to observe the faculty of the Army College includes six officers of the Air Force, three officers of the Navy, and three officers of the Marine Corps.

Furthermore, we must consider that it would be impossible for any other military service to award graduate degrees until it had a program which met the strict criteria laid down by the overriding Federal policy. Under this policy, a service college—its staff, its facilities, its courses of instruction—must be reviewed in depth and approved by a committee of educators appointed by the U.S. Commissioner of Education. The committee must find the need for the degree clearly exists and cannot be met at non-Federal institutions. Further, the committee must conclude the program's standards are at least equal to those of civilian outside institutions and assure itself the program is conducted in an atmosphere of freedom of inquiry comparable to that of civilian colleges.

Since no other military service has any such program in existence, nor plans to establish one, there is no reason for concern about establishing a precedent by passage of the Army's degree granting authority. If the idea should ever occur in the future, we can examine its need and quality on its own merits. Certainly nothing in our proposal would encourage the creation, expressly or by implication, of degree awarding programs by any other military service or even by the Army itself than the one now ongoing at the Army Command and General Staff College.

Mr. President, everyone who supports the military profession as an honorable and dignified career should support this legislation as a means of affording the military with the full recognition it is due as one of the learned professions. In a like manner, every citizen across the political spectrum who cherishes the principle of having the defense of his liberties and country provided by truly educated soldiers, who are founded in a rational and ethical approach to solving military issues, should endorse, advocate, and strive for the success of this proposal. All Americans, of whatever philosophical persuasion, should be eager to advance the goal of expanded military scholarship. This is a purpose which will serve us all well.

Mr. HUGHES. Mr. President, I yield to the distinguished Senator from Kansas.

Mr. DOLE. Mr. President, I thank the Senator for yielding.

Mr. President, the U.S. Army Command and General Staff College at Fort Leavenworth, Kan., has a distinguished record in the preparation of Army officers to assume the responsibilities and burdens of career leadership. The college is widely known and highly regarded for the quality and rigor of its curriculum. Its course of instruction is considered to be academically equivalent to a collegiate masters program, but presently a graduate receives no degree for his efforts in completing the course.

Each candidate for graduation must demonstrate academic achievement and suitability for entrance into the program, including a satisfactory score on the graduate record examination, which is employed by most civilian colleges and universities as an admissions measuring device. In addition to regular course work, student officers must undertake independent research and submit a thesis by the completion of the year.

Some time ago a special review committee of the U.S. Office of Education thoroughly examined the college's entrance procedures, curriculum offerings and graduation criteria and concluded the Command and General Staff College meets the high standards set for the granting of degrees by Federal agencies and institution.

Also, the North Central Association of Colleges and Secondary Schools has indicated its willingness to accredit the college's program should it be given authority to issue degrees.

A proposal was submitted to the 90th Congress which would have granted the commandant of the Command and General Staff College authority to issue the degree of master of military art and science to graduates of the program. This bill passed the House of Representatives, but was not considered by the Senate. Subsequently, in 1969, I introduced with the distinguished Senator from Arizona (Mr. GOLDWATER) a Senate bill, S. 3148, to provide this degree-granting authority. And in the 92d Congress Senator GOLDWATER introduced S. 1105, which I joined in sponsoring.

This proposal had the support of the Department of the Army and of the commandant of the Command and General Staff College.

This support was indicated in a report by the Department of the Army on the Goldwater-Dole bill in the 92d Congress, and I ask unanimous consent that this correspondence be printed in the RECORD at this point.

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

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., October 5, 1971.

Hon. ROBERT DOLE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOLE: Enclosed is a copy of the report by the Department of the Army on S. 1105, your bill to authorize the Commandant of the United States Army Command and General Staff College to award the degree of master of military art and science.

No other reports have been requested.

Sincerely,

T. EDWARD BRASWELL, JR.,
Chief Counsel.

DEPARTMENT OF THE ARMY,
Washington, D.C., September 30, 1971.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense on S. 1105, 92d Congress, a bill "To authorize the Commandant of the United States Army Command and General Staff College to award the degree of master of military art and science." The Department of the Army has been assigned responsibility for expressing the views of the Department of Defense on this bill.

The title of the bill states its purpose.

The Department of the Army on behalf of the Department of Defense favors the bill.

Legislation on this subject has been previously proposed by the Department. H.R. 15231, 90th Congress, and S. 3148, 91st Congress, were introduced but failed of enactment. The bill now being considered, S. 1105, differs from that previously submitted by the Department in that it:

Lists the specific requirements to obtain the degree of master of military art and science.

Provides that the requirements may be altered only with the approval of a nationally recognized civilian accrediting association approved by the United States Commissioner of Education.

Provides that the Secretary of the Army shall report annually to the Committees on Armed Services the criteria which must be met to entitle a student to award of the degree, whether such criteria have changed in any respect during the reporting year, the number of students in the most recent resident course graduating class, the number of such students who were enrolled in the Master of Military Art and Science program, and the number of students successfully completing the Master of Military Art and Science program.

Lists of the names of the individuals who have completed the specific requirements for the degree from 1964 but prior to enactment of the bill. The Department of the Army on behalf of the Department of Defense will continue to support statutory authority for the Army Command and General Staff College degree granting authority.

The Department of the Army on behalf of the Department of Defense will support applications of other senior professional schools to grant graduate level degrees provided the application meets the following criteria:

1. The degree to be awarded shall not be attainable from within the civilian academic community.

2. The American Council on Education interposes no objection to the degree granting authority.

3. The program shall meet the requirements of the appropriate academic accreditation association.

4. The program shall be reviewed by the Commissioner of Education in accordance with Federal policy governing the granting of academic degrees by Federal agencies and institutions.

5. Minimum standards for entry into and successful completion of the program are clearly delineated.

6. Provision has been made for adequate continuity of faculty. At least 15% of the faculty shall have been teaching at the institution for three years or more.

7. Provision has been made for an adequate system of evaluating the student's work.

8. Adequate library services have been provided.

The United States Army Command and General Staff College, Fort Leavenworth, Kansas, is the senior tactical school of the Army educational system. The stated purpose of the College is:

"To prepare selected officers for duty as commanders and as principal staff officers with the Army in the field from division through Army group and at field Army support command and theater Army support command; to provide these officers with an understanding of the functions of the Army General Staff and of major Army, joint and combined commands; and to develop their intellectual depth and analytical ability."

Commencing in 1963 the College has conducted a graduate program accredited by the North Central Association of Colleges and Secondary Schools. This program, participated in voluntarily and after rigorous screening, has been appraised as highly successful by competent authority, both military and civilian. By accrediting the program, the North Central Association recognized military art and science as a distinct academic discipline, and certified the College as an educational institution meeting customary standards for awarding a master's degree. The Association withdrew its accreditation of the College's graduate program on June 30, 1966, solely for the reason that the College did not have degree granting authority.

Enactment of S. 1105 will recognize the rigorous academic endeavor of those graduates who fulfill the specific requirements for the degree, encourage the further development of the discipline—military art and science, and provide a stimulating incentive to the entire officer corps. There are no facilities of existing institutions that could be used for the purpose for which the bill proposes for the reason that there are no civilian colleges or universities either desiring or having a capability within this discipline.

Similar authority for the Superintendents of the Military Academies to confer bachelor of science degrees is contained in sections 4353, 6967, and 9353 of title 10, United States Code. In addition, section 7047 of title 10, United States Code, authorizes the Superintendent of the Naval Postgraduate School to confer a bachelor's, master's, or doctor's degree in engineering or a related field, and section 9314 of title 10, United States Code, authorizes the Commander of the Air University to confer appropriate degrees upon graduates of the Resident College of the United States Air Force Institute of Technology.

In view of the foregoing, the Department of the Army on behalf of the Department of Defense recommends that S. 1105, 92d Congress, be enacted. However, since we now have the names of the graduates of 1971 who have completed the requirements for the degree of master of military art and science, the Department of the Army on behalf of the Department of Defense recommends that these names be added to the Section 2, S. 1105. Proposed amendment is attached as inclosure 1. S. 1105, if enacted, will cause no apparent increase in the budgetary requirements of the Department of Defense.

This report has been coordinated in the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

ROBERT F. FROEHLKE,
Secretary of the Army.

AMENDMENT

To amend Section 2; S. 1105, to include officers who were members of the class of 1971, United States Army Command and General Staff College who have been certified as having completed all requirements for the award of the master of military art and science degree

Section 2 of S. 1105 is amended by adding at the end thereof the following—

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Arbogast, William R., Backus, Richard J., Conrad, Hawkins M., Cothran, James M., Daley, John M., Dilworth, Robert L., Gamino, John M., Griffiths, William R., Hines, Charles A., Hocker, John R., Ingman, John F.

Jones, Julius E., Malmberg, James E., Mauk, Gerald F., Mills, Frank L., Ramsden, James H., Siegal, David L., Snowden, Edgar, IV, Starsman, Raymond E., Thiede, Alfred J., Wilhelm, Edmund A., Wilson, Bruce E.

Mr. DOLE. Mr. President, I believe a masters degree would be a most appropriate form of recognition for the graduates of the U.S. Army Combined Arms Center/U.S.A. Command and General Staff College. I am pleased to join with the Senator from Iowa (Mr. HUGHES) in offering this amendment and urge its adoption.

Mr. President, as the Senator from Arizona stated, this matter has been around for some time. I hope the amendment is accepted. I think the Senator from Iowa correctly outlined the objectives and the fact that there would be no additional cost. This is a degree that could not be acquired in any other place.

Mr. President, I strongly urge the adoption of the amendment.

Mr. HUGHES. Mr. President, I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I am pleased to support this amendment. I was a student at the college for a short course several years ago. I am familiar with the courses there. In my opinion they thoroughly warrant a master's degree. I think the Senator is rendering a fine service in offering this amendment. I am pleased to join him as a cosponsor. I hope the amendment will be accepted.

Mr. HUGHES. Mr. President, in order to prevent any doubt with respect to the college being accredited, this amendment provides future degrees may be continued only if the program is accredited. We expect accreditation to come immediately.

I ask that the distinguished chairman of the committee accept the amendment, or we could have a voice vote on the amendment.

Mr. CANNON. Mr. President, I see no

particular objection to this amendment. I think the question might arise as to whether or not there will be requests from all the other military schools for this type authority granting master's degress. If so we might find we have most of our military people assigned to that type duty, participating in an educational program rather than the basic program for which they have signed on.

Does the Senator have any idea as to whether or not we will be receiving additional requests if this is approved from the other schools and the various services?

Mr. HUGHES. I have had no indication from any of them that they will make a similar request. The Army finds itself in a unique position in that both the Navy and the Air Force are able to award advanced degrees. The Army lacks that authority and as far as I know it is the only branch that does. For that reason I doubt that the other services would consider this, although I cannot give any guarantee that it will not happen.

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

Mr. HUGHES. I yield.

Mr. GOLDWATER. Mr. President, I wish to say to the acting chairman of the committee that when the Senator from Kansas and I introduced this amendment some years ago, I discussed it with the other services and there was no inclination on their part at all to ask for the awarding of master's degrees. I have always understood that the other colleges do provide the necessary requirements for a master's degree but they have never made the request. Only the Army War College, which might be called the grand-daddy of all these war schools, and which has a more intensified, longer course, has even thought about it. I would resist any of the others being granted this authority until after we have had adequate hearings.

Mr. CANNON. Mr. President, I wish to ask the Senator this question. Is it the purpose of this amendment that it would not be the intent to expand the number of people in the school, the number of officers in the program?

Mr. HUGHES. No; the purpose of the amendment is it would not expand the number of students in the program. They are there already and, as a matter of fact, already doing the work.

At a previous time it was an accredited school but it was withdrawn in 1966 because the authority to award the degrees did not exist. There have been only an average of 17 students a year in the last 11 years to meet these standards and it is contemplated that future classes would not appreciably increase.

Mr. CANNON. It is the intent that granting this authority would not impact other jobs? In other words, is it the intent that those assignments would take priority over other assignments?

Mr. HUGHES. It is not intended to impact anything or have any effect on the assignment capacity.

Mr. CANNON. The assignment to combat Army jobs and other jobs would still have priority over the program?

Mr. HUGHES. As far as I am concerned.

Mr. CANNON. With that representation I am willing to acept the amendment and take it to conference.

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

Mr. HUGHES. I yield.

Mr. THURMOND. Mr. President, I just wanted to state we are not talking about the Army War College, but rather the Command and General Staff College at Fort Leavenworth, Kans. This is a special course which many want. It was shortened but now it is a longer course, and the work there is equivalent if not superior to other schools for a master's degree. I understand they have been giving this degree. The accrediting agency found out they did not have the authority to do it by law. Now they are asking authority so they can resume giving the degree again.

Mr. GOLDWATER. Mr. President, if the Senator will yield. I referred to it as the Army War College, Of course, it is the Command and General Staff College at Fort Leavenworth.

Mr. CANNON. I am prepared to accept the amendment. I yield back the remainder of my time.

Mr. HUGHES. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I call up an amendment on behalf of myself and Senators ABOUREZK, BROOKE, CRANSTON, PELL, HUGHES, MCGEE, METZENBAUM, and PROXMIRE and I ask that the amendment be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 14, between lines 4 and 5, insert a new section as follows:

SEC. 602. In carrying out any scholarship or similar program under which financial assistance is provided to persons pursuing an educational program, other than persons enrolled in a Reserve Officer Training Corps program, the Department of Defense shall not prohibit or otherwise deny such assistance to any person solely on the grounds that such person is enrolled in, or expects to enroll in, a college or university that has terminated the Reserve Officer Training Corps program previously offered at such college or university.

Mr. JAVITS. Mr. President, the amendment provides that financial assistance to persons pursuing an educational program under authority of the Department of Defense, which means military officers, and so forth, and does not include GI's or anything like that, shall not be denied such assistance solely on the ground that such person is enrolled in or expected to enroll in a college or university that terminated the Reserve Officer Training Corps program previously offered at such college or university.

There was no such authority in law to authorize the Defense Department to proceed in this way, but the Defense Department is doing it nonetheless on the ground that back in 1971, in connection with a report of the House Committee on Armed Services, the House Committee said in its report that is what it ought to do so it is doing it. This involves cutting off the attendance at a considerable number of prestigious universities, 14 in number—Brown, Colgate, Columbia, Dartmouth, Harvard, Hobart, Pratt Institute, Stanford, the State University of New York at Buffalo, Tufts, and Yale.

The matter was originally called to my attention, Mr. President, by New York University, which is my alma mater and hence I took it up. Since that time New York University and Boston College—two of those I did not mention—have installed ROTC programs.

I might say that I favor such programs very much, and have always favored them and will always vote that way; but without any provision in law, just to prevent officers from taking courses which may be very desirable courses and may not be available at other places, at such distinguished universities as those I have read, because of our beloved friend in the House and the committee report—and I do not extrapolate this, because it is very well known that it represents the view of the distinguished chairman of that committee—is something which I think the Senate has to really try out and decide upon.

The Defense Department was obviously embarrassed by this, itself, and it issued a memorandum on April 17, in which it stated:

The following statement supersedes the policy set forth in the reference memorandum.

That is the policy I just referred to.

According to this new statement, on April 17, 1974, the Department made the following policy:

Department of Defense policy concerning attendance at schools which unilaterally withdraw from ROTC will be to reduce our educational commitments to them by refraining from their use except in justifiable instances and upon the concurrence of the Deputy Assistant Secretary of Defense on a case by case basis. We will continue to send personnel to these schools on a full-funded basis only if the institution offers a course which is in the best interest of national security, the military service, and the individual.

Mr. President, one would think it is really trying to see the matter on a case-by-case basis.

Mr. President, I ask unanimous consent that that memorandum be made a part of the RECORD.

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

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., April 17, 1974.

Memorandum for Assistant Secretaries of the Military Departments (Manpower and Reserve Affairs).

Subject: Educational policy pertaining to schools which have withdrawn from ROTC.

REFERENCES

(a) OASD(M&RA) Memo dated June 5, 1973, Subj.: Educational Policy Pertaining to Schools Which Withdrew from ROTC

(b) OASD(M&RA) Memo dated August 7, 1973, Subj.: Educational Policy Pertaining to Schools Which Have Withdrawn from ROTC.

The following statement supersedes the policy set forth in the referenced memoranda:

"Department of Defense policy concerning attendance at schools which unilaterally withdraw from ROTC will be to reduce our educational commitments to them by refraining from their use except in justifiable instances and upon the concurrence of the Deputy Assistant Secretary of Defense (Education) on a case-by-case basis. We will continue to send personnel to these schools on a fully-funded basis only if the institution offers a course which is in the best interest of national security, the Military Service, and the individual. Should one of these schools reapply for an ROTC unit, the policy will no longer be applicable to that institution. Additionally, the policy does not apply to health and medical professional education."

A list of the schools which have unilaterally withdrawn from ROTC and have not reapplied for a unit are shown in the attachment.

WILLIAM K. BREHM.

Mr. JAVITS. Along came a letter to me dated May 22, 1974, about this matter that I raised for NYU, my own alma mater, which took the old view—that is, the view before this memorandum—and the letter stated that they simply were not going to do it. Howard H. Callaway, Secretary of the Army said:

Our policy thus prohibits the payment of tuition or provision of tuition assistance for matriculation of students at these schools, except in programs to procure officers in the health professions.

That was exactly what they had been doing before this program came down. So although the Department ostensibly changed its policy, at least to be selective, where one could not get those courses in other institutions, or something like that, the letter of May 22 was simply a regression right back to the old policy.

I ask unanimous consent that that letter may be made a part of the RECORD.

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

SECRETARY OF THE ARMY,
Washington, D.C., May 22, 1974.

Hon. JACOB K. JAVITS,
U.S. Senate.

DEAR SENATOR JAVITS: This is in further reply to your inquiry on behalf of Mr. James Hester, President of New York University, concerning Department of the Army policy on attendance of Army students at colleges and universities which have withdrawn unilaterally from the ROTC Program.

I regret that some would take the view that our policy is an act of retribution toward the schools involved. We have no such motive. Rather, the Department of Defense and the Department of the Army are complying with the position of the House Armed Services Committee which was expressed in its July 1971 hearings on HR 4729, a bill to provide additional ROTC scholarships, the May 1973 hearings on the FY 74 Military Manpower Training Report, and in numerous letters from the Chairman. Our policy thus prohibits the payment of tuition or provision of tuition assistance for matriculation of students at these schools, except in programs to procure officers in the health professions. As Mr. Hester points out, *the law is permissive in this respect* and, although the issue continues to receive considerable attention, I cannot, at this time, report any encouraging developments.

I understand your concern and appreciate the opportunity to elaborate upon our position.

Sincerely,

HOWARD H. CALLAWAY.

Mr. JAVITS. Mr. President, the number of people involved here is only about 200 students, but the principle is a very profound one, and that is: Do we operate by law, or do we operate because the Defense Department does not wish to run counter to the view of an estimable, distinguished—I used the word beloved; I think that is true—colleague, and I think, as this took place in the other body, it is only fitting that we give our opinion about it, especially as such distinguished institutions are involved, and especially as there are accusations, and they have been used many times, that the Defense Department uses its muscle, the enormous amounts of funds for research, education, and many other things, for the purpose of directly affecting policy.

An institution of this character has a right to have or not to have an ROTC program. I like them, and I want an ROTC program, but that does not mean the law requires them to have it. It does not. Nevertheless, they are being denied what they consider to be an important participation in the education of U.S. military officers, because they do not have an ROTC program.

With all modesty and humility, I think the Senate ought to decide whether it wants to go this way. At least, it should have the dignity of its being done by a considered judgment here. I think such a decision would be unwise and unworthy of us; nevertheless, that is our privilege.

For all those reasons, and without any feeling that anything is being done except that which is open and laid on the table, and that, therefore, the Senate should act on it, I have proposed this amendment.

Indeed, I had hoped—I do not know whether that hope is justified or not—that the managers of the bill might take the amendment to conference, at least to give an opportunity for discussion between the Senate and the House of this question in the conference. I think it is the least a matter like this is entitled to, as it is not at all in the American tradition to approach the matter in this way. I have not any idea as to what the managers will do, but I express that hope.

Mr. GOLDWATER. Mr. President, I do not think this is a question of whether a college wanted ROTC or had ROTC. To me it was a question of their attitude toward ROTC during a very trying time in the life of this country and the life of our armed services; namely, the Vietnam war.

My belief is, like that of the Senator from New York, that ROTC is one of the best programs we have. I got my commission in the Army as a result of ROTC training. In fact, during World War II, about 95 percent of our officers came from ROTC. But if the Senate will recall, back in the days of the Vietnam war, many of these colleges, although they were not trying ROTC, were abusive toward ROTC. Many of them forbade the uniform's being worn on the campus. Many of the campuses put up with violence when people came on the campuses to enlist—to enlist not only for the armed services, but to enlist for companies that were engaged in the manufacture of certain weapons.

I do not think this is a reprisal at all. I do not think you can have it both ways. If you do not want ROTC, if you are not going to defend ROTC, I see no reason why the U.S. Government should support any of those colleges that got rid of ROTC in any way at all, although I recognize that they are among the finest colleges in the United States. I suggest that we have many other colleges that offer the same types of courses and are perhaps of just as good quality, but I do not see any reason why our money should go to colleges that allowed abuses to occur, that talked down the idea of ROTC.

I might say to the Senate this was at a time when 140 different colleges wanted ROTC, in the Army alone, and about 120 wanted the Air Force ROTC, but the Pentagon was very reluctant to take on more at that time, as they are now, because our demands are being met.

So I hope the chairman of the committee will not take this amendment. I can assure the Senator from New York, as he well recognizes, the vehemence on this subject does not exist in this body. It comes from a rather important person in the other body, who has been adamant on this subject in any discussions I have had with him or listened to during the course of conferences.

I hate to find myself in disagreement on a fundamental issue of principle with the Senator from New York, but I have to disagree in this case.

Mr. JAVITS. Mr. President, I respect Senator GOLDWATER's disagreement, but I do think the issue is one of academic freedom. I do not think it is an issue of freedom of that character for the individual university. It is tied to a matter which is not a matter of law. Therefore, it is quite appropriate, whatever may be the result, to at least have the Senate vote it up or down and at least let the Congress give its view of what the policy shall be, in a considered way. That is my purpose.

That is my purpose. Whatever we decide we will decide. But when one weighs separate issues of the strong feeling which the Senator has, and which others have, that the colleges ought to have ROTC—and, as I say, I favor ROTC in the colleges and universities myself, and always have taken that position, and I do now—I believe that one must balance that with the issue of the freedom of the individual university or college to determine its own policy in what it considers to be the highest interests of the academic community which it represents.

It is that proposition which I am seeking to preserve and for which I contend; I do not believe that it is desirable to decide that issue except upon the considered judgment of Congress itself and, hence, the amendment and the vote which we will take tomorrow.

Mr. CANNON. Mr. President, I want to associate myself with the remarks of the distinguished Senator from Arizona (Mr. GOLDWATER) in his response to the Senator from New York (Mr. JAVITS).

I do not think this is a question of academic freedom at all. The colleges certainly have the widest latitude and academic freedom. It is a question of

whether or not the Federal Government is going to spend money to send military people or other people to schools at these universities and pay the bills for them. If they are not going to do it, it does not impinge on academic freedom. It merely says that those people will go to colleges that do have, do support, an ROTC program. Uncle Sam is picking up the tab. That is really what it amounts to. Colleges that do not think enough of having ROTC should not be heard to complain that they cannot be the beneficiaries of the military programs that send students on to higher degrees or to other types of educational programs for which Uncle Sam is footing the bill.

I think that is the basic issue. Again I say I disagree with my distinguished colleague from New York, and I associate myself with the remarks of the Senator from Arizona.

I am a firm believer myself in the ROTC program. I think that the Government-supported people who are involved in the military program through the Department of Defense should train their work in the direction they are being supported on a reasonable basis.

Mr. JAVITS. Mr. President, may I say that I do believe in the initial academic freedom, because anything that represents a coercive effort to direct the policy of an institution, which is not related to the particular subject which is before that institution, to wit, the teaching of given subjects, represents an effort to compromise academic freedom through the coercive medium. It can be done through research grants; it can be done through dormitory loans; it can be done with an enormous range of supports. This is a very tiny cloud on the horizon, but it can be done in many, many ways.

It can be done very effectively and, therefore, when we see evidence of it which is as clear as this, it seems to me that at the very least the issue should be argued, presented, and voted on, and that is what I have proposed.

It certainly should not be done—it is too serious to be done—in a nonlegal way; that is, merely by kind of common acceptance, a respective legislator feels strongly on the subject, I believe, this way we will have the issue before the Senate, and the Senate will decide precisely what it wishes to do about it.

I think it is bad policy not to open the door to utilizing the opportunity which an individual in the military forces may have to study at a given place which he chooses. Remember there is no coercion that makes him go to any of these universities. But if he does choose to go to one which does not have the ROTC program, because it gave it up in the 1969 imbroglio, that does not mean that he is to be boycotted from the opportunity for an education in the higher levels which the Defense Department affords to selected officers.

I think the principle is one of academic freedom. It can be extended making for a very, very much more serious encroachment, and we could easily, if we allow this to stand unchallenged, find ourselves debating and fighting on the same issue where informally there are boycotts for very much greater sources of support and income for particular colleges and universities as a sanction for not falling in line. For all of those reasons, Mr. President, I hope the amendment will be agreed to.

Mr. THURMOND. Mr. President, will the distinguished Senator yield?

Mr. JAVITS. Of course; I yield.

Mr. THURMOND. I am just wondering whether the distinguished Senator would give us the names of the institutions that are involved here.

Mr. JAVITS. I have listed them, but I will give them to the Senator again. I shall read them.

Mr. THURMOND. Are they published?

Mr. JAVITS. They will be in the RECORD.

Mr. THURMOND. Does the Senator give them in his address?

Mr. JAVITS. Yes, I gave them in my original presentation. I shall be glad to read them again.

Mr. THURMOND. How many are there?

Mr. JAVITS. There are some 14.

Mr. THURMOND. It is all right; the Senator need not read them again, if they will be published in the RECORD.

Mr. JAVITS. Well, they will be. I just read them into the RECORD. I will give them to the Senator.

Mr. THURMOND. Mr. President, I have listened very attentively.

Mr. JAVITS. I think they took it. I am sorry, but I think the clerk took it away with him when I read it and offered it for the RECORD.

Mr. THURMOND. Just so it will be published in the Senator's address.

Mr. JAVITS. Here it is. Boston College—no, strike out Boston.

Mr. THURMOND. The Senator need not read them all. I wondered about how many there were.

Mr. JAVITS. Let me see; I will count them.

Mr. THURMOND. I would like them to be published in the RECORD, if the Senator will do that.

Mr. JAVITS. Eleven. There was a list of 13. Two were eliminated, I am very pleased to say, including my own alma mater, NYU, which restored the ROTC program.

I might as well read them: Brown, Colgate, Columbia, Dartmouth, Harvard, Hobart, Pratt Institute—that is in New York—Stanford University, State University of New York at Buffalo, Tufts, and Yale.

Mr. THURMOND. I wish to thank the distinguished Senator.

Mr. JAVITS. I thank my colleague.

Mr. THURMOND. Mr. President, I have listened to the distinguished Senator and the strong plea he makes in this matter.

However, I cannot agree with his position. I wish to associate myself with the remarks of the distinguished Senator from Arizona (Mr. GOLDWATER) and the distinguished Senator from Nevada (Mr. CANNON).

I think the action that has been taken here is the correct action. If these schools voluntarily chose to terminate the ROTC program, it seems to me there is no obligation on the part of our Government to send students there to be trained in what our Government may consider partially to be an environment that might not be available for a military student.

Mr. JAVITS. Mr. President, just one observation. There is nothing to compel—I am not trying to compel—the United States to send anybody anywhere. What we are trying to do is to prevent discrimination against given institutions, because they will not comply with some other policy, to wit, ROTC, to institute this sanction on them which has no basis in law and simply discriminates against them. That is why I label it under the heading of academic freedom.

Mr. President, just to correct the list, Boston College remains on the proscribed list. Boston University went off, and that is not one of the institutions in question.

The PRESIDING OFFICER (Mr. NUNN). The yeas and nays have been ordered on this amendment. Subject to the previous order, the vote will be deferred until tomorrow.

The bill is open to further amendment.

Mr. METZENBAUM. Mr. President, I call up an unnumbered amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. METZENBAUM's amendment is as follows:

On page 17, between lines 20 and 21, insert a new section as follows:

SEC. —. (a)(1) Section 2304 of title 10, United States Code, is amended by redesignating subsection (f) as subsection (g) and adding after subsection (e) a new subsection (f) as follows:

"(f) In addition to the reports required under subsection (e), the head of an agency shall submit to the Congress for each fiscal year, within 90 days after the end of the fiscal year, a report describing each purchase or contract made under the authority of subsection (a) in which the value amounted to $1,000,000 or more. Such report shall include, with respect to each such purchase or contract, the specific authority under subsection (a) relied upon by the head of an agency for not using formal advertising and a detailed explanation and justification why formal advertising was not used. Such report shall also include—

"(1) the name of each contractor;

"(2) the amount of each contract;

"(3) a description of the property and services covered by each contract unless the head of an agency determines that such description would jeopardize the national security and reports such determination in writing to the Armed Services Committees of the Congress; and

"(4) the name of the Government contracting officer in the case of each contract."

(2) The first report under section 2304(f) of title 10, United States Code, as added by paragraph (1) of this subsection, shall be submitted to the Congress within 90 days after the date of enactment of this Act for the fiscal year ending June 30, 1974.

(b)(1) The Comptroller General of the United States shall conduct a comprehensive study and investigation of the system under which property and services are procured by the Department of Defense with a view to determining how competitive bidding through formal advertising can be substantially increased. In carrying out such study and investigation the Comptroller General shall—

(A) determine whether the actual pro-

curement practices of the Department of Defense are in conformity with applicable laws and regulations;

(B) compile a statistical summary and analysis of the legal justification for recent procurement procedures of the Department of Defense in which formal advertising is not used;

(C) conduct a review of cases in which procurement of property and services through formal advertising has replaced procurement methods in which formal advertising was not used, with resultant cost reductions, in order to determine whether procurement decisions made in such cases have wider applicability;

(D) include an analysis of the criteria utilized by the Department of Defense in awarding contracts;

(E) include a discussion of any apparent abuses by the Department of Defense of existing procurement laws and regulations;

(F) recommend changes in applicable laws and regulations and in procedures followed by the Department of Defense, which in his judgment would tend to increase the total portion of contracts awarded through formal advertising; and

(G) consider such other matters as he determines appropriate to achieve the purpose of the study and investigation.

(2) The Comptroller General of the United States shall also consider and discuss in his study (A) the desirability and feasibility of establishing an independent commission or agency with power to review and disapprove any decision of the Department of Defense to exempt any procurement activity from the requirement of formal advertising, and (B) changes to improve the review and monitoring procedures of the Congress with regard to procurement activities of the Department of Defense.

(3) The Comptroller General of the United States shall submit a written report to the Congress on the results of such study and investigation within ninety days after the date of enactment of this section.

(4) As used in this subsection (A) the term "Department of Defense" includes the Departments of the Army, Navy, and Air Force, the Coast Guard, and the National Aeronautics and Space Administration; and (B) the term "formal advertising" has the same meaning as prescribed for such term in section 2302 of title 10, United States Code.

Mr. METZENBAUM. Mr. President, last Friday the Senate acted on two amendments which I had proposed to S. 3000. One, which was adopted, would have the effect of increasing competition in a clearly defined area of Defense procurement—that of medicine and medical supplies. A second amendment was designed to increase the availability of knowledge regarding military procurement procedures in the Pentagon, and to encourage the use of competitive bidding techniques, by requiring disclosure in cases where it is not used. This measure was defeated by a very narrow margin, 30–28, 42 Members not voting.

Today, I submitted an amendment directed at the same goal—increasing competitive military procurement.

I am pleased to report that the distinguished junior Senator from Florida, who opposed my amendment on Friday has indicated that he will not oppose this amendment, as presently drafted, today.

The Pentagon has lost sight of the stated objectives of Congress. In 1957, the percentage of formally advertised contracts was 17.4 percent—a scant figure in and of itself. Since then, however, the level has steadily declined. In 1964, the Pentagon formally advertised for 14.8 percent of the total dollar value of its contracts. By fiscal year 1973, this figure fell to about 10.8 percent. In the same year, 56.8 percent of the value of all defense contract awards were awarded by sole source procurement, the method which affords the greatest opportunities for misuse of public funds.

In short, at the same time that competitive bidding was proving its merit again and again, the Pentagon was using it less and less. This neglect by the Pentagon of competitive bidding, in the face of mounting evidence of its obvious benefits, is what I find particularly disturbing.

I hope to reverse the trend, and my amendment is a necessary first step toward this goal.

Indeed, it is a first step very much attuned to the recommendations of the Commission on Governmental Procurement, upon which sat both Senators from Florida. On Friday, the distinguished junior Senator from Florida, spoke with lucidity and great insight about the military procurement process. I believe that every Member of this body admires the breadth of knowledge that my honorable colleague has gained in this complex and undramatic field—both as a member of the Commission on Government Procurement and as chairman of the Subcommittee on Procurement. I applaud his efforts in steering S. 2510, a bill to establish a Central Office of Federal Procurement Policy, through this body without opposition. It is my hope that by the time the 93d Congress adjourns, the OFPP will be a viable institution, offering leadership to all Federal agencies.

At the same time, we must recognize that the report of the Commission on Government Procurement only touches briefly upon the question before us today: Competitive bidding in the military procurement process. Certainly, the recommendations proposed by the report in this field are valid. They deserve immediate implementation.

But, beyond their recommendations, I think that documentation and an explanation as to why competitive bidding is not used on contracts of substantial value should be provided to Congress on an annual basis.

Let me reiterate the fact that these reporting requirements will not impose any hardship on the Pentagon. With the million dollar cutoff the number of contracts involved is less than 1 percent of the total contracts let by the Defense Department. Nevertheless, it would provide information on more than 75 percent of the dollar value involved in all Pentagon contracts, according to a spokesman for the DOD.

Thus, Congress would be made aware, on an annual basis, of each major instance in which competitive bidding techniques were not used by the Pentagon. It is this sort of information, at present unconsolidated and often unavailable, that will be highly useful both to Congress and to the OFPP.

Armed with such information, which would first become available for fiscal 1974, Congress would be better able to assess the validity of the 17 exemptions to competitive bidding requirements now contained in the Armed Forces Procurement Act.

I believe the logic for this amendment is sound. I ask that Senators support it.

Mr. CANNON. Mr. President, this amendment, while I do not think it is a particularly good one, has been modified now to a point that would make it much more acceptable, so far as I am concerned. The limitation of $2,500 per contract in the amendment originally proposed was completely unrealistic. I think making it a contract of a million dollars or more, as this amendment does, is much more reasonable.

The added fact that it requires reporting on the basis of a period of 1 year, rather than quarterly, I think is also good. I do not know whether it will achieve the objective that the Senator desires for it, but in the light of the amended form that it is now couched in, I would have no objection to accepting the amendment and taking it to conference. If the Senator will withdraw his request for the yeas and nays, we could vote on it right now, so far as I am concerned.

Mr. METZENBAUM. Under the circumstances, I ask unanimous consent to withdraw the request for the yeas and nays.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, reserving the right to object—and I do not object—at this time I would like to propound a question to the distinguished Senator from Ohio.

The changes that have been made in the amendment, as stated by the distinguished Senator from Nevada, have certainly taken from it the fangs to which so many objected. I would like to ask this question about the GAO study mandated by the amendment, which would be an investigation of current procurement practices and bidding, and the criteria utilized in awarding contracts:

Can the distinguished Senator tell us the nature of the investigation, about how long it would take, and how much it would cost? There have been a number of investigations on procurement since I have come to the Senate; there has been one study after another on this subject, and I just wonder what the Senator has in mind, particularly, in this instance.

Mr. METZENBAUM. I am pleased to respond to the distinguished Senator from South Carolina. The amendment provides that the study would be made within a 90-day period after the day of settlement, and, although I do not have any specific figures, I can tell from other GAO reports that the cost would probably be quite modest in nature.

Mr. THURMOND. Did the Senator say the investigation would be made within 90 days?

Mr. METZENBAUM. Yes, I did.

Mr. THURMOND. How long would it take to make the investigation? It would be completed within 90 days after the bill was signed?

Mr. METZENBAUM. That is correct; to report back to Congress at the conclusion of the 90-day period.

The PRESIDING OFFICER. Is there objection to the request to withdraw the order for the yeas and nays? Without objection, the order for the yeas and nays is withdrawn.

Mr. THURMOND. Mr. President, in view of the changes that have been made in the amendment, as the Senator has pointed out in his special letter to his colleagues, and the statements he has made at this time, I do not object to accepting the amendment and talking it to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio (Mr. METZENBAUM.

The amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. KENNEDY. Mr. President, it has long been clear that the most important goal of American foreign policy is to prevent a nuclear war with the Soviet Union—a war which would mean the destruction of our two nations and a significant part of the rest of the world.

In securing that goal, we have long recognized the importance of imposing real limits on the nuclear arms race. For a decade now, we have made slow but steady progresss in this direction—notably with the Partial Test-Ban Treaty, the Non-Proliferation Treaty, the agreements of May 1972, and the SALT talks themselves.

In less than 3 weeks' time, President Nixon will go to Moscow, partly to try advancing work on arms control, by however little, in an effort to end the arms race once and for all.

Today, we are considering an issue that could have a profound effect on the possible success or failure of President Nixon's mission. This is the issue raised by the distinguished Senator from New Hampshire (Mr. MCINTYRE): Should the United States proceed with development of three weapons systems that will increase the accuracy and yield of our land-based missiles, giving them the ability to destroy Soviet missiles in their silos?

The negotiating in Moscow must be done by President Nixon and his representatives. But it is the responsibility of Congress to provide guidance for him, in order to shape the best American positions possible, and to demonstrate congressional support for the President's actions. This is a constitutional—and time-honored—duty for the Congress, and we must discharge it soberly and effectively.

Mr. President, Senators have discussed the strategic merits and demerits of proceeding with development of these three weapons systems. I believe that this debate argues conclusively for postponing any further efforts on these weapons systems at least until we have clearer evidence of the possibilities for an effective agreement to limit multiple, independently targetable reentry vehicles (MIRV's).

But there are two further arguments for following this course. First, there is the doctrine of so-called "bargaining chips" for use in the SALT negotiations, and at the summit. I have serious doubts about this doctrine. There is little evidence that it has been effective in helping us to secure those agreements on arms control already reached with the Soviet Union. And it is now abundantly clear that "bargaining chips" are not "traded away." Rather they provide a new, higher level of nuclear armory, that drives the arms race up in the process of trying to limit it. Bargaining chips on each side merely stimulate new advances on the other.

This is, of course, a debatable conclusion. Yet even if it is wrong—even if "bargaining chips" are essential to reaching a SALT agreement—we have these chips in abundance. There is our MIRV program; there is the Trident submarine; there is the B–1 bomber; and there is the new cruise missile. All of these are far more important programs, in terms of demonstrating U.S. commitment to build weapons if there is no arms agreement, than the three weapons systems we are considering today. If the major weapons systems will not fulfill the role of "bargaining chips"—and I repeat my doubts about this doctrine—then nothing will fulfill that role.

Furthermore, the three weapons systems considered here, today—to increase missile accuracy—cannot be "traded away" in any event. Unlike the building of new missiles or bombers or submarines, it is not possible to tell by independent national means whether the new weapons have been deployed or not. The Soviet Union will have to assume that they have been deployed. And it is certain to make some response that will drive the arms race up yet another notch.

Therefore, in terms of Soviet calculations about our nuclear forces, there is no middle ground of "partial" development, or development completed without deployment. And if the strategic arguments are such that we do not need these weapons—and might even reduce our security if they are developed—then it is imprudent to proceed with their development, certainly at this time, and perhaps at any time in the future, as well.

By developing these new weapons, we will only be "muddying the waters" of mutual deterrence, at a time when these waters need to be crystal clear if a further arms control agreement is to be reached. At the very least the Soviet Union will need time to calculate the effects of these new developments—and that is time robbed from the process of reaching the next arms control agreement.

To be sure, the Soviet Union is proceeding with development of new missile systems; and so are we. But if we wish to stop their efforts, it does little good to embark on an irreversible course of weapons development, with the added liability of increasing the threat—by however little—to Soviet deterrent capabilities.

We have only to realize the reaction here if the Soviet Union were building these same weapons, to understand why we must now refrain from doing so.

Mr. President, there is a further reason for supporting the amendment offered by the distinguished Senator from New Hampshire. It is now clear to us that we can survive any attack by the Soviet Union, and devastate it in return—many times over. The Soviet Union has a similar capability with regard to us. And there is no reasonable possibility in the near future for these two certainties to be called into question.

Yet the arms race goes on, even though it no longer makes any real strategic sense. To be sure, there is political sense to the arms race—to prevent either side from gaining such an apparent advantage in nuclear striking power that third parties would judge the superpowers' relative national power in terms of these disparities. This is a psychological problem, a problem of perception, rather than a true strategic problem.

For this reason, I have joined several of my colleagues in endorsing the concept of "substantial overall equality" as between the United States and the Soviet Union in nuclear striking power. The administration uses a roughly similar concept, called "essential equivalence." But for several years that situation has existed. As a result, there is no reason for continuing to pile arms upon arms.

Mr. President, if we go through the narrow calculus of each new weapons system, pretending—erroneously—that tiny shifts in the balance will have important strategic effects, then we will never get off the treadmill of the arms race. We will be "experted" to death, figuratively speaking. Rather, we need merely to account for the political balance in our nuclear arms, and then call a halt to the constant tinkering with marginal factors in the overall strategic balance.

For this reason, again, developing high-accuracy weapons will "muddy the waters" of discussion and agreement, by distracting attention from the fundamental facts of nuclear stability, and from the fundamental facts of substantial overall equality.

Mr. President, I have recently returned from the Soviet Union, where I discussed issues of the arms race and arms control with top Soviet officials, and with experts of the Institute of the U.S.A.

I come back convinced that this is a critical time in United States-Soviet relations, and particularly in trying to halt the arms race. Despite the historic agreements of 2 years ago, the nuclear clouds are still on the horizon. In fact there is a

danger that we will be lulled by a false sense of accomplishment into failing to take decisive steps in the search for further, more lasting, agreements.

In Moscow, I gained some insight into the thinking of Soviet leaders on these issues. They have indicated a willingness to move forward in the near future in this area—and particularly with regard to a comprehensive test ban treaty. This expressed commitment may not be deep—or even sincere. But if it is, it cannot be sustained if we fail to give it our support. Soviet suspicions of our motives will grow, paralleling the growth of suspicions here every time that the Soviet Union develops or deploys a new weapon.

This will be particularly so if we begin work on weapons that will threaten Soviet land-based missiles. The Russians are likely to interpret this action as part of a long-run U.S. policy threatening their deterrent posture. And to understand this point, we only have to think of the reaction here if the Russians were developing the same weapons that we are being asked to fund, here, today.

I believe that it is critical at this time to strengthen those forces in the Soviet Union that are prepared to work seriously for a halt to the arms race, as opposed to those forces that would just as soon see the arms race go on. And we should, of course, expect similar support for efforts in this country to limit the growth of nuclear arms.

We are still a long way from basing our relations with the Soviet Union on trust. That trust must be earned by Soviet leaders. But in the process, it would be a grave mistake for us to work against the development of Soviet trust in our intentions by developing weapons that can only raise the level of the arms race, and raise questions—however small—about the survivability of their land-based missile force.

We have found it possible to work with the Soviet Union in many areas in the past few years—step by careful step. Each accomplishment—in arms control, scientific cooperation, European security—has been based on an effort to reach agreements in our mutual interest, without seeking significant advantages. Agreements have emerged only where there has been a mutual forbearance and restraint. Such forbearance and restraint is needed in the Senate today, if we are to move forward in this crucial area.

It is time to go beyond the numbers game in nuclear strategy. It is time to break the hold of the weapons developers in both the United States and the Soviet Union. It is time for us here to encourage the forces of restraint in the Soviet Union, and expect similar support in return. And it is time for us to take decisive steps towards restraint that will help limit the spread of nuclear weapons to other countries.

Mr. President, I submit that the McIntyre amendment represents a fundamental commitment to sanity—and to helping break the dynamics of the strategic nuclear arms race once and for all. Adopting this amendment will give President Nixon support at Moscow in the truest sense—support for a genuine halt in the nuclear spiral, and for a real arms agreement.

Mr. MONDALE. Mr. President, we face today a profound and fateful decision for the security of the United States. On the surface, the issue is whether to develop programs to improve the accuracy and power of our strategic missile forces. But underneath, there are far deeper issues. Are we in control of our own strategic decisions? Are we in control of the most lethal technology known to man? And finally, are we to continue with the policy of deterrence which has safeguarded the peace through more than 25 years of the nuclear age?

The question of control over our own strategic decisions is a very important one. One of the major arguments advanced in favor of these first strike hard target programs is that the Soviets seem to be moving in this direction. The Secretary of Defense has said that the Soviets must not be allowed to have an option that we do not have.

I believe it does not make sense to ape the strategy and weapons systems of potential enemies.

What option is it that the Soviets will have with their new missiles? They could attack our ICBM forces with only a fraction of their own. The President has said that faced with such an attack he would be concerned that he might be deterred from retaliation because our cities would still be held hostage. Is this the kind of attack that we are to concern ourselves with?

I believe that scenario is nonsense. The Soviets could not carry out such an attack and inflict less than 10 million prompt U.S. fatalities. Would they really feel safe from retaliation?

But more important, is this an option that we want? To be able to attack all of the Soviet Union's ICBM's with a fraction of our own forces in the hopes that we can somehow deter them from retaliating? I shudder to think that such an option is seriously considered and believed to be a realistic one for the United States. If so, the madness that lies behind pursuing these programs is deeper than any of us may have believed.

Certainly there is no need for these programs if one aims for flexibility, for a capability to destroy only a handful of Soviet ICBM silos. This can be done with the forces we have today. No, the only purpose of these programs is to destroy efficiently with only a fraction of our own ICBM forces the full ICBM deployment of the Soviet Union.

This raises the second issue. Can we exert political control over lethal technology? Some argue one cannot control technology. That may be true. But we can control the application of technology. We can today decide whether we want a bigger warhead for Minuteman III. Whether we want more accuracy for the Minuteman forces. Whether we want a terminally guarded maneuvering reentry vehicle that can find its way down right on top of a Soviet ICBM silo.

First, let us take accuracy. The existing accuracy of the Minuteman III is such that the miss distance of Minuteman warheads is no greater than the distance from this Chamber to most of our offices. Now it is argued we must cut that distance in half. The reason advanced is that we want to reduce unintended collateral damage.

I am sure that all of us have seen the photographs of Hiroshima and Nagasaki. The weapons we are talking about are 8 to 10 times more powerful than those weapons. Are we really to believe that an improvement in accuracy of a few hundred feet is going to radically alter the amount of damage we would inflict using such weapons? If the Nagasaki bomb struck 400 feet north or south of where it did, would it really have made much difference to the people of that city?

In considering limited options, the Secretary of Defense has said he has in mind situations in which only a handful of weapons might be used. It is obviously clear that in such situations the key to unintended damage is the target selected and not the accuracy of the weapon involved.

Second, let us look at the reason to increase Minuteman yield. Doubling the power of Minuteman's warheads with the MK 12A to something approaching 20 times that of the Hiroshima bomb will not reduce unintended collateral damage and provide a more discrete attack capability. Rather the purpose is to develop the capability to attack Soviet ICBM silos efficiently and with only a fraction of our own ICBM force.

The facts are this: If the improvements in Minuteman accuracy and increases in the power of the Minuteman warhead are put into practice, only half of our Minuteman force will be able to destroy 80–90 percent of the present Soviet ICBM force. I ask you all in this chamber to contemplate how you would regard Soviet intentions, how you would measure the risk of nuclear war, how you would feel about proceeding with detente if the Soviet Union had that kind of capability against the Minuteman ICBM force.

This is where we come full circle. The Soviet Union does appear to be developing such forces. So the question is, what should be our response? I consider the Soviet developments dangerous, wrongheaded, and foolhardy. But I also consider that two wrongs do not make a right. We will be just as foolhardy and just as wrong-headed if we pursue the same kinds of programs.

At issue here is whether we want to sustain the policy of deterrence which has served us so well for more than a quarter of a century, or whether we want to go off on the dangerous tangent of thinking that we can develop what are often called true warfighting capabilities.

There are those who would like to be able to fight a nuclear war. And these programs are the result of the endless search for some kind of capability that is supposed to make sense in doing so. But if we can destroy all of the Soviet ICBMs that will not prevent us from suffering the most awful retaliation in return. And the same goes for the Soviet Union.

The best posture is one in which the retaliatory and deterrent forces of both

sides are secure from attack. It is the responsibility of the United States in the face of Soviet counterforce developments, to protect and improve the ability of our forces to survive a Soviet attack. It is nothing short of nonsensical to make Minuteman a more urgent target.

Putting a first strike capability into our ICBM's is like leading with our right. It invites the counterpunch. It places a premium on preemptive strikes. It forces both sides into a launch on warning posture, a hair-trigger in which during a crisis both sides are under enormous pressure to use their forces before they are lost to the other side.

DESTROY OUR MISSILES

The appropriate response then to the threat we face from the Soviet hard target counterforce is not hard target counterforce on our part. The proper response is to increase the survivability of our forces, through mobility, through putting more forces at sea, through land or air mobile ICBM's, and diversification of our forces such as land- and sea-based cruise missile forces. Through information all of these programs are underway and can assure that we can hit any target we want, any time we want, that we can retaliate massively, that we can retaliate selectively.

The only option we will have foregone is the option of inviting an attack upon ourselves. That is the option that the Secretary of Defense wishes us to have, and which we today must reject.

My amendment to the defense appropriations authorization bill is aimed prethe Secretary of Defense, in spending funds for research and development, must make a determination that this expenditure is for increasing the ability of our ICBM forces to withstand a Soviet attack or to otherwise improve the effectiveness of these forces, but that the funds are not for the purpose of increasing our already significant capability to attack Soviet ICBM silos.

I want to point out that this requirement is not a categoric one. We must not ignore the fact that certain survivability measures, which may be very important to us, might also marginally increase our counterforce capability. I do not believe we should exclude such developments. For this reason, my bill would not rule out research and development on new higher thrust propellants, even though in the far distant future this might lead to larger, more counterforce capable throw weight. The reason is that this same technology can be applied to smaller, lighter ballistic missiles which might be carried in a mobile mode.

We must recognize that a rule of reason is required, a sense of proportion is required. What is frightening is that this sense of proportion no longer seems to exist in the Pentagon. We must make the position of the Senate quite clear that we want our ICBM forces to survive, that we do not want our ICBM forces threatening the deterrent of the Soviet Union, for the net result will only be to undermine our own deterrent.

I have spoken at length on the strategic implications of these programs and I have not mentioned SALT. SALT is important and I hope it can bring these kinds of developments under control. But considerations of these programs must not fall into the category of a meaningless debate over how to negotiate in SALT. They are not bargaining chips. They are far too dangerous for that. One does not play poker with lighted dynamite.

The relationship between these programs and SALT is this: I hope SALT can control them. But if SALT cannot control them, if the Soviets proceed to develop and deploy such a capability on their side, we should not compound their foolishness by doing so ourselves. Even if SALT fails, we should not go forward with these first strike programs. They will only raise the premium on a Soviet first strike. We should go forward with survivability programs that will make a Soviet first strike impossible.

Finally, Mr. President, I would like to address myself to those colleagues for whom all of my arguments may have had little effect. For those who believe it is important to have a hard target counterforce capability, let me say this: The last place that one should place such a capability is in a potentially vulnerable system like Minuteman. If one wants an effective counterforce capability and still have some modicum of stability, the best place to pursue such an option is with our submarine based missile forces. They are relatively secure from a preemptive attack, and the throw weight of our submarine launched missiles is double that of the Minuteman and so the system itself inherently has a greater capability for the kind of hard target counterforce options some may wish to have.

So by any measure, Mr. President, these programs make no sense. They do not enhance stability. They do not make us more secure. They deny us only one option—the option of making ourselves a more tempting target for Soviet attack in a crisis. SALT should control these programs. But if not, then our own Government should control them.

These programs will not protect our deterrent. These programs will provoke deeper anxiety in any crisis. They will place a premium on striking first in a nuclear war. They run diametrically opposed to the idea of dampening down world tensions and avoiding nuclear war. They are, in short, the wrong programs being pursued at the wrong time for the wrong purposes.

Mr. TAFT. Mr. President, it is of vital importance that we keep fully in mind, as we debate this question, the rapid pace of Soviet developments in the strategic weapons area.

The Soviet Union is currently developing and deploying a vast array of new strategic weapons systems. By mid-1974, the Soviet inventory of operational ICBM launchers will be 1,575, up 25 since 1 year ago; their submarine missiles have increased from 550 to 660 in the same period. In contrast, our own forces have remained steady at 1,054 ICBM's and 656 SLBM's.

The current array of Soviet strategic weapons is sufficiently frightening. They have 288 huge SS–9 missiles, which carry a sufficiently large warhead to be usable in attacking hard targets such as our Minuteman. They are now deploying the new Delta class ballistic missile submarine, which carries a 4,200-mile-range missile—a range which our SLBM's will not have until Trident is deployed.

But on top of this existing force, the Soviets are engaged in a great number of new projects:

Four new Soviet ICBM's are currently completing flight testing. At least three of these carry MIRV'ed warheads—designed to nullify the overall strategic balance established by SALT I. Of even more critical importance, two of these missiles appear to have a cold launch capability, which permits the reusing of the silo for another missile in a very short time—just as one reloads a cannon. This is of great importance because it would mean we could no longer calculate Soviet strength on the basis of number of missile silos, for each silo could launch many missiles.

There is evidence to suggest strongly that the Soviets have no less than 12 new offensive ballistic missile systems in the research and development stage.

The new Soviet supersonic strategic bomber, the "Backfire", is now in production, and the first squadron should be operational this year. Air Force magazine reports that:

American and British design engineers are unanimous in their opinion that Backfire has intercontinental range and that the new aircraft's high-altitude range is greater than that of the Soviet Union's Bison bomber, traditionally classified as an intercontinental weapon.

Though the Soviets currently lack tanker aircraft for air-to-air refueling of bombers, there are indications that the new IL–76 transport is being developed as a tanker for the Backfire.

The new Soviet missile program represents a quantum jump in throw-weight. The SS–19, which appears to be the replacement for the SS–11—the standard Soviet ICBM, more than 1,000 of which are now deployed—has 2 to 3 times the throw-weight of the SS–11. Secretary Schlesinger has stated that,

With the deployment of these new missiles, the Soviets "can have something in the order of ten to twelve million pounds of ICBM throw-weight, as compared to our ICBM force of approximately two million pounds.

Air Force magazine further notes that:

The four new Soviet ICBM's incorporate what for the USSR constitutes a technological breakthrough, a post-boost vehicle similar to those of Minuteman III and the U.S. Navy's SLBM's, which serve to dispense multiple independently targeted RV's (MIRV's) . . . in addition, all four systems have digital computers aboard their post-boost vehicles. The "staggering and surprising breadth and depth" of the Soviet ICBM modernization program, according to Secretary Schlesinger, is further manifested by "new guidance concepts, two different types of post-boost vehicle propulsion, and two different types of launch techniques."

Hand in glove with the ICBM development programs is what the chairman of the Joint

Chiefs of Staff, Admiral Moorer, has described as "the parallel construction and modification of hardened silos, capable of surviving appreciably higher overpressure and ground shocks." Some U.S. analysts believe that some Soviet hardening levels exceed 3,000 PSI overpressures, or triple the hardness of the older Soviet missile silos.

I suggest to my colleagues that we dare not remain idle in the face of these developments. The Soviets rely on ever-greater throw-weight, hence megatonnage, in building their counterforce capability, instead of the increased accuracy which we prefer; but the effect is largely the same.

If we fail to respond to these Soviet initiatives, it will be a clear sign to Moscow that they can proceed with impunity to acquire worldwide strategic superiority. Mr. Victor Zorza, the well-known commentator on Soviet affairs, reports in the Post on June 4 that:

In a new contribution to the Kremlin debate on the summit meeting which is to be held at the end of this month, Soviet Defense Minister Andrei Grechko argues forcefully for a "qualitative leap" in Soviet arms development . . . Grechko's argument is evidently designed to convince the Kremlin that the Soviet arms program is so well advanced that it would be a pity to abandon it half-way . . . the "necessary prerequisites," he says, "are now being created for this new arms leap—scientific and technical, economic and military. The Soviet Union now has considerable experience in making new weapons. Measures are now being taken to perfect the defense production base.

We cannot permit Marshal Grechko to argue to the central committee that the United States will not respond to this arms program. We must make it clear that we will respond, that the choice is either arms control or an arms race—not a one-sided build-up of Soviet power. The development of increased accuracy for our missile warheads is a critical part of the message we must send to Moscow. I urge my colleagues to make the clarity of that message unmistakable, and vote against the amendment of the distinguished Senator from New Hampshire.

Mr. SCHWEIKER. Mr. President, I have joined in cosponsoring Senator JACKSON'S amendment No. 1405, which would give the Secretary of Defense an important new role in protecting our national interest in connection with technology transfers to certain "controlled countries," as defined in the amendment.

In last Friday's debate on this proposal, there was some suggestion that the President already has the type of review authority which this amendment would give the Secretary of Defense, and that therefore the amendment is unnecessary. Frankly, I did not find this suggestion very reassuring, because the President is also presently required by law to make individual national interest determinations for each Eximbank Communist country transaction, and yet the administration has resisted this requirement like the plague.

After the administration refused to obey the Comptroller General's ruling requiring such individual national interest determinations for Eximbank transactions, I offered an amendment, which was accepted by the Senate, restating existing law. When my amendment was considered in conference, the administration produced a document entitled, "Problems Created by the Schweiker Amendment to H.R. 14013," which presumably represented the administration's position on my amendment. This document contained the following statement:

If the Conference Committee accepts the Schweiker Amendment, it will be necessary for us to obtain over 280 individual findings of national interest from the President. This is clearly an undue and unnecessary burden on the President.

Mr. President, even though amendment No. 1405 will be considered at length tomorrow, I wanted to bring this to the attention of my colleagues today, as background for tomorrow's debate. On the one hand, we have the administration contending that review of 280 Eximbank transactions would be "an undue and unnecessary burden on the President;" on the other hand it is suggested that the President is already carefully reviewing every individual technology transfer proposal, so amendment No. 1405 is unnecessary. I understand there are over 200 proposed technology transfers in the computer area alone, and so I cannot help but wonder why this review burden is so much less onerous today than a similar requirement was 2 weeks ago when my Eximbank amendment was considered.

I suspect the answer is that many technology transfers are simply not getting very close scrutiny, anywhere in the Federal bureaucracy, and I believe amendment No. 1405 would remedy this situation.

Mr. ABOUREZK. Mr. President, ever since the birth of the atom bomb the military has been deeply troubled. For the first time—they had weapons which they could never use. And even if the weapons could be used, the military had more than it needed to destroy all Russian cities. Former Secretary of Defense, Robert McNamara stated that with 200 warheads we could wipe out every major Soviet city. And here the military has sat with over 6,000.

This was obviously an unnatural situation for military men reared on a notion that weapons are obtained to fight with as well as to deter wars. For years, the DOD think tanks have been casting around for rationale that would make nuclear war thinkable and in the process find a mission for surplus nuclear warheads.

It must have tried the patience and imaginations of scores of DOD thinkers to determine how many warheads can balance on top of a missile. In fact, with the advent of ABM, it is likely that they all rejoiced. McNamara said in 1965,

We really don't know *how* many warheads we would need to penetrate an effective Soviet defense.

There was now cause to keep manufacturing warheads, and even a new theory called counterforce.

THE DETERRENCE DECISION

It is significant to note the evolution of thinking—very briefly—before and after the atom bomb.

Until recently in our national history, Americans believed that when wars were thrust upon us, the United States could win them. Our history through 1945 confirmed this belief, since the United States had won every one of its wars, demanding and receiving either an unconditional surrender or a favorable negotiated peace. Thus until 1945 American military policy was built on the assumption that at least an adequate defense and most likely, victory, could be attained if this Nation had to go to war.

Since 1945, this assumption has been more doubtful. The impact of the atom bomb and its successors have gradually persuaded most military strategists that modern war could not be won and that in such a war even defense of American interests might well be impossible.

As this view has become popularized, policymakers asked themselves what goal there would be for American military power if victory and defense were outmoded. The answer they worked out was that our military power should be so disposed as to prevent wars from the beginning. In a word—deterrence.

Out of deterrence came two distinct schools of thought: Counterforce and massive retaliation, or mutual assured destruction—MAD—that has prevailed for 15 years. MAD was based on the premise that it was best to make nuclear war unthinkable. One side was deterred from attacking because it knew that its cities and economy would be destroyed in a retaliatory attack.

This was the theory most accepted by U.S. planners. DOD publicly stated so, many times. On October 5, 1971, the DOD position on this was made amply clear. Here is what the Defense Department said in their position paper on proposed amendments No. 448 and 449 to the military procurement bill that year:

The Defense Department cannot support the proposed amendments. It is the position of the United States to not develop a weapon system whose deployment could reasonably be construed by the Soviets as having a first-strike capability. Such a deployment might provide an incentive for the Soviets to strike first . . .

I stand squarely on that ground. It is not often that the Department of Defense comes out against an amendment that would put more money in a bill.

We do not need this type of improvements in payload and guidance now, the type of improvements that are proposed, in order to have the option of attacking military targets other than cities. Our accuracy is already sufficiently good to enable us to attack any kind of target we want, and to avoid collateral damage to cities. The only reason to undertake the type of program the amendment suggests is to be able to destroy enemy missiles in their silos before they are launched. This means a U.S. strike first, unless the adversary should be so stupid as to partially attack us, and leave many of his ICBM's in their silos for us to attack in a second strike.

In contrast, counterforce is conceived on the premise that one side or the other might be tempted to conduct a limited nuclear war, attacking not cities but military installations.

U.S.—Nixon—thinking to this concept has slowly evolved. Evidence that the

United States would be taking a turn to counterforce dates back to 1970 and President Nixon's State of the World message. He asked, "Should a President, in the event of a nuclear attack, be left with the single option of ordering mass destruction of enemy civilians, in the face of the certainty that it would be followed by mass slaughter of Americans?"

Now, in recent months, Secretary of Defense Schlesinger, in his budget reports to Congress and in his press conferences has explained and amplified the new, Nixon counterforce theory and its rationale. Meanwhile, in a computer age when warheads can be programed to hit several targets, the Air Force has targeted large numbers of its missiles to strike Soviet military installations.

"Strategic flexibility" is what Schlesinger calls it. The closest that he has come to a definition was when he explained it last year in congressional testimony when he described it as "having the plans, procedures, forces and command to enable the United States to select and carry out the response appropriate to the nature and level of provocation."

SCHLESINGER'S FALLACIOUS ARGUMENT

This statement implies—erroneously—that the previous American doctrine of assured destruction lacked the capacity for flexible options. The implication that new types and numbers of strategic weapons are required is similarly groundless. Wolfgang Panofsky, in a recent article in Foreign Affairs, pointed out that there is no inherent technical reason that prevents existing American retaliatory forces from being employed in a limited manner. Similarly, as Schlesinger himself recently confirmed, the United States does have strategic weapons which could be used in a "limited counterforce role."

What neither the United States nor the Soviet Union has today is an efficient counterforce capability against hard targets or hardened missile silos. For example, the United States could presently destroy some of the Soviet missile silos with a high degree of confidence, but only inefficiently—by means of targeting three or four missiles on each silo. With an efficient counterforce capability the number of missiles targeted at each silo might be reduced.

In sum, the doctrine of MAD characterized as inflexible by Nixon and Schlesinger is not inflexible at all.

The development of such a capability would not only be unwarranted but also dangerous. Moving to a counterforce doctrine would also represent a major policy shift since in the past Nixon and DOD officials have frequently assured Congress that the United States would neither develop a counterforce capability nor any weapons "which the Soviets could construe as having a first strike potential." While it is possible to argue that technically a hard-target counterforce capability does not constitute a disarming first strike potential since both sides will maintain relatively invulnerable sea-based missiles and bombers, the fact remains that both nations will perceive such a capability as an attempt to achieve such a potential and therefore highly provocative, regardless of what is technically correct. It is difficult to believe that those Americans who for years have been most concerned about the vulnerability of U.S. ICBM's to a Soviet attack will not be able to comprehend that even a limited U.S. counterforce potential can generate uncertainties in Soviet minds about our intentions.

Second, the acquisition of such counterforce capabilities would increase the likelihood of nuclear war and the potential for crisis instability. The likelihood of nuclear war will be increased since a counterforce doctrine and related capabilities will make nuclear weapons more usable in addition to making their attractiveness as a viable policy option superficially greater. Crisis stability will be decreased since with hard-target counterforce capabilities and vulnerable land-based forces each side will perceive the incentive of even a limited first-strike capability upon the enemy's missile force in a crisis situation.

Even though there would be an attractiveness to use it as a first strike, however, any benefits gained from such a strike would be short-sighted and illusory since each nation will still retain more than enough weapons to ultimately destroy the cities of the other. In addition, the development of the hard-target counterforce capability will only promote further strategic arms competition between the United States and the Soviet Union, while impeding if not stopping altogether any progress in arms control in SALT or elsewhere.

THE REAL QUESTION

The question, however, of whether to employ a strategy of counterforce or mutual assured destruction should not be the issue. Bilateral disarmament should be the issue.

As long as we continue nuclear deterrence, we shall be prolonging the fantastic paradox in which the fundamental instrument for preventing war means that war, if it comes, must be quicker and more dreadful than the imagination can conceive. So long as we continue nuclear deterrence, we shall be pretending that we have so completely mastered the subtle balances of military technology and infinite variations in human behavior that control these balances that we are willing to wager our own lives and the fate of millions on the absolute perfection of the system.

The elimination of all weapons and armed forces from national arsenals should be the ultimate objective of bilateral disarmament. It is the professed objective of both the Soviet Union and the United States—so why are we not making any headway? It is the imminent possibility of nuclear war that has made peace so urgent. A world without nuclear armaments is not Utopia. History provides ample evidence of the hells wrought by evil, ambitious men; the potentials for destruction that science has created will in any event remain in men's minds. But as long as the concept of deterrence monopolizes the strategies of the United States and Soviet Union, there can be no real nuclear disarmament by anyone.

While bilateral nuclear disarmament is not the whole answer, what it can do is change the human situation from one which man cannot handle to one he can. If an aggressive tyranny plans war, there will be weeks, months or years in which the prospective victims can take action, instead of mere minutes. The danger of uncontrollable escalation into thermonuclear war in hours will be gone. If mental breakdown or failures in equipment occur, the consequences will not include the immediate death of millions. The defects in the systems to be used to keep peace can be discovered and handled in a process of gradual evolution, instead of in the universal cataclism inherent in a breakdown of mutually assured destruction or counterforce.

No amount of effort or resources devoted to nuclear deterrence of any kind is any substitute for a hard and honest look at the real nature of the problem. It may give us a certain satisfaction to do things that are not directed to the point; we may cling to the false notion that in the end our only protection is our weapons, when today the one thing our weapons cannot do is protect us; we may find the products of our technological ingenuity fascinating and vastly impressive; our national economy may benefit from all the military spending; mass action, rather than attention to the individual, may be the norm of our society. But better paths are open to us, toward our goals of national security, freedom and world peace.

Mr. President, in recent months a great deal has been written and discussed on the issue of counterforce. Two of the most commendable articles have been written by Mr. Michael T. Klare in the April 13 issue of Nation and by Dr. Herbert Scoville, Jr. in the spring issue of Foreign Policy.

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

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

THE COUNTERFORCE STRATEGY: MAKING NUCLEAR WAR "THINKABLE"

(By Michael T. Klare)

With none of the fanfare that greeted John Foster Dulles' famous "Massive Retaliation" speech of January 1954, Secretary of Defense James R. Schlesinger on January 10, 1974 announced an equally momentous shift in U.S. defense policy. While Massive Retaliation assumes that U.S. security can be assured by maintaining an invulnerable "second-strike" capability that would level an aggressor's cities and factories in case of an attack on the United States, Schlesinger's new "Counterforce" doctrine holds that we must have a partial first-strike capability to destroy enemy missile silos and other retaliatory systems in the event of a future superpower confrontation. Noting that both sides now have more than enough weapons to "bash" each other's cities in a future conflict, Schlesinger argued that a President may balk at ordering such a "suicidal" course in the face of hypothetical Soviet provocations, and that it is necessary therefore to seek more "credible" options. "The range of circumstances in which an all-out strike against an opponent's cities can be contemplated has narrowed considerably," and thus the Pentagon has formulated "targeting options which are more selective and which do not necessarily involve major mass destruction on the other side."

Although some strategists have lauded the

new arms system as a "humane" alternative to Massive Retaliation, many experts believe that the Schlesinger doctrine increases rather than lowers the risk that future conflicts will result in thermonuclear devastation. By providing "intermediate" steps short of all-out attack on enemy cities, it is argued, the new strategy makes a first-strike nuclear attack more practical and attractive than ever before. Thus if both sides possess a counterforce capability, *only* the side which strikes first can be assured that its second-strike retaliatory forces will survive. Further, by stressing the increased *usability* of nuclear weapons in "non-cataclysmic" scenarios, the new doctrine expands (at least theoretically) the range of situations in which nuclear weapons could "rationally" be used.

The adoption of a Counterforce doctrine, according to Schlesinger, is a *fait accompli*—U.S. Minuteman ICBMs have already been "retargeted" to provide a "set of selective options against different sets of targets," including military targets. But the future safety of the U.S. nuclear force can be assured, he added, only if the United States deploys new strategic weapons to offset anticipated advances in Soviet missile development. These weapons programs are expensive: in the fiscal year 1975 Defense budget, the Pentagon has allocated $7.6 billion for procurement of strategic weapons and $8.4 billion for research and development (much of it devoted to strategic programs), a combined increase of $2.1 billion over 1974. This "surge" in defense spending will be used to develop a series of new strategic systems—including larger warheads, a mobile ICBM, a new ballistic missile submarine, aircraft-launched "cruise" missiles—that will *each* cost many billions of dollars if a decision is made to acquire them in quantity. Thus, the survival of the Counterforce doctrine now rests with Congress, which must decide on the validity of the overall concept as well as its many component systems. Before discussing these strategic options, it is necessary to review the evolution and structure of the U.S. nuclear capability.

Until 1974, U.S. strategy was based on the principle of "Assured Destruction"—i.e., the maintenance of a retaliatory capability secure enough to survive an enemy's first-strike attack and *then* cause unacceptable damage to his industries and urban centers. (During the first Nixon Administration, this principle was sometimes expressed as maintenance of sufficiency in strategic power.) With both sides in possession of such a capability, the nuclear arms race was stabilized in a condition of Mutual Assured Destruction (MAD)—the contemporary equivalent of Churchill's "balance of terror" concept—that has discouraged the initiation of nuclear war for more than two decades.

As its share of MAD, America's strategic nuclear capability currently consists of a "Triad" system of manned bombers, land-based missiles and submarine-launched missiles, each of which is intended to provide a reliable second-strike capability independently of the others. This "redundancy" of strategic weaponry is designed to provide a hedge against future Soviet technological advances that might neutralize the effectiveness of one or two U.S. retaliatory systems.

Although no scientist or informed layman would doubt that military technology will continue to develop, both here and in Russia, one premise that has not been questioned is that for at least the next ten to fifteen years America's missile submarine fleet will provide a retaliatory system able to survive a Soviet first-strike attack and still cause unacceptable damage to the Russian heartland. Former CIA official Herbert Scoville, Jr. asserted in 1972: "No evidence has yet been presented that the Russian ASW [anti-submarine warfare] program could present a threat to the Polaris deterrent in the next decade. . . . The U.S. has spent tens of billions of dollars on ASW efforts over the past twenty years and still does not have any system that could even begin to approach the kind of capability that would be needed to eliminate twenty to thirty missile submarines almost simultaneously." The Russians, moreover, "are far behind the United States in this area, and they have the serious geographical disadvantage of remoteness from and unavailability of land areas contiguous to the oceans in which their ASW systems would have to operate."

Although some Defense officials argue that the USSR *might*, given a crash research program of $10 billion to $20 billion lasting a decade or so, develop an advanced ASW system capable of posing some threat to U.S. missile submarines, no one has suggested that such a system could conceivably locate and destroy all forty-one Polaris suns *simultaneously*. And, as noted by Dr. Scoville, "Even one missile submarine can launch 160 warheads at separate industrial centers in the USSR, an attack that the Russians could not afford even if the United States had been annihilated." Thus, if Assured Destruction were the sole rationale for America's strategic arsenal, the missile submarine fleet alone would provide a more than adequate deterrent capability, and the deployment of other nuclear systems must be attributed to other considerations.

Military strategists and foreign policy analysts have long recognized that the possession of nuclear weapons provides certain diplomatic and political benefits beyond their purely military function. This added leverage accrues from predominantly psychological factors—the awe and fear that are inspired by such potent weapons—and so in assessing their effectiveness one cannot use precise technical standards. Even though one superpower may have sufficient ICBMs to insure destruction of any enemy which has ten times as many (thus satisfying the requirement for assured retaliation), the two powers are not considered "equal" by either policy maker or private citizen. "Outside the narrow circle of the technical experts," Edward Luttwak wrote in 1972, "the balance of power is not measured in operational terms. Gross numbers and crude qualitative factors provide the only indices of strategic power which are widely recognized. . . ." By possessing "more"—however irrelevant to deterrent capabilities—a superpower is considered to have leverage in international relations over the power having "less." Thus, Moscow's "retreat" in the Cuban missile crisis of 1962 is widely attributed to U.S. overall superiority in nuclear arms.

During most of the post-World War II era, the United States has possessed "more" by every measurable standard of comparison—more bombers, more missiles, more warheads. This fact largely explains the confidence with which American policy makers entered into overseas defense commitments (the United States is now pledged to provide at least some assistance in the event of war to more than seventy-five foreign nations) and committed U.S. forces to combat roles abroad. By 1968, however, America's nuclear advantage was beginning to fade, and consequently its leadership in the global arena came into question for the first time since World War II.

After the Cuban missile crisis, and throughout the build-up for the war in Vietnam, Russia poured tremendous resources into the expansion of its strategic missile inventory. The Soviet pace was impressive: whereas the United States had an approximate four-to-one advantage in ICBMs between 1962 and 1966, its superiority was cut in half in 1967 and had dropped to equality by 1969, when both sides had about 1,050 launchers. Since 1970, the Soviet Union has had a clear advantage in the number of ICBM launchers (though not in warheads), and Defense Department analysts believe that this lead would have reached a two-to-one superiority by 1975 if the build-up hadn't been halted by SALT I.

Although the Soviet missile build-up never threatened the survival of the U.S. deterrent capability, it did threaten U.S. dominance in the global political arena, and thus was regarded as a grave threat to overall U.S. security. In a passage characteristic of the pre-SALT hysteria, James D. Hessman provided this assessment of the strategic balance in *Armed Forces Journal:*

"[Since 1945] the U.S. nuclear arsenal has been greatly expanded and refined, but what was then a monopoly has been reduced in gradual stages to overwhelming superiority, to marginal superiority, to "parity" and finally to the current "sufficiency." By 1975, moreover, according to present estimates . . . the USSR will have reversed a once-formidable U.S. advantage and will enjoy an almost two-to-one margin in strategic nuclear missiles. Whether U.S. "sufficiency" at that time will be sufficient to deter Soviet nuclear blackmail—is a speculative question at best."

The notion that an unfavorable strategic balance would somehow render the United States vulnerable to Soviet "blackmail" was based on the premise that America's failure to maintain its thermonuclear lead was a sign of the weakening of our "national will." "If we allow our *superior strength* to become *second best*," Richard Nixon asserted during his 1968 Presidential campaign, "in time we will generate tensions which could lead to war; first, *by our display of physical weakness and flabby will*, and, second, by tempting an aggressor to take risks that would compel us to respond." (Emphasis added.)

For Nixon, always alert to the shifting calculus of power, "second best" status in strategic power (i.e., in the world's *perception* of that power) was unacceptable. Thus, in discussing the Cuban missile crisis of 1962, he remarked, "We saw what it meant to the Soviets when they were second."

The political implications of strategic superiority are equally clear to Secretary of State Kissinger, who has made no secret of the fact that U.S. willingness to negotiate a "stable structure of peace" with the USSR is contingent upon continued U.S. superiority in strategic weaponry. Nixon and Kissinger are determined to enhance America's strategic position vis-a-vis the USSR and thence to exploit the political leverage afforded by that nuclear superiority. This determination has materialized in two major thrusts: the strategic arms limitation talks in Helsinki and Vienna which culminated in the SALT agreements of 1972, and the development of new offensive strategic weapons leading to the acquisition of a Counterforce capability.

When signed in Moscow on May 26, 1972, the SALT agreements were hailed by President Nixon as "tangible evidence that mankind need not live forever in the dark shadow of nuclear war"; subsequent events have shown, however, that the content of the accords was dictated more by U.S. diplomatic and military objectives than by a desire for disarmament and peace. The agreements themselves consist of two separate, but linked, accords: the Treaty on the Limitation of Anti-Ballistic Missile Systems (ABM Treaty), and the Interim Agreements on Certain Measures with Respect of the Limitation of Strategic Offensive Arms (the Interim Agreement).

Although some critics of the SALT agreements, notably Sen. Henry M. Jackson of Washington, contend that the Interim Agreement grants "superiority" to the Soviets by permitting them a numerical advantage in missile launchers, most military analysts agree that SALT I has improved the U.S. strategic position by halting the growth in Soviet missile force while placing no restrictions on key U.S. modernization

programs like MIRV (multiple warhead) technology and the Trident missile submarine. This evaluation was confirmed in 1973 by the chairman of the Joint Chiefs of Staff, Adm. Thomas Moorer, who told the Senate Armed Services Committee that the SALT accords "clearly constitute a major step in our efforts to slow the momentum of the USSR strategic build-up." Moorer noted the Soviet advantage in numbers of launchers and in missile "throw weight" (warhead payload), but added: "The United States still has a substantial advantage in other areas of key importance to the overall strategic balance—e.g., missile accuracy, MIRVs, submarine quietness, sonars and numbers of bombers and bomber payload." This estimate is not immediately affected by the recent Soviet tests of MIRVed missiles: according to Secretary Schlesinger, Moscow is not expected to have a fully operational MIRV missile force *in place* before 1980. In fact, most experts agree that, because of its lead in MIRV, America will enjoy a relative strategic advantage throughout the life of the accords and long thereafter.

SALT I was initially viewed as a preliminary agreement, to be followed by a second round of talks, SALT II, that would lead to more comprehensive controls on strategic nuclear forces. When the 1972 accords were signed in Moscow, there was considerable optimism among arms control experts that the "good will" thus generated would expedite progress on a more advanced agreement under SALT II. Such hopes were short-lived, however, for President Nixon quickly ordered an acceleration of key strategic programs, particularly Trident, and disbanded the team of arms control experts that had worker out the SALT I accords. (Nixon's choice for the new head of the Arms Control and Disarmament Agency, Fred C. Iklé, is known to favor the acquisition of new strategic weapons.) At the same time, Moscow initiated tests of new ICBMs—including MIRVed missiles—thus supporting the arguments of some alarmists who feared a Soviet bid for true parity in the nuclear arms race. By the beginning of 1974, any lingering hopes that SALT II—now under way—would be followed by meaningful negotiations were extinguished when the Nixon Administration announced the adoption of a Counterforce strategy.

The new defense doctrine adopts the premise that Mutual Assured Destruction provides a false security, that the very "unthinkability" of all-out nuclear war might induce an aggressor to launch a *limited* nuclear strike, using only a small fraction of its weapons and hitting military targets only, in the belief that the victim would not retaliate, lest a second, *full-scale* attack destroy its cities. In order to deter a limited attack, Schlesinger argues, we must have a capability to launch just such an attack ourselves. "In the pursuit of symmetry," he told the Overseas Writers Association on January 10, "we cannot allow the Soviets unilaterally to obtain a counterforce option which we ourselves lack. We must have a symmetrical balancing of the strategic forces on both sides."

Along with this argument goes the belief that, given the increased plausibility of limited nuclear strikes, we must be prepared to accept the increased *usability* of thermonuclear weapons as an instrument of national policy. This assumption, which can be traced to the early strategic writings of Henry Kissinger (see *Nuclear Weapons and Foreign Policy*, 1957), has become established Administration doctrine. Thus Iklé told the Joint Harvard-M.I.T. Arms Control Seminar in February that Americans have acquiesced in the "genocidal" nature of Massive Retaliation for so long "only by thinking that the weapons will never be used." Yet, he noted, "we have to keep in mind that the usability of nuclear weapons is built into them. *Our moral conscience*, therefore, *ought to be concerned with this fact of usability.*" (Emphasis added.) Iklé then proposed a flexible Counterforce capability to provide a "last chance" option before resort to mutual devastation in future nuclear wars.

Although these arguments have only recently been voiced, the decision to proceed with Counterforce capability had been made by mid-1972, when the Administration decided to develop new warheads capable of destroying hardened Soviet ICBM sites. This "historic shift" in U.S. strategic planning was initiated, according to William Beecher, within months or even weeks of the signing of the SALT accords. It followed an intensive policy review by a "top level interdepartment group" formed by Henry Kissinger (then Nixon's adviser on National Security Affairs) to "come up with additional nuclear war options." (The adoption of a Counterforce strategy was in fact first proposed by former Secretary of Defense Robert S. McNamara in June 1962—but no decision was made at that time on development of new weapons.) In his "State of the World" address of May 1973, Nixon stated that "to deal with a wide range of possible hostile actions, the President must maintain a broad choice of options." No details of the new "choice of options" were provided, however, and it was not until Schlesinger's press conference of January 10 of this year that the public learned that a strategic shift had already taken place.

At explained by Schlesinger in subsequent statements, the new strategy is to go forward in two stages. In the first, already under way, some U.S. ICBMs are being "retargeted" to strike at Soviet missile sites and other strategic systems rather than civilian targets. In the second stage, set for the late 1970s and early 1980, the United States will deploy new strategic weapons designed specifically to attack "hardened" military targets like missile silos and underground command centers. Since existing U.S. weapons are intended primarily for "soft" targets (cities, factories, troop concentrations, shipyards, etc.), considerable modification of the U.S. nuclear arsenal is imperative.

A "hard target" strike capability, as envisioned by Schlesinger, can be achieved by three basic methods: first, by improving missile accuracy so as to assure a direct hit (which would knock out the launchers no matter how strong the shielding); second, by raising missile yield sufficiently to assure incapacitation even if accuracy is low; and third, by increasing the number of incoming warheads to the point where missile defenses are overwhelmed. The United States, it now appears, will pursue all three techniques; according to military trade journals, the Pentagon will acquire a Counterforce capability through all or most of the following steps:

U.S. Minuteman ICBMs will be fitted with new warheads providing much greater yield than existing warheads.

Some ICBMs will be equipped with a maneuverable re-entry vehicle (MaRV) that can alter course after re-entry into the earth's atmosphere in order to elude enemy ABM missiles, and to provide enhanced accuracy.

All Minuteman and Trident missiles will be equipped with a "stellar inertial guidance system" (SIG) and other improvements to achieve the required accuracy. (Submerged submarines cannot determine their location with complete certainty, and thus existing missiles cannot be used for Counterforce purposes: the SIG warheads, however, can correct their trajectory by taking a "fix" on the stars once outside the earth's atmosphere.)

Work has begun on a nuclear-tipped "cruise missile" that can be fired by conventional submarines or jumbo planes. Such missiles (in effect, unmanned jet planes like the German V–1) could fly 1,000 to 1,500 miles in very low trajectories that would be virtually invisible to standard anti-missile radars.

The Air Force will develop mobile ICBMs that could be moved frequently to prevent their being "fixed" by enemy reconnaissance satellites. (The United States publicly "outlawed" mobile ICBMs in its unilateral appendix to the SALT accords; this has not, however, deterred the Air Force from requesting funds to develop such weapons.)

The Navy will begin work on a small, fast submarine powered by the quiet "Narwhal" reactor. It will carry Trident missiles, but in smaller quantities than the larger Trident submarine.

Administration officials insist that most of these programs are still in the conceptual stage and can be scrapped if the United States and the Soviet Union agree on a new arms pact at SALT II; by the same token, however, these programs can be accelerated if the talks fail to produce that new agreement. "If [the SALT] negotiations fail," Nixon told Congress recently, "the United States must be prepared to increase its forces quickly and effectively."

Since Soviet defense planners must—like their American brethren—prepare for "worst case" contingencies, the announcement of new U.S. strategic programs is certain to induct the USSR to expand its own strategic forces, thereby "justifying" the planned U.S. build-up. All this will almost certainly guarantee the failure of SALT II and precipitate a costly and dangerous new round in the nuclear arms race.

Military supremacy, in an era of growing technological sophistication and increased arms spending on the part of potential adversaries, does not come cheaply. On February 4, the President asked Congress for a record $92.6 billion in new military funds, and a supplemental appropriation of $6.2 billion to cover excess 1973–74 spending. In approving the new budget, Secretary Schlesinger reportedly told aides that he welcomes the harsh debate that is certain to be launched in Congress when the budget is presented. "Mr. Schlesinger's aim," *The New York Times* reported, "is said to be to stir sustained debate on America's military needs now that 'the Vietnam war is behind us.'"

Since, in this period of price increases, fuel shortages and growing unemployment, most Americans are concerned more with domestic issues than with the global balance of power, the Pentagon can stir up interest in greater U.S. arms spending only by generating a "missile-gap" hysteria similar to that of the 1950s and early 1960s. Undoubtedly nothing would be more attractive to Nixon than such a debate, which could easily be nourished with "leaks" and scare stories in order to detract public attention from political scandals and mounting economic problems. (With respect to the latter, Administration officials are already hinting to selected Congressmen that increased defense spending will mean more jobs and income for the hard-pressed aerospace industry.)

Such a debate is certain, however, to increase rivalry between superpowers and thus end any hope for meaningful negotiation on strategic arms limitations or force reductions in Europe. And unless Congress can effectively resist the Pentagon's scare campaign, the new strategic build-up will inescapably launch a costly new cycle in the nuclear arms race and ultimately undermine the principle of deterrence which until now has prevented the outbreak of thermonuclear war.

FLEXIBLE MADNESS?

(By Herbert Scoville, Jr.)

On January 10, 1974, Secretary of Defense James R. Schlesinger announced that "there has taken place . . . a change in the strategies of the U.S. with regard to the hypotheti-

cal employment of central strategic forces." A goal voiced since 1970 in President Nixon's annual foreign policy statements is now apparently an accomplished fact: "flexible response" has replaced "deterrence of nuclear war by assured destruction" as the cornerstone of our strategic policy. We now propose to respond to Soviet nuclear aggression by attacking a variety of military targets instead of by massive retaliation against cities. As Schlesinger makes clear, this flexibility can be obtained by revised targeting doctrine and improved command and control procedures, and does not necessarily require additional weapons; on the other hand, new specialized weapons with higher accuracies, greater explosive powers, and more warheads will also increase our efficiency for destroying military targets. However, the repercussions on our security and on the arms race from these approaches toward increased flexibility can be quite different. The consequences of this move away from mutual assured destruction (known as MAD by detractors)—by which nuclear war has so far been avoided—are profound, and vitally affect our survival. The new strategy and the alternate ways it can be implemented should be carefully examined before we are irretrievably launched on this new path.

The catastrophic effects of the explosion of even a few nuclear weapons on this country have made the avoidance of strategic war the overriding objective of our strategic policies for 20 years. Since defense was impossible against an all-out Soviet nuclear attack, we have been forced to rely on deterrence based on an ability to produce unacceptable damage in retaliation.

THE ABM TREATY

The ABM Treaty signed in Moscow on May 26, 1972, formally established deterrence as the basic strategic policy of both the United States and the Soviet Union. Both countries agreed to forego the acquisition of a capability for defending their territories and thus guaranteed, for the foreseeable future, a state of mutual deterrence. With all missile warheads, once launched, having an assured arrival on target, even the most exaggerated fears over the security of our retaliatory capability of thousands of warheads became groundless. The basic goal of our strategic policy for 20 years finally had a stable, more permanent foundation.

With this success, our strategic policies might have been expected to remain fixed for at least a short time, but the ink was hardly dry on the Treaty before the Administration raised questions about the desirability of a strategic policy based solely on deterrence. It sought to achieve the additional strategic objective of "flexibility" when Secretary Laird, with White House support, requested funds for the development of a "hard target" MIRV, i.e., multiple warheads with sufficient accuracy and yield for each warhead to have a high probability of destroying enemy missile sites and command centers. These weapons were supposed to provide a "flexible response" in the event of a limited Soviet nuclear attack. That this would look to the Russians like an attempt to develop a first strike capability on our part, and would erode the mutual deterrent posture so recently agreed to by the Treaty, was ignored. However, the Senate, which even during the SALT negotiations had expressed concern over the destabilizing nature of such weapons, refused to authorize funds for this development in the aftermath of SALT. Thus, the program was driven underground. In all probability it was continued under the program for the development of advanced ballistic reentry systems (ABRES). Now Schlesinger admits this and openly endorses proceeding with attempts to improve the accuracy of our MIRV—and giving it a more efficient silo-destroying capability. A confrontation between Congress and the Executive could come when specific funds are sought for missiles with new and potentially more accurate guidance systems.

The concept of flexible response in which military installations, not cities, would be the targets of a retaliatory attack, did not of course arise full blown in the immediate aftermath of the SALT I agreements. Secretary McNamara proclaimed a "city avoiding" strategy in 1962 at a NATO conference, but this strategy was rapidly discarded. On February 18, 1970, President Nixon, in his first report to the Congress on U.S. foreign policy for the 1970's, posed the question: "Should a President, in the event of a nuclear attack, be left with the single option of ordering the mass destruction of enemy civilians, in the face of the certainty that it would be followed by the mass slaughter of Americans?" It is from these questions that the concept of flexible response flows. In the immediate years following, there was little public elaboration of what the President had in mind, but he repeated these generalities in later foreign policy reports. It was not until after Moscow that we saw a specific weapons program defended on the basis of this policy goal.

Since May 1972, many national security analysts have publicly questioned the desirability of our deterrent policy. Some, such as Donald Brennan, had long felt that a defense-oriented strategy—i.e., one that relied on extensive defenses to protect populations and to permit a nation to survive—was far superior to one relying on deterrence through offense, and used the occasion of the Moscow summit to restate their views. They decried the current state of mutual assured destruction, sanctified by the ABM Treaty, as MAD. These arguments, which have not been widely accepted by either the military or arms controllers, do not provide support for a policy of flexible response and should be differentiated therefrom. A defense-oriented policy does not provide flexibility; quite the contrary, extensive defenses on both sides preclude a flexible response because large-scale retaliation is needed to overwhelm enemy defenses in order to achieve even a limited goal. Thus, the restrictions on ABM's agreed to in Moscow in May 1972 provided opportunities for increased flexibility previously unavailable. Paradoxically, those most opposed to ABM limitations are the strongest supporters of increased flexibility.

DETERRENCE UNDER ATTACK

The deterrent policy has, however, come under fire on a number of other counts which have been persuasive to some on all sides of the strategic debate. Fred Iklé,[1] who was later appointed the head of the Arms Control and Disarmament Agency, attacked the "balance of terror" approach as a morally repugnant national policy. Instead, retaliation should be aimed at the assured destruction of military, industrial, and transportation assets. Iklé also condemns deterrence as directed entirely to the rational mind, and points out that nuclear war will only occur as a result of accident or an irrational decision. Other writers have argued that a wider range of retaliatory options is needed in response to military or political provocations more limited than an all-out first strike. They argue that massive retaliation may be a less effective deterrent than a selective one because its implementation lacks credibility.

Certainly the strategic policy of deterrence under which peace is maintained by holding hostage tens or even hundreds of millions of people, and by putting modern civilization in jeopardy, is psychologically unsatisfying. According to this concept, the more inevitable the devastation, the more stable the peace. We are right to seek some alternative, but we must not discard a policy that has worked until all the implications are evaluated.

To be successful, any alternative must decrease the risks of a nuclear conflagration. If, in the process of moving out from under the umbrella of mutual deterrence, we were to increase significantly the probability that nuclear warfare, no matter how limited, will start, then the new policy will be self-defeating. Therefore, the primary criterion for any new strategic policy must be *the assurance that it will in no way increase the likelihood that nuclear warfare will be unleashed.* A limited nuclear conflict presents a major risk of uncontrollable escalation to widespread nuclear devastation so that almost no gain is worth risking an increase in the probability that it will occur.

The ideal goal for a flexible response would be to have the weapons, together with their command and control, which could provide an appropriate response or variety of responses to any potential provocation. A small attack could be followed by a limited response. A purely military conflict could involve a retaliation against military targets alone. Ideally, one might like to be able to destroy a missile launcher, a command post, or even an artillery piece without causing any damage to the civilian sector. In practice, however, such surgical nuclear strikes would be hard or impossible to achieve. The controlling factor in determining civil destruction is the distance from the target, not the accuracy of the missile.

Because we have adopted a policy of deterence through assured destruction and because in evaluating the effectiveness of our deterrent force we normally test it in the extreme case of all-out retaliation following a massive Soviet first strike, it is often assumed that we have no flexibility today and have no recourse in the event of aggression but to retaliate with our entire strategic force. The plaintive note in President Nixon's statements and the tenor of Schlesinger's remarks would seem to support this. Of course, this is not true, as Wolfank Panofsky has shown in his response to Iklé.[2] We are not limited to the single option of full-scale strategy retaliation to deter any aggression; we never have been. We have large conventional forces in both Europe and the Far East; escalation to nuclear weapons is not required as an early response to a conventional attack.

On the other hand, the deployment in exposed locations near frontiers of many of our nuclear weapons could needlessly lead to nuclear conflict. This decreases our flexibility to deal with the situation at the non-nuclear level and greatly enhances the risk of nuclear war. The 7,000 tactical weapons in Europe and appreciable numbers in Korea should, even if moved to rear areas, be a sufficient deterrent against the introduction of nuclear weapons by the other side. We need not rely on our strategic stockpile for this purpose.

Even at the strategic level, President Nixon is not forced, with the weapons now available, to launch an all-out attack against Soviet cities knowing that our society might be similarly destroyed in response. A variety of less cataclysmic stragteic retaliatory options has always been available provided that appropriate command and control procedures were adopted. The United States now has the weapons to respond at lower levels if it so desires, although not always with optimum effectiveness. Although it is not obvious why such a capability is needed, some—but by no means all—Russian ICBM sites can with high confidence be put out of action. We can destroy military command centers, but as long as they are located near population centers,

[1] Fred Charles Iklé, "Can Nuclear Deterrence Last Out The Century?" Foreign Affairs, January 1973.

[2] *Wolfgang K. H. Panofsky, "The Mutual-Hostage Relationship Between America And Russia,"* Foreign Affairs, *October 1973.*

not without collateral damage to the civilian sector. Even if we improve the accuracy of our nuclear weapons, there will always be serious side effects.

INCREASED DETERRENCE OR RISK?

The topical question, therefore, is not whether one wishes to have a flexible response, but whether additional capabilities will increase deterrence or instead increase the risk that nuclear war will actually break out. Enhanced flexibility from improved command and control is probably on balance a positive step since it does not threaten a significant portion of the deterrent force and could reduce the risk of accidents. Furthermore, it provides more flexibility *not* to be forced to undertake certain responses. Deterrence provided by fear of possible massive retaliation would remain unaffected. On the other hand, the desire for more flexible weapons can become an open-ended justification for new, expensive programs and will certainly push the arms race further along the road.

No matter how often we disclaim it, the development of improved silo-killing missiles must inevitably look to the Russians like an attempt to acquire a first-strike counterforce capability against their ICBM's. Similar Soviet programs for getting high-yield MIRV's have been viewed here in exactly such alarming terms. One response to the increased threat to military forces provided by improved counterforce capabilities could be expensive programs by the other side to reduce their vulnerability. New missiles in superhardened silos or mobile ICBM's are two that have been proposed in the United States. The Russians will almost certainly react to our moves in some manner. A cheaper way is to shorten the time fuse on the nuclear missiles by adopting "launch on warning" operational procedures with all the increased risks of accidental war that this would provide. False alarms are difficult to completely rule out. While we may not wish to give up the option for an early response to an attack, we certainly do not wish to be in a position where we have no other choice than retaliation before any weapons have been exploded. Nor do we wish to force the Soviet Union, China, or any other nuclear power to place their missiles on a hair trigger alert. Thus, weapons programs designed for improved flexibility have the potentiality to greatly increase the risk of nuclear war.

An extreme, albeit much discussed, scenario in which increased flexibility is considered desirable has been put forth by leading military planners. It involves a Russian attack on our land-based ICBM's and intercontinental bombers after which they would dictate terms of our surrender. A U.S. response which required devastation of Soviet populations is, according to this scenario, not credible since it, in turn, could trigger Russian annihilation of urban centers in the United States. We might have a greater deterrent against such a Soviet action if we had the alternative of knocking out those Soviet missiles which had not yet been launched.

Is this scenario at all credible, and if so, what would increased flexible response buy? In order to have high confidence of knocking out the U.S. force of more than 1,000 ICBM launchers, the Russians would have to fire, at a minimum, two to three megaton warheads at each launcher. In order to have a high probability of destroying hard targets such as missile silos, the weapons would have to be detonated very close to the surface of the earth, producing heavy radioactive fallout directly downwind. A single 15 megaton explosion at Eniwetok in 1954 covered an area of 5,000 square miles, extending 200 miles downwind, with fallout which would have been lethal to exposed populations.

Even larger areas were covered with very serious contamination. Yet in this scenario an attack would produce fallout two hundred or more times as great. If an attack against our bombers is added to that against the missiles, the devastation would be still worse. Millions of people would be killed and large sectors of our society completely disorganized, even though the attack was directed with surgical precision at military targets.

Even if completely successful, what would the Russians have accomplished? True, they might have destroyed a large part of the land-based missile and bomber elements of our deterrent Triad; but our submarine missile force of 41 Polaris-Poseidon submarines, with more than 5,000 nuclear warheads and yields several times that of the Hiroshima bomb, would still be untouched. We would still have an overwhelming strategic force which would not only be a threat to the survival of the Soviet Union as a civilized society, but which would have a capability of destroying hundreds of military targets as well. Without the necessity of overpowering a large ABM, now foreclosed by the ABM Treaty, command centers and an appreciable number of (but not all) missile silos can be destroyed by Poseidon with its present accuracy by allocating sufficient warheads to each target. Does such an attack, even if completely successful, leave the Soviet Union in a position to dictate terms to the U.S. government? Are any possible gains commensurate with the risks that any U.S. government might retaliate against Soviet population centers and devastate the Soviet Union, even though such an action might mean a similar devastation in the United States from those Soviet weapons not used in the first strike? Any Soviet leader in contemplating such a "limited attack" would have to take into consideration that even with the firmest intentions of exercising restraint, the U.S. leaders might be stampeded into a retaliation which would kill millions of Russians in exchange for the millions of American already killed. Democratic leaders have more difficulty than dictators in remaining wholly rational since they must frequently respond to popular passions.

Moreover, would an improved capability for a flexible response have any important effect under such a scenario? Procuring ICBM's with greater accuracy and, consequently, a higher single-shot probability for destroying an ICBM silo would be of little value and a waste of money, since most of our ICBM's, according to this scenario, would have been destroyed. Giving a larger payload to some Minuteman missiles would be similarly ineffective.

Increased accuracy for our invulnerable submarine missiles might more effectively destroy any Soviet ICBM's that had not been used in the initial salvo, and the collateral damage in areas surrounding the Soviet missile sites would be reduced. But even if we destroyed all leftover ICBM's, the Russians would still have hundreds of submarine-launched ballistic missiles with which to threaten our undefended cities. How would the existence of such an improved hard-target capability affect a Soviet decision to launch such an attack in the first place? It is hard to see why they would be more deterred because the United States could retaliate in a limited way. If the Russians were willing to launch an attack of this scale, they would certainly be prepared to have all their remaining land-based missiles destroyed. They would be thankful that they had gotten off so cheaply. If any aggressor were so irrational as to contemplate such an extreme action, he might be more prone to risk it if he thought that the United States would be more likely to respond in a limited way than with a devastating attack. In sum, aggression on this scale provides no gains even marginally commensurate with the risks; greater potential flexibility in response would probably not improve deterrence and might instead increase the danger that such an attack would occur.

A SECOND EXAMPLE

Since this extreme case is so unreal, some less extensive form of nuclear aggression should be examined. Suppose, for example, the Soviet Union decided to destroy one Minuteman complex of 100 missiles as a muscle-flexing exercise and a demonstration of the superiority of its missiles. Under such circumstances, it could be argued that the United States might wish to respond with less than massive destruction; we might want a capability for a retaliation in kind. In the absence of a Soviet ABM, we could do this today with our present forces by expending several of the undamaged Minuteman warheads per Soviet silo. An improved U.S. hard-target capability would make such graduated retaliation easier but is unlikely to affect a Soviet decision to adopt such a strategy in the first place. The political gains from such a conflict even for the winner are hard to imagine and are certainly out of all proportion to the risks.

This is not the kind of contest which we should wish to enter or even encourage. This limited scenario is one which is probably considered only by players of war games who have lost touch with the meaning of nuclear war. Such irrational leaders would more likely be deterred by the consequences of all-out retaliation than by the thought that we might try to play in this game—a game in which they might always hope to come out ahead.

The gains from being able to fight this type of battle more effectively are far outweighed by increased risks that it might actually be fought.

A central question which arises in any scenario is whether a better capability to respond to aggression at a variety of levels enhances deterrence through greater credibility of a response, or whether the possibility that retaliation will be limited in scope reduces the inhibitions against aggression through decreased fear of the consequences. A second and perhaps more critical question is whether the improved ability to respond at lower levels of violence increases the risk that nuclear war will erupt. The latter cannot be tolerated.

The deterrent must be made credible to rational and, insofar as possible, to irrational decision-makers alike. Since nuclear aggression on any scale is today almost always irrational, greater attention should probably be directed toward the less rational leaders and toward those situations where rational decision-making might be more difficult. Deterrence would probably be more effective if fewer opportunities were provided in which a leader might believe, or be led to believe, that he could fight a nuclear war, survive, and perhaps even win.

The initiation of nuclear war at any level is a disaster that is more likely to occur if national leaders can fool themselves into believing that it might be kept small and that they might come out the victors. This is less likely to occur in any specific crisis if the military have not prepared plans long in advance and acquired specially designed weapons to fight a limited nuclear war.

Nuclear war might be made less likely if the decision to initiate it can be made more difficult rather than easier. Over the past 25 years, strong firebreaks have been built between conventional and nuclear war. Even when overwhelming nuclear superiority existed, no nation seriously contemplated using nuclear weapons in even the most limited way. Korea and Vietnam, both large-scale conventional conflicts, have passed without their use. Despite many rumors of their intention, the Russians have never ini-

tiated a nuclear strike to eliminate the emerging Chinese nuclear force. The soundest and most moral policy would maintain, and if possible strengthen, all the firebreaks that exist, not only between conventional and nuclear weapons, but also between tactical and strategic weapons. The development of improved capabilities for fighting strategic nuclear war at a lower level thereby fusing tactical and strategic nuclear conflict, is only a step in the wrong direction. It is misguided thinking to believe that deterrence against nuclear war can be improved by increasing the likelihood that strategic nuclear weapons will be used.

SAFETY AND CONTROL

Instead of procuring new weapons with improved nuclear war-fighting characteristics, efforts should be directed toward improving the safety and the command and control over the weapons now available. The several agreements with the Soviet Union designed to improve communication and to prevent nuclear warfare are useful steps. Tremendous advances have been made over the past 10 years with the incorporation of devices in many nuclear weapons to prevent unauthorized firing. However, there is still a long way to go. Particular attention should be paid to control procedures for our missile submarines. Operationally-oriented officers have inordinate fears that more rigid safety and control procedures would make it more difficult to use nuclear weapons in the event that war breaks out. Such inverted thinking must be rooted out; the overriding objective is to prevent nuclear wars, not fight them. Our deterrent is not improved by looser controls; no nation will risk a holocaust on the slim hope that our command system will break down.

The dangers of inadvertent nuclear war do not arise solely from a U.S.-Soviet confrontation. The smaller Chinese force presents even more explosive potentialities than do the much larger U.S. and Russian forces. Because of its limited size, it could be vulnerable to a U.S. or Soviet first strike since concealment or hardening can never be relied on completely. As a consequence, its leaders could feel forced to place a hair trigger on their weapons and adopt a launch-on-warning operational tactic. Thus, it is in our national interest to try to insure that the Chinese have a deterrent in which they can be confident without requiring rapid response. Such confidence may be difficult to attain as long as the Soviet Union and the United States have their present overwhelmingly superiority. When the Chinese acquire their first ICBM's we should not, at the very least, take any steps which might look like an attempt to maintain a first strike threat against them.

Does increased flexibility alleviate the understandable concerns of those who find a peace maintained by threats of annihilation morally repugnant? Making it easier to fight nuclear wars, even on a limited scale is hardly a psychologically more attractive policy. It is probably more moral to prevent slaughter by threatening disaster than to facilitate limited death and destruction. True moral satisfaction will come only when we succeed in moving away from nuclear conflict as a means of settling international differences.

In conclusion, the objective of improving the flexibility of our strategic weapons to provide the President with additional strategic options beyond those now available is a goal which sounds superficially attractive, but which, in practice, can only decrease our security. Making it easier to fight strategic nuclear war does not truly enhance deterrence and only increases the risk that fears of nuclear devastation will turn into reality. Instead of buying new weapons with more sophisticated war-fighting capabilities, efforts should be concentrated on increasing the control over, and the safety of, the weapons we now have.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9:30 a.m. tomorrow.

After the two leaders or their designees have been recognized under the standing order, the Senate will resume consideration of the unfinished business, S. 3000.

The pending question at that time will be on adoption of the amendment of Senators CRANSTON and KENNEDY, to reduce the amount for Vietnam from $900 million to $750 million. There is a 1-hour limitation on the Cranston-Kennedy amendment.

At the hour of 11 a.m., the Senate will resume consideration of the amendment by the Senator from Washington (Mr. JACKSON) on which there was some debate on last Friday. There is an 80-minute time limitation on the Jackson amendment. Upon the expiration of that time, a vote will occur on the Jackson amendment. Presumably that will be a yea and nay vote.

Upon disposition of the Jackson amendment, the vote will then occur on the Cranston-Kennedy amendment and, likewise, presumably that will be a rollcall vote.

Upon disposition of the Cranston-Kennedy amendment, an amendment by the Senator from Maryland (Mr. MATHIAS) will be called up on which there is a 1-hour time limitation. The vote on that amendment will then occur. Following that, a rollcall vote will occur on the amendment by Mr. JAVITS, on which the yeas and nays have been ordered.

At 2:30 p.m., the so-called ceiling amendment of the Senator from Minnesota (Mr. HUMPHREY) will be called up, on which there is a 1-hour limitation. Under the previous agreement, amendments to the Humphrey amendment will be limited to 30 minutes each.

Upon disposition of the Humphrey amendment, no further amendments will be in order. The Senate will proceed to vote on final passage of the military procurement authorization bill.

That about lines it up, so far as amendments are concerned.

Conceivably, an amendment can be offered at any one of two or three points tomorrow, but the time would be quite limited for debate thereon. But there are a few loose areas in which brief debate could be had on an amendment.

I understand, for example, that the Senator from Minnesota (Mr. MONDALE) has an amendment on which he thinks 10 minutes would be sufficient for both sides. No agreement to that effect has been entered into but, conceivably, that could come up tomorrow.

Upon final passage of the military procurement authorization bill tomorrow, the Senate will proceed to the consideration of S. 3523, a bill to establish a temporary National Commission on Supplies and Shortages. If that order has not been entered, Mr. President, I ask unanimous consent at this time that that be the order.

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

Mr. ROBERT C. BYRD. Mr. President, there will be several rollcall votes tomorrow. I would suggest that there would be at least five or six rollcall votes tomorrow.

Mr. GRIFFIN. Mr. President, I wonder whether, when two or more votes are on a back-to-back basis, we might not want to indicate to Senators that the votes following the first vote might be 10-minute rollcall votes rather than 15 minutes.

Mr. ROBERT C. BYRD. I think that is a very good suggestion. I will put that in the form of a unanimous-consent request at this time.

Mr. President, I ask unanimous consent that following the vote on the Jackson amendment tomorrow—which will be a 15-minute rollcall vote—that on any subsequent votes that follow consecutively behind that vote tomorrow, each such vote be a 10-minute rollcall vote.

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

ADJOURNMENT TO 9:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9:30 a.m. tomorrow.

The motion was agreed to; and, at 7:05 p.m., the Senate adjourned until tomorrow, Tuesday, June 11, 1974, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 10, 1974:

FEDERAL ENERGY ADMINISTRATION

The following-named persons to be Assistant Administrators of the Federal Energy Administration (new positions):

Marmaduke Roberts Ligon, of Oklahoma.
Leonard B. Pouliot, of Virginia.
John W. Weber, of Connecticut.
Eric Roger Zausner, of Virginia.

U.S. TAX COURT

Richard C. Wilbur, of Maryland, to be a judge of the U.S. Tax Court for a term 15 years after he takes office, vice Austin Hoyt, retired.

IN THE ARMY

The following-named officers to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Walter Edward Lotz, Jr., [redacted], Army of the United States (major general, U.S. Army).

Lt. Gen. Walter Philip Leber, [redacted] Army of the United States (major general, U.S. Army).

Lt. Gen. Raymond Leroy Shoemaker, [redacted], Army of the United States (major general, U.S. Army).

The following-named Army Medical Department officer for temporary appointment to the Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3442 and 3447:

To be major general, Medical Corps

Brig. Gen. William A. Boyson, [redacted] Army of the United States (colonel, Medical Corps, U.S. Army).

The following-named officer for appoint-

ment in the Regular Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3284 and 3306:

To be brigadier general, Medical Corps

Brig. Gen. William A. Boyson, xxx-xx-xxxx Army of the United States (colonel, Medical Corps, U.S. Army).

The U.S. Army Reserve officers named herein for promotion as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, section 593(a) and 3384:

To be major general

Brig. Gen. William Stanford Smith, Jr., xxx-xx-xxxx

Brig. Gen. Edwin Burgess Taylor, xxx-xx-xxxx

To be brigadier general

Col. Donald Jordon Brown, SN xxx-xx-xxxx Infantry.

Col. James Carroll Crutcher, SSN xxx-xx-xxxx Medical Corps.

Col. John Sheldon Doud Eisenhower, SSN xxx-xx-xxxx Infantry.

Col. Leo Joseph Golash, Jr., xxx-xx-xxxx, Infantry.

Col. George E. McGovern, Jr., xxx-xx-xxxx, Field Artillery.

Col. Paul Leonard O'Brien, xxx-xx-xxxx, Military Intelligence.

Col. Konald Arthur Prem, xxx-xx-xxxx Medical Corps.

Col. Frederick John Scheer, SSN xxx-xx-xxxx Civil Affairs.

I nominate the Army National Guard of the U.S. officers named herein for promotion as Reserve Commissioned officers of the Army under the provisions of title 10, United States Code, section 593(a) and 3385:

To be major general

Brig. Gen. Thomas K. Turnage, SSN xxx-xx-xxxx

To be brigadier general

Col. Willard Keith Carey, xxx-xx-xxxx Armor.

Col. James Clay Daugherty, xxx-xx-xxxx Infantry.

Col. Curney Joseph Dronet, xxx-xx-xxxx, Infantry.

Col. Harold Lloyd Gwatney, SSN xxx-xx-xxxx Infantry.

Col. George Robert Harper, xxx-xx-xxxx, Armor.

Col. Francis Joseph Kelly, xxx-xx-xxxx, Infantry.

Col. Collin McKinne, SSN xxx-xx-xxxx Field Artillery.

Col. Gillespie V. Montgomery, xxx-xx-xxxx, Transportation Corps.

Col. William Jesse Mullins, Jr., xxx-xx-xxxx, Infantry.

Col. Delmer Hilton Nichols, SSN xxx-xx-xxxx Armor.

Col. Salvador Monserrate Padilla, SSN xxx-xx-xxxx Infantry.

Col. Lawson McKinney Safley, SSN xxx-xx-xxxx Armor.

Col. Robert George Walker, xxx-xx-xxxx Infantry.

The Army National Guard of the U.S. officers named herein for appointment as Reserve Commissioned officers of the Army under the provisions of title 10, United States Code, section 293(a) and 3392:

To be major general

Col. John Richard Carson, xxx-xx-xxxx, Ordnance Corps.

Brig. Gen. Wilfred Charles Menard, Jr., xxx-xx-xxxx

Brig. Gen. John James Womack, xxx-xx-xxxx

To be brigadier general

Col. William Kern Holoman, xxx-xx-xxxx, Adjutant General's Corps.

Col. Reynold Lee Lopez, xxx-xx-xxxx, Infantry.

Col. Franklin Everett Miles, xxx-xx-xxxx, Air Defense Artillery.

Col. William John Sharrow, xxx-xx-xxxx, Infantry.

Col. Charles Rhea Willis, xxx-xx-xxxx, Armor.

IN THE AIR FORCE

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of chapters 35, 831, and 837, title 10, United States Code:

To be brigadier general

Col. Belisario D. J. Flores, xxx-xx-xxxx FG, Air National Guard.

Col. Charles J. Sullivan, xxx-xx-xxxx FG, Air National Guard.

IN THE MARINE CORPS

The following-named officers of the Marine Corps for temporary appointment to the grade of lieutenant colonel:

Ronald M. Abshire
Richard J. Ahlers
Thomas H. Aiken
Robert B. Alexander
Dwight R. Allen, Jr.
Rodney H. Alley, Jr.
Myrl W. Allinder, Jr.
Lewie E. Amick, Jr.
Donald E. Andersen
Ralph J. Appezzato
Curtis G. Arnold
Randall W. Austin
Horace W. Baker
William D. Bauer
Richard W. Beason
Frank S. Bell
Gene E. Berbaum
Daniel F. Bergen
James L. Blake
Robert D. Blanton
Harper L. Bohr, Jr.
Bruce B. Boman
Francis D. Booth
Ray W. Bowles
Curtis R. Brabec
James T. Brackman II
Glenn D. Bratcher
Arthur P. Brill, Jr.
Richard L. Brinegar
Oscar W. Britton
Edward W. Brown III
Larry K. Brown
Peter C. Brown
John H. Buchanan
Howard V. Bucknam
Joseph C. Burger, Jr.
John P. Burke
Arthur E. Burkhart
Eugene B. Burleson, Jr.
Robert D. Burnette
Frank H. Butler, Jr.
Charles E. Cannon
Frederick A. Carolan
John J. Carty
Christopher Catoe
James R. Caton
Ross C. Chaimson
Robert S. Charles
John C. Chambliss
Darcy L. Clasen
Ralph L. Close
Walter N. Collison, Jr.
Matthew T. Cooper
Donald H. Cormack
Matthew P. Caulfield
George W. Cumpston
Dennis M. Cunningham
James H. Curd
James R. Curl
John J. Czerwinski
Charles L. Daugherty, Jr.
Ronald K. Davia
Charles E. Davis III
Jay M. Davis, Jr.
William G. Davis
Bernard C. Day
Bennett R. Dean
Barrie O. Delp
Pasquale W. Demartino
Ruel O. Depoali
John H. Ditto
Charles A. Dixon
Dale D. Dorman
George H. Douse
Robert F. Edwards
John M. Eichelberger
Duane E. Eley
Gary E. Elliott
Philip C. English
Robert J. Esposito
Thomas J. Faleskie
Philip J. Fehlen
Billy M. Floyd
William C. Floyd
Edward B. Foster
Joseph G. Foti
Anthony J. Fraioli
Ray A. Fugate
Benjamin W. Gardner
James R. Gentry
Hal J. Gibson
Richard H. Glass
Charles J. Goode, Jr.
Francis L. Gould
Robert J. Graham
Joseph M. Gratto
John S. Grinalds
Donald D. Hall
Robert F. Hallett
William L. Hammack
William W. Harding, Jr.
John E. Harms
Gene B. Harrison
James E. Hayes
John A. Hellriegel
James E. Herlocker
John J. Hilgers W.
William P. Hillsman
Donald A. Hodgen
Pieter L. Hogaboom
James A. Honse
Samuel M. Horton
John J. Houtchens
Walter R. Huf
Edwin L. Huff
William H. Huffcut II
Donald R. Huffman
Richard D. Hughes
Jacob E. Iles
James D. Ingram
William R. Irwin
Jerry H. Jenkins
Stephen J. Jennings
Duane S. Jensen
Keller F. Johnson, Jr.
Robert M. Jordan
Paul G. Judkins
Francis M. Kauffman
Michael F. Keane, Jr.
Noel J. Keller
Leo J. Kelly
Richard A. Kerr
Kenneth W. King, Sr.
James H. Kirkham
Roger E. Knapper
Robert C. Knowles, Jr.
Zane V. Lamascus
Robert F. Lang
Robert E. Langton
Joseph F. Lavin
Emanuel S. Lawbaugh, Jr.
Robert W. Layer
Willis D. Ledeboer
George T. Lengauer, Jr.
William H. Leonard
Floyd C. Lewis
Jerry D. Lindauer
John A. Linnemann
William E. Loftus
James S. Loop
William B. Ludwick
John M. Mahoney
David W. Mailler
Harrison A. Makeever
Charles H. Manazir
Richard W. Marsden
Franklin H. Marsh
Warren L. Martin
James D. Mattingly
Royal N. Moore, Jr.
Michael R. McDonough
Theodore R. McElroy
David L. McEvoy
Robert C. McFarlane
George D. McLaughlin, Jr.
John F. McNelly
Curtis D. McCraney
Howard W. Meissner
Ronald E. Merrihew
William C. Miesch
Anthony D. Miller
Donald E. Miller
Harl J. Miller
Richard A. Miller
Miles E. Mixson
Jesse G. Mulkey
Edward M. Mockler
Richard H Moore
Calvin M. Morris
John R. Murphy
Louis T. Nappi
George D. Navadel
Jay B. Nichols
James M. Nolan
Cledith E. Oakley
John F. O'Brien
Robert E. Odare
Glenn A. Olson
Jack L. Omer
Robert M. Ondrick
Joseph J. Oravits
Eugene L. Osmondson
Harold M. Owens
Charles R. Patton
Luther L. Payton, Jr.
Richard J. Pederson
Roy C. Peterson
Billy G. Phillips
William M. Pettigrew I
Harry F. Philson
Antonio F. Piracci
Ross S. Plasterer
Richard T. Poore
Donald A. Powell
Thomas M. Pratt III
Robert C. Prewitt
Richard S. Pyne
Richard C. Raines
John R. Rasavage
Jesse T. Randall
Werner F. Rebstock
Gerald F. Reczek
William A. Renner
Richard C. Reynolds
David L. Ross
James W. Ross
Joseph D. Ruane
Clifton L. Rushing, Jr.
Bobby G. Rutledge
Herbert F. Saeger
Francisco U. Salas
Michael D. Salmon
Ralph J. Salvati
James W. Sanders
Joseph P. Schultz
Richard J. Seed III
Phillip E. Shaw
James F. Sherry, Jr.
Robert D. Shoptaw
Robert E. Short
David K. Shroyer, Jr.
Patrick S. Simpson
William T. Sinnott
Ronald A. Smaldone
Joseph J. Smartz
Jerry R. Smiley
Karl S. Smith
Walter G. Smith, Jr.
James E. Sniffen
John F. Spangler
Henry C. Stackpole III
William L. Stein
Samuel H. Stevenson
Michael R. Stiavelli
Robert E. Stoffey
Doyle E. Stout
Jon A. Stuebe
Thomas A. Stumpf
Anthony W. Stremic
George J. Stremlow
Louis W. Sullivan
Billy M. Summerlin
Verl D. Sutton
Smith Sweeney
Merrill A. Sweitzer, Jr.
Wayne R. Swenson
Madison L. Taylor
Dale R. Thibault
Robert L. Thien
Daryl W. Thompson
Robert R. Thrasher
Russell B. Tiffany
James E. Toth
Paul B. Tubach
Henry W. Tutterow, Jr.
James H. Tutterrow
Richard H. Ulm
Robert J. Ulses
James L. Underwood
Richard L. Upchurch
George R. Vanhorn
John H. Vanniman
David G. Vest
David E. Vowell
Melvin N. Wall
Gerald E. Walsh
Warren S. Walters
William H. Walters
Kenneth D. Waters
David C. Watkins
Michael F. Welty
Paul E. Westphal, Jr.
Oliver M. Whipple, Jr.
Edward R. Whiting
John M. Willmarth
Robert B. Wilson
Abraham W. Wolson
Howard C. Wood
Leonard A. Wunderlich
Michael J. Zachodni

The following-named officers of the Marine Corps Reserve for temporary appointment to the grade of lieutenant colonel:

Christopher J. Curran
William C. Ryan III
Calvin F. Simerly