SENATE—*Tuesday, June 11, 1974*

The Senate met at 9:30 a.m. and was called to order by Hon. EDMUND S. MUSKIE, a Senator from the State of Maine.

PRAYER

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

Our Father God, as the day opens before us, we open our hearts to Thee. May our prayers be the channels of Thy grace through which shall come to us a calm, restoring stillness at the very center of our being. With our spirits reinforced send us to our tasks with kind hearts, clear thoughts, and a sure faith. Help us to build the Nation on whatever is good and beautiful and true, that our greatness may be in character and our ultimate security rest in the things of the spirit. And at the end grant us the blessing of Thy peace.

Through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 11, 1974.

To the Senate:

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

JAMES O. EASTLAND,
President pro tempore.

Mr. MUSKIE 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 Monday, June 10, 1974, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

PLAN FOR INDIAN OCEAN BASE OPPOSED

Mr. MANSFIELD. Mr. President, I ask unanimous consent that an article entitled "Plan for Indian Ocean Base Opposed," written by Crocker Snow, Jr., which appeared in the Boston Globe of Sunday, June 9, 1974, be printed at an appropriate point in the RECORD.

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

PLAN FOR INDIAN OCEAN BASE OPPOSED

(By Crocker Snow, Jr.)

TEHRAN.—A little, uninhabited Indian Ocean atoll near the Equator which measures just three feet above sea level at its highest point has become a major cause celebre in this part of the world.

The atoll, Diego Garcia of the Chagos archipelago in a distant point of the Indian Ocean, is administered by the British and populated by 200 American and English servicemen working a communications facility.

But Pentagon plans to spend $29 million to expand the facility in a significant way have triggered skepticism and suspicions in much of Asia—and have seriously undermined congressional willingness to allocate the funds.

With little overt sign of a US military presence in the Indian Ocean area, as compared to many parts of the world, the called-for expansion of Diego Garcia has taken on a symbolic significance far beyond its projected military one.

Governments stretching from New Zealand and Australia to the Middle East, and ranging in political persuasion from staunchly anti-Communists to proudly nonaligned, have expressed opposition to the plan.

Only Pakistan openly, and Iran more quietly, have indicated that the base might be desirable under certain circumstances.

The two major Communist powers outside the immediate area have divergent but discreetly low-key views about the affair. The Soviets see a new, improved Diego Garcia as a challenge to their own Indian Ocean expansion plans, and have indicated their opposition to their foremost allies. The Chinese are said to quietly favor the base—for just these reasons.

Meanwhile, a US Senate committee has delayed action on the Administration's request for new Diego Garcia funds.

The rationale of the expansion plan—one originally agreed to by a British Labor government in 1966, but subject to reconsideration by the new Labor government today—is that supplying US task forces operating in the Indian Ocean from Subic Bay in The Philippines 5,000 miles away, as is the case now, is downright impractical.

More than this, the US military from Joint Chiefs Chairman Adm. Thomas Moorer down feel the gradual buildup of the Russian fleet in the Indian Ocean to its present average of about 30 ships at any one time necessitates a US response.

Adm. Elmo Zumwalt, the departing Chief of Naval Operations, has made the case:

"The Indian Ocean has become the area with the potential to produce major shifts in the global power balance over the next decade," he stated recently. "It follows that we must have the ability to influence events in that area, and the capability to deploy our military power in that area is an essential element of such influence."

"That in my judgment is the crux of the rationale for what we are planning to do at Diego Garcia."

The Pentagon's plans, if ultimately underwritten by the Congress, call for the base improvement to be completed by 1977.

The atoll's 8000-foot runway, which now can handle aircraft to the size of the Air Force's prop-driven C130 cargo plane, would be extended to 12,000 feet.

This would allow the operation of C135 and C141 jet cargo planes, and, in a squeeze, a B52. It would also mean that the Navy's P3 patrol plane could use Diego Garcia for long range antisubmarine picket work and surveillance of distant Soviet naval task forces.

The expansion plan for the atoll, a V-shaped affair measuring 11 square miles in all, would also mean dredging the deep water port to the point that it could harbor a full carrier task force of up to 12 ships and Poseidon missile-carrying submarines.

In Asia, however, the announced plans for Diego Garcia have already triggered rumors of its becoming not a commodious bathroom, but something more akin to a major strategic base for nuclear armed B52s.

This prospect, says the Pentagon, is belied by both the projected length of the runway, which could handle combat armed B52s only in tight circumstances, and by the ground facilities which could handle just 600 men maximum.

As for the nuclear argument, the Pentagon has long had a hard-and-fast policy to neither confirm nor deny the presence of nuclear weapons at any military facility or plans to put them there.

Nonetheless, persistent references in the Asian press to Diego Garcia becoming a stockpiling point for nuclear arms led one official American source in Asia to remark: "Though we're officially prohibited from commenting, this stuff in the press happens to be a long way from the fact."

For the record, U.S. military spokesmen insist that the modest "mothership" plan for Diego Garcia is necessary because of the inadequacy of substantial naval facilities accessible to American ships elsewhere in the area.

Presently the Navy's formal Indian Ocean Command consists of three World War II vintage ships that rarely venture far from their Persian Gulf headquarters at Bahrain.

The Soviet fleet, which averages about 30 at a given moment, now is expected to increase significantly with the imminent reopening of the Suez Canal.

To handle this traffic, the Soviets have standing port call rights in the littoral nations of Bangladesh, Somalia, South Yemen and Iraq already. The Russian fleet has no actual bases in these places as yet, but American military analysts see that day as not far off.

The government of India has led the chorus against the base, arguing for a neutral "zone of peace" in the Indian Ocean consistent with a UN General Assembly resolution of December 1971.

Incessant Indian attacks on the base improvement plan last winter prompted Daniel P. Moynihan, US ambassador in New Delhi, to suggest coyly that the atoll's distance 1000 miles from the southern tip of India meant that the body of water surrounding it might just as well be called the Sea of Madagascar.

Predictably, Moynihan's offhand remark triggered a storm of protest in India and a rebuke from Foreign Minister Swaran Singh. The ambassador felt compelled to offer a quiet apology for his malapropism.

The only Asian government known to have offered any public support so far for the proposed Diego Garcia buildup has been that of Pakistan.

This is partly explained by realistic American observers on the scene as Pakistan's tendency to take the opposite view of India whenever possible.

Moreover the Chinese are said by top American sources to favor the improvement of Diego Garcia as a counterfoil to Russian expansionism in the Indian Ocean—and the Pakistanis maintain close relations with Peking.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Senior statesman Chester Bowles, who was one of Moynihan's predecessors as US ambassador to India, has been the most recent to express opposition to the plan.

"Whatever America's rationalization, Diego Garcia has come to symbolize the most recent example of needless American interference in Asia," Bowles wrote recently in the New York Times. "For Asians, Diego Garcia is not a minor upgrading of a remote military base for passive purposes. It is a new incursion by America into waters it does not need and cannot protect, a move whose cost-benefit ratio is negligible in an area where its armed forces have become even more unwelcome."

Supporters of the plan counter by saying that the United States cannot afford a Fortress America posture about the increasingly important Indian Ocean area.

The case and ultimate verdict is now before the Congress.

"GIANT PATRIOT" OUT OF PLACE

Mr. MANSFIELD. Mr. President, I also ask unanimous consent to have printed in the RECORD an editorial entitled "'Giant Patriot' Out of Place," which appeared in the Philadelphia Inquirer of Saturday, June 8, 1974.

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

"GIANT PATRIOT" OUT OF PLACE

The Pentagon has come up with another of its bright ideas with a brightly chosen name attached to it.

The idea is for the Air Force to test-fire Minutemen intercontinental ballistic missiles, not over the ocean but over several Western states. The Pentagon wants Congress to put up $26.9 million for the first four of these launches, dubbed "Giant Patriot."

Any red-blooded Americans want to go on record against "Giant Patriot"? Well, a number of people have, nervously. "Chicken Little should be so lucky," says Idaho's Gov. Cecil Andrus. The ICBMs won't be loaded with their nuclear warheads. They will, though, drop off a couple of tons of debris, in two stages, on their way to wherever they're going.

And where that may be no man can be certain. The Air Force's Strategic Air Command estimates that the chance of humans getting hit is only one in 5,000. Rather short odds, when you come to think of it.

Some years ago, the Wall Street Journal recalls, the Air Force aimed a missile down the Atlantic and the thing hit somewhere in Brazil. In 1970, another missile, aimed to land in the White Sands proving range in New Mexico, strayed 400 miles and crashed in the Mexican desert.

Accidents will happen. We are not opposed, in principle, to testing weapons where necessary, but it seems to us that weapons should be tested where necessary, and that isn't where a couple of tons of metal can land on citizens' heads.

SEPARATION OF POWERS

Mr. GRIFFIN. Mr. President, with delivery of a letter dated June 9 from the President of the United States, addressed to the chairman of the House Committee on the Judiciary, wherein the President has refused to comply with certain subpenas, the lines have been drawn for an historic confrontation with respect to a fundamental issue that could soon come before the Senate. I refer to the issue of the existence and scope of executive privilege.

Certainly, the document submitted by the President will be an important part of the body of materials which Members of Congress will be required to study. The letter concisely sets forth the case that can be made for the President.

At this point, I would not presume to pass judgment. But it is important, I suggest, to recognize the grave nature of the constitutional question that is raised—a question that reaches to the very foundations of our system of government.

In his letter, the President has appropriately pointed out that it is not only the Executive who from time to time has claimed privilege under the doctrine of separation of powers; that, indeed, each of the two Houses of Congress has consistently refused—except by consent—to honor subpenas issued by the judicial branch of the Government. Although that consent usually has been granted, in some instances it has not.

The letter focuses also on the fact that the judicial branch of Government has insisted upon confidentiality and privacy with respect to its deliberations, and has refused on occasion to honor demands by other branches of Government. For example, there is reference to an instance in 1953, when Justice Tom C. Clark refused to respond to a subpena from the House Committee on Un-American Activities; and there is reference to the words of Chief Justice Burger who, in 1971, said:

> No statute gives this Court express power to establish and enforce the utmost security measures for the secrecy of our deliberations and records. Yet I have little doubt as to the inherent power of the Court to protect the confidentiality of its internal operations by whatever judicial means may be required.

Of course, it can be said that in the other situations referred to, the impeachment process was not involved. Perhaps the basic question can be put in a better perspective, however, if one were to assume the existence of a slightly different set of circumstances. Instead of the President, suppose the House Judiciary Committee were investigating the possible impeachment of a Justice of the Supreme Court. Suppose further that the House committee were to issue a similar subpena calling upon the Supreme Court to deliver up the minutes or other records of the secret deliberations conducted by the Justices in arriving at their decisions with respect to various cases.

I wonder what the response of the Supreme Court would be to the House Judiciary Committee under such circumstances.

I shall not presume to provide an answer to that question today. But perhaps by posing it, there can be a better understanding of the nature of the debate that lies ahead.

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

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

THE WHITE HOUSE,
Washington, June 9, 1974.

HON. PETER W. RODINO, JR.,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In your letter of May 30, you describe as "a grave matter" my refusal to comply with the Committee's subpoenas of May 15. You state that "under the Constitution it is not within the power of the President to conduct an inquiry into his own impeachment," and add that "Committee members will be free to consider whether your refusals warrant the drawing of adverse inferences concerning the substance of the materials. . ."

The question of the respective rights and responsibilities of the Executive and Legislative branches is one of the cardinal questions raised by a proceeding such as the one the Committee is now conducting. I believe, therefore, that I should point out certain considerations which I believe are compelling.

First, it is quite clear that this is not a case of "the President conduct(ing) an inquiry into his own impeachment." The Committee is conducting its inquiry; the Committee has had extensive and unprecedented cooperation from the White House. The question at issue is not who conducts the inquiry, but where the line is to be drawn on an apparently endlessly escalating spiral of demands for confidential Presidental tapes and documents. The Committee asserts that it should be the sole judge of Presidential confidentiality. I cannot accept such a doctrine; no President could accept such a doctrine, which has never before been seriously asserted.

What is commonly referred to now as "executive privilege" is part and parcel of the basic doctrine of separation of powers—the establishment, by the Constitution, of three separate and co-equal branches of Government. While many functions of Government require the concurrence or interaction of two or more branches, each branch historically has been steadfast in maintaining its own independence by turning back attempts of the others, whenever made, to assert an authority to invade, without consent, the privacy of its own deliberations.

Thus each house of the Congress has always maintained that it alone shall decide what should be provided, if anything, and in what form, in response to a judicial subpoena. This standing doctrine was summed up in a resolution adopted by the Senate on March 8, 1962, in connection with subpoenas issued by a Federal court in the trial of James Hoffa, which read: "Resolved, that by the privileges of the Senate of the United States no evidence under the control and in the possession of the Senate of the United States can, by the mandate of process of the ordinary courts of justice, be taken from the control or possession, but by its permission . . ." More recently, in the case of Lt. William Calley, the chairman of the House Armed Services subcommittee refused to make available for the court-martial proceeding testimony that had been given before the subcommittee in executive session—testimony which Lt. Calley claimed would be exculpatory. In refusing, the subcommittee chairman, Representative Hébert, explained that the Congress is "an independent branch of the Government, separate from but equal to the Executive and Judicial branches," and that accordingly only Congress can direct the disclosure of legislative records.

Equally, the Judicial branch has always held sacrosanct the privacy of judicial deliberations, and has always held that neither of the other branches may invade Judicial privacy or encroach on Judicial independence. In 1953, in refusing to respond to a

subpoena from the House Un-American Activities Committee, Justice Tom C. Clark cited the fact that "the independence of the three branches of our Government is the cardinal principle on which our Constitutional system is founded. This complete independence of the judiciary is necessary to the proper administration of justice." In 1971, Chief Justice Burger analogized the confidentiality of the Court to that of the Executive, and said: "No statute gives this Court express power to establish and enforce the utmost security measures for the secrecy of our deliberations and records. Yet I have little doubt as to the inherent power of the Court to protect the confidentiality of its internal operations by whatever judicial means may be required."

These positions of the Courts and the Congress are not lightly taken; they are essential to maintaining the balances among the three branches of Government. Equal firmness by the Executive is no less essential to maintaining that balance.

The general applicability of the basic principle was summed up in 1962 by Senator Stennis, in a ruling upholding President Kennedy's refusal to provide information sought by a Senate subcommittee. Senator Stennis held: "We are now come face to face and are in direct conflict with the established doctrine of separation of powers. . . . I know of no case where the Court has ever made the Senate or the House surrender records from its files, or where the Executive has made the Legislative Branch surrender records from its files—and I do not think either one of them could. So the rule works three ways. Each is supreme within its field, and each is responsible within its field."

If the institution of an impeachment inquiry against a President were permitted to override all restraints of separation of powers, this would spell the end of the doctrine of separation of powers; it would be an open invitation to future Congresses to use an impeachment inquiry, however frivolously, as a device to assert their own supremacy over the Executive, and to reduce Executive confidentiality to a nullity.

My refusal to comply with further subpoenas with respect to Watergate is based, essentially, on two considerations.

First, preserving the principle of separation of powers—and of the Executive as a co-equal branch—requires that the Executive, no less than the Legislative or Judicial branches, must be immune from unlimited search and seizure by the other co-equal branches.

Second, the voluminous body of materials that the Committee already has—and which I have voluntarily provided, partly in response to Committee requests and partly in an effort to round out the record—does give the full story of Watergate, insofar as it relates to Presidential knowledge and Presidential actions. The way to resolve whatever ambiguities the Committee may feel still exist is not to pursue the chimera of additional evidence from additional tapes, but rather to call live witnesses who can place the existing evidence in perspective, and subject them to cross-examination under oath. Simply multiplying the tapes and transcripts would extend the proceedings interminably, while adding nothing substantial to the evidence the Committee already has.

Once embarked on a process of continually demanding additional tapes whenever those the Committee already has failed to turn up evidence of guilt, there would be no end unless a line were drawn somewhere by someone. Since it is clear that the Committee will not draw such a line, I have done so.

One example should serve to illustrate my point. In issuing its subpoena of May 15, the Committee rested its argument for the necessity of these additional tapes most heavily on the first of the additional conversations subpoenaed. This was a meeting that I held on April 4, 1972, in the Oval Office, with then Attorney General Mitchell and H. R. Haldeman. The Committee insisted that this was necessary because it was the first meeting following the one in Key Biscayne between Mr. Mitchell and his aides, in which, according to testimony, he allegedly approved the intelligence plan that led to the Watergate break-in; and because, according to other testimony, an intelligence plan was mentioned in a briefing paper prepared for Mr. Haldeman for the April 4 meeting. Committee members made clear their belief that the record of this meeting, therefore, would be crucial to a determination of whether the President had advance information of the intelligence activities that included the break-in.

At it happens, there also was testimony that the ITT matter had been discussed at that April 4 meeting, and the Committee therefore also requested the April 4 conversation in connection with its ITT investigation. On June 5, 1974, a complete transcript was provided to the Committee for the purposes of the ITT probe, together with an invitation to verify the transcript against the actual tape. This transcript shows that not a word was spoken in that meeting about intelligence plans, or about anything remotely related to Watergate—as the Committee can verify.

I cite this instance because it illustrates clearly—on the basis of material the Committee already has—the insubstantiality of the claims being made for additional tapes; and the fact that a Committee demand for material does not automatically thereby convert the requested material into "evidence."

As for your declaration that an adverse inference could be drawn from my assertion of Executive privilege with regard to these additional materials, such a declaration flies in the face of established law on the assertion of valid claims of privilege. The Supreme Court has pointed out that even allowing comment by a judge or prosecutor on a valid Constitutional claim is "a penalty imposed by courts for exercising a Constitutional privilege," and that "it cuts down on the privilege by making its assertion costly." In its deliberations on the Proposed Federal Rules of Evidence, the House of Representatives—in its version—substituted for specific language on the various forms of privilege a blanket rule that these should "be governed by the principles of the Common law as they may be interpreted by the courts of the United States in light of reason and experience . . . ." But as adopted in 1972 by the Supreme Court—the final arbiter of "the principles of the Common law as . . . interpreted by the courts," and as codification of those principles—the Proposed Federal Rules clearly state: "The claim of a privilege, whether in the present proceeding or in a prior occasion, is not the proper subject of comment by judge or counsel. No inference may be drawn therefrom."

Those are legal arguments. The commonsense argument is that a claim of privilege, which is valid under the doctrine of separation of powers and is designed to protect the principle of separation of powers, must be accepted without adverse inference—or else the privilege itself is undermined, and the separation of powers nullified.

A proceeding such as the present one places a great strain on our Constitutional system, and on the pattern of practice of self-restraint by the three branches that has maintained the balances of that system for nearly two centuries. Whenever one branch attempts to press too hard in intruding on the Constitutional prerogatives of another, that balance is threatened. From the start of these proceedings, I have tried to cooperate as far as I reasonably could in order to avert a Constitutional confrontation. But I am determined to do nothing which, by the precedents it set, would render the Executive branch henceforth and forevermore subservient to the Legislative branch, and would thereby destroy the Constitutional balance. This is the key issue in my insistence that the Executive must remain the final arbiter of demands on its confidentiality, just as the Legislative and Judicial branches must remain the final arbiters of demands on their confidentiality.

Sincerely,

RICHARD NIXON.

DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1975

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 3000, which the clerk will state by title.

The legislative clerk read the bill by title, 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 training student loads, and for other purposes.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to the Kennedy-Cranston-Symington-Humphrey-Cook amendment reducing aid to Vietnam, on which there shall be 1 hour of debate.

The amendment is as follows:

On page 14, line 25, and on page 15, line 1, strike out "$900,000,000" and insert in lieu thereof "$750,000,000".

On page 16, line 2, strike out "$900,000,000" and insert in lieu thereof "$750,000,000".

Mr. STENNIS. Mr. President, I yield myself 1 minute. This is not with reference to any particular amendment, any more than it is to the entire sheaf of amendments.

Just let me observe, Mr. President, as floor manager of the bill, that we have had a good debate and some good votes, including some close ones, which I think is a healthy matter. We have a very full day, however, on these last amendments, some of which are highly important.

If I may just say a word of caution: After all, this bill is a military hardware bill, providing what Congress may think necessary in the way of military equipment. There are a great number of amendments here about relatively small matters, matters of administration, matters relating to the ROTC. Really, this bill is not designed to carry those kinds of amendments. I hope we will not load

it down with a great many amendments of that kind.

The bill relates to ships, submarines, manpower. As I say, I welcome debate on all amendments, but we have agreed now to lock up this bill today, including all amendments. So we will have to move along.

That is all the time I will use. Thank you.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CRANSTON. How much time do I have? A half hour?

The ACTING PRESIDENT pro tempore. Thirty minutes on each side.

Mr. CRANSTON. I yield myself 10 minutes.

Mr. President, the amendment is offered by Senator KENNEDY. Senator SYMINGTON and I are cosponsors, together with a number of other Senators.

The amendment would lower the ceiling on military aid for Vietnam from $900 million as proposed by the committee to $750 million.

The amendment does not, however, cut the actual level of aid to South Vietnam. The Kennedy amendment would permit the funding of military aid to Saigon at approximately the same level as was actually available for expenditure in fiscal year 1974. Actually it would allow $6.5 million more than in the current year.

Of the $1,126,000,000 ceiling on military assistance service-funded MASF, $1,009,500,000 was available for South Vietnam. The rest was for Laos, which will no longer be funded by the Defense Department, beginning in fiscal year 1975.

From this $1,009,500,000 should be subtracted the $266 million which the Pentagon says was spent in prior fiscal years. The remainder is $743.5 million, roughly the same as the level permitted by the Kennedy amendment.

It is true that this $750 million will buy less for South Vietnam than it would have last year. The reason is simple—roaring, galloping inflation in South Vietnam, which has reached a rate well over 50 percent a year. That is why the committee has, in effect, made more dollars available.

We should note, however, that just as the Vienam war is partly responsible for inflation in our country, it is largely responsible for inflation in Vietnam. As long as we continue to pump money into Vietnam, there will be more and more inflation. This creates a vicious circle, draining more and more money from American taxpayers.

I believe that U.S. military aid to Saigon should be phased out. Instead, the committee's proposed ceiling is clearly intended to sustain last year's level of combat—perhaps indefinitely. One does not have to look very far to prove the point. On page 1896 of the hearings, for example, in a written response to Senator STENNIS, the Defense Department indicated that—

> The level of hostilities in fiscal year 1975 will be comparable to those in fiscal year 1974.

Apparently, the committee chose to accept this statement and to pay for its consequences, for on page 163 of the committee report, is this revealing sentence:

> The recommended authorization should be sufficient to sustain operations at only slightly below the actual levels of last year.

That is what is at stake, Mr. President—funding an ongoing war indefinitely, or taking firm constructive steps to wind it down, as this amendment proposes to do.

Those of us who have been unhappy with U.S. policy in Indochina find it easy to be critical. But today I want to strike a positive theme: What Congress has done and can do now.

Heading the list are the genuinely meaningful reforms in accounting procedures insisted upon by the committee, and I laud the committee for them.

First, the bill requires a regular, separate appropriation for military assistance to Vietnam. This step will permit regular accounting and monitoring, including a GAO audit.

Second, the committee bill requires that the Secretary of Defense approve all obligations in this account, and that obligations be charged and reported when provided. This should go far toward clearing up the muddled, confusing crisscross of figures.

Third, the bill mandates a clear definition of the value of the various types of assistance in this account. Once again, this is a highly responsible step which should clear up some longstanding abuses.

Finally, Senator STENNIS has suggested that a "highly competent individual of top reputation" be given full authority to take charge of the military assistance program to Vietnam. We need a first-rate administrator—someone who is not afraid to crack down on sloppy standards.

It is incredible that this was not done long ago by the DOD without waiting for Congress to make the suggestion. I trust that this suggestion will be carried out at once, and that adequate staff will be provided.

Another reform which I am looking forward to is the transfer of the military assistance program to South Vietnam back to where it belongs—with the rest of our military aid programs. The agency in charge should be AID, not the Pentagon.

In his summary statement on the bill, Senator STENNIS noted that the bookkeeping reforms which I have just mentioned will help to move the program back to AID in fiscal year 1976. Unfortunately, as yet there is no clear commitment to this effect from the Pentagon. I strongly urge the committee to push for this change.

Also in the "positive" category are steps which Congress has taken against the administration's will. In each case we were told that if we put a stop to this or that military activity, all kinds of disastrous things would happen. But I would argue that all of these steps promoted peace, or at least that they facilitated U.S. disengagement from combat in the war that, unfortunately, we still finance.

These steps have included:

Placing strict limits on U.S. involvement in Laos and Cambodia;

Prohibiting the funding of third-country mercenaries;

Legislating a prohibition, beginning in fiscal year 1975, on the use of "food for peace" currencies for military purposes;

Vociferously opposing the "Christmas bombing" of Hanoi, and thus propelling the administration toward negotiating the peaceful settlement the following month; and

Denying the supplemental request for this fiscal year, and hence sending Thieu a clear signal that he cannot count on unlimited American subsidies forever.

This is hardly the record of a "do-nothing Congress," but of a Congress which does a lot that the administration does not like.

With these achievements behind us, and in the same constructive spirit of promoting peace, where should we go from here?

The distinguished Senator from Iowa (Mr. HUGHES), who cares so deeply about peace, has summed up the answer in one sentence. In individual views accompanying the committee's report, he wrote:

> Our aid should be structured so as to encourage the transition from a military to a political struggle.

Precisely.

The first fact to be faced head on is the question of Communist violations of the cease-fire. There is no question that they have occurred on a large scale. Just because many of us have no use for Thieu does not mean we should whitewash the other side.

The question should be: Given massive violations of the cease-fire on both sides, how can we best encourage peaceful behavior?

Mr. President, I shall have more to say later. But I will wait until after the statement of the principal sponsor of the amendment, the Senator from Massachusetts (Mr. KENNEDY).

Mr. President, on December 28, 1973, President Thieu announced that Saigon would not agree to hold elections despite article 9(b) of the Paris agreements. I cannot help but think back 20 years, when the promise of elections contained in the Geneva agreements of 1954 was also betrayed.

If the other side is not allowed to participate in the political process, they have no incentive for peace. It is that simple.

So if we want the Communist forces to stop violating the cease-fire, we must put pressure on Thieu to permit elections and to grant the basic freedoms envisaged by the Paris accords.

The committee's report makes it clear that no reduction in combat activity is expected. Eighteen months after the cease-fire, massive amounts of U.S. aid have not brought the peace envisaged by the Paris agreements.

There is a reason for that lack of progress. It is that U.S. aid is overwhelmingly military or military-related in nature. No wonder President Thieu has taken the military offensive and spurned political compromise.

The most effective way we can put pressure on Thieu is to make clear our intention to wind down our funding of the war. As I pointed out, we sent Thieu a clear signal in denying the supplemental request for this fiscal year.

We can back up that signal—we can put teeth into our action—by cutting MASF to $750 million. That is the kind of pressure Thieu respects and understands.

Opponents of this amendment argue that we must continue to ship millions of dollars worth of arms to Saigon to help the government resist aggression. Listening to this, you would think that Thieu was entirely on the defensive.

The report of a study mission to South Vietnam, issued by Representative PETER FRELINGHUYSEN, indicates quite the opposite:

> The Government of Vietnam has fared well during post-ceasefire maneuvering. Since January 1973 it has added 770 hamlets to the list of those over which it has dominant control, and it has reportedly reduced the number of disputed hamlets by well over a third. The Communists meanwhile have lost over 90 hamlets that were under their firm control at the time of the cease-fire, and 300 more that they seized temporarily in its immediate aftermath.

Mr. President, how can we square this report with article 3 of the Paris agreements? That article states:

> The armed forces of the two South Vietnamese parties shall remain in place. . . . 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.

It would be one thing if Saigon's military forays were defensive in nature. But President Thieu has abandoned that pretense, and we should, too.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. CRANSTON. Mr. President, I am delighted that the distinguished Senator from Masachusetts (Mr. KENNEDY), who offered the amendment, is now present. He now has the floor.

The ACTING PRESIDENT pro tempore. How much time does the Senator yield himself?

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. KENNEDY. As I understand, there is a limitation agreement of 1 hour; is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. KENNEDY. How much time remains to the proponents of the amendment?

The ACTING PRESIDENT pro tempore. Twenty minutes to the proponents of the amendment; 30 minutes to the opposition.

Mr. KENNEDY. I yield myself 8 minutes.

Mr. President, I would first like to offer my commendation to the distinguished chairman of the Armed Services Committee, and to his colleagues on the committee, for the very important and substantive changes they have made in the authorizing language for the MASF program. The revision in accounting requirements in the bill, and the committee's insistence that the Department of Defense tighten up its administrative procedures for military aid to South Vietnam, serve to eliminate some of the abuses, as well as some of the misunderstandings, which have surrounded the MASF program in the past. And, hopefully, the committee's action will also promote the transfer of this foreign military assistance program back to the Foreign Military Assistance Act, where it belongs.

But more importantly, I would like to commend the committee for the basic policy guidelines it established in its report concerning military aid to South Vietnam. First, the committee agreed that although some military aid was necessary for South Vietnam, our aid "should be governed by fiscal stringency." This, of course, should be our guide in all Federal spending programs, but never more so than for those programs which deal with the weapons of war, rather than with the tools for peace or people's welfare.

Second, in rejecting the Pentagon's massive calculations on the projected need for ammunition and military equipment in South Vietnam, the committee has acted in support of the view that the United States must be extremely cautious and circumspect in shipping more weapons to Vietnam—weapons that may serve to escalate the conflict or fan the flames of violence, rather than reduce the fighting and reinforce the ceasefire. Surely we must err on the conservative side when providing military aid anywhere, but particularly so when there are indications that—and I quote the committee's report—

> Many items of equipment (requested by the Department of Defense) appear to be in excess of what may be reasonably expected to be required.

I fully support this assessment of the Pentagon's budget proposal.

Our estimation of military aid requirements in Saigon should be guided by the anticipation that the ceasefire agreements can be implemented—that they can be made to work—not that the fighting will go on as before. Our military aid must be conditioned on the fact that the Saigon Government, as we, should do everything in our power to abide by the Paris agreements, and to implement the provisions that set the stage for a political settlement of the conflict.

Clearly, new requests for more military aid this year cannot be made in a vacuum, as if nothing had changed in Vietnam—as though American troops were still there—as if the United States were still directly involved in the conflict. Moreover, we cannot permit the level of our military aid to prolong the "cease-fire war," or to perpetuate old policies and relationships as if the cease-fire agreement did not exist.

Every dollar we spend in Indochina should be spent to help strengthen the cease-fire agreements; to help foster accommodation and reconciliation in support of a political settlement; and to help reduce America's further involvement in the area—not to prolong or sustain it at the level it is today. And these objectives should be supported by taking our diplomatic activities off the back burner, and giving peace in Indochina the priority it deserves.

Let me review, for the record, what this amendment will not do. First, this amendment will not cut off all aid to South Vietnam. The question before us is not whether we are proposing to "abandon" an ally. The question, once again, is what the level and character of our continuing aid should be. The issue is not the end of American assistance to South Vietnam, but how to encourage a transition in our continuing relationship—from a master-client aid relationship, to a more balanced one that encourages self-reliance, rather than dependence. Two to four billion dollars a year from the pockets of American taxpayers hardly constitutes abandonment.

Second, this amendment does not seriously affect our national interest—let alone our national security. There is not now—and there really never has been—a relationship between the funds we authorize for our national defense and the funds we give for military aid to South Vietnam. This has been clearly stated by Secretary of Defense James Schlesinger, most recently in a meeting with the press on May 21. The Secretary said:

> I would not describe South Vietnam as an area of the world, or Southeast Asia as an area of the world, in which our national interests are high.

And in testimony—justifying the MASF program—before the Armed Services Committee, Deputy Assistant Secretary of Defense Dennis Doolin said this, in responding to a question by Senator SYMINGTON:

> Speaking absolutely candidly, I would not justify our assistance to South Vietnam per se in terms of the immediate security of the United States.

Third, contrary to suggestions from some quarters, lowering the MASF ceiling would apparently not upset any balance between what we give to Saigon, and what Moscow and Peking give to Hanoi. A U.S. Embassy memorandum from Saigon—on conversations held by Ambassador Martin in January—states that the Ambassador—

> Would completely agree that our intention all alone was to balance the aid being given by the Soviet Union and the People's Republic of China to North Vietnam. He thought we should give material and training (to Saigon) to match that being given to North Vietnam by the Soviets and Chinese.

By that measure, Congress should probably lower the MASF ceiling even

more than the sum suggested in the pending amendment. According to information recently made available by the Defense Intelligence Agency, in 1972, Moscow and Peking provided Hanoi with some $605,000,000 worth of military aid. MASF aid to Saigon was nearly $2 billion—or more than 3 times the aid provided Hanoi. In 1973, the Hanoi figure was some $290,000,000. MASF aid to Saigon was more than $2.2 billion. And presumably this imbalance, and pattern of military aid, continues.

Fourth, this amendment will not prevent the procurement of military essentials by the Saigon army. What this amendment will do is to continue the orderly and progressive phasedown of American military aid, which everyone says they support. It will continue the process of "Vietnamization" and fulfill the pledge that, at long last, America is disengaging from the conflict in Vietnam with peace and honor.

The Pentagon has cried wolf too long, and too often, for us to give credence to the dark predictions uttered every year before a vote on military aid. For example, just last month, when the Senate considered a $265 million bookkeeping error to increase military aid to South Vietnam, we all saw a Pentagon "fact sheet" declaring—and I quote—

> Denial of the $266 million adjustment—would certainly create grave problems for South Vietnam.

The Senate rightly rejected that backdoor financing proposal. And, rather than the sky falling in, the next day we heard from the Pentagon press spokesmen that the vote was not that significant. He said that it would result in "no dramatic, immediate effect" in Saigon. He said it would only cause—

> At some point, a bubble in the pipeline and some reduction in the rate of deliveries.

As Secretary of Defense Schlesinger later said:

> We can get by stringently . . . we have to readjust deliveries . . . presumably you can get it by just scrunching down.

In an era of inflation and competing demands on our resources abroad, who does not have to "scrunch down?" And what is wrong with letting Saigon "get by stringently?"

Also, after weeks of predicting an imminent North Vietnamese offensive, we are now told that those reports are exaggerated. By the Pentagon's own account, there are contradictory reports from the field as to the actual level of military activity now, much less whether there is any basis to reports of massive North Vietnamese aggression. In his testimony before the Armed Services Committee, Maj. Gen. William Caldwell indicated that North Vietnamese combat troops in South Vietnam remain at approximately the same level they were at the time of the cease-fire—about 150,000 troops. And rather than losing territory to North Vietnamese aggression, General Caldwell testified that, except for immediate post-ceasefire "land grabs," the "overall change in land territory—has not changed adversely to the South Vietnamese." In fact, he indicated that Saigon forces have increased their territorial and population control since the cease-fire. And last week, in testimony before the House Foreign Affairs Committee, Secretary Schlesinger officially ended the imminent threat of an "offensive," saying he "no longer expects a major communist offensive in South Vietnam."

Finally, this amendment does not violate our true obligations to the people of South Vietnam. We are told by the administration that we have a "moral commitment" to South Vietnam. And the Pentagon says, that if Congress does not provide the ammunition requested—this "will be a violation of the clear understandings—the South Vietnamese—had from us at the time of the cease-fire."

What "understandings?" And who made them? And why are they hidden from Congress and the American people?

And what about our "moral commitment?" What is so moral about providing vast quantities of ammunition for Indochina? What is so moral about fueling a needless conflict in an area of the world which high officials in our Government suggest is not vital to our national interest or security?

We have no moral commitment to any army in Indochina. We have no moral commitment to this or that Government—to this or that official.

Our only true remaining moral obligations are with the American people and their hope for peace—and with the millions of war victims in Indochina who cry out for relief and rehabilitation. We also have a moral obligation to help accomplish the political goals of the cease-fire agreements. For these agreements are more than a one-to-one replacement program for military hardware.

We are told by the Pentagon that if we pass this amendment, "ammunition provided at this level will not sustain the fiscal year 1974 level of combat." That is as it should be. We should reject the notion that we must plan for war and more war—rather than anticipate that some greater diplomatic effort will be made to strengthen the cease-fire agreements.

To do otherwise, I submit, would be a self-defeating policy. If conditions do deteriorate in Vietnam, as the Pentagon so frequently predicts, and there is justification for further military assistance, the Congress can, as it has for Israel and Vietnam in the past, vote a supplemental military appropriation. As the committee report clearly states it:

> Should a serious change occur in the military situation, of course, the Committee would give prompt consideration to a request to change the law in order to meet these unforeseen needs.

I fully support this position. But this is a position which is a last resort. What we should expect, and what we should insist upon, is renewed diplomatic initiatives to strengthen the ceasefire, to make it work, and to achieve progress toward a political settlement. To approve vast quantities of military hardware now—at a level of $900 million, which is effectively the same as this past year—risks more war without encouraging a political settlement or a reduction in American involvement.

In this regard, I would like to read a news dispatch on what the reported effect congressional action has had to date on Saigon's military planning. According to a Chicago Daily News, wire story:

> South Vietnamese generals have been ordered to reduce their personal staffs sharply in government austerity move believed tied to Saigon fears that Congress will slash aid to South Vietnam.
>
> The generals have been told that they must cut from 36 to 11 the number of chauffeurs, servants and bodyguards on their personal staffs. They have also been ordered to turn back two of the four personal vehicles now allotted to them.
>
> A wide range of other economies also are being imposed, sources said, because Congress rejected an administration request to raise the annual military aid appropriation from $1.12 billion to $1.6 billion.
>
> In another development, a military court has sentenced 19 officers to prison terms of one to eight years for accepting bribes from so-called "flower" soldiers. These are men who paid money to the senior officers to list them as present for duty when actually they were somewhere else working at more lucrative civilian jobs.
>
> There are estimates that as much as 15 per cent of South Vietnam's claimed military strength of 1 million men may consist of "flower" soldiers or of "phantom" soldiers. The latter are false names maintained on unit rosters so that the commanders can pad their payroll.

I believe that Congress acted responsibly last year in limiting our funding of military supplies to the South Vietnamese Army. That wise decision—that our military aid should go down, not up—must not be reversed now. The issue was clearly stated by Secretary Schlesinger when he told the press:

> The real issues here are the kinds of signals that we are giving to both North Vietnam and South Vietnam.

I say we should not send a message to Vietnam that says America will continue to pay for more war. What we should be saying is that America believes its remaining obligations in Indochina are toward strengthening the peace, and to the people who need help.

Congress can no longer allow our Vietnam policy to remain bogged down in a cycle of recrimination and violence, which prevents new initiatives necessary to strengthen the cease-fire agreement and achieve a political settlement. This administration's policy of negotiation, accommodation, and détente—so notable and praiseworthy in our recent approach to other areas of the world—should be extended again to Vietnam.

In the absence of any new or meaningful diplomatic initiatives by the administration to reduce the level of conflict in Indochina, the Congress must act to chart some new directions, and to lower the level of our involvement. By accepting this amendment, the Senate will reaffirm that this is the new road we should follow—a road away from more money for more war.

Mr. President, I think it is also important to recognize what the statistics and the figures are in terms of the massive military assistance program we are discussing.

In the last fiscal year, the ceiling was $1.126 billion. Subtracting $116 million, which was for Laos, gives $1.009 billion for South Vietnam. Then we take away from that, $266 million, most of which was spent in prior years and was said to have been charged to fiscal year 1974, after the amendment that I offered in May; so we can take that out of what actually was spent. As we heard previously from the Defense Department, that was allocated in a previous year; so if we subtract the $266 million from the $1.009 billion, we come up with approximately $743 million for last year.

That was what was prescribed last year, and all we are trying to do is hold the line at what was provided last year, or about $750 million. Anyone who supports this amendment is supporting the kind of military assistance that we provided last year for Vietnam.

Beyond that, Mr. President, we know that the allegations or suggestions that were made by the Defense Department about various offensives and build-ups that were supposedly to take place in South Vietnam by North Vietnam have not materialized.

Anyone who supports this amendment this morning says he does not want to be spending any more than was expended last year. We want to see at some time a termination of military assistance. We have been spending hundreds of millions of dollars—in fact billions of dollars—in South Vietnam, and we do not want to spend additional money over an indefinite period in the future. We are glad to hold the line at this level, but we do not want to spend billions of dollars of the American taxpayers' money, ad infinitum, on into the future.

We have heard from the Defense Department that the North Vietnamese are building up an offensive, although we hear contradictory testimony from the military leaders in the field that this is not so. We hear about violations of the Paris Peace Treaty, and obviously there have been some, by the North Vietnamese. This is not defensible; there is no question about that. But violations by the South Vietnamese are equally indefensible. Any study of changes of territory controlled by either North or South shows that the changes have amounted to virtually a standoff in terms of land control. The South Vietnamese probably control more land today than was controlled by them at the time of the cease-fire, and more people are under the control of the South Vietnamese Government than at the time of the cease-fire as well.

I want to give assurance, Mr. President, to those who may support this amendment that should there be some kind of dire military need in South Vietnam, should there be such obvious violations of the Paris peace agreement and military buildups as some have alleged—as I am sure we will hear about in the development of the opposition to this amendment—there is nothing to prohibit the Senate or Congress from passing a supplemental appropriation—nothing. We can, as I stated earlier, move ahead on that. We can move ahead rapidly and expeditiously to meet any kind of military threat.

But for Congress, the Senate, and the American taxpayer simply to say we are opening up the pocketbook of the American taxpayer, and are prepared to go in and support whatever kind of military judgments or decisions are being made by the generals in South Vietnam, I think, really runs contrary not only to the spirit of the Paris peace agreements, but also to our responsibility to see that we are going to make the Paris peace treaty something that will be meaningful in terms of bringing peace to South Vietnam.

We hear much about our moral responsibilities to the Armed Forces in South Vietnam. I think we have two moral responsibilities. One is to see that the Paris peace treaty is actually implemented, and to exercise every kind of diplomatic means we possibly can to see that the treaty is implemented by the South as well as the North; and I am not satisfied that we have done everything within our diplomatic means to achieve that.

Our second and more important moral responsibility is to the ravished people of South Vietnam, the hundreds of thousands, even millions, of refugees, the more than one million orphans in South Vietnam, the thousands of people, the majority under 14 years of age, who have lost arms and legs. We have a responsibility to those individuals, yes. But that is not what we have been talking about in the debate. We say we do not want to implement a program to look after ravaged people but that we have an open-ended responsibility based on the Paris Treaty to provide military aid. I ask Senators who are asking us to spend millions of dollars for military aid, to give us the Paris Treaty and tell us if anyone of us who are representatives of the people actually voted to provide an open-ended commitment by the Senate and the American people to provide hundreds of millions and billions of dollars of taxpayers' funds to be used for the perpetuation of the military regime in South Vietnam.

I have not seen those agreements. I have not seen spelled out to the American people what "commitments" we made to the South Vietnamese Government that require, every appropriation time, that we have to go ahead and "ante up" and increase our aid time and time again, as we have been doing, increasing by hundreds of millions of dollars the amount of money we are actually appropriating and spending.

Finally, it is rather interesting to listen to the statements of the military. When we talked about maintaining the ceiling last year, where the ceiling voted was $1.126 billion, and deny a $266 million payback scheme, we heard from the military about how this would be an absolute disaster. But after the Senate voted to reaffirm what we have indicated, that the figure would be $1.126 billion and prohibit the $263 million, right after we voted for that, the Defense Department were asked for an explanation and they said this is only going to be a little ripple in the pipeline, that it wasn't that serious.

This is what we are faced with. We will hear the prophets of gloom and doom speaking on the floor of the Senate this morning, but, quite frankly, the adoption of this amendment would provide all that is necessary in the immediate situation. It would provide the kind of flexibility to us to increase, should there be a dramatic need and should we make a decision that there is a dramatic need for any increase in the future. Therefore, I hope that this amendment will be agreed to. I reserve the remainder of my time.

Mr. STENNIS. Mr. President, how much time remains to me?

The PRESIDING OFFICER (Mr. METZENBAUM). Twenty-seven minutes.

Mr. STENNIS. I yield myself 5 minutes.

Mr. President, we are in the Chamber with just 3 or 4 Senators present, and we have an item in the bill of $900 million for South Vietnam to help them carry on the war which we fought for so many years and in which we lost 54,000 men besides billions of dollars.

In my humble opinion, no one can say with exactitude how much is actually needed for this purpose. I will start with myself. I cannot say with certainty that $900 million is needed. I do not believe that the Senator from Massachusetts with all deference to him, can say that only $750 million is needed. No one knows.

But this is what happened. Fifteen Senators charged with the special responsibility of making a recommendation—and all we can do is recommend—after digging and prying into this matter, and sitting around the table and talking about it back and forth more than once during several days of the markup of the bill, reached a common ground that unanimously recommended—I am not certain in my mind whether the Senator from Missouri was there—I cannot be certain—but all that were there were active—I believe the Senator from Missouri had to look at other matters during a part of that time—unanimously agreed on the $900 million. Those present included the Senator from Iowa (Mr. HUGHES) who will speak this morning in support of the $900 million. Of course, we do not have to say he always means what he says; everyone already knows that he does. But this is the sentiment, so far as the committee is concerned, of a unanimous recommendation, with no dissent. As I have said, I cannot be certain that the Senator from Missouri was there.

We also have done what we could to be sure there were no side pockets or caches of funds of various kinds to be

used for this purpose. The Senator from Massachusetts has made a contribution in this field. He had a very good amendment. We supported his amendment. He made a real contribution.

I can say further to the Senate that we will have actual hearings and will dig into the whole picture and find out about funds, if any, that are in some other categories. That is as far as we can go. We worried about this matter, dug into it, and found out the best we could about it.

When the war was still going on and men were being sent into battle every day, with some of them dying in the jungles, not so close an accounting was made of the money as is now to be made for fiscal year 1975. We do not have to give a reason for that. Blood reasons for it.

But we put language in the bill that will tighten it up and make the Department of Defense give us a strict accounting for all this money. There will be a separate line item in the appropriation bill. Further, I have gone to Secretary of Defense Schlesinger and asked him to put someone in charge, someone directly responsible to him, to be in charge of this money at this end of the line and at that end of the line.

We are not talking about theories. This money is to buy gasoline, oil, fuel of all kinds for the war, cartridges for rifles, ammunition for artillery, bombs—everything that goes to make war. Otherwise, those people will not have a chance; they will not have a chance to withstand the political pressure of North Vietnam without some aid. I do not believe there is a Senator who would want to walk off, turn his back, and leave them. So that is the spirit in which we present this.

Mr. President, I am glad now to yield to the distinguished Senator from Iowa (Mr. HUGHES) who is very much concerned about the matter.

If I may add one figure, we in the committee cut the request from $1.6 billion to $900 million, which a quick calculation shows is a 43-percent reduction.

Mr. President, I yield 5 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 5 minutes.

Mr. HUGHES. Mr. President, I thank the distinguished chairman of the Armed Services Committee for yielding me this time. As he has already pointed out, there is little need for me to repeat my continuous position and pressure both within and out of the committee for reductions in fundings going to South Vietnam, but I have asked for a few minutes today to support the Armed Services Committee's recommendation on military aid to South Vietnam.

The committee reached a significant consensus—and it is significant—after long discussion and debate within the committee to limit U.S. military assistance to $900 million in fiscal year 1975. As the chairman has just pointed out, this figure is $700 million below the administration's request, over $200 million below that approved by the House of Representatives, and slightly more than $100 million below the Vietnam ceiling for fiscal year 1974.

Mr. President, to be quite direct with the Senate, I proposed an amendment in committee to reduce the amount to $800 million in the hope that we could further reduce this. In the process of discussion within the committee, I may say, I was pleased with the cooperation of the committee, because I am not sure whether I could have carried my amendment for $800 million. If I had been sure, I would have pressed it.

But in the discussion, as the chairman has already pointed out, none of us was absolutely certain as to the precise dollar need. We concurred in the general area of what that need was. I believe that the majority of the committee wanted to maintain the request at about $100 million higher than that finally agreed to. There was a compromise, and it was agreed to reduce the amount to $900 million. we also agreed that we could keep a continuous pressure and a continuous watch on what has been happening to the funds that have been going to Vietnam for these purposes.

The committee position, representing a wide spectrum of views toward our past and present involvement in Vietnam, is a clear signal to Saigon that, from now on, the South Vietnamese Government no longer has a blank check to draw on our treasury.

I appreciate the arguments for further reductions in the $900 million amount, but I believe that this figure represents a carefully considered judgment, item by item, of what seems appropriate for South Vietnam under present circumstances. I can say that this question was examined item by item; that we very carefully considered every item that went into this amount, as well as it is possible to consider it in close examination.

At a time when the North Vietnamese Government has received drastically reduced military assistance from its allies, the committee did not believe that we should increase our own aid to Saigon.

The committee also questioned the Pentagon's assumptions about equipment needs and usage rates for air and ground munitions, and then made reasonable cuts in the level of funding.

One could challenge the assumptions underlying our actions, but the basic one was that the level of violence would probably remain at about the same reduced level of recent months. On that basis, the committee figure would provide the equipment and supplies to replace those items consumed at slightly less than the current rates. These reductions should impose greater stringency on the South Vietnamese forces and should prevent a lot of the reported wastage of ammunition and supplies.

I hope and expect, of course, that the Appropriations Committee will examine these requests on the basis of later evidence in order to consider further sensible reductions, if at that point it is necessary. I have discussed the matter with the chairman of the committee, and I am sure that he would want to maintain the same pressure in that process.

But the current figure, $900 million, is convincing proof that the Armed Services Committee and the Senate are moving to phase out our massive commitment to South Vietnam. I think that is also convincing proof that the Committee on Armed Services has taken a hardheaded look, item by item, at precisely what we are still doing in that area. I believe that the committee's position will also promote a transition from a military to a political struggle in that country—which most of us are praying for, and which is the primary goal sought by those who favor a reduced amount.

Therefore, Mr. President, I support the committee's recommendation.

I believe that the wide diversity of opinion and philosophy and disagreement within the committee itself, when we arrived at this figure, certainly represented an honest attempt by the committee to examine the hardware, item by item, to make the reductions they thought essential, without leaving the South Vietnamese unable to continue in their own defense.

I thank the distinguished chairman for his cooperation on this particular item in the committee, because it was a strong bone of contention among us. We finally arrived at a unanimous vote of the committee members who were present as to the amount decided upon. Although I had hoped for a further reduction, I believe it was an honest attempt by the committee and an honest attempt by the Senate to support the $900 million, and I believe it would be the best approach at this time.

Mr. STENNIS. I thank the Senator for his remarks. They are unanswerable, in my opinion.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, I yield 6 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, first I wish to advise the Senate of the action by our committee on this issue. The committee has tried to reshape the MASF program in a constructive way. We took the following steps:

First. Reduced the $1.6 billion request for a ceiling on this Vietnam aid to $900 million—a level the committee considered reasonable for fiscal 1975. Some on the committee felt that it should have been larger.

Second. Set up a regular, separate appropriation for this assistance—a step which will permit regular accounting procedures and follow-up, including GAO audit.

Third. Require that the Secretary of Defense approve all obligations in this account and that obligations be charged when provided.

Fourth. Clearly define the authentication procedures for obligations of assistance in this account.

Mr. President, one can see that the committee has done its work well. The distinguished Senator from Iowa (Mr. HUGHES), who has been considered a

critic of aid to South Vietnam, supported this amendment. In fact, it was he, I believe, who offered the amendment to fix it at this amount. He realizes the importance of this amount and has spoken today in the Senate in opposition to any further reduction.

There is nothing to indicate a decline in military operations in South Vietnam. In fact, on June 3 a Communist rocket attack at Bien Hoa air base near Saigon killed and wounded more than 100 people. On the same day, Communist sappers sank an 1,178-ton South Korean merchant vessel moored 6 miles southeast of Saigon and four crewmen were lost. Also, on the same day, shells hit a prison near Saigon, killing 31 civilians and prisoners and wounding 82 others. Out from Saigon on the same day, less than a week ago, 300 artillery and mortar shells were dropped on Ben Cat, another government position. Thus, we can see the war is continued by North Vietnam.

Mr. President, there is no question in my mind that we should provide the $900 million provided for in the bill, because it is essential if South Vietnam is to survive. I wish to cite a few reasons why I am so strongly in favor of aid to South Vietnam.

First. North Vietnam continues to receive large-scale Soviet and Chinese assistance.

Second. U.S. assistance is essential to preserve the military balance in South Vietnam and, if reduced below current levels, will seriously weaken South Vietnam's ability to defend itself.

Third. U.S. abandonment of its military assistance program to South Vietnam would undoubtedly encourage Hanoi to launch large-scale offensives.

Fourth. Communist violations of the ceasefire are running 12 times higher than ceasefire violations by South Vietnam. So we can see who the aggressors are. The aggressors are North Vietnam, not South Vietnam.

Fifth. Militarily the South Vietnamese Army is performing quite well and showing a high degree of competence in managing its assets.

Sixth. While the United States does not have a treaty obligation to supply military assistance, it certainly does have a moral obligation. The essence of the Vietnamization doctrine was that South Vietnam would do the fighting and the United States would provide the equipment. Mr. President, that is exactly what has been happening. South Vietnam has taken over defense of their territory; they are doing the fighting. Now it is up to us to provide the equipment, if we want them to remain free. It is important that they remain free, because the national interests of this country could be affected.

Seventh. The current level of U.S. assistance to South Vietnam is considered to be the minimum to assure the military capability of the South Vietnamese forces. The current level is also substantially below the one-for-one replacement level provided in the Paris agreement.

Mr. President, in the Paris agreement, we provided one for one. That means that if they lost one tank, we would let them have a tank. If they lost an artillery piece, they would get another artillery piece. If they lost a gun, they would get another gun.

This amount will not come up to the level that was promised in the Paris agreement.

Mr. President, I wish to follow up with a statement by Dr. Kissinger which substantiates what I have said. First, I will refer to other comments made by him. Dr. Kissinger has done a fine job in this matter, and these are his words with respect to South Vietnam:

> With regard to South Vietnam, I have a very personal sense of obligation to do everything I can to make good on our moral commitment to assist that nation in its survival as an independent state. The Administration's request for $1.6 billion in military assistance was made because of our conviction that the survival of South Vietnam is indispensable to the creation of an enduring structure of peace in Southeast Asia. Without our military assistance South Vietnam's ability to resist communist military pressures, fueled by an extensive flow of arms and supplies from the North, would be critically endangered.

Mr. President, these are Dr. Kissinger's words. He goes further and states:

> I recognize that the House has already substantially reduced the Administration's request and that some members of the Senate would favor even a larger reduction. But I would be remiss in my duty as Secretary of State if I did not *urge* upon you the *essentiality* of supporting the Administration's request. Here, as in Europe, we must not lose sight of our longer range objective, and that is not just a reduction in the level of hostilities but more importantly the creation in Southeast Asia of an environment conducive to enduring peace and reconstruction. This fundamental humanitarian goal not only deserves the wholehearted support of all the people in the area, but also of the American people whose devotion to peace and progress throughout the world has been convincingly demonstrated over the years. In South Vietnam we have made an enormous investment in lives and dollars on behalf of the survival of that country and an enduring peace in Southeast Asia. We have made marked progress toward these goals. I am convinced that our willingness to contribute a substantial level of military assistance to South Vietnam in the coming fiscal year will bring stable peace closer and enable us to reduce our assistance progressively over the following years.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. Mr. President, how much time have I remaining? I yield 1 minute to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to say that President Nixon favors this appropriation; the Secretary of State favors this appropriation; the Secretary of Defense favors this appropriation; and the Committee on Armed Services favors this appropriation.

I hope the Senate will reject the amendment.

Mr. KENNEDY. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, first of all, I again wish to commend the chairman of the Committee on Armed Services and the committee itself for the revised procedures they are following to review in very careful detail the actual amounts being authorized and appropriated to MASF, and reviewing every possible loophole that has existed heretofore to make sure we are closing loopholes and to make sure that the ceiling established in the Senate is being lived up to. As one who has been critical of these procedures in the past, I wish to indicate again my firm support for the steps that have been taken by the Committee on Armed Services.

Mr. President, I think it is probably appropriate, as we are opening up the taxpayers' pockets this morning, to consider what has been the stated policy of the administration about the United States matching the kind of help and assistance that the Soviet Union and the Chinese have been providing North Vietnam.

Our Ambassador to Saigon, Mr. Graham Martin, stated that our intention all along was to balance aid being given by Russia and the Chinese to North Vietnam. He thought we should give funds to Saigon to match that aid.

Mr. President, in 1972 the Russians and the Chinese gave $605 million in military support to the North Vietnamese; we gave $2 billion. In 1973, they went from $605 million down to $290 million. They cut theirs more than one-half and we went up to $2.2 billion. While they were cutting theirs by more than one-half, we were increasing ours.

Military intelligence suggests a continuing decline in the support provided by the Russians and the Chinese. On the one side they are supplying less and we are being asked to appropriate more than we did last year.

All we are saying is that Senators should recognize that the House has appropiated $1.126 billion, so if Senators support our amendment for $750 million and we go to conference, we will end up just about where the Committee on Armed Services said it should be at—the $900 million mark. If Senators support this amendment, the actual result will probably be what our Committee on Armed Services thought the amount should be, and that is about $900 million. So Senators really would be supporting the judgment of the Committee on Armed Services.

Second, if Senators support our amendment, actually we would be appropriating more than was expended last year or at least charged against last year.

Third, and most important, if this amendment is supported, we always have the opportunity to come back to the Senate should the North Vietnamese begin an offensive, and should there be a requirement for additional military assistance. We can always do that.

I wish to quote what General Caldwell said before the Committee on Armed Services when asked by Senator GOLDWATER about the military expansion of North Vietnam:

Within South Vietnam itself there has been on the South Vietnamese side an increase in population control of roughly 6 percent. And while there have been certain land grabs by the North Vietnamese, overall the change in land territory from where we stood on January 27, 1973, has not changed adversely to the South Vietnam point of view.

So, giving more military aid is not justified from a security position, or on the loss of control by South Vietnam of land or people. And it is not justified on a comparison of aid and assistance that North Vietnamese are getting from Russia and China. They are not opening up the pockets of the people of Russia and the Chinese for billions of dollars. Yet, we seem to be willing to do so.

Mr. President, for all these reasons, as well as the reason I suggested that if the Senate accepts the amendment, our conferees will go to conference and split the difference, which is generally the case, so we will wind up with the figure the committee suggested.

I urge the adoption of the amendment.

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

Mr. KENNEDY. I yield.

Mr. CRANSTON. As the Senator knows, Secretary Schlesinger stated that U.S. national security would not be damaged by what happens in Vietnam. He said:

I would not describe Southeast Asia as an area of the world in which our national interests are high.

How in the world could there be any reason for increasing our aid which already has cost the American people so much, in view of this statement by the Secretary?

Mr. KENNEDY. I find it difficult to justify. I think our whole direction should be for a gradual reduction and a continued effort at the diplomatic level so that we can phase out our assistance, other than humanitarian assistance.

Given that statement of the Secretary of Defense and the fact that we will be spending hundreds of millions of dollars, I find that to be further evidence for supporting the amendment.

Mr. CRANSTON. Representative ASPIN of Wisconsin stated yesterday that the Defense Department's budget request includes items for fighter and cargo plane replacements that would modernize and upgrade South Vietnam's airpower, violating the stipulation that aircraft be replaced on a one-for-one basis with new equipment "of the same characteristics and properties."

Unless this amendment is successful, and unless we have a successful conference with the House, we will not only end up increasing MASF funds. In addition, the Defense Department apparently submitted a request which violates the peace agreements. The Pentagon is alleged to be using this money to upgrade South Vietnamese military capacity rather than to maintain it at a stable level.

Mr. KENNEDY. I hope the Committee on Armed Services focuses attention on that particular matter. We might hear comment from them on that.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Missouri (Mr. SYMINGTON).

There being no objection, Senator SYMINGTON's statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR SYMINGTON

As has often been stated, but should be re-stated whenever possible, true national security depends not only upon adequate modern weaponry, but also upon a sound economy, with a sound dollar; and the faith of the people in this system of government.

Those of us who have visited the countries of Indochina many times, realize it is just not possible to continue to maintain such heavy support to that part of the world—$1.6 billion requested for MASF alone in FY 1975—and at the same time carry out other increasingly important needs of this Federal Government.

In addition to the billions of dollars the American people are asked to continue to pour into Southeast Asia, we also expend annually many more billions to protect Europe, not only with our fleet, but also with hundreds of thousands of ground soldiers and their dependents, stationed on that continent.

No one yet knows the true total bill for maintaining peace in the Middle East, but we do know that many billions of dollars in aid and equipment have already been sent by the United States to that part of the world; and much more has been promised.

We know, too, that there is now a major effort developing designed to turn the so-called "Ocean of Peace"—the Indian Ocean—into one of the great military arsenals of the world.

And additional billions of American dollars are exported to that general area in order to obtain the energy required to operate our economy at home.

Under all these circumstances, it would appear incredible that, years after we were told the Vietnam war was over, we are now being asked for many hundreds of million dollars more to continue war in that area.

One of the arguments used by the Administration in support of increased aid to South Vietnam is the threat of an imminent North Vietnamese invasion; but a cable dated May 28 sent from Saigon by Messrs. Moose and Meissner of the Foreign Relations Committee staff would appear to completely negate that argument.

This cable states: "No responsible American authority with whom we spoke believes the NVA/VC has launched a 'general' or major offensive. The current upsurge in fighting is considered a 'highpoint' and U.S. authorities do not expect it to affect the overall strategic postures of the opposing forces.

"Many observers in Saigon believe the South Vietnamese are deliberately exaggerating the scale and seriousness of enemy activities in an effort to influence the action of the U.S. Congress on pending aid legislation."

For these reasons, backed up by the steadily mounting economic pressures, I heartily endorse the position taken by Senator Kennedy to reduce to $750 million the funds requested for the MASF program.

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mr. deHaan and Mr. Tinker may have the privilege of the floor during the remainder of the discussion on this amendment and the vote thereon.

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

Mr. CRANSTON. Mr. President, the Senator from Massachusetts, whose leadership was so very successful on a recent Senate vote relating to the same matter, had an interesting experience involving the Ambassador of the United States in Saigon, Ambassador Martin.

I think most Senators are familiar with the Ambassador's desire to withhold information from the Senator from Massachusetts (Mr. KENNEDY), from the Senate, and the public. Now we have another example of how Ambassador Martin's remarks have apparently been misleading.

Ambassador Martin recently told visitors that "our intention all along was to balance the aid given by the Soviet Union and the People's Republic of China to North Vietnam."

The Senator from Massachusetts has already cited figures supplied by the Defense Intellifence Agency. He pointed out that in 1973 we provided eight times the amount of military aid provided by the Soviet Union and China and 29 times the amount since 1966. Following Ambassador Martin's arguments, we might logically suggest that we should cut our aid to one-eighth of the proposed level in order to get it down to the same level as China and the Soviet Union. However, that is not what the Senator and I propose.

Let us not forget that Ambassador Martin is the same man who cabled that it would be the "height of folly" to give Senator KENNEDY an honest and detailed answer with respect to our so-called "commitment" to South Vietnam. In a subsequent interview given to U.S. News & World Report, Ambassador Martin asserted that he did not have "the slightest apology" for this recommendation.

That is a rather astounding statement by a man who is supposed to be representing our interests, a man whose nomination as Ambassador was confirmed by the Senate, and who is now refusing to level with the Senate and the American people on exactly what is occurring in Vietnam.

To summarize, Mr. President, this amendment deserves support because it represents an effort to wind down our funding of the war.

As I earlier pointed out, it actually permits a funding level roughly equivalent to that of last year. It will not—nor is it intended—to cripple the defensive capabilities of South Vietnam. The Pentagon is off-base on this argument.

If we are to wind down our financial support of Thieu—and it is absolutely clear that we must—this amendment represents a judicious and sensible way to go about it.

The Congress has taken a number of important steps to facilitate the achievement of peace. This amendment is one more important step in the right direction. It deserves the Senate's clear-cut support.

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. KENNEDY. Mr. President, I withhold that time. I am prepared to yield it back.

Mr. STENNIS. Mr. President, how much time remains in opposition?

The PRESIDING OFFICER. The Senator from Mississippi has 7 minutes and

the Senator from Massachusetts has 2 minutes.

Mr. HUGHES. Mr. President, will the distinguished chairman of the committee yield for a question, on his time?

Mr. STENNIS. Yes, I am glad to yield, but I did not understand how much time I had.

The PRESIDING OFFICER. The Senator from Mississippi has 7 minutes.

Mr. STENNIS. I thank the Chair. I yield myself 5 minutes.

Mr. HUGHES. I should like to ask the distinguished chairman of the committee—and also to state—whether it is true that we discussed in committee the matter of negotiations with the House when we go to conference. That was a part of the discussion when I agreed to $900 million—that our conference committee members would go there and hang hard on the $900 million when we got to conference, knowing full well that when we get stuck in such matters we usually split the difference. Although there was a decided giving in on what I considered to be the majority position of the committee, in order to prevent a split in the committee, the chairman did agree, if I understood him correctly; and I want to ask him, for the record, whether he will do the best he can to hang hard on that $900 million when he goes to conference. Is that correct?

Mr. STENNIS. That is correct, Mr. President. I am glad the point was raised. Although we give assurances always to the Senate that we contend stoutly for the Senate's position, especially on the major amendments, at the same time, I am not going to say anything that will harm the conference. We have to have the proper respect for the other body. They have a say on matters the same as we do; but I believe the $900 million figure we reached is right near the rock bottom.

I said in the beginning that I do not know where the rock bottom is, but I think that we ought to, and we will hold out as long as we can for this figure, and anything above it would have to be strongly justified in more than just words. We will make another review of the actual situation.

I have conferred with the chairman of the Appropriations Committee, the Senator from Arkansas (Mr. McCLELLAN). He is not too happy about this kind of aid, either. He said it was his duty in this, and in the other matters, to give it a microscopic examination when the same question comes before his committee.

So those matters all add up with respect to this question. This total has been squeezed about to the limit, and we are near a figure which is absolutely essential.

The Senator from Masachusetts is always a reserved man. He argued that the way to deal with the committee is simply to hit them in the head with a hatchet, and we will bring them closer to whatever the conference may agree on. We appreciate that solicitude, but this is a matter we have already been through, and we will have another committee to go through again. I think this has brought us down to rock bottom.

It will be remembered that Mr. Kissinger said the purpose was to replace these essential items one for one; that is, as one went out, another would come in. That applies to planes, for instance—one for one; no more. That applies to ammunition. I asked for a memorandum just to see how it stands. I knew they knew more than I did about it in the Pentagon. The Department of Defense says that under the $750 million, petroleum products—POL, they call it—will be reduced more than 20 percent below——

The PRESIDING OFFICER. The 5 minutes of the Senator have expired.

Mr. STENNIS. I yield myself 1 additional minute.

Such essential matters as gasoline will be reduced 20 percent below last year's use. A similar situation applies to communications. We even get down to radio batteries and repair parts for communications. There would not be enough here to make them feel there would be enough for those items. Ground ammunition would have to be reduced 62 percent from the program recommended. And on and on and on with respect to the basic, fundamental essentials.

I do not believe any Senator wants the South Vietnamese military to collapse. We shall have to live with this thing a little longer. I want to bring the level of assistance down as fast as I can.

Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. STENNIS. Mr. President, I yield the floor.

The PRESIDING OFFICER. What is the pleasure of the Senate?

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the Jackson amendment, Mr. MATHIAS may be recognized to call up his amendment; and that upon the expiration of the time for debate on the Mathias amendment, the vote then occur on the Kennedy-Cranston amendment, to be followed by the votes on the Javits amendment and the Mathias amendment.

Mr. KENNEDY. Mr. President, is the understanding that these will be yea-and-nay votes?

Mr. ROBERT C. BYRD. Yes, the understanding is to have yea-and-nay votes.

Mr. KENNEDY. I have no objection.

Mr. STENNIS. Mr. President, will the Senator repeat his request? I was conferring.

Mr. ROBERT C. BYRD. My request was to this effect: that upon the disposition of the Jackson amendment, the Senator from Maryland (Mr. MATHIAS) be recognized to call up his amendment, on which there is a 1-hour limitation; that upon the expiration of the time on the Mathias amendment, the three votes occur back-to-back on the Cranston-Kennedy amendment, the Javits amendment, and the Mathias amendment.

Mr. STENNIS. Mr. President, reserving the right to object, I think, for the information of the membership, there ought to be a statement from the Chair as to what the issue is or what the parliamentary situation is. The debate has been had, and the question is on agreeing to the amendment up or down, or on a motion to table—just a statement, so that we will know what it is. I have no objection.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, obviously, I am glad to comply with the wishes of the chairman of the Armed Services Committee.

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

Mr. ROBERT C. BYRD. Mr. President, we have 20 minutes before the time on the Jackson amendment will begin to run. If the Senators from Massachusetts and California and the chairman and the ranking member would like to discuss this amendment further, 20 minutes remain in which that can be done.

Mr. STENNIS. Mr. President, I have a little matter to take up. It is just to make a correction in the bill and will take about 3 minutes. It relates to Trident.

Mr. President, if the Senator from West Virginia (Mr. ROBERT C. BYRD) will permit, I send to the desk an amendment of the Senator from South Carolina (Mr. THURMOND) and myself.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read as follows:

On page 3, line 11, strike out "$2,881,000,000" and insert in lieu thereof "$2,856,200,000".

Mr. STENNIS. Mr. President, this is merely to make a correction in the bill. It refers to the $28.8 million in Trident leadtime funds, which were included in the supplemental bill for fiscal 1974 after we placed this 1975 authorization in this pending bill. The amendment would strike it from the bill we are considering now for fiscal 1975.

After we placed the item in this bill by a unanimous vote, the question was settled in the supplemental authorization bill and in the supplemental appropriations bill for fiscal 1974. Therefore, to avoid duplication, this correction has to be made.

We offer this amendment to delete $24.8 million from this bill under the title of Navy Shipbuilding and Conversion Account.

I yield to the Senator from South Carolina to make a statement about it.

Mr. THURMOND. Mr. President, I am in accord with the request made by the distinguished Senator from Mississippi, and I have no objection to it. In fact, I believe I am a coauthor of the amendment.

Mr. HUGHES. Mr. President, will the Senator yield for a question in relation to this item? Does the amendment strike the entire amount of the authorization bill in relation to the Trident?

Mr. STENNIS. It strikes the $24.8 million for Trident long leadtime funds.

Mr. HUGHES. Is that the precise amount in the supplemental authorization bill?

Mr. STENNIS. Exactly.

Mr. HUGHES. So the Senator is eliminating from this bill what has already been authorized in the previous bill?

Mr. STENNIS. That is absolutely correct.

Mr. HUGHES. It does not alter the total expenditure one way or the other?

Mr. STENNIS. Correct.

Mr. HUGHES. I thank the distinguished chairman.

Mr. STENNIS. It does not add to nor does it take from.

I shall make a brief further statement in this regard.

This committee amendment would delete $24.8 million from the Navy shipbuilding and conversion account for Trident long-lead funds. I have previously identified the need to make this adjustment to the fiscal year 1975 authorization bill.

This $24.8 million for Trident long-lead funds was requested by the administration in the fiscal year 1974 supplemental authorization bill. The committee recommended denial of the $24.8 million in the supplemental request. However, in subsequent action on the regular fiscal year 1975 authorization bill, the committee recommended approval of the request for construction of the second and third Trident submarines in the fiscal year 1975 bill. To be consistent with the previous action on the supplemental request, the committee added the $24.8 million to the regular fiscal year 1975 bill.

Conference action on the fiscal year 1974 supplemental authorization bill took place after the committee had made its recommendation on the regular fiscal year 1975 bill, and in that conference action the $24.8 million was authorized.

We are now in the position of having the $24.8 million in both the fiscal year 1974 supplemental bill and the Senate version of the regular fiscal year 1975 authorization bill. This amendment deletes the $24.8 million from this bill.

Mr. President, I urge the acceptance of this amendment.

Mr. President, I expect that a voice vote will be fully applicable in this case.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Mississippi. Is there objection? There being no objection, the amendment is agreed to.

Mr. STENNIS. Let us have a voice vote, Mr. President, yes or no.

The PRESIDING OFFICER. The amendment has been agreed to.

Mr. ROBERT C. BYRD. The Senator wants a voice vote on this amendment. Those in favor say, "aye."

The amendment was agreed to.

MESSAGE FROM THE HOUSE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 10701, messaged over by the House yesterday, be jointly referred to the Committees on Public Works, Commerce, and the Interior and Insular Affairs. This bill is a companion bill to S. 1751, which was referred to those committees jointly.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed a bill (H.R. 15074) to regulate certain political campaign finance practices in the District of Columbia, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 15074) to regulate certain political campaign finance practices in the District of Columbia, and for other purposes, was read twice by its title and referred to the Committee on the District of Columbia.

ORDER FOR YEAS AND NAYS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on the Jackson amendment, the Cranston amendment, and the Mathias amendment at any time and with one show of a second.

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

Mr. ROBERT C. BYRD. I thank the Chair.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a morning hour for the conduct of morning business not to exceed beyond the hour of 11 o'clock, with a limitation on statements of 3 minutes each.

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

INFLATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an article by Mr. Richard L. Strout, in the Christian Science Monitor of June 7, 1974, entitled "Inflation the Thief."

With the rampant inflation raging not only through his country but throughout the world at the present time; with Congress, at least a majority of it, doing nothing to face up to its responsibility in that respect; with the administration doing nothing to face up to the factor of inflation, with the difficulties confronting us and the world today in this area, with the rate of inflation at about 14.2 percent for the first 3 months of this year, and from April 1973 through April 1974, at a rate of about 12 percent; with the stock market going up and down like a yo-yo; with the cost of living increasing beyond the possibilities by means of which the ordinary folk can keep up with it, I think this is a most excellent article by a man who has the ability to write simply, understandingly, and knowingly.

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

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

INFLATION THE THIEF

(By Richard L. Strout)

WASHINGTON.—Inflation is worldwide. Governments are toppling. Individual citizens don't understand inflation and blame their leaders. Their leaders may indeed be at fault, but beyond domestic transgressions there is the worldwide problem. It would be sad if the same citizens who see only their own local problem followed the same provincialism in seeking nationalistic remedies—quotas, tariffs, and beggar-my-neighbor restrictions. These could turn global inflation into global recession.

Inflation is the thief that steals purchasing power. It is the mouse that nibbles at old folks' pensions: "We thought we had saved for retirement!" they say pathetically. Inflation leaves young people without money for schooling which their frugal parents have saved all their lives. Inflation pours wealth on the affluent who have their fortunes in real property, but it may devour them, too. Look at today's value of stocks. The average stood at 1,051 on Wall Street at the beginning of 1973, but today it has lost a fifth.

Industrial countries enjoyed a business-cycle boom in 1973, and the prosperity of one nation encouraged the next in an increasingly interdependent world. But the boom turned into inflation and was ready for sharp readjustment when, suddenly, the Arab oil embargo struck. In a short time the cost of a basic commodity increased fourfold. Short of war, nothing like it has happened in modern times.

There was also the food crunch, triggered immediately by bad weather. "History records more acute shortages in individual countries," says a United Nations report just published in Rome, "but it is doubtful whether such a critical food situation has ever been so worldwide." Perhaps 800 million people, almost a quarter of the world's population, suffer from malnutrition. This has been preparing for a long time as global population grew. Many think it has come to stay. Meanwhile, other shortages send prices up; commodities are harder to find.

Again, various factors intertwine. Japan imports oil, some of which goes to make fertilizer; fertilizer goes to India. Up goes the price of oil; Japan ends fertilizer exports to India; India sees the threat of starvation deepen.

A new book spells this out in simple language, "In the Human Interest," by Lester Brown (Norton). We may be, he thinks, on the verge of "one of the great discontinuities of human history." Possibly what it comes down to is, in short, that the present 4 billion passengers on Spaceship Earth aren't going to "double" in 25 years, as some demographers casually forecast; Mr. Brown thinks that before then the cost of things will limit population expansion, either by planning or by calamity.

Today's inflation is an immediate, urgent problem in which tomorrow's overpopulation is still only a remote factor. Inflation in the United States is at an extraordinary 12 percent. The rate is beginning to decline. President Nixon and top economist Herbert Stein hope it will drop sharply (leaders of all countries suffering inflation are invariably optimists). Unfortunately, the past

Nixon-Stein forecasts have been overhopeful, and incorrect.

One man thoroughly alarmed is Arthur Burns, head of the Federal Reserve Board, America's central bank. He is a formidable figure. It is hard to recall when such urgent warnings came from such a source.

"Inflationary forces are now rampant in every major industrial nation of the world," Dr. Burns said recently. Special factors are at work, he said, but there is something else: "For many years our economy and that of other nations has had a serious underlying bias toward inflation."

Inflation breeds fear, he says. It saps public confidence in a more personal way than almost any other threat; it produces generalized anxiety likely to thrash out against politicians, institutions, foreigners, social classes—against any handy target.

"The gravity of our (American) current inflationary problem," he says, "can hardly be overestimated." He chooses words carefully. After surveying present double-digit inflation Dr. Burns says, "If past experience is any guide, the future of our country is in jeopardy. If continued, inflation at anything like the present rate would threaten the very foundations of our society."

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REORGANIZATION WITHIN DEPARTMENT OF THE ARMY

A communication from the President of the United States, transmitting a communication from the Secretary of Defense together with a Defense Reorganization Ordered issued pursuant to law (with accompanying papers). Referred to the Committee on Armed Services.

REPORT OF AERONAUTICS AND SPACE ADMINISTRATION

A letter from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report on proposed use of funds for construction of facilities (with an accompanying report). Referred to the Committee on Aeronautical and Space Sciences.

PROPOSED LEGISLATION BY DEPARTMENT OF AGRICULTURE

A letter from the Deputy Under Secretary, Department of Agriculture, transmitting a draft of proposed legislation to amend Section 8d(2) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 608d(2)), to provide specific authority to grant Certified Public Accountants access to confidential records for purposes of making audits of the operations of Federal Milk market orders (with accompanying papers). Referred to the Committee on Agriculture and Forestry.

REPORT OF DEPARTMENT OF DEFENSE PROCUREMENT FROM SMALL AND OTHER BUSINESS FIRMS

A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, a report of Department of Defense Procurement from Small and Other Business Firms for the period July 1973 through March 1974 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

REPORT OF EXPORT-IMPORT BANK OF THE UNITED STATES

A letter from the President and Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a report on actions taken by the Bank during the quarter ended March 31, 1974 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

REPORTS OF NATIONAL RAILROAD PASSENGER CORPORATION

A letter from the Director of Federal Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report on revenues and expenses for the month of February 1974 (with an accompanying report). Referred to the Committee on Commerce.

A letter from the Director of Federal Affairs, transmitting, pursuant to law, a report on the number of passengers carried and the on-time performance of each train for the month of April, 1974 (with an accompanying report). Referred to the Committee on Commerce.

PROPOSED LEGISLATION BY DISTRICT OF COLUMBIA

A letter from the Mayor-Commissioner, District of Columbia, transmitting a draft of proposed legislation to amend the District of Columbia Teachers' Salary Act of 1955, and for other purposes (with accompanying papers). Referred to the Committee on the District of Columbia.

REPORT ON SERVICES TO AFDC FAMILIES

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on services to AFDC families (with an accompanying report). Referred to the Committee on Finance.

PROPOSED LEGISLATION BY DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education and Welfare, transmitting a draft of proposed legislation to extend for three years the requirement of increased payments to States under Medicaid plans for compensation or training of inspectors of long-term care institutions (with an accompanying paper). Referred to the Committee on Finance.

REPORTS OF DEPARTMENT OF STATE ON INTERNATIONAL AGREEMENTS

A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, an agreement between the United States and the Khmer Republic (with accompanying papers). Referred to the Committee on Foreign Relations.

A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, an agreement between the United States and Japan (with accompanying papers). Referred to the Committee on Foreign Relations.

REPORTS OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a confidential report entitled, "Restrictions on U.S. Procurement Activities in Thailand," (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a confidential report entitled "Plans and Proposals for Avoiding Unnecessary Duplication in Developing New Military Equipment," (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Benefits and Drawbacks of U.S. Participation in Military Cooperative Research and Development Programs With Allied Countries," Department of Commerce, dated June 4, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Tools and Techniques for Improving the Efficiency of Federal Automatic Data Processing Operations," dated June 3, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Examination of Financial Statements of the Government National Mortgage Association for Fiscal Year 1973," Department of Housing and Urban Development, dated June 3, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Pacific Northwest Hydro Thermal Power Program A Regional Approach to Meeting Electric Power Requirements," Department of the Interior, Department of the Army, dated June 5, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

PROPOSED LEGISLATION BY GENERAL SERVICES ADMINISTRATION

A letter from the Deputy Administrator, General Services Administration, transmitting a draft of proposed legislation to increase the maximum per diem allowance and maximum statutory mileage allowance for the use of a privately owned automobile or airplane for employees of the Federal Government while traveling on official business, and for other purposes (with an accompanying paper). Referred to the Committee on Government Operations.

REPORT OF ATOMIC ENERGY COMMISSION

A letter from the General Manager, Atomic Energy Commission, transmitting, pursuant to law, a report on equipment titled in nonprofit educational institutions and other nonprofit organizations (with an accompanying report). Referred to the Committee on Government Operations.

TEMPORARY ADMISSION INTO THE UNITED STATES OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders granting temporary admission into the United States of certain aliens (with accompany papers). Referred to the Committee on the Judiciary.

ADMISSION INTO THE UNITED STATES OF CERTAIN DEFECTOR ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered granting admission into the United States of certain defector aliens (with accompanying papers). Referred to the Committee on the Judiciary.

REPORT OF NATIONAL LABOR RELATIONS BOARD

A letter from the Chairman, National Labor Relations Board, transmitting, pursuant to law, a report of that Board, for the fiscal year ended June 30, 1973 (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

REPORT OF THE AMERICAN LEGION

A letter from the Director, National Legislative Commission, The American Legion, transmitting, pursuant to law, a report of that organization, as of December 31, 1973

(with accompanying papers). Referred to the Committee on Veterans' Affairs.

PROPOSED LEGISLATION FROM DEPARTMENT OF THE ARMY

A letter from the Secretary of the Army, transmitting a draft of proposed legislation to modify Section 2 of the River and Harbor Act of March 2, 1945 (59 Stat. 22) as amended, to authorize the Secretary of the Army to improve certain Indian fishing sites in the States of Oregon and Washington and to acquire and to develop additional fishing sites in those States (with an accompanying paper). Referred to the Committee on Public Works.

PROSPECTUS RELATING TO CONSTRUCTION OF FEDERAL OFFICE BUILDING AT HURON, S. DAK.

A letter from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposed construction of a Federal Office Building at Huron, S. Dak. (with accompanying papers). Referred to the Committee on Public Works.

REPORT OF UNITED STATES WATER RESOURCES COUNCIL

A letter from the Chairman, United States Water Resources Council, transmitting, pursuant to law, a report of that Council, for the year 1973 (with an accompanying report). Referred to the Committee on Public Works.

THE CONSTITUTIONAL IMMUNITY OF MEMBERS OF CONGRESS

A letter from the chairman and vice chairman of the Joint Committee on Congressional Operations transmitting the report of the committee entitled "The Constitutional Immunity of Members of Congress" (with an accompanying report). Ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ABOUREZK, from the Committee on Interior and Insular Affairs, with an amendment:

S. 1412. A bill to declare that certain federally owned lands are held by the United States in trust for the Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Indian Reservation in North and South Dakota (Rept. No. 93-909).

By Mr. MAGNUSON, from the Committee on Commerce, with amendments:

S. 2840. A bill to authorize the Secretary of Commerce to conduct a study of foreign direct and portfolio investment in the United States, and for other purposes (Rept. No. 93-911).

REPORT ENTITLED "THE CONSTITUTIONAL IMMUNITY OF MEMBERS OF CONGRESS"—REPORT OF JOINT COMMITTEE ON CONGRESSIONAL OPERATIONS (S. REPT. NO. 93-910)

Mr. METCALF, from the Joint Committee on Congressional Operations, submitted a report entitled "The Constitutional Immunity of Members of Congress," together with additional and individual views, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

Deane R. Hinton, of Illinois, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Republic of Zaire;

Robert P. Paganelli, of New York, a Foreign Service officer of class 4, to be Ambassador Extraordinary and Plenipotentiary to the State of Qatar;

Seymour Weiss, of Maryland, to be Ambassador Extraordinary and Plenipotentiary to the Commonwealth of the Bahamas;

Gustave M. Hauser, of New York, and James A. Suffridge, of Florida, to be members of the Board of Directors of the Overseas Private Investment Corporation;

Harold Melvin Agnew, of New Mexico, Gordon Allott, of Colorado, Edward Clark, of Texas, Lane Kirkland, of Maryland, Carl M. Marcy, of Virginia, Joseph Martin, Jr., of California, John A. McCone, of California, and Gerard C. Smith, of the District of Columbia, to be members of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency;

William D. Wolle, of Iowa, a Foreign Service officer of class 3, to be Ambassador Extraordinary and Plenipotentiary to the Sultanage of Oman;

Pierre R. Graham, of Illinois, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary to the Republic of Upper Volta;

Robert A. Stevenson, of New York, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Republic of Malawi; and

William E. Simon, of New Jersey, to be U.S. Governor of the International Monetary Fund and U.S. Governor of the International Bank for Reconstruction and Development; A Governor of the Inter-American Development Bank; and U.S. Governor of the Asian Development Bank.

(The above nominations were reported with the recommendation that the nominations be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. FULBRIGHT. Mr. President, as in executive session, I also report favorably sundry nominations in the Diplomatic and Foreign Service which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

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

The nominations, ordered to lie on the desk, are as follows:

James E. Akins, of Ohio, and sundry other Foreign service officers, for promotion in the Foreign Service; and

William K. Payeff, of South Carolina, and sundry other Foreign Service officers, for promotion in the Foreign Service.

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. HRUSKA (by request):

S. 3618. A bill to establish a Working Capital Fund in the Department of Justice. Referred to the Committee on the Judiciary.

By Mr. HATHAWAY (for himself, Mr. BIBLE, Mr. JAVITS, and Mr. WILLIAM L. SCOTT):

S. 3619. A bill to provide for emergency relief for small business concerns in connection with fixed price government contracts. Referred to the Committee on Banking, Housing and Urban Affairs.

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

S. 3620. A bill to amend the Natural Gas Pipeline Safety Act of 1968, as amended, to authorize additional appropriations, and for other purposes. Referred to the Committee on Commerce.

By Mr. ABOUREZK:

S. 3621. A bill to amend section 3732 of the Revised Statutes relating to contracts and purchases on behalf of the United States in the absence of authorization by law or appropriations therefor, and for other purposes. Referred to the Committee on Armed Services.

By Mr. BENNETT:

S. 3622. A bill to extend for three years the requirement of increased payments to States under Medicaid plans for compensation or training of inspectors of long-term care institutions. Referred to the Committee on Finance.

By Mr. MOSS:

S. 3623. A bill to amend title 5, United States Code, to guarantee to each employee in the competitive service who has completed the probationary or trial period, the right to a hearing, a hearing transcript, and all relevant evidence prior to a final decision of an agency to take certain action against such an employee, and for other purposes. Referred to the Committee on Post Office and Civil Service.

By Mr. DOLE:

S. 3624. A bill to provide for emergency financing for livestock producers. Referred to the Committee on Agriculture and Forestry.

By Mr. DOMENICI (for himself, Mr. STAFFORD, Mr. MCCLURE, Mr. RANDOLPH, and Mr. BAKER):

S. 3625. A bill to provide for the recycling of used oil, and for other purposes. Referred to the Committee on Public Works and then to the Committee on Finance, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HRUSKA (by request):

S. 3618. A bill to establish a Working Capital Fund in the Department of Justice. Referred to the Committee on the Judiciary.

Mr. HRUSKA. Mr. President, I am today introducing a bill, at the request of the Department of Justice, to establish within that Department a working capital fund. Request is made that it be suitably referred.

A working capital fund would provide a means by which centrally provided administrative services would be fully financed by the component units of the Department of Justice. Such funds are presently being used by a number of other departments of Government, including the Departments of Agriculture, Commerce, HEW, Interior, Labor, State, Transportation, and Treasury.

Presently the Department centrally provides such services as printing, graphics, telecommunications, data processing, and payroll services to various of its component divisions, bureaus, and agencies. A working capital fund would facilitate an equipment depreciation and replacement factor to be built into the amount charged for the services. The funds received from the component units would be permitted to accumulate for purchase of new equipment as required.

Should the fund be authorized, the Department would be required to seek an appropriation to provide for its initial es-

tablishment. Thereafter, the fund would function on the reuse of receipts generated by charges for the administrative services.

While I am not necessarily wed to the exact structure and detail of this proposal, I am introducing this bill with the expectation that it will serve as focal point of congressional discussion and consideration of methods of improving the financing and accounting for certain administrative services provided centrally by the Department of Justice to its constitutent organizations.

Mr. President, I ask unanimous consent that the text of the bill, the Attorney General letter of transmittal and his Department's explanation of the bill be printed in the RECORD at this point.

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

S. 3618

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Chapter 31 of title 28, United States Code, is amended by inserting the following new section at the end thereof:

"§ 527. Establishment of Working Capital Fund.

There is hereby established a working capital fund for the Department of Justice, which shall be available, without fiscal year limitation, for expenses and equipment necessary for maintenance and operations of such administrative services as the Attorney General determines may be performed more advantageously as central services. The capital of the fund shall consist of the amount of the fair and reasonable value of such inventories, equipment, and other assets and inventories on order pertaining to the services to be carried on by the fund as the Attorney General may transfer to the fund less related liabilities and unpaid obligations together with any appropriations made for the purpose of providing capital. The fund shall be reimbursed or credited with advance payments from applicable appropriations and funds of the Department of Justice, other Federal agencies and other sources authorized by law for supplies, materials, and services at rates which will recover the expenses of operations including accrual of annual leave and depreciation. The fund shall also be credited with other receipts from sale or exchange of property or in payment for loss or damage to property held by the fund. There shall be transferred into the Treasury as miscellaneous receipts, as of the close of each fiscal year, earnings which the Attorney General determines to be in excess to the needs of the funds. There are hereby authorized to be appropriated such amounts as may be necessary to provide capital for the fund."

(2) the section analysis of chapter 31 of title 28, United States Code, is amended by inserting the following item at the end thereof:

"527. Establishment of Working Capital Fund."

PROPOSAL TO ESTABLISH A WORKING CAPITAL FUND IN THE DEPARTMENT OF JUSTICE

The proposal is to establish a Working Capital Fund to provide an improved method of financing, managing and accounting for certain administrative operations provided centrally by the Department of Justice to its constituent organizations.

WORKING CAPITAL FUND

Definition

A Working Capital Fund as an intra-governmental revolving fund of working capital authorized by law to finance a cycle of operations in which the expenditures generate receipts which are available for continuing reuse without annual reauthorization from Congress.

Need for fund in Department of Justice

A Working Capital Fund provides for consumer financing by the user organizations of services performed centrally. This permits the identification of costs of the various service activities to the organizations while at the same time allowing economies of scale by performing the functions on a consolidated basis. It removes distortions from annual accounts caused by the periodic need to buy major equipment items for service functions. It provides for unforeseeable increases in workloads and for an orderly replacement of equipment through depreciation charges.

For some time the Department has been faced with the problem of effectively meeting the increasing demands of its component parts for central administrative support services. The use of a working capital fund would alleviate many of the difficulties now experienced by the Department in meeting these growing demands by permitting the reuse of receipts generated without annual appropriation from Congress.

The fund would provide the manpower, equipment and materials necessary for the operation of such administrative services as the Attorney General determines may be performed more advantageously under such a fund.

Organizations serviced

Service would be provided to all organizations included in the General Administration appropriation and the Legal Activities appropriation group as well as to the Bureaus of the Department in instances where services are presently provided, the bureaus request a new service or the Attorney General determines that a service is to be performed centrally.

Services to be included initially

The services currently planned for inclusion within the funds are printing and reproduction, graphics, automatic data processing, telecommunications, and payroll. These are traditional general service functions which have been commonly performed under Working Capital Funds in many agencies.

These are services which are now being performed centrally to a substantial degree and for which reimbursements are now being made to the General Administration appropriation. These activities offer the most obvious benefits and will be most readily adoptable to fund operations.

Capitalization of the fund

The fund would require an initial appropriation of $500,000. This would provide for the initial period of financing—approximately 30 calendar days of funding assuming the initial years billings to be in the vicinity of $6,000,000. The estimate of billings, based on currently estimated reimbursements for the area to be covered by the fund is $6,000,000.

In addition to the capitalization to be provided through the initial appropriation, the capital of the fund would include such assets pertaining to the services to be carried on by the Fund as the Attorney General may transfer to the fund.

Accounting for fund operations

Customers serviced by the Fund will be charged on the basis of actual costs including depreciation as reflected in an accounting system approved by the General Accounting Office. Costs would be subject to audit by the Office of Internal Audit and the General Accounting Office. These charges will be fully detailed and justified in the regular appropriations for the customer organizations. The buyer-seller relationship established by the fund method of operation encourages good management and cost consciousness, and fixes responsibility for costs and for utilization of resources such as manpower and appropriated funds. The fund would also assure that the organizations and appropriations that receive the benefits from the central service are charged the proper amount. No services would be provided on a "free" basis.

Management of the fund

The management responsibilities of the fund are to be vested in the Assistant Attorney General for Administration subject to policy direction from the Attorney General.

To advise and assist the Assistant Attorney General for Administration in exercising his responsibilities in this area, the Department plans to establish a Working Capital Fund Advisory Board composed of representatives of clients or users of the Fund.

Use of working capital funds by other agencies

The Working Capital Fund method for funding and administering central services has been authorized for and is being used by a number of other departments of the government. These include the Departments of Agriculture, Commerce, HEW, Interior, Labor, State, Transportation and Treasury, as well as other major agencies such as the General Services Administration.

The Fund is an effective method of accommodating financial requirements for interfund activities.

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

THE VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal to establish a Working Capital Fund in the Department of Justice to provide certain service functions on a consolidated basis.

The use of a Working Capital Fund provides for consumer financing by the user organizations while the services are performed centrally. This permits the identification of costs of the various service activities in the organizations being served. It removes distortions from annual accounts caused by the periodic need to buy major equipment items for service functions. It provides for unforeseeable increases in workloads and for an orderly replacement of equipment through depreciation charges.

The working capital fund concept is a convenient and effective method of accommodating financial requirements for interfund activities. It is widely used throughout the Federal government, including all the other cabinet level departments, as well as many other major agencies such as the Civil Service Commission and the General Services Administration.

The proposed Working Capital Fund for the Department of Justice would include the following services:

1. Printing and reproduction services.
2. Graphic and exhibit services.
3. Telecommunications services.
4. Data processing services.
5. Payroll services.

The fund would require an initial appropriation of $500,000. This would provide for the initial period of financing—approximately 45 days; afterwards the fund would function on the reuse of receipts generated by the services.

The Office of Management and Budget has advised that there is no objection to the enactment of this legislation from the standpoint of the Administration.

Sincerely,

ATTORNEY GENERAL.

By Mr. HATHAWAY (for himself, Mr. BIBLE, Mr. JAVITS, and Mr. WILLIAM L. SCOTT):

S. 3619. A bill to provide for emergency relief for small business concerns in connection with fixed-price Government contracts. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. HATHAWAY. Mr. President, I introduce for myself and for Mr. BIBLE, Mr. JAVITS, and Mr. WILLIAM L. SCOTT, for appropriate reference, a bill to give expeditious relief to small business contractors who are currently experiencing the effects of the energy crisis and the very rapid rate of inflation. Entitled the "Small Business Emergency Relief Bill," it would allow the Government agencies having contracts with small businesses to modify the fixed-price terms of those contracts to permit additional compensation commensurate with the unanticipated recent enormous jump in the rate of inflation and give additional time in the performance of the contract where the energy crisis caused problems for the contractor. In addition, this bill would require greater use of the economic price adjustment clause in contracts with small businesses to protect both the Government and the small business contractor in the future.

The need for this bill has become remarkably evident from the present work of the Government Procurement Subcommittee of the Small Business Committee. As chairman of this subcommittee, I have sought to document the current problems that small businesses are having in the Government procurement field. In this $50 billion of annual contracting, of which 21 percent or $9.397 billion, went to small businesses last fiscal year, inflation and material availability are clearly the foremost difficulties which are dragging many small companies to the brink of bankruptcy.

In March, the subcommittee sent a questionnaire to small businesses around the country. We polled companies in the manufacturing, research and development, service, construction, and other fields. The questionnaire was designed to cover their response to all phases of the Government procurement process—from the advertising of the contracting opportunity to the payment on the completed contract or the claim for additional money.

The results of this survey have been most interesting. In questionnaires from 135 small businesses having 1,349 Government contracts with a total value of nearly $91 million, 83 percent of the answers indicated higher than anticipated prices for supplies. Ninety percent of the answers complained of late or delayed deliveries of supplies. These statistics bore out what we had been hearing on a daily basis—that the availability of supplies to perform a contract were in many cases becoming critically short. Instead of receiving delivery on ordered components and other supplies in days and weeks, the waiting time has gone to months and literally years.

Likewise, the prices for these needed supplies have skyrocketed beyond any expectation. The result is that the contractor is left not only without any profit on his contract, but he performs a losing contract, if he can perform it at all.

It is thus not surprising that 71 percent of the answers to the questionnaire indicated that these small firms are bidding for fewer Government contracts. They are turning away from Government procurement opportunities for contracts with other commercial establishments when this is possible.

To look more closely at these problems, the Government Procurement Subcommittee held hearings on May 21, 1974, at which several of these small business subcontractors testified. The evidence they brought of their problems with inflation and obtaining supplies was most impressive. For instance, a Government supplier of wax and cleaning supplies documented his statement with a showing that his raw material costs had risen between the date of contract award last year and today's prices all the way from 16 percent to 387 percent for carnauba wax. The average percentage increase on nine different supplies was 52 percent.

In another case, a supplier of barbed wire described how his cost for galvanized wire had climbed from $10.615 per spool when he bid on the contract to $18.301 per spool effective May 1, 1974. Even if his Government contract had contained an escalation clause with the usual 10-percent limit, the contractor would still be operating at a substantial loss.

Still another witness described how his supplier of castings for 20 years turned down all future orders. Alternative sources for castings were virtually impossible to find. The supplier simply indicated that his backlog on orders was from 30 to 84 weeks depending on the molding unit, and he was reducing the number of his customers from 213 to 35.

These witnesses were representative of many, many others experiencing the same difficulties.

The principal reason these small businesses are in such a bind is because they have fixed-priced contracts which they obtained as a result of competition. The competition for the contract means that they cut their profit to a minimum. The fixed-priced contract means that the contractor has nowhere to turn if his costs are not what he expected. In case after case, the subcommittee has copies of letters sent by contracting officers to these firms, many times expressing sympathy but in all cases denying any relief. The Government position consistently has been that it has no authority to give additional money to the contractor.

This, of course, is consistent with our traditional sense of contracting. The entrepreneur accepts the risk when he bids on a fixed-price contract. He knows, or should know, what his costs of performance of that contract will be. He is able to look at price indexes as well as his own supplier costs and determine what to expect. Generally, he bids a price which he believes will bring a profit yet will be low enough to obtain the contract over his competitors. Both the Government and the company benefits from this procedure.

However, of late, this has not been the case. Where the annual change in the wholesale price index for industrial commodities remained at a steady rate of increase of 2.4 in 1970, 2.7 in 1971, and 2.7 in 1972, the last quarter of 1973 saw an enormous jump causing the annual change in 1973 to be 12.4. For the first quarter of 1974, there was an astounding rise of 31.2. You can well see then that a contractor who received a fixed-priced contract just prior to this uncontrolled and enormous inflationary spiral can be caught in desperate circumstances. We cannot blame this on poor business judgment when it is on such a broad scale. The fault lies with our national economic conditions. Small businesses do not generally have the economic resiliency to withstand losses on their Government contracts like the larger businesses. They do not have the capital backing nor the borrowing capacity to ride out these storms. Hence, one or two losing contracts may bring the small business to a complete halt, and this, unfortunately, is occurring repeatedly these days.

As I have indicated, small businesses are in need of help now, and I believe that we must act to provide relief. We, the Congress, established a policy in the Small Business Act of 1958 which requires the procuring agencies of the executive department to give a fair proportion of the contracts and purchases to small businesses. We, through the procuring agencies, have encouraged small businesses to seek Government contracts through various means—set-asides of contracts for small businesses only, certificates of competency which give a small business extra consideration in determining his worthiness for receiving a Government contract, special management assistance in his business operations, meetings, and conferences designed for the small businessman interested in Government contracting opportunities, and so forth. In short, the Government has had an ongoing and successful program of promoting Government contracts as a means of assisting small businesses to grow.

It has been our belief, often repeated on this floor, that small business is essential to our way of life. In the words of the Small Business Act, section 2(a):

> The essence of the American economic system of private enterprise is free competition. Only through full and free competition can free markets, free entry into business, and opportunities for the expression and growth of personal initiative and individual judgment be assured. The preservation and expansion of such competition is basic not only to the economic well-being but to the security of this Nation.

These are stirring words, but they are hollow words if we are not prepared to back them up with action when the small business is calling for our help.

Mr. President, I can state, based on documented evidence that, there are many small businesses today in deep trouble to the point of bankruptcy because of the Government contracts they are trying to honor. The Government has unwittingly set a trap, which has snared

the very businesses we thought we were helping.

The procuring agencies are saying that they are powerless in providing the means of rescue. They claim that they do not have the authority to allow additional money on these fixed-priced contracts regardless of the effect of inflation on the contractor. It is my impression that there are officials in these agencies who are sincerely worried about this problem and would gladly provide assistance if they were capable.

The small business emergency relief bill would provide the authority these officials need. It has essentially three parts: First, authority to amend the contract price commensurate with the inflation of costs the contractor has actually experienced; second, recognition that the effects of the energy crisis can be an excusable delay rather than a cause of defaulting the contractor; and third, the requirement that Government contracts with small business have a realistic economic price adjustment clause to obviate this problem in the future.

In these remarks, I have not concentrated on what the effect of the energy crisis has been on the small business contractors. I believe that it is evident to all of us that the energy crisis had some exceedingly broad implications to the business world. The shortages of petroleum products and byproducts, reduction of electrical power, and the many other ramifications means unusual hardships for the small businessman. In some cases, it has delayed his performance on Government contracts. This further complicated his financial dilemma and exaggerated the effects of inflation on his operations. As a further means of recognizing the hardship brought on by the energy crisis, it would seem to me appropriate that we legislatively provide that this is an excusable cause for delay, if that did in fact occur. The Government should not be adding to the difficulties of the contractor by declaring him in default of his contract for a cause which was clearly beyond his control.

Mr. President, I urge the support of my colleagues for this bill and ask unanimous consent to have the text of the 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. 3619

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Small Business Emergency Relief Act."

POLICY

SEC. 2. It is the policy of Congress to provide equitable relief to small business concerns which have fixed price government contracts in cases where such concerns encounter significant and unavoidable difficulties during performance because of the energy crisis or rapid and unexpected escalations of contract costs.

AUTHORITY

SEC. 3. (a) The head of any agency of the Federal Government or his delegate shall make appropriate modification in the terms of an existing fixed price contract or a fixed priced contract completed after Dec. 31, 1972, with a small business concern which demonstrates that (1) during the performance of the contract, it has experienced significant unanticipated cost increases directly related to the contract, and (2) the conditions which caused such increases were not peculiar to that particular small business concern but were generally experienced by other small business concerns in the market at that time.

(b) If a small business concern in performance of a fixed price government contract experiences or has experienced shortages of petroleum products or other products in short supply, or products or components manufactured or derived therefrom or impacted thereby, and such shortages result in a delay in the performance of a contract, the delay shall be deemed to be an excusable delay under the terms of any default clause in the contract.

(c) To protect the interests of both the Federal Government and small business concerns, each agency of the Federal Government shall include in any fixed price contract with a small business concern an economic price adjustment clause which provides for upward or downward adjustments in the contract price based on cost increases or decreases experienced by the small business concern in the performance of the contract.

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

S. 3620. A bill to amend the Natural Gas Pipeline Safety Act of 1968, as amended, to authorize additional appropriations, 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 Natural Gas Pipeline Safety Act of 1966, as amended, to authorize additional appropriations, and for other purposes, and ask unanimous consent that the letter of transmittal be printed in the RECORD with the text of the bill.

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 16, 1974.

Hon. GERALD R. FORD,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft of a proposed bill "To amend the Natural Gas Pipeline Safety Act of 1968, as amended, to authorize additional appropriations, and for other purposes."

The Natural Gas Pipeline Safety Act of 1968 (the Act) was last amended in 1972, at which time appropriations were authorized through fiscal year 1974. Our draft bill would amend the Act to permanently authorize appropriations to the Secretary of Transportation to administer the Act. Also, it would authorize separate annual appropriations specifically for grants-in-aid to the States for the conduct of pipeline safety programs.

The 1972 amendments to the Act authorized annual appropriations for each of the fiscal years 1972, 1973, and 1974. The amounts authorized for each year covered both the costs of administering the program and grants to States to conduct pipeline safety programs. In view of the Secretary of Transportation's continuing responsibilities in administering the Act, we are proposing that appropriations be permanently authorized for the administrative costs of the program. With respect to authorization of appropriations for grants-in-aid to the States, we will continue to propose annual legislative authorizations. These proposals would make the authorizations for the gas pipeline program consistent in form with the statutory authorizations for other programs conducted by the Department.

Administrative expenses may vary from year to year because of pay raises, personnel changes, and other unforeseen program requirements. The authorization language we are proposing for such expenses is customarily used for programs of this kind and will provide flexibility necessary to accommodate changing needs without diminishing Congress' control of program levels through the normal appropriation process.

Also, we believe it will be helpful to the States if grant-in-aid funds are separately identified in the authorizing legislation. The States would thereby be apprised as much as 3 years in advance of the maximum amounts of grant-in-aid funds which will be available to them. This will enable States to plan their programs more effectively and allow time for them to adopt any necessary conforming legislation.

A similar letter is being sent to the Speaker of the House of Representatives.

The Office of Management and Budget advices that from the standpoint of the Administration's program, there is no objection to the submission of this proposed bill to the Congress.

Sincerely,

CLAUDE S. BRINEGAR.

S. 3620

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Natural Gas Pipeline Safety Act Amendments of 1974".

SEC. 2. Subsection 5(c) of the Natural Gas Pipeline Safety Act of 1968, as amended (49 U.S.C. 1671) is amended by renumbering paragraphs (2) and (3) as (3) and (4) respectively, and by inserting a new paragraph (2) as follows:

"(2) Funds authorized to be appropriated by section 15(b) of this Act shall be allocated among the several States to aid in the conduct of pipeline safety programs approved in accordance with paragraph (c) (1) of this section."

SEC. 3. The text of section 15 of the Act is amended to read as follows:

"SEC. 15. (a) There are authorized to be appropriated such sums as are necessary for the purpose of carrying out the provisions of this Act, except that the funds appropriated pursuant to this subsection shall not be used for Federal grants-in-aid.

(b) For the purpose of carrying out the provisions of subsection 5(c) of this Act, there is authorized to be appropriated for Federal grants-in-aid, the sum of $1,200,000 for the fiscal year ending June 30, 1975; the sum of $1,450,000 for the fiscal year ending June 30, 1976; the sum of $1,700,000 for the fiscal year ending June 30, 1977; and the sum of $1,950,000 for the fiscal year ending June 30, 1978."

By Mr. ABOUREZK:

S. 3621. A bill to amend section 3732 of the Revised Statutes relating to contracts and purchases on behalf of the United States in the absence of authorization by law or appropriations therefor, and for other purposes. Referred to the Committee on Armed Services.

Mr. ABOUREZK. Mr. President, I am today introducing a bill to limit deficiency spending by the Defense Department. Present law allows the Departments of the Army, Navy, and Air Force to make contracts or purchases in advance of appropriations for clothing, subsistence, forage, fuel, quarters, transportation, or medical and hospital sup-

plies (41 U.S.C. 11). Once the Pentagon obligates funds for those purposes, Members of Congress must appropriate whatever funds are necessary to liquidate the obligations. Close to $2 billion has been obligated in recent years through this backdoor device.

This extraordinary authority dates back to the so-called "feed and forage" law which evolved during the 1820 to 1861 period. This law originated under conditions and circumstances that have no bearing today. It was needed a century ago to protect our soldiers located in remote frontier outposts, living a precarious existence and forced to disband in the event that Congress failed to appropriate funds on time. No one could make that argument today. Congress is in session almost year-round, protecting agencies with continuing resolutions when appropriations are late and providing additional funds through supplemental appropriations as the year progresses.

A century ago executive agencies were being stripped of their authority to transfer funds between accounts, to use balances on hand from prior years, and other forms of discretionary spending authority. Today the Pentagon has ample use of multiyear funds, transfers, reprograming, contingency funds, stock funds, and other means of adjusting to new and unexpected demands as the year unfolds. The feed-and-forage law served a useful purpose a century ago; it does not today.

In fact, it serves only to downgrade Congress power of the purse, to turn us into a perfunctory agency instead of a vital instrument for determining national priorities. Nothing is more basic than reserving to Congress, and to Congress alone, the decision where to commit public funds—to decide where our resources should be used. We can no longer delegate such a fundamental responsibility to nonelected agency officials. The whole thrust of budget reform legislation, now in conference, is to place spending and budget priorities back under the control of Congress. It is completely inconsistent with that legislation to allow an agency authority to commit national resources on such a vast scale without congressional participation.

The leadership of the Senate Armed Services Committee has recognized the serious need to consider this outdated provision of the law. I commend them for that, and I look forward to the upcoming hearings on this issue.

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

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

S. 3621

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3732 of the Revised Statutes (41 U.S.C. 11) is amended by—

(1) striking out in subsection (a) the following: ", except in the War and Navy Departments, for clothing, subsistence, forage, fuel, quarters, or transportation, which, however, shall not exceed the necessities of the current year";

(2) striking out the subsection designation "(a)" at the beginning of such section; and

(3) striking out subsection (b) of such section.

SEC. 2. The first proviso contained in the paragraph entitled "Medical and Hospital Department", under the heading "MEDICAL DEPARTMENT", in the Act entitled "An Act making appropriations for the support of the Army for the fiscal year ending June thirtieth, nineteen hundred and seven" approved June 12, 1906 (34 Stat. 240), is amended by striking out the following: ", except in the War and Navy Departments, for clothing, subsistence, forage, fuel, quarters, transportation, or medical and hospital supplies, which however, shall not exceed the necessities of the current year".

By Mr. BENNETT:

S. 3622. A bill to extend for 3 years the requirement of increased payments to States under medicaid plans for compensation or training of inspectors of long-term care institutions. Referred to the Committee on Finance.

EXTENSION OF FULL FUNDING FOR NURSING HOME SURVEYORS

Mr. BENNETT. Mr. President, I am introducing a bill today to extend full Federal funding for title XIX nursing home surveyors for an additional 3 years. This bill is necessary to allow States to continue their efforts to comply with the explicit and demanding inspection and monitoring guidelines for long-term medical care institutions under the new ICF program. In most cases, the surveying expertise required to implement ICF standards lies in the States rather than in the Federal regional office. In the remaining cases, full Federal funding would allow the States to increase their expertise. At this time, however, State survey agencies are faced with the dilemma of increased requirements to be met in the face of major reductions in funding. Small States, particularly, would find it impossible to continue their efforts to implement the new standards without full Federal funding, as they do not have legislatures in session that could authorize the expenditure of State funds for that purpose.

It would not be right for the Congress to adopt necessary guidelines to insure the proper functioning of long-term care institutions and then fail to provide the means for these guidelines to be implemented. Inasmuch as the States have acted expeditiously and in good faith to implement this program as designed by Congress, I think it only fair to allow them to continue to do so by extending full funding through June 30, 1977.

By Mr. MOSS:

S. 3623. A bill to amend title 5, United States Code, to guarantee to each employee in the competitive service who has completed the probationary or trial period, the right to a hearing, a hearing transcript, and all relevant evidence prior to a final decision of an agency to take certain action against such an employee, and for other purposes. Referred to the Committee on Post Office and Civil Service.

DUE PROCESS FOR FEDERAL EMPLOYEES

Mr. MOSS. Mr. President, I am introducing today a bill that will guarantee to Federal employees the right to a prompt evidentiary hearing prior to removal or suspension without pay.

Legislation to establish this fundamental right is long overdue. In fact, it is somewhat surprising that there is still a need for such legislation. Some agencies have already established the right to a pretermination hearing under their own regulations and procedures, and one would think that by now, the right to a hearing would be firmly established throughout the Federal service.

Unfortunately, this is not the case. Many agencies still do not recognize the right of their employees to hear the evidence against them before termination or suspension. The seriousness of this situation has been brought to my attention by the National Treasury Employees Union.

When employees have brought suit, claiming the right to a hearing, the courts have left the matter up in the air. The recent Supreme Court decision in Arnett against Kennedy addressed the question of pretermination rights of Federal employees, but did not speak directly on the question of the right to a hearing.

The courts have not acted decisively to delineate the pretermination rights of Federal employees, mainly because they have not had clear statutory guidelines. There presently is no statute that clearly mandates executive agencies to promulgate uniform regulations in this area.

The purpose of this bill is to provide such a mandate. The bill states that every Civil Service employee who has completed the trial period is entitled to: First, 30-day written notice of suspension or termination action; second, access to all evidence relevant to the action; third, a hearing before a hearing examiner at which the employee may be represented by counsel, present evidence, and cross-examine witnesses; fourth, a copy of the verbatim transcripts of the hearing, and fifth, a written decision by the hearing examiner.

These procedures would provide Federal employees with at least a minimum of due process, and would go a long way to insure that they are not removed arbitrarily or capriciously.

Mr. President, the main argument for this legislation is one of the simple human rights. But we should also note that it would have the effect of strengthening our Federal Service.

This past week we learned that the Senate Watergate Committee has found evidence that during the 1972 election campaign administration officials attempted to subvert the regular work of various Government agencies and to use these agencies to further blatantly political ends. When Federal employees are faced with such pressures and blandishments, they obviously need some protection under the law.

We must make certain that the men and women in the civil service are devoted to the public good and service of their country, and not to the occasional arbitrary whims or misguided judgments of their superiors. It obviously will be easier for them to speak out, to criticize, to devote themselves to the public good, if they do not face the threat of arbitrary dismissal.

By Mr. DOLE:

S. 3624. A bill to provide for emergency financing for livestock producers. Referred to the Committee on Agriculture and Forestry.

LIVESTOCK PRODUCER AND CONSUMER PROTECTION ACT OF 1974

Mr. DOLE. Mr. President, I offer this bill today to protect livestock producers from economic disaster and to protect consumers from exorbitant meat prices in coming months and years due to a potential loss of our meat producing capacity. Cattlemen and other livestock producers do not want a handout from the Federal Government. They do need protection from financial disaster. Consumers do not want subsidized food, paid for with tax dollars. They do need protection from exorbitant meat prices and they need a steady and reliable supply of meat. This bill would help achieve those objectives.

SEVERE DEPRESSION IN LIVESTOCK INDUSTRY

A great deal has been said recently on the Senate floor about the tremendous financial losses being suffered by the livestock industry. The livestock producers in Kansas and in numerous other States are on the verge of bankruptcy. Some of them have already been forced out of business. This is why I have met with the President and administration officials, have introduced legislation to embargo meat imports, and have taken other actions in the Senate and with the administration.

Prices for meat-producing animals have plummeted to new lows in recent days. Experts indicate that the prices being paid for cattle now have not been seen for more than 10 years. At the same time, prices for feed, baling wire, fuel, machinery, and other essential materials have continued to climb steadily upward to reach levels double and triple the prices on the same goods of only a year ago.

CONSUMER STANDS TO LOSE MOST

The story of repeated $150 to $300 loses on choice steers has been told many times before this legislative body. Those of us from livestock producing States know and understand the situation well, as should those of us who represent predominantly urban and consumer States.

Those Senators from consumer areas should be as concerned about these developments as the rest of us. With cattlemen selling off their cowherds, liquidating their breeding stock, cashing in their land and feeding facilities and sometimes going completly out of business, the future supply of choice beef is seriously threatened. Once our producing herds have been slaughtered and our livestock facilities have been sold, it becomes a long road back to our present level of production. That road is never traveled as cheaply as the road we have just been over to reach the existing level of production.

It would cost more to rebuild cowherds. It would cost more for cattlemen to get back in business—if they come back at all. These increased costs would have to be passed on to consumers through the price of retail meat.

So to avoid these higher costs to consumers, we need to hold our present livestock industry together until this crisis is over. My bill is designed to accomplish that—for the benefit of producers and consumers.

HANDOUTS NOT WANTED

Mr. President, several bills have been introduced in the Senate to provide loans to cattlemen, and hog and other livestock producers, at reduced interest rates. I have not given my support to these measures.

I have met and talked to a large number of cattlemen, their representatives, and their organizations. I have also talked with their bankers. Almost to a man, they have opposed Government-subsidized loans.

The cattle business and other livestock industries have traditionally been independent of Government assistance. They are proud of their tradition of self-sufficiency.

Cattlemen understand the problems of consumers. They do not want to saddle consumers with higher meat prices through a loan program subsidized by tax dollars.

Cattlemen do want to supply choice, abundant, and reasonably priced beef. To do this, they must stay in business until this depression in the market is over. The depressed market will end, but until it does, this measure is needed to keep livestock producers in business.

GOVERNMENT INTERFERENCE OPPOSED

Men in the livestock business also oppose Government interference in their operations. They are concerned, and properly so, that a subsidized loan program would invite Federal involvement.

As bankers have pointed out, subsidized loan programs already exist under the Farmers Home Administration. For all these reasons, a subsidized loan program is not needed or wanted.

LOAN GUARANTEE PROVIDES PROTECTION

What is needed is a loan guarantee program at market interest rates, as my bill provides. This measure would permit banks to stay with cattlemen on their existing operating loans and provide the necessary additional funds to purchase livestock and feed to stay in the business. Through this protection, we would not lose our meat producing capacity.

Since these loans would be made by commercial enterprises at the normal market interest rate, the cost of the Government would be minimal. Loans would be guaranteed at not more than 90 percent of the loan volue. With the customary reliability of cattlemen and other livestock producers in repaying debts, the expense to the Federal Government could be expected to be essentially nothing. At the same time, we can prevent the possible collapse of the livestock industry.

Mr. President, I believe this is the best measure to insure consumers of an adequate, reasonable priced supply of beef, protect livestock producers, from bankruptcy, and prevent additional strains on the economy, without putting large additional costs on the Government. I urge every Senator to support this measure, whether his constituents be producers or consumers.

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

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

S. 3624

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

SECTION 1. That this Act may be cited as the "Livestock Producer and Consumer Protection Act of 1974".

SEC. 2. The Consolidated Farm and Rural Development Act (7 U.S.C. 1921) is amended by adding at the end thereof a new section as follows:

"SEC. 345. (a) The Secretary is authorized and directed to provide financial assistance to individuals who are primarily engaged in farming, ranching, or livestock feeding for the purpose of breeding, raising, fattening, or marketing livestock by guaranteeing loans made by any Federal or State chartered bank, savings and loan association, cooperative lending agency, or other approved lender: *Provided*, That no contract guaranteeing any such loan by such lender shall require the Secretary to participate in more than 90 per centum of any loss sustained thereon.

"(b) Loans guaranteed under this section may be made for the financing or refinancing of livestock breeding, raising, fattening, or marketing operations when the applicant's usual credit source is unable or unwilling to provide additional credit without the guarantee provided herein.

"(c) The Secretary shall make all loan guarantees under this subtitle upon the full personal liability of the borrower and upon such security and terms as the Secretary may prescribe.

"(d) Loan guarantees outstanding under this section shall not exceed $3,000,000,000 at any one time: *Provided*, That the Secretary may use the funds created in section 309 of the subtitle to pay to the holder of any notes any defaulted installment or, upon assignment of the note to the Secretary at the Secretary's request the entire balance due on the loan.

"(e) Guarantees under this section shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.".

By Mr. DOMENICI (for himself, Mr. STAFFORD, Mr. MCCLURE, Mr. RANDOLPH, and Mr. BAKER):

S. 3625. A bill to provide for the recycling of used oil, and for other purposes. Referred to the Committee on Public Works and then to the Committee on Finance, by unanimous consent.

Mr. DOMENICI. Mr. President, I am introducing today, on behalf of myself and Senators RANDOLPH, BAKER, STAFFORD, and MCCLURE, a bill to create a National Oil Recycling Act.

Mr. President, more and more, in recent years, we have been becoming a throwaway society. It was revulsion at

the degradation of our land by the wastes which we so carelessly discarded which led to strong pressure to protect and rehabilitate our environment and the environmental laws which the Congress had the wisdom to enact. Still, the habits of decades combined with the cost of cleaning up have made responses to environmental needs less than wholehearted in many cases.

The recent energy crunch rubbed our noses in the dirt again. It was made vividly clear to us that the world's resources are limited, that we have been going through them as if there were no tomorrow and that we could not continue in that way for long without getting ourselves into serious trouble, let alone our children. From a parochial concern of foresters, farmers, and environmentalists, conservation has taken on a broader and more personal meaning for all Americans.

There are some situations where it appears that solutions to our energy problems work at cross purposes to our plans to clean up our environment. More generally, though, reducing energy use also reduces pollution. The same thing is true of materials which are in increasingly short supply, from paper to platinum. We gain both ways if we can cut down on the amount of waste which we have to burn, bury, or flush into our waterways.

One way to do that is to recycle waste materials. I have previously introduced a bill, S. 3277, to encourage full recovery of energy and other resources from solid waste and to protect health and the environment from the adverse effects of solid waste disposal. I am pleased to report that 15 of my colleagues have joined in cosponsoring that bill, and that it will soon be taken up by the Public Works Committee.

The bill I am introducing today is aimed at another aspect of the waste problem. This is the recycling of used oil.

Mr. President, each year in this country we generate more than 1 billion gallons of waste oil. That is nearly 100,000 barrels per day. Less than 40 percent of it is processed for reuse, either as lube oil or for fuel. The rest is dumped on the ground or in sewers; a little is used for oiling roads and hogs. This is a waste of a precious resource and an insult to the environment which we can no longer tolerate.

The business of collecting and reprocessing waste oil has never been a lucrative one. Much of the oil that is recovered is treated in very cursory fashion and burned as fuel oil, releasing the lead that accumulates in crankcase oil into the atmosphere. The serious and reputable rerefiner is a fast disappearing breed. In 1965, there were 160 such companies; now fewer than 40 remain. Their refining capacity has fallen to 100 million gallons per year, a small fraction of the total waste oil generated. The economics of careful reprocessing has simply been unfavorable.

The thrust of this bill is to help reestablish a more favorable economic climate for the recovery and rerefining of waste oil. Several approaches are taken, none of which is a major policy change in itself, but the sum of which should provide incentive for competent operators to expand existing capacity or to enter the industry in areas where no rerefining capacity exists now.

Quality standards for recycled oil will ensure that it is as good as, or better than, new oil for the same purposes, and the EPA will see to it that labels on recycled oil reflect its quality. This should go a long way toward removing the stigma which has been attached to recycled oil, in part as a result of poor products turned out in the past by operators interested in making a fast buck instead of a quality product.

As an example for other consumers, the Federal and State governments would be encouraged to use recycled oil, and EPA would oversee State programs to license and monitor collectors and recyclers. Contracts discouraging the use of recycled oil would be prohibited.

Research on new processes and technology for recycling of waste oil would be promoted through funds authorized to be appropriated to EPA. In addition, funds would be provided to the Department of Commerce for the development of standards and test methods for recycled oil quality.

Finally, changes would be made in the existing excise tax structure to reestablish the situation which existed 10 years ago, when the rerefining industry was able to compete with producers of new oil.

Mr. President, this bill fills an important gap in the current legislative effort to deal with our energy and environmental problems. I invite my fellow Senators to join me again in cosponsoring this bill. I ask unanimous consent that the bill be printed in its entirety in the RECORD at the conclusion of my remarks.

Mr. President, I have conferred with the Parliamentarian and with the leaders on both sides, and I ask unanimous consent that the bill be referred to the Committee on Public Works and then the Committee on Finance to consider that portion of the bill which falls within its jurisdiction.

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

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

S. 3625

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Oil Recycling Act."

PURPOSES

SEC. 2. In view of the purposes of the Solid Waste Disposal Act to promote resource recovery systems which preserve and enhance the quality of air, water, and land resources it is the purpose of this Act to establish an effective program to promote the recycling of used oil.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) the term "used oil" means all oil which has through use been contaminated by physical or chemical impurities which have not been removed by subsequent re-refining or other processing;

(2) the term "recycled oil" means used oil which has been re-refined or otherwise processed to remove the physical and chemical contaminants acquired through use, which by itself or when blended with new oil or additives is substantially identical or superior to new oil intended for the same purposes;

(3) the term "new oil" means all oil which has been refined from virgin oil and may or may not contain additives, but has never been used, and does not include used oil or recycled oil;

(4) the term "lubricating oil" means all oil regardless of origin, which—

(A) is suitable for use as a lubricant, or

(B) is sold for use as a lubricant;

(5) the term "hydraulic oil" means all oil which is used primarily to transmit power or pressure, but which may also serve lubricating and other functions;

(6) the term "cutting oil" means all oil which is used primarily in cutting, milling, and machining operations (including forging, drawing, rolling, shearing, punching, and stamping), but which may also serve lubricating and other functions;

(7) the term "fuel oil" means all oil which has been refined, re-refined, or otherwise processed for the purpose of being burned to produce heat;

(8) the term "automotive oil" means all oil, including lubricating oil and hydraulic oil, which is used in automobiles, trucks, buses, motorcycles, and all other motor vehicles which travel on roads and highways;

(9) the term "industrial oil" means all oil exclusive of virgin oil, fuel oil, oils used for cooking and medicinal purposes, and automobile oil, and includes, but is not limited to, lubricating oil, hydraulic oil, and cutting oil when such oils are not automotive oils;

(10) the term "used oil collector" means any person who controls a system which functions to retrieve or collect used oil for sale or transfer to oil recycling facilities, or for other methods of disposal; and

(11) the term "*used oil recycler*" *means* any person who re-refines or otherwise processes used oil to remove its physical and chemical contaminants.

FEDERAL ENCOURAGEMENT OF THE USE OF RECYCLED OIL

SEC. 4. All Federal officials shall act within their authority to encourage the use of recycled oil. Such action includes, but is not limited to—

(1) procuring recycled automotive and industrial oils for all military and nonmilitary Federal uses, whenever such recycled oils are available at prices competitive with those of new oil produced for the same purposes;

(2) requiring all persons contracting with the Federal Government to use recycled oil in performing such contracts, whenever recycled oils are available at prices competitive wtih those of new oil produced for the same purposes;

(3) educating the Government and private sectors of the economy as to the merits of recycled oil, and the need for its use in order to reduce the drain on the Nation's oil reserves and minimize the disposal of used oil in ways harmful to the environment; and

(4) where necessary, assisting and encouraging the development of performance standards and specifications, and systematic and economical testing procedures to facilitate the comparison of recycled oil with new oil.

STATE REGULATION AND ENCOURAGEMENT

SEC. 5. (a) This Act shall in no way preempt State regulation of recycled oil or used oil disposal whenever such regulation provides for stricter control of recycled oil or used oil than provided for by Federal law.

(b) The States should encourage the use of recycled oil in order to accomplish the purposes of this Act. In order to qualify for Federal grants under section 11 of this Act, a State shall adopt laws, regulations, and ad-

ministrative machinery which shall provide for, but not be limited to—

(1) requiring that used oil collectors obtain a State permit prior to engaging in used oil collecting activities, and such permits shall require, as a minimum, information pertaining to methods for collecting, storing, transferring, and disposing of used oil, as well as the identity of used oil sources, purchasers, transferees, and disposal sites;

(2) requiring that used oil recyclers obtain a State permit prior to engaging in recycling operations and such permits shall require, as a minimum, information identifying—

(A) the sources and quantities of used oil to be acquired for recycling;

(B) the recycling facility's plant size and operating capacity;

(C) the specific recycling technologies to be utilized;

(D) the quantities and grades of recycled oil to be produced; and

(E) the methods of disposing of the waste byproducts;

(3) when recycled oil is available at prices competitive with new oil produced for the same purpose, using recycled oil for all automotive and industrial uses of the State government, and requiring all parties contracting with the State to use recycled oil in the performance of such contracts;

(4) regulating the retail sales of automobile oil so as to encourage the recycling of used oil;

(5) prohibiting the use of used oil as fuel oil or for the oiling of State roads, unless such oil has been processed to meet the minimum standards for such uses established by Federal and State pollution control laws; and

(6) educating the public and private sectors of the State as to the merits of recycled oil, and the need for its use in order to reduce the drain on the Nation's oil reserves and minimize the disposal of used oil in ways harmful to the environment.

LABELING OF RECYCLED OIL

SEC. 6. (a) The Administrator of the Environmental Protection Agency shall promulgate regulations with respect to the labeling of recycled oil in order to carry out the purpose of this Act. As of the effective date of such regulations, any decision or regulation of the Federal Trade Commission, or of any State or local government, requiring that recycled oil which is sold for a purpose designated in such regulations of the Administrator be labeled as "previously used" or "reprocessed" oil shall cease to have effect and shall be repealed by operation of law.

(b) The Administrator shall also promulgate regulations requiring all containers of automotive and industrial oil, both new and recycled, to bear labels relating to the proper disposal of such oils after use.

RESTRICTIVE CONTRACTS PROHIBITED

SEC. 7. (a) It shall be unlawful for any person to enter into any contract or agreement where the intent of such contract or agreement is to discourage the recycling of used oil.

(b) Violations of subsection (a) are subject to a fine of $50,000 for each violation thereof, or imprisonment for a term not to exceed one year, or both.

RECORDS

SEC. 8. (a) Users of more than 100 gallons of industrial oil per year shall maintain complete records of—

(1) the quantities and types of all oils purchased for industrial use;

(2) the quantities and types of all industrial oils consumed during use; and

(3) the quantities and types of all industrial oils disposed of after use—

(A) by in-house recycling;

(B) by delivery to or pickup by used oil collectors or used oil recyclers; or

(C) by any other method of disposal.

(b) Used oil recyclers shall maintain complete records of—

(1) the quantities and types of all used oil acquired;

(2) the quantities and types of all new oil acquired for use in blending recycled oil;

(3) the qualities, types, and sources of sale or other disposal of all recycled oil produced; and

(4) the quantities, types, and places of disposal of all waste byproduct generated in the recycling process.

(c) Used oil collectors shall maintain complete records of—

(1) the quantities and types of used oil collected; and

(2) the quantities and types of used oil—

(A) delivered to recyclers; and

(B) otherwise disposed (including the place of disposal).

(d) Records required to be kept by this section or any other provision of this Act shall be kept in accordance with regulations promulgated by the Secretary of the Treasury, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency acting jointly.

REPORTS

SEC. 8. The Administrator of the Environmental Protection Agency shall make reports to Congress not later than March 31 of each year, containing, but not limited to, the following information—

(1) the amount of automotive and industrial oil sold throughout the United States each year;

(2) the amount of used oil recycled each year;

(3) the significance of used oil as a contributor to water pollution and other environmental problems; and

(4) the problems of the oil recycling industry (including new technological requirements and necessity for tax incentives).

MANDATORY LICENSING

SEC. 9. Whenever the Administrator of the Environmental Protection Agency determines that—

(1) in implementing the provisions of this Act, a United States patent right not otherwise available is necessary to enable any person to comply with this Act;

(2) there are no reasonable alternative methods to accomplish this Act's purposes; and

(3) the unavailability of such patent right may result in a substantial lessening of competition or a tendency to create a monopoly in any line of the Nation's commerce;

the Administrator, through the Attorney General, may so certify to a district court of the United States, which may order the person owning the patent to license it on such reasonable terms as the court, after hearing, may determine.

PENALTIES AND ENFORCEMENT

SEC. 10. Any person violating any provision of this Act which does not provide for specific penalties or punishment thereunder shall upon conviction thereof be guilty of a misdemeanor which shall be punishable by a term of six months in prison for each violation, or a fine of not to exceed $25,000, or both.

(b) It shall be the duty of the Attorney General to prosecute violations of this Act.

GRANTS AND APPROPRIATIONS

SEC. 11. (a) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1974, and for each succeeding fiscal year, $25,000,000 for grants to the States to assist them in fulfilling the purposes and provisions of this Act. The Administrator of the Environmental Protection Agency shall make allotments to the States, not to exceed 10 cents per capita for any State based on the latest national census, when he has determined that they are in compliance with this Act. The Administrator may prescribe regulations, pursuant to this Act, governing the expenditure of the allotments.

(b) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1974, and for each succeeding fiscal year through the fiscal year ending June 30, 1977, $10,000,000 for the development of new processes and technology to be used in the economical and ecological recycling of used oil. The Administrator of the Environmental Protection Agency may make grants of this money, pursuant to regulations and requirements he shall adopt, to private parties, or use this money within the Environmental Protection Agency for the above purposes.

(c) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1974, and for each succeeding fiscal year, through the fiscal year ending June 30, 1977, $5,000,000 for the development of standards and testing methods to facilitate the comparison of recycled oil with new oil. The Secretary of Commerce may make grants of this money, pursuant to regulations and requirements he shall adopt, to private parties, or use this money within the Department of Commerce for the above purposes.

AMENDMENTS TO INTERNAL REVENUE CODE

SEC. 12. (a) Subpart B of part III of subchapter A of chapter 32 of the Internal Revenue Code of 1954 (relating to lubricating oil) is amended to read as follows:

"SUBPART B—LUBRICATING, HYDRAULIC, AND CUTTING OILS

"Sec. 4091. Imposition of tax.
"Sec. 4092. Definitions.
"Sec. 4093. Exemption of sales to producers.

"SEC. 4091. IMPOSITION OF TAX.

"There is imposed on lubricating, hydraulic, and cutting oils (other than recycled oils) which are sold in the United States by the manufacturer or producer a tax of 6 cents per gallon, to be paid by the manufacturer or producer.

"SEC. 4092. DEFINITIONS.

"(a) Certain Vendees Considered Manufacturers or Producers.—For the purposes of this subpart, a vendee who purchases lubricating, hydraulic, or cutting oils exempt from tax under section 4093 is considered to be the manufacturer or producer of such oils.

"(b) LUBRICATING OIL.—The term 'lubricating oil' means all oil regardless of origin, which—

"(1) is suitable for use as a lubricant, or

"(2) is sold for use as a lubricant.

"(c) HYDRAULIC OIL.—The term 'hydraulic oil' means all oil which is used primarily to transmit power or pressure, but which may also serve lubricating and other functions.

"(d) CUTTING OIL.—The term 'cutting oil' means all oil which is used primarily in cutting, milling, and machining operations (including forging, drawing, rolling, shearing, punching, and stamping), but which may also serve lubricating and other functions.

"(e) RECYCLED OIL.—The term 'recycled oil' means used oil which has been re-refined, or otherwise processed to remove the physical and chemical contaminants acquired through use, which by itself or when blended with new oil or additives is substantially identical or superior to new oil intended for the same purposes.

"SEC. 4093. EXEMPTION OF SALES TO PRODUCERS.

"Under regulations prescribed by the Secretary or his delegate, no tax shall be imposed under this subpart upon lubricating, hydraulic, or cutting oils sold to a manufacturer or producer of such oils for resale by him.".

(b) (1) Section 6424 of such Code (relating to lubricating oil not used in highway motor vehicles) is repealed.

(2) The item relating to section 6424 in the table of sections for subchapter B of chapter 65 of such Code is repealed.

(3) (A) Section 6675(a) is amended by striking out "6424 (relating to highway oil not used in highway motor vehicles),"; and

(B) Section 7603, 7604, and 7605 are amended by striking out "6424(d)(2)," each place it appears therein.

(c) Section 39 of such Code (relating to certain uses of gasoline, special fuels, and lubricating oil) is amended—

(1) by inserting at the end of subsection (a) (2) the word "and";

(2) by striking out subsection (a) (3);

(3) by redesignating subsection (a) (4) as (a) (3): and

(4) by striking out "6424," and "6424(g)," in subsection (c).

(d) The amendments made by this section apply to lubricating, hydraulic, and cutting oils sold on and after the first day of the first calendar quarter beginning more than thirty days after the date of enactment of this Act.

EFFECTIVE DATE

SEC. 13. The provisions of this Act, except as otherwise provided, shall be effective after ninety days following the date of enactment of this Act.

ADDITIONAL COSPONSORS OF BILLS

S. 2848

At the request of Mr. HUGHES, the Senator from Missouri (Mr. EAGLETON), the Senator from Maine (Mr. HATHAWAY), the Senator from Vermont (Mr. STAFFORD), and the Senator from Ohio (Mr. TAFT) were added as cosponsors of S. 2848, to extend and improve the Drug Abuse Education Act of 1970.

S. 3480

At the request of Mr. TUNNEY, the Senator from West Virginia (Mr. RANDOLPH), the Senators from Iowa (Mr. HUGHES and Mr. CLARK), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Colorado (Mr. HASKELL), the Senator from Hawaii (Mr. INOUYE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Maryland (Mr. BEALL), the Senator from Michigan (Mr. HART), and the Senator from Kansas (Mr. PEARSON) were added as cosponsors of S. 3480, to authorize a national summer youth sports program.

S. 3492

At the request of Mr. BROCK, the Senator from Maryland (Mr. BEALL), the Senator from Nevada (Mr. CANNON), the Senator from Kentucky (Mr. COOK), the Senator from Kansas (Mr. DOLE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Illinois (Mr. PERCY), and the Senator from California (Mr. TUNNEY) were added as cosponsors of S. 3492, to prohibit discrimination on the basis of sex or marital status in the granting of credit.

S. 3582

At the request of Mr. RIBICOFF, the Senator from South Dakota (Mr. MCGOVERN) and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of S. 3582, to extend eligibility for food stamps for SSI recipients.

S. 3583

At the request of Mr. ABOUREZK, the Senator from Michigan (Mr. HART) was added as a cosponsor of S. 3583, the Petroleum Price Rollback and Control Act of 1974.

S. 3597

Mr. HRUSKA. Mr. President, recently in the Senate, a number of my fellow Senators have called attention to the increasingly desperate situation facing our domestic beef feeders and ranchers. Due to inventory dislocations generated by beef controls and general inflation, the industry is experiencing a "glut" of live beef that is currently entering the market via feeders or is in transit from ranchers.

Specifically, beef prices to feeders have fallen 25 percent since last September. Ranchers, however, have experienced a 33-percent decline since last August. When compared with an average rise in costs of fuel, feed and interest charges, the cost pinch has already driven some feeders to bankruptcy and threatens to drive many more out of business in the next 60 to 90 days. Ranchers face a similar catastrophe although they will not feel the most dramatic setbacks until late summer or early fall.

If cattle feeders and ranchers experience increased financial strain that either ruins them entirely or seriously erodes their remaining equity, they will be incapable of purchasing feed grains. This will further depress a late summer grain market that is already projected to be one of generally low prices due to record harvests.

This combination of a depressed cattle and feed grain markets will wreak economic havoc on such States as Nebraska, Kansas, Wyoming, Colorado, Montana, Oklahoma, Texas, and the Dakotas. Not only will there be widespread bankruptcy but also many small, regional banks may be forced to close.

Mr. President, the cattle industry has long been a champion of free enterprise and has historically disavowed direct subsidies and controls. These men are extremely industrious and courageous in continually expressing and demonstrating their enormous abilities to manage their own affairs. The problems that now confront them are not of their invention.

For example, the United States now remains the only major consuming nation or market in the free world which has not imposed explicit or implicit beef import embargoes as has Japan—February 1, 1974—and the EEC—April 1, 1974. Therefore, the United States will likely become a "dumping" ground for cheap foreign beef from Australia, New Zealand, and Argentina and veal from Ireland and the United Kingdom.

Beef imports are now projected to be, according to the Department of Agriculture's Foreign Agriculture Service, approximately 9½ percent of domestic production of beef. This amounts to a projected imported level of 1,575,000,000 pounds, which is 444,300,000 pounds above the import quota trigger of 1,130,700,000 pounds. In other words, we have projected an almost 40 percent increase over what was regarded as a critical level by the Congress in 1964.

It is simply not equitable to ask the livestock industry to bear the brunt of the costs for the oil crisis which has caused Japan and the EEC to close their borders to beef due to fears of excess currency losses due to high oil prices.

Unfortunately, however, even with the immediate introduction of beef import quotas, the major problem of excessive bankruptcies actual or imminent will not be completely solved. To help remedy this financial situation, Senator CURTIS has introduced a bill, S. 3597, to provide guaranteed loans to those legitimately and primarily engaged in farming, ranching and livestock breeding. The loans would be administered by the Farmers Home Administration which will underwrite 90 percent of the loan only when the farmer or rancher's usual source of credit has turned him down.

Certainly this is a reasonable and much needed step. This is not charity. It is not a handout. It is a sound financial solution to a catastrophic situation. If not enacted, this country will see massive bankruptcies on the part of ranchers and feeders. Many will be forced to leave the industry, probably forever. For those remaining, they will be very reluctant to ever expand their herds again.

The result of all this will be a significant decline in the size of the beef industry. This means less beef at higher prices for everyone.

We need Senator CURTIS' bill to restore the confidence of bankers who support the livestock industry.

Mr. President, I join my fellow Senator from Nebraska on the sponsorship of this bill and urge the Committee on Agriculture to give the measure its prompt attention. I ask unanimous consent that my name be added as a cosponsor to the bill, S. 3597.

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

TEMPORARY INCREASE IN THE PUBLIC DEBT—AMENDMENT

AMENDMENT NO. 1437

(Ordered to be printed, and referred to the Committee on Finance.)

Mr. RIBICOFF (for himself, Mr. MAGNUSON, Mr. CRANSTON, Mr. JAVITS, Mr. PELL, Mr. MUSKIE, Mr. TUNNEY, Mr. KENNEDY, Mr. HUGH SCOTT, Mr. JACKSON, Mr. SCHWEIKER, Mr. WILLIAMS, Mr. HART, Mr. CASE, Mr. PASTORE, Mr. STAFFORD, Mr. BROOKE, Mr. HUMPHREY, Mr. MONDALE, Mr. HATHAWAY, and Mr. HATFIELD) submitted an amendment intended to be proposed to the bill (H.R. 14832) to provide for a temporary increase in the public debt limit.

EXTENDED UNEMPLOYMENT BENEFITS

Mr. RIBICOFF. Mr. President, today I am submitting an amendment to H.R. 14832 to extend the life of the extended benefits unemployment insurance program. This program provides an additional 13 weeks of unemployment benefits over and above the 26 weeks of benefits paid under the regular program.

When the extended benefits program was enacted into law back in 1970, there

were two requirements for eligibility. First, the State's insured unemployment had to be at 4 percent. And, second, unemployment had to be rising at 20 percent over the previous 2 years. At a time of increasing unemployment, most States could participate because their unemployment was rising at the required 20 percent.

In the last year, however, unemployment has leveled off—often, as in the case of Connecticut, at a relatively high level.

In order to allow States to continue to participate in the extended benefits program, Congress has temporarily waived the 20-percent requirement, most recently in March of 1974 for a 3-month period. As of June 30, 1974, however, no State will be allowed to continue in the extended program unless it meets the 20-percent requirement. My proposal permanently waives the 20-percent requirement.

At the present time the States of California, Delaware, Maine, Massachusetts, Michigan, Minnesota, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Vermont, and Washington are paying benefits under the extended program. Connecticut has been eligible to pay extended benefits since late February, but the State legislature has failed to enact the enabling legislation necessary to permit an additional 13 weeks of benefits.

If my proposal is adopted, the following States will become eligible for an additional 13 weeks of benefits:

Alaska, California, Connecticut, Delaware, Hawaii, Idaho, Maine, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Jersey, New Mexico, New York, North Dakota, Oregon, Pennsylvania, Puerto Rico, Rhode Island, Utah, Vermont, Washington, and West Virginia.

It is time to eliminate—once and for all—the requirement that unemployment be rising at 20 percent. My bill allows States to change their laws so that unemployed workers can receive the additional 13 weeks of benefits without regard to any 20-percent provision.

In Connecticut it is imperative that additional assistance to unemployed workers be provided. In mid-April Connecticut unemployment was estimated at 82,000 or 5.8 percent as compared with 79,100 or 5.7 percent in March. While many of these unemployed workers are receiving unemployment benefits, over 10,000 of them exhausted their 26 weeks of benefits between November of 1973 and February of 1974.

Workers who exhaust their 26 weeks of benefits and still have no jobs will have no place to go except on welfare unless my legislation is enacted. We must provide help for workers and their families who are temporarily out of work. My bill provides that help.

A second provision in my amendment is designed to alleviate a problem unique to the States of Washington and Connecticut. Because of increasing Connecticut unemployment, the State's unemployment fund in the last 2 years has had to borrow $53.5 million from the Federal Government to pay benefits to unemployed Connecticut workers. Connecticut will be unable to make full payment of that loan when it falls due in November of 1974 because of increased demands on its unemployment fund. As a result the law requires the Federal Government to impose steadily increasing unemployment taxes on Connecticut businesses.

An increased tax burden on these firms at this time is unfair. Many marginal employers may be forced to close if the Federal Government increases its tax load.

The Ribicoff proposal provides a 1-year delay for Connecticut and Washington in its loan repayment schedule. This will give Connecticut and Washington an opportunity to strengthen their unemployment reserves without suffering Federal tax penalties.

Both of these measures have passed the Senate on previous occasions. The permanent waiver of the 20-percent provision was adopted as an amendment to H.R. 3153 which has been bogged down in conference since December. The 1-year delay in repayment of Connecticut and Washington unemployment obligations was adopted by the Senate this March but deleted by the House.

I ask unanimous consent that a table and letter be inserted at this point in the RECORD.

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

ESTIMATED EXTENDED BENEFITS, FISCAL YEAR 1975

[Assumptions: (1) Drop 120 percent trigger requirement. (2) Insured unemployment rate 3.8 percent. (3) All States affected will adopt enabling legislation.]

State	Number of beneficiaries	Total cost (millions)
Alaska	2,000	$1.1
Arkansas	2,800	1.4
California [1]	244,100	136.2
Connecticut	75,000	52.4
Hawaii	3,000	2.1
Idaho	3,000	1.0
Maine [1]	19,200	7.0
Massachusetts [1]	122,500	79.6
Michigan [1]	143,200	85.9
Minnesota [1]	12,500	4.9
Missouri	15,000	5.7
Montana	2,500	.7
Nevada	7,800	4.5
New Jersey [1]	167,400	101.0
New Mexico	2,900	.9
New York [1]	270,000	164.7
North Dakota	1,600	.6
Oregon [1]	21,400	10.9
Pennsylvania [1]	55,600	35.0
Puerto Rico	106,400	26.8
Rhode Island [1]	21,200	12.0
Utah	1,500	.5
Vermont [1]	4,700	3.0
Washington [1]	108,800	60.7
West Virginia	3,700	1.4
Total	1,417,900	800.0

[1] States which have enacted necessary enabling legislation and are currently paying extended unemployment compensation benefits (Delaware is also currently paying benefits, but is expected to trigger out within the next few weeks).

U.S. SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C., June 10, 1974.

Hon. RUSSELL B. LONG,
U.S. Senate,
Washington, D.C.

DEAR CHAIRMAN LONG: As you will recall, last December the Senate adopted for the third time an amendment to the Federal-State Extended Unemployment Insurance Law that permitted the States to ignore the 120% trigger requirement in determining their eligibility under the extended benefits program. The amendment will expire on June 30, 1974. It is our understanding that Senator Ribicoff will be offering an amendment, which your Committee will be considering shortly, that would make the amendment eliminating the 120% trigger requirement of the extended benefits program permanent. We urge you and the other members of the Finance Committee to approve Senator Ribicoff's amendment. If the amendment is enacted, it would permit thirteen States to continue paying benefits under the extended benefits program. An additional eleven States would also be eligible to participate in the program if and when their State legislatures enact appropriate enabling legislation.

According to the most recent Department of Labor estimates furnished to us, if this amendment is enacted about 1,418,000 workers who would otherwise exhaust their benefits during fiscal year 1975 would potentially become eligible to receive thirteen additional weeks of compensation. The actual number of beneficiaries would, of course, depend on the number of States choosing to take advantage of this legislation and to participate in the extended benefits program.

If Senator Ribicoff's amendment is adopted, the following twenty-four States would be eligible to take advantage of the program:

Alaska, California, Connecticut, Delaware, Hawaii, Idaho, Maine, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Jersey, New Mexico, New York, North Dakota, Oregon, Pennsylvania, Puerto Rico, Rhode Island, Utah, Vermont, Washington, and West Virginia.

It is our belief that modification of the trigger requirements is essential in order to provide relief for unemployed workers in these States. Unless something is done now, all but two of these States will be barred from participating in this program and hundreds of workers who have exhausted their unemployment benefits will be forced to seek public welfare assistance or prematurely take jobs far beneath their earning potential and job capabilities.

The Committee has recognized the necessity of modifying the trigger requirements of the 1970 Extended Benefits Program on several previous occasions. We hope it will now take this opportunity to eliminate the 120% trigger requirement permanently.

With best wishes,

Sincerely,

Jacob K. Javits, John V. Tunney, Warren G. Magnuson, Edward S. Muskie, Harrison A. Williams, Alan Cranston, John O. Pastore, Henry M. Jackson, Walter F. Mondale, Edward W. Brooke, Edward M. Kennedy, Robert T. Stafford, Hubert H. Humphrey, William D. Hathaway, Philip A. Hart, Claiborne Pell, Hugh Scott, Clifford P. Case, Mark O. Hatfield, and Richard S. Schweiker.

Mr. JAVITS. Mr. President, I am pleased to join with my colleague, the senior Senator from Connecticut in cosponsoring this amendment which would permanently amend the 1970 Federal-State extended unemployment compensation benefits program by eliminating certain of the unrealistic trigger requirements which are now contained in the law. It is similar to amendments that the Senator from Connecticut and I have introduced several times before, and which have been enacted into law on a temporary basis four times in the past 2 years.

This matter first came before the Senate in the fall of 1972. At that time, the Senate passed an amendment similar to the provisions of the amendment we are introducing today. That provision was weakened and made temporary by the

House-Senate conference. When that conference report was brought to the floor of the Senate, the Senator from California (Mr. TUNNEY) and I expressed our concern about the need for enacting legislation to aid the States which had triggered out of the extended benefits program. At that time, the chairman of the House Ways and Means Committee, and the chairman of the Senate Finance Committee assured us on the floor of the House and Senate, respectively, that if, during the winter of 1972–73 the insured unemployment rate was over the 4-percent level in those States that would have benefited from the amendment we were then offering, but were not helped by the amendment adopted by the conferees, they would sympathetically consider legislation along the lines of our amendment.

Mr. President, I ask unanimous consent that excerpts from the CONGRESSIONAL RECORD of October 18, 1972 containing those statements which I have referred to by the chairman of the House Ways and Means Committee and the chairman of the Senate Finance Committee be printed in the RECORD at this point in my remarks: CONGRESSIONAL RECORD—House page 37098; CONGRESSIONAL RECORD—Senate page 37319.

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

FUTURE REVIEW OF UNEMPLOYMENT SITUATION

Mr. MILLS of Arkansas. Mr. Speaker, we are in the closing hours, we hope, of a sine die adjournment, but there is a problem existing in the other body, and I am in hopes that I can clarify the situation to the satisfaction of those who see a problem existing and want to do something about it at this time. I just discussed the matter with two of our very distinguished friends from the other body, Senator JAVITS from the State of New York and Senator TUNNEY from the State of California. They are very concerned that there will be a greater degree of unemployment within their States some time during the early part of next year, and that if the House had accepted the Senate amendment on unemployment compensation, their States would have been protected, should that situation develop.

Now they will not be protected, as they know, in the event that there is a rise in unemployment in their States under the language that the House has agreed to that is pending before the Senate.

Naturally, fulfilling their responsibilities as Senators to their constituents, they are most anxious that something be done about it. I want to say this about unemployment in New York State and California, or anywhere else.

If we do have a rise in the rate of unemployment within these States or any other States, I want them to know and I want the Speaker to know and I want the public to know that I would be as much interested in trying to do something for the benefit of those people who are unemployed as they or any other Senators would be interested.

If this situation comes about, I think the proper way to do it is to go back to the temporary unemployment compensation program, as my good friend, the gentleman from Wisconsin, earlier suggested, and determine some more satisfactory method of triggering this program into existence and triggering it off, so that we do not have the anomalous situation existing of high levels of unemployment within a State for 3 or 4 years, but because the unemployment rate is not 120 percent greater than it was in the 2 preceding years, even though it may be at an 8-percent rate, because it was at an 8-percent rate in those years, this program triggers off. To me that is not right.

I would want to assure them that if they have any fears about my own position, they need not have any fears about my desire to take care of the situation.

I wanted to say that while they were present here on the floor.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentleman from Texas.

Mr. PICKLE. The gentleman is mindful of the colloquy we had earlier today. I was not here when the bill, H.R. 16810, was presented to the House. If I had been I would have objected to the manner in which it was presented.

I will say to the gentleman, since I see two of our distinguished colleagues from the other body here in the Chamber, I want the gentleman from Arkansas to know if the bill, H.R. 16810, comes back in a different form from what it was when it passed this House, I will make it quite plain I will object.

Mr. MILLS of Arkansas. I understand the gentleman's position. He has made it clear before. I am not talking about that. I am talking about the situation next year. I know the gentleman from Texas would be as sympathetic in that case as I am.

Mr. PICKLE. Yes. The present Magnuson bill for States with chronic unemployment will not expire until actually the end of the year, and with the benefits we have been able to give they will go to early spring. But unless we include some other States, some 15 more than we did this afternoon, I will object.

Mr. MILLS of Arkansas. What we are talking about is the situation the Ways and Means Committee will look into and try to provide a remedy that will take care of that, and I am satisfied my friend, the gentleman from Texas, would want to do that next year if this develops.

I am sorry my friend, the gentleman from Wisconsin, will not be here with us, but what we are talking about is exactly in line with what he suggested earlier in the day: Let us go back and review the formula we have and make it work more satisfactorily than the present formula works.

REVIEW OF UEMPLOYMENT

Mr. MILLS of Arkansas. Mr. Speaker, I ask unanimous consent for 1 additional minute.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. MILLS of Arkansas. One point which I overlooked in connection with my statement of a few moments ago: It is not 4 percent within the State that I am suggesting the change in, but 4 percent of covered employees made unemployed. If that figure is reached in a State or exceeded in a State, but I say at the same time it must be qualified by the 120-percent, then the program is not working properly.

Then the formula is not working.

Mr. BYRNES of Wisconsin. The insured unemployed?

Mr. MILLS of Arkansas. That is correct, 4 percent of the insured who are unemployed is what I am talking about.

Whenever that figure happens to be reached by a State, I want that State to get the benefit of this rule.

PUBLIC DEBT LIMITATION—CONFERENCE REPORT

Mr. LONG. Mr. President, I ask that the Chair lay before the Senate the conference report on H.R. 16810.

The PRESIDING OFFICER (Mr. FANNIN) laid before the Senate and the Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 16810) to provide for a temporary increase in the public debt limitation, and to place a limitation on expenditures and net lending for the fiscal year ending June 1973.

Mr. LONG. Mr. President, during the period that has elapsed, while other matters were transpiring, conferences have been held and the situation has been discussed with regard to unemployment insurance. I am aware of the fact that the chairman of the House Ways and Means Committee has assured the Senators from New York and California that in the event the uninsured unemployment rate in January 1973 in those States should exceed 4 percent—and I would assume the same thing would be true of other urbanized States—and this becomes a problem, the chairman of that committee would propose to offer and support legislation to bring them under the Federal extended unemployment provisions contained on this debt ceiling conference report.

The Senate position, of course, would have brought them into it under the legislation that we sent them, and as far as the Senator from Louisiana is concerned, assuming that he is appointed chairman of the committee at that time, or even if he is not and is the ranking member, he would expect to use his best efforts to see to it that if that type of eventuality should develop, and some feel that it might, those States will receive prompt consideration.

Such a resolution must originate in the House of Representatives. They must send us a bill to afford us an opportunity to act. But I want to assure the Senators from those two States that if this situation should develop, and the House should send us legislation so that we would have the opportunity to act, they would have complete cooperation from the Senator from Louisiana in seeing that it was acted upon promptly.

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

Mr. LONG. I yield.

Mr. JAVITS. Mr. President, I greatly appreciate that. I have every feeling that if we are in that situation, relief will be available to us.

I would bear in mind the injunction of the chairman of the Finance Committee that if such a bill comes over here, I would hope a lot of nongermane amendments are not hung on it, and we would certainly expect to cooperate with him on that, as would, I know, the majority leader. The minority leader has given the same assurance, as has the distinguished chairman of the Committee on Commerce (Mr. MAGNUSON).

May I say, too, that in discussing the matter in the House of Representatives, which Representative MILLS did publicly while the Senator from California and I were there, making, generally speaking, in his own words the same statement Representative MILLS emphasized the fact that under these circumstances, with 4 percent uninsured unemployment, he would consider the so-called 120 percent figure unduly restrictive and would look with great sympathy upon such legislation.

May I have an expression of opinion from the Senator from Louisiana about these things?

Mr. LONG. Mr. President, as far as the Senator from Louisiana is concerned, our bill so indicated. I supported our bill, and if I had the opportunity to bring in a conference report that included New York, I would certainly have asked that this 120-percent trigger should be deleted, or at least modified so that it would not prevent benefits in the fashion it does. If the House will help to solve that problem, the Senator can be sure that, so far as the Senator from Louisiana is concerned, I will help to work it out.

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

Mr. LONG. I yield.

Mr. BENNETT. The Senator from Utah just wants to make the record clear that while the chairman has referred to New York and California, this will apply to any State in the Union if the system adopted should trigger the benefits for that State, and it will not be legislation intended chiefly for the big States.

Mr. LONG. Yes.

The reason why the record might appear to indicate that such a measure is intended for the good of two States is that New York and California would have the greatest number of people involved. But other States are also involved.

Mr. President, I ask unanimous consent to have printed in the RECORD a chart showing the numbers of people and the cost of the Senate bill. This is what we will look at again next year if the situation should require.

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

TABLE 1.—STATES AFFECTED BY SENATE BILL

State	Number of beneficiaries	Costs (Federal and State share in thousands)
Alaska	1,100– 1,500	$600– $800
Arkansas	2,750	1,000
California	140,000–150,000	80,000– 90,000
Hawaii [1]	1,500– 2,500	1,000– 1,500
Idaho	1,500	350– 400
Kentucky	5,000	2,000
Louisiana	6,000– 6,500	2,400– 2,700
Maine	7,000– 8,000	3,000– 3,500
Massachusetts	49,000	30,000
Michigan	71,400– 97,300	40,700– 55,400
Minnesota	11,000– 13,000	4,900– 5,500
Montana	1,700	435
Nevada	6,700	3,600
New Jersey	80,000–120,000	48,000– 72,000
New Mexico	400– 600	200– 300
New York	170,000–200,000	80,000–120,000
North Dakota	1,200	860
Ohio	12,000– 20,000	3,000– 10,000
Oregon	11,000– 14,000	4,000– 5,000
Pennsylvania [1]	22,000– 37,600	11,000– 18,800
Rhode Island	8,000– 9,000	5,000
Utah	1,900	860
Vermont [1]	3,600	2,000– 3,000
Washington	42,000	17,000
West Virginia	1,500	460
Total (about)	650,000–800,000	350,000–450,000

[1] Currently paying (these are costs after State drops below 120 percent).

Note: Assumes some economic improvement between Oct. 1, 1972, and July 1, 1973, and does not take account of emergency benefits payable under Public Law 91–373. Estimates prepared in consultation with the States. Federal share of cost would be half of total shown.

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

Mr. LONG. I yield.

Mr. MAGNUSON. What the Senator from Utah has said is correct. This whole problem has to be a piece of permanent legislation. I think that is what we are shaping up to next year, so that it will apply to any State where there is serious unemployment; because it does not make any difference what State you are in—if you are out of work, you are out of work.

I appreciate the problem, and I want to reiterate that I appreciate the problem that the members of the committee had on this matter with the House. I must say to the Senator from New York and the Senator from California that no one will be stronger in cosponsoring some legislation of this type and helping out than will the Senator from Washington next year.

Mr. JAVITS. If the Senator will yield, I appreciate that. I want to say again that, notwithstanding that the Senator from Washington was included and we were excluded, he fought very hard for us, without any reservation whatever, and that the Senator from Louisiana was willing to exclude his own State, which is going pretty far. I certainly do not think that is necessary.

Mr. President, just to complete the record, I ask unanimous consent to have printed in the RECORD a list showing the States which are covered and those which are not covered.

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

STATES AFFECTED, OCT. 1, 1972–JUNE 30, 1973 (THESE COSTS ARE ONLY THE COSTS OF THIS AMENDMENT AND DO NOT INCLUDE THE COSTS OF THE EB PROGRAM UNDER PUBLIC LAW 91–373 AS CURRENTLY OPERATIVE.)

[States not included in the conference report are in parentheses]

State	Number of beneficiaries	Costs (Federal and State share in thousands)
Alaska	1,100–1,500	$600–$800
(Arkansas)	2,750	1,000
(California)	140,000–150,000	80,000–90,000
(Hawaii) [1]	1,500–2,500	1,000–1,500
(Idaho)	1,500	350–400
(Kentucky)	5,000	2,000
(Louisiana)	6,000–6,500	2,400–2,700
Maine	7,000–8,000	3,000–3,500
Massachusetts	49,300	30,000
Michigan	71,400–97,300	40,700–55,400
(Minnesota)	11,000–13,000	4,900–5,500
(Montana)	1,70	435
Nevada	6,700	3,600
New Jersey	80,000–120,000	48,000–72,000
(New Mexico)	400–600	200–300
(New York)	170,000–200,000	80,000–120,000
(Ohio)	12,000–20,000	8,000–10,000
(Oregon)	11,000–14,000	4,000–5,000
(Pennsylvania) [1]	22,000–37,600	11,000–18,800
Puerto Rico	(2)	(2)
Rhode Island	8,000–9,000	5,000
(Utah)	1,900	850
Vermont [1]	3,600	2,000–3,000
Washington	42,000	17,000
(West Virginia)	1,500	450
(North Dakota)	1,200	860
(Connecticut)	(2)	(2)
Total	658,550–797,150	347,345–450,095

[1] Currently paying (these are costs after State drops below 120 percent).

[2] Not available.

Note: Assumes some economic improvement between Oct. 1, 1972, and July 1, 1973. Estimates prepared in consultation with the States. Federal share of cost would be half of total shown.

Mr. JAVITS. I point out that the list of States not covered includes such sparsely populated States as Montana and Louisiana, which happen to be the States of the majority leader and the chairman, as well as Hawaii, Idaho, Arkansas, North Dakota, and so forth. I thank the Senator from Utah for making that clear. There is no exclusivity about this.

Mr. LONG. Mr. President, I ask unanimous consent to have printed in the RECORD a list of the States that would benefit under what we were able to work out with the House.

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

States	Estimated maximum number of beneficiaries	Estimated maximum total additional costs (thousands)
Alaska	1,100–1,500	$600–$800
Maine	7,000–8,000	3,000–3,500
Massachusetts	49,300	30,000
Michigan	71,400–97,300	40,700–55,400
Nevada	6,700	3,600
New Jersey	80,000–120,000	48,000–72,000
Puerto Rico	33,000–42,000	9,000–11,000
Rhode Island	8,000–9,000	5,000
Vermont	3,600	2,000–3,000
Washington	42,000	17,000
Total	300,000–380,000	160,900–202,100
Federal share		80,000–101,000

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, that commitment was given to myself and the Senator from California (Mr. TUNNEY) in October of 1972. Since that time, it has become clear that remedial action must be taken in order to permit the Federal-State extended unemployment compensation program to function as Congress intended. That need is highlighted by the string of temporary amendments to which Congress agreed in an attempt to remedy the defects in the trigger mechanism on a temporary basis in June 1973, December 1973, and March 1974.

These amendments will again lapse on July 1 of this year unless further action is taken. It is time that we sought a permanent solution to the inadequacy of those trigger requirements so that we can offer some measure of assurance to those workers who are unemployed that there will be an adequate program of benefits available to them.

The amendment that I am privileged to cosponsor would provide for the extended benefits program to trigger on in any State in which the insured unemployment rate equaled or exceeded 4 percent for any 13-week period. The off trigger would be activated when the insured unemployment rate in that State dropped below 4 percent for any 13-week period. The thrust of this amendment is to eliminate the requirement that the insured unemployment rate exceed the rate for the corresponding period of the previous 2 years by at least 20 percent. If any State is experiencing a severe unemployment problem, it is of little relevance, particularly to the individual unemployed worker seeking a job, whether that State has experienced such similar periods of high unemployment previously.

Under this amendment the following 24 States are currently eligible to pay extended unemployment benefits:

Alaska, California, Connecticut, Delaware, Hawaii, Idaho, Maine, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Jersey, New Mexico, New York, North Dakota, Oregon, Pennsylvania, Puerto Rico, Rhode Island, Utah, Vermont, Washington, and West Virginia.

Only two States, Michigan and Delaware, would be eligible to continue paying those benefits after July 1 if this amendment is not agreed to. The continuation of this amendment would provide for the payment of extended benefits for up to 1,400,000 workers either currently receiving, or potentially eligible to receive benefits during ficsal year 1975.

I hasten to point out to the Senators that this amendment simply permits the States to trigger into the extended benefits program. It is still left to the discre-

tion of the various States as to whether or not they wish to participate in the program. In addition, this amendment involves no increased general fund expenditures on the part of the Federal Government since the extended benefits program is financed in equal part from the various State unemployment accounts, and from the Federal extended benefits account, both of which are financed by an employer payroll tax.

Mr. President, I ask unanimous consent that a table showing the number of potential beneficiaries of this amendment supplied by the Department of Labor be inserted into the RECORD.

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

ESTIMATED EXTENDED BENEFITS, FISCAL YEAR 1975

[Assumptions: (1) Drop 120 percent Trigger Criteria; (2) Insured unemployment rate—3.8 percent; (3) All States affected will pass conforming legislation]

	Number of beneficiaries	Total costs (millions)
Alabama		
Alaska	2,000	$1.1
Arizona		
Arkansas	2,800	1.4
California	244,100	136.2
Colorado		
Connecticut	75,000	52.4
Delaware		
District of Columbia		
Florida		
Georgia		
Guam		
Hawaii	3,000	2.1
Idaho	3,100	1.0
Illinois		
Indiana		
Iowa		
Kansas		
Kentucky		
Louisiana		
Maine	19,200	7.0
Maryland		
Massachusetts	122,500	79.6
Michigan	143,200	85.9
Minnesota	12,500	4.9
Mississippi		
Missouri	15,000	$5.7
Montana	2,500	.7
Nebraska		
Nevada	7,800	4.5
New Hampshire		
New Jersey	167,400	101.0
New Mexico	2,900	.9
New York	270,000	164.7
North Carolina		
North Dakota	1,600	.6
Ohio		
Oklahoma		
Oregon	21,400	10.9
Pennsylvania	55,600	35.0
Puerto Rico	106,400	26.8
Rhode Island	21,200	12.0
South Carolina		
South Dakota		
Tennessee		
Texas		
Utah	1,500	.5
Vermont	4,700	3.0
Virginia		
Virgin Islands		
Washington	108,800	60.7
West Virginia	3,700	1.4
Wisconsin		
Wyoming		
United States total	1,417,900	800.0

Note: Costs would be shared 50-50 by States and Federal Government.

AMENDMENT NO. 1439

(Ordered to be printed, and referred to the Committee on Finance.)

TAX REFORM AMENDMENT TO THE DEBT CEILING ACT—SYNDICATED TAX SHELTERS

Mr. KENNEDY. Mr. President, I send to the desk an amendment to H.R. 14832, the Debt Ceiling Act, and I ask that it may be printed.

The purpose of the amendment is to end the major tax loophole that now encourages the formation of tax shelter syndicates—the transactions by which various loopholes in the Internal Revenue Code are packaged on an assembly-line basis by investment advisers and then marketed around the country for the benefit of wealthy individuals bent on keeping their taxes low.

These tax shelters are America's newest breed of tax avoidance animal, spawned in recent years by the unremitting pressure of wealthy doctors, dentists, lawyers, and corporate executives for increasingly sophisticated means of tax avoidance.

Typically, such syndicates operate through the shell of a "limited" partnership, a device that allows a handful of partners to invest a relatively modest stake in an operation such as a suburban shopping center and then enjoy the immense tax deductions and other benefits that "flow through" from the partnership to the individual partners. Typically, the tax benefits are far in excess of the partner's own stake in the transaction.

In effect, the promoters of these tax shelter syndicates are selling tax loopholes to the wealthy. And the tax advantages are enormous. It is not uncommon, for example, for an investment of, say, $100,000 in a real estate syndicate to be rewarded with upwards of $200,000 in tax deductions a year—deductions used to offset the six-figure income from the investor's medical practice or his corporate salary.

The amendment I am proposing to the Debt Ceiling Act would prevent the worst abuses of these tax syndicates. It would eliminate the "flow-through" tax feature of limited partnerships, to the extent that tax benefits of the partnership exceed the actual investment of the partners.

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.

This $1 billion goes solely to the upper 1 percent of the people in the country in terms of incomes; indeed, the tax shelter promoters blatantly state that tax shelters are only for those who are in tax brackets of 50 percent or higher and who have a net worth in excess of $250,000. By definition, such tax shelter operations are closed to middle- and lower-income individuals. They are used only by the wealthy, to escape paying their fair share of the Federal income tax.

Tax shelter transactions now run through our entire economy. The ingenuity of wealthy tax avoiders and their advisers knows no bounds. The oldest generations 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 oiltankers—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, almonds and 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.

In a particularly startling example presented by a Los Angeles tax attorney, the House Ways and Means Committee was told last year of one movie tax shelter operation in which an investor who put $32,000 into the transaction received $120,000 in tax benefits in the first year alone. That tax shelter was not for low-income housing or energy development, but for a pornographic movie.

Whatever the arguments for Federal tax subsidies for building homes or drilling for oil or raising cattle, it can hardly be contended 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.

In real estate, for example, the focus of tax shelter syndicates is on luxury apartments for the rich, high rise office buildings, motels, and shopping centers, not into low- and middle-income housing, which are the Nation's real priority.

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 demonstrated by the figures of the National Association of Securities Dealers, covering tax shelters sold by members of the association, whether the shelters are interstate or intrastate transactions. 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:

[In millions]

	No.	*Amount*
Oil and gas	226	$1,028
Real estate	243	1,910
Vintage and farming	21	43
Cattle farming and breeding	30	192
Miscellaneous	19	55
	539	3,228

Even the NASD figures, 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, upwards 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, salesmen and accountants in transactions whose only business purpose is the sale of these Federal tax advantages to high bracket investors.

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 do not need to make an economic profit on their shelters. They do not 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.

As I have indicated, the legal mechanism by which the marketing of tax shelters is effective is the so-called limited partnership. The reason this vehicle is utilized is that under a longstanding but erroneous Treasury regulation, investors who are limited partners are able to obtain tax benefits far in excess of the actual amount that they have invested in the project.

Basic partnership tax rules provide that income and deductions of a partnership flow through to individual partners in proportion to their share of the partnership. Where a partnership has tax losses, individual partners are permitted to take these losses as deductions against other income. However, a partner is limited by the amount of deductions he can take through his "basis" in his partnership interest.

Ordinarily, a taxpayer's basis in an asset is the amount he actually paid for it. If he has borrowed funds to purchase the asset, then the borrowed funds constitute a part of his cost for tax purposes.

The difficulty in the limited partnership area is that the Treasury promulgated a regulation, section 1.752–1(e), which permits the basis of a limited partner to include borrowing by the partnership, even though the limited partner has no personal liability. This so-called nonrecourse financing by the partnership permits investors in limited partnerships to take deductions far in excess of the amount they have actually invested in the partnership, or that they will ever invest in the partnership.

For example, assume an investor in a tax shelter operation paid $50,000 for a one-tenth interest in a limited partnership. Under ordinary rules, he would only be permitted to take $50,000 of deductions that flow through from the partnership. However, if the partnership borrows a million dollars, as to which the limited partner will never have any personal liability, the Treasury regulations permit the limited partner to increase his $50,000 cost basis in the partnership by his share of the loan—for another $100,000 increase in his basis. In this way, the deductions which he can take to shelter other income are tripled—from $50,000 to $150,000, even though the most he will ever have at stake in the operation is $50,000.

This treatment of limited partners is totally unjustified. It is not permitted in the case of subchapter S corporations—typically, a small corporation in which the shareholders have elected to be taxed in a manner similar to a partnership. There, deductions flow through from the corporation to the stockholders only to the extent of each stockholder's own actual investment in his stock. His tax deductions are not increased by any nonrecourse borrowing done by the corporation.

The amendment I am introducing reverses the position taken in the Treasury regulations. It provides that in calculating the basis of his partnership interest, a limited partner may not include any borrowing by the partnership as to which he is not personally liable.

The amendment will not terminate all tax shelter transactions, but it will end their syndication, the most flagrant aspect of the tax shelter transactions. 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.

At the same time, the amendment will have no impact on individuals who are actually engaged in the businesses that have become the subject of tax shelter transactions. Thus, the developer who is actually in the real estate business, and who is therefore personally liable on any loans of the business, will not be affected by the amendment. The same is true of oil well drillers, farmers, movie producers, and the like. The only individuals affected by the amendment are those who seek to invest in these transactions solely for the purpose of obtaining tax benefits.

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.

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

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

AMENDMENT NO. 1439

At the end of the bill insert the following:

SEC.—(a) Section 752 of the Internal Revenue Code 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.

FAIR CREDIT BILLING ACT—AMENDMENT

AMENDMENT NO. 1438

(Ordered to be printed, and to lie on the table.)

Mr. PROXMIRE (for himself and Mr. BROCK) submitted an amendment, intended to be proposed by them, jointly, 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.

INCREASE OF ALLOWANCES TO VETERANS—AMENDMENT

AMENDMENT NO. 1440

(Ordered to be printed, and to lie on the table.)

Mr. BELLMON. Mr. President, S. 2784 has recently been reported out of the Senate Veterans' Affairs Committee and placed on the Senate calendar. During consideration of this most important measure it is my intent to offer an amendment calling for an escalator subsistence and educational allowances similar to present provisions of the social security programs.

Mr. President, I ask unanimous consent that the full text of my amendment be printed in the RECORD at this point.

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

AMENDMENT NO. 1440

On page 105, line —, insert the following new section:

Title VI. Sec. 601. Chapter 36 of title 38, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 1796. COST-OF-LIVING INCREASE IN EDUCATIONAL ASSISTANCE AND SUBSISTENCE ALLOWANCES.

"(a) As soon as possible after the beginning of each calendar quarter, the Administrator shall determine the extent by which the price index in the preceding calendar quarter was different than the price index the applicable base period (as those terms are defined in subsection (e)). If he determines that the price index had changed by a percentage (of its level in the base period) equal to 3 per centum or more, the amount of the educational assistance or subsistence allowance payable to eligible veterans or eligible persons pursuing a program of education or training, other than a program by correspondence or a program of flight training, in an educational institution under chapter 31, 34, or 35 of this title shall be changed by the same percentage (adjusted to the nearest one-tenth of 1 per centum), effective with respect to such allowances for months after the quarter in which the determination is made.

"(b) In the case of any individual who first becomes entitled to an educational assistance or subsistence allowance in or after the month in which a change becomes effective under subsection (a), the amount of such allowances payable to or with respect to him on the basis of such entitlement shall be determined by applying such change (or, if more than one change has become effective under subsection (a), by applying all such changes successively) to the amount of such allowances which would be payable under the provisions of chapter 31, 34, or 35, as the case may be, without regard to this section.

"(c) Any change under subsection (a) shall apply with respect to all educational assistance or subsistence allowances payable under chapters 31, 34, and 35 of this title during the period in which such change is effective regardless of the provisions under which such allowances are payable or the manner in which the amounts payable are determined, but shall be applied with respect to the allowances payable to or with respect to any particular individual only after all of the other applicable provisions of this title which relate to eligibility for and the amount of such allowances, and all prior changes made in such allowances under this section, have been applied.

"(d) If the amount of the change in any educational assistance or subsistence allowance under subsection (a) is not a multiple of $0.10 it shall be raised to the next higher multiple of $0.10 in the case of a multiple of $0.05 or adjusted to the nearest multiple of $0.10 in any other case.

"(e) For purposes of this section—

"(1) the term 'price index' means the Consumer Price Index (all items, United States city average) published monthly by the Bureau of Labor Statistics; and the average level of the price index for the three months in any calendar quarter shall be deemed to be the level of the price index in such quarter; and

"(2) the term 'base period' means—

"(A) the calendar quarter commencing July 1, 1974, with respect to the first change under subsection (a), and

"(B) the calendar quarter immediately preceding the quarter in which the determination constituting the basis of the most recent change under subsection (a) was made, with respect to any change under subsection (a) after the first such change."

(b) The table of sections at the beginning of chapter 36 of title 38, United States Code, is amended by adding at the end thereof the following:

"1796. Cost-of-living changes in educational assistance and subsistence allowances."

(c) The amendment made by subsection (a) of this section shall apply only with respect to changes in educational assistance and subsistence allowances under chapters 31, 34, and 35 of title 38, United States Code, for months in and after the second calendar quarter beginning after the date of the enactment of this section on the basis of determinations made (under section 1796 of such title, as added by subsection (a) of this section) in and after the first calendar quarter beginning after the date of the enactment of this section.

NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES ACT OF 1974—AMENDMENTS

AMENDMENTS NOS. 1441 AND 1442

(Ordered to be printed, and to lie on the table.)

Mr. HUMPHREY submitted two amendments, intended to be proposed by him, to the bill (S. 3523) to establish a Temporary National Commission on Supplies and Shortages.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1348

At the request of Mr. HUMPHREY, the Senator from Indiana (Mr. HARTKE), the Senator from Maine (Mr. HATHAWAY), the Senator from Iowa (Mr. HUGHES), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), and the Senator from Wisconsin (Mr. NELSON) were added as cosponsors of Amendment No. 1348 to the bill (S. 2005) to provide adequate reserves of certain agricultural commodities, and for other commodities.

AMENDMENT NO. 1426

At the request of Mr. PROXMIRE, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of Amendment No. 1426 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.

NOTICE OF JOINT LEGISLATIVE HEARINGS ON PRIVACY AND GOVERNMENT INFORMATION SYSTEMS

Mr. ERVIN. Mr. President, hearings on bills relating to privacy and Government information systems will be held before an ad hoc subcommittee of the Senate Government Operations Committee and the Judiciary Subcommittee on Constitutional Rights on June 18, 19, and 20. The joint hearings will be held in room 3302 of the Dirksen Senate Office Building at 10 a.m.

The legislation before the Government Operations Committee is S. 3418, which I have cosponsored with Senators PERCY and MUSKIE, to establish an administrative structure to oversee rules for the gathering and disclosure of information concerning individuals, and to provide management systems in Federal agencies, State and local governments and other organizations concerning such information, and for other purposes.

Bills pending before the Constitutional Rights Subcommittee of which I am also chairman, are: S. 2810, introduced by Senator GOLDWATER, to protect the constitutional right of privacy of individuals concerning whom identifying numbers or identifiable information is recorded by enacting principles of information practice in furtherance of amendments I, III, IV, V, IX, X, and XIV of the U.S. Constitution;

S. 2542, introduced by Senator BAYH to protect the constitutional right of privacy of those individuals concerning whom certain records are maintained; and

S. 3116, introduced by Senator HATFIELD, to protect the individual's right to privacy by prohibiting the sale or distribution of certain information.

With these legislative hearings, the Government Operations Committee will continue its oversight of the development and uses of automatic data processing in the Federal Government. The intergovernmental nature of nationwide systems involving electronic and manual transmission, sharing and distribution of data about citizens has significant implications for our federal system. In its attempt to respond to citizens' demands for quality and quantity in services, government and the private sector have turned to the large data banks, computerized information systems and management techniques which will help them get the job done. Where these practices and systems neglect the administrative and technical concern for privacy, due process, and surveillance over the individual, they are taking a toll, which is yet unmeasured, on constitutional principles of accountability, responsibility and limited government. The cost to the taxpayer in dollars and cents concerns avery American, for in the interest of promoting efficient government, the taxpayer may also be paying for loss of his privacy. That may be the price of insufficient monitoring by the public and Congress of the haphazard, ad hoc, ways modern government has found to meet its information needs, and which public officials use to meet their political needs.

Two Subcommittees of the Government Operations Committee are presently conducting oversight into major aspects of this problem. For instance, the Permanent Subcommittee on Investigations, chaired by Senator JACKSON, is presently conducting an inquiry into surveillance practices in and out of government, including government wiretapping, eavesdropping, recording, industrial espionage and bugging of labor negotiations, and other monitoring practices.

The Intergovernment Relations Subcommittee chaired by Senator MUSKIE, who is also a sponsor of the pending bill, is considering legislation concerning electronic surveillance and the need to reorganize departments and agencies engaging in such practices. That subcommittee is also studying a major aspect of Federal administration which affects individual privacy; this is the classification of Federal records and the laws and rules governing access, release and withholding of information which government collects about people.

The sponsors have introduced S. 3418 for purposes of discussion on the issues of what standards Congress should set for the protection of privacy in the development and management of Federal information systems, especially those which have been computerized with capacity for the sharing of records among departments and governments and across State boundaries. I expect hearings to produce expert advice not only on the standards to be set, but on the scope of the bill and how far the law should affect State, local, and private data banks. The hearings will also help us determine what kind of Federal structure should be established to enforce or advise on standards.

Congress is now considering a number of legislative proposals directed to specific problem areas of the law governing the privacy of the individual such as criminal justice data banks, military surveillance of civilian politics, wiretapping and eavesdropping, private credit data banks, employee privacy, behavior modification, lie detectors, and computer technology. These are some of the techniques and governmental programs which have concerned Congress and the public.

In contrast to such special legislation, the proposals considered in the June hearings represent general legislation to protect the privacy of all citizens and to build into the structure and practices of government a strengthened respect for the privacy and other freedoms guaranteed by the Bill of Rights.

S. 3418 is similar, but not identical, to omnibus legislation introduced by Representatives EDWARD KOCH and BARRY GOLDWATER, JR., which is being considered by the House Government Operations Subcommittee on Foreign Operations and Government Information chaired by Representative WILLIAM MOORHEAD. Their joint efforts are contributing greatly to the chances for enactment of major privacy protections this year. Individually, many Members of the House of Representatives have for a number of years sponsored bills reflecting sections of this proposal relating to mailing lists, a Federal privacy board, Federal questionnaires, and changes in the freedom of information law.

Portions of S. 3418 are similar to the measures pending before the Constitutional Rights Subcommittee. Another portion is comparable to my bill S. 1791 of the 91st Congress, which was to limit the threats to privacy from burdensome, overly personal questionnaires by which Government agencies sought statistical information through coercive collection techniques.

S. 3418 and the related bills deal with requirements to reveal one's social security number to government and private organizations, with personal statistical questionnaires, mailing lists, and remedies for official information programs which may pass constitutional boundaries.

In addition to the thousands of complaints which people have sent to Congress, we now have for guidance on this subject the investigative hearings, reports, and findings of a number of congressional committees, private organizations and Government departments. One of these studies, "Records, Computers and Rights of Citizens," was ordered by the former Secretary of Health, Education, and Welfare, Elliot Richardson, who will testify on June 18 on the findings of his study and the need for congressional and administrative action.

Another influential and comprehensive report entitled "Privacy and Freedom" by the Association of the Bar of the City of New York was directed by Prof. Alan F. Westin of Columbia University. Recently, Dr. Westin conducted another study with Michael F. Baker for the National Academy of Sciences entitled "Databanks in a Free Society." I am pleased to announce that in addition to presenting testimony on the pending legislation, Dr. Westin has agreed to serve as a consultant to our hearings and to give us the benefits of his considerable research and analysis in this area of the law.

With the establishment of the new Domestic Council Committee on Right to Privacy chaired by the Vice President, Congress now has additional resources and assistance in its efforts to protect privacy, and we look forward to their cooperation in our studies.

Vice President FORD has accepted an invitation to present a statement on June 19 which will be delivered by the committee's Executive Director, Mr. Philip Buchan.

Other witnesses with special knowledge in this area of the law and administration will include Members of Congress who have sponsored privacy legislation, representatives of the National Governors Conference, the National Legislative Conference, the National Association for State Information Systems, Government Management Information Sciences, the National League of Cities, the U.S. Conference of Mayors, the American Civil Liberties Union, Liberty Lobby, public administration specialists, and other interested organizations and individuals.

The Subcommittee on Constitutional Rights conducted excellent hearings in March of this year on criminal justice data bank legislation, in 1971 on "Federal Data Banks, Computers and the Bill of Rights," and in 1969 on "Privacy, the Census and Federal Questionnaires." These hearings elicited for Congress a wealth of information about public complaints and attitudes concerning the establishment and the management of Federal programs to investigate citizens in order to store, distribute, and exchange information about them. We found that some of these programs were none of the business of the Government and infringed totally or in part on constitutional freedoms. Other programs were meant to obtain the great amount of information which Congress must have to legislate wisely and which the executive branch must have in order to administer the laws properly. In some instances, however, it was charged that lawful programs went beyond their purpose in scope, and in some cases, that the lack of adequate control permitted unauthorized access to this Government information, or allowed its transfer and distribution to unauthorized persons and those who had no need for it in the performance of their duties.

It is a rare person who has escaped the quest of modern government for information. Complaints which have come to the Constitutional Rights Subcommittee and to Congress over the course of several administrations show that this is a bipartisan issue which effects people in all walks of life. The complaints have shown that despite our reverence for the constitutional principles of limited Government and freedom of the individual, Government is in danger of tilting the scales against those concepts by means of its information-gathering tactics and its technical capacity to store and distribute information. When this quite natural tendency of Government to acquire and keep and share information about citizens is enhanced by computer technology and when it is subjected to the unrestrained motives of countless political administrators, the resulting threat to individual privacy make it necessary for Congress to reaffirm the principle of limited Government on behalf of freedom.

The complaints show that many Americans are more concerned than ever before about what might be in their records because Government has abused, and may abuse, its power to investigate and store information.

They are concerned about the transfer of information from data bank to data bank and black list to black list because they have seen instances of it.

They are concerned about intrusive statistical questionnaires backed by the sanctions of criminal law or the threat of it because they have been subject to these practices over a number of years.

The pending legislation represents a partial solution to these concerns. There are alternatives to some of the provisions. For instance, enforcement of the act and the advisory functions which are located in an independent privacy board might be relocated or distributed to the General Accounting Office and the courts. Furthermore, after receiving testimony the committee may want to alter the scope of the legislation.

I want to commend Senator PERCY for his interest in this subject and his initiative in working with House sponsors to bring the legislation before the Government Operations Committee in connection with its oversight of the use of governmental data banks and computer technology, and its monitoring of surveillance practices throughout government which may threaten freedom.

I hope the joint efforts of the Senate Government Operations Committee and the Constitutional Rights Subcommittee, whose members and staff have great expertise in this area of the law, will result in enactment of the basic legislative guarantees which are needed if America is to face up to the computer age.

It should be noted that these pending bills follow patterns and raise issues similar to those in criminal justice legislation, S. 2963 and S. 2964, which I have cosponsored with the following Senators who include members of the Judiciary and Government Operations Committees: Senators HRUSKA, MATHIAS, KENNEDY, BAYH, TUNNEY, YOUNG, BROOKE,

MANSFIELD, ROBERT BYRD, BURDICK, ROTH, HUGH SCOTT, THURMOND, FONG, and GURNEY.

We welcome suggestions and comments from Members of Congress and others with an interest in and knowledge about these matters. Those wishing to submit statements for the record should communicate with the Government Operations Committee, room 3306 of the Dirksen Office Building, Washington, D. C. 20510, telephone 225–7469.

In an article entitled "The First Amendment—A Living Thought in the Computer Age," from volume 4 of the Columbia Human Rights Review, 1972, I have described some of the many complaints which people have registered to the Constitutional Rights Subcommittee and to Members of Congress about attitudes and program of government which threaten the privacy guaranteed under the first amendment. At the conclusion of the article, there is suggested a seven-part legislative program to remedy these complaints, part of which is reflected in the pending legislation. Additional examples of questionable data banks have been revealed, many of them documented in the forthcoming report of the subcommittee's comprehensive survey of the laws and rules affecting individual privacy in Federal data banks and computerized information systems. These new revelations to Congress merely serve to reaffirm my conviction that early congressional action is needed to implement the Constitution.

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

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

[From the Columbia Human Rights Review, Volume 4, No. 1 (1972)]

THE FIRST AMENDMENT: A LIVING THOUGHT IN THE COMPUTER AGE [1]

(By SAM J. ERVIN, Jr.*)

Sherwood Anderson wrote words about America as true today as they were in the third decade of this century:

"America ain't cemented and plastered yet. They're still building it. . . . All America asks is to look at it and listen to it and understand it if you can. Only the understanding ain't important either; the important thing is to believe in it even if you don't understand it, and then try to tell it, put it down. Because tomorrow America is going to be something different, something more and new to watch and listen to and try to understand; and, even if you can't understand, believe."

Anyone seeking to understand contemporary America must deal with our national experience with computer technology. They must understand that it has become an essential tool in the "cementing and plastering" of our nation. They must understand that it has at once presented our country its greatest hope and its greatest challenge; keeping faith with our historical heritage and commitment to freedom, while enjoying the fruits of a rich industrialized society under a democratic constitution.

Throughout our nation the people involved with computer technology have charge of a great national resource which will affect the course of our economic and social progress. More important, insofar as it affects the exercise of governmental power and the power of large special interest groups, the new technology may help determine the course of freedom and human rights in our land.

In the process, I believe Americans could find wisdom in Sherwood Anderson's advice "to believe" in America. I say this because, as we grasp for the new computer technology and seek theories of systems analysis for our social problems, Americans may tend to forget to look to their own history. Some, in their haste to solve today's problems, may fear to translate America's promise of freedom into the program language of the computer age.

Those whose are initiated into the technological mysteries of computer hardware and software may take great pride. Through their deeds and genius they have helped people go to the moon, produce music, create art, conduct off-track betting, run railroads, and administer welfare systems. They help maintain our national defense and they keep our economy running. They aid in catching criminals and they establish instant credit. They locate marriage-mates for people and they prejudge elections almost before the votes are cast.

A tape storage system has been described which will make it possible to store a dossier on every living person in the United States and to retrieve any one of them in a maximum of 28 seconds. With such feats to their credit, these people know better than anybody that in the application of their knowledge, they plan a major role in the economic and social well-being of our society. They are responsible for bringing to our nation all the wondrous blessing of computer technology, especially scientific methods of processing information.

They can bend these machines to their will and make them perform feats undreamed of ten or even five years ago.

They have a special understanding of the new information flow charts for the vast data systems in our government.

They hold the access code to control over the technology as it affects the individual in our society.

They may hold the key to the final achievement of the rule of law which is the promise of our constitution.

With this body of knowledge, therefore, they bear special responsibility for the preservation of liberty in our country. That they have accepted this responsibility is clear from the *Privacy* themes of many recent conferences of computer professionals, equipment manufacturers, and computer users in the governmental and private sectors.

Their power is not limited to their technical expertise, but is augmented by the sheer numbers in the computer-related professions.

Advertisements on TV, radio, in newspapers, and even on buses daily remind the public of the inducements and rewards of a career in computer and data processing fields.

In the Federal Government, their numbers are growing. An inventory of automatic data processing equipment shows that in 1952 there were probably two computers in government. In 1971, there were 5,961.[2]

In 1960, there were 48,700 man-years used in federal automated data processing functions. This includes systems analysis and design, programming, equipment selection and operation, key punching, equipment maintenance and administrative support. In 1970, there were about 136,504 man-years used in direct ADP work.

A recent illuminating report by the National Association for State Information Systems shows that in 35 states in 1971, over twenty-four and a half thousand people were engaged in ADP. Twenty-eight states together spent 181 million dollars of their budgets on such personnel.[3]

To glance through their professional journals, newspapers and bulletins each month is to be constantly amazed at the breadth and reach of the theories and accomplishments.[4] It also deepens a layman's wonder at the complex language which sometimes defies translation into ordinary English.

For all of these reasons, the general public stands in superstitious awe of the skills and knowledge, the machines and instruments, and the products derived and transmitted by them. For the uninitiated, the computer print-out bears a mystique and an aura of scientific rationality which makes it appear infallible. This is true for most lawyers and probably for most people in political life.

There is a theory abroad today in academic circles that America is divided into two worlds. One of them is the world of science and technology,[5] inhabited by people who are part of a technological and electronic revolution. In the other world are said to live all the rest of the people whose ideas and values are based on an earlier age.

In accordance with their theory, some have tried to stamp the scientist with motives and values different from those of other Americans; with goals oriented only toward efficiency or shorn of compassion, or, alternatively, with exclusive ability to determine social priorities. I cannot agree with this analysis, for I believe there is a yearning in every human heart for liberty, and for the freedom to express oneself according to the dictates of conscience. Despite a man's commitment to a chosen profession, he wants the freedom to fulfill himself as an individual and to use his God-given faculties free from the coercion of government.

So I do not believe Americans dwell in two worlds. Regardless of our origins, I believe we share a common heritage and a common destiny in that we are all engaged in searching for freedom. We share, according to the mandates of the Constitution, a common understanding that the best protection for that freedom rests on the limitations on the power of government and on the division of that power.

I cannot agree with such an analysis for another reason. Since the Senate Constitutional Rights Subcommittee began its study of computers, data banks and the Bill of Rights, I have received many letters from computer specialists, systems designers, engineers, programmers, professors and others in the scientific community which prove that despite, and perhaps because of their professions, they share the same concern about invasion of privacy as all other Americans, the same apprehensions about excesses of governmental surveillance and inquiries. Above all, they realize, perhaps better than others, that while the information technology they deal with can extend the intellect of man for the betterment of society, it also extends the power of government a millionfold.[6]

It makes it possible for government to administer more efficiently and to offer vastly better services to the taxpayers.

At the same time, it extends and unifies official power to make inquiries, conduct investigations, and to take note of the thoughts, habits and behavior of individuals. Of course, government has always had such power, but on a much smaller scale than today. Similarly, men possessing the power of government have always had the capacity for bad motives, simple errors or misguided purpose. There have always been problems with errors in the manual files. Now, computers may broadcast the image of these errors throughtout a national information system.

What the electronic revolution has done is to magnify any adverse affects flowing from these influences on the life of the individual and on his proper enjoyment of the rights, benefits and privileges due a free man in a free society.

I reject the notion of division of Americans on the basis of scientific and technological values. If I had the unhappy and well-nigh impossible task of distinguishing

Footnotes at end of article.

two types of Americans, I believe I would distinguish between those who understand the proper limits and uses of governmental power and those who do not.

However much we try to rationalize decisions through the use of machines, there is one factor for which the machine can never allow. That is the insatiable curiosity of government to know everything about those it governs. Nor can it predict the ingenuity applied by government officials to find out what they think they must know to achieve their ends.

It is this curiosity, combined with the technological and electronic means of satisfying it, which has recently intensified governmental surveillance and official inquiries that I believe infringe on the constitutional rights of individuals.

Congress received so many complaints about unauthorized government data banks and information programs that the Subcommittee undertook a survey to discover what computerized and mechanized data banks government agencies maintain on people, especially about their personal habits, attitudes, and political behavior. We have also sought to learn what government-wide or nation-wide information systems have been created by integrating or sharing the separate data bases. Through our questionnaire, we have sought to learn what laws and regulations govern the creation, access and use of the major data banks in government.[7]

The replies we are receiving are astounding, not only for the information they are disclosing, but for the attitudes displayed toward the right of Congress and the American people to know what Government is doing.

In some cases, the departments were willing to tell the Subcommittee what they were doing, but classified it so no one else could know.[8] In one case, they were willing to tell all, but classified the legal authority on which they relied for their information power.[9]

Some reports are evasive and misleading. Some agencies take the attitude that the information belongs to them and that the last person who should see it is the individual whom it is about.[10] A few departments and agencies effectively deny the information by not responding until urged to do so.[11]

They reflect the attitude of the Army captain who knew Congress was investigating the Army data banks and issued a directive stating:

"The Army General Counsel has re-emphasized the long-standing policy of the Executive Branch of the Government . . . that all files, records and information in the possession of the Executive Branch is privileged and is not releasable to any part of the Legislative Branch of the Government without specific direction of the President."[12]

So, on the basis of this study, and on the withholdings of information from the American people which the Subcommittee has experienced, [13] I have concluded that the claim of the Government departments to their own privacy is greatly overstated. The truth is that they have too much privacy in some of their information activities. They may cite the Freedom of Information Act [14] as authority for keeping files secret from the individual as well as from the Congress. They then turn around and cite "inherent power"[15] or "housekeeping authority"[16] as a reason for maintaining data banks and computerized files on certain individuals; or they may cite the conclusions of independent Presidential factfinding commissions.[17]

So far the survey results show a very wide-ranging use of such technology to process and store the information and to exchange it with other federal agencies, with state and local governments and, sometimes, with private agencies.

Footnotes at end of article.

Most of this is done in connection with administration of Government's service programs. However, a number of these data banks and information programs may partake of the nature of largescale blacklists. This is so because they may encompass masses of irrelevant, outdated or even incorrect investigative information based on personalities, behavior and beliefs. Unwisely applied or loosely supervised, they can operate to deprive a person of some basic right.

For instance, a Federal Communications Commission response [18] shows that the FCC uses computers to aid it in keeping track of political broadcast time, in monitoring and assigning spectrums, and in helping it make prompt checks on people who apply for licenses. The Commission reported that it also maintains a Check List, which now has about 10,900 names. This Check List, in the form of a computer print-out, is circulated to the various Bureaus within the Commission. It contains the names and addresses of organizations and individuals whose qualifications are believed to require close examination in the event they apply for a license. A name may be put on the list by Commission personnel for a variety of reasons, such as a refusal to pay an outstanding forfeiture, unlicensed operation, license suspension, the issuance of a bad check to the Commission or stopping payment on a fee check after failing a Commission examination.

In addition, this list incorporates the names and addresses of individuals and organizations appearing in several lists prepared by the Department of Justice, other Government agencies, and Congressional committees. For example, the list contains information from the "FBI Withhold List," which contains the names of individuals or organizations which are allegedly subversive, and from the Department of Justice's "Organized Crime and Racketeering List," which contains the names of individuals who are or have been subjects of investigation in connection with activities identified with organized crime. Also included in the list are names obtained from other Government sources, such as the Internal Revenue Service, the Central Intelligence Agency, and the House Committee on Internal Security. According to the Commission, the use of the data arose in 1964 because during the course of Senate Hearings chaired by Senator McClellan, it was discovered that a reputed racketeering boss in New Orleans, Louisiana, held a Commission license. In order that such licensing not take place in the future, the Commission established liaison with the responsible divisions within the Department of Justice to be kept current on persons who might have such affiliations.

The Civil Service Commission maintains a "security file" in electrically powered rotary cabinets containing 2,120,000 index cards.[19] According to the Commission, these bear lead information relating to possible questions of suitability involving loyalty and subversive activity. The lead information contained in these files has been developed from published hearings of Congressional committees, State legislative committees, public investigative bodies, reports of investigation, publications of subversive organizations, and various other newspapers and periodicals. This file is not new, but has been growing since World War II.

The Commission chairman reported:

"Investigative and intelligence officials of the various departments and agencies of the Federal Government make extensive official use of the file through their requests for searches relating to investigations they are conducting."

In another "security investigations index" the Commission maintains 10,250,000 index cards filed alphabetically covering personnel investigations made by the Civil Service Commission and other agencies since 1939. Records in this index relate to incumbents of Federal positions, former employees, and applicants on whom investigations were made or are in process of being made.

Then, the Commission keeps an "investigative file" of approximately 625,000 file folders containing reports of investigation on cases investigated by the Commission. In addition, about 2,100,000 earlier investigative files are maintained at the Washington National Records Center in security storage. These are kept to avoid duplication of investigations or for updating previous investigations.

The Housing and Urban Development Department in considering automation of a departmental system which would integrate records now included in FHA's Sponsor Identification File, Department of Justice's Organized Crime and Rackets File, and HUD's Adverse Information File[20] A data bank consisting of approximately 325,000 3 x 5 index cards has been prepared covering any individual or firm which was subject of or mentioned prominently in, any investigations dating from 1954 to the present. This includes all FBI investigations of housing matters as well.

In the area of law enforcement, the Bureau of Customs has installed a central automated data processing intelligence network which is a comprehensive data bank of suspect information available on a 24-hour-a-day basis to Customs terminals throughout the country.[21]

According to the Secretary of the Treasury:

"These records include current information from our informer, fugitive and suspect lists that have been maintained throughout the Bureau's history as an enforcement tool and which have been available at all major ports of entry, though in much less accessible and unable form. With the coordinated efforts of the Agency Service's intelligence activities, steady growth of the suspect files is expected."

There is the "Lookout File" of the Passport Office and the Bureau of Security and Consular Affairs.[22] This computerized file illustrates the "good neighbor" policy agencies observe by exchanging information in order to keep individuals under surveillance for intelligence and law enforcement purposes. Maintained apart from the twenty million other passport files, its basic purpose is to assist in screening passport applicants to make certain they are citizens of the United States and that they are eligible to receive passports. Requests for entry into this system are received from component agencies of the Department, from other government agencies, or in the limited category of child custory, from an interested parent or guardian.

The Department assured the Subcommittee that data recorded in this "Lookout File" is not disseminated. Rather, it serves as a "flag" which, if a "hit" or suspect is recorded, is furnished to the original source of the lookout and consists of the name of the individual and the fact that he has applied for a passport. The individual is not told that he is in the file until the information is used adversely against him. Then, according to the report, "he is fully informed and given an opportunity to explain or rebut the information on which the adverse action is based."

Among some of the reasons listed for people being in the Lookout File are the following:

If the individual's actions do not reflect to the credit of U.S. abroad;

If he is wanted by a law enforcement agency in connection with criminal activity;

If a court order restricting travel is outstanding or the individual is involved in a custody or desertion case;

"If he is a known or suspected Communist or subversive;

"If he is on the Organized Crime and Rackets List or is a suspected delinquent in military obligations."

The Defense Industrial Security Clearance Office is preparing to computerize its card files on over one and a half million private citizens who are employees of businesses doing classified contract work for the Federal Government.[23]

The Federal Deposit Insurance Corporation maintains information on people now associated with banks insured by the FDIC or who have been associated with such banks in the past.[24] It keeps a file on the names of individuals gained from newspapers and other public sources if they are characterized as having an unsatisfactory relationship with any insured bank or any closed insured bank. This also includes information supplied to the Corporation by other investigative or regulatory agencies on persons connected with an insured bank.

The Army maintains the U.S. Army Investigative Records Repository (USAIRR) which contains about 7,000,000 files relating principally to security and criminal investigations of former and present members of the Army, civilian employees and employees of private contractors doing business with the Army. The other services maintain similar investigative files.[25]

There is a Defense Central Index of Investigation operated by the Army for the entire Defense Department. The Index is designed to locate any security or criminal investigative file for any Defense agency and will be computerized shortly. It contains identifying data such as name, date of birth and social security number on people who have ever been the subject of investigations.[26]

There are all the data banks and computers in the Department of Justice [27] for intelligence, for civil disturbance prevention; for "bad checks passers;" for organized crime surveillance; and for federal-state law enforcement cooperation through the computerized National Crime Information Center.

On the basis of our investigation of complaints reviewed by Congress,[28] I am convinced that people throughout the country are more fearful than ever before about those applications of computer technology and scientific information processing which may adversely affect their constitutional rights. Furthermore, my study of the Constitution convinces me that their fears are well founded.

First, they are concerned that through a computer error they may be denied basic fairness and due process of law with respect to benefits and privileges for which they have applied.

Secondly, they are concerned about illegal access and violation of confidentiality of personal information which is obtained about them by government or industry.

These are actions which for any one individual or for entire groups may lead to a loss of the ability to exercise that "pursuit of happiness" which the Declaration of Independence declares is one of the unalienable rights of man.

These are actions which, by producing erroneous reports, may limit or deny a person's economic prospects and thereby impair that liberty which under the 5th and 14th amendments government may not impair without due process of law.

ARREST RECORDS

This possibility is illustrated by a letter [29] I received from a man who describes the effect on his life of an incident which occurred when he was fifteen years of age. In connection with a locker theft, he was taken to the police station, finger-printed, questioned and then he left, cleared of charges. He was not involved in any incident subsequently except a few minor traffic violations. He served 11 years in the armed services and held the highest security clearances. After gaining employment with a city government, he discovered that the youthful incident was, 15 years later, part of an FBI file and distributed to employers on request. He was asked to explain the incident for personnel records and to state why he withheld the information. Although he was unaware of the record, he believes the failure to list the incident was a factor in not gaining employment in several instances, and he was told he would have to institute court action to have the record expunged.

The problem he and millions of others face with respect to their records is illustrated by a regulation issued by the Attorney General last year restating the goal of the Federal Bureau of Investigation "to conduct the acquisition, collection, exchange, classification, and preservation of identification records . . . on a mutually beneficial basis." [30] Among the agencies listed as eligible to receive and supply information were railroad police, banking institutions and insurance companies.

In Washington, D.C., a young man who was an innocent bystander during a campus demonstration was arrested by police and then released. Knowing that the FBI could distribute such records to employers, he hired a lawyer and spent large sums of money in a suit to have his arrest record expunged. The lawer court denied his request, but the Court of Appeals ruled that, in the District of Columbia at least, arrest records should be expunged for innocent bystanders caught up in mass police arrests.[31]

In another case, a young man was arrested on probable cause and fingerprinted in California. When the police could not connect him with the case, he was released. He sought to have his arrest record expunged, or alternatively, to have strict limitations placed on its dissemination to prospective employers and others by the Federal Bureau of Investigation. While the U.S. District Court denied his request for expungement, it did say that his arrest record may not be revealed to prospective employers except in the case of any Federal agency when he seeks employment with that agency. However, it could be distributed for law enforcement purposes. Congress later restored this power to the FBI temporarily in an annual appropriation bill.

Judge Gesell's comments in this case of *Menard* v. *Mitchell* [32] are significant for the issue of arrest records, but also for the Army's computer surveillance program and for many other government intelligence systems now being designed. He stated that while "conduct against the state may properly subject an individual to limitations upon his future freedom within tolerant limits, accusations not proven, charges made without supporting evidence when tested by the judicial process, ancient or juvenile transgressions long since expiated by responsible conduct, should not be indiscriminately broadcast under governmental auspices." He also said:

"The increasing complexity of our society and technological advances which facilitate massive accumulation and ready regurgitation of farflung data have presented more problems in this area, certainly problems not contemplated by the framers of the Constitution. These developments emphasize a pressing need to preserve and to redefine aspects of the right of privacy to insure the basic freedoms guaranteed by this democracy.

"A heavy burden is placed on all branches of Government to maintain a proper equilibrium between the acquisition of information and the necessity to safeguard privacy. Systematic recordation and dissemination of information about individual citizens in a form of surveillance and control which may easily inhibit freedom to speak, to work, and to move about in this land. If information available to Government is misused to publicize past incidents in the lives of its citizens the pressures for conformity will be irresistible. Initiative and individuality can be suffocated and a resulting dullness of mind and conduct will become the norm. We are far from having reached this condition today, but surely history teaches that inroads are most likely to occur during unsettled times like these where fear or the passions of the moment can lead to excesses."

There are many similar cases pending throughout the states. Present laws are not sufficient to assure that an individual will be judged on his merit and not by inacurrate arrests records distributed by a national law enforcement computer.[33]

LAW ENFORCEMENT INTELLIGENCE RECORDS

Such threats to privacy and liberty arise with special force in the area of intelligence records. The Subcommittee study reveals two serious problems which have acquired national urgency through the introduction of computer technology. First, the problem of safeguarding intelligence information from improper release by government itself, and secondly, the problem of confining its collection to appropriate areas and subjects.

Government has, and should have, power to collect information, even raw, univerified intelligence information, in fields in which government has a lawful, legitimate interest. But this great power imposes a solemn responsibility to see that no one is given access to that information, except the Government itself for some legitimate purpose. There could never, for instance, be justification for Government to disclose intelligence gathered about citizens pursuant to its powers, to other citizens for their own personal or financial aggrandizement. Nor should Government through disclosure of confidential documents aid and abet the writing of sensational articles in private journals operated for commercial profit.

Nevertheless, the Subcommittee received testimony and evidence about two cases, which illustrate the misuse of confidential intelligence information for such purposes.

One involved a man in political life, the mayor of San Francisco, who was the subject of an article in Look Magazine purporting to establish that he associated with persons involved in organized crime. When the Mayor sued the magazine for libel, he undertook through subpoena power to learn the basis for such charges and where and how the authors obtained their information. He learned that they had received confidential information and documents from intelligence data banks. The information came from files and computer printouts of a number of major Federal, state and local government law enforcement agencies. They involved the U.S. Attorney General's Office, the Federal Bureau of Investigation, Internal Revenue Service, Federal Bureau of Narcotics, the Customs Bureau, the Immigration and Naturalization Service, the California Criminal Identification and Investigation Bureau, the California State Department of Justice, and the Intelligence Unit of the Los Angeles Police Department. By their own testimony for the case, the authors of the article admitted that they examined, obtained or borrowed originals or copies of such law enforcement records containing much raw unevaluated intelligence information on numerous people including the names of three U.S. Presidents, the state Governor, a number of Senators, and many private law-abiding citizens, not accused of any crime. These documents were obtainable despite the fact that many of them were stamped "Confidential" or—

Property of U.S. Government For official use only. May not be disseminated or contents disclosed without permi sion. . . ."

There is more about these and other disclosures in the hearing reco:. but I believe the Mayor's testimony [34] illustrates many of of the dangers to privacy in this age of large investigative networks and instant compu-

Footnotes at end of article.

terized dossiers. It also illustrates the lack of sufficient criminal, civil, or administrative sanctions against unwarranted sharing and disclosure of such confidential information. To my knowledge, no punitive action was taken except for a disciplinary personnel action filed against an agent of the Federal Bureau of Investigation, who was then allowed to retire.

The weakness of any applicable regulations is demonstrated by the report of the Bureau of Narcotics and Dangerous Drugs that its current disclosure order "would not cover the release of collateral intelligence information, information contained in dead files, or information on nondefendants, such as that disclosed in the Alioto testimony." The Bureau further stated that under the provisions of its new Agents Manual it is only a "breach of integrity" to make unauthorized disclosure of files which are restricted to official use.[35]

MISUSE OF MILITARY INTELLIGENCE RECORDS

Another case [36] illustrates how the Army's investigative intelligence services and files were put to private use to obtain the dismissal of an employee of a private business. In this instance an Army intelligence agent whose routine duties involved security investigations and surveillance for the Army's civil disturbance prevention program described to the Subcommittee how he was ordered by his superiors to conduct an investigation of the bank loan records, police and court records of the private citizen and was told to give the resulting information to the employee's supervisor. He later learned that the investigation had been ordered by an intelligence officer as a personal favor for an official of the company. When the agent reported this to his superiors, he was told in a classified letter that the matter involved "national security." A year later, following his separation from the service, the agent reported the incident to the Inspector General of the Assistant Chief of Staff for the Pentagon, who began an investigation. All of his allegations were confirmed and firm disciplinary actions were taken against the guilty officers. It was too late, however, for the subject of the Army investigative report, who had already been dismissed.

These cases illustrate the concerns over political administrative and technical problems of access, confidentiality and purging of erroneous or outdated records in computer systems. But these are issues which have long concerned legislatures, bar associations and others.

The major reason for public apprehension about computer technology and information sciences is the use of them to acquire, process, analyze and store information about activities and matters which are protected by the First Amendment.

What people writing to Congress fear most is the uses to which this technology may be put by men of little understanding but great zeal. They know that, applied to unlawful or unwise programs, computers merely absorb the follies and foibles of misguided politically-minded administrators.

In Federal Government, the new technology, combined with extended Federal-state services and their spin-off information systems, have produced vast numbers of investigators, analysts, and programmers devoted to the study of people and society. With the zeal of dedicated civil servants, they are devoted to the building of data bases on the habits, attitudes and beliefs of law-abiding citizens. Much of what they gather is trivial; much of it goes far beyond the needs of government. Some of it is shared extensively and often unnecessarily by agencies who are components of these large information systems.

People seeking government jobs in some agencies are told to reply to personality tests asking:

I believe there is a God.

I believe in the second coming of Christ.

I believe in a life hereafter.

I am very religious (more than most people).

I go to church almost every week.

I am very strongly attracted by members of my own sex.

I love my father.

My sex life is satisfactory.

Once in a while I feel hate toward members of my family whom I usually love.

I wish I were not bothered by thoughts about sex.

When the Subcommittee held hearings on these practices, government officials explained that there was no right or wrong answer to the questions, that the responses were coded and analyzed by the computer.[37]

I asked whether they did not think such inquiries violated the privacy of the individual's thought about matters that were none of the business of government. The reply was that there was no Supreme Court decision holding that people who apply for federal employment have a constitutional right to privacy.

There was a Civil Service program telling employees to fill out computer punch cards stating their racial, ethnic or national origin along with their social security number.[38] In the land renowned for being the "melting pot" of the world, over 3 million individuals had to analyze their backgrounds and reduce them to one of four squares on an IBM card. If they protested that these matters were none of the business of government, they were blacklisted in their offices and harassed with computer-produced orders to return the completed questionnaire. The resemblances between this program and those of totalitarian governments in our recent history were all too obvious.

The Census Bureau makes more use of computer technology for personal inquiries than anyone.[39] It conducts surveys for its own uses backed by the criminal and civil sanctions. One of these, the decennial census, asked people such questions as:

Marital Status: Now married, divorced, widowed, separated, never married.

(If a woman) How many babies have you ever had, not counting stillbirths?

Do you have a flush toilet?

Have you been married more than once?

Did your first marriage end because of death of wife or husband?

What was your major activity 5 years ago?

What is your rent?

What is your monthly electric bill?

Did you work at any time last week?

Do you have a dishwasher? Built-in or portable?

How did you get to work last week? (Driver, private auto; passenger, private auto; subway; bus; taxi; walked only; other means).

How many bedrooms do you have?

Do you have a health condition or disability which limits the amount of work you can do at a job?

How long have you had this condition or disability?

Under even heavier sanctions, the Census Bureau puts questionnaires to farmers, lawyers, owners of businesses, and others, selected at random, about the way they handle their business and finances.[40]

The Census Bureau also makes surveys for many other departments and agencies.[41] For example, they put out statistical questionnaires which the Department of Health, Education, and Welfare wanted to send to retired people asking:

How often they call their parents;

What they spend on presents for grandchildren;

How many newspapers and magazines they buy a month;

If they wear artificial dentures;

"Taking things all together, would you say you're very happy, pretty happy, or not too happy these days?"

And many other questions about things on which government has no business demanding answers.

These people are not told that their answers are voluntary, but are harassed to reply and are given the impression they will be penalized if they do not answer.[42]

There are many other examples of inquiring social and economic data that are backed by the psychological, economic, or penal sanction of government. Clearly, Government has great need for all kinds of information about people in order to govern efficiently and administer the laws well; similarly, Congress must have large amounts of meaningful information in order to legislate wisely.

However, I believe these examples of governmental data collection illustrate my contention that the First Amendment wraps up the principle of free speech, which includes the right to speak one's thoughts and opinions as well as the right to be free of governmental coercion to speak them.

There are other examples of government programs which, well-meaning in purpose, are fraught with danger for the very freedoms which were designed to make the minds and spirits of all Americans free, and which work to keep America a free society. A number of these would be impractical, if not impossible, without the assistance of computer technology and scientific data processing.

It is those First Amendment freedoms which are the most precious rights conferred upon us by our Constitution: the freedom to assemble peaceably with others and petition government for a redress of grievances; the freedom to worship according to the dictates of one's own conscience free of government note-taking; the freedom to think one's own thoughts regardless of whether they are pleasing to government or not; the freedom to speak what one believes whether his speech is pleasing to the government or not; the freedom to associate with others of like mind to further ideas or policies which one believes beneficial to our country, whether such association is pleasing to government or not.

THE SECRET SERVICE

In the pursuit of its programs to protect high government officials from harm and federal buildings from damage,[43] the Secret Service has been pressured to create a computerized data bank. Their guidelines for inclusion of citizens in this data bank requested much legitimate information but also called for information on "professional gate crashers;" "civil disturbances;" "anti-American or anti-U.S. Government demonstrations in the United States or overseas;" pertaining to a threat, plan, or attempt by an individual or group to "embarrass persons protected by the Secret Service or any other high U.S. Government official at home or abroad;" "persons who insist upon personally contacting high government officials for the purpose of redress of imaginary grievances;" and "information on any person who makes oral or written statements about high government officials in the following categories: (1) threatening statements, (2) irrational statements, and (3) abusive statements."

Americans have always been proud of their First Amendment freedoms which enable them to speak their minds about the shortcomings of their elected officials. As one in political life, I have myself received letters I considered abusive. Similarly, I have uttered words which others have deemed abusive. While I am not a "professional gate crasher," I am a malcontent on many issues. I have written the President and other high government officials complaining of grievances which some may consider imaginary; and on occasion, I may also have "embarrassed" high government officials.

Footnotes at end of article.

One man wrote me his concern about this program and commented:

"The Secret Service ought to go after my mother-in-law, too. On her last visit she said that the Vice President doesn't seem to have too many brains. She also said that Senator —— has a face like a carbuncle. Should I report this to the Secret Service? [44]

There is no doubt that the physical protection of the President and high government officials is a legitimate government purpose and all reasonable means must be taken in pursuit of it. Nevertheless, such broad and vaguely worded standards for investigating and adversely reporting Americans to their government on the basis of their utterances could, at one time or another, include most members of Congress and most politically aware citizens. It could cover heated words exchanged in political debate and discussion anywhere in the country. Yet civil and military officials throughout the Federal government and in some local law enforcement agencies were requested to report people coming to their attention who were thought to fit these criteria.

The Subcommittee has not received complete answers to our questionnaire on the subject of this computer and the national reporting system it serves. However, we have indications that other broad and zealous information programs, including the Army civil disturbance system,[45] are sharing or feeding on entries which, if not carefully evaluated, may produce serious consequences for the rights and privileges of citizens. Illustrating the misunderstandings and misinterpretations possible is the fact that military doctors have expressed to me their concern about an allegedly "secret" agreement between the Defense Department and the Secret Service which they were told was a recent one and which required reporting of all servicemen receiving administrative discharges. One psychiatrist writes of his concern for the confidentiality of medical records in such action:

"I see very little reason for this. My impression of the individuals whom I recommended for such a discharge was that these were immature individuals who were not able to adapt to the service for one reason or another. Not by any stretch of the imagination were these individuals unpatriotic or a threat to the security of the nation." [46]

When I asked the Secretary of the Navy about this, the Subcommittee was informed that a person is not reported to the Secret Service merely because he received an administrative discharge from the Navy or Marine Corps.[47] However, we were informed that Pursuant to Naval regulations issued under a secret 1965 Agreement,[48] the Navy reports an average of 400 persons annually. We learned, for example, that among the many categories of people to be reported were not only servicemen but civilian employees of the Defense Department who were discharged on security or suitability grounds and who showed "evidence of emotional instability or irrational or suicidal behavior, expressed strong or violent sentiments against the United States," or who had "previous arrests, convictions, conduct or statements indicating a propensity for violence and antipathy for good order in Government." [49]

MILITARY SPYING

Another example of First Amendment information programs is the Army program for spying on Americans who exercised their First Amendment rights. Despite these rights, and despite the constitutional division of power between the federal and state governments, despite laws and decisions defining the legal role and duties of the Army, the Army was given the power to create an information system of data banks and computer programs which threatened to erode these restrictions on governmental power.[50]

Allegedly, for the purpose of predicting and preventing civil disturbances which might develop beyond the control of state and local officials, Army agents were sent throughout the country to keep surveillance over the way the civilian population expressed their sentiments about government policies. In churches, on campuses, in classrooms, in public meetings, they took notes, tape-recorded, and photographed people who dissented in thought, word or deed. This included clergymen, editors, public officials, and anyone who sympathized with the dissenters.

With very few, if any, directives [51] to guide their activities, they monitored the membership and policies of peaceful organizations who were concerned with the war in Southeast Asia, the draft, racial and labor problems, and community welfare. Out of this surveillance the Army created blacklists of organizations and personalities which were circulated to many federal, state and local agencies, who were all requested to supplement the data provided. Not only descriptions of the contents of speeches and political comments were included, but irrelevant entries about personal finances, such as the fact that a militant leader's credit card was withdrawn. In some cases, a psychiatric diagnosis taken from Army or other medical records was included.

This information on individuals was programmed into at least four computers according to their political beliefs, or their memberships, or their geographic residence.[52]

The Army did not just collect and share this information. Analysts were assigned the task of evaluating and labeling these people on the basis of reports on their attitudes, remarks and activities. They were then coded for entry into computers or microfilm data banks.[53]

The Army attempts to justify its surveillance of civilians by asserting that it was collecting information to enable the President to predict when and where civilians might engage in domestic violence, and that the President was empowered to assign this task to it by the statutes conferring upon him the power to use the armed forces to suppress domestic violence.

I challenge the validity of this assertion.

Under our system, the power to investigate to determine whether civilians are about to violate federal laws is committed to federal civil agencies, such as the FBI; and the power to investigate to determine whether civilians are about to violate state laws is reposed in state law enforcement officers.

If President Johnson believed he ought to have had information to enable him to predict when and where civilians might engage in future domestic violence, he ought to have called upon the FBI or appropriate state law enforcement officers for the information.

He had no power to convert the Army into a detective force and require it to spy on civilians.

This conclusion is made plain by the Constitution and every act of Congress relating to the subject. Sections 331, 332, 333 and 334 of Title 10 of the United States Code certainly did not confer any such power on the President. These statutes merely authorized him to use the armed forces to suppress domestic violence of the high degree specified in them, and conditioned their use for that purpose upon his issuing a proclamation immediately ordering the offenders "to disperse and retire peaceably to their abodes within a limited time."

The only other statute relevant to the subject is section 1385 of Title 18 of the Code, which prohibits the use of any part of the Army or Air Force "as a posse comitatus or otherwise to execute the law . . . except in cases and under circumstances expressly authorized by the Constitution or Act of Congress."

The legislative history of this statute is fully revealed in the opinion of United States District Judge Dooling in *Wrynn v. United States*, 200 F. Supp. 457 (E.D.N.Y. 1961). When the words of this statute are read in the light of its legislative history, it is obvious that the statute is not limited by the expression "as a posse comitatus or otherwise," but operates as a prohibition against the use of the Army to execute the laws without reference to whether it is employed as a posse comitatus or as a portion of the Army. Indeed, the statute embodies "the inherited antipathy of the American to the use of troops for civil purposes." [200 F. Supp. at 465].

President Johnson's use of the troops to spy on civilians, to build data banks and create computerized information systems, discloses that relevance of this statute to our day is sadly clear. Since neither the Constitution nor any Act of Congress expressly, or impliedly, authorized such use, the President was forbidden by section 1385 of Title 18 of the United States Code to use the Army to spy on civilians.

The Army's spying violated First Amendment freedoms of the civilians who became aware that they or the groups to which they belonged had been placed under surveillance. This is so because it undoubtedly stifled their willingness to exercise their freedom of speech, association and assembly.[54]

If any proof were needed of the logic and truth of this statement, it can be drawn from such testimony as the Subcommittee received from Dr. Jerome Wiesner who commented:

"Many, many students are afraid to participate in political activities of various kinds which might attract them because of their concern about the consequences of having a record of such activites in a central file. They fear that at some future date, it might possibly cost them a job or at least make their clearance for a job more difficult to obtain." [55]

The Subcommittee has heard no testimony yet that the Army's information program was useful to anyone. The only result of the testimony by the Defense Department was to confirm my belief that under the Constitution and under the laws, the Army had no business engaging in such data-gathering and that the scope and breadth of the surveillance was so broad as to be irrelevant to the purpose.

Congress has still to discover the complete truth about these Army computers. Apparently, even officials responsible for intelligence did not know of the existence of the computers for implementing the program. The Subcommittee has repeatedly requested the testimony of the Army Generals who would be most knowledgeable about the computers and what they contained. We have just as repeatedly been denied their testimony as well as delivery and declassification of pertinent documents demonstrating the scope and purpose of the program.[56] The Army said it would cut back on the data-gathering on lawabiding citizens and would defer to the Department of Justice. So I asked the Justice Department officials how many computers that Department had containing information on people who lawfully exercised their First Amendment freedoms." [57]

I had seen newspaper articles quoting the director of the Justice Department's Interdivisional Information Unit. He said there that the computer's list of thousands of names is not a register of "good guys" or "bad guys." "It is simply a list of who participated in demonstrations, rallies and the like." This would include non-violent people as well as violent, he said.[58] On the basis

Footnotes at end of article.

of these reports, I asked for the testimony of this official, but for some strange reason, he could not be located.

Despite questioning during the hearings and correspondence with the Justice Department, we have been unable to obtain an accurate description of the use of Justice Department computers for collecting, processing and analyzing information on lawful First Amendment activities of citizens. Nor have we been able to ascertain or obtain the standards followed by the Department in deciding what individuals should be the subjects in such files, or how they should be excluded from such files.

LEGISLATIVE REMEDIES

There has been much discussion of the need for new laws granting access to individual records. I believe a person should have the chance to expunge, update and correct his records. With the advent of systematic record-keeping, a man needs the chance which a businessman has to go into economic bankruptcy and obtain a discharge from his past.

I believe, however, that we must go beyond that relationship between the individual and his records. We must act to restore a healthy balance to the relationship between the citizen and his government, and necessarily between Congress and the Executive Branch. Mere access to and knowledge of his individual file is not enough. Remedial action must be addressed to the curbing of the power of government over the individual and to restricting its power to deny information about government programs. The claim to an inherent power to monitor, investigate and compile dossiers on law-abiding citizens on the off-chance that they might need to be investigated for a legitimate governmental purpose at some time in the future must also be opposed.

As a result of the Subcommittee's experience in playing hide-and-go-seek with the Federal Government's computers and with the people who plan and supervise them, I am convinced these computers have too much privacy today. The Congress, the press and the public should have available an *habeas corpus* action for entire computer systems and programs themselves. No department should be able to hide such broad-based data programs and information systems. If they are lawful, the American people then have a right to full knowledge about the operation of their government. If they are not lawful and relevant for some purpose, they should be exposed for what they are—attempts to intimidate citizens into silence and conformity.

First, we need to devise some judicial remedy for confronting and testing the nature, purpose, legality and constitutionality of governmental data banks and large-scale intelligence information systems which by their very existence may threaten the quality of our First Amendment freedoms or whose contents may affect economic prospects, reputations or rights. Now pending before the United States Supreme Court is just such a challenge to the Army surveillance program and the military data banks, including at least four computer systems for storing and processing information on Americans across the land. [*Tatum v. Laird*, no. 71-288 (1971) (argued March 27, 1972)]. The lower court has denied standing to sue to plaintiffs who were subjects of surveillance and computer dossiers on grounds that they have not shown injury. [444 F.2d 947 (D.C. Cir. 1971)].

Congress must strengthen and enforce reporting requirements for computer systems. Not even in the audit of computers which the present law requires the General Services Administration to conduct each year is it possible for Congress, the press, and the public to get minimum information about all of the management uses of computers in government.

Secondly, I believe we must devise legal means of assuring the reporting of large government data banks to a central office established independently of the executive branch. This would require the filing of policy statements describing exactly what agencies feed a particular information system and who would receive or access data routinely from a particular data bank. These policy statements should be public records. In this way, people would have due notice of possible sharing of information by other agencies or state or local governments.

Thirdly, out of these directives, a graphic national information-flow chart would be designed and made available for public inspection. An individual concerned about his record could then go to the respective agencies and exercise his rights under the Freedom of Information Law to inspect his files.

Fourth, there is a need to fully implement the principle of open government implicit in the Freedom of Information Law by reducing the number of exemptions in it which the Executive Branch may use to deny or withhold information. This would make the judicial remedies it contains more meaningful.

Fifth, I believe there must be established a new independent agency for setting and enforcing strict standards in software and hardware for the assurance of security, confidentiality and privacy of records. These would be applied to all phases of gathering, processing and transmitting information about people by government computer systems. This would include such problems as interception of electronic transmissions and tapping of systems.

Sixth, Congress must enact specific prohibitions on unconstitutional or unwise practices which unfairly augment government's power to invade individual privacy. Examples of such legislation would be: (1) a ban on use of military resources to conduct unwarranted surveillance over civilians and to create and share data banks on them, and (2) a ban on unconstitutional means of coercing citizens into revealing personal information about themselves.[59] Such a bill is S. 2156 which would prohibit requirements on applicants and employees to submit to lie detectors in order to work.[60] Another bill is S. 1438, designed to protect federal employees and applicants from unwarranted demands for information about such matters as their race, national origin, religious beliefs and practices, sexual attitudes and conduct, and personal family relationships.[61] Another necessary protection would be a prohibition on distribution of arrest records to private companies and severe restrictions on their availability within government.[62]

Seventh, is the need for America to take a stand on whether or not every person is to be numbered from cradle to grave, and if so whether or not that number is to be the social security number. Until now, the idea of a universal standard identifier has been merely discussed in philosophical terms, but the need to reduce people to digits for the computer age has prompted wide government use of the number for identifying individuals in government files. Private industries, businesses and organizations have followed suit to the dismay of many people who have registered strong complaints against this practice with the Subcommittee. They were supported by the findings of a Social Security Task Force which reported in 1971 that:

"The increasing universality of the Social Security Number in computer data collection and exchange presents both substantial benefits and potential dangers to society; and that in order to maximize the benefits and minimize the dangers, there needs to be developed a national policy on computer data exchange and personal identification in America, including a consideration of what safeguards are needed to protect individuals' rights of privacy and due process." [63]

In outlining the areas in which state legislatures and the Congress must make important judgments, this Task Force stated:

"Defining the proper role of the Social Security Number in society requires that broad social judgments be made first about the desirability of large-scale computer record-keeping in various settings; second, about the kinds of data necessary and appropriate to record about individuals within a given setting; third, about the safeguards needed to insure that the computer is being used within a given setting in ways that protect fundamental human rights; and fourth, about the desirability of *any* kind of universal identification system in terms of its psychological impact on the individual citizen." [64]

SUMMARY

From the Subcommittee study of privacy and government data banks one conclusion is undeniable. This is that the extensive use of computerized systems to classify and analyze men's thoughts, speech, attitudes, and lawful First Amendment behavior raises serious questions of denial of substantive due process to our entire society. To try to condense the truth about what men believe and why they believe is a futile exercise which can lead to that tyranny over the mind against which Thomas Jefferson swore eternal hostility. Without grave dangers to our constitutional system, we cannot permit government to reduce the realities of our political life and the healthy traffic in our marketplace of ideas to marks on magnetic tapes and data on a microfilm.

Professor Robert Boguslaw [65] eloquently described the dangers posed by this "technology-screened power" when he wrote that "the specification of future and current system states within this orientation characteristically requires an insistence upon a uniformity of perspective, a standardization of language, and a consensus of values that is characteristic of highly authoritarian social structures. Nonconforming perspectives, language, and values can be and, indeed, must be excluded as system elements."

He further points out certain engineering truths and certain human truths which face every politician, administrator, analyst and programmer who tries to use computers to convey either more or less than the straight facts about people. First is the truth that the strength of high-speed computers is precisely in their capacity to process binary choice data rapidly. But to process these data, the world of reality must at some point in time be reduced to binary form. Second is the truth "that the range of possibilities is ultimately set by the circuitry of the computer, which places finite limits on alternatives for data storage and processing." Third is the truth "that the structure of the language used to communicate with the computer restricts alternatives." Then there is the truth "that the programmer himself, through the specific sets of data he uses in his solution to a programming problem and the specific techniques he uses for his solution, places a final set of restrictions on action alternatives available within a computer-based system."

It is in this sense that computer programmers, the designers of computer equipment, and the developers of computer languages possess power in our society.

These limitations of men as well as machines are what I remembered as I listened to the young Army analyst describing his assignment to condense truth for the Army data systems by assigning numbers to people on the basis of their speech and thoughts.[66]

On the shoulders of technology experts who are aware citizens rests the responsibility for guiding those politicians who seek computer-based solutions to political prob-

Footnotes at end of article.

lems. At this point in our history, they, more than anyone, realize that computers have only those values which are designed and programmed into them.

If the attitude of the present Administration is any indication, Government will make increasing use of computer technology in pursuit of its current claim to an inherent power to investigate lawful activities and to label people on the basis of their thoughts. Municipal, state and federal agencies continue to plan, devise and build intelligence systems for many purposes. It devolves on those people involved in computer technology to make known the restrictions and the limitations of the machines as well as the alternatives for what is proposed. When the political managers ignore or abdicate their responsibility to assure the application of due process of law, they may have the final say over the constitutional uses of power.

What they say may not be popular with those who use their services, especially government departments. But I would suggest that when they advise on extending the power of government, they serve a higher law—the Constitution.

The technological forces which affect the quality of our freedoms come in many guises and under strange terminology. They are dreamers who would decry the advent of the computer as casting some sorcerer's shadow across an idyllic land. In their philosophical rejection or fear of this most intricate of machines, they would deny the spark of divinity which is the genius of man's mind; they would reject the progress of civilization itself. So there is no reason to condemn out of hand every governmental application of computers to the field of information processing or to systems study.

Our society has much to gain from computer technology. To assure against its political misuse, however, we need new laws restricting the power of government and implementing constitutional guarantees. We need increased political awareness of an independent nature by information specialists who understand the machines and the systems they constitute.

We do not, as some suggest, need new constitutional amendments to deal with these problems. The words of the original amendments will do, because they envelop our national concepts of personal freedom and I believe they can encompass anything which jeopardizes that freedom.

As Justice Oliver Wendell Holmes said:

"A word is not a crystal, transparent and unchanged; it is the skin of a living thought and may vary greatly in color and content according to the circumstances and the time in which it is used." [67]

I believe that Americans will have to work harder than ever before in our history so that the First Amendment remains a living thought in this computer age.

Otherwise, we may find the individual in our society represented not by a binary form, but by one digit.

And that will be "zero."

Otherwise, America may lose its cherished reputation as "the land of the Second Chance."

FOOTNOTES

* U.S. Senator, North Carolina.

[1] Based on an address before the Spring Joint Computer Conference of the Federation of Information Processing Societies, Atlantic City, N.J., May 20, 1971.

[2] INVENTORY OF AUTOMATED DATA PROCESSING EQUIPMENT IN THE UNITED STATES FISCAL YEAR 1971, GENERAL SERVICES ADMINISTRATION, at 15. A report providing information on the digital electronic computers installed throughout the U.S. Government, which defines "computer" as a configuration of EDPE components which includes one central processing system concept which recognizes the growing importance of configurations with more than one central processing unit. This report responds to requirements of P.L. No. 89-306, Stat. (Oct. 30, 1965) and S. Doc. No. 15 (1965), REPORT TO THE PRESIDENT ON THE MANAGEMENT OF AUTOMATIC DATA PROCESSING IN THE FEDERAL GOVERNMENT.

[3] 1970 NASIS REPORT, INFORMATION SYSTEMS TECHNOLOGY IN STATE GOVERNMENT at 18, developed by the State of Illinois and the National Association for State Information Systems, Council of State Governments.

[4] *See generally* COMPUTERWORLD (a weekly periodical servicing the computer community): DATAMATION: DATA MANAGEMENT; and BUSINESS AUTOMATION.

[5] *See, e.g.*, Brzezinksi, Between Two Ages, America's Role In the Technotronic Era, although all authors do not engage in such distinctions with the same judgments or purposes.

[6] *Hearings on Federal Data Banks, Computers and the Bill of Rights Before the Subcomm. on Constitutional Rights of the Senate Comm. on the Judiciary*, 92d Cong., 1st Sess. [Feb. 23-25 and Mar. 2-4, 9-11, 15 and 17 (1971)] [hereinafter cited as as *1971 Hearings*.] Testimony of Robert Bigelow, attorney, describing concern of professional computer organizations and press, *id.* at 680; Bibliography, lists of public discussions on privacy and computers in the United States and abroad, *id.* at 692 *et seq.*; Testimony of professor Caxton Foster, University of Mass., Department of Computer and Information Sciences, *id.* at 707.

[7] For a sample of questionnaire sent to all agencies and departments with slight alterations, see Letter to Secretary of Defense Melvin Laird, July 20, 1970 *1971 Hearings* at 1182, and to Attorney General Mitchell, June 9, 1970. *Id.* at 1212.

[8] *See, eg.*, State Department response to questionnaire, concerning its "Lookout File." *See* Letter of Sept. 9, 1970 to Subcommittee Chairman from Assistant Secretary of Defense Robert Moot, and list of classified enclosures, *1971 Hearings* at 1186.

[9] Navy Department response, Aug. 13, 1970, citing a Roosevelt Executive memorandum assigning responsibilities for intelligence activities. *Id.* at 1201.

[10] Department of Transportation response. Testimony of Secretary Volpe. *Id.* at 720. Many other agencies will inform the individual of the general contents of his file, if he is denied some right, benefit or privilege and regulations permit a hearing or right of confrontation or cross-examination—but not before.

[11] Department of Health, Education, and Welfare, series of letters over a two year period on file with Subcommittee, and as of March, 1972, no response has been received containing substantive answers.

[12] Directive, ICGP-G-S3, Jan. 9, 1971, *Release of Official Information to Legislative Branch of Government. 1971 Hearings*, at 1179.

[13] Ervin, *Secrecy in a Free Society*, 213 NATION 454 (1971). *See generally Hearings on Executive Privilege Before the Subcomm. on Separation of Powers of the Senate Comm. on the Judiciary*, 92d Cong., 1st Sess. (1971). Testimony by Senator Tunney at 381 and William Rehnquist at 420.

[14] 5 U.S.C. § 552 (1970).

[15] *See, e.g., 1971 Hearings*, at 375, 431, 385. Testimony of Assistant Secretary of Defense Froehlke. *Id.* at 602, 599; testimony of Assistant Attorney General Rehnquist, note 13, *supra*.

[16] *See, e.g.*, Justice Department response to Subcommittee questionnaire.

[17] For Defense Department reliance on the findings of the National Advisory Commission on Civil Disorders (Kerner Commission), see testimony of Assistant Secretary of Defense Froehlke, *1971 Hearings*, at 379; noting the Commission's finding that the "absence of accurate information, both before and during disorder, has created special control problems for police," and the recommendation that "Federal-State planning should ensure that Federal troops are prepared to provide aid to cities. . . ."

The Department also cited a report filed by Cyrus Vance following the Detroit 1967 disturbances. *1971 Hearings*, at 378.

For law enforcement reliance on the Kerner Commission and similar commissions, *see e.g.*, testimony of Richard Velde for the *Law Enforcement Assistance Administration. 1971, Hearings* at 608:

Several States also developing with LEAA funds information systems related to civil disorders. Most of these systems have as their objective either tension detection and forecasting or providing support to tactical units. It should be noted that the Kerner Commission studied this problem carefully and recommended that the police develop adequate intelligence for tension-detecting as well as on-the-scene information for tactical units. Many of the systems LEAA supports in the civil disorders area arose out of the recommendations of the Kerner Commission and similar commissions established by the States.

For reliance on Warren Commission finding of information gaps, *see* response to Subcommittee questionnaires by the Secret Service, Nov. 21, 1969, reprinted at 115 CONG. REC. 39114 (1969), and by the State Department Jan. 4 and Mar. 10, 1970; both responses in Subcommittee file.

[18] Response to questionnaire, in Subcommittee files, Mar. 25, 1971.

[19] *Id.* Aug. 18, 1970.

[20] *Id.* June 22, 1970.

[21] Id. May 28, 1970.

[22] *Id.* Jan. 4, 1970.

[23] *Id.* Aug. 1970. *See also 1971 Hearings*, at 375, Froehlke testimony on this and other Defense Department records systems.

[24] Response to questionnaire, Feb. 22, 1972. *See also* 12 U.S.C. § 1811 *et seq.* (1964), Amendments to Federal Deposit Insurance Act, requiring bank recording and reporting to Internal Revenue Service transactions, S. REP. 91-1139 and H.R. REP. 91-975.

[25] *See* note 23 *supra*.

[26] Response to Subcommittee questionnaire, Aug. 1970. Also described in Froehlke testimony, note 23, *supra* and in Army Undersecretary Beal letter of Mar. 20, 1970, reprinted in *1971 Hearings, Part II* at 1051, and at 116 CONG. REC. 26327-51 (1970).

[27] For descriptions and citations to supporting statutes and regulations, *see* response to Subcommittee questionnaires, *1971 Hearings, Part II* at 1312-68. *See also* discussion in testimony of Justice Department officials. *Id. Part I* at 597, 849.

[28] For descriptions and summaries of some of these complaints and concerns. Remarks of Senator Ervin, 116 CONG. REC. 30797, 41751, 43944 and CONG. REC., vol. 117, pt. 2, p. 2024. In particular, note opening statements by Subcommittee Chairman each day of *1971 Hearings* outlining issues of concern for the day. Of interest here is a Dec. 1971 report, *A National Survey of the Public's Attitute Toward Computers*, sponsored by the American Federation of Information Processing Societies and TIME MAGAZINE noting that:

There is major concern about the use of large computerized information files. Thirty-eight percent of those surveyed believe computers represent a real threat to people's privacy as opposed to fifty-four percent who disagreed. Sixty-two percent are concerned that some large organizations keep information about millions of people. In addition, fifty-three percent believe computerized information files might be used to destroy individual freedoms; fifty-eight percent feel computers will be used in the future to keep people under surveillance; and forty-two percent believe there is no way to find out if

information about you stored in a computer is accurate. In general, the public believes government should make increased usage of computers in a number of areas, that such usage will make government more effective, and that there will, and should be, increasing governmental involvement in the way computers are used.

[29] Letter, identity withheld, in Subcommittee files with comment by the Director of the Federal Bureau of Investigation.

[30] 28 C.F.R. § 0.85 (b); codifying rulings by the Attorney General pursuant to 28 U.S.C. § 534 which provides:

(a) The Attorney General shall—

(1) acquire, collect, classify, and preserve identification, crime and other records; and exchange these records with, and for the official use of, authorized officials of the Federal Government, the States cities, and penal and other institutions.

(b) The exchange of records authorized by subsection (a) (2) of this section is subject to cancellation if dissemination is made outside the receiving departments or related agencies.

(c) The Attorney General may appoint officials to perform the functions authorized by this section.

[31] Morrow v. District of Columbia, 417 F. 2d 728 (D.C. Cir. 1969). For a summary of case law on this subject, *see* Longton, *Maintenance and Dissemination of Records of Arrest Versus the Right to Privacy*, 17 WAYNE L. REV. 995 (1971).

[32] Menard v. Mitchell, 430 F.2d 486 (D.C. Cir. 1970), *decision upon remand*, 328 F. Supp. 718 (D.D.C. 1971). The Court construed 28 U.S.C. § 534 narrowly to avoid the constitutional issues raised by *Menard* and found that:

It is abundantly clear that Congress never intended to, or in fact did, authorize dissemination of arrest records to any state or local agency for purposes of employment or licensing checks.

It found certain faults with the present system: (1) State and local agencies receive criminal record data for employment purposes whenever authorized by local enactment, and these vary state by state and locality by locality. (2) The Bureau cannot prevent improper dissemination and use of the material it supplies to hundreds of local agencies. These are no criminal or civil sanctions. Control of the data will be made more difficult and opportunities for improper use will increase with the development of centralized state information centers to be linked by computer to the Bureau. (3) The arrest record material is incomplete and hence often inaccurate, yet no procedure exists to enable individuals to obtain, correct or supplant the criminal record information used against them, nor indeed is there any assurance that the individual even knows his employment application is affected by an FBI fingerprint check.

The Court invited Congressional action, noting that: with the increasing availability of fingerprints, technological developments, and the enormous increase in population, the system is out of effective control. The Bureau needs legislative guidance and there must be a national policy developed in this area which will have built into it adequate sanctions and administrative safeguards.

[33] Congressional response to the District Court's invitation has taken several forms, among them, a bill, S. 2545, introduced, but not acted on, to authorize the Attorney General to exchange criminal record information with certain state and local agencies. Remarks by Senator Bible, CONG. REC. vol. 117, pt. 25, p. 32464; and an amendment to the Department of Justice Appropriation Act of 1972 temporarily restoring the power over arrest records limited by the *Menard* decision. CONG. REC. vol. 117, pt. 34, p. 44546. House Judiciary Subcommittee No. 4 on Mar. 16 began hearings on H.R. 13315, a bill introduced by Rep. Edwards, "to provide for the dissemination and use of criminal arrest records in a manner that insures security and privacy."

A related, but more comprehensive bill, S. 2546, was introduced by Senator Hruska on Sept. 20, 1971, 117 CONG. REC. (daily ed.) to insure the security and privacy of criminal justice information systems. This is termed the Attorney General's response to an amendment to the Omnibus Crime Control Act of 1970, 18 U.S.C. §§ 351, 1752, 2516, 3731 (1964), requiring the Law Enforcement Assistance Administration to submit legislative recommendations to promote the integrity and accuracy of criminal justice data collection. LEAA demonstrated a prototype computerized system for exchange of criminal history information with the states, a project known as SEARCH—System for Electronic Analysis and Retrieval of Criminal Histories. In Dec. 1970, Project SEARCH was turned over to the FBI for the development of an operation system to be part of the National Crime Information System. The bill deals with criminal offender record information as well as criminal intelligence information.

A discussion of the philosophical, constitutional and legal issues and problems related to such a computerized system is found, with bibliographies, in *Security and Privacy Consideration* in *Criminal History Information Systems, Technical Rept. No. 2*, July, 1970, by Project SEARCH, California Crime Technological Research Foundation, funded by the Law Enforcement Assistance Administration, Department of Justice. Also pertinent is the testimony of LEAA officials on the use of information and intelligence systems by criminal justice agencies. *1971 Hearings*, on the National Crime Information Center. *Id.* at 914.

For a model state act proposed for criminal offender record information, *See generally Technical Memorandum No. 3*, May, 1971 by Project SEARCH.

As we have a highly mobile population, so we have a highly mobile criminal population, which requires that governments be able to share rapidly the information in their data banks in the interest of law enforcement. The problem is determining what agencies and what officials should control what information.

[34] *See 1971 Hearings* at 493–530. Testimony of Joseph Alioto, Mayor of San Francisco, and exhibits submitted. For response of Justice Department officials, see testimony of William Rehnquist, *id.* at 604, 878–88, and a series of memoranda from the Federal Bureau of Investigation, the Bureau of Narcotics and Dangerous Drugs, which memoranda were submitted by Assistant General Rehnquist with the caveat that.

Under the traditional notions of separation of powers, it seems to me probable that the Department could justifiably decline to furnish portions of this information . . . *Id.* at 1371.

[35] *1971 Hearings*, Part II at 1375. In his memorandum of Mar. 5, 1971, the Director of the Bureau of Narcotics and Dangerous Drugs noted" . . . it is possible that the documents or information in these four exhibits could have been passed to the LOOK reporters by a BNDD employee." He cites BNDD Order 0–98, May 27, 1970 as the Bureau's current public information policy and as essentially a restatement of 28 C.F.R. Pt. 50, § 50.2, which covers the dissemination of most types of information for the Department. However, he states that the strongest applicable regulations in this matter are found in 28 C.F.R. Pt. 45, § 45.735: "No employee shall use for financial gain for himself or for another person, or make any other improper use of, whether by direct action on his part or by counsel, recommendation, or suggestion to another person, information which comes to the employee by reason of his status as a Department of Justice employee and which has not become part of the body of public information."

Obviously, the disclosure of documents stamped "For official use only" would be contrary to this regulation if, in fact, the disclosures were made by Department of Justice employees.

[36] For statement submitted by a Special Agent of Military Intelligence and related correspondence, *see 1971 Hearings*, Part II at 1451–1457.

[37] *See generally Hearings on Psychological Tests and Constitutional Rights Before the Subcomm. on Constitutional Rights of the State Comm. on the Judiciary*, 89th Cong., 1st Sess. (1965) and *Hearings on S. 3779* on *Privacy and the Rights of Government Employees*, 89th Cong., 2d Sess. (1969).

[38] *See 1966 Hearings, supra* note 37. In connection with a proposal introduced to protect the constitutional rights of employees of the executive branch and to prevent unwarranted governmental invasion of their privacy, *see* Senate remarks of Senator Ervin including discussion of need for law prohibiting requirements to reveal information on race, religion, national origin, personal family relationships, sexual attitudes and conduct and religious beliefs and practices in 112 CONG. REC. 16081, 18634 (1966), 113 CONG. REC. 4039, 10663, 27994 (1967), 114 CONG. REC. 11235, 17161, 19613 (1968), 115 CONG. REC. 2343, 117 CONG. REC. (daily ed. Apr. 1 and May 11, 1971). By such legislation, government may be prevented from intruding into protected First Amendment areas on subjects which should have nothing to do with the operation of a civil service merit system. By exclusion of such sensitive, subjective information from the computer systems, initially, government will be precluded from basing individual or general social judgments on outdated standards, changing mores, variants in ethnic, cultural or geographical backgrounds, or previous conditions of the individual's mind, heart, and personality. It will necessarily be confined to a consideration of current information relevant and pertinent to the problem at hand.

[39] *See generally Hearings on S. 1791 and Privacy, the Census and Federal Questionnaires Before the Subcomm. on Constitutional Rights of the Senate Judiciary Committee*, 91st Cong., 1st Sess. (1969) and hundreds of letters and complains about coercive statistical questionnaires. Appendix also contains judicial, legal and constitutional research materials as well as examples of many social and economic questionnaires. *See also* Pipe and Russell, *Privacy: Establishing Restrictions on Government Inquiry*, 18 AMER. UNIV. L. REV. 516 (1969). For a summary of the hearings, *see* Senate remarks of Senator Ervin, 115 CONG. REC. 17718 (1969). For possible political uses of such information acquired as economic and social indicators, *see* Report by House Government Operations Committee, Subcommittee on Government Information, on Department of Labor briefings on economic statistics; and 23 WESTERN POL. Q. 235 (1970). *See also* the finding and recommendations on privacy and confidentiality of the PRESIDENT'S COMMISSION ON FEDERAL STATISTICS (1971).

[40] *See 1969 Hearings, supra* note 39, testimony on behalf of the National Federation of Independent Business at 199, of attorney and farm owner William Van Tillburg at 74, W. Schliestett, businessman at 66, J. Cannon, attorney at 7,263.

[41] *Id.* at 830. Table of Census surveys of population and households, conducted for other government agencies, with indication of penalties and compliance techniques. In many of these, the data is kept on tape or film by both the Census Bureau and the

sponsoring agency, and the confidentiality rules of the sponsoring agency apply.

[42] *Id.*, at 251. Assistant Secretary of Commerce Chartener:

Assistant Secretary of Commerce CHARTENER. The wording deliberately has been rather subtle in its form. We never use the word "mandatory" on a questionnaire. Instead, people will be told that "your answer is required by law." In other cases, they may be told that a survey is authorized by law or it is important to your government or something of that sort. Now, the followup procedure is used not for purposes of coercion but rather in order to verify the correctness of an address.

Senator ERVIN. Do you not agree with me that such a procedure is designed to implant in the mind of the recipient of these questionnaires the impression that he is required by law to answer them?

Mr. CHARTENER. If it is a mandatory questionnaire that would be the case. In other instances, the repeated mailings which may go up to five or may involve telephone calls or even a personal call are simply a means of emphasizing the importance that the Government feels in getting this response . . .

The Department of Commerce opposed enactment of a simply-worded statute advising people that their responses to these statistical questionnaire were voluntary. *Id.* at 262.

Senator ERVIN. Would the Department of Commerce and its Bureau of the Census be opposed to enactment of Federal statutes which would require that the Bureau of the Census advise every citizen on a questionnaire sent out by the Bureau that where it is not required by law, not mandatory, this is an effort to elicit information desired by the Government on a voluntary basis?

Mr. CHARTENER. Senator, I think we would oppose that. This is a matter of rather subtle psychology. I do not think, personally, and this is the position of the Department, that we ought to go out of our way to tell people they do not need to bother filling out this questionnaire. . . .

Senator ERVIN. You think the statutes governing those questionnaires, which are mandatory and which are subject to the criminal penalty if not answered readily, are understandable by the average layman?

Mr. CHARTENER. I do not think any law is written to be readily understandable by the average layman. That is why we have lawyers.

But compare the testimony of the Secretary of the Department of Health, Education, and Welfare in the *1971 Hearings* at 788, opposing legislation, but favoring administrative notice of voluntariness for that Department's forms.

[43] 115 CONG. REC. 3356 (1969) and guidelines printed there. *See also* note 17, *supra*, correspondence and guidelines printed at 1541, *1971 Hearings*, Part II. *See* remarks of Rep. Stanton, CONG. REC. vol. 118, pt. 1, p. 791. [Complaints Against Secret Service].

[44] Letter in Subcommittee files.

[45] *See Department of the Army Civil Disturbance Information Collection Plan*, May 2, 1969, collection priorities and requirements and distribution list for government agencies. Printed in *1971 Hearings* at 1126, 1136. This plan also appears with remarks of Senator Bayh, 117 CONG. REC. 2290 (daily ed., Mar. 2, 1971).

[46] Letters in Subcommittee files (identities withheld).

[47] Letter of inquiry from Subcommittee Chairman, July 6, 1971, citing the large number of reasons for which a person can receive an administrative discharge, ranging from family hardship to national security grounds, the inadequate procedures and safeguards surrounding such discharges, and the threat to individual freedom from unrestricted reporting of law-abiding citizens, who may become subjects of official surveillance through no fault of their own or of the Secret Service.

[48] This December 14, 1965 agreement between the Defense Department and the Secret Service was implemented within the Navy Department by SECNAV Instruction 5500.27, 18 March 1966, which contains a copy of the agreement. Administrative authority for this regulation is cited as Defense Dept. Directive 5030.34, dated 30 Dec. 1965; statutory authority for assistance to the Secret Service is cited as P.L. No. 90–331 (June 6, 1968) which provides for assistance to the Secret Service on request.

[49] Appendix B of Agreement. Under Appendix A, identification data, photograph, physical description, date and place of birth, employment, marital status and identifying numbers are to be furnished, together with summaries or excerpts from DOD files as applicable to an individual or group reported.

In a related exchange of correspondence, the Subcommittee Chairman, in response to complaints, directed an inquiry to the Secretary of the Navy, on April 22, 1970 about a Navy directive which required that in any case where enlisted personnel were to be separated under other than honorable conditions within the continental United States, local civil police authorities were to be notified in advance of the name, race, sex and place and date of birth of the person, and of the time and place such separation is to be effected. This regulation seemed to serve no useful function since the Army and the Air Force functioned without one. On May 7, 1970, the Navy Department notified the Subcommittee that they concurred in this view and would delete the reporting requirement. (Correspondence in Subcommittee files.)

[50] For legal and constitutional implications, as well as a comprehensive historical account, *see* testimony of Christopher Pyle, an attorney and former Captain in Army Intelligence. See 1971 Hearings at 147, and exhibits providing examples of nation-wide military surveillance.

[51] *See Ervin, Privacy and Governmental Investigations*, 1971 UNIV. ILL. L. FORUM 137 (1971) for an account of the various plans and their lack of relevance to the problem of putting down civil disturbances, and for analysis of the Defense and Justice Department's claims to constitutionality for the actions of the military. Texts of four "plans," *1971 Hearings* at 1123 1119, 1154, 1731; Memorandum at 1139, 1141, 1278–98, showing attempts by civilians to cut back on the program.

[52] The bulk of investigative activity by the Army's own personnel occurred at the field level. Agents collected information and filed "spot reports," "agents reports," and "summaries of investigation." Most of this data was forwarded up the chain of command but record copies were kept in data centers at every level of command. Manual files were maintained at every level. At least four and possibly more computer systems were employed to store, analyse and retrieve the information collected. Many files on lawful citizens were microfilmed and integrated with other files on persons who were suspected of violations of security and espionage laws. These computer systems were located in the headquarters of the Intelligence Command (Fort Holabird), the Continental Army (Fort Monroe), the Third Army Corps (Fort Hood), and in the Pentagon. More than one computer data bank was maintained in some of these locations. (Subcommittee investigation.)

[53] Testimony of Ralph Stein on the difficulty of labeling young people on the basis of their speech, when a difference of one digit was the difference between a communist and a non-communist. *1971 Hearings* at 248, 260.

[54] *See* Brief for Respondents filed in Tatum v. Laird in the Supreme Court of the United States, No. 71–288, challenging the Army's surveillance program, and arguing that plaintiffs' claims are justifiable and ripe for adjudication; that the present inhibiting effect on the exercise of First Amendment rights creates a justiciable controversy; that the justiciability of their claims is enhanced because the military exceeded its constitutional and statutory authority and intruded into civilian affairs; that they have standing to adjudicate these claims for themselves and the claims of others similarly situated; and finally, that they argue that their case cannot be mooted by the Army's assertion that its domestic surveillance activity has been reduced. The appendix contains an interesting and landmark study of the chilling effect of overbroad governmental programs on First Amendment activity from the social science view.

All of the plaintiffs named have been subjects of political surveillance, and all are believed to be subjects of reports, files, or dossiers maintained by the Army.

In an amici brief filed by Senator Ervin on behalf of the Unitarian Universalist Association, the Council for Christian Social Action, United Church of Christ, the American Friends Service Committee and the National Council of Churches of Christ, the question posed for review is framed as follows:

Do individuals and organizations not affiliated with the armed services present a justiciable issue under the First, Fourth, Fifth and Ninth Amendments when they allege that their rights of free expression, privacy and association have been infringed by unauthorized, unnecessary and indiscriminate military investigations of their political activities and personal lives? Brief for Respondents as amicus curiae at 7, Laird v. Tatum, No. 71–288 (1971).

Essential though the freedoms are, they are not easily exercised in a climate of fear, discord, and dissension, especially when the ideas being expressed are those which are displeasing to government and unsettling to the majority of citizens. . . . It is as such a time that the First Amendment is most necessary, most in danger, and most difficult to exercise. . . . The First Amendment however, was made for the timid as well as for the brave. While government cannot instill courage in the meek, it may not take advantage of a climate of fear to undertake a program which has the effect of restricting the First Amendment only to the very courageous, Government action, such as military surveillance, seemingly innocuous in the abstract, has the very real effect of suppressing the exercise of the First Amendment. The coercive power of this government action lies in the national climate of fear and doubt, and in the very real, tangible apprehension of some unknown form of retribution by government on those who it fears and therefore watches. That such apprehension exists in America today is manifest. *Id.* at 15.

[55] *1971 Hearings* at 765.

[56] *See* exchange of correspondence on this subject. *Id.* Part II at 1046 A, 1180 Indices to letters.

[57] *Id.* at 597, 849.

[58] *Id.* at 616–62.

[59] S. 1791, 91st Cong., 1st Sess. (1969).

[60] Senate remarks of Senator Ervin, 117 CONG. REC. (daily ed. June 24, 1971.)

[61] See S. Rep. 92–554 for legislative history (Now pending before the House Post Office and Civil Service Committee with House versions).

[62] *1971 Hearings* at 782 (complaints read into the hearing record by the Chairman).

[63] SOCIAL SECURITY NUMBER TASK FORCE REPORT to the Commissioner 17 (May, 1971).

[64] *Id.* at 15.

It is clear that if the SSN became the single number around which all or most of an individual's interactions with society were structured, and if practices of the sort we have been discussing were to continue, the individual's opportunity to control the circumstances under which information about

himself is collected and disclosed would be greatly circumscribed.

[65] *See* BOGUSLAW, THE NEW UTOPIANS (1965), especially the chapter entitled *The Power of Systems and Systems of Power* at 181, 186, 190. I would dispute his observation of some years ago that people in the information-processing profession "are scientists and engineers—objective experts whose only concern is technical efficiency and scientific detachment." *Id.* at 198. It is indeed true, however, that: to the extent that customers (and this may include government agencies or private industry) abdicate their power prerogatives because of ignorance of the details of system operation, *de facto* system decisions are made by equipment manufacturers or information-processing specialists. *Id.* at 198.

Implicit in the various issues raised during the Subcommittee Hearings is the wise observation of Professor Boguslaw that:

The paramount issues to be raised in connection with the design of our new computerized utopias are not technological—they are issues of values and the power through which these values become translated into action. *Id.* at 200.

In this case, I believe it is the constitutional value protected by the First Amendment.

[66] *See* note 53 *supra*.

[67] Towne v. Eisner, 245 U.S. 418, 425 (1918).

COMPUTERS AND PRIVACY: A PROPOSAL FOR SELF-REGULATION

(By Edward J. Grenier, Jr.*)

In framing the issues in its landmark Computer Inquiry, the Federal Communications Commission cited the critical importance of the preservation of information privacy:

"Privacy, particularly in the area of communications, is a well established policy and objective of the Communications Act. Thus, any threatened or potential invasion of privacy is cause for concern by the Commission and the industry. In the past, the invasion of information privacy was rendered difficult by the scattered and random nature of individual data. Now the fragmentary nature of information is becoming a relic of the past. Data centers and common memory drums housing competitive sales, inventory and credit information and untold amounts of personal information, are becoming common. This personal and proprietary information must remain free from unauthorized invasion or disclosure, whether at the computer, the terminal station, or the interconnecting communication link." [1]

Congress, too, has demonstrated an increasing concern with the possible threats to individual privacy which might result from the establishment, by the federal government or by private industry, of a national data bank.[2] In fact Paul Baran of Rand Corporation, testifying several years ago before a congressional subcommittee, stated that the United States is unconsciously moving toward an integrated, nationwide, automated information system:

"My thesis is this: Today we are already building the bits and pieces of separate automated information systems in both the private and government sectors that so closely follow the pattern to the present integrated communications structure that a de facto version of the system you are now pondering is already into the construction phase. It is in many ways more dangerous than the single data bank now being considered." [3]

Although the threat posed by automated information systems to the privacy of *individuals* is perhaps the most dramatic aspect of the "computer revolution," another very important aspect is the possibility of unauthorized disclosure of *proprietary data*. The "privacy problem" in both of these contexts is most acute where the separate proprietary data of a large number of businesses or sensitive personal information about thousands of individuals is stored or processed in multi-programmed, time-sharing data processing systems and transmitted to and from the processing and storage units over common communications lines. In such systems, there exists at numerous points a high potential for "information leakage," including leakage due to hardware and software failures and wire taps.[4]

In addition to examining both of these aspects of the privacy problem from the point of view of the computer system operator, this article proposes the establishment of a logical legal framework which would serve the public interest by assuring, first, that computer systems which handle sensitive individual or proprietary data will meet certain minimum standards established for the protection of privacy, and, second, that computer system operators will be able to continue to operate in a competitive economy unhindered by either overly restrictive governmental regulation or the fear of private legal liability. The analysis and suggestions herein set forth are relevant to all types of computer systems which store information or use computer programs belonging to persons or entities other than the computer system operator or which collect and store information about private individuals.[5]

The computer industry, which when viewed in its broadest significance extends from manufacturers of main frame hardware to computer service bureaus and computerized information services, should now cooperate with the communications industry to adopt and implement, under the auspices of the federal government, a comprehensive system of self-regulation to ensure the privacy and security of data. As a corollary of such a scheme, computer systems complying with the established standards [6] should be freed from certain types of civil legal liability for the unauthorized or accidental divulgence of individual or proprietary information.[7]

THE PRESENT LEGAL SITUATION: A STUDY IN UNCERTAINTY

For the purpose of analyzing the present legal controls pertinent to privacy and the computer, it will be helpful to consider a few illustrative situations:

"1. Computer service company A operates a multi-programmed, time-sharing, remote-access data processing system. It services 25 customers scattered over a wide area, each with at least one remote terminal device. Each of A's customers stores at least one proprietary program and a good deal of data in A's system. Companies X and Y are competitors and are both customers of A. Let us suppose that company X has been able to obtain confidential data belonging to Y at X's remote terminal.

"2. Assume the same basic set of facts with the exception that A has 500 customers, most of which are very small.

"3. Company A runs a computerized information service containing personal data about thousands of individuals, including credit data, medical data, employment data, and educational data. A offers this service to carefully selected classes of subscribers, each of whom promises to use the information for only circumscribed and legitimate purposes.[8] Company A's subscribers are linked to its computer system by remote terminal. Mr. X, a nonsubscriber, manages to tap into company A's system and connect an unauthorized remote terminal, thereby gathering information about a number of individuals. The information so obtained is used in an article which he publishes in a national magazine.

"4. Assume the same facts as in example 3, except that a programmer-employee of company A, without authority, extracts information about some individual from the system and sells such information to Mr. X."

Although the number of possible variations is almost without limit, these four examples are sufficient to illustrate some of the difficulties which computer service companies may face.

From the point of view of the computer service company, the first two examples present issues of contractual or, possibly, tort liability.[9] The customer whose *proprietary* data has been obtained without authority by some third party might well have a claim for breach of contract against the computer service company. However, the results in such a situation can be quite diverse. If the computer service company is dealing with large, sophisticated customers, service contacts are likely to be thorough and well-defined, specifying with detail the degree of privacy and security of data promised by the company and expected by its customer. On the other hand, if the computer service company's customers are small and perhaps less sophisticated, the contract between them may tend to be of the boiler plate variety and may not contain provisions adequate to protect the privacy and security of data. But uncertainty, rather than a complete absence of protection, is more likely to be the case.[10] Unfortunately, the outcome in any specific situation will depend upon the prevailing business practices and governing standards in the state involved.

Examples 3 and 4 squarely raise the issue of the extent to which an *individual's* "right of privacy" will be afforded legal protection.[11] Although most privacy cases involving the disclosure of *individual* information are likely to arise as tort actions, situations could arise in which an individual might have a claim based upon the law of contract. For example, assume that a computer service company enters into a contract with company X to store personal data concerning some one thousand employees of X and to furnish the data to X upon request. Assume further that the contract includes specific provisions for protecting the privacy of the individuals involved. If the computer company breaches the contract by allowing information to fall into the hands of a third person who uses it to the injury of the employees, the injured employee might seek recovery against the computer service company as a third party beneficiary of the computer service contract.[12]

In most situations, however, an individual's claim that his privacy had been violated would have to be founded upon the tort of invasion of or interference with privacy. Although of relatively recent judicial recognition,[13] this tort has developed to the point where one noted commentator has been able to discern the existence of four separate torts under the rubric "invasion of privacy": [14] (1) unreasonable intrusion upon the seclusion of another or into his private affairs;[15] (2) appropriation of an individual's name or likeness;[16] (3) unreasonable publicity given to another's private life, or public disclosure of a private fact about an individual;[17] and (4) publicity which places another in a false light in the public eye.[18]

The tort doctrine regarding the protection of privacy, in its present state of development, quite possibly would not provide a basis for a finding of liability against the computer service company in either example 3 or 4, where we have assumed that the computer company took no deliberate action to injure the plaintiff. However, the law of privacy has developed in response to the changing conditions of society, and the advent of the computer age is almost certain to result in a further judicial expansion of the doctrine—perhaps with legislative help.[19] Although four states apparently still reject the right of privacy in its entirety,[20] judicial expansion of the doctrine continues. In *Griswold v. Connecticut*,[21] for example, the Supreme Court seemed to find, in a context quite far removed from the fourth amendment prohibition against unreasonable

---

Footnotes at end of article.

searches and seizures, a constitutionally protected right of privacy inherent in several amendments.[22]

Of special significance is the recent New York decision in *Nader v. General Motors Corp.*,[23] which extended the *Griswold* rationale prohibiting the violation of a constitutional right to privacy to invasions by a private corporations, not the state. The court implicitly found that state inaction—the refusal by the state court to entertain a lawsuit alleging a violation by the corporation of the plaintiff's constitutional right to privacy—constituted sufficient "state action" to invoke the protection of the fourteenth amendment.[24] If the holding in *Nader* survives, the implications for the computer industry could be far-reaching.[25]

There can be no doubt that the computer service industry, dealing as it does with personal data on hundreds or thousands of individuals, strongly affects the public interest.[26] Indeed, against the background of expanding computer services the need for a further extension of the doctrine of right of privacy has been vigorously asserted.[27] Thus, one commentator has recently noted that "[t]he concept of privacy held by most courts, considered revolutionary during the Warren-Brandeis era, seems more fitted for the 19th century rather than the 20th; a 'new privacy' must be formulated to protect the individual from the technological advances of the computer age." [28] Another commentator recently advanced the thesis that the fifth amendment prohibition against the taking of private property by the government without just compensation, applicable to the states through the fourteenth amendment, should be extended to a similar destruction or diminution of the right of individual privacy.[29] Furthermore, actions by large public corporations which result in a diminution of an individual's privacy should be regarded as equivalent to state action and therefore subject to the payment of "just compensation." [30] The growing tendency to extend the bounds of privacy protection is thus manifest.[31] If, because of their vast informational storage and ready access capabilities, computers and computer systems become generally regarded as great potential threats to the individual's right of privacy, it would not be surprising to find courts holding computer service companies liable for the unauthorized disclosure of information about an individual.[32] Moreover, the court might go beyond the traditional concept that the defendant must be guilty of an intentional or deliberate wrongdoing in order to be held liable under an invasion of privacy theory and hold computer companies liable for negligently permitting an unauthorized release of information. Indeed, if the information is sensitive enough and the damage from release is devastating enough, a court might be tempted to dispense even with the requirement of negligence and simply hold the computer company *absolutely* liable for the unauthorized release.[33] Whether the computer company's failure is technological [34] or human [35] should make no difference.

The law usually has evolved to keep pace with changing social, political, moral, and economic circumstances. For those who might dismiss as "mere speculations" the above thoughts about the possible evolution of the law of privacy in response to the computer revolution, it would be instructive to consider a statement by Professor Arthur Miller during a recent symposium on the computer and privacy:

"The computer is a many-splendored animal. It is myopic to think of it as little more than a high speed calculator with a gland condition. It's much more than that. Modern information transfer technology in time will prove to be the heart of a new communications network, a communications network that differs from many of the communication networks that we are familiar with, such as telephones, telegraph, radio, television and newspapers, only in technological and media terms. Accordingly, the computer must be dealt with as a communications network.

"In short, I am suggesting that we are dealing with a problem of immense importance .... [G]iven the large stakes, we should not think simply in terms of the ethical or moral implications of a National Data Center, or any other type of a data center. We must recognize that we are dealing with a new technology, whose applications are just beginning to be perceived and whose capacity to deprive us of our privacy simply cannot be measured in terms of existing systems or assumptions about the immutability of the technology.[36]

It is apparent that the legal protection given to the right of privacy is far from static and may, within the reasonably foreseeable future, undergo marked changes. However, except insofar as the changes may be founded upon federal constitutional doctrines, the developing principles may vary markedly from state to state because the basic law involved will be state, not federal, law.[37] For the computer service company, this could mean facing different standards of liability in fifty different jurisdictions for the unauthorized disclosure of information—an unhappy prospect for companies who do a national or regional business.

At present, there is no body of federal law governing privacy which might "preempt" state law as applied to computer systems. After receiving the many detailed and thoughtful comments in its Computer Inquiry and the analysis of the responses prepared by the Stanford Research Institute, as well as the Institute's own recommendations, the FCC has decided that it must await the collection of additional information before deciding whether to exercise its regulatory authority in the area of privacy and security of data during transmission and storage.[38]

Although it did take a significant step in the privacy area in Title III of the Omnibus Crime Control and Safe Streets Act of 1968,[39] Congress has not acted decisively in this area. In Title III, Congress (1) outlawed the interception and disclosure of wire or oral communications, except as specifically authorized in the statute pursuant to court order; [40] (2) amended section 605 of the Communications Act of 1934 [41] to take into account the foregoing addition to the federal criminal code; [42] and (3) established a "National Commission for the Review of Federal and State Laws Relating to Wire Tapping and Electronic Surveillance," which is to study the entire wiretapping and electronic surveillance situation and make a final report within seven years.[43] One interesting feature of this act is that it gives a civil cause of action for damages to "any person whose wire or oral communication is intercepted, disclosed, or used in violation of this chapter. . . ." [44] Although this provision for civil damages in Title III will provide a new, and perhaps potent, remedy to the individual citizen in protecting his privacy, the remedy reaches only one aspect of the privacy problem in data processing, and it certainly does not in any way preempt the various provisions of state law dealing with invasions of privacy. First, the remedy is limited only to persons whose wire or oral *communications* [45] are intercepted, disclosed, or otherwise used in violation of the act. Thus, this remedy on its face does not reach the problem of the unauthorized disclosure of stored information about an individual, which is *not* "communicated" by the individual *himself* to someone else.[46] Secondly, it is not entirely clear whether the act's sanctions will even reach the problem of interception of data being transmitted to or from a data bank, or the disclosure of such data after interception. The term "intercept," as used in the act, means the "*aural* acquisition of the contents of any wire or oral communication through the use of any electronic, mechanical, or other device." [47] Query whether transmitted data is subject to such "aural acquisition," at least in the case of data sent over a special digital communications network using time division multiplexing techniques; query whether courts would reach different conclusions depending upon the technical nature of the communications network over which the data traveled.[48]

A Rational Solution: Self-Regulation by the Computer Industry Under Governmental Auspices

It is estimated that by the late 1970s, the traffic volume over the nation's telephone network will be about equally divided between voice and data transmission,[49] representing a far greater use of the telephone network for data transmission than at present. By 1975 more than 60 percent of the computer hardware used in the United States will be tied into the public communications system, and estimates for 1984 have run as high as 90 percent.[50] Thus, we are on the verge of an explosion in remote access data processing, including a great number of time-sharing, real-time systems. The trends in the law discussed above [51] may well be accelerated by the quickening pace of technological progress.

The choice lies with the computer industry. It can go along and let events unfold in an unstructed, haphazard manner and thereby permit others to fashion for it the basic standards and rules governing the conduct of its business, or it can itself initiate rational means to control its own destiny and at the same time serve the public interest by assuring privacy and security of data, in both transmission and storage. In an industry whose whole thrust is to bring rational order out of the potential chaos unleashed by the information explosion, the choice seems clear. Working from the foundations already laid, the computer industry should pull together, develop, and then enforce standards of construction and operation for computer systems which process data of such a nature that privacy or security are necessitated.

Before detailing the mechanics of this proposal it would be well to point out what is not being proposed. The regulation contemplated would not deal with such matters as the rates or prices to be charged by computer service companies, the rate of return they should earn, the terms and conditions of their sales to their customers, or other matters relating to traditional economic or rate regulation.[52] Rather, the industry, under federal governmental auspices, would develop standards to assure that computer systems will incorporate a reasonable degree of privacy protection and will be operated to achieve the desired degree of privacy and security of data necessary in any given circumstances.[53]

Any program of self-regulation should include at least the following features:

1. The program should be specifically authorized and established by federal statute, a prerequisite which would avoid the antitrust problems that inevitably arise where competitors or potential competitors associate to formulate industry standards.[54] Indeed, the statute should grant a specific antitrust exemption for activities within its scope.

2. Because the program is one of *self*-regulation, some statutory mechanism should be established to permit governmental administrative review of regulatory standards, upon the complaint of interested persons, before they become effective. Such a mechanism would provide customers and potential customers of the computer service industry, as well as private individuals, with

---

Footnotes at end of article.

an opportunity to express their views on proposed standards.[55]

3. An organization composed of representatives of the computer industry should be established to promulgate and enforce the desired standards. Such an agency should be specifically recognized and granted authoritative powers by federal statute, and its decisions in promulgating standards and in supervising the operations of the computer service industry should be final, though subject to specific types of review by an appropriate government administrative agency [56] and, ultimately, limited judicial review.[57]

4. The industry agency charged with promulgation and enforcement should have the power of periodic inspection to assure compliance with standards regarding the privacy and security of data.

5. The agency should have specific power at least to conciliate disputes between customers and computer service companies and between individual citizens and computer service companies, arising from, or related to, the standards formulated by the industry agency.[58] Perhaps such conciliation can be made a condition precedent to the bringing of any lawsuit involving the standards or application of the standards.[59]

6. The industry agency should, under guidelines set forth in the federal statute, establish a licensing or certification system for computer systems which will handle information about individual citizens or proprietary data belonging to persons or companies other than the computer system operator. Before any such computer system is permitted to commence operation, it should be required to obtain a license certifying that the industry standards for the protection of privacy and security of data have been met. Such standards should cover not only the technical aspects of the computer system, but also the qualifications of key personnel having access to the system. In connection with the licensing procedure, the applicant should be required to show that it has developed, and will use, appropriate procedures to comply with the standards and to assure that its key employees comply with the industry's code of conduct. As noted above, after initial licensing the industry's agency should have continuing inspection powers to assure that the licensee complies with industry standards. Again, both in connection with initial licensing and any subsequent industry proceeding brought to enforce compliance with standards, there should be review by the concerned governmental agency and, ultimately, limited judicial review. In the event of proposed major alterations in the system, a system licensee should be required to go through a new licensing procedure.

7. The industry agency should have power to promulgate and enforce a code of conduct for programmers and other key personnel working with computer system to which industry standards apply. Sanctions would be imposed upon individuals violating the code of conduct, subject, of course, to administrative review by a government agency and, ultimately, limited judicial review. Such sanctions might include the imposition of fines, with the maximum fixed by statute, suspension from employment, and, in the case of the most flagrant violations, even complete expulsion from the computer service industry.[60]

8. The federal authorizing statute should specifically provide that industry standards will be recognized and given full force and effect in all judicial proceedings, both state and federal. In fact, the statute should provide that, in the absence of an express agreement to the contrary between a computer service company and its customer, the company will not be liable for any loss or destruction of data, or "leakage" of data to unauthorized persons, if the company's computer system has been duly licensed and certified to be in compliance with the industry association's standards, and if in fact the system was in compliance with such standards at the time of the loss, destruction, or unauthorized disclosure. This same exemption from liability should apply, in the case of a claim against the computer service company by an individual on account of unauthorized disclosure of data about such individual.[61]

The preceding framework is necessarily a very broad-brush treatment of a highy complex subject. However, if the idea of self-regulation is accepted and adopted by the computer industry, the foregoing guidelines can be a point of departure in constructing the system. What is needed is a broad consensus within the industry as to the route to be followed, which can then be translated into concrete legislation and a detailed plan of operation.

On the technical side, considerable effort over the past few years has been devoted to developing and improving hardware and software techniques for assuring privacy and security of data during both transmission and storage.[62] In addition, many of the comments filed in the FCC's Computer Inquiry described various techniques used to assure privacy in remote access data processing applications.[63] Thus there is a readily available body of recorded experience and thoughtful comment upon which the standards makers could draw in beginning their complex task.

One aspect of the foregoing proposal for self-regulation must be given special attention. In the case of remote access data processing the communications links between the remote terminals and the computers must be considered a part of the computer "system" to be licensed or certified if there is to be really effective privacy protection. Yet, in virtually all instances, the communications links will be furnished by common carriers *not related* to the computer service company seeking the license or certification.[64] Thus neither the computer company nor the industry agency proposed above will have control over the degree of privacy protection afforded by a very important link in the computer "system" to be licensed or certified.

The solution to this problem does not rest in making the communications common carriers subject to regulation by the industry agency proposed in this article. Any regulatory scheme which subjects a company to regulation directly by its customers must be viewed with at least a healthy skepticism. Thus the communications common carriers should not be subject to regulation by the computer industry agency insofar as these carriers provide communications service in connection with remote access data processing.[65] Moreover, any such attempted regulation of the communications activities of the communications common carriers by the computer industry agency might well conflict with existing regulation by the FCC on the national level and by public service commissions on the state level.

Rather, the solution to the problem would appear to lie in a well-organized system of cooperation between the communications carriers and the computer industry agency, with regulatory assistance from the FCC as required. There should be a continuing formalized liaison between the communications carriers and the computer industry agency, perhaps in the form of one or more representatives of the communications industry working full time in the liaison activity. Such liaison could function effectively in at least two types of situations: (1) when the industry association is formulating privacy protection standards, it should consult closely with the communications industry to assure that tariffed offerings affording the desired degrees of privacy protection in various situations will be available to the computer service industry; (2) if communications problems arise in connection with any particular licensing proceeding under the above proposal, the suggested liaison could help to resolve the problem, possibly through inducing the carrier involved to make a new tariff offering or to amend an existing tariff offering.

Of course, if the liaison activity should fail to resolve any really significant problem, recourse could be had to the FCC or the appropriate state public service commission. To ensure that the FCC will be able to act effectively and expeditiously, the federal statute authorizing the system of industry self-regulation should expressly give the FCC whatever additional power that may be necessary.[66]

There is presently one highly successful example of industry self-regulation under federal governmental supervision. For some thirty years, the National Association of Security Dealers [NASD] has created and enforced a thorough program of self-regulation for the securities industry, including member broker-dealer firms and individual registered representatives. Its principal activities include the administration of examinations to assure the qualifications of employees in the securities industry, the promulgation and enforcement of rules of conduct and fair practice for the securities industry, and the adjustment of grievances between members and between members and the public.[67] One of the most effective tools in NASD's program of self-regulation is its power to examine the books and records of member firms to ensure compliance with NASD rules as well as certain federal regulations. This is equivalent to the inspection program proposed above for the computer industry. In addition, NASD operates a program of voluntary arbitration, both for disputes among its members and for disputes between the public and its members. In the case of disputes of the latter variety, the arbitration panel consists of three members of the public and two representatives from the securities business. In a member versus member contest, the panel consists of from three to five representatives from securities industry.

Although there are obvious differences between the securities industry and its problems and the computer industry and its problems, NASD constitutes a valid precedent for the type of self-regulatory industry agency proposed herein. By adopting a NASD-type approach, the computer industry can assure the creation of a rational and orderly legal framework for resolving the increasingly pressing problem of privacy in the context of the computer revolution and, at the same time, assure that regulation will be in the hands of persons thoroughly cognizant of the complexities of the situation and the need for protection of individual rights and proprietary interests in data and programs—all to the benefit of the public interest.

FOOTNOTES

* Member, District of Columbia Bar, B.A. 1954, Manhattan College; LL.B. 1959, Harvard Law School.

[1] FCC Notice of Inquiry, Docket, No. 16979, 7 F.C.C.2d 11, 16–17, 8 P & F RADIO REG. 2d 1567, 1572 (Nov. 9, 1966) [hereinafter cited as *Computer Inquiry*].

[2] *See generally Hearings on the Computer and Invasion of Privacy Before a Subcomm. of the House Comm. on Gov't Operations*, 89th Cong., 2d Sess. (1966) [hereinafter cited as *Gallagher Hearings*]; Note, *Privacy and Efficient Government: Proposals for a National Data Center*, 82 HARV. L. REV. 400 (1968); *Research Project—Computerization of Government Files, What Impact on the Individual?*, 15 U.C.L.A.L. REV. 1371 (1968).

[3] *Gallagher Hearings* 122.

[4] *See* Ware, *Security and Privacy in Computer Systems*, PROCEEDINGS, 1967 SPRING

JOINT COMPUTER CONFERENCE 279, 280 figure 1. Effective protection of both individual privacy and proprietary data also demands control over the amount and character of the data input entering the system. *See* Miller, *Personal Privacy in the Computer Age: The Challenge of a New Technology in an Information-Oriented Society*, 67 MICH. L. REV. 1091, 1214–17, 1229–30 (1969) [hereinafter cited as Miller]. Regulation of data input is beyond the scope of this article which is directed solely to controls in the storage and utilization of the data previously collected.

[5] An obvious example of the latter is the automated credit bureau. Credit Data Corporation maintains a large scale, on-line computerized credit information system with data centers located in Los Angeles and New York City. Response of Credit Data Corp. to FCC Computer Inquiry, March 5, 1968. *See generally* Miller 1140–54.

[6] See notes 54–61 *infra* and accompanying text.

[7] This paper does not deal with the problems presented by the *voluntary* disclosure by the system operators of private information about individuals stored in computer systems or questions relating to the accuracy of information about individuals contained in such systems. For discussions of some of the problems involved in the storage of inaccurate information about individuals and the voluntary disclosure of information about individuals, whether accurate or inaccurate, by the custodians of such information, see Karst, *"The Files": Legal Controls Over the Accuracy and Accessibility of Stored Personnel Data*, 31 LAW & CONTEMP. PROB. 342 (1966); Sills, *Automated Data Processing and the Issue of Privacy*, 1 SETON HALL L. REV. 7 (1970); Note, *Credit Investigations and the Right to Privacy: Quest for a Remedy*, 57 GEO. L.J. 509 (1969).

[8] What constitutes "legitimate" voluntary disclosure of information by the information service company is beyond the scope of this paper. See not 7 *supra*.

[9] *See generally* Miller 1156–73.

[10] *See* Lickson, *Protection of the Privacy of Data Communications by Contract: Another Case Study on the Impact of Computer Technology on the Law*, BUS. LAW, July 1968, at 979–80.

[11] Under certain variations of these examples, the contractual rights of the computer service company's customer may also be involved.

[12] *See generally* RESTATEMENT OF CONTRACTS §§ 133–47 (1932).

[13] The Supreme Court of Georgia is considered to have laid the foundation for recognition of a right to privacy as a fundamental, legally protectible interest in Pavesich v. New England Life Ins. Co., 122 Ga. 190, 50 S.E. 68, 69–70 (1905). Of course, the intellectual foundation for recognition of invasion of privacy as a separate tort had been laid in Warren & Brandeis, *The Right to Privacy*, 4 HARV. L. REV. 193 (1890).

[14] Prosser, *Privacy*, 48 CALIF. L. Law. 383, 389 (1960).

[15] *See e.g.*, Le Crone v. Ohio Bell Tel. Co., 120 Ohio App. 129, 201 N.E. 2d 533 (1963) (wiretapping of an individual's telephone).

[16] *See, e.g.*, Flake v. Greensboro News Co., 212 N.C. 780, 195 S.E. 55 (1938) (photograph of an actress used in a bread advertisement).

[17] *See, e.g.*, Brents v. Morgan, 221 Ky. 765, 299 S.W. 967 (1927) (sign in garage window stating that the plaintiff's account with the garage has been unpaid for a long time).

[18] *See, e.g.*, Peay v. Curtis Publishing Co., 78 F. Supp. 305 (D.D.C. 1948) (newspaper article on the alleged practices of Washington cab drivers in cheating the public on fares, making use of the plaintiff's photograph to illustrate the article).

[19] For example, Congress is now considering legislation which would regulate the activities of credit bureaus and credit investigating agencies, a field in which the computer has been playing an ever-increasing role. S. 823, 91st Cong., 1st Sess. (1969); H.R. 7874, 91st Cong., 1st Sess. (1969); H.R. 9150, 91st Cong., 1st Sess. (1969); H.R. 9888, 91st Cong., 1st Sess. (1969). The Senate passed S. 823 on Nov. 6, 1969, 115 CONG. REC. 13,905–11 (daily ed. Nov. 6, 1969) and reported it to the House Committee on Banking and Currency on Nov. 12, 1969. Hearings have been held this spring before the House Committee.

[20] These states are Nebraska, Rhode Island, Texas, and Wisconsin. RESTATEMENT (SECOND) OF TORTS, ch. 28A, at 100 (Tent. Draft No. 13, 1967).

[21] 381 U.S. 479 (1965).

[22] *See also* Tehan v. Shott, 382 U.S. 406 (1966), where the Court pointed out that the fifth amendment guarantee against self-incrimination is really in part an extension of an individual's right to privacy and "our respect for the inviolability of the human personality and of the right of each individual 'to a private enclave where he may lead a private life.'" *Id.* at 414 n. 12.

[23] 57 Misc. 2d 301, 292 N.Y.S. 2d 514 (Sup. Ct. 1968), *aff'd* 298 N.Y.S. 2d 137 (App. Div. 1969).

[24] *Id.*, at 305, 292 N.Y.S. 2d at 518.

[25] The Appellate Division, in affirming the trial court's refusal to discuss the case, held that it need not pass upon the constitutional grounds advanced by the trial court, 298 N.Y.S. 2d at 141. We shall have to await further litigation to test the implications of *Nader*.

[26] *See generally* A. WESTIN, PRIVACY AND FREEDOM (1967); *Gallagher Hearings, supra* note 2; Pipe, *Privacy; Establishing Restrictions on Government Inquiry*, 18 AM. U.L. REV. 516 (1969); Note, *Credit Investigations and the Right to Privacy; Quest for a Remedy*, 57 GEO. L.J. 509 (1969); *Research Project—Computerization of Government Files, What Impact on the Individual?* 15 U.C.L.A.L. REV. 1371, 1375 (1968) (foreword by Mr. Justice Douglas).

[27] Note, *Credit Investigations and the Right to Privacy: Quest for a Remedy*, 57 GEO. L.J. 509 (1969).

[28] *Id.* at 532.

[29] Comment, *Privacy, Property, Public Use, and Just Compensation*, 41 S. CAL. L. REV. 902, 909 (1968).

[30] *Id.* at 913. The author's main point is made in the following statements:

"It can be argued that all large public corporations, such as Time, Inc., whose activity has as great a societal impact as does most governmental action, should be subject to the same constitutional limitations as is the government. Their activity should be labelled 'public,' rather than 'private,' in contradistinction to an individual's activity. . . . In short, most corporations are, at least in part, fulfilling interests of the state, and no longer fulfilling the traditional justifications of private property. In these instances they ought to be subject to the same constitutional limitations as are imposed that private property cannot be taken for a public use without payment of just compensation." *Id.* at 913–14.

And, as noted, the author would equate the "right of privacy" to "private property" and would require the payment of just compensation for any action which results in a destruction or diminution of an individual's right of privacy.

[31] The American Law Institute, in a tentative draft of a portion of a new Restatement of Torts, commented that new forms of the tort of invasion of privacy in addition to the four basic types already generally recognized by the courts may emerge, especially in light of recent decisions by the United States Supreme Court. RESTATEMENT (SECOND) OF TORTS § 652A, comment c (Tent. Draft No. 13, 1967). *See also* Westin, *Science, Privacy, and Freedom: Issues and Proposals for the 1970's, Pt. II: Balancing the Conflicting Demands of Privacy, Disclosure, and Surveillance*, 66 COLUM. L. REV. 1205, 1232 (1966).

[32] This might prove true whether the companies are service bureaus, information services, or some other type of computer service company.

[33] Early manifestations of the theory of strict liability are shown in Huthringer v. Moore, 31 Cal. 2d 489, 190 P.2d 1 (*1948*); Ball v. Nye, 99 Mass. 582 (1863) (percolation of filthy water); Cahill v. Eastman, 18 Minn. 324 (1872) (underground water tunnel). For an example of statutory extension of this principle, see the relevant portions of the Federal Safety Appliance Act, 45 U.S.C. §§ 1–60 (1964).

[34] See, for example, situations 1, 2, and 3, text at 497.

[35] See, for example, situation 4, text at 497–98.

[36] *Symposium: Computers, Data Banks, and Individual Privacy*, 53 MINN. L. REV. 211, 225–27 (1967). The growing concern over protecting privacy in our era of technological explosion is evidenced by the fact that most of the May-June 1969 issue of THINK, the very informative magazine published by IBM, is devoted to a special report on privacy. The articles include Miller, *Psychological Testing: Can We Minimize the Perils?*, THINK, May-June 1969, at 24; Ruggles, *How a Data Bank Might Operate, id.* at 22; Westin, *Life, Liberty, and the Pursuit of Privacy, id.* at 12; Westin, *New Lines Will Protect Your Privacy, id.* at 27. Professor Westin's concluding remarks in his first article are especially illuminating: "American Society now seems ready to face the impact of science on privacy. Failure to do so would be to leave the foundations of our free society in peril." Westin, *Life, Liberty, and the Pursuit of Privacy, id.* at 21. In his second article, Professor Westin points out that many organizers of private data banks, in growing recognition of the privacy problem presented by the computer revolution, are establishing administrative controls to assure the protection of privacy. Westin, *New Laws Will Protect Your Privacy, id.* at 31.

[37] *See* Erie R.R. v. Tompkins, 304 U.S. 64 (1938), which laid to rest the notion that there is any generally applicable federal common law to be applied by the federal courts in considering "general" issues in diversity cases. For a more thorough discussion of the *Erie* line of cases, see 1 A. J. MOORE, FEDERAL PRACTICE ¶ 0.318 (2d ed. 1965); Friendly, *In Praise of Erie—And of the New Federal Common Law*, 39 N.Y.U.L. REV. 383 (1964).

[38] *Computer Inquiry*, Report and Further Notice of Inquiry, 17 F.C.C. 2d 587, 592, 16 P & F RADIO REG. 2d 1505, 1510 (1969); *Computer Inquiry*, Notice of Proposed Rule Making and Tentative Decision, 18 P & F RADIO REG. 2d 1713, 1718 (1970). The regulatory authority of the FCC in this area may, of course, be limited in the absence of additional legislation.

[39] 18 U.S.C. §§ 2510–20 (Supp. IV, 1969).

[40] *Id.* §§ 2511, 2515–19.

[41] 47 U.S.C. § 605 (Supp. IV, 1969).

[42] § 803, 82 Stat. 212, 223 (1968) (reprinted in full following 18 U.S.C. § 2510 (Supp. IV, 1969)).

[43] § 804, Stat. 212 223–25 (1968) (reprinted in full following 18 U.S.C. § 2510 (Supp. IV, 1969)).

[44] 18 U.S.C. § 2520 (Supp. IV, 1969).

[45] As used in the statute, "wire communication" means:

any communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications. *Id.* § 2510(1).

An "oral communication" means: "any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation." *Id.* § 2510(2).

[46] *See* Miller 1201.

[47] 18 U.S.C. § 2510(4) (Supp. IV, 1969) (emphasis added). It remains to be seen how the definition will be interpreted. The legislative history of the Act shows clearly that Congress was preoccupied with the interception of voice communications, whether by wiretapping or other electronic devices. *See* S. REP. No. 1097, 90th Cong., 2d Sess. 217–218 (1968). The few cases that have cited Title III of the Act have all been criminal cases or civil antitrust cases closely related to criminal cases and have all dealt with voice communications. *See, e.g.,* Alderman v. United States, 394 U.S. 165, 175 & nn. 8–9 (1969); United States v. McCarthy, 292 F. Supp. 937, 943 (S.D.N.Y. 1968); Philadelphia Housing Authority v. American Radiator & Standard Sanitary Corp., 291 F. Supp. 247, 249–50 (E.D. Pa. 1968); United States v. Schipani, 289 F. Supp. 43, 60 (E.D.N.Y. 1968); United States v. American Radiator & Standard Sanitary Corp., 288 F. Supp. 701, 706–07 (W.D. Pa. 1968).

[48] For example, the courts might arguably distinguished between interception of data transmitted by the regular analog telephone network and that carried over a special digital network. *See generally* Miller 1206.

[49] *See* Chaney, *Data Transmission Basics,* COMMUNICATIONS, Mar. 1969, at 27; *cf.* Irwin, *Computers and Communications: The Economics of Interdependence,* 34 LAW & CONTEMP. PROB. 360, 361 (1969).

[50] Note, *Computer Services and the Federal Regulation of Communications,* 116 U. PA. L. REV. 328 (1967).

[51] See notes 13–17 *supra* and accompanying text.

[52] The respondents to the FCC's Computer Inquiry, including the Department of Justice, generally agreed that the computer service industry should be permitted to develop in the free competitive economy, and not as a regulated utility. *See* L. KRAUSE, *Analysis of Policy Issues in the Responses to the FCC Computer Inquiry,* STANFORD RESEARCH INSTITUTE, REPORT NO. 7379B–2, at 22–26 (1969). The author agrees. For a thorough discussion of the issues involved, see S. MATHISON & P. WALKER, COMPUTERS AND TELECOMMUNICATIONS: ISSUES IN PUBLIC POLICY 16–19 (1970). The FCC as of this time, agrees. *See Computer Inquiry,* Tentative Decision, 1718–22.

[53] These standards should be defined to the greatest extent possible.

[54] For a discussion of the limitation imposed by the federal antitrust laws on schemes of self-regulation within an industry, see Silver v. New York Stock Exchange, 373 U.S. 341 (1963), where the Court cautioned that such schemes will be closely scrutinized because of their potential effect on competition within the industry. *See generally* G. LAMB & S. KITTELLE, TRADE ASSOCIATION LAW AND PRACTICE §§ 11.1-.9 (1956); Baum, *Self-Regulation and Antitrust: Suppression of Deceptive Advertising by the Publishing Media,* 12 SYRACUSE L. REV. 289 (1961); Rockefeller, *Industry, Efforts at Self-regulation,* 10 ANTITRUST BULL. 555 (1965); *Developments in the Law—Deceptive Advertising,* 80 HARV. L. REV. 1005, 1159–63 (1967).

[55] Such a procedure would afford roughly the same right to comment as is now granted by section 4 of the Administrative Procedure Act, 5 U.S.C. § 553 (Supp. IV, 1969), which provides for the filing of written comments, after appropriate notice, in the case of administrative agency rule making.

[56] The author has deliberately refrained at this time from suggesting what government agency should undertake this function. The FCC, with its broad expertise in the communications field, might be the most logical candidate. Perhaps a new agency under the Department of Commerce might best do the job. In any event, the Congress, in selecting or creating the agency to do the job, should take meticulous care to assure that the agency and the whole regulatory scheme will work in tandem with a well defined national communications policy, as well as in furtherance of national policy in the privacy area. *See generally* Miller 1236–39.

[57] *Cf.* Silver v. New York Stock Exchange, 373 U.S. 341 (1963), where the Court utilized the federal antitrust laws as a basis for its review of the procedural integrity of a system of industrial self-regulation.

[58] It may be appropriate to provide for binding arbitration of such disputes instead of merely conciliation. This would be feasible, however, only if the industry agency were a truly independent authority and had such status and reputation for objectivity that nonmembers of the computer service industry would regard it as a fair tribunal.

[59] *See generally* W. GELLHORN & C. BYSE, ADMINISTRATIVE LAW 649–51 (4th ed. 1960). For a discussion of the utility of the conciliation process in an analogous context, see 1968 DUKE L.J. 1000 (conciliation procedure in an Equal Employment Opportunity Commission proceeding).

[60] Theft of a computer program might be ground for such expulsion. In at least one case, a court has held that computer programs are "property" subject to "theft" under state law, and an employee of a computer company who stole such programs was guilty of felony theft. Hancock v. State, 402 W.2d 906 (Tex. Crim. App. 1966).

[61] To reiterate, there should be no statutory exemption from liability in the case of voluntary and deliberate acts by the computer service company including companies offering computerized information services. At least as this author now envisions the proposed industry association, it would not deal with criteria for the voluntary release of information to "interested persons," government agencies, or other individuals, groups, or organizations. It may well be that, as the system develops and considerable experience is gained with the arrangement proposed in this article, it will eventually be appropriate for the industry association to promulgate standards governing the voluntary disclosure of information. Of course, to be really effective, especially against the federal government itself, the association should have specific federal statutory authority to promulgate and enforce such standards, and the statute should expressly make them applicable to government agencies.

[62] For example, three excellent papers summarizing some of the problems involved in achieving privacy and security of data in multi-programmed computer systems were presented at the 1967 Spring Joint Computer Conference. PROCEEDINGS, SPRING JOINT COMPUTER CONFERENCE 279–90 (1967). The individual articles were Peters, *Security Considerations in a Multi-Programmed Computer System,* id. at 283; Ware, *Security and Privacy in Computer Systems, id.* at 279; Ware, *Security and Privacy: Similarities and Differences, id.* at 287. The terms "security" and "privacy" are used in special senses in those papers, as summarized by Willis Ware in the last-cited paper: "For the purposes of this paper we will use the term 'security' when speaking about computer systems which handle classified defense information which nonetheless must be protected because it is in some respect sensitive." *Id.* The term "security" has been used in a broader sense throughout this article.

[63] *See, e.g.,* Response of United States Department of Justice (Mar. 5, 1968), filed in Computer Inquiry, FCC Docket No. 16,979.

[64] *See* Irwin, *supra* note 49, at 360–61 (1969); Miller 1099–1103.

[65] However, if the carriers utilize separate subsidiaries to engage in computer service operations which would be subject to regulation by the industry association if performed by computer companies not related to communications common carriers, such carriers or their computer service subsidiaries should be subject to industry regulation in the privacy area.

[66] Even if the FCC might be able to act pursuant to its existing general powers under the Communications Act of 1934, 47 U.S.C. §§ 151–609 (1964), there may be considerable advantage in spelling out the FCC's jurisdiction in this situation and perhaps providing for special streamlined procedures.

If the FCC is to become involved in a significant way in this situation, perhaps it should be the agency to review actions of the computer industry agency although Congress might wish to consider other alternatives before determining whether to give such jurisdiction to the FCC. See note 56 *supra* and accompanying text.

[67] This description of the NASD and its activities is taken from the 1968 NASD President's Report. 1968 NASD ANN. PRESIDENT'S REP. Of interest to the computer industry in formulating its system of self-regulation might be the NASD's statement of purposes:

(1) To promote . . . the investment . . . and securities business, to standardize its principles and practices, to promote . . . high standards of commercial honor, and to . . . promote among members observance of Federal and State securities laws;

(2) To provide a medium through which its membership may . . . consult, and cooperate with governmental and other agencies in the solution of problems affecting investors, the public, and [this business] . . .;

(3) To adopt . . . and enforce rules of fair practice [in the securities business] . . . and in general to promote just and equitable principles of trade for the protection of investors;

(4) To promote self-discipline among members, and to investigate and adjust grievances between the public and members . . . CCH NASD MANUAL ¶ 1003.

With some slight change in terminology, many of these statements might be substantially adopted by the computer industry.

ANNOUNCEMENT OF HEARINGS ON S. 6, EDUCATION FOR ALL HANDICAPPED CHILDREN

Mr. RANDOLPH. Mr. President, as chairman of the Senate Subcommittee on the Handicapped, I announce that our subcommittee will conduct hearings on S. 6, a bill for the education of all handicapped children. The hearing will be held on Monday, June 17, 1974, at 9 a.m. in room 4232, Dirksen Senate Office Building. Persons wishing to present statements should contact Mrs. Patria Forsythe, professional staff member, or Miss Anne Hocutt, research assistant, Subcommittee on the Handicapped, at 202—225–9075.

NOTICE OF HEARING ON RURAL ENVIRONMENTAL ASSISTANCE PROGRAM AND RURAL ENVIRONMENTAL CONSERVATION PROGRAM

Mr. HUDDLESTON. Mr. President, the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices of the Committee on Agriculture and Forestry will hold a hearing Thursday, June 20, on implementation of the rural environmental assistance program—REAP, and the rural environmen-

tal conservation program—RECP, beginning at 10 a.m. in room 324, Russell Office Building. The subcommittee will review the operations of the Soil Conservation Service to determine the reasons for reports of inadequate technical assistance being given our farmers. Anyone wishing to testify should contact the committee clerk as soon as possible.

NOTICE OF HEARING ON NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, June 19, 1974, at 9:30 a.m., in room 2228, Dirksen Senate Office Building, on the following nominations:

William H. Orrick, Jr., of California, to be U.S. district judge, northern district of California, vice William T. Sweigert, retired

Henry F. Werker, of New York, to be U.S. district judge, southern district of New York, vice Sylvester J. Ryan, retired

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Mississippi (Mr. EASTLAND) chairman; the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Nebraska (Mr. HRUSKA).

NOTICE OF HEARING ON PRESIDENT'S NOMINATION OF DR. JOHN C. SAWHILL TO BE ADMINISTRATOR OF FEA

Mr. JACKSON. Mr. President, a second day of hearings on the President's nomination of Dr. John C. Sawhill to be the Administrator of the Federal Energy Administration has been scheduled for Wednesday, June 12, at 2 p.m.

The purpose of this second day of hearings on this important position is to permit Members who were unable to be present at the hearings on Friday, June 7, to appear and propound questions to Mr. Sawhill.

Further information concerning the location of the hearings will be available tomorrow morning at the office of the Senate Committee on Interior and Insular Affairs.

NOTICE OF HEARINGS ON RADIATION HEALTH AND SAFETY ACT OF 1973

Mr. KENNEDY. Mr. President, I want to take this opportunity to announce Senate Health Subcommittee hearings on S. 667, the Radiation Health and Safety Act of 1973, which will be chaired by my good friend and colleague, Senator JENNINGS RANDOLPH. These hearings will be conducted on June 19, 1974, and will begin at 10 a.m. Persons interested in testifying should contact Mr. Richard Grundy at 225–9894.

ADDITIONAL STATEMENTS

SENATOR CURTIS CALLS FOR FAIRNESS IN THE CONSIDERATION OF CHARGES AGAINST PRESIDENT

Mr. HELMS. Mr. President, this past Sunday the distinguished Senator from Nebraska (Mr. CURTIS) addressed a meeting in Washington of the National Citizens' Committee for Fairness to the Presidency.

In his customary forthright fashion, Senator CURTIS gave his analysis of the existing situation concerning charges leveled at the President of the United States by the major news media, various committees of the Congress, and others.

Senator CURTIS calls for fairness, Mr. President, and I think all Senators, regardless of political affiliation, will be interested in the eloquent remarks by our distinguished colleague.

Therefore, Mr. President, I ask unanimous consent that the text of Senator CURTIS' address be printed in the RECORD.

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

SPEECH OF SENATOR CARL T. CURTIS

Mr. Chairman, distinguished guests: My heart swells with gratitude for the dedicated work of the Committee created to defend the Presidency of the United States. I am grateful for their work and the like work of all others. I believe that they are fighting the cause not only of our country but of free men everywhere. To you, Rabbi Korff, I say thank you very much. Americans will always be grateful for what you are doing.

We have a tough fight on our hands but in my opinion, the "get Nixon crowd" including those who continue to conduct a trial by press are in for a big surprise. They are losing their case. As I travel up and down this country, I am convinced that the vast majority of the people who do the work of the country, who pay its taxes and who fight its wars, are with the President of the United States, Richard M. Nixon.

We are, however, in an all-out fight. We are opposing a loud and determined group. They are a powerful group and they have at their command tremendous propaganda weapons. We must take our message to the people.

The American people need to be reminded that they have a President who wants to get on with the business of strengthening the country. He wants to restore financial sanity to the Federal Government. He wants to curb inflation. And these things, I submit, are vital to the very survival of our nation. We will fail to do them at our peril.

The people of the entire free world look upon President Nixon as their leader. They do so with good cause. President Nixon is the world's foremost and most successful peacemaker.

I cannot forget that when Mr. Nixon was sworn in as President our casualties in Vietnam were running as high as 300 a week. They were gradually reduced and finally brought to zero. Our combat troops have been removed from Vietnam, prisoners of war have been brought home, and young men are no longer drafted into the Army.

Neither can I forget the cruel criticism, the unfounded charges, the shameful accusations that were heaped on President Nixon throughout the months that he was doing so much for our country to end the war which he didn't start. There were marches upon Washington and his critics missed no opportunity to hinder and thwart his actions.

Let us consider the Middle East. This is an area of the world which has been torn by war and strife for a long time now. The feelings and bitterness run very deep, yet it is all changing now. The fighting has stopped. There has been a withdrawal of troops. The killing has ended. There has been an exchange of prisoners of war and the parties are proceeding to negotiate a peace.

Oh, yes, we will forever be grateful for the skill, the dedication and the tenacity of our Secretary of State, Dr. Henry Kissinger. A Secretary of State can only accomplish those things which are in the plan of the President who appoints him and directs him. The power and the might of a country are essential weapons in all diplomatic dealings. In the United States there is only one person who speaks in matters of foreign affairs and who is Commander in Chief of our armed forces. That man is the President of the United States. Because we have a strong and wise President, and a President who has dedicated his life toward a generation of peace, it has been possible for this country of ours to benefit from the skill and talents of a great Secretary of State.

Most of us know of the joy that has come to the mothers, wives, fathers and children of the American servicemen when wars have ended for us. No doubt greater joy has come to the peoples on all sides in the Middle East now that they are experiencing peace and a justified hope that it will become permanent.

I have served in Congress throughout World War II, the Korean War, and the Vietnam War, and I am not going to turn my back on Richard Nixon, the peacemaker.

Few people can appreciate the burdens on the President of the United States. Every Congressman and every Senator must delegate matters to his staff that he would like to do himself. Our responsibilities and the size of our constituencies are such a small fraction of those of the President. There are always tremendous burdens falling on the President in reference to domestic matters.

1972 was a momentous year in President Nixon's accomplishments in world affairs. The Vietnam War was being wound down, leading to its total halt. This called for courageous and soul-searching decisions as to bombing and other actions. The President's visits to Mainland China and to the Soviet Union were handled by him with great expertise.

His 1972 campaign had to be managed by others. I am convinced that President Nixon not only was not involved but never condoned any wrongdoing and that the real facts were withheld from him far too long.

Most citizens are aware that the President of the United States has been ruthlessly subjected to a trial by press, that the American principle of presumption of innocence and that testimony should be taken under oath and subject to rigid cross-examination, have not been followed. What about the principle that an accused person must be found guilty beyond a reasonable doubt?

Congressional committees have been used to advance the publicity of aspiring politicians. These committees have provided forums for the spreading of hearsay and unsubstantiated charges.

A grand jury in Washington has been at work, the makeup of which can hardly be described as a cross-section of our country. The very atmosphere in Washington is not conducive to a fair trial.

A special prosecutor has worked with a staff selected by his predecessor. I think I am quite charitable when I say that Archibald Cox is not noted for being non-partisan nor for being objective.

During the 1960 Presidential campaign, Mr. Cox was described as the "informal dean of the Kennedy Brain Trust." In 1973 he proceeded to assemble a prosecutor's staff without any political balance whatever. His Deputy was Henry S. Ruth, who served under Robert Kennedy when he was Attorney General. One of his assistants, James Vorenberg, served on the McGovern staff when McGovern was running for President. He was a frequent critic of President Nixon's law and order pronouncements and had served under Attorney General Robert Kennedy.

Philip B. Heymann, who was on Cox's staff, was an assistant to the solicitor general during the Kennedy and Johnson Adminis-

trations. James Neal, another Cox associate, was special assistant to Bobby Kennedy in the Justice Department, as was Thomas F. McBride. William H. Merrill was Chairman of the Michigan Citizens for Robert Kennedy in 1968. He was on Cox's staff. Another member of Cox's staff was George T. Frampton, Jr., a researcher and speech writer for the Kennedy in-law, Sargent Shriver, McGovern's running mate. Another member of Cox's staff was Roger M. Witten who worked for Robert Kennedy in the Oregon primary campaign. Time will not permit me to discuss some of the others.

Many people might well feel that Archibald Cox is not interested in the enforcement of the law as they understand it. Back a few years ago, there was a riot at Columbia University by student revolutionaries during which no classes or final examinations were held the last seven weeks. The Chicago Daily Tribune on October 13, 1968, had this to say about the incident at Columbia University:

"The acting president expressed his 'indebtedness' to a five-man panel of 'liberal' professors and lawyers who reported a week ago that no one was particularly at fault except for the university administration and trustees, whose attitude of authoritarianism . . . invited mistrust. The chief author of this singular statement was the commission's chairman, Archibald Cox, a Harvard law professor and solicitor general of the United States during the administration of John F. Kennedy."

Mail arrives in my office from all over the country. The people are distressed with the endless day after day harassment of our President. Very often these letters speak of the writer's prayers that are offered asking God to preserve and protect our President and keep him strong.

Those prayers are being answered. We do have a strong President. He has a stamina and courage and strength that is a marvel to all that know him. He is carrying on the duties of the President of the United States both foreign and domestic in a successful manner. Some may not agree with his vetos but it cannot be said that his positions are not strong positions. His accomplishments in foreign affairs continue to make him the unquestioned leader of the free world. He has opened up avenues of trade that will bring great benefits to the economy of our country. He leads when most men would falter.

I question the motives of no man but I am thoroughly convinced that all this talk about resignation or impeachment is not good for our country nor the free world.

I happen to know something about the President's tax case. His tax problems were never investigated by the members of the Joint Committee on Internal Revenue Taxation where I serve. No witness was put under oath. The President's lawyers were not present when the material was assembled. It is a staff report. It abounds in unsubstantiated conclusions and error. No other taxpayer in our country has been treated with the harshness that was given to the President of the United States by that staff report.

The reporting of information by some of the media has been worse than the staff report itself. It was clearly intended to be a staff report and not a committee report. Yet, in driving from my office to my residence on the day of its issue, I was told by the media no less than twice that it was the committee report.

I began by saying that the people of the United States are with our President. This is true because the people have a sense of fairness.

We are a government of law and all citizens are entitled to equality before the law. The common criminal is accorded a presumption of innocence. Should this be denied to individuals in the public service?

It is time to call a halt. It is time to turn to our established court system to deal with the offenders. It is time to bring an end to the assassination of high public officials by hearsay, innuendo, unproven charges and trial by the press. Lynching hasn't stopped in the United States, it is just that different people are doing it.

Investigating committees, special prosecutors, broadcasters and newspapermen and women have a responsibility in pursuing their jobs to do justice. They have no obligation or right to malign and spread rumors and unproven charges. They do have a responsibility to be just. The Prophet Micah said it so well—"O man, what is good; and what doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God?"

THE FIRST AMENDMENT AND THE FAIRNESS DOCTRINE

Mr. ERVIN. Mr. President, as the Senate knows, I have been interested for many years in the guarantees of the first amendment to the Constitution with respect to freedom of the press.

On May 31, 1974, Mr. William S. Paley, chairman of CBS, Inc., spoke at the dedication ceremonies for Newhouse Communications Center—II, at Syracuse University. Mr. Paley's address, entitled "Broadcast Journalism: At the Crossroads of Freedom," provides an excellent analysis of the increasing problems associated with the implementation of the fairness doctrine, by the Federal Communications Commission.

Mr. President, I ask unanimous consent that Mr. Paley's speech be printed in the RECORD.

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

BROADCAST JOURNALISM: AT THE CROSSROADS OF FREEDOM

I am delighted and honored to be here with you today. The completion and dedication of this impressive second unit of the Newhouse Communications Center has a significance that goes far beyond this moment and this campus. Thousands of young people will be going out of this building, as from its great sister building devoted to the print media, to become the architects and builders of the journalism of the future. To all of them, the name of Samuel I. Newhouse should be a constant reminder of a remarkable career in communications. It spans over half a century and embraces newspapers, magazines, radio and television stations. His achievement is eloquent testimony that one medium, to be strong, need not weaken another but can strengthen it—that a new medium, to be effective, need not destroy an old, but can constructively change it. This magnificent building is also a powerful reminder of a great revolution in communications—the use of broadcast signals to bring the events, personalities and issues of the outside world into the living room. And it seems to me wholly appropriate that Newhouse II (as, I am told, it has already become known) devoted to studies in broadcast and film communications, has been built in close proximity to Newhouse I, devoted to studies in the print media. For one of the great battles that broadcast journalism has been fighting in this country, since its beginning in the late 1920's, has been to establish the principle that a free press must be inclusive if it is to serve its common purpose in a free society. This means recognition that journalism transmitted over the air should not, for that reason, be inhibited by government, any more than the print media should be, from informing the people, from contributing and stimulating informed discussion among them and from helping to enable them to take the action essential to effective self-government.

The fight for this recognition—and it is a battle we in broadcasting are still fighting—has not been easy. In the first place, broadcast stations are licensed by the Federal government. Originally, this was for technical reasons—to avoid chaos in the use of the airwaves—a fact that has often been forgotten. There was also believed to be a quantitative factor involved—"the scarcity principle," which, as I shall point out later, has turned out to be more theoretical than real. This centered on the technical fact that there had to be, in the spectrum, some limit whereas there was no technical limit on the number of newspapers that could be printed. As it turned out, economic realities came to be more limiting in newspaper publishing than technical realities did in broadcasting.

In the actual evolution of broadcasting as an information medium, however, I think that most broadcasters were far less concerned with theoretical considerations than with a respect for its sheer strength as a medium. Consequently, we saw it as our clear responsibility to protect the public from the misuse of broadcasting as a result either of government interference or pressure or of possible selfish or biased interests of broadcasters themselves. At CBS—and I think generally throughout broadcasting—the principles of fairness in dealing with news and public affairs—as well as other guidelines to assure responsible broadcasting in this area—were voluntarily and painstakingly arrived at and put into practice. At the same time it was—and remains—our firm conviction that what constitutes fairness should be determined by those responsible for the operations of the media and not by a governmental agency policing them and imposing upon them its own definitions and its own arbitrary rulings.

The long and continuing struggle of broadcast journalism to assert and maintain its position as part of the free press has centered very largely on this issue: whether defining and resolving problems of fairness should be left, under the principles of the First Amendment, to broadcasters, who are answerable to their audiences, vulnerable to their competitors and exposed to constant public criticism, or whether it should be left to a government agency to determine these matters.

Historically, the Fairness Doctrine was not formally enunciated as a policy of the Federal Communications Commission until 1949, when it was adopted as part of an FCC report upholding the right of broadcast licensees to editorialize. The purpose of the Fairness Doctrine was to insure that the exercise of the right to editorialize did not lead to rampant bias on the air. The new policy was designed not to repress the expression of opinion but on the contrary to stimulate a multiplicity of opinions.

Despite its good intentions, however, the Fairness Doctrine had implicit dangers in that it conferred upon a government agency the power to judge a news organization's performance. In recent years, this danger has become real as the FCC began considering complaints on a broadcast-by-broadcast basis, almost line-by-line and minute-by-minute. One station, for example, was ruled unfair because the FCC found that, on one news program, "approximately 425 lines were devoted to expression of views opposing the legalization of casino gambling whereas approximately 115 lines were devoted to the proponent's views." Inevitably, such superediting by a government agency has become a vexing symbol of broadcasting's second-class citizenship in journalism. Misapplication of the principle became a springboard for attack on the media by various government officials for purposes unrelated to the original concept of fairness. Such attacks, if they had not been

resisted, would long since have led to the weakening of broadcasting as an arm of the free press and have destroyed its ability to function as an effective tool of democratic life and growth. In recent years the symptoms of broadcast journalism's second-class status have become so clear as to reveal how the Fairness Doctrine can be used as a device to influence the content of news and public affairs broadcasting.

This is not a matter of seeing ghosts lurking in every corner. Consider some of the actions and trends emerging in just the past five years, to restrict or condition the freedom of broadcasting to operate fully and freely in the public interest—as the press always has—undirected by judicial commands, unhampered by bureaucratic reviews, unchallenged by administrative probings and unthreatened by executive reprisals.

In 1969 the Supreme Court decided that the FCC had the power under the Fairness Doctrine to promulgate its so-called "personal attack" rules, which require broadcasters to follow automatic notification and requirements for time to reply whenever the "honesty, character, integrity" of a person or group is questioned. While certain news broadcasts are exempt from the rules. First Amendment values are, nevertheless, comprised when a governmental commission becomes the final arbitrator of journalistic fairness and can prescribe the remedy. Recent events demonstrate the fundamental danger of lodging with a government commission—however well intentioned it may be—the power to review and penalize broadcasters as a result of a finding that a particular news broadcast was "unfair."

Already attempts have been made to extend the principle to entertainment and advertising. To cite a recent example in entertainment, perhaps one of the most distinguished dramas ever presented on television, "The Autobiography of Miss Jane Pittman," the story of a former slave, was the subject of a complaint demanding time on the grounds that it put whites in an unfavorable light—a complaint which the FCC wisely rejected. In commercials, some complaints under the Fairness Doctrine have assured the militant guise of "counteradvertising." Unsatisfied with broad-gauged existing restraints on deceptive advertising, they would demand that, under the Fairness Doctrine, free time be provided opponents of a company or a product or service on the vaguest grounds conceivable. The implications of this are clear: it could, by reducing broadcasting as an effective advertising medium, so endanger its economic viability as to reduce its effectiveness in all other respects, including its journalistic role.

No news medium can afford to turn the other cheek. Any notions that, in respect to enforced fairness, the free press is divisible, and that pressure could be applied to one medium while others are immune to it, got a serious jolt last year. The Florida Supreme Court held that a newspaper—in this case, *The Miami Herald*—under the personal attack principle in a state statute, can be compelled to print verbatim replies. An appeal of the decision is now pending before the Supreme Court of the United States. It is ironic and could be tragic, unless there is a reversal, that this shortsighted policy of fairness by government edict is extended to the print media just at the time that it is proving most menacing to the broadcast media. We all know it is no less an abridgment of freedom of the press to compel publication of material than to forbid it.

The intrusion of the government into the content and style of broadcast journalism has led to an open season of attacks upon the basic principle of the free press: namely, that what is published—whether on the printed page or over the air—is best left to those doing the publishing and any judgment as to its interest and value is best left to the people reading, hearing or seeing it.

Few Presidential administrations, in my experience, have been consistently pleased with the press: all want to be constantly approved and admired. But that is not the function of the press, and previous administrations, though often displeased with the press, did not seek to undermine or punish it. The startling fact of the present Administration is that, virtually from its inception, it has launched a systematic effort to discredit both the objectives and the conduct of those journalists whose treatment of the news it disapproves. None of the news media has been immune to verbal onslaughts from the White House; but broadcast journalism, in particular, has been subjected to unprecedented direct threat to inhibit, weaken and disable it. Even though not all these threats have been actually put into practice and none have succeeded in their motives, they are nevertheless shocking and frightening in their implications. They have been directed at impugning the integrity of able and respected reporters; at setting up monitoring systems, whose findings were to determine whether agencies of the Federal government could be used to investigate and intimidate the offending media; also at splitting networks from their affiliates by threatening non-renewal of the latter's licenses; and at weakening the economic basis of costly broadcast news operations by clumsy appeals to advertisers to boycott networks and stations which fail to report the news as the White House sees it.

As the history of this continuous campaign to undermine broadcast journalism has unfolded, the inescapable impression emerges that there are those in positions of power and trust who are, from all appearances, against a free press—and that they are against it, not just because they *think* it will distort some facts, but also because they *know* that it will disclose others.

So I say, with all the strength at my command, that the time has now come to eliminate entirely the Fairness Doctrine from government rulebooks or statutes. In spite of the fact that the FCC has shown moderation in putting it to use, the very fact that the Fairness Doctrine confers on a government agency the power to sit in judgment over news broadcasts makes it a tempting device for use by any administration in power to influence the content of broadcast journalism.

Meanwhile, broadcast journalism is continuing to carry out its mission of honest, thorough and responsible reporting. It continues to rate high in the public confidence. And there is surfacing a growing sense that the Fairness Doctrine has outlived its usefulness. Broadly recognized as the leading constitutional authority in the United States Senate, Sam Ervin has characterized the enforced fairness concept as "a fickle affront to the First Amendment" and strongly urged an inquiry "to consider how to move broadcasting out of the Government control. . . ." In a landmark 7–2 decision last year, the Supreme Court emphatically rejected the contentions of those who would impose even more restrictive obligations on broadcasters. It declared "The question here is not whether there is to be discussion of controversial issues of public importance on the broadcast media, but rather who shall determine what issues are to be discussed by whom, and when. . . . For better or worse, editing is what editors are for; and editing is selection and choice of materials," and it goes on "If we must choose whether editorial decisions are to be made in the free judgment of individual broadcasters, or imposed by bureaucratic fiat, the choice must be for freedom." The Chairman of the FCC, Richard Wiley, has indicated his receptiveness to studying the suspending of the Fairness Doctrine in areas where there are a sufficient number of licensees. And Senator Pastore, Chairman of the Senate Subcommittee on Communications, has taken an open-minded view in announcing his proposal to hold hearings to reexamine the policy.

In addition to the offense done the freedom of broadcast journalism by fairness enforced by government, the arithmetic of the communications field today offers convincing evidence that the scarcity principle has no validity as grounds for enforced fairness. On the contrary, it calls for clear and outright repeal of the Doctrine. A sparseness of broadcast outlets, as compared to daily newspapers, no longer exists. As a matter of fact, the situation is inverted. When the regulatory powers over broadcasting were first enacted in 1927, there were 677 broadcasting stations in the United States and 1,949 daily newspapers. Today there are 8,434 broadcasting stations and 1,774 daily newspapers. The multiplicity of voices heard over these stations—two-thirds of which have no network affiliation—far exceeds that provided by any mass medium at any time in our history. The vast majority of news and public affairs broadcasts originates with the thousands of local stations, whether or not they have network affiliations. Americans spend, in an average week, 555 million hours watching television news broadcasts. Of these hours, 394 million are spent on locally produced news and 161 million hours on network news broadcasts. In radio the ratio of locally produced to network produced news is overwhelming, all but a small fraction is local.

There is, furthermore, very little overlapping of control of broadcast stations by newspapers: 19 percent of the 934 television stations are owned by newspapers; and 7 percent of the 7,500 radio stations. And there are just as many national television networks as there are wire services or national general news weeklies. In addition, of course, broadcast journalism must compete for public confidence with all the newspapers, as well as monthly, quarterly, bi-weekly and weekly periodicals; also books and newsletters; and educational, civic, professional, and other meetings. All of these add to the giant mix that conveys, appraises or interprets information and presents and discusses issues.

The possibility of any major news source consistently distorting or misusing its function in the face of all these other competing forces for enlightenment is virtually nonexistent. This pluralism constitutes the strongest safeguard that a free society can have against abuses of freedom of the press.

A free people just does not tolerate persistent bias if it has such a wide range of free choices. And never in the history of communications has a medium been as wholly susceptible to watch-dogging by the entire population. A further check on the overall fairness of broadcast journalism is that it is consistently and universally subjected to review and criticism. Every major newspaper in the United States reports every day on how broadcasting is doing its job and who is doing it—often faulting us, occasionally praising us, but never ignoring us. Most general interest magazines add their comments and criticism every week and every month. A hundred and thirty-four publications—daily, weekly monthly and quarterly—deal exclusively or to a major extent with broadcasting; and their circulation runs into millions. Letters from private citizens, running into thousands every week, clearly indicate that the public consider themselves our real supervisors and do not hesitate to let us know how well or how fairly they think we're carrying out our job. at CBS News—as I am sure at other broadcast news organizations—we have carefully thought out guidelines, continuous reviews of our work and formal procedures to make

certain that we are doing it responsibly. And the fact is that we seem to be doing it well. Independently run public opinion polls at regular intervals question the American people as to the degree of their confidence in broadcast journalism. The last such poll revealed that the largest number by far, 56 percent, considered broadcasting the most believeable news media of all.

In a free society, this pluralism, this watchfulness and this competition among literally hundreds of news sources for public confidence constitute the forces that are the true judges of broadcasting's fairness and should be the only ones. Government should simply—as a matter of asserted national policy consistent with what I believe to be the spirit of the First Amendment—repudiate the Fairness Doctrine and specifically immunize news and public affars broadcasting from any form of governmental oversight or supervision whatsoever.

Twenty years ago—almost to the day—I had occasion to address myself to the freedom and responsibility of broadcasters. I said then, "Some people may question the desirability of placing on the hands of the broadcaster this important element of control. To this point I would say that undoubtedly there may be abuses, as there are in other media. But I for one have enough faith in the vitality of the democratic process, in the intelligence of the American people and in the freshness of the competitive climate to believe that the good will and the determined intent of broadcasters to be fair, coupled with the powerful voice of the people, will provide far better protection against abuse than any other form of control."

Nothing during the past 20 years has led me to change my mind or to qualify those words.

If there is any risk—and there is—in this belief that, to quote Jefferson's words, ".... the people . . . may safely be trusted to hear everything true and false, and to form a correct judgment between them"—and there is a risk—then it is the risk basic and continuous in any free society. But it has been the verdict of our forebears and the experience of ourselves that a free society is not the safest way of life: it is only the best.

THE TRUTH

Mr. FANNIN. Mr. President, in Washington we are subjected to the sophistry used to alibi for irresponsible Federal fiscal policy. Last week I received a letter from a 12-year-old boy whose unfettered view of our responsibility is refreshingly clear. If the Congress were to face the simple truth as stated by my young constituent, we would not have the inflationary problem. I request unanimous consent that this letter be printed in the RECORD so that I may share it with my colleagues and allow them to ponder the question he has raised.

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

SAFFORD, ARIZ.,
June 1, 1974.

Hon. PAUL J. FANNIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FANNIN: I am a twelve year old boy scout studying about Citizenship in the Nation and our country. I have discovered that the legislative branch of our government is responsible for determining how the people's money is to be spent. I have been taught by my parents and in scouting to live within my means. It appears that the government is wasting millions of dollars that they don't have and are creating a debt that we of the future generation are going to have to pay back. It also appears to me that the members of the legislative branch are not willing to face up to the truth, but are trying to put all of the blame for inflation (overspending) on the executive branch.

Would you please tell me what plans are being made by the Senate in Washington or yourself to eliminate the nearly four-hundred billion dollar national debt.

Sincerely,

JAMES WILSON.

NOMINATION OF JOHN SAWHILL AS ADMINISTRATOR OF THE FEDERAL ENERGY ADMINISTRATION

Mr. ABOUREZK. Mr. President, President Nixon's refusal to roll back crude oil prices has resulted in enormous windfall profits for the major oil companies, has been a major contributor to rampant inflation and has caused severe economic hardship for most of the Nation's citizens.

How long can we allow this policy to continue? In a few days the Senate will be asked to vote for the confirmation of Dr. John Sawhill as Administrator of the Federal Energy Administration. I can think of no more important statement by the Senate at this time than to oppose Dr. Sawhill's nomination. Opposition to his nomination would be a message to President Nixon that the Senate strenuously objects to the President's refusal to roll back crude oil prices.

There are a number of cogent reasons why the Senate should reject Mr. Sawhill's nomination. Some of these are as follows:

First. In spite of the direct evidence contained in internal documents of the Cost of Living Council just released, which clearly show that the price increase of old crude to $5.25 on December 19, 1973, was unjustified for two reasons: Because old oil fields were already producing at maximum levels and—because the bottleneck on domestic production was a drilling equipment shortage, not the price ceiling on old oil, Dr. Sawhill flatly stated at the Interior Committee's hearing on June 7 that he would not roll back old crude oil prices.

Second. In spite of the fact that there is no free market in oil worldwide—since OPEC nations arbitrarily set prices—Dr. Sawhill insists that the price of domestic "new" oil ought to be tied to the price level of a fictitious international free market. This policy assures high profits for American oil companies and thus, as we have heard in recent days, encourages foreign nations to maintain or even increase high import oil prices.

Third. In spite of mandatory language in the Federal Energy Administration Act requiring the Administrator to roll back propane prices to May 15, 1973, levels, Dr. Sawhill has interpreted this language to be discretionary. His position is that he will not roll prices of propane back to the May 15, 1973, levels.

Fourth. Under the "released oil" concept for every barrel of new oil produced, an oil company is entitled to decontrol one barrel of old oil. This amounts to nothing more than another Government handout to the major oil companies. Dr. Sawhill's position is that he will maintain this policy despite a lack of economic justification for it.

In addition to the above, Dr. Sawhill conceded during his hearings that his office has done nothing beyond issuing press releases to promote real energy conservation. Although he vaguely talks about proposals which he will advance in his Project Independence Blueprint, supposedly to be forwarded to the President this fall, a sense of urgency to effect serious conservation measures is totally lacking.

To his credit, Dr. Sawhill was candid in making these positions known. He is to be respected for his candor and his integrity. But his policies add up to nothing more than continued severe economic dislocation for the consumers of this country.

I sincerely believe it is incumbent upon the Members of the Senate to reject these policies by voting against confirmation of Dr. Sawhill. The Senate must go on record against the unjustified price increases heaped on the public by the oil industry. A vote in opposition to Dr. Sawhill's nomination will be a clear signal to the administration that the Congress is fed up with fuel pricing policies that fleece the public for the benefit of the major oil companies.

The Wall Street Journal and the Washington Post published articles further highlighting Dr. Sawhill's refusal to roll back crude oil prices despite the fact that the Cost of Living Council's own documents argued that the December 19 price increase was unjustified.

Mr. President, 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:

SAWHILL DEFENDS RISE IN "OLD" OIL PRICE AGAINST CALLING BOOST "ARBITRARY"

WASHINGTON.—The controversy over oil prices continued as newly released documents showed that government staff experts believed last December's $1-a-barrel increase in the price of most crude oil was "arbitrary" and couldn't be justified on economic grounds.

The papers contained more arguments against than in favor of raising the price of "old" crude oil, produced at pre-1972 output levels, which currently accounts for 62% of domestic oil. The documents also said the price boost would sharply increase oil company profits.

At a hearing on the nomination of John Sawhill to be administrator of the Federal Energy Administration when it takes over for the temporary Federal Energy Office July 1, Sen. Henry Jackson (D., Wash.) sharply criticized the December price.

Mr. Sawhill said he was opposed to any rollback in the current $5.25-a-barrel ceiling price the government has set for old oil. The energy office late last year took over oil price controls from the Cost of Living Council, which last Dec. 19 boosted the ceiling for this oil from $4.25 a barrel. The price of other domestic crude oil isn't controlled by the government and has been about $10.25 a barrel, according to the energy office.

Sen. Jackson said at the hearing that "the documents aren't very complimentary" as far as the action taken by the Cost of Living Council. He criticized Mr. Sawhill for maintaining the higher price, and other Senators questioned the official about the matter. The

documents were given by the cost council to consumer advocate Ralph Nader, who had requested them under the Freedom of Information Act.

SAWHILL DEFENDS PRICES

Mr. Sawhill defended the $5.25 price level, saying "circumstances have changed since" last December and the "price looks much smaller now relative to the world price of oil." The energy office said the average cost of foreign crude to oil companies is $9 to $9.50 a barrel, with some sales much higher.

The energy chief predicted that world oil prices would soon decline somewhat because there is a slight surplus on the world market. He attributed the surplus to a reduction in demand because of the higher prices in recent months. He said a world price reduction might also cause prices in the U.S. to soften somewhat.

The documents, some of them by energy price experts at the Cost of Living Council who have since transferred to the energy office, said a price increase for old oil couldn't be justified as eliciting increased domestic production because old oil fields already were producing at maximum levels. Another document said an increase in production of domestic oil due to increased secondary and tertiary recovery methods would have occurred without any price increase.

A report prepared for the government by the Stanford Research Institute said a price boost for old oil wouldn't increase production because the bottleneck on domestic production was an equipment shortage, not the price ceiling. That report also said there wouldn't be any significant decline in demand for petroleum products from a moderate increase in the old oil price.

Some of the documents also said the increased price might trigger additional price boosts by foreign oil producing countries exporting to the U.S.

EXPORTS ARE CITED

On the positive side, the government staff experts said the price boost might discourage oil exports by U.S. companies and result in additional investment in domestic oil exploration.

Mr. Nader called the price boost "unjustified gouging of consumers in order to provide a handout to oil producers."

The price control staff didn't go that far in its report but said that "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." The staff report said that the "gross profit" to the oil industry from the $1-a-barrel increase would be $256 million a month.

A report of a Dec. 18 meeting between White House economic adviser Herbert Stein and energy price experts at the Treasury Department and the Cost of Living Council said Mr. Stein favored boosting the price to $12 a barrel of old oil to dampen demand. He said that kind of a boost would be "big enough to avoid the need for rationing," according to a memo on the meeting written to Cost Council Director John Dunlop by William Walker, currently general counsel of the energy office, who attended the discussion. He wrote that Mr. Stein wanted to couple a $12 domestic crude price with a windfall profits tax that would limit the yield to oil companies to $6.50.

MEMO FOR SHULTZ

In a memo prepared by Mr. Dunlop for George P. Shultz, then Treasury Secretary, the price control chief wrote that a big price boost for crude oil would "further escalate the bidding in the international markets and raise the price still further than the producing countries could expect to get."

Mr. Dunlop added that a "shock of this magnitude" in boosting the oil price is "likely to help set off a number of inflationary reactions which will preclude any further orderly withdrawal from controls" on prices in general, not just oil.

The Senate Interior Committee concluded the hearing on Mr. Sawhill's nomination Friday afternoon.

1973 INCREASE IN OIL PRICE IS DISPUTED

(By Thomas O'Toole and Bradley Graham)

The Cost of Living Council pushed through a $1-per-barrel price increase for oil last December over the objections of the council staff and an outside consultant commissioned to study the justification for a price rise, internal government documents show.

In the face of such objections, the $1 boost in the price of "old" domestic oil to $5.25 a barrel was settled on as a compromise by energy and economic advisers in the White House. Economic adviser Herbert Stein wanted oil to rise to $12 a barrel. Treasury Department aide William Johnson suggested $10 a barrel, while his colleague Oz Brownlee favored total decontrol on oil prices.

The $1 increase, which had the effect of raising prices to consumers by $2.5 billion, was apparently settled on because Cost of Living Council Director John T. Dunlop would not agree to a stiffer increase.

"If a price of $7 to $8 is now established," Dunlop wrote last Dec. 19 to Treasury Secretary George P. Shultz, "I recommended full decontrol of the economy immediately because even orderly phasing out of a controls system cannot be viable under such a shock."

Dunlop's comments to Shultz are in one of six hitherto unpublished Nixon Administration documents turned over yesterday by consumer advocate Ralph Nader to Sen. Henry M. Jackson, Chairman of the Senate Interior Committee. Nader was given the documents by Dunlop after seeking them under the Freedom of Information Act.

"During the confirmation hearings which you are beginning today of Mr. (John C.) Sawhill's nomination as administrator of the Federal Energy Administration," Nader said in a covering letter to Jackson, "he should be required to explain his maintenance of this unjustified gouging of consumers to provide a handout to oil producers."

Sawhill, under sharp questioning from Senate committee members, defended the price rise, contending that resulting profits will spur additional oil production.

But development of new fields takes time, Sawhill said, so the effects of the increase may not be felt for months. He noted that the supply of domestic crude oil was still decreasing, though the total supply has been increasing because of additional imports.

Sawhill stressed that the price increase had been a Cost of Living Council decision, not his own. The Federal Energy Office had just been created at the time the increase was announced.

Asked repeatedly whether he would consider decreasing the price of oil, Sawhill said he was definitely against a rollback. Any reduction now, he asserted, would prove unproductive by lessening the incentive to develop new fields.

Included in the six documents released by Nader were three prepared by the council's Energy Division and one by the Stanford Research Institute, which acted as consultant on oil prices to the council.

The Stanford document, dated Dec. 18 the day before the price increase was authorized—argued against the notion that a price increase for "old" oil will stimulate domestic production. It also argued that decontrol of "new" oil prices, which had been allowed long before the "old" oil price boost, was more than enough to raise production.

"New" domestic oil is oil found and produced since September, 1972. It now accounts for almost 30 per cent of the U.S. oil output of four billion barrels a year and sells for anywhere from $7 to $10 a barrel, averaging $2 more a barrel than the "old" oil.

"The real bottleneck is not the lack of incentive prices, but the lack of availability of drilling tools and equipment," the Stanford study states. "Even with appropriate incentives and equipment, our discussions indicate that it will take many months to affect the supply to any degree."

The Stanford study suggested also that a rise in crude oil prices would have little effect on consumer demand. At the time, the Nixon administration was saying that price increases were necessary to curb runaway American appetites for gasoline and other petroleum products.

"The demand problem is at the product level, not the crude level," the Stanford study went on. "An increase of this size would not in itself be large enough to effect a significant reduction in demand . . . A more effective method would be a tax on the products."

The Nixon administration was also urging higher U.S. crude oil prices to bring them more in line with world prices, but the Stanford study said that higher U.S. prices would encourage other producers to raise their prices again.

In three "issue papers" prepared for Dunlop, the Cost of Living Council's Energy Division argued that higher prices for old crude oil would do little to raise domestic output, a notion Nixon administration aides were pressing on Congress to justify higher prices.

"Increased prices would not materially increase production, at least not in the immediate future," one issue paper flatly stated. "Production is already at the maximum in almost all domestic fields."

The Energy Division also said (like the Stanford study) that higher domestic prices might trigger a new round of higher prices by countries exporting oil 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," the issue paper said.

The council staff also worried that higher crude prices would do little more than produce windfall profits for the producers. It said that a $1 increase in crude prices would mean higher profits for producers of $256 million a month, more than $3 billion a year.

"Oil companies with crude resources will show even higher profits than have already been so highly publicized," the staff said. "Oil companies lacking crude resources will object to paying the higher price unless costs can be passed on to the consumer."

One of the most interesting of the six documents made public by Nader was a two-page memo to Dunlop from Cost of Living Council general counsel William N. Walker. The memo was marked "Administratively Confidential."

The memo discussed a meeting Dec. 18 attended by Stein, Treasury aides Johnson and Brownlee and four members of the council. The meeting was held to discuss higher crude prices.

"Stein opted for $12 a barrel," Walker wrote, "stating that it's big enough to avoid the need for rationing."

FAMINE IN ASIA AND AFRICA: A WORLD CRISIS

Mr. HUMPHREY. Mr. President, I would like to bring to the attention of my colleagues two articles by Mr. John

H. Douglas which appeared in the May 11 and May 18 issues of Science News.

The first, "The Omens of Famine," describes the causes of the devastating famine which has afflicted the Third World, where millions of people are likely to die from starvation this year. The effects of the drought which has swept the Asian subcontinent and the African Sahel, evidence of the world's changing climate, have been further complicated by the energy crisis and the food shortage in the industrialized world.

With the price of fertilizer skyrocketing, there is little hope for expanded food production this year in the drought-stricken areas of the world. These starving people, who once could turn to our "food for peace" program, now find that they can not compete with more affluent countries like Russia and Japan for our food reserves, which are at an all-time low.

Although the picture Mr. Douglas paints is a rather bleak one, his second article, "Confronting Famine," offers some possible solutions to this mammoth problem. He first calls for "international cooperation and genuine philanthropy" in an effort to build a world food reserve now, and in devising a better system of emergency food distribution. If we wait for the World Food Conference in November, it may be too late for millions of people who are already starving.

Mr. Douglas proposes long-term goals as well, including population control, research in new ways to expand food production both here and in developing countries and, ultimately, modified life styles for the people in the world's affluent countries. In conclusion, he asks if we will "accept the necessary sacrifices when they come, or, as C. P. Snow predicted long ago, sit and watch on the evening news millions of people dying of starvation, somewhere else."

Mr. President, the problem is already at hand. We need to take specific actions and particularly in developing a national and international reserve program. I ask unanimous consent that the two articles by Mr. Douglas be printed in the RECORD.

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

THE OMENS OF FAMINE

(By John H. Douglas)

Like cancer, starvation seldom kills its victims directly. Rather, it weakens the whole fabric of life until the frailest part gives, then the rest disintegrates. For an individual, the end usually comes by disease; for a society, by anarchy. Famine, like cancer, is easiest stopped before it spreads, and now danger signals from many areas of the world have become unmistakable.

A walk, down any thoroughfare in Asia—whether on a worn village path or beside one of the many new highways—is not likely to reveal an overwhelming presence of starvation. Mechanization and the brimming productivity of "Green Revolution" crop hybrids have allowed developing countries to increase their food productivity by almost a third during the last decade, enough to offset population growth and slightly raise per capita consumption. One may still see families living under overturned wrecks beside a road in India, but even that hard-pressed country had hoped for self-sufficiency in grain, until recently.

Then the rains failed. On the other side of the world, half the wheat crop of the world's largest producer went to a nation able to pay a much higher price, the Soviet Union. Finally came another Middle Eastern war, and though siding with the Arabs, India's oil supplies dropped and prices rose like everybody else's. The foundations of development had proven extremely fragile.

That inherent fragility is what a walk down any thoroughfare in Asia does reveal: A few rich living among many poor, the two-thirds of the world's population that must scrape for a quarter of its protein; a few tractors, which, without fuel, cannot harvest the Green Revolution crops that depend on them; most important, only a few domestic sources of fertilizer, a petroleum product without which the new, productive grain hybrids cannot grow.

Development has brought dependence. Machinery, petroleum and fertilizer are, for most developing countries, import items. The economies of many small countries are narrowly based on some abundant local commodity, such as rubber or gold, and when population pressures outstrip the land's capacity for growing crops, limited foreign exchange capability must be used to buy food. Whereas before World War II Western Europe was the only grain deficit region on earth, now only North America and Australia remain as net grain exporters. The United States and Canada together have a greater stranglehold on the world's food exports than the Arabs have on petroleum.

That dominance developed gradually, the result of the same forces that have recently increased production in developing countries—mechanization, fertilizer and prolific hybrids. In the wave of development since the end of World War II, the United States has come to produce half the world's corn and two-thirds of its soybeans. Most of this increase was accomplished by raising productivity. Per acre corn production, for example, has grown 240 percent while the labor required has dropped 60 percent. Mechanization and increased use of fertilizers, of course, made farming more energy intensive, so that now roughly 80 gallons of gasoline are required directly to raise an acre of corn, with about twice that much energy involved in making the fertilizer and transporting and processing the various products off the farm.

At first, the increased productivity led to embarrassing surpluses—butter stored in Kentucky caves, millions of tons of grain left to rot in silos around the country, farmers paid for not raising crops on as much as one-seventh of the nation's farmland. Since prospective consumers in developing countries could not afford to pay American prices for the surpluses, a "Food for Peace" program was launched to sell the extra food for whatever commodities, local currency or political advantage could be traded in return. The American agricultural glut became a buffer, providing a measure of price and nutrition stability for the developing "Third World."

The surpluses would have ended even without bad weather and the energy crisis, though these events have precipitated the demise. "Food for Peace" assumed the absence of any viable market for the surplus goods, but now one has arisen: The world's poor must compete with the rising affluence of the world's rich. Food consumption does not increase linearly with wealth. On the contrary, as income rises, people eat less grain directly and begin to eat more meat, which requires as much as seven times the grain, as feed, to put an equivalent amount of protein on the table. Just at a time when the United States faced a humiliating dollar devaluation and rising balance of payments deficit, agricultural exports suddenly doubled, becoming the most important single item in the country's international trade picture. A bad harvest in Siberia led to the largest single agricultural sale in history, depleting the remaining U.S. stored grain reserves. Suddenly surpluses became too valuable to give away.

With malevolent coincidence, the world's climate almost simultaneously began to change (SN: 9/29/73, p. 197). The desert-creating high-pressure areas that lie between the monsoon rains to the south and the cold circumpolar winds to the north began to migrate toward the equator, bringing drought to regions of Africa, China, South Asia, India and Central America. Climatology is a young and inexact science, but the few specialists willing to speak up on the subject say the recent changes are the apparent result of a global cooling trend that has lowered the earth's temperature 2.7 degrees F. since 1945. The best evidence from ice and sediment records indicates that weather over the last half century has been the warmest in 1,000 years and that a cycle of colder temperatures can be expected. The effect would be a major shift of rain patterns and deserts, and a shorter growing season for northern latitudes.

The sub-Sahara row of six countries, known collectively as the Sahel region, presents a grim test case of what may happen in more populous areas if droughts spread. There, for the first time in living memory, people walk across the Niger River. The fabled desert outpost of Timbuktu has required airlifts of food. A quarter-million people are estimated to have died from the resulting famine, and 80 percent of the livestock in one country have been killed. Every year that the drought continues, the Sahara desert moves relentlessly southward some 30 miles.

The Indian sub-continent may be next, according to Lester R. Brown, a senior fellow at the Overseas Development Council in Washington and an outspoken observer in matters of world food supplies. Even before the energy crisis hit, the world appeared to be at the "bust end of a cycle" in world fertilizer industry. Brown told Sicence News, but now with massive fertilizer shortages, Asia may next year face "the largest food deficit of any area in history." If the monsoons should fail again, widespread famine would surely follow.

India appears most vulnerable. Even India's own National Council of Applied Economic Research admits: "Sometimes the very immensity of the problem numbs one's senses and impairs the capacity to deal with it." In some stores serving the poorest classes, rations were cut in half last year. Riots have already occurred in two states. Kerosene for cooking has risen beyond the price reach of many. Inflation gallops along at 25 percent a year, and half of India's total export earnings may have to go to buy oil. A Wall Street Journal article concluded "the next 12 months will make the past 12 look good."

China would be better off, except for the fertilizer problem. That country has, in many ways, worked an economic miracle, almost abolishing malnutrition without substantially raising per capita income. But much of China's foreign exchange goes for fertilizer; it is the world's largest importer, buying mostly from Japan, which has now been severely hit by the energy crisis. China is also the current number one U.S. wheat customer, even in good weather. With an intricate irrigation system, China is better prepared to meet drought than India, but should fertilizer continue scarce, China too could face severe difficulty.

No one knows when the crunch will come, but Lester Brown says that within a year, leaders of the world's developed countries

may be faced with the agonizing decision of whether to "cut Asia adrift" or ration food at home to feed starving millions abroad.

On any street in Asia one can smell the pungent aroma of the local, highly spiced cuisine. How hard to believe that too is so terribly fragile.

CONFRONTING FAMINE

(By John H. Douglas)

The world is about as ready to face a major famine now as when the Biblical Joseph warned Pharaoh to save grain for seven lean years ahead.

Global food reserves have hit their lowest level in two decades, though the number of hungry mouths has grown by half in that time. Spreading droughts and the energy crisis have conspired to negate the food production advances of the Green Revolution. New scientific and technological advances offer much promise of helping feed the world over the long run; but for the time being, only the closest sort of international cooperation and genuine philanthropy on the part of industrialized nations can possibly rebuild reserves enough to buffer shortages that are likely to develop throughout the Third World in the next couple of years. Judging from citizen reactions to other shortages, these are poor times to implore new sacrifices.

American agricultural wealth still holds the key. Out of some 1.2 billion tons of grain produced each year in the world (1972 figures), only about 90 million tons is free to move in international trade. Of that, 70 million tons comes from the United States. In the past, poorer nations have been able to draw upon American food resources in time of need; but rising affluence in Russia, Western Europe and Japan has steadily eroded this country's reserves of stored grain and now has boosted prices for new harvest surpluses above what developing nations can afford to pay. The energy crisis was the final straw. Faced with a balance-of-payments crisis over imported oil, America has pulled out all the stops—returning soil-bank land to active use, depleting reserves, removing planting restrictions—to increase production of the nation's most lucrative export item, food.

Indeed, the use of agricultural commodities as an instrument of foreign policy may become America's answer to the Arab "oil weapon." Already the "food weapon" has been wielded to show displeasure, if not open battle. Critical supplies of wheat were denied to the Chilean government under Marxist President Salvador Allende, even when it offered cash. Shipments were restored after Allende was overthrown. Foreign aid to India ended when that country fought the war with Pakistan that helped Bangladesh win independence. Meanwhile, what is left of the "Food for Peace," program, reduced to a fraction of its former levels, mainly benefits such militarily important countries as Vietnam, Cambodia, Korea and Pakistan.

Aside from the political implications, geographic concentration of excess grain production in the midwest regions of Canada and the United States holds another potential threat for Third World nutritional security. These "breadbasket" regions undergo regular cycles of drought—not related to the apparent overall change of global climate—and the next drought period, which might last five or six years, is due just about now. The last such period, during the 50's, wasn't so bad, but the one before that changed the region into the "Dust Bowl." Even a mild failure of the U.S. grain crop could spell disaster for millions of people on the other side of the globe.

Even if adequate international food reserves could be set up, however, evidence from the current famine regions of Africa suggests the present system of delivering emergency food aid is clumsy, at best, and that much more sophisticated understanding of basic human needs during a crisis is also required.

Too often, donating countries do not take into account local diet and tolerances when they send relief packages of food. Favorite items include cans of sweetened, condensed milk and mounds of powdered, skimmed milk. While such provisions might be appropriate for disaster relief involving Caucasians of Northern European descent, the majority of the world's people develop, early in life, an intolerance to the principal sugar in cow's milk, lactose. Not only does it do them no good, it can produce dehydration and diarrhea—the last thing one wants to happen to a person suffering from starvation. In many cultures, the only milk product consumed by adults is yogurt, which has a lower level of lactose, and to send massive shipments of whole milk to a famine-stricken people without first testing for lactose intolerance is a classic example of what one food expert calls "ethnic chauvinism."

As with so many other complex problems, early warning of famine is crucial, but governments are often reticent to admit the need for emergency provisions until a crisis can no longer be hidden. In Ethiopia, for example, where 90 percent of the 25 million inhabitants live by subsistence farming, rainfall and harvests have been failing for eight years. The first government call for help did not come until April 1973, with the start of international emergency aid delayed until October. By the beginning of this year relief teams from half a dozen nations were working in refugee camps, but these serve only an estimated one percent of the affected population. Meanwhile, in stricken rural areas, stock losses are estimated at 80 percent, and human deaths have been variously counted at 50,000 to 100,000.

In order to face the short-term developing crisis, some international substitute for the lost U.S. grain reserves must be found immediately. Just as the American dollar can no longer singlehandedly provide the basis of Western economic development, so can American agricultural surplus no longer remain the "granary of last resort." But new stocks will cost billions of dollars to purchase and hundreds of millions to store. A meeting to discuss these matters is scheduled for Rome in November, with full American support already pledged. But that would come too late to help if the monsoons fail again in Asia and Africa.

Long-term prospects are considerably more promising, assuming the eventual control of population, support for new research and a willingness to adopt somewhat modified lifestyles. The necessary goal, according to the United Nations Food and Agricultural Organization, is to increase the rate of food production growth from 2.6 percent a year to 3.7 percent. Otherwise, demand will continue to grow faster than supplies, with the projected "food gap" amounting to $43 billion (constant 1962 dollars) by 1985. Some new land can be opened—Brazil, for example, has the potential for becoming a major soybean exporter—but for the most part, the world's arable land is already being used for farming, and urbanization is slowly chewing up the available land in many areas. Damming and irrigation, too, have nearly reached their limits, with the accompanying ecological costs mounting in each new project. The sea has shown herself far frailer than originally expected, with many species of commercial fish already overcaught. If greater food productivity is to be found, qualitatively different ways of seeking it must be tried.

Several recent experiments have provided new ideas for increasing the supply of plant food. The almost magical ability of legumes (peas, beans, and so forth) to create their own fertilizer and enrich the surrounding soil as they grow comes from a symbiotic relationship with nitrogen-fixing bacteria. Now these bacteria have been successfully transferred to some nonlegume plants, and direct nitrogen fixation into soil has also apparently been tried successfully with other bacteria. Certain tropical grasses have been found that use a special type of photosynthesis to produce yields nearly three times greater than their temperate zone counterparts. Totally artificial, "test-tube" photosynthesis is also being tried and a couple of pilot plants to grow high protein microorganisms on oil are in operation.

Animals are more difficult to manipulate. No way has yet been found to increase cattle yield above one calf per cow, but cloning might someday enable farmers in remote parts of the world to implant embryos of the most productive beef strains into hardy, local cows. Several new animals are being considered for potential meat value. Local varieties of deer in Africa and a huge rodent, the capybara, of South America could supply good tasting meat.

Exploited in new, imaginative ways, the sea could still have vast untapped resources to offer. Fish farming goes back to Greek and Roman times, and Aristotle wrote about raising oysters. In its latest incarnation, harvesting the oceans involves raising nutrients that have settled to the bottom up to shallow lagoons to feed shellfish, while generating electricity using the bottom water's lower temperature (SN: 4/13/74, p. 242). Mussels can be grown on ropes, increasing their yield per acre and make harvesting easier. Inland, trout-ponds are becoming popular in some parts of the western United States, and catfish ponds, in the South.

Both the National Academy of Sciences and the National Science Foundation have launched major programs aimed at studying world food problems and establishing new technologies to meet expanding needs. The Academy is especially interested in finding new data to confirm or dispute the evidence that the global climate is changing. Both studies will investigate the associated problems of economics and population growth, as well as shortages of food and other vital commodities. The desirability of continuing to increase the energy intensity of agriculture must also eventually be considered.

But the issue is finally a moral one: Will the United States and other industrialized countries be willing to cut back on meat consumption to free grain for the world's poor? Famines in some areas, like the Sahel, have little direct effect on daily American life; but one in India would surely lead to some sort of armed confrontation, into which the United States seems always to be drawn. New Arab wealth must also be considered, for a rising standard of living in the Middle East will exert additional pressure on prices of food, particularly rice.

Already the national secretary of the National Farmers Union has told a Senate subcommittee, "Many farmers view permanent scarcity of food as a goal that would be appropriate to their self interest." We may soon find out whether this is also the attitude of the American people as a whole. Will the citizens of the Middle East and of the Western industrial countries accept the necessary sacrifices when they come, or will they, as C. P. Snow predicted long ago, sit and watch on the evening news million of people dying of starvation, somewhere else?

A NORTH CAROLINA SURVEY

Mr. BUCKLEY. Mr. President, there has been a great outpouring of criticism, especially in recent months, suggesting that public respect for Members of Congress has reached a nadir, and that we have lost the confidence of the people we represent because of the political scandals here in Washington.

A recent poll in North Carolina should give us pause to reflect upon these sweeping generalizations. When asked, "What living man or woman, now in political life or formerly in political life—Federal, State, or local—is in your opinion North Carolina's most honest political leader?" the people of North Carolina chose, in overwhelming numbers, Democratic Senator SAM J. ERVIN, JR., and Republican Senator JESSE HELMS.

Mr. President, I applaud the citizens of the great State of North Carolina in their sound judgment, and I congratulate my esteemed colleagues from North Carolina. We are witness to their honesty and integrity, and we are privileged to serve with them.

AFL–CIO SUPPORTS PRUDENT DEFENSE PROGRAM

Mr. JACKSON. Mr. President, as the Senate continues its consideration of the military authorization legislation, I would like to call my colleagues' attention to a useful analysis of the question printed in the June 8, 1974 issue of the AFL–CIO News. The article, by President Meany of the AFL–CIO, stresses the need to maintain a credible defense posture in today's uncertain world. As President Meany points out:

> There are no good alternatives to a strong defense. We have already made considerable cutbacks in the size of our armed forces in the last five years. Cutting the fat out of the defense budget is one thing; cutting into the muscle is something else.

For many years, Mr. President, George Meany and the AFL–CIO have been strong and reliable supporters of enlightened, steady internationalist foreign policies. George Meany has recognized the relationship between a credible American defense posture on the one hand and international stability and a humane environment on the other. The cause of liberal internationalism has never had a firmer and more consistent friend than George Meany.

Mr. President, I ask unanimous consent that the full text of Mr. Meany's article be printed in the RECORD.

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

[From the AFL–CIO News, June 8, 1974]

HOW MUCH IS ENOUGH?—FURTHER DEFENSE BUDGET CUTS IMPRUDENT IN UNCERTAIN WORLD

(An article by President George Meany, AFL–CIO)

The war in Vietnam is over—at least for Americans. The guns have been stilled in the Middle East—at least for the moment. The President and his Secretary of State hop from continent to continent, mixing international diplomacy with domestic politics. Commissars and capitalists exchange bright smiles and drink vodka toasts to new vistas of trade. Detente is the order of the day.

Against this background, the nation enters another round in the perennial debate on national defense spending.

How much is enough? How much is too much?

For some critics of defense spending, the answers are easy. Enough is less than what we have. Let's lop 20 percent off the defense budget—or 10 percent or 40 percent.

The trouble with this meat-ax approach is that it merely reflects a feeling that we are spending too much; it does not tell us what our needs are. Most of the critics would not accept the same approach to education. They would want to know what was being cut—how many books, how many teachers, how many classes. Certainly, that's the way labor would look at it.

So it is with defense spending. We want to know the facts. How much are we spending? What are we getting for it? And what do we need?

The Secretary of Defense has presented a budget request to the Congress for the coming year that amounts to $96.2 billion. That's a pretty big budget, even allowing for the customary reductions that the Congress will almost certainly impose. Only one other department of the government has a bigger budget: the Department of Health, Education and Welfare, whose proposed budget for next year is over $110 billion.

But as any good trade unionist knows, especially at the collective bargaining table, dollars-and-cents figures can be misleading. You also need to know how the pie is being sliced.

The fact is that since 1968 we have greatly reduced the share of our resources going to national defense. And consequently, according to the Annual Report of the Secretary of Defense, we have fewer divisions, fewer ships and fewer aircraft than at any time since the Korean War.

Why, then, is the defense budget so high? After all, $96 billion is not peanuts—even after allowing for the likely Congressional whittling.

The answer is simple and comes as no surprise to working people: Inflation. And pay raises. These two things account for about all the increases in the defense budget since 1968.

Not much needs to be said here about inflation. The AFL–CIO has made clear its criticisms of the economic policies of the Nixon Administration, which we believe have contributed substantially to the problem of inflation. But we do not strike a blow against inflation by pretending it does not exist, particularly in figuring defense costs. We ought not to be playing bookkeeping games with national security.

As for the pay increases—no good trade unionist can object to this. Even less, it seems to us, can objections be raised by those who argued so vociferously for a volunteer army. Their opposition to the draft may well have been motivated, in part, by an opposition to our Vietnam policies or to the military itself. But the fact remains that if volunteers are to be attracted to our armed services, they must pay better wages—wages comparable to those in the civilian sector. And it does not seem likely that we will soon be returning to conscription.

The next question, then, is: what are we getting for our money?

A few years ago we had more than 16 Army and four Marine divisions, almost 1,000 ships, and 25 USAF air wings. Today we have 13 Army and three Marine divisions, only 500 ships, and 22 USAF air wings. We have also reduced the number of servicemen and women by more than 1 million from the peak of 3.6 million during the Vietnam War.

In other words, despite increasing dollars-and-cents spending, we have reduced the size of our conventional defense forces. Should we reduce them further?

Only if we want to increase our reliance on The Bomb. For without the flexibility of response afforded by conventional weapons, we would be pushed more and more into situations where we would have to chose between diplomatic capitulation or pressing the button. Ironically, therefore, defense spending cuts motivated by the most peaceful intentions could lead us back to the doctrine of massive retaliation.

Especially now that the Soviets have got a nuclear arsenal that is about equal to our own, we must make sure that our Army, Navy, Marine Corps, and Air Force have adequate means to defend our interests without necessarily relying on nuclear weapons. In particular, this means having adequate military forces in Western Europe to support our NATO Allies in the effort to deter any Soviet or Warsaw Pact military actions.

Some ask: why don't the Europeans carry the burden of defending Western Europe from the Soviets? Well, in fairness, they *do* carry much of the burden. Some of our European allies have increased their contribution to NATO. Our NATO Allies, for example, provide 90 percent of the personnel, 80 percent of the ships, and 75 percent of the airplanes deployed in Europe. And since 1970, the defense spending of our Allies has increased more than 40 percent—while the amount we spend for NATO has increased only one percent. So our friends are doing a lot more than they are often given credit for. While they could perhaps do more, it is wrong to say—as many have been saying—that the United States has been doing the job of defending Europe for 25 years by itself.

But this raises another question. Are the Soviets really a threat? As far as we in the AFL–CIO are concerned, the answer is an unequivocal yes.

The detente delirium which has seized so many American opinion-molders never stopped the Russians from rushing arms to the Arabs during the Yom Kippur war, or from urging other Arab nations to enter the fray, or from encouraging the Arab oil boycott. Nor did it stop Mr. Brezhnev from sending President Nixon a harsh note threatening to send Soviet troops to the Middle East.

Are these the actions of a government interested in achieving a stable world peace?

In the military field, despite their declared interest in better US-USSR relations, the Soviets continue a vigorous military effort. The facts are that Soviet defense budgets have been growing steadily year by year. New men have added to the Soviet armed forces, and Soviet forces now number about 3.8 million—a million-and-a-half more than we have.

We are also seeing considerable growth in Soviet strategic forces—ICBMs. Each of these is larger—three are a great deal larger—than the missiles the Russians now have. We stopped building new missiles some years ago, and already have considerably fewer ICBMs than the USSR. Overall, the Soviets now have a strategic force that is about equivalent to ours.

What are the Soviet Union's intentions? Are they seeking superiority?

The United States can never accept military inferiority to the Soviet Union. Yet this may be precisely what the Russians hope to achieve in the next round of SALT. The message in the Defense budget this year should set them straight. The budget includes a number of new missile research and development programs which, if carried out, would forestall any possibility of the Soviets achieving superiority.

To sum up, then, there are no good alternatives to a strong defense. We have already made considerable cut-backs in the size of our armed forces in the last five years. Cutting the fat out of the defense budget is one thing; cutting into the muscle is something else. Further cuts, in our opinion, would be imprudent.

There is no doubt that the best way to limit our future defense requirements is through equitable negotiations with our adversaries. But until these are achieved—and American military weakness will not bring them closer—we must continue to provide whatever is necessary to ensure a free world for our generation and all future generations of Americans.

President John F. Kennedy, in his inaugural address, said it well:

"Only when our arms are sufficient beyond doubt can we be certain beyond doubt that they will never be employed."

EXTENSION OF PRICE-ANDERSON SHOULD AWAIT REACTOR SAFETY STUDY CONCLUSIONS

Mr. HUMPHREY. Mr. President, along with Senator WALTER F. MONDALE and 19 of my colleagues, I am urging the Joint Committee on Atomic Energy to postpone consideration of the Price-Anderson Nuclear Indemnity Act, H.R. 14408, which is scheduled for consideration by the committee today at 2 p.m.

We want to delay action on the Price-Anderson Act until the release, later this year, of the Rasmussen report on reactor safety. According to the Atomic Energy Commission, this $2 billion study is the most complete exploration of nuclear safety to date. The Rasmussen analysis has a direct impact upon the damage limits set by the Price-Anderson Act for nuclear accidents.

Dr. Norman Rasmussen, the distinguished nuclear scientist from MIT and author of the report, testified on May 16 of this year that, "the reactor safety study may shed more light on this matter," that is, the question of the nuclear damage limit set in Price-Anderson.

The private nuclear power industry has asked the joint committee to extend the Price-Anderson Act now to avoid "unwarranted disruption" in the planning and development of new nuclear powerplants. It seems to me, and to my colleagues who have signed the letter, that the delay of a few months will not seriously hinder the nuclear power industry.

We have 3 years before the Price-Anderson Act expires and there is sufficient time to permit a thorough consideration of the act by the public and other governmental agencies. Because the Rasmussen report documents nuclear safety so completely, it seems only reasonable that the Joint Committee wait a few more months to use it in their revision of the Price-Anderson Act. Especially in this time of great concern over excessive secrecy in Government, the entire area of nuclear safety deserves extensive public consideration by all interested parties before the Price-Anderson Act is extended. We are urging the Joint Committee to hold off on its decision on extending the damage limit on nuclear accidents until the Rasmussen report is thoroughly reviewed by Congress.

Mr. President, in order that my colleagues in the Senate are able to know more of the background of this case, I ask unanimous consent that the letter to the chairman and members of the Joint Committee on Atomic Energy be printed at this point in the RECORD.

Mr. President, I also ask unanimous consent that a Washington-Post article by Mr. Austin Scott on the Price-Anderson Act extension also be printed in the RECORD.

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

JUNE 10, 1974.

DEAR CHAIRMAN AND MEMBERS OF THE JOINT COMMITTEE ON ATOMIC ENERGY: Recently, the Joint Committee on Atomic Energy completed hearings on the extension of the Price-Anderson Nuclear Indemnity Act and moved to mark up a bill that would extend the Act to 1987, with certain modifications. While it is entirely within the purview of the Committee to report this bill, we urge that you postpone consideration until after the release of the draft of the Rasmussen Report, which is scheduled for July, and until adequate time has been provided to study the results of this report. In light of the fact that the current Price-Anderson Act still has more than three years to run—until August, 1977—we do not think that such a postponement would be against the national interest, or detrimental to the nuclear power industry.

In announcing the existence of the Rasmussen study on June 27, 1973, the Atomic Energy Commission said that this study will provide a "realistic assessment" and "a more precise quantification of the probabilities and implications of nuclear accidents." As you know, this study, compiled at a cost of over $2 million, will look at the probabilities and consequences of potential accidents at nuclear power plants. Thus, it will examine the rationale behind any new Price-Anderson legislation. Indeed, witnesses for the AEC have referred to preliminary conclusions of the Report in testifying for a slightly modified extension of the Price-Anderson Act. This testimony, we feel, is not enough disclosure for the Congress to make an informed decision. There is a paucity of reliable information regarding the risks of nuclear accidents and the potential consequences of such accidents. Studies previously endorsed by the AEC are now repudiated by the Commission as technically naive, or based on incorrect assumptions. Although we do not necessarily agree with this conclusion, the imminent release of the Rasmussen Report is the most up-to-date attempt to provide a means by which the Congress can examine the potential damage from a catastrophic nuclear power plant accident and the probability of such an accident. It seems eminently reasonable that the results of this Report should be used in fashioning new legislation regulating nuclear insurance and indemnity.

It is for these reasons that we urge the Committee to postpone reporting out a renewal of the Price-Anderson Act. We feel that time should be allowed to consider the relationship between the results of the Rasmussen Report and new Price-Anderson legislation. A comment period of 60–90 days and new hearings on the results of the Report as they affect this legislation seem to be indicated. Such a delay can only further the protection of the public. It will provide a more informed analysis of the very questions the Price-Anderson Act attempts to address, and it may clear some of the mist clouding this very complex issue.

Much of the impetus for such an early renewal has come from those who fear that delay will cause uncertainty in the industry and may hinder some plans to go nuclear. However, we think that adequately protecting the public in the event of a nuclear accident is a paramount concern and that all available information should be studied before passing such important legislation.

For these reasons, then, we urge you *not* to report out at this time a bill which would extend the Price-Anderson Nuclear Indemnity Act.

Sincerely,

Hubert H. Humphrey, George McGovern, William D. Hathaway, Dick Clark, Mike Gravel, Lee Metcalf, Edward W. Brooke, Floyd K. Haskell, William Proxmire, Howard M. Metzenbaum, Walter F. Mondale, Richard S. Schweiker, Charles McC. Mathias, Jr., Mark O. Hatfield, Philip A. Hart, Frank E. Moss, Joseph R. Biden, William V. Roth, Jr., Jacob K. Javits, Abraham A. Ribicoff.

[From the WASHINGTON POST, June 11, 1974]

HILL UNIT TO TAKE UP A-PLANT SAFETY

(By Austin Scott)

In what looks to opponents like unseemly haste, the Joint Committee on Atomic Energy has scheduled a closed meeting today to consider a growing controversy in the future of nuclear power plants.

It's an unusual meeting because the committee wants to take a regulatory act that doesn't expire until 1977 and extend it until 1997. The nuclear power industry and the Atomic Energy Commission asked for the extension, but groups that question the safety of proliferating nuclear power plants are crying foul.

At issue is a bill that extends, in modified form, a limit on the damages paid to those hurt by a "catastrophic nuclear incident" in a power plant.

Congress set the limit at $560 million in 1957. It's still at that figure now, even though nuclear plants are larger, and located much closer to population centers.

"That sounds like a lot until it is placed against the potential multibillion-dollar losses which a nuclear accident could cause," said former Pennsylvania Insurance Commissioner Herbert Denenberg during hearings on the subject last August.

"Based on figures in the latest report of the AEC, if an individual lost a $25,000 home and it was a total loss, he might recover as little as $50 . . . so sharp are the limits imposed by Congress to protect the utilities."

The committee decision on extending the damage limit would come one month before scheduled completion of a $2 million AEC study on just how safe reactors are—what are the chances for a disaster, and what might be the probable consequences.

Dr. Norman Rasmussen, the MIT scientist in charge of the study, told the committee in May that his study "may shed more light" on the damage limit question.

Ann Roosevelt, legislative director of "Friends of the Earth," which opposes the bill, said she thinks the committee is rushing because five members favorable to the industry are retiring from Congress.

The present committee does strongly support an expanded nuclear power industry, while a probable restructuring next year may well leave it less oriented in that direction.

The $560 million ceiling on damages was instituted in 1957 to help a fledgling nuclear power industry get started at a time when no private insurance carrier would think of selling a power company nuclear disaster coverage.

The bill being considered by the joint committee would eventually raise that ceiling, although nobody knows exactly when or how much. The bill leaves those decisions up to the AEC through a complicated system of levying a $2 million to $5 million assessment on each nuclear plant, and placing those pay-

ments—on paper, not in cash—into an insurance pool for disaster payments.

The damage ceiling would stay at $560 million until enough nuclear plants had been built, and enough assessments levied, for the insurance pool to reach $560 million. At that point, more plants and more assessments would raise the ceiling.

There are 44 operating nuclear power plants in the country today. Experts hope for around 1,000 by the year 2000.

The insurance extension might not have become so controversial had not an energy crisis pushed nuclear power into the spotlight as an alternative to oil.

Denenberg said the result has been ". . . a rapid headlong plunge into the largely untested waters of nuclear electric power generation.

He estimated that nuclear power production in Pennsylvania alone will increase "an unbelievable 3,600 per cent over just the next two years.

"Once these first steps have been taken, we may be beyond the point of no return," he said. "Economics and momentum may move us beyond the point of rational discussion and decision. We may be forced to live with the risks without ever having given them full and open consideration."

The nuclear power industry asked for the extension to avoid what it called "unwarranted disruption" in planning new nuclear plants. It testified that it had to know what Congress intended to do about the damage limit.

MIT's Rasmussen testified in May that he saw "no reason for changing the current $560 million limit."

The kinds of reactor accidents most likely to occur would have consequences ". . . no worse than many other kinds of accidents such as fires and airplane crashes . . ." he said, adding:

"While it is possible there may be nuclear accidents with more severe consequences, so there are accidents possible in many other industries that go beyond the levels of insurance obtainable."

Rasmussen also commented, "It should thus be clear that even if a reactor accident were to occur that caused significant property damage, the savings in cost of electricity due to use of nuclear power combined with the low likelihood of such an accident indicates that the property damage costs would not represent a large burden on our economy."

Opponents of the bill argue that if power companies are convinced that nuclear plants are safe, they ought to back up their convictions by bearing the insurance burden themselves, with no ceilings, and no federal subsidies.

Their prime ammunition is an internal report the AEC completed last October, but would not make public until a copy leaked into the hands of the Union of Concerned Scientists.

In the version the AEC did make public, some of the findings had been toned down. The AEC, when challenged on reactor safety, points out that there has never been a major power plant disaster. The unexpurgated version of the AEC report notes, however:

"The paradox is, in some cases, freedom from accidents does not necessarily demonstrate a sufficiently low level of risk. This is especially true in an emerging technology where in a broad base of satisfactory operating history has not been established."

Another key section often cited by opponents notes a "large number" of abnormal occurrences," some 850, reported at 30 reactors between Jan. 1, 1972, and May 30, 1973.

Forty per cent of those, it said, were "traceable to some extent to design and/or fabrication-related deficiencies," while the rest were caused by human error, random failure, or both.

"The large number . . . coupled with the fact that many of them had real safety significance, were generic in nature, and were not identified during the normal design, fabrication, erection, and pre-operational testing phases, raises a serious question regarding the current review and inspection practices," the section says.

The AEC has said the probability of a major reactor disaster is less than one chance in a million.

The task force that put together the October report said, however, that while it thinks the chance of a major accident is "acceptably small," it does not think the recent operating history of reactors gives "the required confidence level that the probability . . . is one in a million or less . . ."

PROTECTING THE CHESAPEAKE BAY

Mr. MATHIAS. Mr. President, last year with the help and participation of many Marylanders, I undertook an inspection tour of the Chesapeake Bay. Further information on the bay was gathered through detailed questionnaires to public officials and private citizens concerned with the bay. My efforts were prompted by a deep concern that more needed to be done to safeguard this great natural resource. I plan to issue a detailed report on the bay in the near future and at that time I will detail the significant problem areas I see and propose changes in how we manage our bay resources.

One problem in the past has been the lack of meaningful communication and debate on bay issues. For this reason, I was very pleased that the Washington Star-News recently provided us with an excellent four part overview of the Chesapeake.

I ask unanimous consent that these articles by Woody West, appearing in the Star-News from June 3 to June 6, be printed in the RECORD.

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

BAY FIGHTS FOR LIFE WHILE WE JUST FIGHT—I

(This is the first of a four-part series on the Chesapeake Bay, the forces which threaten it and its future relative to the millions of people in this area who depend upon it for work and pleasure. Today: The mounting human and natural pressures on the Bay.)

(By Woody West)

"Heaven and earth never agreed better to frame a place for man's habitation," wrote Capt. John Smith after his explorations of the Chesapeake Bay in 1607 and 1608.

"Here are mountains, hills, plaines, valleys, rivers and brookes, all running most pleasantly into a faire Bay," wrote Smith, "compassed but for the mouth, with fruitful and delightsome land."

More than 350 years after Capt. Smith and his few companions pushed out from Jamestown to learn what they could of this entrancing new land, his description yet applies.

It is a "faire Bay" and a "delightsome land," though the millions who followed Smith have gouged and fashioned the land and water to their own purposes, as to those of us—more than 8 million people—who have settled around the Bay and along its twisting tributaries.

The Chesapeake and its land have, in the main, tolerated man's intrusions and perturbations. Even more, the Bay has lent itself to man's diverse purposes and visions.

But it cannot continue to do so indefinitely. The Chesapeake Bay is not a fragile natural system, but it is sensitive.

It is time now—critically so, say those who study the Bay and its awesome sweep—for the decisions to be made that will determine how this massive resource will be used—or abused—in future decades.

Dr. L. Eugene Cronin, director of the University of Maryland's Natural Resources Institute and a leading scientist in Bay affairs, in an interview called the Chesapeake the "crown jewel" of estuaries.

He and other prominent scientists are in agreement that the Bay today is, by and large, a healthy body. But it is increasingly apparent, they emphasize, that the demands which an elbow-to-elbow urban mass is making upon parts of the Bay and its tributaries are creating dangerous pressures.

These, if unchecked, sloppily managed or ill understood, have the potential to inflict major environmental damage on the Chesapeake and its well watered lands.

"There are sick spots, indications of trouble for the future," said Cronin, "but the Bay is very productive, still enormously valuable for all its principal users. All of it, in general, is in good shape today."

Dr. Donald W. Pritchard, for a quarter of a century the director of the respected Johns Hopkins University's Chesapeake Bay Institute, concurs. "Man's impact so far has been on the peripheral reaches of the Bay for the most part," he said. "The affected areas are small compared to the large expanses of the Bay."

Dr. William J. Hargis Jr., director of the Virginia Institute of Marine Science in Gloucester, observed, "The Bay proper, from Annapolis down, is not in bad shape and, even above, it's still in fairly decent shape. But there are significant problems in certain areas. The tributaries are in the worst condition."

Cronin, Pritchard and Hargis, considered to be among the most knowledgeable scientists and observers of the Bay, are not sanguine. There must be better management, based on more precise scientific data, and it must be put to work by those with responsibilities for controlling the wildly diverse uses. And both these functions must be supported by a public concern far more sophisticated than at present.

"Science and management," said Hargis, "are not keeping pace with the increase in pressures. Management is not supported adequately and just isn't able to respond to changing needs."

An intense man now in his 11th year as head of the Marine Science Institute, Hargis, like his colleagues, foresees a brighter chance for the Bay.

"There is more specific information about the Bay than ever before," he said. "There is probably more scientific effort under way than on any comparable body of water."

But Hargis wonders about what sort of headway he and his colleagues are making.

"We're farther upstream than we were," he said, "but we aren't gaining."

Both man and nature make formidable demands on the Chesapeake and its tributaries. It is a relationship of intricate interdependence, one far from fully understood. What is known, however, is that each benefit poses a compensatory difficulty.

Each day, 1,260 million gallons of water are taken from the system to provide a huge daily gulp of some 100 gallons per person.

The disposal of domestic wastes—by consensus, the most critical problem in the Bay area—requires extraordinary investment for treatment facilities that even in their technology produce changes that can affect the biota—the body of plant and animal life.

It takes no special alertness to see, and to smell, the noxious mats of blue-green algae that spread dismally across portions of the Potomac River and other Upper Bay

tributaries during the blistering months of summer. The exotic aquatic growths are abetted in their unnatural proliferation by high concentrations of nutrients in effluent.

The algae, in insidious progression, can smother other forms of life by monopolizing the supply of oxygen, leading, in extreme cases, to fish kills, for example. High bacterial counts, from inefficiently treated wastes, can have devastating effects on the harvest of shellfish. Thousands of acres in the bay tributaries now are barred for oyster and clam harvests.

Sedimentation illustrates a natural pressure that is heightened by man's activities. The runoff from the land is a wholly natural phenomenon, surface matter carried by rains and by winds to the water. Indeed, say geologists, even though men had never perched along the Bay, sedimentation and siltation from runoff would, in a matter of some centuries, have filled in the Chesapeake.

But man, bravely raising his proud structures with beaver energy, vastly aggravates the process. The Maryland Department of Natural Resources estimates that forested lands lose up to 100 tons of sediment per square mile each year. It is not uncommon, the agency goes on, for a typical suburban construction site to contribute as much as 200 tons of silt per year.

There are two results: Streams and inlets are constricted, often blocked. Witness Bladensburg and Port Tobacco in Maryland, which in colonial years, were bustling seaports. Today, their channels, filled with silt from lands hardly disturbed by man two centuries ago, are barely ports from small pleasure boats.

In addition, the runoff now includes baleful materials—pesticides from agricultural methods that have significantly increased yields per acre but that in concentration can be toxic to the environment. And the runoff from storm drainage in urban areas carries varieties of other chemicals and such high-bacteria elements as animal feces.

Add another complication: Seaborne commerce on the Bay, with the ports of Baltimore and Norfolk accounting for the bulk, is worth well over $100 million a year in iron and coal, petroleum and manufactured goods.

Clogging of shipping channels and of marinas must be combatted constantly if commerce is to be maintained at its high levels. What then is to be done with the spoilage and debris from dredging, containing as it does concentrations of heavy metals—copper and lead, zinc and mercury?

For years, much of the dredged waste was dumped promiscuously in nearby tidal areas—the vital wetlands. There, it would destroy the essential nursery and spawning areas for many species of fish and shellfish and destroy the vegetation that is a key link in the Bay's food chain.

Interest conflicts with interest, use with use.

Choices must be made, choices which will invariably infringe on others, each of which will be considered as the most necessary by one group or another.

There is a human tendency to look at a phenomenon as imposing as the Chesapeake Bay with a pinched perspective, reflecting the narrow vision of each individual's special interest.

To the boater, the Chesapeake represents one of the finest cruising grounds in this country. To the waterman, the Bay is a bountiful, if often perverse, treasure, supporting the second largest fishing industry in the country. To the suburban dweller, it is an opportunity to stretch his concrete-cramped soul.

To the industrialist, it is a highway of matchless convenience and strategic location, and to the sports fisherman—a boomingly popular species, spawned by the increase in leisure and the growth of affluence—the Chesapeake is a bonanza of striped bass and perch and bluefish, croaker and spot and flounder. To the developer, it is sites for waterfront villages and second-home communities.

These limited, if understandable, perspectives will not in isolation lend themselves to careful management of the Bay—on this there is unanimous agreement among scientists, conservationists, administrators, and specialists who seldom can find unanimity. Dr. Frank S. L. Williamson, director of the Smithsonian Institution's Chesapeake Bay Center for Environmental Studies in Edgewater, Md., gives a graphic possibility if the irrational overwhelms the reasoned.

"It's conceivable," he said, "that over the years the Bay could be reduced to a monoculture but still be as good as a major ship channel and a sink for wastes as it is now. And it might look as charming as it now does.

"People still haven't recognized that there's such a thing as a non-renewable resource."

IT IS TIME FOR DECISIONS IF BAY IS TO BE SAVED—II

(By Woody West)

Decade after decade, man has plumbed and fished, mined and farmed, used and consumed from the Chespeake Bay and its lands with hardly a hint that, at some distant day, a piper would require his wage.

Why has it been that only in the last few years that ecology and environmental integrity have become common topics for public discussion and debate? Dr. L. Eugene Cronin, director of the University of Maryland's Natural Resources Institute and a respected Bay scientist, offered a perspective.

"Only within decades, increasingly since World War II with the coming of big industry, big population, occurring almost simultaneously," he said, "have people started coming to the realization of the necessity of weighing costs and benefits."

"Until the 1940s, the general English base of law was dominant—you were permited to use air and water quite freely to dispose of waste unless it directly harmed others' health. Only in a short time, have we begun to say, 'Wait a minute, you've gone beyond your own backyard when you dump waste.' "

Even this limited consciousness, however, did not become conspicuous until the mid-to late 1960s when ecology became a symbol and rallying cry.

"The rhetorical surge was helpful in initially raising interest." Cronin said. "But beyond this, it can be harmful. I think the future of the Bay has to leave the realm of careless overstatement very quickly and there must be a bringing together of science, management and legislation—with the important addition that a very broad base of people retain interest and concern."

Dr. Donald W. Pritchard, for a quarter of a century the head of Johns Hopkins University's Chesapeake Bay Institute and now its senior scientist, said:

"We've lived in an age when we've had our cake and been able to eat it, too. We won't have that in the future. We've got to make some hard choices. To keep the Bay within some acceptable state—that's the decision and the time is now. At present, I think, 'acceptable' would certainly mean that it become no worse than it is now and, hopefully, a lot better."

The ruggedness of the Bay, its tenacious ability to sustain man's intrusions, has given those of us dependent upon it a grace period. If correct choices based on sufficient information and adequate compromise are made, these scientists feel, the Bay will continue to function with its historic richness. The Smithsonian's Dr. Frank S. L. Williamson hazards an estimate of this grace period at from "10 to 20 years, as a ballpark estimate."

Why, it may be asked, if the Chesapeake has been so immune to man for centuries, should there be a developing sense of urgency now?

The Back River is today regarded as little more than a "holding lagoon" for much of the treated effluent from Baltimore. The river is a shallow body almost choked with seasonal growths of exotic plants that no other form of life grazes on.

The Back River, even if reduced to little more than an appendage to a sewage plant, serves to prevent much of the enriched effluent from immediately flowing into the Bay proper and increasing the level of nutrient. But, at the same time, the water has lost much of its aesthetic and recreational utility.

"Who is going to make the decisions concerning the number of sub-estuaries we should preserve?" Williamson has asked. "These are vital parts of the Bay, remarks concerning the usefulness of the Back River as a nutrient trap that protects 'the Bay' notwithstanding.

"Who is going to make the decision about the upper level of nutrients that the entire system can tolerate?" he asked. "Perhaps we can only wait and see. It should not take very long."

Other major tributaries, if not in so advanced a state of deterioration as Back River, are in trouble. The Rappahannock, particularly around Fredericksburg, is showing significant pollution problems. The York, though now in comparatively good shape, is worsening, according to Dr. William J. Hargis, Jr., director of the Virginia Institute of Marine Science. Pressures also are increasing in the lower reaches of the York due both to population growth and industrial concentration.

The James River, Hargis said, probably is under more of these pressures than any tributary except the Susquehanna. Industry is a prime contributor. Yet portions of the James are in appreciably better condition now than a decade ago Hargis said.

The Potomac, from Washington downstream to Quantico, is also under enormous pressures, and water quality remains a problem. However, intensive efforts to upgrade the technology of handling human waste—the Potomac's main pollutant—and a broad array of scientific energy offer hope for significant gains.

Dr. Donald Lear, a biologist with the Federal Environmental Protection Agency, sees the possibility for reversal of the eutrophication—aging of a body of water in a process not unlike senility in the human being—that is "fairly pronounced" in the river around Washington now.

The current expansion of the Blue Plains treatment plant with the addition of some of the most advanced technology now available, he said, will offer the prospect of "a major reversal of eutrophication by control, which may be the first time this has been done by control, rather than by diverting the pollutants into another channel.

"It's well under way now," he said, with completion anticipated for the sophisticated system in three years.

Most scientists agree that the efforts to control waste disposal into the upper Potomac estuary look, indeed, promising. But there is another unknown for the Potomac and other tributaries where intense efforts are under way to upgrade technology and control techniques: Can the scientific efforts and technology keep pace with the demands that ever-growing population will create?

"The population increase has been faster than the increase in treatment systems," Dr. Cronin said, "so we don't even catch up to where we were. That's always a problem."

Another extensive set of potential problems is just now becoming conspicuous—the imminent use of the offshore areas for intensive exploitation. Recommendations already have been made to the federal government to permit drilling for oil and explora-

tion for other valuable minerals along the Eastern Seaboard.

A new generation of electrical generating plants may be sited in coastal waters. Huge offshore mooring points for ocean-going freighters also are being discussed widely.

The ramifications that such development could have for the Chesapeake Bay area are obvious.

"Maryland happens to own a very neat little cross-section off the coast and, if you extend it, it goes out to include the Baltimore Canyon, which is one of the sites for possible oil exploration," Cronin said. "But the uses we make of this area for intensive recreation, for very intensive preservation, for fisheries, for navigation, all need to be carefully assured."

"The scientific knowledge of the coastal region here is really primitive," he added. "We know general circulation, we know something about the commercial species because fishermen have been out there and we have data on what they've caught. The rest of the system is very, very poorly understood."

As scientists and administrators discuss the problems and pressures the Bay system faces, an inevitable term is "exponential"—increases by leaps and bounds, rather than a steady and consistent pace. It can be an intimidating process as graphically illustrated by Dr. Theodore Chamberlain of the Chesapeake Research Consortium.

"Take a lily pond," he says. "If you decided to increase the lilies, exponentially, it would take 30 days for the pond to be fully covered with lilies.

"But you might begin to ask what would be too many lilies for that pond. And this thought might occur to you on the day when the pond already has become half covered with lilies but that day on which it is half filled would, exponentially, be on the 29th day. In just one more day that pond would be totally covered. That's what exponential means," he says.

In many areas, such as waste-water treatment and population, that is the magnitude of the pressures on the Chesapeake. That "half-filled-with-lilies" point of decision is not clear, but it is approaching.

MAN AND NATURE IN A RACE AGAINST TIME—III

(By Woody West)

As the pressures from a frantically swelling urban population continue to multiply around the Chesapeake Bay and its tributaries, science has a focal role in determining the future of this extra-ordinary resource.

The present population of more than 8 million people—stretching from the Susquehanna River basin to Norfolk-Newport News—is projected to more than double, perhaps as soon as the end of the century.

There is apprehension among leading Bay scientists and administrators that the public, whose lethargy about environment has only begun to diminish in recent years, may decide to pass the word to the scientific community one of these days: Take care of the problem and do it on the double.

"If we can put a man on the moon, why can't we . . ." became a tedious chorus after the epochal Apollo flight.

But Dr. William J. Hargis Jr., director of the Virginia Institute of Marine Science, deflates that simplistic view as applied to the Bay.

"In the space program" he said, "they were dealing with hardware and predictables far beyond what can be done in the environment, in the Chesapeake.

"Public consciousness about the environment has not yet translated into providing the means to gain timely and essential data that is necessary to deal with many of these pressures on the Bay. And, remember, it always costs more to do studies under a deadline. In many of these areas you just can't rush. You're dealing with Mother Nature and, as the margarine ad says, she doesn't like to be trifled with." Hargis added.

A striking example of this complexity was provided in a key study for the National Science Foundation in 1972, which called for a mobilization and coalescence of research about the Chesapeake and its application to the needs of society.

Suppose, the study posited, that both Maryland and Virginia were to ban the use of selected pesticides. What could happen?

There would be gains: Cleaner water from reduced agricultural runoff, more sports fisheries, increased commercial fishing, and additional water recreation with related employment opportunities.

Then the study dropped the inevitable "on the other hand." There would be potential losses from the prohibition: Reduced agricultural yields, decline in vital poultry production caused by higher prices for feed grains, reduced employment in poultry processing, and increased consumer prices for poultry products.

So intricately interwoven are man and nature that the complexity of the problem grows. On the side of potential gains from the pesticide ban, the study reflected further, could come these questions: Given cleaner water, what would be the increased biological activity? If there were increased biological activity, what would be the effect on employment, on land values and use for sports and commercial fisheries, as well as for boating and recreation?

But the potential losses, too, would raise other questions: If the prohibition reduced agricultural yields, what new crop patterns might emerge and what effect could this have on employment? Given a reduced production of feed grains, would there follow a contraction of the poultry industry and in processing plants?

Finally, might these various potential changes, or a combination of them, have an impact on migration of people into or out of particular areas of Virginia and Maryland? Would potential gains require new schools, roads, hospitals or, on the contrary, stimulate pressures to abandon some of these facilities? Would changing employment create new demands for more skilled workers or more service workers?

The formidable chart of possibilities from one specific effect is a daunting example of what Johns Hopkins University's Dr. Donald W. Pritchard calls the fundamental precept of environmental research: "There are no simple answers."

Pritchard, Hargis and Dr. L. Eugene Cronin, director of the University of Maryland's Natural Resources Institute, have for decades constituted an influential triumverate in Bay scientific affairs. They no longer are lonesome.

The magnitude of scientific scurrying becomes apparent in the "Chesapeake Technical Conference and Chowder and Marching Society," a whimsically labeled creation of Dr. Donald W. Lear Jr. one of the Annapolis field office of the Environmental Protection Agency.

A few years back, Lear decided it would be helpful if all the institutions, agencies and private firms engaged in Chesapeake-related research were to meet informally each year to find out who was doing what and when. Some 40 representatives turned out for the first get together, appropriately held at a Southern Maryland crab house.

This year's session had a roll call of 51 groups, which ranged from the obvious governmental agencies and academic contingents to the Ichthyological Association from Delaware, the Martin-Marietta Corps., the the Westinghouse Ocean Research Laboratory and a consultant in phytoplankton taxonomy.

One of the first collective efforts was the Chesapeake Research Council. It is composed basically of Hargis, Cronin and Pritchard. It is, as Cronin says, "almost unstructured—it was organized on my back porch one afternoon when we decided we needed a mechanism for cooperative programs, to approach the Bay as the unified.

A more recent grouping, and potentially the most significant development on Chesapeake Bay thus far, is the Chesapeake Research Consortium. Its incorporation in 1972, as an umbrella administrative unit for much Bay research and as a conduit for a sizable wad of federal research dollars, embodies a major policy direction for environmental investigation and seeks to include the "managers" of the Chesapeake—the local, state and federal agencies that have a daily jurisdiction in Bay affairs.

Essentially, it provided the marching orders for much of the scientific energies available around the Chesapeake. Increasingly, the emphasis is toward what Pritchard calls "the early application of research results to the needs of society."

The still-young consortium has not been without growing pains, which its director, Dr. Theodore Chamberlain, describes as "highly sensitive." However, there is agreement among Bay observers that the consortium is an essential beginning toward cooperation, scientific and managerial, even if it is not the final mechanism.

The motivation of many researchers has been that of "pure" science, committed to rigorously pursuing a ktural phenomenon wherever it might lead. However a more pragmatic dictate to solve the Bay's environmental problems has encountered a degree of resistance from some of these investigators.

Another criticism of the still-young consortium at this stage is that it is not sufficiently broad-based, both in academic participants and sources of financing. The consortium's board of directors has set up a committee to study ways to enlarge both areas.

For now, however, the consortium remains the broadest-based and dominant group of its kind. Its director, Dr. Chamberlain, puts its aim this way:

"We're going to have to put a social value on everything we do. It's no longer possible to make statements about aspects of the system without doing this. Right now, there's what might be called a dynamic equilibrium in this entire area—everything's changing in every way."

Maryland's Coulter, whose Natural Resources Department has major responsibilities for the state's portion of the Bay, feels the consortium "has the potential to be the best thing that has yet come down the pike. For the first time, the major institutions of science and government are talking, planning with each other. We're over the hump of bringing these competing organizations together."

It is coordinating, for instance, a massive study of waste-water disposal, the most critical development pressure on the Chesapeake and its tributaries. Another current study involves minute investigation of the fragile wetlands and shorelines of the Bay area—over 8,500 miles of sensitive shoreline buffeted both by man and weather.

Concurrently, the various institutions are continuing their own studies—on the life cycle and culture of the valuable oyster and marketing processes; on the effects of heavy metals—zinc and lead, copper and mercury—on studies of parasites and exotic forms of aquatic plant life; on spawning grounds and migratory patterns of Bay species; on nutrient loading, spoil disposal from dredging, tides and currents, sediment control, pesticides and biocides.

Much of this diverse scientific engineering information, as well as socio-economic aspects of the Bay area, now is being collated by the Army Corps of Engineers in what will be the first comprehensive inven-

tory of such data. This "existing conditions" study will be followed by a "future conditions" report, projecting what can be expected to happen on the Bay in coming years.

The "existing conditions" study, a massive compilation, has taken nearly five years.

Part of the congressional directive under which the Corps is working is a sophiscated by hydraulic model of the Chesapeake, a 14-acre shelter for which is now being completed at Mattapeake on Kent Island just east of the twin Bay Bridge.

That model will duplicate in miniature the physical properties of the Bay, tides and currents, tributary flows, and salinity levels so that an event—the onslaught of a Tropical Storm Agnes, for instance—can be simulated in the device to indicate what results will follow. It will be able in three days to process a year's accumulation of data, Corps spokesmen say, and thus permit a speedy calculation of the effects of a major storm's effects.

But beyond the present mechanisms and those institutions attempting to act as catalysts to preserve the Bay, there should be some more formal, more potent structure, according to many scientists and administrators who are thinking of, perhaps, a semi-autonomous bi-state agency.

Maryland's Cronin said, "I've hoped for many years that the two states can find an effective way for bi-state action, based on aggressive and positive action and supplemented by the federal government, to approach and to manage the Bay as the single unit it is—the single physical, chemical, biological and environment entity that it obviously is."

He added, though, that he had seen no effective movement by Maryland and Virginia toward that concept."

Discussion of such a regional governing body has bobbed about the Bay for half a dozen years, inconclusively. A Chesapeake Bay Compact has been discussed but, so far, has met with reluctance at key points.

The most recent wave in this direction came in April when Rep. Robert E. Bauman, a Republican from Maryland's Eastern Shore, introduced legislation to permit formation of such an inter-state agency. Bauman was joined by 16 colleagues from the Bay states and Delaware.

So there it stands—a vast store of scientific energies and capabilities, a mountain of often conflicting interests, and a groping attempt to bring these vital functions into something approaching a unified whole. It is a race against time.

IT'S NOT TOO LATE TO SAVE BAY FROM DISASTER—IV

(By Woody West)

Virginia and Maryland both look on the sweep of Chesapeake Bay with an intense proprietary gaze. Yet there is at least one philosophical difference in the perspectives of the two states that will be significant in the future of the massive waterway.

"For the longest time, the Virginia government's general philosophy has been to remove itself from a great deal of involvement in local affairs, very much the Jeffersonian concept," observed Robert S. DeMauri, chief of Virginia's office of environmental services.

One result of this, in the Old Dominion, was that Virginia was the last Middle Atlantic state, for example, to pass a law to protect vital wetlands and marshes, the spawning ground and nursery of so many species of the Bay country's animal and plant life.

When it was passed, in 1972, it was not without strong opposition from local officials, and the statute is generally held to be a less rigorous law than Maryland's or Delaware's.

Said DeMauri, "The traditional criterion was simply the dollar value. We used to look at wetlands as waste and the quicker you could fill them in the better. But we're turning now to thinking of their productive value and it is involving quite a process of change."

DeMauri notes that there still is a prevalent attitude in Tidewater Virginia and the more rural counties generally that profoundly resents governmental efforts to manage the environment. "There's still a lot of the feeling that 'I own my land, and I'll do what I please with it,'" he says.

That fierce possessiveness is not absent in Maryland but it has not posed as bumpy an obstacle to a flurry of environmental legislation in the last five years—"an impressive body of law," in the view of Dr. L. Eugene Cronin, director of the University of Maryland's Natural Resources institute and one of the most respected Bay scientists.

In 1970, the Maryland General Assembly enacted its wetlands law after an eruption of concern over the thousands of acres that were being filled in, bulk-headed, and destroyed for agricultural use as well as for recreation and development.

That was followed by laws to control sedimentation and erosion and a powerplant siting law that is considered one of the most progressive in the nation. This law, which will be a major influence on where nuclear-powered generating plants will be built around the Maryland portion of the Bay, also levies a surcharge on the utility companies that is earmarked for research in environmental effects.

Geography and history account in part for this disparity in state action. Dr. William J. Hargis Jr., director of the Virginia Institute of Marine Science in Gloucester, Va., notes that only about 30 of the state's 100 counties are intimately affected by the Bay and its tributaries.

"We're still more land than water-oriented," he says. "The thrust has continued toward the west in Virginia in that historical expansion that started in 1607."

There is ambiguity among scientists, conservationists and administrators around the Bay over the level of public consciousness.

"Mostly now," a government biologist said, "it's the 'bird and bunny' people, those active amateurs who join the groups and go to meetings and carry the brunt of the so-called citizen effort. They're good folks, but they're only a drop in the bucket of what's going to be essential for sound policy to come out of the legislatures."

A part of the difficulty in developing a sophisticated and effective public consciousness and action is one heard repeatedly: Mass urban living, high-rises obscuring horizon and concrete-blunting perception contribute to indifference or equanimity.

A sense of history and heritage is essential to develop the will to preserve and conserve.

There is a place, close to Washington, which is surpassingly conducive to this sense of time and place, past and present, man and Nature in a semblance of balance. Middleham Chapel sits on a gentle rise just off Route 4 in Calvert County about midway between Prince Frederick and Solomons.

"Founded in 1684 as a chapel of ease in Christ Church Parish and named for Middleham, Yorkshire, England," reads the gray historical marker at roadside.

"The site has been used for worship since the founding but the chapel was rebuilt in 1748. The bell, given by John Holdsworth, is dated 1699."

Dump trucks pound by the small chapel. Traffic is not heavy, by Washington standards, but Route 4 is the spinal column of the Southern Maryland county, and a stream of cars and pickups add their pistoned rumble to the flow of trucks.

Some of the headstones, small and unpretentious, that surround the steep-roofed chapel are as new as this decade. Others are nearly as old as the first tide of settlement in America. Wind, rain, the battering of years have obliterated inscription from many of the old markers but a finger still can trace 17th century memorials and many more from the 18th century. They are scattered among pines and some of the newer headstones are adorned with bouquets.

Family plots bear names synonymous with the history of Calvert County; Parran and Tall, Grover, Sollers, Somervell, Gray and Hunt and Tongue, a physical band across the generations.

Over the door of the chapel, inset in gray brick among the red, is the date of the "new" chapel—1748—the proud signature of long-dead artisans.

Inside, a marble plaque on the south wall reads: "Near this place lieth the body of Mr. Alexander Parran, son and heir of John Parran of Baynton in the County of Oxon in England, Esq., who departed this life ye 30th day of Mary 1729, aged 52 years."

Black-bound hymnals are in the pews, used last Sunday, to be used again by descendants of Mr. Alexander Parran, Esq. A meeting of the Young Episcopal Churchmen is announced in the Chapel bulletin on a recent day, as well as a note that the Rector's Aid Society will be sponsoring a card party, 7:30 to 10:30 p.m., bridge and canasta.

A few miles south of the small chapel, with its poignant mixture of yesterday and today, workmen are swarming around the towering structure that this fall will be generating, by nuclear power, streams of electricity from Calvert Cliffs.

It can be argued that our ability to comprehend the link from Capt. John Smith's "fruitful and delightsome" land to the fission at Calvert Cliffs may be essential for the future of Chesapeake Bay, that will avoid the extreme possibility that it becomes little more than a waste sink for society's detritus.

Dr. Donald W. Pritchard, for a quarter of a century the director of the Chesapeake Bay Institute at Johns Hopkins University and now the institute's senior scientist, says: "We've lived in a time when we've had our cake and been able to eat it, too. We won't have that in the future."

There remains time, scientists feel, for social, political and environmental decisions to be made that will help to insure that the diverse and valuable resources of Chespeake Bay can be protected from the avalanche of pressures that daily are growing around it. The Bay's resilience has provided that margin but, says one scientist, "We can be complacent only at our peril."

George Santayana, in "Character and Opinion in the United States," eloquently warned: "You may disregard your environment, you cannot escape it; and your disregard of it will bring you moral impoverishment and some day unpleasant surprises."

DIVESTITURE OF THE MEAT-PACKING INDUSTRY

Mr. ABOUREZK. Mr. President, the supporters of the major oil companies have espoused the argument that divesting these companies of their ownership of more than one sector of the oil industry and of their holdings in competitive energy resources, such as, coal oil shale, uranium, and geothermal steam, would be precipitous and would cause economic chaos. History, however, has proven these fears unfounded and consistently false. A famous case in antitrust law, the outcome of which is still in force today, illuminates how divestiture can make sick, anticompetitive industries healthy. This case has been reviewed below by Mr. Angus McDonald.

For many years, Mr. McDonald was legislative research director for the Na-

tional Farmers Union and in connection with his work, became an expert in antitrust legislation and enforcement of the antitrust laws. Mr. McDonald, at my request, has prepared a review of the Federal Trade Commission's divestiture of the meat packing industry and the effect on the industry of that action.

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

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

DIVESTITURE OF THE HOLDINGS OF THE BIG FIVE MEAT PACKERS IN 1920

(By Angus McDonald)

In 1917 five meat packers which included Swift, Armour, Cudahy, Morris and Wilson were well on the way to controlling the entire food industry of the United States. The five big meat packers attained their position of dominance in the food industry not only by means of ownership and acquisition of stock in competing companies but by control of manufacturing and distribution. They were in a position similar to that of the oil companies today except that the farmers were their oil wells and their refrigerator cars were their pipe lines. The New York banks were in the same position that they are today. Men may come and men may go but the banks go on forever. Chase Manhattan, Guarantee Trust, Kuhn Loeb and William Salmon were up to their ears in meatpacking in 1917 when the Federal Trade Commission started its investigation.

By the end of World War I the Big Five dominated the hides and skins industry, owned a substantial part of the leather tanned in the U.S., 31.8% of the domestic production of cottonseed oil, 65% of the interstate commerce in dressed poultry and eggs and 50% or more of the interstate commerce in cheese.

At that time the Big Meat Packers either owned or controlled 89 poultry and egg plants and 222 buying stations in the chief producing areas of the U.S. Swift and Armour together controlled 60% of the oleomargarine business. Four of the big packers owned 56 creameries and controlled many others. They were important distributors of canned and cured fish, particularly salmon. All of the Big Five were distributors of canned vegetables and fruit and some handled canned milk. In 1917 Swift controlled ⅓ of the canned asparagus output. The Big packers dealt extensively in sugar, rice, beans, potatoes, coffee and cereals. Both Armour and Wilson were large distributors of coffee. Armour and Morris were actively engaged in the distribution of syrups and molasses and Armour sold nearly 200 different kinds of soda-fountain supplies.

In addition of the Big Five held stock in numerous banks and cattle loan companies and controlled trade papers carrying market reports, stockyards and transportation facilities. In 1917 the Big Five owned 91% of all the refrigerator cars in the U.S. that were equipped for the transportation of fresh meat as well as numerous icing stations and cold-storage facilities. They controlled a majority of the voting stock in 22 of the 50 stockyards of the U.S. 84% of all animals shipped to public stockyards passed through the yards controlled by these packers. These multifarious activities were carried on by hundreds of different companies all closely affiliated with the 5 parent organizations.

They controlled stockyards, terminal railways, cattle loan banks, market papers, private car lines, cold storage plants and branch houses and the maintenance of pools, agreements and combinations for the purpose of stifling competition and influencing legislation. Among other factors may be mentioned the extortion of railroad rebates, price cutting for the purpose of crushing independent operators, wiring ahead, short weighing and similar illegal practices. The so-called peddler car service whereby the big packers could transport commodities they did not produce, enabled them to receive lower rates than their competitors in the grocery business. The Federal Trade Commission said of the Five Big Meat packers in 1919:

"As we have followed these five great corporations through their amazing and devious ramifications—followed them through important branches of industry, of commerce and of finance—we have been able to trace back to its source the great power which has made possible their growth. We have found that it is not so much the means of production and preparation, nor the sheer momentum of great wealth, but the advantage which is obtained through a monopolistic control of the market places and means of transportation and distribution.

"If these five great concerns owned no packing plants and killed no cattle and still retained control of the instruments of transportation, of marketing and of storage, their position would not be less strong than it is. The producer of livestock is at the mercy of these five companies because they control the market and the marketing facilities and to some extent the rolling stock which transports the product to the market.

"The competitors of these five concerns are at their mercy because of the control of the market places, storage facilities and the refrigerator cars for distribution.

"The consumer of meat products is at the mercy of these five because both producer and competitor are helpless to bring relief."

(Report of the Federal Trade Commission on the Meat Packing Industry, Part I, p. 24, June 1919)

As a result of the revelations of the Federal Trade Commission the Department of Justice moved to find the Big Five in violation of the antitrust laws. The evidence was so overwhelming that the Big Five executives to avoid jail sentences, fines and possible dissolution of their companies moved to avoid a court action. On May 2, 1920 they signed a consent decree. Under this decree which is still in effect Swift, Armour, Morris, Wilson and Cudahy were enjoined from:

a. owning any public stockyard markets;

b. owning any stockyard terminal railroads;

c. owning any stockyard newspaper joural;

d. using facilities for transporting and distributing food (except meat and certain other meat by-products);

e. manufacturing or jobbing (except meat);

f. owning 5% or more of voting stock of food companies;

g. owning retail meat markets or grocery stores.

Over the years the meat packers have tried to set aside the consent decree. But they have failed except for some modification. The decree is still in effect and has saved farmers and consumers many billions of dollars and has provided some measure of competition in the food industry. The trend over the years has been towards more economic concentration. In most industries, like the oil industry, only a handful of companies control. But, in meat packing there is competition and it is all because of the divestiture of the Big Five meat packers. The same thing might happen in the oil industry if bills introduced in the Senate become law.

FEDERAL TRADE COMMISSION ACTIONS ON DIVESTITURE

1. Jan. 24, 1974—Deltawn and Kraftco acquisition challenged.

2. Jan. 25—Pepsi Co. consent order must divest.

3. Jan. 31, 1974—consent order St. Joe Minerals Corp. divestiture agreed to.

4. Feb. 1, 1974—Arlen Realty & Development Corp. acquisition okayed.

5. Feb. 25, 1974—Gulf, Standard of Ind., Atlantic Ritchfield—staff recommendation of divesture of refining.

6. Feb. 27, 1974—Panacon Co. acquisition challenged.

7. Mar. 1, 1974—British Oxygen Co. acquisition—restraining order requested.

8. Mar. 5, 1974—ARA asks FTC to approve divestiture.

9. March 13, 1974—Fruehauf Corp. acquisition challenged.

10. March 25, 1974—Budd Co. must divest.

11. April 1, 1974—Amerada Hess, American Cyanamid, ARA Services, Golden Grain Macaroni Company—must divest.

12. April 8, 1974—Papercraft Corp.—petition denied on divestiture order.

13. April 15, 1974—RSR Corp. acquisition challenged.

14. April 25, 1974—consent order—Rockwell International Corp. must divest.

SOLAR ENERGY ASSESSMENT OUTLINED

Mr. HUMPHREY. Mr. President, as an advocate of increased Federal support of solar energy research—and the author of legislation in this field that soon will be the subject of extensive hearings before the Interior Committee—I am pleased to see the initiative taken by the Office of Technology Assessment (OTA) in this important energy field.

The Technology Assessment Board, on which I am pleased to serve, has recently approved the topic of "on-site production of electricity from solar energy," as one of the first assessment topics for the new OTA. It is very important that as we proceed with various solar energy applications we be well aware of the impact of the new technologies we develop.

Mr. President, I ask unanimous consent that the "Statement of Work," issued by OTA to potential contractors, be printed in the RECORD as an outline of what this project is designed to achieve.

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

SOLAR ENERGY ASSESSMENT: STATEMENT OF WORK—OTA

I. INTRODUCTION

The purpose of this technology assessment is to investigate two questions. The first concerns technological and economic feasibility:

"Can solar energy be used for the economic and effective on-site production of electricity, so as to represent a significant additional alternative to other energy sources?"

The second question, integrally related to the first, concerns the impacts of this technology:

"What are the direct and indirect, near-term and long-term institutional, environmental, legal, social and other impacts of the introduction of an on-site electric power production capability?"

The study should focus on the on-site utilization of solar energy in such areas as: residential communities, military and other governmental applications, educational and health institutions and commercial-industrial sites. These might be as small as single family homes and as large as major industrial plants, or small cities (50,000 to 100,000 population), but excluding central power stations. Isolated systems are to be emphasized, but the option of tying into existing electrical power grids should be evaluated. The effects of geographical location are also

to be considered in determing the economics of this type of solar energy utilization.

The assessment is to cover mainly the direct utilization of solar energy for electric power generation but must consider also energy conservation and auxiliary applications such as space heating and cooling. In addition to the technological and economic prospects, the study should assess the institutional, market, legal, environmental, and social impacts of the technology such as on ownership, land use, zoning, building codes and employment.

This assessment shall include, but not necessarily be limited to:

1. solar-thermal conversion in which solar energy heats a working fluid so that it can drive a thermal machine; and

2. photovoltaic conversion, in which the incident solar radiation is converted directly into electricity.

The technologies involved in this on-site use of solar energy are still at an exploratory stage, but the technological development problems which must be solved are beginning to be defined. This is not so concerning the economic and social issues surrounding the application of the technology, e.g., those involved with marketing, regulating, servicing, and using the eventual product. These problems cover a broad range of disciplines and have not yet been explored in an integrated inter-disciplinary study.

The assessment should address specifically those issues that the U.S. Congress can be expected to face in the future when considering this new technology. These might include, but not be limited to: method of funding R&D, avoidance of hazardous impacts, barriers to innovations and application, etc. It will be appropriate to suggest alternative courses of action.

II. STATEMENT OF WORK

A. Product

The principal product of this effort will be a final report in two volumes. The first volume will be a comprehensive summary document, with conclusions, written for a nontechnical audience. The second will be a complete report supporting and substantiating the statements and conclusions summarized in Volume I. Volume II should also document and evaluate: the analytical and assessment methodology used; details of the physical and social feasibility and impact data used; the findings of major related investigations of this type in progress or recently completed; and the institutional and industrial capability available for the development of this technology. It should include also an annotated bibliography critiquing source materials used.

If any of the contractor's inter-disciplinary team has views which diverge from the contractor's findings and conclusions, the final report should document these alternative views. The final report should also include a critique of the analytical methods employed in this assessment. Any insights gained during this assessment concerning the information gathering capabilities and needs of the U.S. Congress in the energy area should be included as well.

Verbal presentations and monthly highlight letters will also be required, as stipulated below under "Schedule of Reports". The letter shall include as a minimum a statement of progress, planned activities for the following month, a summary of resource expenditures to date, and significant milestones. The milestone portion of the monthly report should be presented in detail appropriate to explain issues of substantive significance.

B. Coverage

The report shall assess the feasibility and impacts of the technology needed for on-site utilization of solar energy. Consideration of auxiliary uses, such as using waste heat discharge for sewage treatment, process heat and space conditioning, must be included where appropriate. Optimum system sizes should be established by the analysis for each of several ranges covering the projected on-site applications outlined in the Introduction.

Major research problem areas and other barriers to application should be identified. Likely potential times required to develop systems should be evaluated at current and alternative future levels of funding and support. General policy options affecting the feasibility and adoption of such systems and regulation of impacts should be considered and identified. Identification of near-term, mid-term and long-term effects should be made for all impact categories considered in the assessment. Application to both new and existing communities or installations should be considered.

The contractor should, in the proposal, identify the specific tasks believed to be significant in each of the above areas, and should also specify the relative weight he plans to give each of the following factors in the assessment.

1. The feasibility factors should include;

a. Technology

Variations in the principal operating parameters of each configuration should be explored, as well as the principal power plant features. Examples of configuration changes which might be evaluated are point focus optical transmission, line-focus cylindrical trough, and flat plate collectors; energy storage options; dual fuel or "hybrid" systems; various methods of waste heat rejection and utilization; systems for dc/ac conversion; and various fluid system components (e.g. heat pipes). Illustrative parameter variations are: power output, peak temperature, insolation, peak-load and weekly/seasonal power requirements. Interfacing with existing utility systems and alternate power sources should be considered.

A key element in the assessment is the identification of any technological barriers or inhibitors which might become pacing factors in power plant implementation, and the identification of technological advances required to eliminate or minimize these barriers or inhibitors.

b. Economics

All system and auxiliary costs must be calculated, as well as projections of operating costs. As a minimum, these costs should be evaluated against the time required to develop the various power systems including research, developments, testing and evaluation (RDT & E), prototype, investment, and life cycle costs.

The economic conditions and incentives necessary to bring about the commercial use of solar energy for on-site electric power generation should be identified. In addition to identifying the above costs of the systems evaluated, other economic benefits and costs, such as with respect to land use, should be estimated (in terms of "present worth" using appropriate discount rates) for the various parameter variations.

In evaluating economic feasibility, present and forecast costs should be related to breakeven costs for commercial application. Plant size, modularizations, distribution tradeoffs, potential for export markets, and time value of early availability (e.g., very high permissible interest rates) are factors which must be considered. Other related economic factors should be included, such as the effects upon concentration of ownership of energy resources.

Energy costs for systems selected for analysis should be compared to the costs of fossil fuels and alternative energy sources, both at current and anticipated prices through the end of the century. All economic studies should include near-term, mid-term and far-term projections.

2. The impact factors should include:

a. Impact on Society

Identification and evaluation of the social effects of the wide-scale use of solar energy for on-site electric power generation should be included; i.e., its impact upon where and how people work and live, and community organization, including the considerations involved in the development of "new towns". Community infrastructures needed to support growth potential should be identified, and projected community growth rates should be related to alternative power supply needs. Ownership considerations should be defined: will the plant create value at public expense? Methods of recognizing, defining and assessing external costs and benefits should be identified.

b. Legal Considerations

The impact of the various solar power plant concepts and alternatives on the formulation and enforcement of laws and regulations at all levels of government should be considered. These include, for example, building code formulation and enforcement, liability jurisdiction, and zoning requirements. Zoning concerns are particularly important; the concept of three-dimensional zoning and "'building priority" becomes critical where access to solar exposure is an essential feature of a building or a complex of buildings.

c. Institutional Jurisdictions

The activities of many different governmental and nongovernmental institutions will affect the development and use of the subject technology, and should be identified and evaluated in the assessment. Some of these institutions are: state, county, city and township governments; planning and public service commissions; zoning boards; utilities; industrial organizations involved in construction, operation and maintenance; trade associations and labor unions; banks and underwriters; and schools and training establishments.

d. Environmental Impact and Land Use

The environmental and land use consequences of using solar energy on a community scale should be identified and evaluated.

e. Educational and public information

The contractor should identify the public educational programs or methods needed to familiarize people with solar energy application, restrictions, advantages, and disadvantages. Methods for disseminating this information should be discussed.

f. Architectural and esthetic factors

Architectural and esthetic factors involved in the public acceptance of on-site solar energy for electric power generation should be considered and evaluated.

g. Marketability/incentives

For each system or alternative, the incentives necessary for private sector involvement and investment should be set forth. The possible availability of Federal government support in construction, power distribution, servicing, management, and part replacement should be considered in incentive evaluations. The availability of overseas markets should also be considered, along with the impact of technology transfer to the developing nations and impact on GNP and balance-of-payments.

h. Natural resources

The study should assess the materials (including minerals) needed for the introduction of this new technology, as well as the reduction or increase in demand for and use of other natural resources.

i. Others

The above list of impact factors should not be considered complete. The contractor is encouraged to address additional impact areas which are considered important to

the assessment. Imaginative and innovative ideas are solicited.

3. Comparisons:

In order to provide the U.S. Congress with information to assess the technical feasibility and impacts of on-site generation of solar energy, each of the solar powered systems assessed should be compared with each other and with other competitive energy alternatives. These comparisons should take into consideration differences among regions, such as climate and the costs of and availability of alternative energy sources. An evaluation of the tradeoffs among alternatives should encompass all the impacts which have significance for the technology. It is most important that this evaluation be interdisciplinary as well as multidisciplinary.

III. REPORT SCHEDULE

The project's reports will be due in three phases, as follows:

Phase A: Problem Definition. Written report (30 copies) due forty-five (45) days after date of contract; verbal presentation to be made approximately two weeks thereafter.

Phase B: Preliminary Analysis. Written preliminary report (30 copies) due eight (8) months from date of contract; verbal presentation to follow within two weeks.

Phase C: Final Report. Final report draft due twelve (12) months from date of contract; final report (50 copies) due two months later.

Highlight letters will be due each month of the contract period.

The OTA has appointed an Advisory Panel to assist it in connection with this assessment. The contractor will be called upon to make oral and written presentations to this Panel.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, no one has raised serious objections to the purposes of the United Nations Convention outlawing genocide. The primary objections which have been raised since the time the treaty was first considered for ratification by the U.S. Senate have been related to constitutional and legal issues.

An often heard criticism of the treaty is that its passage would adversely affect Federal-State relations by sapping the authority of States on criminal matters. However, this clearly is not the case. Congress has the power to enact such legislation pursuant to the treaty under article 1, section 8, clause 10 of the Constitution which provides:

The Congress shall have the Power. . . . To Define and Punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations. . . .

Thus, making genocide a crime, providing for appropriate punishment, and so forth, are clearly on the checklist of Federal constitutional powers.

Moreover, as the ABA's section on individual rights and responsibilities said in its report:

Ratification of the Convention will add no powers to those the Federal Government already possesses.

Further, the fact that the Congress enacts a statute pursuant to a treaty, such as the Genocide Convention, does not alter the fact that Congress could pass such legislation without a treaty.

In short, the Genocide Convention will not adversely affect the Constitutional division of powers between the Federal and State governments and, thus, the United States should go on record as opposing genocide, both legally and officially.

THE VIEW FROM MOUNT VERNON

Mr. MATHIAS. Mr. President, we fast approach the Bicentennial of our Revolution, but we approach that year with a very significant task yet undone. It is expected that Mount Vernon, the home of George and Martha Washington, will be among the most visited scenic or historic spots in the country. Our late friend and colleague, Representative John Saylor, recognized the importance of preserving George Washington's view from Mount Vernon for all time. The overwhelming support that this bill received in the House is a credit to his judgment and the esteem in which he was held by his colleagues. I believe it would be tragic to miss the opportunity his work has provided us. With the House action on H.R. 4861, the way is clear for us to complete the work and provide what truly was George Washington's view.

Concern for this area goes back many years. In 1955 another friend and congressional colleague, the Honorable Frances Bolton, saw the importance of preserving these lands in their natural state and took it upon herself to purchase 485 acres on the Potomac opposite Mount Vernon. Other important acquisitions followed. We first saw congressional action in 1961.

At that time, the Congress endeavored to insure the preservation of the scenic view from Mount Vernon and Fort Washington by creating a new unit of the National Park System to be known as Piscataway Park. The record is filled with acts of great beneficence. Over the years, some 180 property owners have given scenic easements. These are not, for the most part, people with large tracts of land or people of great financial means. But they are people who care deeply about the heritage of our country and wish to see it preserved for all time.

Members of the Senate are well aware how difficult, expensive, and time-consuming acquisition of a park can be. There are initial studies to identify the optimum size and shape of the proposed park. But in a great many cases, the optimum is never realized. This is not, however, a sign of failure. Even though the entire ecological system may not be protected, significant parts of it are, and this is all to the good. A scenic or historic view is very different. George Washington stood on his lawn and gazed across the Potomac. He did not see structures on the far bank. It is for this reason that protecting 80 percent of George Washington's view is not a significant improvement over protecting none of it. If development occurs within sight of Mount Vernon, we will have permitted a fundamental change in the character of the lands and waters that Washington knew. Stated simply, we will not have George Washington's view. What could be more tragic than to have made all the public efforts over the years, to have accepted all the private benefactions, and then to find our goals unrealized? George Washington did not stand on his lawn and see a marina, nor did he see an amusement park. Consequently, visitors to his home in the Bicentennial year should not see these intrusions upon the Potomac either. Those that oppose completion of Piscataway Park ask that visitors to Mount Vernon gaze across the river and blot man's intrusions on the far bank from their sight. That is more than any of us can do.

The Interior Department estimates it will take $4.9 million to complete the park. If we are truly concerned about our heritage, we will make this commitment. It will insure that the home of our first President maintains its integrity for future generations.

"THE LAWYERS' PROFESSION"—COMMENCEMENT ADDRESS BY PROF. ARCHIBALD COX AT THE UNIVERSITY OF VIRGINIA LAW SCHOOL

Mr. KENNEDY. Mr. President, at the end of May, Prof. Archibald Cox of Harvard Law School delivered the commencement address at the University of Virginia Law School.

I have recently had the opportunity to read the full address, which I found to be an inspiring celebration of America's great heritage of the rule of law and the role of lawyers.

In the course of his address, Professor Cox, who is the former Watergate Special Prosecutor, deals with two of the central issues in Watergate—whether the President may refuse to comply with a court order for the production of documents, and whether our system of government secures an opportunity for full and impartial investigation of wrongdoing at the highest level of the executive branch.

As Professor Cox indicates, these two questions were at the heart of the events that led to his dismissal as Special Prosecutor last October, and they are at the heart of the controversy that is unfolding today between the White House on one hand and Congress and the courts on the other.

I believe that Professor Cox's discussion of the issues provides an important contribution to our own understanding of the debate taking place today, and I ask unanimous consent that the text of his commencement address may be printed in the RECORD.

I also ask unanimous consent that a recent column by James Reston of the New York Times, discussing Professor Cox's address, may also be printed in the RECORD.

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

THE LAWYERS' PROFESSION

(By Archibald Cox)

Oliver Wendell Holmes, Jr., hesitated in entering the legal profession, and it was many years before he was satisfied that he could fulfill his strong wish to live greatly, within the law. Yet when Holmes was ninety he said to a friend that if the ceiling should open and a great voice speak summoning him to his Maker, he would reply "I am ready, Lord, but may I have ten more minutes."

And so I welcome you to a profession in

which one can aspire to live greatly, and thus enjoy the fulfillment of the effort.

I

What is it about the law that offers such fullness of life?

To Holmes as to most lawyers, it was of prime importance that central to the law is the life of the mind—perhaps I should say the life of the intellect. The way of the law is not the way of the artist or the poet, or even of the writer who would record the stream of consciousness without organization or elimination of the irrelevant. We are wordsmiths because words are the tools for expressing with the required exactness and consistency the concepts, the rules and forms of organization—for creating the institutions—that enable men to live together. The good one can accomplish by skilled legal craftsmanship never ceases to amaze me, but the words and concepts the skilled lawyer finds so delightful as tools must never become the master. The law's concern is men and women, their daily lives, their joys and sorrows, their fears and aspirations, their mean pursuits and high adventures. Without sympathetic understanding of life, perhaps without understanding the persons with whom he deals better than they understand themselves, a lawyer is not worthy of the name. This involvement with people touching every aspect of the panorama of human existence is a second, prime source of satisfaction in the lawyer's life.

Third, an infinite variety of pursuits falls within the boundaries of the profession. Some of you may find, as I have, that nothing engages and therefore satisfies one's whole being quite like argument of a public cause in a high appellate court. John G. Johnson, a great advocate 60 or 70 years ago, two or three times rejected appointment to the Supreme Court. Each time an intimate friend pressed him for the reason. At last Johnson replied—

"You finally want me to tell you the true reason? I'd rather talk to damn fools than listen to them!"

Others, with the capacity to recreate and relive human events and a flair for the dramatic, may find their forte in jury trials. Industry, both management and labor, and finance will attract more; still more become family advisers and trustees; still others will devote themselves to private associations serving disadvantaged groups and other segments of the public interest. Tens of thousands of lawyers become judges and government officials. Though we often speak of being a lawyer as if it were a single vocation, in fact there is a wide range of careers within the law.

All these things offer lawyers lives filled with unusual variety, challenge and satisfaction, but surely it is not these things alone that enable a man to live greatly in the law.

I

The lawyer's compass, the ideal that gives coherence to our profession, the scope that enables a man to live greatly in the law, is marked by our heritage. We inherit the tradition of seven or eight centuries of continuous concern for the institutions and aspirations—for the processes, standards, ideals and sense of right and justice—that make for a free and civilized society. It is not the age of the profession that matters, nor even the inspiration gained from knowing that we tread the path marked by Coke and Erskine, John Adams and Brandeis, Charles Houston and Thurgood Marshall. What matters most is that through the centuries the men of law have been persistently concerned with the resolution of disputes and the organization of human endeavors in ways that enable society to achieve its goals *with a minimum of force and a maximum of reason.* Every practicing lawyer, whether he deals in constitutional issues, advice to corporations, collective labor agreements or wills and domestic relations, is concerned with the rules and forms of human organization—to put it most simply, with helping people to live together—not by power, be it physical, economic or even political, but by what reason tells is just. Our commitment is to law and legal institutions as a substitute for force and therefore man's best hope of mutual respect for human dignity, liberty, change and progress.

II

Law in this sense depends upon voluntary compliance, and compliance upon the notion that the law binds all men equally, the judges no less than the judged, the governors no less than the governed, the highest officials equally with the lowliest citizens. Two questions of this kind were raised last October—at least as I saw the problem.

One was whether the President would be permitted to set himself above the law by refusing to comply with a court order for the production of documents. The refusal defied a constitutional tradition handed down from the Sunday in 1612 on which King James, taking offense at the independence of his judges, cried out—

"Then I am under the law—which it is treason to affirm."

And Chief Justice Coke replied—

"Non sub homine sed sub Deo et lege."

Justice Jackson expressed the constitutional tradition in the Steel Seizure case in 1952—

"With all its defects, delays and inconveniences men have discovered no technique for long preserving free government except that the Executive be under the law * * *" And President Truman strengthened our constitutionalism by following the Supreme Court decision and returning the steel mills to the owners despite the exigencies of a labor dispute in time of war.

The second question raised in October was whether, on the one hand, our system of government secures opportunity for the full and impartial investigation of wrongdoing at the highest levels of the Executive Branch according to the usual processes of law or, on the other hand, a Chief Executive can thwart the search for facts by a personal fiat inescapably influenced by self-interest and concern for his friends. This question was raised by an order to the Special Prosecution Force not to pursue the usual course of law in seeking evidence from the White House even to the point of a judicial ruling.

Last October the people gave unmistakable answers to both questions. Within days the court was assured that the tapes and documents would be produced. Within weeks, the independence to the Watergate Special Prosecution Force was restored, the staff unimpaired, and a vigorous and independent Special Prosecutor was appointed. The sequence of events demonstrates better than any other occurrence within my memory the extent of this country's dedication to the principle that ours is a government of laws and not of men. It gave proof of the people's determination and ability to insist that the highest officials shall meet their obligations under the law as fully and faithfully as others.

I recall these events because it seems to me that we are near the point where the people have need to express themselves upon these points as clearly and forcibly as before.

The Special Prosecutor has subpoenaed additional materials in the Executive Offices in aid of the Prosecution of the alleged Watergate cover-up. The President has refused to produce the subpoenaed documents. When stripped of technical jargon, the question raised is very simple: Shall guilt or innocence in the criminal trials of White House aides be determined upon full consideration of all the evidence found relevant, competent and unprivileged by due process of law or shall the evidence from the White House be confined to what a single individual, highly interested in the outcome, is willing to make available? In the latter event, our system of government provides no way of assuring a full and impartial inquiry into wrongdoing at the highest levels of the Executive Branch.

I do not mean to slide over the claim of executive privilege. The claim—one must assume—is made in good faith. When made in court, judicial machinery exists for the ruling upon it according to law. In this context the claim of executive privilege rests entirely the notion that giving confidentiality to discussions of policy and other governmental problems within the executive branch will produce more candid advice and deliberation, and these are thought to be in the public interest. Most of us would agree, under normal circumstances and respect the privilege. But here there is a showing that criminality corrupted the same high levels of the executive branch, and that the evidence of what was said or written is material to ascertaining the truth of the charge and restoring integrity to government. The court must therefore balance the value of complete investigation of the prima facie wrongdoing against the harm, if any, done to the value of encouraging candor in executive deliberations by holding that the executive privilege of confidentiality is lifted upon a prima facie showing that it cloaks evidence of crime. On this question, perhaps, judgments may differ. I find it hard to believe that the courts will not follow the eloquent words of Justice Cardozo in holding that even the confidentiality of a jury's deliberations will yield once there is reason to believe that they were tainted by misconduct:

"The chance that now and then there may be found some timid soul who will take counsel of his fears and give way to their repressive power is too remote and shadowy to shape the course of justice. It must yield to the overmastering need, so vital in our polity, of preserving trial by jury in its purity against the inroads of corruption."

Whatever the outcome, submitting the issue to the court and complying with the judicial ruling would not attack the rule of the law. But should the courts order production, failure to comply would, in my judgment be the most serious of impeachable offenses. For although seeming to deal with a small point of evidence, the refusal would in truth defy the essential constitutional guaranty that the Executive be under the law. It would assert an arbitrary, executive power to block full and important inquiry into executive wrongdoing.

Submitting the claim of executive privilege for judicial determination, as I have said, does not challenge the rule of law. One cannot say as much for the contention of Counsel to the President that the Special Prosecutor has no standing to request a court order directing the President to produce relevant, competent and unprivileged evidence.

This is not an argument that the court should judge the public interest in confidentiality to outweigh the need for the evidence, nor even a claim that the former interest is so important that the courts should not review the President's determination. Rather, the contention seeks to forestall any decision according to law at the very threshold upon the theory that the Special Prosecutor may not invoke judicial intervention in a quarrel with the President, his superior in the Executive Branch.

The theory is not easily grasped. Professor Bickel says that there is no judicial jurisdiction because there is no "case or controversy," but the basis for the assertion that there is no "case or controversy" is not quite clear. Is it that the Chief Executive is to be treated not as a potential witness whose duty to produce evidence is at issue but as in

charge of the prosecution, making his refusal to give the evidence to the Special Prosecutor a binding instruction that the prosecution is to be conducted without the evidence? But the President has not given such an instruction. He promised not to interfere with the Special Prosecutor and approved the Attorney General's Departmental Regulation giving the Special Prosecutor independence in this regard. Furthermore, the acts of Congress put the Attorney-General, not the President, in charge of criminal prosecutions and the Attorney General vested his responsibility in the Special Prosecutor insofar as Watergate is involved. These are reasons enough to conclude that the President is not in charge of the prosecution, either in law or in fact, unless the earlier act of Congress, the Departmental Regulation and the President's assurances are all unconstitutional nullities because Article II requires the President to have control over all criminal prosecutions even when the offense involves wrongdoing in which he has a disqualifying interest because he may be implicated as well as his immediate aides. Nothing said in Article II states this conclusion, and surely it will be a perverse bit of folly to interpolate when not required by the words.

Is there no "case or controversy" because the President has power to dismiss Attorneys General until he gets one who will rescind the regulations and dismiss the Special Prosecutor? The very statement of the proposition acknowledges a present controversy but says that it *may* not continue. It would seem that the existence of present controversy should be decisive, but if the question is to be decided by prediction, surely the Presidential promises not to dismiss the Special Prosecutor demonstrate sufficient likelihood that the existing case will survive to warrant its decision.

The only other ground that occurs to me for denying the existence of a case or controversy is the mystical idea that the Executive Branch has such unity as to bar one member from complaining that another member is acting contrary to law, and I suppose that the assertion might be added that it violates the separation of powers for the Judiciary to intervene in a controversy between members of the Executive Branch.

But the latter point is really an argument that the Judiciary lacks power to order the Executive to give testimony or produce evidence and should stand or fall regardless of whether the Special Prosecutor or the defendant seeks the subpoena. If a private defendant could secure judicial aid, there is no practical reason to deny the Special Prosecutor equal standing except to support the Chief Executive's actual or potential control over the prosecution; and this takes us back over grounds already rejected. Even more important is the untoward consequence of embracing any such theory of executive unity: it would deny the country any way of assuring itself that wrongdoing high in the executive branch will be investigated and prosecuted independently and according to law even though it reaches high enough in the Executive Branch to put part of the evidence within the control of the President.

The claim of Presidential power to thwart the prosecution of former White House aides upon evidence that the independent prosecutor deems material is accompanied by a parallel assertion of power to withhold from the House Judiciary Committee evidence that it determines material in ascertaining whether the President has been engaged in serious wrongdoing. The issue is easily confused by constitutional jargon and because a mass of evidence has been produced, but one hopes that the Bar and later the country will come to see it clearly for what it is. The President's lawyers say that he may not be indicted and that his guilt or innocence of wrongdoing must be decided by the processes of impeachment beginning in the Judiciary Committee of the House of Representatives. Plainly, any such investigation will usually depend upon inquiry into what happened in the Executive Offices and much of the evidence will be under the President's control. If impeachment is to be a viable method of inquiring into alleged executive misconduct, the House of Representatives—the grand inquest of the Nation—must have a right of access to whatever evidence it judges necessary. Here the House is the tribunal; no court can judge the question or enforce the subpoenas. Withholding from the House evidence it judges necessary to the inquiry is therefore a defiance of the only process the Constitution provides for dealing with substantial charges against a President.

If the President refused to supply any evidence in his possession, the defiance of constitutional process would be so plain that all would perceive it. The principle is exactly the same when he picks and chooses what he will supply. In view, the refusal to comply with the Judiciary Commitee's subpoenas denies Presidential accountability through a constitutional process the framers were careful to provide. Failure of the Committee to treat the refusal as a major ground for impeachment would go far to concede that executive wrongdoing is beyond the reach of any form of law.

III

I hope that I have not abused your good nature in dwelling at length upon what I see as a Presidential threat to the administration of justice and the ability of the government to purge and redeem itself by thorough, independent investigation, and prosecution if warranted, when there is reason to fear wrongdoing towards the top of the Executive Branch. I had planned a different address about the legal profession, but the events of last week moved me deeply.

Still, before I close, may I speak a word of confidence in the future of law, government, and the legal profession. If one's attention becomes transfixed only by the seamy side of Watergate, he is likely to conclude that passion, arrogant grasping for power, cynicism and distrust have eroded self-government, while the misdeeds of lawyers in high office are destroying confidence in the legal profession. But there is another side to Watergate. The response has proved the conscience of the Nation. It is more important to know that our idealism is alive than that some men have proved unfaithful.

My own college commencement was 40 years ago. When I look back over those four decades, I think I see reason, despite all the shortcomings, not to give up upon law or men. In that time two peaceful revolutions were accomplished within the rule of law. The New Deal revolutionized our theory of government, brought a measure of control over industry and finance and immeasurably increased both opportunity and protection availability to industrial workers. There was a tremendous transfer of economic and political power. The decision in Brown v. Board of Education 20 years ago launched the civil rights revolution—again within the framework of constitutionalism and the rule of law. You are also familiar with the extraordinary reforms in the protection of individual liberty, the opening of the political system, and the improvement of criminal justice worked by the Warren Court.

That the accomplishment is small compared to what needs to be done scarcely needs saying to a generation of men and women that measures things by the gap between what is and what ought to be. May you keep the honesty and courage to face our faults, our follies and our capacity for evil. I hope you will have the greater insight to perceive that your chosen profession holds unique opportunities little by little to improve man's lot, and also the greater courage to pursue that vision. You will not succeed entirely; no one does. But I wish you luck and promise joy in the endeavour.

[From the New York Times, May 29, 1974]

ARCHIE COX IN VIRGINIA

(By James Reston)

CHARLOTTESVILLE, VA., May 28.—When President Nixon dismissed Archibald Cox as his special prosecutor in the Watergate case, he not only misjudged the public outcry that followed but liberated Mr. Cox to speak out on the rules of law and impeachment. That may very well prove to be one of Mr. Nixon's fatal mistakes.

For there is confusion in the country and even in the Congress now about the rules of law and impeachment, and Mr. Cox is using his freedom to write and speak to clarify the issues as he sees them to the press, the television, and the Congress.

Many other men in his situation might have destroyed their influence by roaring around the country like a loose cannon, firing at the man who fired him, but not Mr. Cox. He appeared here to address the law graduates at the University of Virginia the other day and talked with the sweep of the centuries and the kindliness of a neighborly judge: No rancor. No vindictiveness. No pessimism about the law or the Republic. But on fidelity to the Constitution and the process of applying it to the President, as to any other citizen, he was unyielding.

On a personal note, he told the graduates that the ideal of their profession was precisely as Oliver Wendell Holmes Jr. had defined it: "To live greatly within the law." Central to the law was the life of the mind.

But the law was paramount, he insisted, for the President as for every other citizen. It was concerned with the rules and forms of human organization—to put it most simply, with helping people to live together.

In this sense, he said, law depends, upon voluntary compliance, and compliance upon the notion that the law binds all men equally, the judges no less than the judged, the governors no less than the governed, the highest officials equally with the lowest.

"We inherit the tradition of seven or eight centuries of continuous concern for the institutions and aspirations . . . that make for a free and civilized society. It is not the age of the profession that matters . . . what matters most is that through the centuries the men of law have been persistently concerned with the resolution of disputes . . . in ways that enable society to achieve its goals with a minimum of force and a maximum of reason. . . ."

Then, and only then, did he address the graduates on the application of these principles to Watergate and Mr. Nixon, whom he seldom mentioned.

The question raised now, he said, stripped of legal jargon, was very simple: "Shall guilt or innocence in the criminal trials of White House aides be determined upon full consideration of all the evidence found relevant, competent and unprivileged by due process of law; or shall the evidence from the White House be confined to what a single individual [the President] highly interested in the outcome, is willing to make available?"

Mr. Cox, with his mortar board back on his head talking quietly to this company of graduates and friends, seemed now to be back in his old role as Solicitor General addressing the Supreme Court. His language was decorous, his sentences long, but his meaning unmistakable: Should the President have the right to define what was an impeachable offense; should he have the power to decide what evidence the House of Representatives should have, and to refuse the evidence requested, and select, edit, and fiddle with the evidence he produced?

Mr. Cox took up the President's arguments

one by one, and proceeded to argue against them. He rejected the argument that the President could avoid the jurisdiction of the courts or disobey their ruling if they made one.

"Should the courts order production [of the tapes], failure to comply would, in my judgment be the most serious of impeachable, offenses. . . . It would assert, an arbitrary, executive power to block full and impartial inquiry into executive wrongdoing. . . ."

And refusal to supply evidence to the House Judiciary Committee in its impeachment proceedings, Mr. Cox argued, would be even worse. "The President's lawyers say that he may not be indicted," Mr. Cox observed, "and that his guilt or innocence of wrongdoing must be decided by the process of impeachment. If impeachment is to be a viable method of inquiring into alleged executive misconduct, the House of Representatives—the grand inquest of the nation—must have the right of access of whatever evidence it judges necessary. . . ."

Here, Mr. Cox reached his conclusion: "In my view," he said, "the refusal to comply with the Judiciary Committee's subpoenas denies Presidential accountability . . . failure of the committee to treat the refusal as a major ground for impeachment would go far to concede that executive wrongdoing is beyond the reach of any form of law."

It would be easy to underestimate the effect of this quiet man with his courteous amiable manner, but Archibald Cox was something of a triumph here on commencement day.

The press brushed him off, but Fred Graham of CBS put him on the Cronkite show and the full text will be in The Congressional Record. So the Saturday night massacre of Archibald Cox and Elliot Richardson goes on. While the courts and the Congress loiter along, these quiet cannons keep talking and defining and adding evidence and historical perspective to the impeachment process.

DEVELOPMENT OF RAIL PASSENGER SERVICE AS AN ALTERNATIVE MEANS OF TRANSPORTATION

Mr. GURNEY. Mr. President, it is with pleasure that I note that the Commerce Committee's Subcommittee on Surface Transportation is currently holding Amtrak oversight hearings. These hearings have particular meaning for the State of Florida, as there is a keen interest throughout the entire State in the development of rail passenger service as an alternative means of transportation.

In view of Florida's exigent needs in this area, it was my privilege to testify this morning before the committee. At that time, I indicated that there were several programs of significant importance to the State. Among these were an implementation of a route between Jacksonville, Fla., and New Orleans, La.—a route that would link up the Eastern and Western United States by way of the South—implementation of service through the central corridor of the State, and along the Atlantic coast. In addition, I recommended that Amtrak seek an accord with the various agencies affected to develop an official nationwide transportation system for use as the Bicentennial's freedom trail.

I feel that this morning's discussion is not only of interest to my constituency, but also to my colleagues as most of the concepts discussed have more than mere regional significance.

I ask unanimous consent that a copy of my testimony before the Senate Commerce Committee's Subcommittee on Surface Transportation together with a letter from me to Secretary Brinegar be printed in the RECORD.

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

STATEMENT OF SENATOR GURNEY BEFORE THE SENATE COMMERCE COMMITTEE, SUBCOMMITTEE ON TRANSPORTATION

Mr. Chairman, I wish to thank the chairman for this opportunity to address the subcommittee on the vital issue of rail passenger service operations.

Amtrak operations in Florida amount to approximately 700 miles. Of this, 400 miles of route are between Jacksonville and Miami, and the remaining 300 miles are between Jacksonville and St. Petersburg.

This is in contrast to the published mileage of all railroads operating in the State of Florida of 4,157 miles. That figure includes, of course, freight carrying operations as well as those rendering passenger service.

Prior to the start of the energy crisis, Amtrak's ridership to Florida and the service offered showed substantial increases over 1972. In the first ten months of 1973, ridership to Florida was up 33% over 1972. In 1973, revenues in the entire Amtrak system appear to be up almost 23% over the previous year.

Amtrak's program for 1973 and 1974 had been keyed to expansion of traffic demand even before the energy crisis added impetus. As an example, in November 1973, available seat miles from the northeast to Florida was up 38% and the midwest to Florida was up 65%. January 1974 saw an increase over January 1973 in available seat miles from the northeast on four daily trains of 86%, and from the midwest of 15%.

While demand for available seats improved, on-time performance of Amtrak trains in the New York to Florida runs apparently have worsened recently. The 1973 annual report of the national railroad passenger corporation, which administers Amtrak, shows that on the one-time performance for New York-Florida trains in 1972 was 54.6 percent (not good by European passenger train standards), but that in 1973 this had dropped to 40.2 percent. The Chicago-Florida route (part of which operates over New York-Florida trackage) dropped even more. In 1972 it was reported at 56.8 percent, and in 1973 at 29.2 percent.

Passenger totals on the Seaboard Coast Line overall, serving the Eastern Seaboard, for the twelve-month period ending April 30, 1972, were reported at 697,749, and one year later at 753,224, or an increase of 8 percent. The bulk of this traffic was Florida-bound.

Amtrak facilities were improved in Jacksonville, Florida, in 1973. During the year, a new modern passenger station was constructed at Jacksonville. The new facility has been relocated, which eliminates the previous requirement that trains back into or out of the station. The station has two running tracks, each of which can accommodate a full 18-car train pulled by three locomotives, and a set-off track for holding mail or other cars added to or removed from the trains at Jacksonville. An adjacent lot can provide free parking for 117 cars and three buses. The station is designed to accommodate up to 150 patrons at any one time. The facility was put into revenue service on January 3, 1974.

THE TOURISM INDUSTRY IN FLORIDA

Tourism, as the largest source of income in Florida, is vital to the economy of the state. In 1973, Florida played host to more than 25 million out-of-State visitors, with total expenditures, estimated at over $5 billion. Tourism is said to provide employment for 760,000 residents, and many others depend, in part, for their income on this basic activity.

About three out of four tourists are motorists. The recent motor fuel crisis placed an alarming damper on this traffic which is so important to the economy of Florida. At one point, the Florida welcome stations reported a 22 percent decline in registrations, hotel-motel occupancy was down nearly as much, and some major attractions reported declines of much greater amounts.

If the energy and fuel shortage is to become a limiting factor in the American way of life in the future, it is reasonable to anticipate some decline in travel by automobile to Florida, especially from more distant States. This would logically create a transfer for some Florida tourist traffic to public commercial carriers. It would seem to be prudent, then, to anticipate such a surge in carrier patronage in the future and make adequate preparation for it to the extent feasible.

Florida State authorities recognize that the future demands on transportation, especially for intrastate travel, will be highly critical. While in no way wishing to diminish the importance of additional forms of alternative service such as the Nation's commercial airlines, I consider that the railroad is of vital importance in the future development of the State. The February 12, 1973, issue of Railway Age carried an article which emphasizes this problem of moving people throughout the State, and discusses the various alternative modes possible. The article points out that:

"As of now, only one thing seems certain: Central Florida is moving to resolve its people-moving problem, and the solution is not going to be more freeways. The basic problem is starkly told by any number of statistical projections. The important figures are these: (1) Right now 12 million passenger trips each year are being made in the central Florida corridor by automobile; only 29,000 are being made by rail, bus, or air. (2) Before Disney World, a 43 percent increase in traffic between 1970 and 1980 was projected; the post-Disney World projection is for an 80 percent increase."

While we certainly encourage this growth, we can ill afford to allow the paralysis and pollution which has plagued the greater Los Angeles area to take hold in central Florida. Just because we have Disney World does not mean we will accept a Mickey Mouse solution.

Amtrak itself—which estimates it will move between 600,000 and 650,000 people into and out of Florida in 1974—has just announced that it will inaugurate auto-train service between a point in Florida and the Midwest. Parenthetically, I am glad to note that Amtrak and Autc-Train have realized that they can both operate the Florida route. Such cooperation recognizes the advantages to all concerned.

THE OUTLOOK FOR FLORIDA

The Federal Reserve Bank of Atlanta monthly review for December 1973 gave this outlook for 1974 for Florida:

"The year of shortages and growing softness in residential construction has been complicated by yet another problem, the energy crisis. Because of its rapid growth, Florida has been faced with the problem of supplying enough power for its industry and population. The absence of a severe winter season in the sunshine State may help minimize the problem this winter.

"There are many unanswered questions facing Floridians. The sunshine State's economy continued to expand this year, but it is clear that the State can grow only so much, so fast. Even putting the current energy shortage aside, in the years ahead Florida will be faced with the questions of

how and where to grow. Hopefully, it can respond by providing a steady, broad-based, and well-planned growth. Only in this way can Florida avoid a shortage economy in the future."

SPECIFIC FLORIDA PROBLEMS DEMANDING RESPONSES

I do not intend to go into the issues of the overall analysis of Amtrak—you have the statistical experts here and they are best equipped to supply that information to the committee. Rather, now is the time and place to ask both specific and philosophical questions of Amtrak representatives.

I will grant the fact that in the beginning Amtrak had a difficult task. It was required to spend considerable sums, yet watch every penny; to make investments which would eventually show a profit. Yet, in taking such actions, I am afraid that they oft-times lost sight of their overall goal: To provide railroad passenger service for the people of America. Hundreds of my constituents have written to me expressing their displeasure over certain of Amtrak's activities, or lack of action. While I compliment Amtrak on what they have been able to accomplish in general, there are certain specifics important to the State of Florida for which they must be faulted.

I would like to here enumerate those specific needs for you.

First, there is the need for initiation of service between Jacksonville, Florida, and New Orleans, Louisiana—the old gulf wind route.

On April 9th of this year, a meeting was held in my office in an effort to emphasize the vital need for this Amtrak line. The Senators from Georgia (Mr. Talmadge and Mr. Nunn), the Senators from Alabama (Mr. Sparkman and Mr. Allen), the Senators from Mississippi (Mr. Eastland and Mr. Stennis), the Senators from Louisiana (Mr. Long and Mr. Johnson), the Senators from Texas (Mr. Tower and Mr. Bentsen), as well as the junior Senator from my State, Mr. Chiles, have all indicated to the Secretary of Transportation, and the managing directors of Amtrak, the need for the initiation of railroad passenger service along his corridor.

As we explained, at that time, there are in excess of five million persons along this corridor who are not currently being served by any rail passenger line. In addition, over 200,000 military and civilian personnel, as well as their dependents, are temporarily stationed in this region, stretching from Florida's east coast to the gulf port of New Orleans. While there is some airline service available within the region, there is virtually no alternative for those on short-haul routes, but to be left to their own resources.

Utilizing the criteria established by Public Law 93–146 and enunciated by Secretary of Transportation Brinegar, we provided information to the Department of Transportation indicating that this route should be considered as more than a feeder line between the northern and southern regions of our country. My fellow southern Senators indicated to the Secretary of Transportation that we view this route as an integral part in the entire Amtrak network; a vital link between the eastern and western United States.

Mr. Chairman, I ask that a copy of the letter sent to Secretary Brinegar here be inserted in the record.

I would now like to turn my attention to the question of initiation of Amtrak rail passenger service along the east coast of Florida over the right of way owned by the Florida East Coast Railroad.

I have copies here of resolutions from cities the length of the east coast of Florida: From Key West to St. Augustine. These resolutions call upon Amtrak to initiate passenger service along this vital corridor.

In spite of the many requests that I have made of Amtrak to investigate this route, the only response I have received was from vice president of Amtrak, Robert Moot, indicating that they had no legal right to operate passenger service over the Florida east coast lines in this area. Mr. Chairman, the basic purpose of the enabling legislation for Amtrak was to provide rail passenger service in those areas where it had become economically unfeasible for private rail lines to operate. In those specific regions, the Congress gave the alternative suggestions of either allowing private enterprise the choice of continuing to provide railroad passenger service, or to opt out and continue only transportation of supplies and commodities. Since Florida East Coast has decided to discontinue its passenger service along my State's Atlantic seaboard, it well behooves Amtrak to recognize this fact, and begin to develop with the Florida Department of Transportation, and the Florida East Coast Railroad, discussions which will, hopefully lead to a reinstitution of rail passenger service throughout that region.

A third area of importance which Amtrak has continued to overlook in Florida has been what we call the Miami-Orlando-Tampa/St. Pete Corridor. I have here a chronology of events dating back to mid-1971 indicating Florida's interest in the development of passenger service within this region.

In spite of the continued efforts and communication on the part of the Florida Department of Transportation, we have been shown little consideration, and less recognition. Mr. Chairman, I ask that a copy of this chronology of events, prepared by the Florida Department of Transportation, here be inserted in the record.

It is worth noting in this instance that Florida has gone so far as to include in its 1975 budget several million dollars specifically earmarked for development of a turbo-train demonstration project between Orlando and Miami. This action was taken by the legislature at the tacit behest of Amtrak. Not only had the legislature appropriated the requisite funds, but they had given the enabling authority to the State to make a long-term commitment for the development and maintenance of this system.

Amtrak's response was to request that the State pay 100% of the capital development costs, and to share in all of the operating deficit. This is more than they required of any other State for a similar system; considerably more than they required from the Chicago region to whom they have already given a turbo-train system.

Amtrak must be made aware of the fact that Florida does not need a Toonervile trolley to serve our needs. We need something to fit our tourist image, something as sophisticated and modern as the Florida market.

Yet, Mr. Chairman, the Florida Department of Transportation informs me that it is their understanding that Amtrak did not even bother to inform Secretary of Transportation Brinegar that Florida was interested in turbo-train service in the corridor. This, in spite of the fact that there have been protracted discussions on the subject between the state and Amtrak. The result was that when Amtrak recently placed orders for badly needed passenger equipment, it was authorized to purchase additional trains for the Chicago area, but none for central Florida.

As long as Amtrak has options on eight of these new turbo-trains, it seems only logical that they purchase all eight of them and not merely the six they have indicated. That would allow Amtrak to see that at least two of the turbo-trains are initiated as an experimental route within the central Florida corridor.

As I noted earlier, Amtrak has announced that it will soon be initiating a service for the transportation of recreational vehicles between Indianapolis, Indiana, and Poinciana, Florida.

In a letter in March of this year, I suggested to Amtrak that, due to the result of the energy crisis, a conspicuous effort should be made to develop programs to minimize fuel usage, and still give assistance to the vital tourist industry within Florida. I indicated that I felt that with proper management and service, passenger trains could offer Americans an alternative mode of transportation which is reliable and helps to conserve energy. Consequently, I suggested to Amtrak that they initiate along their midwest-Florida auto ferry service, a system for the hauling of recreational vehicles. I suggested that Amtrak institute a program utilizing the movement facilities available at the two terminus points of their auto ferry route and transport these recreational vehicles long distances. Noting that one out of every four families in Florida live in mobile units, I indicated that the recreational vehicles market has shown great promise and positive progressive growth.

As of this date, I still am waiting for Amtrak to provide me with a report on this idea as they indicated they would. Mr. Chairman, I ask that a copy of my letter of March to Mr. Roger Lewis on the issue of recreational vehicles be inserted in the RECORD.

This brings me to the final point of my testimony this morning. We are rapidly approaching a celebration of our Nation's 200th anniversary. From St. Augustine to the Apollo Moon flights, Florida's history spans a period of over 400 years. The State's contribution to the birthday effort includes a special role for Miami. That site has been designated by President Nixon as one of the four cities to play a decisive role in the Bicentennial observance. One would, therefore, anticipate that an even greater surge of tourists to the Florida area could be expected in 1976.

As the Bicentennial is a national effort, it should be geared towards methods for celebrating our 200th anniversary nationwide.

Therefore, today, I would like to suggest to Amtrak that it initiate what for operating purposes we in my office have been discussing as "a ring around the country". If you direct your attention to a map of the Amtrak routes throughout the United States, you will find that with two major exceptions, the Amtrak line circles the entire Nation. Were those two points to be properly linked up, Amtrak would be able to develop a freedom trail, part of an overall bicentennial plan for a rail system which would entirely circle the United States.

As this Nation developed, we moved from our eastern seaboard, expanding to the west coast. A requisite factor in that development was the growth of our Nation's rail system. Now, as we celebrate that growth, and the Nation which it produced, we have an excellent opportunity to reaffirm our understanding of the benefits we can expect to derive through continued, intelligent use of our rail system.

I have been in communication with the American Revolution Bicentennial Administration, segments of the executive branch of the Government, officially designated American Revolution Bicentennial Organizations, and interested citizens around the country in developing this idea.

I would recommend now to Amtrak that they consider this suggestion, particularly in light of the fact that an estimated 45 million tourists are expected to come to America to help us celebrate our 200th birthday. If Amtrak were to fill in the two missing links in this ring around the country, and then, working with the administration, develop this as the official American Revolution Bicentennial Transportation System,

the proportionate number of users of Amtrak would multiply geometrically.

What I specifically suggest is that Amtrak, this year, by utilizing the authority granted them by Congress to initiate experimental routes, complete the gap between Jacksonville, Florida and New Orleans. Then, next year, Amtrak complete the circle, finishing off in Boston in 1975 in order to coincide with the Boston Prelude 75 celebration.

During the first decade of the 20th century, the railroads were carrying 95% of all intercity travelers. Between 1900 and 1930, they transported one billion passengers a year, reaching a peak in 1922 of 1.2 billion. In the 1920s, the railroads were running 20,000 trains to handle this passenger volume. Today, Amtrak, which provides over 90% of all intercity rail passenger service over its 24,000 mile route system, carries only 17 million passengers annually. It seems only logical to me that implementation of the suggestions I have put forward this morning would result in increased volume for Amtrak, and an appreciable benefit to the millions who would have an alternative means of transportation provided to them. Until recently, the predominant thinking in the area was to expand independent modes of transportation, putting emphasis upon the automobile and the highway. This was done, ignoring the particularities of the already existing modes. The great cities of this Nation already lay along railroad lines. Yet the railroad lines were left to decay. The bulk of our population already was where it was to stay—in our cities and along the rail lines.

I recognize that Amtrak is doing a great deal to ease the hardships caused by the current crisis in the transportation industry. I recognize further that certain difficult decisions are going to have to be made with respect to the future of passenger rail service in the United States. But certain priorities cannot be overlooked nor facts ignored, and predominant among these is an understanding of the role that government assistance will have to play in the continued development of the transportation industry. I think Amtrak can well indicate its desire to respond to the needs of the citizens of this country by demonstrating its efforts to provide exemplary service in and around the State of Florida, and thus serve the people it was created to assist. I believe that in addressing ourselves at these oversight hearing to the difficulties Amtrak has encountered in general, the committee would do well to examine the specifics I have mentioned.

I thank you for the courtesy of your attention and for the opportunity of being able to address the committee.

U.S. SENATE,
Washington, D.C., April 22, 1974.

Hon. CLAUDE S. BRINEGAR,
Secretary, Department of Transportation, Washington, D.C.

DEAR MR. SECRETARY: We respectfully request that, under the authority granted by the Amendment to the Rail Passenger Service Act of 1970 (Public Law 93-146), the National Railroad Passenger Corporation initiate service between Jacksonville, Florida and New Orleans, Louisiana.

At our April 9th meeting with Under Secretary John Barnum of the Department of Transportation and Vice President Robert Moot of the National Railroad Passenger Corporation, we indicated our belief that this route would be a major addition to the Amtrak system. As the attached population figures indicate, there are in excess of 5 million persons along this corridor who are not currently being serviced by any rail passenger line. In addition, over 200 thousand military and civilian personnel and their dependents are temporarily stationed within this region. There are no significant airline routes within this area either. Consequently, the population is left to their own resources.

In your consideration of criteria for the establishment of an experimental route, we would like to call to your attention certain major discrepancies in Amtrak's economic review of this route. In their analysis, Amtrak anticipates 21,744,000 annual revenue passenger miles. It is our understanding that that figure was arrived at by utilizing statistics for passengers currently riding the Chicago to Florida route. That type of analysis is no more than "playing the numbers game."

There are three salient factors which the Amtrak study overlooks. First, the ridership figures employed by Amtrak are based on statistics compiled last year. It is our understanding that, as a direct result of the energy crisis, the October 1973 to February 1974 figures for the Chicago to Florida route indicate an increase in ridership in excess of 300%. Secondly, the analysis is predicated upon the utilization of this line as no more than a feeder between the north and the south. To the contrary, we see this route as an integral part of the entire Amtrak network; a vital link between the eastern and western United States. Finally, it is obvious to us that, with improved service and new equipment, significant ridership would be generated over this route.

Mr. Secretary, as you are aware, during the first decade of the 20th Century, the railroads were carrying 95% of all intercity travelers. Between 1900 and 1930, they transported 1 billion passengers a year, reaching a peak in 1922 of 1.270 billion. In the 1920s, the railroads were running 20,000 trains to handle this passenger volume. Today, Amtrak, which provides over 90% of all intercity rail passenger service over its 24,000 mile route system, carries only 17 million passengers annually. It seems only logical to us that, implementation of this southern route would result in geometrically increased volume of Amtrak, and an appreciable benefit to the millions who would have an alternative means of transportation provided for them.

Until recently, the predominant thinking in the area was to expand independent modes of transportation, putting emphasis upon the automobile and the highway. This was done, ignoring the particularities of the already existing modes. The great cities of this Nation already lay along railroad lines. Yet the railroad lines were left to decay. The bulk of our population already was where it was to stay—in our cities and along the rail lines.

Mr. Secretary, we recognize that the Department of Transportation is working hard to ease the hardships caused by the current situation in the transportation industry. We realize further that certain difficult decisions are going to have to be made with respect to the implementation of Amtrak's experimental routes, but it seems to us that the southern United States has too long been ignored in terms of rail passeger service. Therefore, we respectfully urge that the Department of Transportation establish criteria enabling the National Railroad Passenger Corporation to initiate rail service between Jacksonville and New Orleans.

Sincerely,

Edward J. Gurney, James O. Eastland, John J. Sparkman, Lawton Chiles, John C. Stennis, James B. Allen, Russell B. Long, Herman E. Talmadge, John G. Tower, J. Bennett Johnston, Jr., Sam Nunn, Lloyd M. Bentsen.

U.S. Senators.

1970 population of counties approximately 70 miles on either side of the SCLRR and L. & N.R.R., Jacksonville to New Orleans

ALABAMA	
Wilcox	16,303
Monroe	20,883
Butler	22,007
Covington	34,079
Conecuh	15,645
Escambia	34,906
Clarke	26,724
Baldwin	59,382
Washington	16,241
Mobile	317,308
Crenshaw	13,188
Pike	25,038
Coffee	34,872
Geneva	21,924
Houston	56,574
Dale	52,938
Henry	13,254
Barbour	22,543
	803,809
FLORIDA	
Duval	528,865
St. Johns	30,727
Flagler	4,454
Putnam	36,290
Marion	69,030
Clay	32,059
Baker	9,242
Nassau	20,626
Union	8,112
Bradford	14,625
Alachua	104,764
Columbia	25,250
Levy	12,756
Gilchrist	3,551
Hamilton	7,787
Suwannee	15,559
Lafayette	2,892
Dixie	5,480
Madison	13,481
Taylor	13,641
Jefferson	8,778
Leon	103,047
Wakulla	6,308
Gadsden	39,184
Liberty	3,379
Franklin	7,065
Jackson	34,434
Calhoun	7,624
Gulf	10,096
Bay	75,283
Washington	11,453
Holmes	10,720
Walton	16,087
Okaloosa	88,187
Santa Rosa	37,741
Escambia	205,334
	1,623,911
GEORGIA	
Camden	11,334
Glynn	50,528
Brantley	5,940
Charlton	5,680
Ware	33,525
Clinch	6,405
Atkinson	5,879
Berrien	11,556
Lanier	5,031
Echols	1,924
Tift	27,288
Cook	12,129
Lowndes	55,112
Worth	14,770
Colquitt	32,200
Thomas	34,515
Brooks	13,739
Lee	7,044
Dougherty	89,639
Terrell	11,416

Randolph	8,734
Clay	3,636
Early	12,682
Calhoun	6,606
Baker	3,875
Mitchell	18,956
Grady	17,826
Decatur	22,310
Miller	6,397
Seminole	7,059
Total	543,735

LOUISIANA

Orleans	593,471
Plaquemines	25,225
Jefferson	337,568
St. Charles	29,550
St. John the Baptist	23,813
St. James	19,733
Ascension	37,086
Assumption	19,654
Lafourche	68,941
Terrebonne	76,049
Livingston	36,511
East Baton Rouge	285,167
St. Helena	9,937
Tangipahoa	65,875
Washington	41,987
St. Tammany	63,585
St. Bernard	51,185
Total	1,785,337

MISSISSIPPI

Jackson	87,975
George	12,459
Greene	8,545
Perry	9,065
Stone	8,101
Harrison	134,582
Forrest	57,849
Lamar	15,209
Pearl River	27,802
Hancock	17,387
Marion	22,871
Total	401,485
Grand total	5,158,637

CHRONOLOGY OF EVENTS: MIAMI-ORLANDO/DISNEY WORLD TURBO TRAIN SERVICE

6-9-71: Secretary of FlaDOT requested FRA arrange for Uuited Aircraft turbo train to visit Florida. Tour of three days subsequently made as part of 30 day tour of U.S. Public reception far exceeded expectations.

7-1-71: FlaDOT established liaison with Amtrak and Seaboard Coast Line to bring turbo train service to Florida on Tampa-Orlando route.

8-14-71: FlaDOT completed market study of Tampa-Orlando Corridor.

9-71: Results of Market Study of Tampa-Orlando route made available to Amtrak.

11-15-71: Information received by FlaDOT that FRA planned to put one or more United Aircraft turbo trains in service in some part of U.S. other than Boston-New York corridor.

12-71: Dave Watts, VP, Amtrak visited Florida and conducted on site survey of proposed Tampa-Orlando turbo train route. Recommended FlaDOT look carefully at Miami-Orlando route for turbo trains.

12-30-71: Amtrak proposed using conventional trains to initiate this service, but subsequently was rejected by FlaDOT as not suitable for this special market. Proposal from Amtrak to FlaDOT for improved conventional service was to be prepared by Amtrak in about 10 days for FlaDOT consideration.

1-26-72: FlaDOT informed Amtrak planned to put one turbo train in service between Washington, D.C. and Parkersburg, W. Va. Service subsequently failed for lack of ridership.

2-1-72: FlaDOT surveyed bus traffic between Miami and Orlando/Disney World.

2-4-72: FlaDOT provided data on bus traffic to WDW to Amtrak.

8-9-72: FlaDOT notified Amtrak by letter that, considering available data on bus and air travel to WDW, operation of turbo trains between Miami and Orlando/WDW was economically feasible.

2-10-72: Governor expressed by letter to Mr. Roger Lewis, President, Amtrak, strong interest in turbo train service on Miami—Orlando/Disney World route.

2-11-72: Governor expressed by letter to Secretary Volpe strong interest in turbo train service on Miami—Orlando/Disney World route.

2-14-72: FlaDOT informed that Amtrak proposal for turbo train service between Miami and Orlando was being prepared. Operation being considered was improved convential service to be later replaced by turbo trains.

2-28-72: Governor advised Roger Lewis by letter that he strongly supported turbo train service between Miami and Orlando and looked forward to receiving Amtrak proposal.

4-11-72: FlaDOT provided to Amtrak additional data on bus arrivals at WDW. Presented brief and cost analysis on turbo train service.

4-28-72: Amtrak prepared briefing on *Potential Rail Corridor Service* in Florida for Florida Council of 100. Briefing given by Dave Watts in Florida in May 1972.

5-19-72: FlaDOT provided Amtrak with Aerial photographs of Miami-Orlando route and proposed renovation of some stations along route.

5-22-72: Amtrak proposal on turbo train operation between Miami and Orlando received by FlaDOT and analyzed for cost implications.

5-27-72: Secretary Mueller met with Under Secretary of Transportation, Fla. Council of 100 and members of Fla legislature in Washington to request support for Miami-Orlando turbo train service. Results not conclusive.

6-5-72: Representative of FRA given special briefing on Florida interest in a demonstration project and improved rail passenger service in Miami-Orlando corridor using turbo trains. FRA repr. suggested FlaDOT study ways to set up service so that it would at least break even.

6-7-72: SCL notified that FlaDOT should be included in all planning and engineering meetings on turbo train project involving Amtrak, FRA and SCL personnel.

6-14-72: FlaDOT submitted proposal for turbo train demonstration project on Miami-Orlando route to John Ingram, Administrator, FRA.

6-21-72: FlaDOT engaged consultant recommended by Amtrak to do a quick feasibility study of proposed Miami-Orlando turbo train service to meet July 15, 1972 completion date set by Amtrak for this study.

7-13-72: SCL notified FRA of their position on proposed turbo train service.

7-26-72: Consultant completed feasibility study of proposed turbo train service. Copies made available to Amtrak and FRA.

8-22-72 & 8-23-72: FRA notified SCL and FlaDOT that it would not be possible to set up turbo train demonstration project in Florida using United Aircraft equipment from Canada because insufficient time remained under the existing contract with United Aircraft. Amtrak would take possession of turbo trains about January 22, 1973.

9-7-72: FlaDOT received information Amtrak planned to acquire two additional United Aircraft turbo trains from Canada and put them in service somewhere in the U.S. Illinois and Florida were reported to be the principal contenders for this service with Roger Lewis leaning toward Illinois. FRA relinquished control of turbo trains to Amtrak.

9-20-72: FlaDOT submitted preliminary proposal to Amtrak for operating two turbo trains between Miami and Orlando. Offered to pick up ⅔ of operating loss under Section 403(b) proposal.

9-27-72: Governor Askew asked support of turbo train project by telegrom to Florida delegation. Members of Florida delegation and staff personnel briefed on project by Bill Taylor.

10-10-72: Delegation letter supporting the project sent to President of Amtrak. Telegrams and letters sent to Roger Lewis from individual members of Florida delegation supporting project.

10-24-72: Copy of report, *Miami-Orlando Intercity Rail Operation Feasibility Study*, forwarded to FRA for information.

10-25-72: Amtrak rejected Florida proposal on turbo trains for Miami-Orlando route.

10-26-72: Secretary Revell notified Roger Lewis by letter of FlaDOT interest in advanced rail passenger equipment including gas turbine powered cars and advanced rolling stock from Britain and France. Offered to work with Amtrak to provide additional and better rail passenger service in Florida.

10-27-72: FlaDOT requested assistance by letter to Mr. John P. Olsson, Deputy Under Secretary of Transportation, and U.S. DOT representative on Amtrak Board of Directors, in bringing advanced technology passenger trains to Florida.

11-22-72: Mr. John P. Olsson, Deputy Under Secretary of Transportation urged Florida DOT to work with Amtrak on Section 403(b) application for turbo trains.

12-12-72: Roger Lewis notified Representative Dante Fascell that the only condition under which Amtrak would consider putting turbo trains in service between Orlando and Miami would be for Florida to agree to finance the right of way and maintenance facility cost for the operation. FlaDOT had rejected this proposal previously because it would burden the State with costs in excess of those borne by other states in which turbo trains operate.

1-5-73: Secretary Revell by letter advised Roger Lewis that in spite of Amtrak rejection of Florida turbo train proposal, FlaDOT would continue to work with Amtrak staff to bring better rail passenger service to Florida. Again rejected conventional rail service on Miami-Orlando route except for rail crossing protection program. Rejected Amtrak suggestion that Florida bear cost of operation and capital improvements to rail property for conventional train service. Suggested this responsibility belonged to Amtrak under mandate given by Congress.

1-5-73: Secretary Revell by letter requested from Roger Lewis a response to the FlaDOT formal request of September 12, 1972 for Amtrak to perform a market analysis and cost estimate to restore rail passenger service between Jacksonville and Miami using Florida East Coast Railroad right-of-way.

1-5-73: Secretary Revell by letter expressed to Deputy Under Secretary of Transportation disappointment at Amtrak lack of vision, apparent in their response to the Florida Section 403(b) application for turbo trains.

2-28-73: Amtrak responded to FlaDOT request of September 12, 1972 for a market analysis and cost estimate to restore rail passenger service on FEC RR between Jacksonville and Miami.

3-9-73: Amtrak by letter notified Representatives Burke and Bennett that Florida was becoming increasingly important as a rail passenger market for Amtrak and State would have high priority for new Amtrak equipment in future.

3-12-73: Information received by FlaDOT from Amtrak that Amtrak planned to acquire two additional United Aircraft turbo trains from Canada and two turbo trains of French manufacture. The latter were re-

ported to be of higher quality and reliability than United Aircraft turbo trains.

5–1–73: Amtrak requested by letter from FlaDOT to re-open discussions of rail passenger service improvement in Florida as suggested in Mr. Roger Lewis' letter of October 25, 1972.

7–11–73: FlaDOT provided Amtrak with data indicating actual passenger arrivals at Tampa and McCoy airports had far exceeded projections. Suggested that Amtrak should reconsider earlier decision rejecting turbo trains service in Florida in order to participate in this market.

7–17–73: Bill Taylor met with Roger Lewis to initiate further discussions between Fla DOT and Amtrak. President Lewis showed some interest in working with Florida.

1–25–74: Secretary Revell met with Roger Lewis. Lewis suggested that FlaDOT submit another Section 403(b) application to initiate turbo train service to Florida on Miami-Orlando route using equipment of French manufacture.

2–20–74: FlaDOT submitted second Section 403(b) application to Amtrak contingent on use of French turbo trains between Miami and Orlando. The application is under study by the Amtrak staff.

3–26–74: FlaDOT/Amtrak conference in Washington to discuss Florida turbo train application. Results inconclusive.

4–17–74: FlaDOT provided data on projected attendance at Interama for use in determining market potential of Maimi-Orlando turbo train service.

4–17–74: Amtrak notified FlaDOT no further input was needed from the State to complete the Amtrak study of the Florida application.

NOTE: This chronology does not include numerous informal meetings with the Amtrak staff in an attempt to get this project approved. Neither does it include all of the correspondence on the project initiated from Tallahassee.

U.S. SENATE,
Washington, D.C., March 27, 1974.

Mr. ROGER LEWIS,
President, National Rail Passenger Corporation (Amtrak), Washington, D.C.

DEAR MR. LEWIS: I would like to request that under the authority granted you by your enabling legislation, PL 91–518, you initiate a service for the transportation of recreational vehicles between Indianapolis, Indiana and Poinciana, Florida.

As you are aware, the energy crisis has created a considerable strain on many segments of our society. Florida, for example, drew more than twenty-five million visitors in 1973. Of that figure, only about one million came by train. The majority of the remainder came by motor vehicle. This year, there has been a conscious effort to develop programs to minimize fuel usage, and still give assistance to the vital tourist industry. It is my feeling, that with proper management and service, passanger trains can offer Americans an alternative mode of transportation which is reliable and helps to conserve energy.

I have been advised that this Spring, Amtrak will initiate a new Midwest to Florida auto-ferry service. It will originate in Indianapolis, Indiana, and have as its southern terminus Poinciana, Florida. I heartily congratulate you on this new, and vitally needed service.

In addition to the above-mentioned service, I would like to institute a "ferry" type of service for the transportation of campers and recreational vehicles. There are almost five million of these fun transport vehicles currently in use throughout the United States. They provide a living environment for their users while enabling them to travel throughout the country. Unfortunately, though, they are notoriously high consumers of fuel. With uncertainty as to requisite gasoline sources, these vehicles will not be as mobile this summer as they should be.

By instituting a program, utilizing the movement facilities available at the two terminus points of your auto-ferry route, you could transport these vehicles long distances. Simultaneously, the owners of these recreational vehicles would enjoy the normal Amtrak comforts. Then, when the auto-ferry arrived at its destination, these recreational vehicles could be unloaded from flatbeds, their owners could leave their quarters on the Amtrak trains, and then enjoy the mobility of their campers without the wasteful necessity of long drives.

As I mentioned, the need for transportation of recreational vehicles to Florida is particularly acute. One out of every four Florida residents, according to recent studies by the Federal Government, now live in mobile homes. When you add to this figure the number of Florida residents utilizing recreational vehicles, and then figure in the number of potential tourists bringing recreational vehicles to the State of Florida, the proportion multiplies geometrically. For the last several years, the recreational vehicle industry has shown great promise and positive progressive growth. Yet I am informed today by the Florida Mobile Homes and Recreational Vehicle Association that several of the manufacturing plants within my state may have to let their membership within the Association lapse as business is so bad they may not even be able to pay their dues. Across the entire breadth of this country, recreational vehicle manufacturing plants are closing down. It is my feeling, though, that were there an alternative means of transportation over great spaces for these recreational vehicles the entire recreational vehicle market would be stimulated, and the Amtrak system aided and abetted.

Mr. Lewis, I thank you for your prompt consideration of this matter and your early positive response.

With kindest regards, I am
Sincerely,

EDWARD J. GURNEY,
U.S. Senator.

FOOD, FERTILIZER, AND FUEL POLICY: THE UNITED STATES AND THE WORLD

Mr. McGOVERN. Mr. President, the entire Nation has come in recent months to see our food, fertilizer, and fuels policies as central issues—not only too our own comfort and well-being, but to our security as well, and to the very survival of much of mankind.

For the past 10 days, the Senate has been debating over $22 billion in new arms procurement for the coming year, as part of a military spending program of nearly $100 billion in fiscal year 1975.

And what a commentary it is that both the United States and the Soviet Union maintain enough nuclear megatonnage to destroy the world 50 times over. Yet we have found that we cannot feed the world's people adequately.

Former Commerce Secretary Peter Petersen has described the difficulty these developments cause for the academic statesmen who like to move back and forth between government and the universities. One professor friend of his, according to Secretary Peterson, was "moving from his familiar metaphysical terrain of the MIRV, and forced to discover the megatonnage of the soybean."

But that professor, indeed all who seek to shape American priorities, had best keep working on this intellectual transition.

In just the past 2 years both the United States and the world have gone through an almost convulsive transformation in food and agriculture.

In early 1972, the United States had more than what was thought to be adequate reserves of wheat, feed grains, and soybeans. Then we saw huge, unexpected purchases of those commodities by the Soviets and other foreign buyers, and those reserves vanished almost overnight.

And what turned out to be a bumper harvest in 1972 also turned out to be barely enough to meet market demands during the marketing year that followed.

So plantings for the 1973 crop year were increased. Almost 28 million acres of additional cropland were called into production—with just 20 million acres still being kept idle under Government set-aside programs.

By the end of the 1972–73 marketing year, it became too obvious that both the United States and the world were faced with a dangerously serious food supply situation, with world grain reserves reduced to their lowest level in memory.

So it has been that the United States and the other nations of the world were forced to "pull all the stops" to expand food production to the limit, and immediately.

These developments led our Government to a policy of maximum food production for the current—and likely for the next several—crop years.

But this sharp policy shift was made without any preconsultation and related industries—such as the fertilizer industry—or with the Congress.

If matters were not bad enough, this past year, the industries that serve agriculture have been struggling to free themselves from Government wage and price controls. Beyond that, along with agriculture itiself, those same industries were faced with uncertainty regarding the availabilities of essential fuels and energy supplies.

And there are still other factors such as environmental and export control policies which also cloud the future of our Nation's food and agricultural goals.

So the most credible thing anyone can say about the time immediately ahead is that he does not know what is in store. We have entered a period of instability and uncertainty. And we have moved from a time of abundance taken for granted, to an era of scarce supplies and rising prices.

In this context, I want to address the specific fertilizer component of our policy, and review the activities of the Subcommittee on Agricultural Credit and Rural Electrification, which I chair.

What data and information I have seen to date indicates that U.S. manufacturers of fertilizer have, in fact, kept their decontrol commitments with respect to supply for the domestic market. Exports of U.S. fertilizer have generally dropped and imports of fertilizer have generally increased since decontrol of the industry last October.

And while prices paid by farmers for

fertilizer have risen sharply since last fall, wholesale prices for U.S.-produced material since January of this year seemed to be holding steady—although the same does not seem to be true at the retail level.

The productivity record of U.S. fertilizer manufacturers this past year has been outstanding. The challenge ahead of us now, of course, is to expand current plant capacity—which I will discuss later in more detail.

But where do we go from here?

We must be concerned first of all with the outlook on farm income.

Earlier this year many grain farmers were enjoying some of the best prices they have ever received for their products. They are now receiving only about break-even prices.

The prices they have had to pay for their fuel, fertilizer, farm machinery, labor, interest, and other essential farm inputs, have risen very sharply, thus reducing this cost-price margin substantially.

The cost-price squeeze coming out of these developments will be felt not only by farmers, but also by some of those who serve them, such as the fertilizer industry.

Prices paid by farmers for fertilizer materials since last October when your industry was freed from wage and price controls have risen to levels too high in my judgment, to weather such a continued squeeze on farm commodity prices.

Prices for anhydrous ammonia at the farm level since last October already have risen by more than 110 percent; urea, by 112 percent, ammonium nitrate, by 77 percent; nitrogen solution by 86 percent; triple super-phosphate and diammonium phosphate by 56 percent; potash by 35 percent, and mixed fertilizer by over 50 percent.

Prices for farm fuels has followed a similar upward trend: gasoline up 31 percent since last November, diesel fuel of 41 percent; and LP gas up by 22 percent.

Farmers cannot continue to pay these prices unless the prices they receive for their products are strengthened and maintained.

The action taken by Congress last year on the new "floor price" and production cost adjustment system in the farm bill was a major step in the right direction. But developments in the past 12 months have made those provisions obsolete.

First, the floor prices contained in that act for the 1974 crop of wheat, feed grains, and cotton are today at or below the cost of production. Second, the so-called "escalator" or "cost of production adjustor" in the act does not take effect until the 1976 crop year.

Even making proper allowance for the depressed condition of the industry during the 1960's which I know involved heavy financial losses and low selling prices, the prices that farmers are paying for fertilizer materials today cannot be sustained—and certainly cannot be increased further—at lower farm product prices.

I and several other Senators have already introduced legislation to increase the floor prices in the 1973 act. I have also proposed that the cost-of-production escalator provisions of the act be made applicable beginning in 1975, instead of 1976.

In addition to these essential changes in the 1973 Agricultural Act, Congress also must act soon to improve the management of excess grain stocks. We must be certain that they cannot press down farm prices in the future, and we must be equally sure that they cannot be bought up unexpectedly by just a few foreign buyers. Failure to intelligently manage such stocks—and that is what happened in 1972—will mean "boom and bust" agriculture. In turn that will mean a "boom and bust" fertilizer industry. For no other industry is more dependent upon the farmer than those who depend upon fertilizer sales for their livelihood.

Now let me turn my attention specifically to some of the concerns that I and other members of the Senate Committee on Agriculture have about the 1974-75 fertilizer year.

Our subcommittee will be seeking especially a clear understanding of what American farmers can expect next year regarding the availability and price of their fertilizer materials.

Our committee has worked very closely with the industry this past year. We have helped:

To free fertilizer from Government wage and price controls;

To secure top priority status for the industry under the Federal mandatory fuel allocation regulation program; and

To secure needed railcars to move materials to market.

We also helped to secure Cost of Living Council acceptance of "blend pricing" and to secure at least some help from the Federal Power Commission with respect to expediting requests for emergency natural gas supplies for those on interruptible contracts.

We have further called upon all agencies of the Federal Government—and appropriate State agencies—through the passage of Senate Resolution 289, to give the highest priority to the fertilizer industry regarding the allocation of materials or facilities required by the industry to maximize productive capacity. And, we are continuing to work with the industry, the Federal Power Commission, and other committees of Congress, in trying to resolve natural gas requirements, especially as they relate to future needs.

In short, our committee tried to do everything we could these past several months to assist the industry to produce at full capacity. And I believe our reason for doing so is obvious: We want our farmers to get all the fertilizer they require—and at prices they can live with, and the industry can live with.

The Economic Stabilization Act, as you know, expired on April 30 of this year.

While many may be delighted over its expiration—in that most Government wage and price control authorities died with it—they should be made aware that I and other Members of Congress and our committee intend to make it our business to continue to monitor and carefully scrutinize what the industry and others do in the future on the pricing of farm inputs; on responsiveness to domestic needs; and on cooperation with respect to attainment of certain national goals.

As I already have indicated, we have done our best in the Congress to cooperate with the industry. And in return, we will expect the industry's continued cooperation in the future.

I want fertilizer manufacturers to get a fair return on their investments and labor, which is the same goal I seek for the farmers of South Dakota and the Nation.

I voted against continuation of the Economic Stabilization Act and even the so-called "stand-by" authorities that some Members of the Senate wanted to give to the President.

However, my votes on these matters should not be construed to mean that I have no interest in what happens with respect to price and wage levels or other matters in this industry which bear on the Nation's farm economy.

Quite the contrary. I will continue to be very concerned about such matters. And, as chairman of the subcommittee which has been charged with the specific responsibility for fuels and fertilizer on behalf of the full committee, I intend to do all in my congressional power to discharge that responsibility in a manner consistent with the interests of the American farmer, the American fertilizer industry, and the American people.

I began my remarks with a reference to the military debate that is now going on in the Senate. Aside from the resources it receives, there is another distinguishing feature of this aspect of our national life. It is planning—complete, intensive, comprehensive planning. We plan for literally every military threat. We plan for threats no adversary has yet dreamed up or ever will.

But on food and related industries our tendency has been just the reverse. The age of surplus has lulled us into complacence. We have dealt with all the issues on a short-term basis alone, seldom thinking past the next crop year.

Since 1972 we have seen that posture in full flower. We have been reacting to one crisis and then another, and rushing to plug the holes.

But we no longer have that luxury. Even with bumper crops things will not be as they were, with endless surplus and 50 million acres in reserve. And our planning can no longer be based on an unthinking expectation of abundance. As we do with military programs, we must plan for and even expect the worst possible case. We must think through all the consequences of what we do, so that by solving one problem we do not worsen another.

It is in this spirit that I intend to approach the continuing problems of food, fuel and fertilizer scarcities. It is a tough assignment, and there are difficult times ahead.

Now let us show that we can and will resolve these problems that mean so much to the future of America and to the fate of all the world's people.

Mr. President, I ask unanimous consent to print in the RECORD the text of a report to my subcommittee from the

Cost of Living Council which outlines its monitoring program on wholesale and retail prices of fertilizer.

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

JUNE 5, 1974.

Hon. GEORGE S. MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCGOVERN: In keeping with Senate Resolution 289, the Cost of Living Council has continued to monitor producer/wholesale fertilizer prices, in addition to directing the Internal Revenue Service to investigate complaints of price gouging.

Based in the latest monitoring information, the following table shows changes in fertilizer prices at the producer/wholesale level since decontrol:

MEDIAN PRICE OF FERTILIZER AT PRODUCER/WHOLESALE LEVEL

	Oct. 24, 1973 (per ton)	Jan. 2, 1974 (per ton)	Apr. 25, 1974 (per ton)	Percent change Oct. 24 to Apr. 25
Phosphate rock	$7	$15	$15	114
Phosphoric acid	78	119	119	53
Diammonium phosphate	75	111	115	53
Triple super phosphate	55	89	89	62
Anhydrous ammonia	65	105	115	77
Urea	72	110	119	65
Ammonium nitrate	62	90	97	56

Median prices at the producer/wholesale level have increased for 4 of the 7 major fertilizer materials since early January. Most of these increases occurred during January and February before price commitments were made to the Council and include price adjustments to reestablish traditional pricing alignments in regional markets which were anticipated by the Council.

According to a survey by the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture, the following table represents changes in prices paid by farmers for fertilizer (retail prices) since decontrol:

MEDIAN PRICES OF FERTILIZER MATERIALS AT THE RETAIL LEVEL

	Oct. 25, 1973 (per ton)	Jan. 21, 1974 (per ton)	May 10, 1974 (per ton)	Percent change, Oct. 15 to May 10
Diammonium phosphate	$119	$168	$187	57
Triple super phosphate	95	135	151	59
Anhydrous ammonia	103	176	216	110
Urea	98	166	208	112
Ammonium nitrate	82	127	147	79
Potassium chloride	68	86	92	35
Mixed fertilizer	87	122	133	53

The data indicate that fertilizer prices for nitrogenous fertilizers have risen significantly faster at retail than at wholesale. World supplies of these fertilizer materials are short and prices in the world markets have been more than double domestic price levels. Imports of these higher priced nitrogenous fertilizers have been a major factor affecting retail prices because their resale on the domestic market raises significantly the average prices paid by farmers.

As you are aware, these retail firms were not a party to the October decontrol commitments. In fact, most retail establishments not already exempt under the small business exemption were freed from controls on February 1, 1974.

The Council also directed the Internal Revenue Service to conduct a sample audit of fertilizer pricing behavior at the retail level. The report, covering a random selection of 29 firms, was completed in late April. The IRS investigation concluded that most of the audited retail firms had not changed their method of pricing nor had they been guilty of price gouging. Where higher prices were being charged, the investigation showed that sales of higher priced imported material were yielding higher average prices in most cases. The several individual investigations of retailers where price gouging had been alleged also indicate conformance with traditional pricing practices.

Any excessive prices apparently originated at the fertilizer broker level. Brokers obtain fertilizer from many sources including imports. To confirm price gouging by brokers would require an additional detailed audit of brokers' records and, again the small business exemption becomes important because most brokers have qualified for this exemption since its promulgation in May, 1972.

While the Council's monitoring activity has indicated general compliance with price commitments made by the major domestic fertilizer producers and wholesalers, indications from the industry are that prices will increase again on July 1 following the expiration of the voluntary price commitments.

The preliminary outlook for the 1974/75 fertilizer year indicates another tight supply situation, especially for the nitrogeneous products. The interagency fertilizer task force is now studying possible actions to alleviate supply shortages in the future as well as reviewing fertilizer demand/supply projections to 1980. This study is concentrating on the impediments to expanded fertilizer production and is scheduled for completion before June 30.

Sincerely,

KENNETH J. FEDOR,
Administrator, Office of Food, and Chairman, Interagency Task Force on Fertilizer.

HEARTBREAK OF THE HARD-OF-HEARING: TIMELY FEDERAL RESPONSE NEEDED

Mr. PERCY. Mr. President, I wish to call the Senate's attention to some forgotten Americans.

One is a gentleman in his sixties who owns a small pickup truck. He earns his living by trucking fruits and vegetables from a wholesaler to local merchants. He is totally deaf in one ear and has a severe hearing loss in the other. Unless something is done to improve the hearing in his one functioning ear, he can no longer drive his truck safely or hear the purchase orders given him. He will have to stop working.

Another is a grandmother in her seventies. She is in excellent health, but has suffered a gradual hearing loss for the last 12 years. She has become withdrawn from her children and grandchildren. She is afraid to go out shopping or walk in the streets. She cannot hear the traffic. Her life has become isolated. And lonely. She is afraid of her progressively silent, sullen world.

Approximately 20 million Americans suffer from hearing impairment, most of them elderly, poor, or infirm.

Yet, just over one-tenth, or about 2 million of this population possess hearing aids.

Present methods of hearing aid distribution and sale result in prohibitive costs to the consumer. Research by Consumer Reports, as well as Ralph Nader's Retired Professional Action Group and the Public Interest Research Group in Michigan and New York, demonstrates that cost to the consumer is more than twice the wholesale price. As Consumer Reports noted back in 1971:

> It takes some agility of resaoning to justify a retail price of 2½ times the wholesale price.

In addition, aids are too often improperly fitted and/or ill-suited to the patient's hearing problem. In too many cases, medical diagnosis prior to purchase is inadequate.

Most hearing aids are sold through franchised dealerships. Many dealers are neither professionally qualified nor adequately equipped to medically diagnose and treat ear disorders.

Most destructively, the customer is led to believe that the hearing tests administered by the dealer are adequate. As a result, most hearing aids are purchased without either an audiological or otorhinolaryngological examination.

Of persons over 65 who possess hearing aids, only about one-fourth were checked by an audiologist. Moreover, only a very small percentage of hearing aid users have received more specialized medical examination by an otologist or otorhinolaryngologist. Without such diagnosis, an aid may be fitted when none is needed or when medical attention is called for instead, or an aid may be incorrectly prescribed. Serious discomfort, ear infection, and wasted time and money result.

Those who might be helped by professional medical assessment are too frequently discouraged from seeking further treatment by dealers. The problems resulting from this are twofold:

First. Proper treatment of hearing impairment often requires the patient to develop such communicative skills as lipreading. Dealers have neither the technical knowledge nor the facilities to recommend or administer special assistance. Disappointingly, HEW statistics show that of all hearing-impaired citizens 45 and older, only 1 percent had any special hearing or speech comprehension training.

Second. Loss of hearing is often symptomatic of a more serious disease. With good intention, a dealer may prescribe a hearing aid to a customer whose condition requires medical treatment. The incomplete cure lulls the patient into a false security, while the underlying problem or disease grows more acute.

Dr. Robert Ruben, chairman of the Department of Otorhinolaryngology at New York's Yeshiva University, cited a dramatic case in point in testimony before the Senate Subcommittee on Consumer Interests of the Elderly:

> Mr. L is a gentleman in his seventies who noted progressive hearing loss. He went to a hearing aid store and was fitted with an aid. After some years his hearing became worse and he noticed some pain and discharge from his ear. He was then seen by our physicians and was found to have inoperable cancer of the ear. He is undergoing palliative X-ray therapy. If he had initially gone to a physician for his hearing problem and had been followed up by a physician, the cancer might

have been recognized and treated in time! He will now die an extremely painful and debilitating death as the cancer invades his skull, brains, sinuses and throat. I feel it is self-evident than an individual should have a competent medical examination and an audiological examination before a hearing aid is even considered.

A study on hearing aid distribution done by the Retired Professional Action Group further demonstrates the inadequacy of dealer-administered hearing tests.

The hearing of six women and two men ages 68 to 82 was evaluated under clinical conditions at the Hearing and Speech Center of Johns Hopkins Hospital. Subsequently, the volunteers were tested by 13 dealers a total of 21 times. Among the findings:

In nine or 42% of the visits, hearing aids were recommended by dealers when audiologists had recommended none. Aids were prescribed to four individuals for whom no aids had been prescribed by the audiologists.

Two dealers advised against a hearing aid for a volunteer found to require one by the audiologists.

In the case of only one volunteer did the dealers agree with the findings of the audiologists.

In three cases the dealers disagreed among themselves as to the need for a hearing aid.

The group also found:

All dealers stated that it was unnecessary for the volunteer to see a physician prior to the visit.

Where an aid was prescribed, the volunteer was instructed to ask the dealer "Do you think I should see a doctor or hearing specialist before I decide?" Of 12 recommendations for a hearing aid there was only one affirmative answer. This was for the removal of ear wax.

Sales pitches contradicted medical fact. Customers were advised that—

"Auditory nerves need stimulation to avoid deterioration;

"Hearing would deteriorate unless a hearing aid were used;

"Aids would restore normal hearing; and

"A hearing aid would stimulate nerve endings beneficially."

No volunteers were tested in a soundproof environment, which is standard testing procedure in all audiological laboratories. As Walenfels and Thomas noted in their publication *Hearing Aids for Nerve Deafness*, 'Extraneous sounds can mask out or cover up valuable information. To use a special sound-treated room to conduct these tests is one form of insurance against possible errors.'

On the average, hearing aids that cost $15–$35 to manufacturers retail for $200–$600. The excessive mark-up is largely due to retailing procedures. Roughly half of all dealers restrict their sales to only one brand of hearing aids. These stores are small and do a low volume of business. The expense of itinerant salesmen, responsible for roughly 60% of all sales, is another contributing factor. Where profit-making cooperatives and large retail companies have undertaken the sale of hearing aids, there has been a substantial price reduction. For example, Master Plan Services, a cooperative, sells famous-name aids at low prices ranging from $99–$199. Another significant plus of MPS is that aids are sold only on the advice of an audiologist or a physician.

Dealers administered only air conduction and pure tone testing. In contrast, comprehensive hearing evaluation at Johns Hopkins Clinic includes speech- reception threshold testing and speech-discrimination testing in addition to these two preliminary kinds of examination. The testing of one dealer amounted to pure quackery. The volunteer was asked to repeat several words transmitted to each ear through a stethoscope-like instrument. Contrary to the findings of the Clinic and two other dealers, a 40% loss of hearing in the right ear and a 30% loss in the left was determined. Expectedly, a hearing aid was sold.

In a similar study of hearing aid dealers in Queens, N.Y., the New York Public Interest Research Group charged dealers with "deception and incompetence that amounts to a massive consumer ripoff."

Five volunteers—four women and one man ranging in age from 20 to 69—made a total of 34 visits to 9 dealerships. Before the survey, the hearing of each volunteer was tested at Queens College Speech and Hearing Clinic. One female volunteer was deaf only in her left ear. All others were found to have hearing within normal limits.

The results and findings:

Fourteen of 28 visits by researchers with normal hearing resulted in dealer recommendations for hearing aids.

The researcher who was deaf in one ear was misdiagnosed by three out of four dealers she visited.

None of the dealers performed their examination in a soundproof room. According to NYPIRG, ". . . accurate results cannot be obtained where ambient noise is present . . . especially in a city with a noise level as high as New York's."

In 17 visits, the dealer indicated that consultation with a medical practitioner or audiologist was unnecessary. Said one dealer, "A doctor would only prescribe pills and drag things out indefinitely." said another, "A doctor would probably recommend surgery and most people would rather not go through that." (About 70% of 500,000 purchasers of hearing aids in 1971 went directly to a dealer without first consulting a doctor or audiologist.)

Out of 14 cases in which hearing aids were recommended to NYPIRG volunteers, there were 9 cases in which dealers claimed that the aid would restore hearing to normal and 7 cases in which dealers falsely claimed that hearing would further deteriorate if purchase of an aid was delayed.

Inadequate training of hearing aid dealers and salesmen. Too many have no training at all. At maximum, a dealer had completed only a twenty week home-study course offered by the National Hearing Aid Society, their own trade association. In reference to this course Dr. Lawrence Deutsch Professor of Audiology at Queens College has said "What I object to personally is that 20 weeks of home study can easily be accomplished by someone with any brightness at all in about 3 to 4 hours of solid reading."

Action is needed now to help resolve the shameful inadequacies in the care, or lack of it, afforded the hearing impaired. Thus far they have been ignored by our political process.

Dr. David Resnick, director of the Hearing and Speech Center at Washington Hospital Center in the District of Columbia, in testimony before the Senate Subcommittee on Consumer Interests of the Elderly, has observed that—

The 20th century beckons the hearing health community. The time is now for controls to prevent those whose chief concern is selling for profit from independent involvement in what is primarily a rehabilitative problem.

The problems of hard-of-hearing persons can be alleviated. The emotional isolation they endure can be remedied. Premature impoverishment of productive life from hearing impairment is unacceptable both to the sufferers and to the society in which they live.

Too many hearing-impaired citizens do not now receive satisfactory care. Not uncommonly, we find dealers who are ill equipped or insufficiently trained to provide the necessary treatment. Their diagnoses are too often profit motivated. Surely our regulatory agencies, in particular the Federal Trade Commission and the Food and Drug Administration, should move quickly to correct these deficiencies.

There is no reason why the hearing-impaired should be treated as second class citizens. Their rights to proper care at fair cost must be protected.

Therefore, I have written to the FTC and the FDA strongly urging both agencies to move swiftly against inadequate training programs, questionable sales practices, worthless warranties, and excessive prices that victimize this relatively powerless minority. I personally plan, in the days ahead, to do everything in my power to help direct Federal resources, funds, and expertise into upgrading standards for professional competence and conducting basic research on the workings of the inner ear. In this effort, key Federal agencies should cooperate with such industry groups as the Hearing Aid Industry Conference, the National Hearing Aid Society, as well as researchers and other experts and interested groups.

Mr. President, I ask unanimous consent to have printed in the RECORD copies of my letters to FTC Chairman Lewis Engman and FDA Commissioner Alexander Schmidt, the report of New York PIRG, as well as the full texts of the testimony referred to and an excellent article on the subject by Nancy L. Ross appearing in the Washington Post of November 18, 1973.

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

MAY 28, 1974.

Hon. LEWIS A. ENGMAN,
Chairman, Federal Trade Commission,
Washington, D.C.

DEAR MR. CHAIRMAN: More than two million Americans now use hearing aids. It is past time for the Federal Trade Commission to move aggressively and with dispatch to right the many wrongs that have been done to the hard-of-hearing, so many of whom are senior citizens with so few resources to protest.

Government agency files are bulging with correspondence from Americans who have been badly served in their quest for better hearing. Yet too little has been done by the FTC to help these unfortunate people.

Simply stated, their catalog of complaints sadly suggests that the hearing-impaired of this nation receive woefully inadequate care. They are treated like second class citizens by state and federal government agencies and by too many private hearing aid dealers and salesmen who are charged with helping them.

From the multitude of frustrated outpourings and in study after study, several major problems stand out. Since most involve activities over which the FTC has authority, I call them to your personal attention in the hope that the Commission will act promptly to redress legitimate grievances through its rulemaking powers.

A most frequent concern involves marketing practices by hearing aid dealers and salesmen in what amounts to more than a $150 million retail business yearly, in which about 600,000 new aids are sold. These practices by some indelibly and unfairly tarnish the reputation of the large number of highly ethical, competent and concerned dealers. Reports on the industry and letters from the hard-of-hearing are rife with complaints about fast-talking salesmen and dealers who convince the unsuspecting to buy an aid when one is not needed, or to buy two aids when one will do. Aids are sometimes sold even though surgery or other medical treatment is called for. All too commonly, there is a failure to detect serious medical dysfunction. (To insure that questions of licensure of hearing aid dealers and the possibility of requiring prior medical prescriptions for aids receive proper federal attention, I have also written to Commissioner Alexander Schmidt of the Food and Drug Administration. A copy is attached.)

Case after case of hearing aid oversell has been documented. Fast-talking salesmen prey on the elderly—spinsters, and recent widows and widowers—happy to have a visitor in their homes and apartments to break the monotony of loneliness. Some feel so indebted to their glib guests that they agree to buy an aid they may not need and often cannot afford. (Industry sources inform me that of the more than two million users of hearing aids in this country, in excess of 60 percent are over 60 years of age.)

Gimmicky advertising panders to fear and vanity with promises to conceal the aid and restore hearing despite the user's age. "You're never too old to hear better," says one manufacturer. The ads are misleading at best and cruel at worst. The fact is that most good hearing aids can be seen by others and a purchaser should be made aware of this. Moreover, elderly persons should be told that progressive hearing loss and eventual deafness cannot be reversed by a hearing aid.

Hearing aid purchasers often encounter a difficult time when they seek to have certain unethical dealers live up to their guarantees. Many elderly persons who try to return an aid that operates improperly or which does not help them are left frustrated and forlorn. Some call upon their children for assistance in enforcing the warranty. But even a concerned son or daughter who confronts an intransigent dealer face to face is usually unable to right a wrong done to a beloved parent. Consider this complaint from a Detroit woman whose aid did not help her but whose dealer refused to refund her $109 down payment: "We, the elderly citizens . . . are being victims of money-mad unscrupulous hearing aid dealers, who should have their licenses revoked before many more of us are seriously hurt and hospitalized. . . ."

None of these problems can be separated from the crucial matter of cost. A hearing aid, which can be critically important to the health and well-being of the hearing-impaired, is an expensive piece of equipment. Consumers—in particular elderly purchasers forced to live on meager fixed incomes—are literally made to pay through the ear. Research by *Consumer's Reports*, as well as Ralph Nader's Retired Professional Action Group and the Public Interest Research Group in Michigan, all show that cost to the consumer is more than twice the wholesale price. As *Consumer's Reports* noted, back in 1971, "It takes some agility of reasoning to justify a retail price of 2½ times the wholesale price." The rapidly rising price of specialized replacement batteries for hearing aids, and their exceedingly short life, is another source of irritation for many users deserving of FTC attention.

All of these matters cry out for decisive action by the Commission.

While I am encouraged by several antitrust suits the FTC has brought against some manufacturers for alleged exclusive dealing and territorial limitations imposed on their dealers, they have not yet resulted in lower prices. Yet that was the intention.

At the same time, I am gratified that a number of advertising complaints have been recently proposed by the Commission against some of the misleading claims.

But, while the FTC has not turned a deaf ear to the hearing-impaired, nevertheless, the Commission's actions are insufficient to correct what has surfaced as a national scandal and what is fast becoming a national disgrace.

It is time to move boldly against those who would take advantage of a small and relatively powerless group of Americans—many of whom suffer the disadvantages of infirmity and impoverishment.

It is time to force dealers to make good on their guarantees or face severe federal penalties.

It is time to investigate thoroughly and come down hard on the pricing structure in the hearing aid industry to protect our hearing-impaired senior citizens on fixed incomes from being gouged. Unjustified profit at the expense of the elderly poor is immoral.

Other protections too must be afforded hearing aid purchasers. They should be guaranteed the right to return a device that doesn't help them. I would personally like to see a 45-day money-back requirement imposed. Further, the Commission should inform the hearing-impaired through readily available agency publications—and require dealers and salesmen to affirmatively inform them—that hearing aids canont reverse progressive hearing loss. Finally, the FTC and FDA jointly should undertake a program to explain fully and emphasize to the public the need for competent professional medical assessment of hearing problems.

On a personal note, like so many others, I wear a hearing aid. Fortunately I have not been subjected to the kind of shoddy treatment others have endured. But one should not have to be a United States Senator in order to receive proper care for hearing loss.

Kindly provide me soon with a report on the FTC's progress toward the goals I have listed, as well as any other action the Commission may follow to restore to the hearing-impaired their dollars and their dignity.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

MAY 28, 1974.

Hon. ALEXANDER M. SCHMIDT,
Commissioner, Food and Drug Administration, Washington, D.C.

DEAR COMMISSIONER SCHMIDT: A serious injustice has been done to countless Americans who are hard of hearing. They have received inadequate and often incompetent care at the hands of too many hearing aid dealers and salesmen across the country who do a disservice to the industry as a whole.

A hearing aid can be critically important to the health and well-being of the hearing-impaired. Since hearing aids are by definition medical devices, which come within the jurisdiction of the Food and Drug Administration, I am writing to request timely action to protect those who suffer from hearing loss.

Most hearing aids are sold through franchised dealerships. There are about 15,000 dealers and salesmen nationwide, selling approximately 600,000 aids each year. They are in business to sell as many hearing aids as the demand will bear. Too many are neither professionally qualified nor adequately equipped to diagnose and treat acute ear disorders. Not uncommonly, hearing aid vendors open their doors after passing an industry-sponsored exam. Preparation for the test is usually nothing more than a 20-lesson home study program. (A tacit recognition of the problem here is the policy instituted just last month by the Zenith Hearing Instrument Corp. which is probably the most ambitious dealer education and training program provided by any such company in the nation. All dealers serving Zenith's own retail outlets must now take a minimum of 80 hours of classroom instruction to better equip them for diagnosis and treatment of hearing loss.)

Most destructively, the customer comes to believe that the hearing tests administered by the dealer are medically diagnostic. They are not, as a matter of course. Nor are they usually adequate to ascertain what may be the underlying medical problem which is the cause of hearing loss.

Most hearing aids are purchased without either an audiological or otological examination. A recent survey showed only one-fourth of those over 65 owning hearing aids were checked first by an audiologist. Without such professional examination, aids are often improperly fitted or incorrectly prescribed. Discomfort, infection, wasted time and money result. The purported cure can be far worse then the original ailment.

The states have failed miserably to protect the hearing-impaired. A number of licensing boards for hearing aid dealers are literally packed with dealers. It is too much to ask such regulators to discipline their fellow salesmen or to come up with standards for medical professionalism which they themselves probably could not meet.

This dismal situation, critical to the health needs of the hearing-impaired, must not be allowed to continue. There are more than two million hearing aid users, most of whom are elderly, poor, and infirm. Industry sources inform me that of that number, as many as 60 percent are over 60 years of age; moreover, as many persons over 60 years as under that age have *need* of a hearing aid. The FDA can and should protect them against such paramedical treatment when professional diagnosis is called for. The FDA should also protect them against quackery, which is all too rampant.

Years ago, the Veterans' Administration, which provides hearing aids for more than 45,000 former servicemen, developed a system that guarantees proper diagnosis and treatment. No veteran can receive benefits for a hearing aid until he consults competent medical authorities—an otologist and/or an audiologist. VA officials tell me they have virtually no complaints about needlessly prescribed, unserviceable or ill-fitting aids because of this procedure.

The FDA should follow the VA example and protect the rest of the American public which is hearing-impaired. It should require medical prescriptions for hearings aids, just as such is now required for prescription drugs.

The FDA should also examine state hearing aid licensing regulations with a view toward creating a more professional cadre of hearing aid dealers throughout the nation. Toward this end, serious consideration should be given to establishing uniform federal standards for competence to be administered by state licensing boards, or to recommending minimum criteria for the state boards to use as a guide.

I have also written to Chairman Lewis Engman of the Federal Trade Commission concerning aspects of this problem that can be best redressed through that agency's jurisdiction. A copy of my letter is attached.

Kindly advise me soon of agency action within FDA in these areas to help protect the health interests of the hearing-impaired.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

[From the Washington Post, Nov. 18, 1973]

HEARING AIDS: WHO IS PAYING FOR WHAT AND SHOULD THEY?

(By Nancy L. Ross)

The old-fashioned script has an arthritic shake, "Every word you say is true," the correspondence began. "I have paid over $700 to two of the outstanding dealers, and I find that their agents will tell you anything to get your money. After they get it, they care no more about your success with it. I've had them tell me things that I found out later had no truth at all . . . I wanted you to know I am all for your investigation."

This letter from a retired professor in Florida was one of several similar ones received by Ralph Nader after the recent release of a group report titled "Paying Through the Ear." The study constituted an indictment of the hearing aid industry. Not only did the group accuse the industry of inadequate services, products and information, it accused dealers of recommending aids to people who do not need them and falsely exaggerating the benefits of their devices.

The Joint Committee on Hearing and Hearing Aids, an industry organization, immediately labeled the Nader report a "fraud" and called its research "amateurish." James P. Ince, executive secretary of the Hearing Aid Industry Conference (HAIC), charged that honest, competent dealers had been entrapped and duped by Nader researchers who went to them feigning hearing losses. Ince challenged the group to conduct "fair" tests that would be devised and monitored jointly by industry, medical and consumer representatives.

In other reaction, the American Speech and Hearing Association (ASHA), whose inactivity was criticized by the Nader group, voted recently at its annual convention to establish a consumer education program for the first time in its 48-year history. It will aim at making the public more aware of its member audiologists.

These professionals test for hearing loss but do not sell devices as do hearing aid dealers. A few audiologists would like to, but the convention voted overwhelming not to dispense aids. Thus, the profit motive for recommending aids for people who do not need them in theory eliminated. In fact, dealers claim some audiologists get kickbacks from them for referrals, says the report.

Since the Nadar group attacked the high percentage of "lemon aids," the number of defective aids is put somewhere between 10 and 50 percent by qualified testers, one Senate subcommittee chaired by Sen. Edward Kennedy (D-Mass.) has speeded up action on a bill to require premarket clearance of all medical devices, including hearing aids.

Meanwhile another Senate subcommittee headed by Sen. Frank Church (D-Idaho) is inching toward recommending that hearing aids be covered by Medicare. At the same time is not expected to recommend a change in the status quo whereby dealers diagnose deafness and sell aids in favor of a system where tests would have to be made by an audiologist or a physician.

One reason is the powerful hearing aid industry lobby. For example, Kenneth J. Dahlberg, who is president of Dahlberg Electronics, the fourth largest hearing aid manufacturer, was 1972 GOP Midwest finance chairman and contributed $25,000 himself.

Since 1954 his firm has signed three consent orders promising the Federal Trade Commission not to engage in false claims and advertising. A 1972 claim of restrictive contracts is still pending. Dahlberg attempted to have Sen. Robert Dole (R-Kans.), Republican National Committee chairman, use his influence with the FTC, but Dole declined, according to one of Dole's aides.

Even prior to release of the Nader report the hearing aid industry hired the Washington public relations firm Hill & Knowlton for $70,000 to keep its image sweet on Capitol Hill.

Thirty-eight states have laws licensing hearing aid dealers. The District does not license dealers. One state, Minnesota, prohibits dealers from selling aids without a prescription from an audiologist or physician, although adults under 60 can get a waiver if they desire.

A model state bill drawn up by the Nader organization was circulated to the governors and attorneys-general of the other 12 states. According to the group; Maryland, Oregon, Michigan, Iowa and Pennsylvania are now considering introducing the bill. Other states are being urged to tighten existing laws.

Coincidental with the Nader investigation is the growth of cut-rate hearing aid marketing. Almost all hearing aids today are sold by dealers franchised by one or more of the major manufacturers. Dealer-sold devices range from a low of $195 (although lesser-known brands sell for as little as $33) to over $1,000 for binaural units (an aid for each ear). The average retail price hovers between $350 and $400.

Master Plan Services (MPS), which began two years ago in Milwaukee and has spread to seven other cities including Washington, sells famous-name aids at prices ranging from $99 to $199 plus the cost of preliminary testing and repairs. MPS can offer this cut rate because it neither advertises nor has itinerant salesmen who solicit business in the field. (Estimates of the number of hearing aids sold in the home range between 38 and 80 per cent of all dealer-sold devices.)

Thus far Master Plan Services has cornered less than 1 per cent of the gross total of 600,000 aids sold each year. However, at least two major manufacturers, Norelco and Oticon, tried to stop selling to MPS because its cut-rate sales were cutting into their own dealers' territory. MPS says both resumed supplying it after MPS threatened legal action. Neither manufacturer would comment.

Besides its prices, MPS's advantage, according to the Nader report, lies in its refusal to sell devices except on the advice of an audiologist or a physician. Its greatest disadvantage, according to dealers associations, lies in its inability to reach those people who may benefit from a hearing aid but who are reluctant to seek help.

Last year approximately 2.3 million Americans owned hearing aids. The U.S. Public Health Service estimates 8.5 million have some deafness; industry puts the figure at around 14.5 million.

The discrepancy between the number of hard-of-hearing who own an aid and those who could benefit from a device but have not bought one can be attributed to many factors, the most important of which is attitude. Some elderly people are too senile or too ill to wear an aid. Some are vain and will not admit they are deaf or don't like having their bodies "wired for sound." But the great majority of those who do not have aids believe that deafness is a normal part of growing old, like sagging flesh. They would no more think of wearing hearing aids than having their faces lifted.

It was to help this not inconsiderable minority, many of whom are elderly, that the Nader report was conceived. The result, industry protests, is "destructive of innocent persons, including millions of hard-of-hearing Americans." (Presumably victims also include industry people.)

The spokesmen continue, "(The report) is 100 per cent committed to the negative and thus grossly and blatantly misleading." People who have put their confidence in honest dealers, they say, will only end up confused. Those who need help will be afraid to seek it.

The chief bone of contention between the Joint Committee on Hearing and Hearing Aids and the Nader group appears to be a survey of 13 Baltimore dealers conducted by the Retired Professional Action Group (RPAG). This organization, financed by Nader's Public Citizen Inc., selected eight volunteers aged 68 to 82. All had their hearing tested first by an audiologist at The Johns Hopkins University. Two had recognizable deafness. Posing as potential customers, the eight then made 21 visits to dealers to compare results. In 11 instances the finding differed.

In nine instances (42 per cent of the visits), hearing aids were recommended by dealers when the audiologists had recommended none. Two dealers recommended no aid for one person the audiologist found deaf, and in three cases dealers differed among themselves as to the need for a device.

In a prepared statement the Joint Committee charged: "The dealers had no way of knowing it (the project) was all a fake. When a person goes to a dealer complaining of a hearing loss, the dealer is obliged to help him. That's what he's there for. He can't be responsible for phony tricks like this." The inference is that if the dealers had known the people were "plants" their resulting recommendations might have been different.

Moreover, HAIC's Ince maintains the volunteers faked a hearing loss while being tested by not responding to sounds they really heard. Elma L. Griesel, the project's coordinator, insists they were told not to do so. However, the tests have not been verified by a disinterested third party capable of spotting any obvious cheating.

Also, since the volunteers were tested by only one audiologist, the study does not allow the possibility there might have been legitimate differences of opinion among audiologists as to whether an aid would help, as happened among the dealers.

Because the RPAG survey included people with normal as well as imperfect hearing, it is impossible to measure this against actual case histories of deaf people. Still, in an effort to corroborate the Nader group's finding that dealers who have a profit motive recommend far more aids than disinterested audiologists. The Washington Post asked both sides for statistics.

Ince replied that 85 per cent of the people who see or who are visited by a dealer are found capable of being helped by a hearing aid. (This figure is adjusted to account for the people who go to a dealer with a prescription from an audiologist or physician, already decided to buy an aid.)

Though no precise statistics exist for audiologists, an informal survey of seven clinics across the country, made by the American Speech and Hearing Association revealed that an average of 50 per cent of the people tested can be helped by an aid. (This figure is adjusted to account for those who go to audiologists with hearing losses due to medical reasons.)

The discrepancy between dealers and audiologists shown in the RPAG project and in the two sides' own estimates stems, the Nader report concludes, neither from dealer incompetence in testing or from outright intent to sell devices where not needed.

There are approximately 15,000 hearing aid dealers and salesmen in the United States. Just over 2,000 of these have passed an industry-administered test upon completion of a 20-week home study course. Others have only on-the-job training. Ince described hearing aid fitting to a reporter as "two bit work." In the official statement he said, "Those who believe a master's degree (which audiologists have) is required to fit a hearing aid properly are brainwashed or confused and should speak with real authorities, such as physicians in the hearing specialty."

While Nader critics question the validity of some dealer tests not conducted in soundproof rooms (unlike audiologists' tests), they

seem more concerned that inadequately trained dealers do not recognize symptoms of serious medical problems and refer them to physicians. Ince replied, "The seven signs (of disease) are simple things you or I could learn in 15 minutes." Audiologists dispute this claim.

Besides incompetence, the Nader report charges dealers with exploitation. The report is replete with examples of older persons who feel they have been bilked out of their life savings by hearing aid salesmen. Industry spokesmen denounce these "scare stories" as overdramatization of exceptions "in a way that makes the exception appear to be the universal and conventional."

They defend the industry by noting that it has grown steadily for 40 years and increased its volume nearly 50 per cent in the past five years. Critics hold that much of the increase is due to unnecessary repeat sales (65 percent of all sales), that hearing aids are pushed much the same way Detroit pushes new model cars.

Repeat sales, industry responds, indicate satisfied customers. They are also justified by improved models. Much of the improvement has been in miniaturization so that, as manufacturers' ads claim, "nothing shows in the ear." This is what the public wants, manufacturers say.

Dealers have also been accused of misrepresenting the benefits of hearing aids, such as by telling people they can have "normal" hearing again or should acquire a device to prevent further deterioration. Neither statement is true.

Ince explains away some users' dissatisfaction with their ability to hear (about three quarters of them described themselves as very or somewhat satisfied in a survey commissioned by industry) by attributing it to exaggerated expectations or misunderstanding the dealer. The Federal Trade Commission does not agree. In the past 15 years 10 major hearing aid manufacturers have been charged with 15 counts of false and misleading advertising.

The hearing aid industry feels, in summary, its aggressive sales tactics, including salesmen in the field, are helping to reach millions of handicapped people otherwise doomed to a world of silence.

The Nader group feels more stringent regulation of the industry to cut abuses, alternative and cheaper methods of distribution and massive consumer education to encourage people to seek help would provide a greater service for the hard-of-hearing.

STATEMENT OF ROBERT J. RUBEN, M.D.

"I am just as deaf as I am blind. The problems of deafness are deeper and more complex, if not more important, than those of blindness. Deafness is a much worse misfortune. For it means the loss of the most vital stimulus—the sound of the voice that brings language, sets thoughts astir and keeps us in the intellectual company of men."

These words were written by a most extraordinary American woman, Miss Helen Keller. She felt that by far her worst affliction was that of deafness. She was, in many ways, a very unique person. One aspect of her uniqueness was that she was a deaf person who was articulate. Unfortunately, the nature of hearing loss causes most individuals so afflicted to become withdrawn and inarticulate. The psychological and social deficit is characteristic of people with hearing loss. The great misfortune is that those with hearing loss have had few spokesmen.

Today in the United States, according to Health, Education and Welfare statistics, there are approximately 2,226,000 [1] people, 65 years and over, with significant hearing loss. This is approximately 13% of the population 65 and over. This is a very conservative estimate. The actual figure may well be in excess of 5,000,000 affected individuals.[2] The hearing losses result from a number of different diseases. Most of these diseases cannot be cured or treated by medical or surgical means. Many of them are progressive in nature.

The hearing loss found in elderly individuals usually has two components. There is a loss of sensitivity. This may be compared to turning down the volume on the radio. The individual needs to have the volume of sound increased in order to hear. The second component might be most easilly described as distortion. Using our analogy of the radio it would be as if the tubes and transistors were not working properly and the sound which came from the speaker was unintelligible.

At least 13% of elderly Americans are afflicted with a combination of both these types of hearing loss. Such hearing losses have a very detrimental effect on the ability of a person to earn a living, to carry out the activities of daily life, and to enjoy the social intercourse of family and friends. It is perhaps more correct to speak of statistics in large numbers, but I am a clinician and I deal with individual patients. I feel that the brief stories of two of my patients might best illustrate a few of the problems of hearing loss in the elderly. The first is a gentleman in his sixties who owns a small truck. He earns his living by trucking fruits and vegetables from the wholesale market to a number of local merchants. He is totally deaf in one ear and has a severe hearing loss in his other ear. Unless something is done to improve the hearing in his one remaining ear, he can no longer drive his truck safely or hear the purchase orders given to him, and he will be forced to stop working.

The other is a grandmother in her seventies, in excellent health. She has suffered from a gradual hearing loss for the past 15 to 20 years. Now she has became withdrawn from her children and her grandchildren. She is afraid to go out shopping or walk in the streets because she cannot hear the traffic. Her life has become isolated and lonely. Her lack of responsiveness has, on many occasions, been incorrectly interpreted by her family and friends as a lack of interest of senility. In reality, she does not hear and is afraid of her progressively silent world.

These are just two of the hundreds of thousands of elderly Americans who are afflicted with hearing loss. Many, if not most of these individuals, may be helped to hear better and to improve their ability to communicate at a level which is socially and psychologically acceptable.

The optimal way in which this rehabilitation of hearing is carried out has been well worked out in this and other countries. The individual with a hearing loss is first seen by a physician with special training and knowledge concerning hearing. In this country the physician would be an otorhinolaryngologist. A medical history is taken, a physical examination is performed, and a hearing test is obtained. The latter should be performed by an individual who has special training in doing hearing tests. There are many serious diseases which can result in hearing loss. It is extremely important that the individual be properly examined, to make sure there are no medically treatable causes of the hearing loss or that there are no underlying life threatening diseases which may manifest themselves with hearing loss.

After the initial examinations are performed, the patient should undergo a series of tests which are called hearing aid evaluations. This is best done by a person with special training in audiology and aural rehabilitatiaon. These individuals usually have masters degrees and, in some cases, doctorate degrees. They are called audiologists. The audiologist will evaluate the type of hearing loss the patient has and will then empirically test the effects of several types of hearing aids. Unfortunately we cannot determine which type of hearing aid will be best for a given patient without undertaking a moderately extensive trial and error procedure. The audiologist has the ability of selecting hearing aids made by a large number of different manufacturers. After a hearing aid has been selected in a test situation, it must be tried in the real life environment of the patient. Occasionally an aid different than the one selected in the test situation will be needed. The audiologist will select the aid and tell the patient what make the model he or she will need. The audiologist will tell the patient at which stores this aid may be obtained. It is our practice to recommend that the patient rent an aid for about a month to see if the aid will function well in the patient's world.

Many patients will also need special help in learning how to use the aid, how to listen with the aid, and some will also need to be taught other communicative skills, such as lip reading, which must be mastered in order for the patient to develop his or her best communicative potential. The patients must be followed to monitor the hearing loss. If the loss progresses another aid may be needed. Other medical problems associated with the hearing loss, such as ear infections from the hearing aid molds, may develop.

Through these means, many of the elderly with hearing impairments can be significantly helped. However, in the United States today, very few of our elderly citizens can obtain even the barest essentials of this type of care. Only 21 percent of the population over age 65 with binaural hearing impairment have a hearing aid.[1] The major difficulty to be found is in the method and cost of distribution of the hearing aid. A hearing aid is an electromechanical device which can amplify sound and, in some instances, selectively amplify the sound. The hearing aid is a small, fundamentally inexpensive device, similar to a transistor radio, which can in part compensate for the volume and distortion problems which many of the hearing impaired have.

The first obstacle in the way of our citizens obtaining a proper hearing aid is the excessively high retail cost. The cost of manufacturing hearing aids is about $15 to $35 apiece. These hearing aids will retail for from $200 to $600 apiece. This excessive markup is mainly due to the method of retail distribution. Most hearing aids are sold through franchised dealerships. All of the hearing aids can be sold, and many are sold, without the citizen seeing a physician or having a proper audiological examination. Only 25 percent of the population over 65 with hearing aids were examined by a medical specialist.[1] A person may walk into a hearing aid dealer's store and be given a hearing aid. Many of these stores carry only the hearing aids of one manufacturer. The proprietor of the store has, at best, a very limited selection of aids which he can give to his customer. The aids can be, and are, fitted without the benefit of any medical examination and many times without sufficient audiological examination. Only 28% of the population over 65 with a hearing aid had an audiometric examination.[1] There is usually no attempt at any special aural habilitation or any attempt to teach other communication skills, such as lip reading. Health, Education and Welfare statistics show that only 1% of citizens 45 and over had any specialized hearing or speech comprehension training.[1]

All year long I see patients who have been fitted with hearing aids, having first gone to a hearing aid store. Many of the aids that have been fitted are inappropirate to the hearing problem. Not infrequently I will encounter a case like Mr. L. Mr. L is a gentle-

man in his seventies who noted progressive hearing loss. He went to a hearing aid store and was fitted with an aid. After some years his hearing became worse and he noticed some pain and discharge from his ear. He was then seen by our physicians and was found to have an inoperable cancer of the ear. He is now undergoing palliative x-ray therapy. If he had initially gone to a physician for his hearing problem and had been followed up by a physician, the cancer might have been recognized and treated in time! He will now die an extremely painful and debilitating death as the cancer invades his skull, brain, sinuses and throat. I feel it is self evident that an individual should have a competent medical examination and an audiological examination before a hearing aid is even considered.

Many of our elderly citizens cannot afford $200 to $600 for a hearing aid. The price is greatly in excess of the actual cost of manufacture. This is primarily due to the type of organization employed for the distribution of the hearing aid. Most hearing aid stores are relatively small and do a low volume of business. The overhead is quite high as the shopkeeper must add the cost of his rent, insurance and a profit for himself to the price of each hearing aid he sells. In the few instances when profit making cooperatives have been established or when large retail companies have undertaken the sale of hearing aids, there has been a significant drop in the retail price of the aid.

Another problem resulting from distribution of the aid through the hearing aid dealer's store is the total lack of any medical or technical control. The proprietor of the store usually has no special electronic nor audiological training and certainly has no medical skills. They are in busness to sell hearing aids. There are a few dealers who are quite ethical but they cannot medically evaluate a patient.

Most hearing aids come with a set of specifications as to how the hearing aid will function. When a group of hearing aids are tested, many of them fall far short of expected performance. Most dealers have no way in which they can accurately test the functioning of the hearing aid. Thus, many of the aids which are sold are not doing what they should do. Even the citizen who can afford the aid, who has no serious medical problem and does not need special habilitative therapy, may not be helped if the aid which is purchased is defective.

Hearing impairment is at least as significant as visual impairment. The hearing impaired citizens in our country are not given the same benefits as those with visual impairment. They may in a way be considered the silent constituency of the elderly who are being discriminated against by the federal government, in that they do not receive the same consideration for their disability as those with visual impairment. The most glaring example of this is to be found in our federal income tax law. A legally blind person is entitled to an extra deduction. The deaf person, who may have a much more significant but less visible impairment, is entitled to no such deduction.

The two patients mentioned earlier both had the means to purchase a hearing aid. The fruit and vegetable man has been able to continue work; the grandmother has been able to relate to her family and enjoy the pleasures of her children and grandchildren. The vast majority of the 2,226,000 Americans over 65 with significant hearing impairment are not so fortunate. They either do not have the money to buy the aid, they are given an improper aid, or like our unfortunate patient, Mr. L., will have an undiagnosed medical problem which will lead to his unnecessary death.

FOOTNOTES

[1] Characteristics of Persons with impaired Hearing, United States, July 1962–June 1963. National Center for Health Statistics. Public Health Service Publication No. 1000. Series 10, No. 35.

[2] Hearing Status and Ear Examination, Finding Among Adults, United States, 1960–1962. Public Health Service Publication No. 1000, Series 11, No. 32.

IS ANYBODY LISTENING?

Eight million Americans today suffer from some degree and type of hearing loss. A 1962 Public Health Service Survey reported that hearing loss affects more Americans than any other chronic condition—persons aged 65 and over are most often affected. Minimum annual direct costs to educate, manage and compensate the hearing impaired are estimated at $410 million, according to a 1970 Public Health Service report. Procuring and maintaining hearing aids accounted for $132 million of that total.

The Retired Professional Action Group (RPAG), an organization funded by Public Citizen, Inc., has just completed a 15 month study of the hearing aid industry. A summary of the findings of that study is contained in their report which will be released this week. During the course of the study, RPAG staff associates in Washington, D.C., and volunteers in four states had contacts with more than 1000 persons—hard of hearing individuals, their families, medical ear specialists, audiologists, hearing aid dealers, manufacturers, and workers with the deaf and hard of hearing. RPAG also contacted more than 200 state, local, and federal offices of Medicaid and Vocational Rehabilitation; state offices of the attorney general, consumer groups and agencies, and hearing aid dealer licensing boards.

Based on this extensive research, RPAG concludes that the hearing aid industry has failed to adequately furnish quality services, products, and information; that most older people have to depend entirely on commercial establishments for the diagnosis and treatment of hearing loss; and that neither government agencies nor health professionals have yet come to grips with the problem.

RPAG further concluded that:

(1) The high profit, low sales volume hearing aid industry uses many of the business community's worst practices to sell hearing aids—practices totally unacceptable for any industry—let alone the health care industry.

(2) Government agencies, with the exception of the Veterans Administration, either place the problems related to hearing impairment at the bottom of their priority list or show lackadaisical interest and flaccid performance in protecting the hearing impaired.

(3) College and university programs have promoted speech therapy at the expense of hearing therapy. They have failed to train and to motivate students of audiology toward providing services for older people and toward advocacy activities for the hearing impaired.

(4) Most medical students graduate with minimal training and little knowledge of hearing impairment or possibilities for its correction.

Each year many Americans withdraw from normal social interaction with others because of hearing disabilities. Many who become virtual recluses appear normal to the casual observer. Forced into life patterns completely alien to their previous behavior, the hard of hearing often become "human islands" to avoid frustrating, ineffectual communication with others.

Our society tends to put aside older people and to consider health problems associated with aging as low priority or unimportant. Hearing loss is generally considered a problem associated with growing old. Furthermore, because of the shortage of medical and clinical audiological resources and a dearth of public advocacy, the hearing impaired have been virtually handed over to a profit-motivated industry—the hearing aid industry—for care. Only a small percentage of adults bought a hearing aid in 1972 after receiving medical and/or professional advice. On the other hand, a large proportion—70 percent—based their selection on advice from a hearing aid dealer or salesman with a vested interest in selling the most expensive aid the market will bear.

Unaware of professional health resources for detection and management of hearing loss, many people with impaired hearing gravitate directly to hearing aid dealers. Yet one of two other resources—otolaryngologists or audiologists—should be contacted by the hearing impaired before they consider buying a hearing aid.

Otolaryngologists are medical doctors who specialize in treating the ear, nose and throat (otologists specialize in the ear only). These specialists are usually located in large metropolitan areas. They cluster in university hospitals or in private clinics that have the equipment necessary to diagnose and treat medical clauses of hearing loss. They are usually staffed and equipped to conduct essential audiometric evaluations.

Also in the field of hearing health care are clinical audiologists who are university-trained in special graduate level programs accredited by the American Speech and Hearing Association. They can perform audiometric evaluations, determine the nature and extent of hearing loss and its effect on speech, make recommendations for the appropriate hearing aid, and provide aural rehabilitation services. Most audiologists work in hearing and speech clinics associated with hospitals, universities or other educational nonprofit institutions.

Yet with but few exceptions, most of these professionals have failed to use their experience and knowledge to become visible advocates for those they are trained to serve. They have failed to speak out on the problems of the hearing impaired.

They have failed to exert sufficient effort either to train assistants to provide viable non-commercial hearing health services or to develop a high-quality economical hearing health care system.

As a result of all these problems, most hard of hearing consumers literally fend for themselves in a marketplace which too often runs counter to their interests. In an effort to depict what can happen to consumers, RPAG conducted its own field investigation of hearing aid dealer practices.

CONSUMER ACTION: THE BALTIMORE STUDY

In order to obtain first hand information about the practices of hearing aid dealers, RPAG recruited 8 volunteers to participate in a consumer study in Baltimore, Maryland. The volunteers included 6 women and 2 men, whose ages ranged from 68 to 82.

The Baltimore study was not designed to use scientific methodology with highly trained researchers in controlled settings. However, it was designed so that it could be duplicated easily by other consumer groups and the results compared. The purpose was to depict what can happen daily to ordinary consumers when they rely on hearing aid dealers who are primarily profit-motivated and secondarily providers of service.

Personnel and Methods

In a general briefing, each volunteer was instructed not to fake a hearing loss and not

to use a fictitious name. They were all aware that hearing loss is common in older persons and that hearing aid dealers advertise particularly to attract older people to take advantage of free hearing aid tests. Some of the volunteers had already had the personal experience of being tested by a hearing aid dealer. Each person expressed a willingness to approach local dealers—as many older consumers do each day—to find out whether the dealers would find that they had a hearing loss and to determine what the dealers would recommend.

After the briefing, the 8 volunteers had their hearing evaluated under clinical conditions at the Hearing and Speech Center at Johns Hopkins Hospital. (Only the Director of the Speech and Hearing Center was aware that these individuals were involved in a consumer study.)

The volunteers were then advised to visit Baltimore dealerships which had been chosen at random by RPAG from the city telephone directory. They were given a series of questions they were to ask the dealers and were instructed to report on the types and extent of tests they were given and any situations in which they felt pressured to buy a hearing aid.

At the end of the study, 13 different offices had been visited. Each volunteer had visited at least two offices; eleven offices had been visited by more than one volunteer.

RESULTS

(1) Comparison of Tests of Hearing Aid Dealers and Clinical Audiologists

One of the major purposes of the study was to compare hearing aid dealer test results and recommendations with those given by clinical audiologists.

Tests given by audiologists at the Johns Hopkins clinic revealed that none of the older persons tested had absolutely normal hearing; however, in only two cases was the hearing loss considered significant and the use of a hearing aid recommended. These two individuals were advised to obtain an examination by a medical ear specialist after their hearing evaluation at the clinic.

Cumulatively, the 8 volunteers were tested by the 13 dealers a total of 21 times. There were 11 instances of disagreement with the findings of the clinical audiologists.

In nine instances, or 42 percent of the visits, hearing aids were recommended by dealers when the audiologists had recommended none. In the course of the visits, hearing aids were recommended for 4 of the 6 individuals for whom no aids had been recommended by the audiologists.

Two dealers recommended no hearing aid for one volunteer for whom the audiologist found that an aid was needed.

In the case of only one volunteer did the dealers visited agree with the findings of the audiologist. (An aid was needed.)

There were three cases in which dealers differed among themselves as to the need of a hearing aid.

(2) Physician Involvement

RPAG wanted to know whether hearing aid dealers suggest that a consumer see a physician before taking a hearing test, and if not whether a consumer who is found by a dealer to need a hearing aid is advised to see a physician before purchasing an aid. This question goes to the hert of any program designed to protect and assist persons with auditory disabilities.

Not all volunteers made advance calls to dealers, but all dealers called indicated that it was not necessary to see a physician prior to the visit to the dealer.

In connection with each office visit, if the dealer said that the volunteer needed a hearing aid, the volunteer was instructed to ask: "Do you think I should see a doctor or an ear or hearing specialist before I decide?" In the 12 cases in which a hearing aid was recommended (including one in agreement with the clinic), there was only one positive recommendation that the volunteer see a physician. That was for removal of wax which the dealer found in the volunteer's ear. Another dealer told the same volunteer she should either get a hearing aid immediately or see a doctor, whom he recommended, about an operation. Three other dealers told her it was not necessary to see a doctor before purchasing.

In addition, without testing, a dealer advised one volunteer to consult with a doctor because she complained of ringing in her ears. Another dealer told a volunteer to see a doctor if she did not want to be tested at home—that tests were not ordinarily given in the office.

By comparison, audiologists at Johns Hopkins Center found that medical examinations were needed in the cases of four volunteers (two for whom hearing aids were recommended). The study showed disagreement by the dealers with the audiologists regarding two of the four volunteers, and disagreement among the dealers themselves.

(3) Sound Proof Testing Facilities

RPAG wanted to know whether hearing aid dealers test in a sound proof environment, such as provided in audiological clinics. None of the volunteers were so tested. The dealers gave various explanations for this: One said that it did not make any difference (even though at the time of testing the window was open and fire engines kept racing by). Two dealers stated that the earphones were sufficient to keep out the noise. Another dealer admitted that the room was supposed to be sound proof but was not. Another claimed that sound proof rooms are not places where one's ears are normally tested. Four dealers offered the opinion that testing in a sound proof room is not necessary because people do not live in a sound proof world or wear hearing aids in a sound proof room, therefore they suggested that it is better to test under normal conditions or home surroundings.

This last explanation is deceptive even though it sounds entirely reasonable. It ignores the fact that the dealer's hearing test results are marked on a graph (audiogram) which is based on norms obtained in a sound proof environment. There can be no accurate comparison between the dealer's test results and the norms unless the testing is done under conditions the same as those under which the graph was produced. The graph of a person with normal hearing would show below normal if tested under noisy conditions. And the graph of a person with a hearing loss would appear to be much worse than the actual loss.

The importance of testing in a sound proof environment is further clarified in a publication by Wallenfels and Thomas, Hearing Aids for Nerve Deafness, wherein the authors state:

"We favor the use of a separate sound treated room or booth for all hearing tests. This has become standard procedure throughout the world. Only by excluding all sounds which may be disturbing can we be sure our test result is correct, that it can be repeated, and that it can give us a valid comparison.

". . . Talking about hearing in a normal at-home environment with a hearing aid is rushing things. We are still occupied with gathering all the basic facts. In cases of nerve deafness, hearing may still be good in some sound regions and defective in others. Speech understanding can be excellent in one ear while the other distorts hopelessly. Extraneous sounds, especially noises, can mask out or cover up valuable information. The more we find out during these various tests and the more certain we are of their accuracy, the more we will be able to help later on. To use a special sound treated room to conduct these tests is one form of insurance against possible errors."

Of course, hearing aids should be fitted and tried in various types of listening conditions before the sale is actually made, but the testing itself should be in controlled listening environments. Therefore, the failure of any dealer to test in a sound proof environment is, on its face, an indictment of dealer practices.

(4) Types of Tests Performed by Dealers

Aside from the matter of testing in a sound proof environment, RPAG wanted to know how the range of tests offered by the dealers compared with that of the audiologists. At the Johns Hopkins clinic, each volunteer was given a comprehensive hearing evaluation which included air conduction testing, pure tone testing, bone conduction testing, speech reception threshold testing, and speech discrimination testing. (Tests explained in Consumer Guide.)

In contrast, it was found that the testing done by all dealers consisted almost entirely of air conduction testing and pure tone testing. One dealer did not even do pure tone testing. Instead, he asked the volunteer to repeat some words presented to each ear through a stethoscope-like instrument, and declared that he needed a hearing aid because there was a forty percent loss in the right ear and a thirty percent loss in the left ear. (This dealer's findings differed from the audiologist at the clinic and from two other dealers—all of whom found that the volunteer did not need a hearing aid.)

The testing done by all of the dealers involved in this study was inadequate to measure hearing loss and to recommend hearing aids. No dealer administered bone conduction testing or speech reception threshold testing, or speech discrimination testing. Some inexcusable conflicts resulted. One volunteer was told by three dealers that hearing loss was greater in the left ear than in the right, while another dealer said that the loss was worse in the left ear on lower frequencies but worse in the right ear on higher frequencies. (The test results of a fifth dealer and the clinic both indicated that this volunteer needed no hearing aid.)

A dealer told another volunteer that she had a thirty percent loss in high tones; another dealer said the volunteer had a mild loss in the right ear and a moderate loss in the left; and a third dealer said the same volunteer had a forty-seven percent loss in the right ear and a sixty percent loss in the left. With these conflicting results, any consumer would be greatly puzzled as to which dealer to believe.

(5) Product Differentiation

The volunteers were instructed to ask specific questions about brands, prices, servicing, useful life, and reasons for high costs of hearing aids.

About half of the dealers restricted their sales to only one brand of hearing aid. High costs were attributed variously to comparatively small demand; the need for special fitting and service; the general increase of expenses; and the delicate nature of parts and instruments. The volunteers obtained price quotations which are hard to reconcile. One thing they learned was that inquiry should always be made as to whether a dealer offers a discount for senior citizens. Six dealers offered such discounts, ranging from less than ten percent to thirty percent, both on a selling price of around $375.

Also a dealer might offer a discount to one volunteer and not to another. Prices of aids also varied greatly. Those quoted ranged from $195 to $425. A customer who went to more than one dealer would have no way of judging why one aid cost more than another or why at one place a ten percent discount is offered and a thirty percent discount at another. One dealer, when asked why aids were so expensive, responded: "What difference does money make when an aid will make you hear better?"

Answers to the question of how long an aid would last varied considerably. Some said 2 years, some 5, some 10 or indefinitely. But one dealer who said aids lasted a long time also added, "People like to change them for new models the way they like to change cars." Most dealers said that parts were only stocked for about five years. The usual warranty offered was for one year but in two cases "free service" was limited to ninety days, and in another it was limited to sixty days.

(6) Benefits of Hearing Aids

What will a hearing aid do for me? Will I be able to hear normally again? What if I don't get a hearing aid now—will my hearing get worse if I wait?

All potential users of hearing aids want answers to these questions. But, unfortunately, these questions often result in answers which may or may not accord with medical and audiological findings. For example, there is no support for statements that the auditory nerves need stimulation to avoid deterioration, or that hearing will deteriorate unless an aid is used, or that a hearing aid will stimulate the nerve endings beneficially, or that a hearing aid will restore normal hearing. Variations of such claims are numerous, and may have the effect of instituting either fear or unfounded hope in hard of hearing persons.

RPAG volunteers encountered three dealers who said hearing with an aid would be normal, and four who said it would be almost normal. There were nine instances in which six different dealers emphasized the stimulation of nerve endings, or hearing deterioration if an aid were not purchased (or both).

Closely related to the question of "Will I be able to hear normally again?" was the question, "How do I get used to a hearing aid and how long will it take me to get used to it?" A major cause of consumer complaints is disillusionment—the consumer does not obtain, or does not easily and readily obtain, the satisfaction that a dealer claimed that he or she would. RPAG volunteers reported two instances in which dealers claimed that adjustment would be easy or would not take long.

One dealer said that adjustment to an aid would be easy—just like glasses—and would be easier if the purchase were not delayed until hearing was all gone. Another dealer told a volunteer that it would not take long to get used to an aid, and that she would hear normally again without strain. These statements are illustrations of sales efforts which create disappointment and disillusionment in purchasers, because it is generally recognized that it is not easy to become accustomed to the use of a hearing aid.

Following a May 13, 1973, *Baltimore Sun* article on the Baltimore study, the industry issued a press release stating that as a group the dealers visited "emerge from the report as upright, conscientious, competent businessmen." A review of the RPAG findings creates a different and uncomplimentary picture. In forty-two percent of the visits, hearing aids were recommended by dealers when the audiologists had recommended none. Two dealers did not recommend an aid to a person for whom the audiologist found that an aid was needed. Only two of the dealers advised that individuals see a doctor before testing or purchase of a hearing aid—even when asked directly whether they should or not. None of the volunteers were tested in a sound proof environment comparable with a clinic. The dealers did not do the comprehensive testing necessary to evaluate hearing loss accurately. About half of the dealers restricted their sales to only one brand of hearing aids. Discounts were offered indiscriminately. There were twelve instances in which false or misleading claims were made which are not supportable by medical and audiological findings, including 3 in which it was said a hearing aid would restore normal hearing.

Past research has exposed similar abuses

The Baltimore study gave RPAG volunteers many of the same types of experiences as the hundreds of consumers who had written to RPAG during 1972–73. Unfortunately, such stories date back many years.

In 1962 and in 1968, hearings by both the Senate Committee of the Judiciary, Subcommittee on Antitrust and Monopoly, and the Senate Special Committee on Aging revealed the many injustices which confront consumers who seek services for hearing impairment. During 1972–1973, a series of consumer investigations by the Minnesota Public Interest Research Group, The Minneapolis Star, Wayne State University, and the Detroit Free Press revealed findings similar to those of RPAG volunteers.

Dr. E. Harris Nobel, Ph. D., Chairman, Communications Disorders, University of Massachusetts, conducted an elaborate scientific study in the New York City area for his Master's thesis in 1952. He surveyed dealer offices' practices as well as dealer visits to consumers' homes. His findings are similar to the Baltimore findings in 1973.

The results of the Baltimore study illustrate what can happen to a consumer seeking services from a hearing aid dealer chosen at random from a telephone directory. Consumers cannot be asured that they will receive high quality services, that a recommendation for an aid is warranted, or that the price of an aid is justified unless they have been first served by reliable health professionals who have referred them to a competent, honest dealer or unless they have reliable information with which to evaluate the services they receive.

It is not the purpose of this report to discourage any candidate for a hearing aid from purchasing one. The appendix of this report contains particular information which will help the consumer make rational decisions about what to do when confronted with a hearing loss.

Hearing impairment can be a serious health problem which can significantly affect one's mental and social well-being. There can never be justification for a hearing aid to be sold to a person who doesn't need one, or cannot use one, or for anyone needing a hearing aid not to have one. There is no excuse for misrepresentation or falsehoods, and there is no place for high pressure commercial salesmen in the health delivery system.

The chapters which follow present information for all concerned citizens, consumer groups, government agencies, and professional organizations to use in making decisions which will change the present delivery system so that it adequately and honestly serves the hearing impaired.

SUMMARY POINTS

(1) People needing prosthetic leg and arm devices go to doctors who prescribe braces, crutches or special supports. People seeking help with speech defects go to trained speech therapists and most people with visual handicaps go to medical eye specialists. Why do most people with hearing problems go to dealers rather than to medical ear specialists or audiologists? The main reason why consumers first turn to dealers is their accessibility. There are approximately 6,000 hearing aid dealerships in the United States. Approximately 15,000 dealers and salesmen are employed in these dealerships. These dealers are easily accessible to the consumer. They advertise in the yellow pages and in the newspapers, through direct mailings to the public, door to door selling, and their store front offices, they beckon those with hearing problems. On the other hand, medical specialists and audiologists are prohibited from advertising by their codes of ethics. They are few in number and are concentrated in medical centers and universities.

(2) Most consumers know next to nothing about who provides specialized care for ear problems and hearing loss. Approximately 70 percent of purchasers of a hearing aid in 1972 consulted neither an otologist nor an audiology clinic. Hearings aid dealers appear to have successfully convinced the public that they are the primary providers of care.

(3) Since the aim of the hearing aid dealer is sales, he must get the consumers into his shop or get himself into their homes. In a marketing seminar at the 1972 annual NHAS meeting, direct mail was cited as the single most important resource—"particularly in light of the fact that more than half of the sales are replacement sales". One industry survey in 1968 estimated hearing aid sales in the home to be better than 60% of total sales. Several dealers reported to RPAG that as high as 80% of their sales are made in the homes of consumers. In many dealerships the dealers or their salesmen work primarily in the field—calling on people whose names they bought or were given. Most consumer complaints RPAG reviewed resulted from a home sale.

(4) Inadequate professional clearance before hearing aid fitting is one of the most serious abuses found in this study. General practitioners often do not know specifics about hearing impairment, hearing evaluations, and hearing aids. They often refer patients directly to hearing aid dealers instead of sending them to medical ear specialists or audiologists. As a result, consumers can be sold hearing aids when they actually need medical treatment, surgery, or special rehabilitative services.

(5) Although the industry claims its policy is to advise people to see a doctor, RPAG experiences reveal this seldom occurs, even when a dealer is asked explicitly, "Do you think I should see a doctor before I buy a hearing aid?" A Los Angeles RPAG volunteer called 86 dealerships and asked this question. Only 19 dealers said yes. When this question was asked by participants in a New York City survey, only one of 20 dealers suggested seeing a doctor first! Those dealers who do refer often have arrangements with general practitioners who generally do not have sufficient knowledge of the ear to make a thorough diagnosis. What is worse, these doctors usually end up referring the person back to the dealer instead of someone who can make a thorough diagnosis.

STATEMENT OF DAVID M. RESNICK, PH. D.

Mr. Chairman and members of the Subcommittee: I would suspect that one of the reasons for my being invited to submit a statement to this Senate Hearing has to do with my direct involvement in the provision of clinical services to the hearing impaired public, and perhaps more specifically because of my experiences concerning the delivery of hearing aids to those whose hearing limitation can be benefited only through the use of hearing aid amplification.

From the statements and testimony provided to this Subcommittee in 1968, as well as other indications preceding and following that year, it is apparent that there is strong difference of opinion between the commercial and professional participants relative to the effectiveness of methods involved in the delivery of hearing aids. These differences are not new, and to many of us at the grass-roots level the multiplicity of problems associated with the provision of hearing services and hearing aids represent an occupational hazard that must be dealt with daily. The solution to one operational problem seems to foster the development of others, and the quest to better the system never seems to reach maturity. We have yet to arrive in the 20th Century with the pro-

vision of hearing aids, and the desires of the commercial and professional communities continue to tug in opposite directions.

For example, the commercial camp is perfectly satisfied with the present delivery method. The industry describes the system as more than adequate to meet the needs of the hearing impaired population.

Conversely, the professional camp continues to press for greater evaluative aseessment prior to the fitting of a hearing aid, and more adequate rehabilitative services following provision of the instrument, all hopefully at lower cost. It is this "lowest cost" tenet that is frightening to industry.

The hearing aid industry will have delivered well over half a million hearing aids by the end of 1973. Easily 75% of these instruments will have been placed in the ears of the consumer by a hearing aid dealer without benefit of referral from, or to, a medical or audiological practitioner. The industry justifies this situation in the name of "service"—a service, they say, which by virtue of the vast dealer network can be brought to the consumer's doorstep. Medical practitioners and audiology centers, industry feels, are stationary—the consumer must go to them, and there is little motivation for action in this direction. The suggestion is true as far as it goes. Unfortunately it does not recognize the trend toward more hearing impaired persons seeking professional help prior to hearing aid use. By industry's own statistics 10–12% of the aids sold several years ago were from direct professional referral. Today approximately 25% of sales are the result of professional recommendation.

Another reason for industry's preservation of the status quo becomes apparent when one realizes that the consumer will place in excess of $150,000,000 in the hearing aid market this year. In addition, industry estimates that 5,000,000 hard of hearing individuals could benefit from the use of hearing aid amplification. The statistic may be doubtful, but taking it at face value this calculates to about 1½ billion dollars worth of instruments at today's average retail cost to the consumer. That potential is carrot enough for industry to protect under any pretense, by whatever means.

The National Hearing Aid Society (NHAS), that organization which represents the purveyor of hearing aids to the public, continues to resist alteration of the delivery system by citing that in most states hearing aid dealers are licensed to do what they do, that they continue to up-grade their trade by in-service education programs, and that they are more than willing to cooperate with medical and audiological practitioners in the business of putting hearing aids on their patients, as long as the amalgamation allows them to place hearing aids on that 75% of the hearing impaired population which comes to them directly, or which they earnestly seek out.

It is true that most dealers approve a modest discount to professional referrals, but no matter how knightly the gesture the practice still provides a liberal margin over manufacturer cost. The professional discount sales price in most instances does not realistically reflect the time and effort saved the dealer. Neither, in many cases, does it reflect the fee charged by the professional for services rendered in connection with the provision of the hearing aid recommended.

The high prices charged by dealers and the questionable sales practices utilized by many of them have received ample coverage in the 1962 Kefauver Hearing, the 1973 report of the Minnesota Public Interest Research Group, and various newspaper articles including the Minneapolis Star, The New York Times, and The Baltimore Sun. This literature suggests rather firmly that the hearing aid dealer's place in the sun is becoming clouded with the issues of realism.

Recent legislation enacted in the state of Minnesota which prevents a hearing aid dealer from initially selling a hearing aid to anyone under 18 or over 60 except on the prescription of a medical or audiological practitioner is sound evidence of one state's response to the need to better the services to the hearing impaired. FTC action against several hearing aid manufacturers to desist from exclusive sales territory agreements is but another example.

For further evidence of change one need only be aware of the increasing number of alternative plans for providing hearing aids to the hard of hearing. Reference is made here to such businesses as Behavioral Prosthetics, Inc. presently operating in Utah and California, and Master Plan Service Company with offices in Minnesota, Wisconsin, Illinois and Washington, D.C. This Subcommittee will have before it detailed descriptions of these operations and no attempt to describe them extensively will be undertaken here. There are, however, two important facets to each of these systems which are critical to the deliberations of this Subcommittee. (First, each system provides hearing aids at a cost substantially below that charged to the consumer through the present dealer delivery system. Master Plan service operates with a price structure ranging from $99 to $199, for example. Second, hearing aids are sold through professional referral only, i.e. no diagnostic testing is performed by the vendor—all testing must be accomplished by the professional prior to the provision of a hearing aid. Through both systems the potential hearing aid user is provided a professional evaluation by persons exquisitely trained to conduct it, professional hearing aid selection from persons unbiased by product involvement, and professional rehabilitation services from individuals highly schooled in the techniques needed to cope with the problems of the hearing impaired.)

There are other alternative delivery plans in existence, also. For instance, a hearing and speech program in Canada salaries a hearing aid dispenser as part of the staff. The dispenser does no testing or rehabilitation, but simply provides, at markedly reduced cost, the instrument recommended by the audiologist.

Some hearing aid dealers are offering large discounts on instruments as a means of ensuring their relationship with the professional community. In Detroit this practice has merely succeded in producing a price war, and although consumer cost of hearing aids is less the delivery system has not been altered to services to the hearing impaired.

In testimony presented before this Subcommittee in 1968, Dr. Kenneth Johnson, Executive Secretary of the American Speech and Hearing Association (ASHA) proposed a State-Federal plan of procuring and issuing hearing aids similar in scope to the Veterans' Administration program, but applicable to Title 18 and Title 18 beneficiaries. The advantages of such a program are threefold:

1. A reduction in the costs of hearing aids purchased by the Government.

2. The provision of adequate diagnostic and rehabilitative services, with the assurance of objective hearing aid fitting to beneficiaries.

3. The elimination of sharp sales practices and misleading advertising.

The same advantages describe the Master Plan Service Company and Behavioral Prosthetics programs, and these programs would be applicable to other potential hearing aid users who do not qualify as beneficiaries under Title 18 or 19 provisions. Master Plan and Behavioral Prosthetics are in operation providing measured benefits, within confines imposed by the industry, to those in need of hearing aids. These programs, as well as the State-Federal hearing aid procurement proposal suggested by Dr. Johnson have direct application to the concerns of this Subcommittee, i.e. they provide improved services to the hearing impaired elderly at lower cost, and protect the consumer from being sold a device inappropriate to the problem.

The 20th Century beckons the hearing health community, and it is time that those responsible for health care recognize the shameful inadequacies in the practices surrounding the management of hearing loss. It is time for controls to prevent those whose chief concern is selling for profit from independent involvement in what is primarily a rehabilitative problem. It is time to realize that a physician specializing in ear problems is the only one qualified to diagnose the source of hearing impairment; that an audiologist is the only one qualified to evaluate the integrity of the auditory system and recommend hearing aids objectively; that a hearing aid dealer should be confined to the provision and servicing of hearing aids on prescription. Any other role in the hearing health program is beyond the scope of his expertise, and will do much to continue the high cost of hearing health to the elderly.

HEAR YE! HEAR YE! A STUDY OF HEARING AID SALES PRACTICES IN QUEENS, N.Y.

INTRODUCTION

A 20-year-old Queens College student entered Beltone Hearing Service, 161–10 Jamaica Avenue, Queens, and complained of hearing difficulties in the classroom. The dealer led her into a small room in which obtrusive sounds of the outer office and the street could be heard. He then performed a "hearing evaluation". Several minutes later he informed her that she had a 65% hearing loss in her left ear and that she needed a hearing aid. The young woman appeared concerned and asked whether she should see a doctor. The dealer responded that is was not necessary: "A doctor" he said "would only prescribe pills and drag things out indefinitely." The dealer went on to assure her that an aid would restore the hearing in her impaired ear. He then warned her that by hesitating and delaying her purchase, she was straining her good ear. The woman thanked the dealer and left his shop.

Janet Lichten, the student in the above case, is not an average consumer, but one of five volunteer researchers taking part in a New York Public Interest Research Group Study of Hearing Aid Sales Practices.

Prior to this encounter Janet had received a complete professional audiological examination at the Queens College Speech and Hearing Center on the Queens College campus. The clinic, certified by the American Speech and Hearing Association (ASHA), is staffed by professionals in the fields of speech pathology and audiology. According to audiologists at the Center, Janet is totally deaf in one ear. No hearing aid—regardless of how powerful its amplification—can restore her hearing. Further discrepancy exists between the Beltone dealer's claims and established audiological fact: not only will Janet's ear be unaffected by her failure to wear an aid, but in no sense of the word can an aid restore lost hearing. Moreover, health professionals almost universally maintain that the most accurate and reliable results are obtained from tests performed in a sound-proof environment, not one filled with extraneous noise.

Incredibly, the Beltone dealer was not the only hearing aid dealer who misdiagnosed Janet and misrepresented the facts about hearing loss. Three out of four hearing aid dealers tested in Queens failed to detect her absolute deafness. Other NYPIRG researchers encountered similar abuses. Shoddy testing procedures were the rule rather than the exception. All of the dealers surveyed failed

to conduct their examinations in a soundproof room. Many misrepresented facts, pressured their seemingly unwary customers to purchase unwanted and unneeded aids, and generally conducted themselves in a manner that leads to the inescapable conclusion that hearing aid sales practices constitute a gross consumer hazard.

Studies by allied Public Interest Research Groups in Minnesota, Michigan, and Vermont and by Ralph Nader's Retired Professionals' Action Group in Baltimore support NYPIRG's findings. Researchers in these states uncovered similar examples of incompetence and exaggerated or fraudulent sales claims. Because so many hearing impaired persons are either senior citizens or young children with congenital disabilities, there is particular need for regulation to protect these vulnerable consumers. The following sections of this report document in-depth clear abuses of the public interest, and construct a persuasive case for reform. The concluding section contains NYPIRG's recommendations for corrective action.

BACKGROUND

"I am just as deaf as I am blind. The problems of deafness are deeper and more complex, if not more important than those of blindness. Deafness is a much worse misfortune."—Helen Keller.

"It is silent, painless, and invisible, yet more people suffer from it than from heart disease, cancer, blindness, tuberculosis, venereal disease, multiple sclerosis and kidney disease put together. According to the National Institute of Health, at least one out of every fifteen Americans is affected. The problem is loss of hearing—Americans' largest least recognized ailment. Despite its prevalence, we pay less attention to this affliction than to any other. It attracts fewer than one percent of the dollars spent on medical research".—"Deafness—The Silent Epidemic"

Hearing loss

Few of the more than 15 million Americans who suffer hearing loss face Helen Keller's double disability, but even partial deafness may cause severe problems. A child born with severe hearing loss lags behind other children in development by about six to eight years. Adults with hearing problems encounter job difficulties and social isolation and rejection. Dr. J. Harold Walton describes hearing impairment as "probably one of the most emotionally disabling conditions suffered by the human race". It brings with it potential physical danger. Persons of all ages face extraordinary hazards as a result of being unable to hear approaching vehicles, shouted warnings or other sounds that would caution them of danger.

The causes

Hearing loss can be caused by any number of things—a buildup of earwax, diseases (such as meningitis, measles, mumps), a reaction to antibiotic drugs (such as streptomycin, kanamycin, quinine), traumatic injuries to the skull, exposure to sudden loud noise, otosclerosis, congenital defects and advancing age (known as presbycusis).

Types of hearing loss

There are four major categories of ear dysfunctions. A *conductive* hearing loss is a dysfunction of the outer or middle ear which usually results from failure of some part of the physical linkage of tissues and bones that conducts sound impulses to the nerve centers of the ear. A *sensory neural* loss results from damage to the sensitive nerve mechanisms of the inner ear which converts mechanical energy into nerve impulses. A *central* hearing loss involves damage to fibers in the brain stem leading to the temporal lobes of the cerebral cortex. A *functional* loss is an auditory disturbance not due to an impairment of the peripheral hearing mechanism. The cause is psychological or willful malingering rather than organic. This type of disorder cannot be compensated for by a hearing aid.

A person's hearing is measured by decibels (dB). The number of dB of a sound is derived logarithmically from the number of times that sound is stronger than the weakest sound audible to the normal ear. The more decibels the stronger the sound. A person with normal hearing has a threshold of hearing of OdB and a threshold of discomfort of about 120 dB. The following chart illustrates the range of hearing loss from mild to severe along this scale.

Threshold shift (dB), characterization, and effect

0–15 (in worse ear), normal, no difficulties.

15–30 (in the better ear), near normal, difficulty with faint speech.

30–45 (in the better ear), mild impairment, difficulty with normal speech.

45–60 (in the better ear), serious impairment, difficulty with loud sound.

60–90 (in the better ear), severe impairment, can hear only amplified speech.

90 or more (in the better ear), profound impairment, cannot understand amplified speech.

SOURCE: Consumers Union, May 1971.

When hearing loss is suspected, there are two professional sources of information on what to do. The first source is a medical specialist (an otologist or otclaryngologist). Otologists and otolaryngologists are medical doctors with special training in hearing health care. The second source is a certified clinical audiologist. Certified clinical audiologists must have a masters degree or 60 semester hours of post-graduate work in audiology. They must also have completed 300 hours of supervised clinical experience while in college and have 9 months of full-time employment after completing post-graduate work.

Unfortunately, all too many people worried about possible hearing loss, bypass these professionals and turn to another source of information—the hearing aid dealer. People who would never think of going to an unlicensed "doctor" for a broken arm or to a layperson for advice on severe chest pains, readily turn to unlicensed hearing aid dealers for solutions to hearing problems. About 70% of the 500,000 purchasers of hearing aids in 1971 went directly to a dealer without first consulting a doctor or an audiologist. This means that they placed their trust for an accurate diagnosis of a complex medical problem in the hands of a non-professional, often devoid of training and with built-in conflicts of interest. As the results of NYPIRG's study show, this trust is often misplaced.

NYPIRG SURVEY OF HEARING AID SALES PRACTICES

The purpose of the NYPIRG study was to examine hearing aid sales practices. Nine dealers were randomly selected from the Queen Yellow pages. The dealers surveyed were:

(1) Aaron Brandwein, 168–01 Hillside Avenue, Jamaica.

(2) Acousticon of Flushing, 390–04 Union Street, Flushing.

(3) Allied Hearing Aid Service, 70–35 Parson Blvd., Flushing.

(4) Bell Hearing Aid Center, 38–27 Bell Blvd., Bayside.

(5) Beltone Hearing Service of Queens, 161–10 Jamaica Avenue, Jamaica.

(6) Greater N.Y. Hearing and Optical Center, 97–52 64th Ave., Forest Hills.

(7) Hearing Aid Center of Jamaica, 170–05 Jamaica Avenue, Jamaica.

(8) Queensboro Hall Hearing Aid Center, 120–70 Queens Blvd., Kew Gardens.

(9) Sonotone of Flushing, 135–38 Roosevelt Avenue, Flushing.

(A) Methodology

Five volunteers—four women and one man, ranging in age from 20 to 69 years old—were recruited to carry out the study. Three of the women were middle-aged; one was in her early forties and the other two in their fifties. The 20-year old was a student at Queens College majoring in Speech Pathology and Audiology.

Before they visited the first hearing aid dealer each was carefully examined at the Queens College Speech and Hearing Clinic. Except for the 20 year old, who was diagnosed as being clinically deaf in her left ear (her hearing in her right ear was normal), all were found to have hearing within normal limits.

The volunteers were instructed to visit dealers and request an examination. If asked why they wanted one, they were advised to state one of the following reasons:

I've heard that as people get older their hearing gets worse, so I thought I'd better get it checked.

My family (or friends) tell me that they think I might need an aid.

I have trouble hearing in noisy rooms (classrooms).

Volunteers were asked to observe:

(1) The test environment.

(2) The types of tests administered.

(3) The test results according to the dealers.

(4) Salesmanship and any claims made by the dealers.

(5) The cost of aids.

(6) Whether the dealer referred them to an audiologist or medical doctor.

After each visit, the volunteer was required to fill out a report detailing these facts and have it notarized before a notary public (see appendix for form).

The five volunteers made a total of thirty-four visits to the nine dealers. A total of twenty-eight tests were made. There were six instances when dealers refused to test the volunteers. Three refused to test the 20-year old because she was a minor, and Greater NY Hearing and Optical Center and Hearing Aid Center of Jamaica refused until she saw a doctor. Two refusals occurred when a volunteer complained of pain in her ear. The sixth refusal to test occurred when the volunteer was referred to a doctor first.

(B) Survey Results

In 14 out of 28 tests made by hearing aid dealers, the dealer said an aid was warranted when the clinical audiologist had indicated it was not. This works out to an astonishing 50%.

The specific findings of each NYPIRG investigator are on page six. Charts I and II in the appendix also document our findings.

SURVEY RESULTS

Janet Lichten

Janet visited eight dealers but was tested only five times. Four out of the five dealers who tested her or 80% recommended a hearing aid. Only two dealers discovered that she was deaf in her left ear. Abe Goldstein of Bell Hearing Aid Center found an 85% hearing loss in her deaf ear while Queensboro Hall Hearing Aid Center found the loss to be 54%.

Two dealers reported a mild loss in her right ear which the Queen audiologists had certified to be normal. Sonotone was the only dealer to correctly identify her deafness and to recommend that she visit a doctor or audiologist.

Marilyn Goldsmith

Marilyn's hearing was tested by six dealers. Two of them, Queensboro Hall and Bell Hearing Aid Center recommended hearing aids. Abe Goldstein of Bell said that she had been exposed to an explosion which caused a trauma in her right ear, an incident Ms. Goldsmith denies happened and one that was not verified by the audiologists test at Queens. During her visit to two other dealers,

she described her symptom as pain in her left ear. Both dealers refused to test her and referred her to a doctor.

Rea Pupko

Three of the eight dealers she visited recommended a hearing aid. Queensborough said she had a nerve loss in her left ear while Aaron Brandwein and Sonotone recorded losses of over 30% in her right ear a 45% and 48% loss in her left ear.

NYPIRG's older *male volunteer* asked to remain anonymous.

Four out of seven dealers who tested him recommended that he purchase a hearing aid. The four were Sonotone, Greater New York, Bell Hearing Aid Center and Aaron Brandwein. All found different problems. Greater New York found a 30% loss in his left ear while Sonotone found a border line loss in his right ear. Aaron Brandwein found that he suffered a 28% loss in mid frequencies and a 58% loss in high frequencies.

Maddie Waterston

Ms. Waterston visited three dealers but only Bell Hearing recommended that she purchase an aid. Abe Goldstein, at Bell detected a hearing loss in both high and low registers, a condition detected by no one else including the Queens audiologists who certified her hearing as normal.

(NOTE.—Only one dealer, Hearing Aid Center of Jamaica, 170–05 Jamaica Avenue, scored well on the survey. No aids were recommended and on each occasion the NYPIRG volunteer was referred to a doctor. Bell Hearing Aid Center, 38–27 Bell Blvd., Bayside, had the worst record. In 5 out of 5 visits, hearing aids were recommended and only once was a patient referred to a doctor.)

Medical referral

In answer to the question, "should I consult a medical doctor or audiologist?" in 18 of the 34 visits, dealers recommended that the volunteers visit a doctor; in 17 visits the dealers indicated that it was not necessary. At Bell Hearing, Janet Lichter was told, "A doctor can only help with infections of the ear". The same dealer told another person that, "a doctor would probably recommend surgery and that most people would rather not go through it". Sonotone told one volunteer that a doctor couldn't help him and that a doctor would charge him for an examination. Greater New York told Rea Pupko that her loss of hearing was too minor to warrant a doctor's visit. On several other occasions, NYPIRG volunteers were actively discouraged from visiting a doctor.

Doctor Robert J. Ruben, Chairperson of the Department of Otorhinolaryngology at Albert Einstein Medical Center, speaking before the Senate Subcommittee on Consumer Interests of the Elderly of the Special Committee on Aging last fall said, "There are many serious diseases which can result in hearing loss. It is extremely important that the individual be properly examined, to make sure there are no medically treatable causes of the hearing loss, or that there are no underlying life threatening diseases which may manifest themselves with hearing loss." Dr. Ruben went on to explain, "All year long I see patients who have been fitted with hearing aids, having first gone to a hearing aid store. Many of the aids that have been fitted are inappropriate to the hearing problem. Not infrequently I will encounter a case like Mr. L.—a gentleman in his seventies who noted progressive hearing loss. He went to a hearing aid store and was fitted with an aid. After some years his hearing became worse and he noticed some pain and discharge from his ear. He was then seen by our physicians and was found to have a (rare) inoperable cancer of the ear. He is now undergoing palliative X-ray therapy. If he had initially gone to a physician for his hearing problem and had been followed up by a physician, the cancer might have been recognized and treated in time. He will now die an extremely painful and debilitating death as the cancer invades his skull, brain sinuses and throat. I feel it is self-evident that an individual should have a competent medical examination and an audiological examination before a hearing aid is even considered . . . We see not infrequently a large number of patients who have middle ear diseases which may or may not be surgical, but should at least be worked up to rule out the problems . . . We also see people who have minimum hearing losses from fluid in their ears . . . (with) the elderly, you have to think of all types of things, from tumors to low-grade allergy."

The test environment

"In order to obtain hearing test results that are valid, there must be some control over the conditions under which the testing is performed. Ideally all testing should be performed in a sound-isolated room in which ambient noise is at a minimum."—Dr. Hayes Newby—*Audiology.*

Not one of the nine dealers surveyed in Queens performed the hearing examination in a sound-proof room. One volunteer explained that at Aaron Brandwein "half the time I didn't know whether I was hearing tones or telephones. The telephone rang constantly and I could hear the conversation. While the test was being given, questions were being asked of the tester and answers given. These questions were shouted into the room from the outside office and the answers were shouted back by the tester." During another testing situation, there was background music playing in the store and the person accompanying the NYPIRG volunteer asked the dealer if this music would interfere with the patient's ability to hear the tones. The dealer replied that the patient couldn't hear the music when he had the ear phones on. The volunteer later explained that the background music had been a very distracting factor during the test. Another subject described the testing environment at Allied Hearing Aid Service as follows, "The room was made of three portable walls and no ceiling. The door was left open and since this was a five and ten cent store, the store music, shoppers, and children could be heard." Finally, on one occasion at Bell Hearing Aid Center, construction was in progress right outside the dealer's store making it virtually impossible to hear much of anything. All of the volunteers complained of hearing either conversation, phones or typewriters during the testing.

Failure to test hearing in a sound-proof room is negligence, since accurate results cannot be obtained where ambient noise is present. Hearing test results are recorded on an audiogram (a type of graph) which is based on norms obtained in a sound-proof environment. There can be no accurate comparison between the dealer's test results and the norms unless the testing is done under conditions the same as those under which the graph is produced. The graph of a person with normal hearing will show below normal if tested under noisy conditions and the graph of a person with a hearing loss would appear to be much worse than the actual loss.

Because of the varied testing conditions encountered, it is easy to account for the wide range of results obtained for each volunteer. Very few dealers' results matched those obtained at the Queens College Speech and Hearing Center under clinically specified conditions.

Test procedures

"Minimally the patient should have puretone air and bone conduction tests with masking and speech audiometry—*minimally.* Some audiologists fit from that data . . . and with that data they are able to recommend a hearing aid. Some, of course, want more testing and they will try several hearing aids with sound fields doing SRT, discrimination, tolerance, possibly signal-notes ratio tests where you have to hear speech within a background of noise, depending upon a patient's needs."—Marvin Mazor, PhD., Chief of Audiology, Queens College Speech and Hearing Center.

Every hearing examination is designed to find out if anything is wrong with the auditory system and if there is, what is wrong and where. Testing, if done correctly, will reveal whether surgery is needed to correct a hearing loss or if an aid will help. Obviously, correct testing procedures are an essential prelude to an accurate diagnosis. (See Shopper's Guide in Appendix for more information.)

NYPIRG volunteers, as a part of their study, documented the testing procedures of the nine dealers surveyed. The results were not encouraging. One complicated technique used in the diagnosis of hearing disorders is masking. During testing there are times when the sound being presented to the test ear crosses over and is picked up by the non-test ear. This cross over to the non-test ear may result in a false reading in the test ear. In order to prevent the non-test ear's possible participation in the test, masking is used. This involves introducing a noise into the non-test ear, thus preventing it from hearing any of the test sounds. Without accurate masking when needed, misdiagnosis can occur. This is what happened when Janet Lichten was tested. In only 3 times out of 28 was masking used in the examinations.

Although every dealer visited performed a pure-tone air conduction test, in only seven out of 28 visits were bone conduction tests given and in only four cases were speech tests given.

Benefits of hearing aids

Many consumers are under the misconception, often advanced by dealers, that a hearing aid will restore impaired hearing to a normal level. In reality no hearing aid, however powerful, can restore hearing to its normal level—it can only improve hearing. The hearing aid user will almost always experience some degree of distortion in sound reception.

Another myth is that hearing will further deteriorate if one waits too long to buy a hearing aid. Dealers make claims that nerves in the ear need stimulation to prevent them from deteriorating and an aid can provide that stimulation. Others claim that the nerves in a hearing impaired ear are being strained and that a hearing aid will ease this strain. There is no medical or audiological evidence to support any of these statements. They only serve to elicit fear and worry in the hearing impaired person in order to encourage that person to buy an aid.

Out of 14 cases in which hearing aids were recommended to NYPIRG volunteers in Queens, there were 9 cases in which dealers claimed that the aid would restore hearing to normal and 7 cases in which dealers claimed that hearing would further deteriorate if purchase of an aid was delayed.

One of our volunteers was told by Sonotone that if he waited a month or two to purchase an aid, his hearing and understanding would decrease. Another volunteer was told by Aaron Brandwein that an aid would relieve the strain of hearing and that his hearing would deteriorate further if he waited to buy an aid. The dealer went on to explain that a hearing aid would prevent his hearing from getting worse. The person accompanying our volunteer asked the dealer why if glasses don't prevent eyesight from deteriorating should a hearing aid prevent hearing from deteriorating? The dealer replied that eyes and ears are different. He went on to say that if the nerves in the ears are not used, they close up. If the nerves are strained, they close up. The nerves in the ear must be exercised just as the nerves in a broken arm.

A hearing aid would keep the nerves stimulated. Of course, these examples are nonsense but had this person been an ordinary unaware consumer, he might well have been frightened into purchasing an aid.

Our 20-year old researcher was told by Beltone and Bell that an aid would restore the hearing in her bad ear to a normal level and keep her from straining her good ear.

A carefully prescribed hearing aid can be of great benefit to its user, but it cannot restore lost hearing and it may lead to despair and frustration if a hearing aid dealer has claimed that it will perform miracles.

Conclusions

The results of this study spotlight the ugly reality of sales practices which are far too common among hearing aid dealers. What is revealed is an industry employing untrained, incompetent sales persons who prey on the fears and ignorance of the unwary; an industry that tolerates deceitful and false claims so long as it produces sales.

Half of the dealers (50%) ordered aids to those evaluated as having normal hearing by professional clinicians. The failure rate documented in this study is intolerable, whatever the cause.

There is no excuse for poor test facilities and bad procedures. Especially in a city with a noise level as high and as pervasive as is New York's, there is critical need for soundproof testing facilities. Even dealers with low-level training can provide this facility and these same dealers can learn the basic skills of sound hearing examinations.

The industry has been slow to move to meet the needs of the public. Massive citizen action is imperative. Only pressure brought to bear skillfully on the Legislature by hundreds of concerned citizens armed with the facts can overcome industry pressure for self-interest legislation. Citizen pressure must be focused on reforms that can make a difference in the services provided to consumers who must wear hearing aids.

PROTECTIVE LEGISLATION FOR NEW YORK CONSUMERS

New York is one of the few states in the country which has not passed legislation to regulate the activities of the hearing aid dealers. Presently, New York dealers are ineffectively "policing" themselves—that is, those who have chosen to sign a Voluntary Code of Ethics set up by the Bureau of Consumer Frauds and Protection of the Office of the Attorney General.

Nearly all of the provisions of the Code relate to advertising. There is no reference to the qualifications necessary for providing services. Only two provisions even superficially refer to the quality and extent of services:

"Hearing Tests—Signers will not engage in spurious hearing tests for the public. Hearing tests will not be given over the telephone. If the purpose in giving the test is to obtain leads, such fact shall be disclosed to the consumer prior to the test."

"Aid to Customers—Signers recognize that the customer is entitled to proper fitting, adequate service, and individual training in the personal care and use of the product. Signers pledge to furnish such aid to their customers to the best of their ability."

It is hardly believable that a Consumer Protection Agency has suggested to a relatively small percentage of New York dealers that all they do to aid the hearing impaired is to furnish such aid "to the best of their ability." The state requires more training and evidence of ability from barbers who are regulated by state law! In this industry, "to the best of their ability" would be applicable to the local shoe salesman who suddenly decided that commissions on hearing aid sales were more lucrative than commissions on shoes.

Hearing care is health care and most of it is needed by the most neglected, vulnerable and impoverished of consumers—older people. Most hearing aid dealers who have any training at all, have only taken a 20-week home study course offered by their trade association, the National Hearing Aid Society (NHAS). Dr. Lawrence Deutsch, professor of audiology at Queens College says in reference to the course offered by NHAS, "What I object to personally is that 20 weeks of home study can easily be accomplished by someone with any brightness at all in about 3 to 4 hours of solid reading". The final exam does not even test practical skills. Even so, according to current industry records only 80 dealers in the state have bothered to take it.

For the past few years, hearing aid industry lobbyists have been attempting to get a licensure bill through the state legislature. The bill is blantantly void of consumer protection provisions. In effect, its purpose is to legitimize current industry practices—regardless of their nature and to provide a professional role and status to all hearing aid dealers who are selling aids—regardless of their background, training, experience, or competency.

There have been no consumer professional groups working to counteract the lobbying efforts of the industry to get the bill through. Professional audiologists have been intent on getting their own licensure bill passed. Audiologists and medical specialists, with few exceptions, have remained silent and have neglected the strong support needed to pass a law which would offer the consumer essential protection.

NYPIRG RECOMMENDATIONS

Based on its own experiences and the results of surveys conducted by other consumer groups in the past year, NYPIRG recommends the following action by the state:

(1) The state must pass legislation to regulate the activities of hearing aid dealers. Minimally, these regulations should provide that:

a. No hearing aid dealer could sell a hearing aid to a consumer unless the consumer had first received medical clearance from a medical ear specialist or a certified clinical audiologist.

b. No door-to-door selling of hearing aids.

c. A state advisory board on hearing aids be established which would include a balanced membership of hearing aid dealers, medical ear specialists, clinical audiologists and consumers who are hearing aid users.

d. Hearing aid dealers be required to have basic training and experience and qualifications and that no hearing aid dealers be allowed to sell hearing aids unless they have passed qualifying written and practical examinations.

e. Minimal procedures and equipment for testing hearing be established.

f. Consumers be given essential information regarding the hearing aid purchased, such as new or used condition, cost, type of aid, conditions of the guarantee, etc.

(2) NYPIRG urges the state Legislature to hold public hearings around the state before adopting any legislation. These hearings would give consumers the opportunity to voice their complaints and experiences with the present system. Based on this consumer input and government agency experiences, a report could be prepared which would document the type of legislation best suited to the needs and interests of consumers.

(3) The New York State Consumer Protection Board and other appropriate agencies such as the Consumer Frauds and Protection Bureau of the Attorney General's Office, state and local Offices on Aging, state and local health departments, plan and conduct an educational campaign for consumers. This should be done on cooperation with consumer groups and professional organizations serving the hearing impaired.

NYPIRG has developed the attached Shopper's Guide for Hearing Aids which will be disseminated to consumers free of charge.

AMENDMENTS TO RULES OF PROCEDURE OF THE SELECT COMMITTEE ON STANDARDS AND CONDUCT

Mr. CANNON. Mr. President, the Select Committee on Standards and Conduct recently amended its Rules of Procedure to provide for matters arising under the new congressional franking statute (Public Law 93–191) and to reflect the committee's experience over the past 8 years.

As required by the Legislative Reorganization Act of 1970 as codified in section 190a–2 of title 2 of the United States Code and with the unanimous consent of the Senate, the committee is hereby publishing its amended Rules of Procedure:

RULES OF PROCEDURE FOR THE SELECT COMMITTEE ON STANDARDS AND CONDUCT, U.S. SENATE

May 13, 1974.

Resolved, That the Select Committee on Standards and Conduct, United States Senate, adopt the following rules governing the procedure for the Committee:

1. *Meeting time.*—The meetings of the Committee shall be on the first Monday of each month at 10:30 a.m. or upon call of the Chairman.

2. *Quorum.*—A majority of the Members of the Committee shall constitute a quorum for the transaction of business, except that two Members shall constitute a quorum for the purpose of taking sworn testimony.

3. *Proxies.*—A Member may vote by special proxy on any issue which comes before the Committee for decision except as otherwise designated in these rules.

4. *Jurisdiction.*—The jurisdiction of the Committee is derived from the following sources of authority:

(a) *Senate Resolution 338, 88th Congress*, relating to improper conduct of Senators, or officers or employees of the Senate.

(b) *Report of Special Committee of the Senate to Study Questions Related to Secret and Confidential Government Documents, 93d Congress*, concerning disclosure of classified documents by Senators.

(c) Public Law 93–191 relating to the use of the mail franking privilege by Senators, officers of the Senate, and surviving spouses of Senators.

5. *Complaints.*—Any person may file a complaint with the Committee that any Senator, or officer or employee of the Senate, has violated proper conduct or any rule, regulation, or law within the jurisdiction of the Committee. The complaint must be in writing and should state essential facts constituting the violation.

6. *Public hearings.*—All hearings conducted by this Committee shall be open to the public, except executive sessions for voting or where the Chairman orders an executive session. The Committee, by a majority vote, may order a public session at any time. In making such determination, the Committee will take into account evidence which may tend to defame or otherwise adversely affect the reputation of any person.

7. *Subpenas.*—Subpenas may be issued by the Committee Chairman or any other Member designated by him, and may be served by any person designated by the Chairman or Member.

8. *Swearing of witnesses.*—All witnesses at public or executive hearings who testify to matters of fact shall be sworn unless the Chairman, for good cause, decides that a wit-

ness does not have to be sworn. The Chairman or any Member may administer oaths to witnesses.

9. *Counsel for witnesses.*—Any witness summoned to a public or executive hearing may be accompanied by counsel of his own choosing who shall be permitted while the witness is testifying to advise him of his legal rights.

10. *Interrogation of witnesses.*—Interrogation of witnesses at Committee hearings shall be conducted on behalf of the Committee by Members and authorized Committee staff members only.

11. *Right to cross-examine and call witnesses.*—Any person who is the subject of an investigation in public hearings, personally and through counsel, may cross-examine witnesses called by the Committee and call witnesses in his own behalf.

12. *Written witness statements.*—Any witness desiring to read a prepared or written statement in executive or public hearings shall file a copy of such statement with the counsel or Chairman of the Committee 24 hours in advance of the hearings at which the statement is to be presented. The Committee shall determine whether such statement may be read or placed in the record of the hearing.

13. *Right to testify.*—Any person whose name is mentioned or who is specifically identified, and who believes that a public hearing, or comment made by a Committee Member or counsel, tends to defame him or otherwise adversely affect his reputation, may (a) request to appear personally before the Committee to testify in his own behalf, or, in the alternative, (b) file a sworn statement of facts relevant to the testimony or other evidence or comment complained of. Such request and such statement shall be submitted to the Committee for its consideration and action.

14. *Prohibition of photographing or broadcasting hearings.*—The taking of still, motion picture or television photographs in the hearing room during a hearing or radio broadcasting of the hearing shall not be permitted except by a majority vote of the Committee.

15. *Stenographic record of testimony.*—An accurate stenographic record shall be kept of the testimony of all witnesses in executive or public hearings. The record, whether in public or executive session, shall be made available for inspection by a witness or his counsel under Committee supervision; a copy of any testimony given in public session, or that part of the testimony given by the witness in executive session and subsequently quoted or made part of the record in a public session, shall be made available to any witness at his expense if he so requests.

16. *Secrecy of executive testimony.*—All testimony taken in executive session shall be kept secret and will not be released for public information without the approval of a majority of the Committee.

17. *Record of Committee action.*—The Chief Counsel of the Committee shall keep a complete record of all Committee action. Such record shall include the votes on any question on which a record vote is demanded.

18. *Release of reports to public.*—No Committee report, document, or information shall be released to the public in whole or in part without the approval of a majority of the Committee. In case the Committee is unable to reach a unanimous decision, separate views or reports may be presented and printed by any Member or Members of the Committee.

19. *Advisory Opinions.*—Upon specific request from a Senator, or an officer of the Senate, the Committee may give an advisory opinion on any matter within its jurisdiction. An advisory opinion may be formal or informal, or written or oral, as the request warrants. All such opinions shall be advisory and declaratory only.

20. *Changing rules.*—These rules may be modified, amended, or repealed by a decision of the Committee, provided that a notice in writing of the proposed change has been given to each Member.

TWENTIETH ANNIVERSARY OF REGULATION OF NATURAL GAS

Mr. TOWER. Mr. President, Friday, June 7, 1974, marked the 20th anniversary of the Supreme Court's decision in Phillips Petroleum Co. against Wisconsin et al., mandating Federal Power Commission control over the wellhead prices of natural gas sold to interstate pipeline companies.

This decision, the effect of which has been to hold natural gas prices at unrealistically and uneconomically low levels, was a point of origin whereby resultant distortions in energy supply and demand inevitably led to the energy crisis in which we now find ourselves.

Twenty years of attempts to regulate the highly competitive and highly complex business of natural gas production has shown conclusively that regulation stifles the economic incentives essential to increasing exploration and production; that regulation leads to decreasing supplies of natural gas and of other fuels; and that the consumer, rather than being protected by this regulation, is the ultimate loser over the long run.

If Congress acts quickly to remove restrictive Federal Power Commission controls on wellhead prices of natural gas, the traditional free enterprise forces of supply and demand in the marketplace will determine gas prices, and healthy, renewed, competitive exploration will result in new supplies being discovered, just as inevitably as regulation prevented the discovery of those supplies.

Friday's edition of the Chicago Tribune carried as the lead editorial an excellent summary of why the 20th birthday of the energy crisis is, in the words of the editorial's headline, "An Anniversary To Lament."

Mr. President, the editorial makes several very excellent points. I, therefore, 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:

AN ANNIVERSARY TO LAMENT

Today is a good day to examine how innocence and misguided zeal led this country into an energy crisis with respect to natural gas, because it is the 36th anniversary of the innocence and the 20th anniversary of the misguided zeal. The Natural Gas Act of 1938 and a Supreme Court decision of June 7, 1954, have combined to hold natural gas prices artificially low, presumably for the benefit of consumers, and have thus encouraged the country to depend heavily on a fuel which is so limited in supply that we may run out within the lifetime of half the population.

The Natural Gas Act was sought by state utility commissions, back in the New Deal days, as a means of controlling the price of gas piped into their jurisdictions from out-of-state. Natural gas was then a little used fuel, much of which was burned off by oil producers as waste. It had no great constituency either of producers or of consumers. The bill was sponsored by Democrats and actively backed by Rep. Charles A. Halleck, the Republican majority leader of the House. It was so uncontroversial that when Sen. Robert J. Bulkley of Ohio asked to bring it up for the Senate vote on June 7, 1938, after it had been approved by the House, the following exchange took place between him and the acting president, Sen. Joseph C. O'Mahoney:

Sen. O'Mahoney: The bill *is not of* controversial nature, is it?

Sen. Bulkley: No.

Sen. O'Mahoney: And its passage may be expected in a reasonably short time?

Sen. Bulkley: I think it should be passed within a few minutes.

It was promptly and easily passed and received almost no public attention. It gave the federal government the power to regulate the price of natural gas sold to the pipeline companies for transportation across state lines. It specifically excluded regulation involving "the production or gathering of natural gas."

By the late 1940s, natural gas had become so popular a fuel that liberal politicians began to make an issue of low prices. The Federal Power Commission had not been militant enough to suit them. When Wisconsin sought to regulate prices in apparent violation of the 1938 act, the Phillips Petroleum Co. carried the case to the Supreme Court and lost.

Justice Sherman Minton, a liberal Truman appointee, wrote the majority decision holding that the primary purpose of the 1938 act was the "protection of consumers" and that Congress therefore intended the act to cover independent producers, despite the specific exclusion in the act.

Ironically, the FPC had never wanted this power and indeed warned of the confusion it could create. Even liberal Justice William O. Douglas dissented from the 5 to 3 decision on the ground that "regulation of the business of producing and gathering natural gas involves considerations of which we know little, and with which we are not competent to deal."

Repeated efforts to remove this "well-head" regulation of gas prices thru Congressional action have aroused liberals from Wayne Morse of Oregon to Mayor Robert Wagner of New York to demagogic oratory, and have failed. The one such bill that got thru Congress was vetoed by President Eisenhower, tho he endorsed its purpose, because of "arrogant" tactics by oil and gas company lobbyists.

And so it is that natural gas, with its arbitrarily low prices and other attractions, has become our leading source of energy for industrial, commercial, and residential use. Meanwhile the low prices caused exploratory drilling to drop by more than 50 per cent between 1956 and 1970.

Had the producers been able to set prices on the basis of free competition [there are more than 2,000 of them], prices would have risen steadily as costs rose; the demand for natural gas would have been less; there would have been an earlier incentive to develop uranium and new ways of using coal; and we would not have been caught as short as we are today. The story of natural gas is worth remembering, because it teaches us that misguided efforts to appeal to consumers by holding down prices can do far more damage to the country than good—and the implications of this go far beyond natural gas.

TELEVISION FOR THE HEARING-IMPAIRED

Mr. PERCY. Mr. President, last week I had the opportunity to view a demonstration of an exciting experimental project currently being carried out by the Public Broadcasting Service—PBS. With

the help of a grant from the Department of Health, Education, and Welfare, PBS has captioned segments of a variety of the programs regularly telecast and has invited members of the deaf and hearing-impaired communities in 12 American cities to view the captioned programs at local PBS stations.

Unlike other projects to caption television shows, the PBS system utilizes captions that cannot be seen on regular television receivers and thus do not interfere with the viewing enjoyment of the hearing audience. With the addition of a special decoding device, a regular television set can be adapted to receive captioned programs with the captions visible. Known as closed captioning, this experimental technique holds great promise for the 20 million Americans who suffer hearing handicaps.

During the past year, PBS has been testing two decoder systems, one developed by the National Bureau of Standards and one by Hazeltine Research, Inc., and simultaneously collecting reactions of hearing-impaired viewers to the captioned programs. Gallaudet College here in Washington, D.C., will evaluate the experiment, and although the results are not yet complete, the initial response to the system has been very enthusiastic. Ninety-five percent of the viewers have indicated they could not have understood the programs if captions had not been provided; 96 percent indicated a desire to have decoders available for private use.

As my colleagues know, I am one of those 20 million Americans who have hearing losses. In order to experience the program as many hearing-impaired individuals would, I viewed the captioned telecast last week without the assistance of my hearing aid. If the show had not been captioned, I would not have understood or enjoyed the program nearly as much. Because of the captions, however, I was able to enjoy the show entirely. Among the other hearing-impaired viewers present, the response was even more enthusiastic than my own. For many of those who were completely deaf, the captioned telecast was their first experience of total enjoyment of a television program. Some indicated that they had attempted previously to watch television but had given it up when the effort proved too frustrating. Their excitement at being able to enjoy television equally with the hearing audience was apparent; the prospect of being able someday to view captioned television regularly on the commercial networks obviously was a source of great pleasure.

Visible captions for all viewers have proved somewhat unsuccessful, because they interfere with the enjoyment of hearing viewers. Translation into sign language has been ineffective because many hearing-impaired individuals do not understand "signing." Closed captioning, however, can transmit captioned programs to a select audience and can be easily understood by most Americans. This new system has the potential to achieve widespread use and to diminish greatly the communication gap that affects 1 out of every 10 Americans.

PBS is to be commended for its efforts to bring television enjoyment to the millions of individuals who currently miss out on the educational, cultural, and entertainment offerings of television that most of us take for granted. I am personally committed to help bring people who suffer all types of handicaps into the mainstream of our society, and I have pledged my support and assistance in making the experimental closed captioning system an integral part of commercial television programing.

I bring this exciting PBS project to my colleagues' attention in the hope that you will join me in seeking implementation by private industry of this most worthwhile system. Expressions of interest and willingness to lend support to the closed captioning project will be eagerly received by PBS and HEW.

HEARING AIDS BEST REGULATED BY STATES

Mr. GURNEY. Mr. President, it has come to my attention that the Nation's press is being used again to launch an attack against yet another industry of small businessmen—the hearing aid dealers of America.

One of our respected colleague's has charged that there were many complaints by his constituents against hearing aid dealers, and inferred that it was a national problem.

For this reason, the attack impinges on reputations, competence and ethics of a large number of my constituents—Florida's licensed hearing aid dealers, their employees, and the Regulatory Board under which they operate. These board members are officials of the State of Florida.

Additionally, the allegations undermine—and perhaps destroy—the confidence that tens of thousands of hearing-impaired Floridians have in their hearing aid dealers. This bond of confidence is essential if a hard-of-hearing person is to be helped. Beyond that, it tends to be disruptive and confusing to persons who do not yet have hearing aids but can benefit from hearing-aid use.

Thus, the Senator's attack is—in effect—damaging the very persons he says he is trying to protect.

I am constrained to make these comments and trust they will be useful in the support and defense of all qualified hearing aid dealers throughout the United States, as well as those in Florida.

Every member of the industry is being injured by this publicity campaign, despite statements that it is aimed only at incompetent or unethical hearing aid dealers.

The charges being leveled against the hearing aid industry are being made and publicized from coast to coast without any evidence being produced or even alluded to, except in sweeping generalities.

It is claimed that Government agency files are "bulging with correspondence" about hearing aids. This evidence should have been made available to public inspection at the same time this campaign was launched attacking the industry.

The charges center importantly around those hearing aid retailers "who prey on elderly and handicapped people with shoddy treatment."

Because my State has a large percentage of elderly persons, I suppose I would be expected to receive more letters than most Senators regarding hearing aids. My experience does not mesh with that of my colleague.

The letters I have received are not "bulging" from my files. In fact, they are very few, compared with the total number of consumer complaints I receive.

I attribute this lack of complaints to the great number of excellent hearing aid dealers we have in Florida. I have met and talked with many of them, and it is my distinct impression that they are conscientious and dedicated in serving their communities.

One of the reasons we have so many good people in the retail hearing aid business in Florida, they tell me, is because we have a strong licensing law in our State in addition to a strong Hearing Aid Dealer Association that sets high standards and helps the State in regulating the industry in Florida.

Despite charges that these State laws do not work, the law does work in my State, and I am sure it does in other States with strong, well enforced licensing laws.

There are some States which have no licensing or regulatory laws. For example, I am advised that the legislature of the State of Illinois has chosen to leave the fitting and sale of hearing aids unregulated despite efforts by the hearing aid dealers of Illinois and the State Medical Society to accomplish legislation similar to that of Florida.

In fact, Illinois is one of only 11 States without a retail hearing aid licensing law. If there are complaints from Illinois about hearing aids, that may well be the underlying factor.

Hearing aid mail from Illinois would very likely have a different character and quantity of mail if that State had enacted regulatory legislation in the hearing aid field.

The Florida law has been strongly supported by hearing aid retailers, because it permits only businessmen who can pass a tough competency examination to go into business—and it establishes an effective licensing board to cancel the license of any individual who does not comply to strict standards and comprehensive State regulations. Such regulation is unquestionably in the State legislative domain.

In my opinion, if policing of an industry composed of small businessmen operating almost exclusively within their own States is necessary, it can best be accomplished by the States. That is precisely what three-forths of the States have done.

This type of policing works well in Florida. I understand it does in other States—and can in all States.

THE SUGAR SITUATION

Mr. BENNETT. Mr. President, on Friday, June 7, after a long and confused

debate, the House refused to pass an extension of the Sugar Act, which has regulated and limited the price of sugar since 1934. One of the arguments made by its opponents was that the act had in fact operated to keep the price of sugar higher than it should be and that if the act were repealed, the price would go down. The supporters of the act argued that exactly the opposite was true.

I think my colleagues, particularly those from the large consumer States, will be interested in finding out who was right. The following record of price movements is very clear:

Friday, June 7—Raw sugar price: 25.5 cents per pound—1 cent higher than on June 5 when the House killed the Sugar Act.

Monday, June 10—The price for raw sugar increased one-half cents per pound today. At 26 cents per pound, the price is one and one-half cents higher than on June 5 when the House killed the Sugar Act. When the USDA suggested elimination of the Sugar Act—November 1, 1973—the price was 11.2 cents per pound. Never before in the 40-year history of the act had the price been more than 13.2 cents.

Tuesday, June 11—Price of sugar rose 1 cent per pound today. At 27 cents per pound, the price is now 2½ cents higher than on June 5, when the House voted down the Sugar Act.

This is an increase of 10 percent in 3 trading days.

KATHARINE CORNELL

Mr. BROOKE. Mr. President, along with millions of Americans, I was saddened to hear of the death of Miss Katharine Cornell who was a dear friend and, as Alexander Woollcott said, "the First Lady of the Theater." Miss Cornell passed away early Sunday morning, June 9 at the age of 81 in her home on Martha's Vineyard, which she loved so well and where she lived in her later years.

To those of us on the Vineyard, she was a gracious friend and a generous neighbor. I was one of those privileged to be associated with some of her Vineyard endeavors and found that to them she brought the same dedication, and enthusiasm, and taste that she brought to the stage. She had a great sense of history, both of the theater and of her country. And one of her monuments on the island of Martha's Vineyard is the restored 300-year-old town hall of Vineyard Haven where fittingly her memorial service will be held.

For decades Katharine Cornell was the standard by whom others in the theater were measured. Brooks Atkinson wrote yesterday in the New York Times:

> The great ones have a little something extra. To their love of the theater, to their intelligence and their willingness to work, they bring a personal incandescence that cannot be explained. Katharine Cornell was one of these. Something electric happened

To Miss Nancy Hamilton, her longtime and devoted friend and companion to the end we offer our sympathy.

We have all suffered an irreplaceable loss.

Mr. President, I ask unanimous consent that the New York Times articles of June 10 about Miss Cornell be printed in the RECORD.

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

KATHARINE CORNELL IS DEAD AT 81

(By Alden Whitman)

Katharine Cornell, one of the great actresses of the American theater, died of pneumonia early yesterday at her home in Vineyard Haven, Mass. She was 81 years old.

A memorial service is being planned for next week in Vineyard Haven's Association Hall, the 300-year-old former Town Hall that Miss Cornell helped restore. Her body will be cremated in Boston tomorrow.

"The First Lady of the Theater" was Alexander Woollcott's phrase for Katharine Cornell. Uttered with that critic's usual hyperbole, the description was nonetheless apt, for Miss Cornell was indisputably a reigning Broadway star of the second quarter of the century, an actress without peer in emotional, romantic roles, and one, moreover, who took her plays to the byways and crossroads of America, thereby helping to shape the country's cultural tastes.

With Helen Hayes and Lynn Fontanne, her contemporaries and rivals, Miss Cornell epitomized the artistry of acting. She represented the theater of quality in such dramas as "The Barretts of Wimpole Street," "Romeo and Juliet" and "Candida"—her three greatest triumphs. More than triumphs than technique, they were triumphs of winning and holding audiences, of exciting them and dazzling them and illuminating them.

One of Miss Cornell's strengths as an artist was her ability to create character. Many of the plays she appeared in were weak or flawed—"The Green Hat," for example—but she could transform the material and create the illusion that the viewer was witnessing a memorable play. Part of this was her acting genius and part her looks. Her face, with its high cheekbones, was somewhat Oriental in cast; her hair was dark brown (almost black) and her prominent eyebrows curved down toward her checks. It was a mobile and expressive face, one that captivated, among others, Bernard Shaw.

"I don't think I was ever so astonished by a picture as I was by your photograph," the British playwright wrote. "Your success as Candida, and something blonde and expansive about your name, had created an ideal suburban British Candida in my imagination.

"Fancy my feeling on seeing in your photograph a gorgeous dark lady from the cradle of the human race—wherever that was—Ceylon, Sumatra, Hilo, or the southernmost corner of the Garden of Eden!"

A DIRECTOR'S COMMENTS

Miss Cornell's professional and private life was bound up with Guthrie McClintic. When she made her Broadway debut in 1921 in "Nice People," Mr. McClintic, then a young casting director, saw her and wrote in his notebook, "Interesting. Monotonous. Watch."

Not only did he observe her, but also by early fall he had married her. The union was a companionship that lasted for 40 years until Mr. McClintic's death in 1961. In that time he directed her plays and helped to mold her abundant talents. At his death she left the stage, for she felt that acting without him would be too difficult.

"If not for Guthrie, I think I would have continued just drifting," Miss Cornell remarked many years later. "He wanted to be an actor and my career was a sublimation of his desire, because he could pour his talents through me and that was a great advantage to me.

"I continued in the theater buoyed up mostly by his enthusiasm for it. He was one of those people who fascinated you always. You were never bored; sometimes upset, but never bored."

As well as heartening critical successes, the actress had a number of discomforting failures—among them Jean Anouilh's "Antigone," Christopher Fry's "The First Born" and S. N. Behrman's "No Time for Comedy." Her feel for comedy was limited, and she had an unhappy tendency to throw away laughs, in the critic John Mason Brown's phrase, "as profligately as Madame Ranevsky threw away money."

Lusty or romantic women were more to Miss Cornell's aptitude. Her first starring role was Iris March, the lost but sexually hearty heroine of Michael Arlen's "The Green Hat," which was produced in 1925. For several years she was the femme fatale in such melodramas as "The Letter" and "Dishonored Lady."

FORMED PRODUCING UNIT

In the thirties, however, she all but dropped that role for straight romance, a step that coincided with the establishment of her producing association, called Katharine Cornell Presents. Its first play, in 1931, was Rudolf Besier's "The Barretts of Wimpole Street," the courtship and elopement of Elizabeth Barrett and Robert Browning. Revived five time, it fixed Miss Cornell in theatergoers' minds as a romantic actress.

Describing the play and Miss Cornell's impact at the time, Brooks Atkinson, The New York Times drama critic, wrote on opening night:

"[The play] introduces us to Katharine Cornell as an actress of the first order. Here the disciplined fury she has been squandering on catch-penny plays becomes the vibrant beauty of finely wrought character.

"By the crescendo of her playing, by the wild sensitivity that lurks behind her ardent gestures and her piercing stares across the footlights she charges the drama with a meaning beyond the facts it records. Her acting is quite as remarkable for the carefulness of its design as for the fire of her presence."

"The Barretts" ran for a year on Broadway, and then Miss Cornell shepherded her company on a 20,853-mile tour of the United States, a daring venture in the Depression. They performed repertory in 77 cities and towns—places like Thomasville, Ga.; Amarillo, Tex., and Portland, Me. The plays in addition to "The Barretts," were "Candida" and "Romeo and Juliet."

"We opened up the road," Miss Cornell said. "We made 'The Barretts' and 'Candida' pay for Shakespeare. 'The Barretts' never played to an empty house—the receipts would be something like $33,000, then about $28,000 for 'Candida' and for 'Juliet' about $18,000 to $19,000, so that we came back having more than broken even. We really felt prideful.

"We continued life that for many years, alternating New York with the road, paying for ourselves with Sidney Howard's 'Alien Corn,' Shaw's 'St. Joan' and 'The Doctor's Dilemma' and some of the others—until later on, when costs got too high with 'Antony and Cleopatra' we had to call in angels."

THE AUDIENCE WAITED

Miss Cornell's hold on her audience was astonishing. One Christmas Day the troupe was on its way from Montana to Seattle for a week's engagement opening that evening. Floods delayed the train, and at curtain time the actors were far from Seattle and resigned to missing the performance—and their pay for it.

The train finally arrived at 11:15, and

the group discovered that the audience was still waiting. The curtain rose at 1:05, and Mr. Woollcott, who was present, described the experience:

"The excitement, the heady compliment paid by the audience in having waited at all, acted like wine on the spirits of the troupe and they gave the kind of performance one hopes for on great occasions and never gets."

The actress's skill on the stage was all the more remarkable because she was usually nervous and fidgety before she went on. "I was nervous from the very beginning and it got worse as the years went on," she once confessed, adding:

"I was conscientious and wanted to do more, always, than I was able. I don't think, when I was playing, that I was ever happy—beginning at 4 o'clock any afternoon."

BORN IN BERLIN

Katharine Cornell's bent for acting was familiar, since both her grandfather and her father were both actors manque. She was the only child of Dr. Peter C. and Alice Cornell, and she was born in Berlin, where her father was studying surgery. The precise date was a mystery. For years she said it was Feb. 16, 1898; but when she was in her 70's she offered the year as 1893, explaining:

"When an actress is younger she likes to lower her age, but when she is older she likes to add to her years."

In any event, Katharine had an early exposure to the theater in Buffalo, where the family lived for many years and where her father quit medicine to manage a playhouse. "I drifted into acting," she once remarked. "My grandfather had a house in Buffalo in which there was a stage and his friends met every two weeks or so to put on plays.

So it was natural for me to put on plays too when I went to boarding school. I put on everything in the drama—I was indiscriminate. I put on Yeats and Shaw and Lady Gregory."

Her first professional opportunity came when the director of the Washington Square Players visited her school in Mamaroneck, N.Y., to do a play. Recalling the occasion, Miss Cornell said:

"[Eddie Goodman] told me to come and see him if I ever wanted a job. When I did he gave me a part in 'Bushido,' a No drama they were putting on. All I got to say was 'My son, my son'; it was a very exciting moment when they told me I could have the part. That was in 1917.

"I sort of slid from one thing to another after that. I was with the Jessie Bonstelle Stock Company in Detroit and Buffalo for three seasons—10 performances and a new play every week. She was an amazing woman who did a great deal for me."

One of the things Miss Bonstelle did for Miss Cornell was to take her to London as Jo in "Little Women." She was seen there by, among others, two Scottish women who urged her upon Allen Pollock, a producer, who was searching for an actress for Clemence Dane's "A Bill of Divorcement," to be presented in New York. She got the part of an ingenue, and she had a personal triumph when the play opened in 1921. It ran for two seasons.

After appearing in some indifferent dramas, she did the title role in "Candida" in 1924 to critical raves. One of them read:

"The tenderness, the poetry, the supreme womanliness of Katharine Cornell's impersonation of the title part puts this actress a notch ahead of anything she has yet attempted. It is an impersonation touched by the wand of genius."

Then there was "The Green Hat" and assured stardom status that pulled through such dubious dramas as "Dishonored Lady" and "The Age of Innocence" in the late twenties. Whatever the role, Miss Cornell declined to have retrospective regrets.

"The audience may not have felt it was right and the author may have felt a little upset, but every part I've played I've twisted around in my mind until I've made it into something of my own," she said. "Looking back over it, I didn't deliberately sit down and plan like that, but it does read like it."

Most of her plays were chosen by her husband, "who gave me the confidence I needed." "Guthrie persuaded me to do Shakespeare and I was very frightened of Shakespeare," she remarked, adding:

"There are some plays we never got around to doing. Shaw's 'Heartbreak House,' for example, but I simply could not find my way through to Mrs. Hushye. I couldn't connect with her. We kept around any number of versions of 'The Cherry Orchard' and never did anything about that either."

She did one Chekhov play, however, "The Three Sisters," in which she brought together Judith Anderson, Ruth Gordon, Alexander Knox and Edmund Gwenn. It ran for 230 performances in the season of 1942–43. Indeed, Miss Cornell was generous in selecting her supporting casts, which over the years included Marlon Brando, Brian Aherne, Charles Boyer, Grace George, Tyrone Power, Gregory Peck, Orson Welles and Laurence Olivier.

DIMINISHED DAZZLE

In the fifties, toward the end of her career, Miss Cornell seemed to many observers to have a diminished dazzle. "The Dark Is Light Enough," "The First Born" and "Dear Liar" did not draw the oohs and aahs of her previous plays.

The actress was reluctant to appear on radio or television. She did act for them, but they were not her media.

For years Miss Cornell and her husband lived in a house on Beekman Place. Then in 1951 they moved to Sneden's Landing, N.Y., and after Mr. McClintic's death she gave up that house for a summer place on Martha's Vineyard, Mass., and a small house in New York.

For her acting and her contributions to the stage, the actress received dozens of awards and honorary degrees. A room at the New York Public Library's theater collection at Lincoln Center was dedicated to her and her husband. And she was given the National Artists Award of the American National Theater and Academy, a gold medal, on which ironically, her first name was spelled "Katherine."

The citation was less in error, for it lauded her "incomparable acting ability and her theatrical genius" and said that she had "elevated the theater throughout the world."

LADY OF THE THEATER: KATHARINE CORNELL LIGHTED STAGE WITH INTEGRITY, TASTE, AND TALENT

(By Brooks Atkinson)

The great ones have a little something extra. To their love of the theater, to their intelligence and their willingness to work, they brng a personal incandescence that cannot be explained. Katharine Cornell was one of these. Something electric happened when she stepped on the stage.

She was born to be an actress. When she was a child in Buffalo she played at acting. Acting and athletics were her chief interests at the Oaksmere School in Mamaroneck, N.Y., where she wrote scripts and played in them. In masquerades, too, apparently, because as a teen-ager she played Napoleon in Shaw's "The Man of Destiny" and Malvolio (to Theresa Helburn's Sir Toby Belch) in "Twelfth Night."

After one of her earliest appearances, when she hardly knew how to get around the stage, someone described her as "a young, dead-white American Duse." She was not pretty but she was beautiful on the stage. "A gorgeous dark lady," Shaw called her.

A HAUNTING VOICE

No doubt her personal shyness was part of the mystery of her acting. She lacked self-confidence. She was never sure that she was ready to play a part in public. But when she did step on the stage as Jo in "Little Women" in London in 1919 or in the major part in "The Barretts of Wimpole Street" in 1931, the audience instantly knew that she was ready. Those dark eyes, that haunting voice, that sensitive face, that quiet splendor filled the stage.

She began prosaically. In the early nineteen-twenties she acted the routine romances that were the standard fare of Broadway: Rachel Crothers's "Nice People (in which Tallulah Bankhead, Francine Larrimore and Merle Maddern also appeared); Clemence Dane's sentimental "A Bill of Divorcement" and her maudlin "Will Shakespeare," and in 1925 Michael Arlen's "The Green Hat," in which she impersonated one of the disaffected young people of the time. That romantic banality was a fabulous success. After 23 weeks in New York it moved to the Majestic Theater in Brooklyn, where for the first time her name appeared in lights. Having come up the hard way, she was a recognized star.

But the great days were ahead. There was more than glamour to her acting. Collaborating with her husband, Guthrie McClintic, the director, she made something beautiful and exhilarating out of the American theater. She played some glorious if difficult parts—Candida, several times; Juliet more than once; André Obey's static Lucrece, because she believed in its moral grandeur, St. Joan and Antigone; and when she played Shaw's "The Doctor's Dilemma" the focal point inevitably slipped away from the medical problem to the character of a concerned lady. She played in Chekhov's "The Three Sisters" with a brilliant cast.

The Cornell productions (in which her name appeared at the bottom of the cast) were on the highest possible artistic level. None of the secondary parts were played by secondary actors. The scenery, the costumes, the lighting were first-rate. Everything was the best the theater could offer.

RESPECTED AUDIENCES

People all over the country had a chance to realize that she was a great actress. In her grand tour in 1933–34 she and her company gave 225 performances of three plays in 77 cities in 31 states. The road company was identical with the original one. For she was not only a great actress but also a great lady. She was honest and considerate. She respected audiences. She worked hard because she believed that audiences of all kinds and everywhere were entitled to the best. Note that her least memorable characterizations were of worldly women—the cynical wife in Maugham's "The Constant Wife" and Mrs. Pat Campbell in "Dear Liar." Also, Cleopatra: the part was not for her.

If she had a great reputation it was not because she had manufactured it. It was because—in addition to that personal magnetism—she had the integrity and taste of a lady.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

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.

The PRESIDING OFFICER. Under the previous order, the hour of 11 a.m. having arrived, the Senate will resume the consideration of the Jackson amendment (No. 1405) on which there will be 80 minutes of debate. The clerk will state the amendment.

The legislative clerk read as follows:

On page 17, between lines 20 and 21 insert a new section as follows:

SEC. . (a) The Congress finds that the defense posture of the United States may be seriously compromised if the Nation's goods and technology are exported to a controlled country without an adequate and knowledgeable assessment being made to determine whether export of such goods and technology will significantly increase the military capability of any such country. It is the purpose of this section to provide for such an assessment and to authorize the Secretary of Defense to review proposed export of goods or technology to any such country and disapprove such exports whenever he determines that the export of such goods or technology will significantly increase the military capability of such country.

(b) Notwithstanding any other provision of law, whenever a request for a license or other authority is required by any person to export any goods or technology to any controlled country, the appropriate export control office or agency to whom such request is made shall notify the Secretary of Defense of such request, and such office may not issue any license or other authority pursuant to such request for a period of thirty days after the Secretary of Defense has been notified. The Secretary of Defense shall carefully consider all notifications submitted to him pursuant to this subsection and shall:

(1) disapprove any request for the export of any goods or technology to any controlled country if he determines that the export of such goods or technology will significantly increase the military capability of such country; or

(2) notify such office or agency within such period that he will interpose no objection if appropriate conditions designed to achieve the purposes of this Act are imposed; or

(3) indicate, prior to the expiration of the thirty-day review period, that he does not intend to interpose an objection to the export of such goods or technology.

If the Secretary notifies such office or agency within such period that he disapproves such export, no authorization may be issued for the export of such goods or technology to such country.

(c) In determining whether the export of any goods or technology to any controlled country will significantly increase the military capability of such country, the Secretary of Defense shall take into account all potential end uses regardless of the end use indicated by the applicant for the export of such goods or technology.

(d) Effiective on June 1, 1974, the removal of any category of goods or technology requiring an export license or other authorization shall require the approval of the Secretary of Defense.

(e) The Secretary of Defense is authorized, on behalf of the United States, to disagree to any modification of the so-called COCOM international lists (or interpretations thereof) if he determines that such modification would likely result in a significant increase in the military capability of any controlled country.

(f) As used in this section—

(1) the term "goods and technology" includes but is not limited to—

(A) machinery, equipment, durable goods, and computer software;

(B) any license or other arrangement for the use of any patent, trade secret, design, or plan;

(C) the so-called know-how or knowledge of any individual, firm, corporation, or other entity;

(D) assistance in planning and joint venture arrangements; and

(E) arrangements under which assistance is provided in developing a manufacturing capability, including so-called turnkey arrangements.

(2) The term "export control office" as used in this section means any office or agency of the United States Government whose approval or permission is required pursuant to existing law for the export of goods or technology.

(3) The term "controlled country" means the Soviet Union, Poland, Romania, Hungary, Bulgaria, Czechslovakia, and the German Democratic Republic (East Germany).

(g) The Secretary of Defense shall submit to the Congress every six months a report on the implementation and administration of this section.

(h) All actions undertaken pursuant to this section shall be subject to a final determination by the President of the United States.

(i) The provisions of this section shall expire on December 31, 1975.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally against both sides on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PRIVILEGE OF THE FLOOR

Mr. JACKSON. Mr. President, I ask unanimous consent that David Rosenbaum, of my staff, and William Van Ness, of my staff, be permitted the privilege of the floor in connection with the pending measure.

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

Mr. JACKSON. Mr. President, I first yield to the distinguished Senator from Pennsylvania (Mr. SCHWEIKER).

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SCHWEIKER. Mr. President, I call up my amendment which is at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. It is not in order to do that unless it is done by unanimous consent.

Mr. SCHWEIKER. Mr. President, I would ask the distinguished Senator from Washington——

Mr. JACKSON. Mr. President, I ask unanimous consent that the amendment of the Senator from Pennsylvania (Mr. SCHWEIKER) may be brought up at this time and stated.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the amendment.

The legislative clerk read as follows:

AMENDMENT BY SENATOR SCHWEIKER TO AMENDMENT NO. 1405 TO S. 3000

At the end of the bill add the following:

"(j) Whenever the President exercises his authority under subsection (h) hereof to modify or overrule a determination made by the Secretary of Defense pursuant to this section, the President shall submit to the Congress a statement indicating his decision. Either House of the Congress shall have a period of thirty (30) calendar days of continuous session after the date on which the statement is transmitted to the Congress to disapprove by majority vote the action of the President."

Mr. SCHWEIKER. Mr. President, my amendment to the pending amendment is one which I think the Senator from Washington (Mr. JACKSON) may wish to consider incorporating in his amendment. I should like to ask at this point whether the distinguished Senator from Washington would consider making this amendment a part of his.

Mr. JACKSON. Mr. President, the amendment is, I think, sound. It would simply give to Congress, either the House or the Senate, the final and ultimate authority to override a decision by the President to permit the issuance of an export license to a controlled country. I ask unanimous consent that my amendment be perfected in accordance with the Schweiker amendment.

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

Mr. JACKSON. I thank the distinguished Senator from Pennsylvania, because I think this amendment is extremely helpful and constructive.

Mr. President, the amendment, No. 1405, we are proposing to the defense procurement bill has a simple purpose: to assure that adequate weight is given to the requirements of our national security in the complex process of assessing and approving export licenses to the Soviet Union and the Eastern bloc countries. The amendment accomplishes this purpose by enabling the Secretary of Defense, in those cases where he finds that the granting of an export license would significantly increase the military capability of the recipient, to disagree to the issuance of any export license presently required by law.

The amendment provides that all actions undertaken by the Secretary of Defense pursuant to this section shall be subject to a final determination by the President of the United States, subject, in turn, to congressional review. This later provision, that of congressional review, will help to assure that Congress will play its rightful role in making the final determination in those cases serious and controversial enough to be brought before it through the procedures outlined in subsection (j).

In recent years, Mr. President, we have seen a dramatic increase in the number of requests for export licenses for the transfer of high technology to the Soviet Union and the Eastern bloc countries. There are, at this very moment, some 200 cases awaiting action in the computer area alone. The ex-

isting procedures weight the determination to grant an export license heavily on the side of commercial interests. The principal control function is exercised in the Department of Commerce, where, despite the enormous increase in the number of license requests in recent years, the number of personnel involved in this crucial work has actually declined—just as, ironically, the number of personnel engaged in promoting the sale of goods and technology to countries controlled under this amendment has increased considerably.

In the Department of Defense, which is consulted on these matters, the direct staff reviewing applications for export permits consists of three full-time officials, two of them senior, and the part-time assistance of a fourth. These dedicated and able individuals have to deal with a very large number of cases—some 3,300 for the years 1972–74. Despite the resources elsewhere in the Government on which they are able to draw, they lack both the authority and the staff to give to each request the careful scrutiny that I believe this sensitive national security matter requires. Given more authority in this area, as we do in this amendment, I am confident that the requisite staff support can be organized within the Department of Defense.

In my judgment, Mr. President, commercial considerations ought to be subordinate to considerations of national security in the granting of export licenses—particularly in the area of high technology—to the Soviet Union and the Eastern bloc. It is only logical, therefore, that the decisive authority to pass on these requests ought to lie in the Department that is best able to assess the military implications of proposed exports. That, clearly, is the Department of Defense, and finally subject to the action of Congress itself.

SOVIET INTEREST IN IMPORTING TECHNOLOGY

The Soviets have made it plain that their interest in importing technology lies not so much in buying our products—this is the key—as in buying our know-how and production capability. The Soviets do not lack ability in basic science. It is in turning basic scientific and technical ideas into production line items that they lag far behind us. It is the products, techniques and manufacturing facilities which represent our highest technology in which the Soviets are principally interested. Agriculture is one of these, but I shall concentrate my attention here on those which have more direct military significance. Wide-bodied jets, computers, and integrated circuitry are three good examples of the kind of thing I have in mind.

We have an overwhelming technological lead in these areas. When I speak of our lead I do not refer to basic scientific understanding—though we lead there also—but rather to the ability to mass-produce these items.

WIDE-BODIED JETS

First, consider wide-bodied jets. There are only three companies in the world who produce long-range, wide-bodied jets: Boeing, Lockheed, and McDonnell Douglas. The Soviets have asked all three of our wide-bodied jet manufacturers to build a large-capacity aircraft manufacturing complex for the quantity production of wide-bodied transport aircraft. This aircraft manufacturing complex would be more advanced than anything today in the United States. It would produce in one place everything from the airframe and the engine to the fasteners. No such integrated aircraft manufacturing complex now exists anywhere in the world. The aircraft it would produce would be 60 percent faster, carry 25 percent more, and fly 20 percent farther than the world's now largest wide-bodied jet, the 747. The production rate of this plant would be approximately equal to the total annual production of all three of our wide-bodied jet manufacturers.

The military implications of such a plant are obvious. It is the opinion of our best analysts that the Soviets have no need for so many long-range jets of such large capacity and high speed for commercial purposes; nor are they likely to develop such a need in the foreseeable future. They might, of course, be planning to export these jets to the world market, which would deeply injure our own aircraft industry and remove the biggest industrial hard currency earner we have.

But the Soviets do have a clear military need for such aircraft. They have previously based military transports upon prior civilian transports. The AN–12, for example, their most common military transport, was produced from the AN–10, a civilian transport. While the Soviets have a considerable cargo-carrying capacity in their present military transports—although, as we have seen in the recent Arab-Israeli conflict, it is not up to our own—they lack suitable aircraft for moving large numbers of troops over long distances. They have their forces dispersed in two large groups, one in western Russia and Eastern Europe, the other in the Far East along the Chinese border. They very much need the capability to move troops from one of these areas to the other rapidly, surely, and efficiently. In addition, the capability for Soviet military intervention in other areas of the globe, such as we recently were faced with in the Middle East, would be enormously facilitated by superheavy, very long range, high-speed, wide-bodied jets. Moreover, since what the Soviets wish to purchase are not aircraft, but an integrated production facility, it could also be used to make any sort of long-range, high-speed aircraft, including other types of military transports, airborne tankers, and very large bombers.

COMPUTERS

Let me now turn to the area of computers. Computers perform vital functions throughout the entire structure of our Defense Establishment. It is not only the speed of a computer that is important, but also its flexibility of function, its ability to input and output data, the number of independent users it can simultaneously serve, and the amount and type of software which is, or can be made, available to use on it. The most current estimate by the Commerce Department's own independent technical advisers is that we are at least 10 years ahead of the Soviets in computer capability and that they show no signs of closing the gap. Five years ago they were also 10 years behind us. The Soviets have produced in quantity only one large computer, the Bessem 6. This computer, which is still in production, is based on technology which is 15 years old. It is made of individual transistors and tubes, each hand-wired into place by workers with soldering irons.

In the middle 1960's the Soviet Union decided to move into third generation hardware by building the RYAD family of machines based on the architecture of the IBM series 360 computers. By 1969, most of the countries of Eastern Europe had joined the program under Soviet pressure. The original Soviet goal was to begin production in 1970, and to produce 12,000 to 15,000 RYAD's during the ninth 5-year plan—1971–75. The only RYAD model in current production is the small ES–1020, and probably no more than 100 of these machines were built by the end of 1973. The expansion of 1020 production and the series production of the other models suffer primarily from serious difficulties in the production of sufficient quantities of reliable integrated circuits, and to a lesser degree from a lack of modern production technology. It seems clear that the Soviets' original goal of several thousand RYAD's per year by 1975 is unobtainable. Without Western assistance this goal may prove difficult even by the end of the 1970's.

The Soviets are making every effort to close the gap in computer technology in the only way that is possible for them: to get us to give it to them. Their efforts have not been without success. Recently one of our largest computer companies signed a protocol of intent with the Soviet Union which calls for the joint development of the next generation of large high-speed computers. In addition, this protocol calls for the American company to create a plant for manufacturing this new computer and for manufacturing the most modern peripheral devices. This plant, in the usual Soviet style, would be one of the largest in the world. This venture, if allowed, would not only create, full-blown, a most serious competitor for our overseas computer sales, but it also would, by moving the Soviets 10 years into the future, enormously upgrade their military potential across the board.

INTEGRATED CIRCUITRY

Finally, integrated circuits are critical components in almost all of our high-technology military systems. As a matter of fact, integrated circuits were first developed for the Minuteman missile program, largely with research and development funds appropriated for the Air Force in procurement bills such as this one. Until 1967 the vast majority of all integrated circuits produced in this country went into military systems. In addition, they play a fundamental role in the production of modern computers. As I indicated earlier, the most important factor holding up the new Soviet line of computers is their difficulty in the production of sufficient quantities of reliable integrated circuits. The technology of integrated circuits lies not in

the circuits themselves, but in the production line by which they are produced.

One of the countries of the Soviet bloc, not long ago, signed a contract with one of our largest manufacturers of integrated circuits. This contract calls for the American company to set up a complete turnkey production line to make integrated circuits for hand calculators. It also calls for this American company to transfer any new knowledge and techniques that it develops for the production of these circuits within the next 5 years. The production of integrated circuits for hand calculators sounds like an ordinary commercial transaction. But it has implications far beyond that. Because the technology lies not in the circuits but in the production line, such a production line, with at most minor changes, can produce almost the entire range of circuits used in military applications. If this production line is built, we will have transferred a large part of our national integrated-circuit technology. This is particularly true since, with the very large amount of cross-licensing in this industry, the technology available to this company includes most of the technology in the industry as a whole. If this contract is allowed to go through, we will have removed the largest single problem the Soviet bloc has in the production of modern computers, and enormously upgraded the military potential of our adversaries. All this for less than $20 million, and most of that on very low-cost loans.

SUMMARY

We, and our allies, Mr. President, have gone down the road of unimpeded free trade for a quick buck with our totalitarian adversaries before. The scrap iron we sold to Imperial Japan before the Second World War came back on battlefields in the Pacific. The Rolls-Royce Nene jet engines the British sold to the Soviet Union after the Second World War were copied and went into the Mig–15's which flew against us and the British in Korea, and the Mig–17's which have flown and are still flying against our allies today.

The mistakes we are in danger of making today are far more serious. The Soviet Union has more men, more planes, more tanks, and more of almost every other kind of armament than we do. It is only the quality of our weapons that allows us to maintain the military balance. The higher quality of our weapons is almost solely based on our more advanced technology and manufacturing know-how. If we do not give the Soviets our most advanced technology I do not believe, given the nature of our two societies, that they will ever catch up. Indeed, I believe they will fall constantly further behind. If we do give them our most advanced technology, if we design for them the world's most advanced wide-bodied jets and supercomputers and then build them the world's largest plants to manufacture these and other high-technology products, we will earn the all time record for shortsightedness.

This amendment is a step in the right direction. It gives the Secretary of Defense, under the President, the right to disagree to the issuance of an export license to the Soviet Union and Eastern bloc if doing so would significantly increase the military capability of the recipient. The Commerce Department is ill-equipped to understand all the military implications of high technology areas. It is essential that the Department of Defense be brought into this process in a fundamental and statutory way to protect us from the sort of dangers I have outlined. And it is sound and prudent to provide for ultimate congressional review.

I understand that the U.S. Government thinks the problem is serious enough that a special, high-level NSC study has been commissioned in the last month to determine what can be done to stem the leak of technology having military application to the U.S.S.R.

The preliminary conclusions of that study group, which involves the U.S. intelligence community, and the Departments of State, Defense, and Commerce, indicate that there is indeed a much larger flow of military-related technology to the Soviets than the Government had previously suspected; that our system of controls is full of loopholes, and that it can be—and has been—easily evaded; that Soviet military capabilities have already profited extensively from the transfer of U.S. technology; and—what is most dangerous of all—the U.S. Government's system for keeping tabs on these transactions is so poor that the administration has absolutely no confidence that it even knows the full extent to which the Soviets have profited from the technology dump that has been going on over the last several years.

It is a situation that verges on scandal. The Soviets are exploiting it to the hilt; and until we get some effective control over it, they will continue to mine our advanced technology in support of their effort to shift the military balance further to their own advantage.

The Government's study I referred to is being very closely held, because of its embarrassing potential; but so far it has produced a catalogue of horror stories which clearly demonstrate the ineffectiveness of our current system of controls, and the need to bring the Department of Defense—which understands the relationship between advanced technology and military systems—more actively into the business of keeping U.S. science and industry from contributing so significantly to the buildup of Soviet military capabilities.

Mr. President, for several weeks the Permanent Subcommittee on Investigations, in a preliminary way, has undertaken a serious investigation of the whole question of technology transfer. We will be holding hearings on this matter in due course, as soon as authorized by the committee, and I would point out that what is at stake here is the transfer of technology that bears vitally on the security of our country, technology that involves not so much the sale of products manufactured in the United States, but the export of production capability and therefore jobs. I can think of nothing more foolish than for the airplane industry of this country to construct plants over in the Soviet Union; and that includes a firm in my State and firms in other States involving McDonnell-Douglas, Lockheed, and Boeing. I cannot think of anything more foolish than to move these plants with even more advanced technology than we now have to the Soviet Union to be sold on the world market in competition with the nations of the free world.

Mr. President, as I pointed out, the second largest source of our export trade and hard currency is commercial aircraft. This is but one example. My plea now is to have the machinery set up to make the evaluation, and finally to let Congress decide as provided in the Schweiker amendment, whether that transfer should occur.

Mr. President, I hope the Senate will adopt the amendment.

I ask unanimous consent that the distinguished Senator from Georgia (Mr. NUNN) be added as a cosponsor.

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

Mr. JACKSON. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. Seventeen minutes.

Mr. JACKSON. Mr. President, I yield 5 minutes to the Senator from Pennsylvania, who has been doing such a fine job on this amendment.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that Mr. David Marston, my legislative assistant, may have the privilege of the floor during the debate and vote on the amendment.

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

Mr. SCHWEIKER. Mr. President, I wish to commend the Senator from Washington (Mr. JACKSON) for offering amendment 1405 today. I am happy to cosponsor the amendment. I believe it will protect our national interest in connection with foreign technology transfers. Moreover, I am particularly pleased that Senator JACKSON has accepted my modification which places ultimate responsibility for protection of our national interest in the Congress.

I am somewhat surprised that legislative action to protect our national interest always seems controversial. I had always thought protecting our national interest was about like endorsing motherhood or apple pie—something the Senate would do relatively routinely, with little debate. But this has not recently been the case.

Last March, I obtained a Comptroller General's ruling that existing law requires an individual Presidential determination of national interest for every Eximbank transaction with a Communist country. The Eximbank refused to follow this ruling, and last month I introduced a Senate amendment which simply required the Eximbank to obey existing law, as construed by the Comptroller General, regarding our national interest. My amendment was finally adopted by the Senate, but only after extensive debate, and it was ultimately dropped in conference.

I think it may be instructive today to review some of the arguments which were made in opposition to my prior amendment regarding our national in-

terest, because the issues today are quite similar.

First, in response to my previous amendment, the Eximbank contended it would be too burdensome to have the President approve each Communist country deal—one Bank official was quoted describing my amendment as a "bureaucratic nightmare." And the formal Eximbank position on my prior amendment 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.

Today, the shoe is on the other foot. This amendment does not require personal Presidential action. Amendment 1405 simply requires the responsible agency, the Defense Department, to rule on technology transfers which have an impact on defense. Both the State and Commerce Departments already have comparable authority within their respective jurisdictions. So instead of requiring personal Presidential action, as my Eximbank amendment did, this amendment simply requires the Secretary of Defense, pursuant to the President's direction, to make the relevant determination of national interest.

But has the administration applauded this amendment, as one might expect, for endorsing the principle put forward by the administration in connection with Eximbank lending? No. Instead, the administration now implies that this amendment is unnecessary, since the President is already doing what was an "undue and unnecessary burden" 3 weeks ago; that is, carefully scrutinizing each individual technology transfer with our national interest in mind.

Well, if that is in fact the case, Mr. President, I am glad, and I hope the administration will voluntarily extend that scrutiny to Eximbank transactions as well. I might add that if the actions required by this amendment are already taking place, then the amendment will not require any new burden, and I would be surprised by any opposition to it. But if the actions required by 1405 are not taking place today, and if the Secretary of Defense does not now have adequate authority to stop technology transfers against our national interest, then 1405 is a very important amendment, indeed, and I would hope it will receive widespread Senate support.

Let me add that in trying to reconcile the contradictory arguments used by the administration against my Eximbank amendment and against this amendment today, I get the distinct feeling that no one wants the ultimate responsibility—and accountability—for protecting our national interest. We had a Russian wheat deal in which no one was quite responsible, we are facing a Siberian energy deal no one has really approved, and now we have Communist technology transfers—and no one wants to stand up and endorse the deals, but no one wants to stop them either. I think the American people are getting fed up with this—I think it is high time the Senate insists that some specific Government official be accountable for telling us whether each transaction is a good deal or a bad deal, and I think the Congress of the United States should accept the ultimate responsibility for making this determination when the officials cannot agree. This amendment, as modified by this Schweiker amendment, would accomplish that.

The PRESIDING OFFICER. The Senators' 5 minutes have expired.

Mr. SCHWEIKER. Mr. President, I ask for 2 additional minutes.

Mr. JACKSON. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 12 minutes remaining.

Mr. JACKSON. I yield 1 additional minute to the Senator from Pennsylvania.

Mr. SCHWEIKER. I thank the Senator.

Mr. President, the other standard argument on measures of this sort is that the timing is wrong. Either there have not been sufficient hearings, or it will jeopardize Mideast peace prospects, or it will adversely affect the President's current trip. Those arguments can be quickly disposed of today— this measure originated as the result of an investigation in Senator JACKSON'S subcommittee, and the committee investigation documents the need for this amendment. As far as the international diplomacy argument is concerned, I have yet to witness any suspension of world events for the purpose of permitting us to consider "sensitive" legislation at our leisure.

The fact is, Mr. President, there is no good time or bad time for amendments of this nature. World events are constantly unfolding, and none of us know what tomorrow may bring. For that reason, if we want to protect our national interest, I submit we must act today, by adopting this amendment.

Finally, as my colleagues know, I have cosponsored and fought for troop reduction amendments to this bill. I support the concept of détente—a meaningful, two-way, relaxation of tensions—and I will continue to support economies in our military spending consistent with that goal. But while I am convinced we can no longer be the world's policeman, I am equally convinced we must stop permitting technology transfers that are against our national interest. This amendment as modified will accomplish this goal, and I urge its adoption.

Mr. JACKSON. Mr. President, how much time does the other side have?

The PRESIDING OFFICER. Thirty-five minutes.

Mr. JACKSON. Mr. President, I suggest that the opposition speak on this matter. I think we have 11 minutes left.

The PRESIDING OFFICER. The Senator is correct.

Mr. JACKSON. I want to reserve my time.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENSON. Mr. President, who is controlling the time in opposition?

The PRESIDING OFFICER. The Senator from Mississippi is controlling the time in opposition.

Mr. STEVENSON. Mr. President, will the Senator yield me time?

Mr. STENNIS. Mr. President, I am supporting this amendment. I really do not have charge of the time. I think, under the agreement, it goes to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the majority leader, I yield the Senator 5 minutes.

Mr. STEVENSON. I thank the distinguished majority whip.

Mr. President, I rise reluctantly to oppose this amendment, and I say "reluctantly" because I believe the distinguished Senator from Washington is doing the Senate and the country a service by bringing this subject before the Congress.

The export of technology to hostile countries could very well adversely affect the Nation's security, and it may be that the procedures which now govern the licensing of exports to certain countries need changing. But that, Mr. President, is a subject which is receiving careful study in the Senate Banking, Housing and Urban Affairs Committee, which has jurisdiction over export controls. In fact, it is a subject which has been receiving study in that committee for a period of many months, and tomorrow morning the Banking Committee will be marking up the Export Administration Act. That act expires as of June 30, 1974. Thus, before the end of the month—within just a few weeks—the Senate will have before it a proper vehicle for the enactment of such an amendment as has been offered by the Senator from Washington. At that time the Senate will also have the benefit of a report by the Banking Committee which has been considering this particular subject, as well as many others relating to export controls.

The bill before the Senate today is a military procurement bill. It has nothing to do with exports. The question raised by the Senator from Washington is a delicate one.

I think clearly the Secretary of Defense should play a role in all decisions as to what items of technology can be exported to Communist countries, including those designated in this amendment, but it is questionable that he should have a veto. After all, it is not the Secretary of Defense, it is the President, who is the Commander in Chief. The relationship between the Department of Defense, the Department of Commerce, which now administers the Export Administration Act, the State Department and the President, in the administration of export controls for national security reasons is one that I think deserves very careful attention, and it has and will continue to receive that attention in the Banking Committee.

The modification offered by the Senator from Pennsylvania (Mr. SCHWEIKER) raises still another question; namely, the role of Congress. Under this modification a decision by the President to override

the Secretary of Defense could be overridden by Congress.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. STEVENSON. Will the Senator yield me 2 minutes?

Mr. STENNIS. Mr. President, I yield the Senator 2 minutes.

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

Congress does not seem to me to be a likely body within which to be making serious decisions on highly complex, technical questions—such as whether a computer or an integrated circuit would have an adverse implication for the national security. Those are decisions which might best be left to other branches of Government.

In any event, all these questions, and there are more, are being considered by the Banking Committee. The Banking Committee will be marking up the Export Administration Act tomorrow. Within 2 weeks, or perhaps 3 weeks, the Senate will have an appropriate bill and a report upon which to act on this question.

Mr. JACKSON. Will the Senator yield?

Mr. STEVENSON. Yes; I will yield. May I yield on the Senator's time?

Mr. STENNIS. Yes, acting for the majority leader.

Mr. JACKSON. I will yield 1 minute of my time.

Mr. STENNIS. I think the majority leader has the time.

Mr. JACKSON. I think I control the time of my amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the Jackson amendment, the Cranston-Kennedy amendment, and the Mathias amendment.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, who is in control of the time?

Mr. STENNIS. Mr. President, I am going to support this amendment so I would not have control of the time. I think it would be the majority leader.

The PRESIDING OFFICER. The time was given to Senator STENNIS. But under normal procedure it would go to the minority leader.

Mr. STENNIS. I am authorized to act for the minority leader then. How much time does the Senator desire?

Mr. STEVENSON. Mr. President, may I ask this question of the distinguished Senator from Mississippi. Would it not be appropriate for the Senator from Illinois to control the time?

Mr. STENNIS. I am willing. Under the agreement with the leadership, it goes to him. I support the amendment.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the leadership I yield the time to the distinguished Senator from Illinois (Mr. STEVENSON) for his control.

Mr. STEVENSON. I thank the distinguished Senator.

Mr. President, I wanted to raise one further question to suggest how complex this subject is.

As I read the amendment, it would subject to review exports of certain commodities and services only to certain countries. The countries as to which this procedure would apply are enumerated. They include the Soviet Union, Poland, Romania, Hungary, Bulgaria, Czechoslovakia, and the German Democratic Republic. They do not include, to mention just a few, the People's Republic of China, North Korea, North Vietnam, or Cuba.

I do not know what the purpose is for excluding some Communist countries and including other countries; and I do not know, but it is possible, that this amendment could be interpreted in the courts as repealing all the existing procedures which govern exports of high technology and other sensitive materials to countries such as the People's Republic of China or North Korea.

Those are all questions, Mr. President, which I feel deserve more study.

But I do want to commend, once again, the Senator from Washington (Mr. JACKSON) and also the Senator from Pennsylvania (Mr. SCHWEIKER) for raising a matter which is of the greatest concern to the country and to all of those who are concerned about its national security.

My point is that this is simply not the time, nor the bill by which to act on this subject.

Mr. MONDALE. Will the Senator yield?

Mr. STEVENSON. Mr. President, how much time remains to the opponents of this amendment?

The PRESIDING OFFICER. Twenty-four minutes remain.

Mr. STEVENSON. I yield 5 minutes to the Senator from Minnesota.

Mr. MONDALE. I thank the distinguished Senator.

For some years I presided over the Subcommittee on International Finance of which the distinguished Senator from Illinois is chairman, and we held extensive hearings on what was then known as the Export Control Act and is now known as the Export Administration Act.

Under this act the Government of the United States licenses for export items which may be of strategic or military value. The purpose behind the Export Administration Act is to prohibit the sale of goods or technology of military value, and to permit the sale in commerce of items which are only of economic significance.

For some years this bill was almost the highlight of the cold war era, and we prohibited virtually everything from being sold to the Soviet Union.

At the time we first held hearings in 1969 we prohibited the sale of such crucial military matters as brassieres and wigs and other things on the ground, presumably, that they would make the women of Eastern Europe so beautiful that they would seduce the military leadership of the Western World.

Mr. JACKSON. Will the Senator yield on my time?

Mr. MONDALE. In a moment I will yield.

I just want to make this point. The strong hard opposition to any liberalization to trade with the Soviet Union came from the Defense Department, which saw military significance in practically everything.

If we sold wheat it could be distilled and made into missile fuel. If we sold them hog bristles, they could clean them up and be more presentable to the West, and so on. The result was that there was practically no trade with the Soviet Union. Every time we wanted to sell something to the Soviet Union, persons in the Defense Department would object to that sale.

So in 1969 we amended the act and changed the name to the Export Administration Act, and since that time there has been substantial progress in the sale of peaceful nonstrategic items to the Soviet Union.

One of the central questions is in the field of computers. We had extensive hearings on that matter. It is terribly complex. If you sell old generation computers, for example, there is little prospect that they could be used or would be used for military purposes.

If we sell computers under proper control, recognizing that the companies which manufacture those computers must continue to work with them in order to make them useful, in most cases we can have almost ironclad protection against their military use by the Soviet Union.

To my knowledge, the computers which have been sold have been sold under very strict, severe restrictions to make certain that they will not be used for military purposes. I know of no evidence that they have been used for military purposes. But at least the Banking Committee could explore that element in the course of the hearings leading to the extension of the Export Administration Act soon to begin.

This amendment, in my opinion, transfers the control of the Export Administration Act from the Commerce Department to the Defense Department, because Defense has a veto power over any item which it thinks would have military significance.

I think it would return us to some of the more negative days of the cold war, and I believe before we take such a step there should be proper hearings before the appropriate committee; namely, the Senate Banking Committee.

Mr. JACKSON. Will the Senator yield on my time?

Mr. MONDALE. I am happy to yield.

Mr. JACKSON. I wonder how the Senator feels as to commercial aircraft companies—Boeing, Lockheed, and McDonnell Douglas—building plants, total production facilities, in the Soviet Union?

Mr. MONDALE. Has that been approved?

Mr. JACKSON. No, it has not been approved. It has been the subject of serious discussion. How does the Senator stand on it? I can say that organized labor is 100-percent opposed.

Mr. MONDALE. That is right.

Mr. JACKSON. It involves the export of jobs.

Mr. MONDALE. Well, the Senator is talking about a hypothetical that has not occurred.

Mr. JACKSON. The protocol has been signed by the Boeing Co., and another, similar protocol, has been signed by Lockheed.

How does the Senator stand on it?

Mr. MONDALE. Has that been approved by the Export Administration Office?

Mr. JACKSON. It has not reached that point yet.

How does the Senator stand on that kind of proposal?

Mr. MONDALE. I would be very skeptical indeed. But before we decide to change, to take the authority away from the Commerce Department and from the Banking Committee, let us ask whether this application has been made, or whether they are discussing it seriously. In the meantime, why do we want to turn this all over to the Defense Department?

Mr. JACKSON. Well, we do not.

Mr. MONDALE. That is the way it reads.

Mr. JACKSON. No, the Senator was not on the floor, in fairness to him. We have adopted the Schweiker amendment. Congress has the final say-so.

Mr. MONDALE. That is correct, that the Defense Department has veto power.

Mr. JACKSON. We have adopted an amendment permitting the Congress to make the final determination.

Let me ask the other question: How does the Senator stand on the Control Data computer 7600, which is being produced now? This is the same computer used in the ballistic missile site defense program now in research and development in this country. Other users of the CDC 7600 in this country are two nuclear weapons laboratories, the Naval Research Weapons Laboratory, the National Security Agency, and similar organizations.

Mr. MONDALE. I do not have the slightest idea.

Mr. JACKSON. It is produced in Minnesota.

Mr. MONDALE. Let me answer the question. I am not an administrator in the Export Administration Office. But before we say to the Department of Commerce, "We are going to take all your jurisdiction away and put an absolute veto in the Defense Department," which traditionally has opposed practically every meaningful effort to expand peaceful trade with the Soviet Union, before we get into the question of what kinds of controls might be used to protect against the use of such computers for military purposes—and I know for a fact that the Defense Department is thoroughly advised on these matters—none of these computers are sold until they are, in the judgment of the Department of Commerce, fully protected against military usages; before we just turn everything over, and turn the matter over to the Defense Department, as this amendment would require, let us find out to what extent the fears expressed by the Senator from Washington are valid.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MONDALE. Can the Senator yield me 2 more minutes?

Mr. STEVENSON. I yield the Senator from Minnesota 2 minutes.

Mr. MONDALE. There are other ways of dealing with this matter. The Committee on Banking, Housing and Urban Affairs has been dealing with the administration of export controls for over 20 years. Let us find out whether these computers raise a defense risk. Let us find out from the Department of Commerce what kind of restrictions they have imposed on them. Let us ask the Commerce Department about the suggestion that Boeing might be planning to move to Moscow. Why does not the Senator from Washington want the appropriate committee to deal with it first, and have hearings?

Mr. JACKSON. There is no argument about jurisdiction here, but I would point out that we are now dealing with serious national security problems. I have a letter here from the Department of Defense which shows that only 44 of the 1,500 COCOM cases that went before the Department of Defense were disapproved by the Department. This is not a cold war issue.

The PRESIDING OFFICER. The Senator's additional 2 minutes have expired.

Mr. JACKSON. We are talking about building plants in the Soviet Union, for a variety of defense-related purposes.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MONDALE. May I have 1 more minute?

Mr. STEVENSON. I yield the Senator 1 additional minute.

Mr. MONDALE. In the course of the 5 years that I have dealt with this issue, the position of the Defense Department was to object to a vast range of commercial sales. They have delayed and they have stalled, and, as far as I know, that attitude still exists in DOD, and before we turn the administration over to the Defense Department, where I think they will veto practically everything and make a dramatic change in U.S. foreign policy in terms of commercial trade, I think we ought to reject this amendment, turn the matter over to the Committee on Banking, Housing and Urban Affairs to explore the serious charges made by the Senator from Washington, and then pass this legislation the way we properly should.

I do not want to export U.S. jobs. I do not want to sell anything that is of significant military value. But we have an agency in place which now consults with the Defense Department on this subject. What this amendment does is turn the whole thing over to the Defense Department, and I think it is a very serious step, indeed.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I reserve the remainder of my time. How much time have I remaining?

The PRESIDING OFFICER. The Senator has 10 minutes remaining. The Senator from Illinois has 16 minutes.

Mr. JACKSON. How much time on the other side?

The PRESIDING OFFICER. Sixteen minutes.

Mr. JACKSON. I yield the Senator from Mississippi 5 minutes.

Mr. STENNIS. Mr. President, the so-called Jackson amendment raises very serious questions that have rapidly come to the surface within the last several months.

It is very difficult to have a comprehensive program of this sort in law, and it will take a new one to meet the present situation.

As is true in many cases, there is overlapping jurisdiction of this subject matter. The Department of Defense is concerned and involved, but it is by no means the only one that is. The Department of State is concerned and involved, and the Department of Commerce, and the committees that present the legislation here from those departments—and there may be others.

I think that everything considered we cannot afford to ignore this problem that is so rapidly developing. It is getting into the very bone and sinew of the trade of America. Trade associations and groups are vying with each other to an extent that to fully understand, will require rather extensive hearings and perhaps some joint consideration by various committees. That is why I suggested we put a time limitation on this proposal, should it become law.

The Senator from Washington has agreed to that and has in his printed amendment now the language: "Limitation would expire December 31, 1975." As it was first offered on Friday, it appeared that the Secretary of Defense was going to have supreme authority, but that, of course, could not and should not be. But his printed amendment now reads, at page 5, line 6:

> All actions undertaken pursuant to this section shall be subject to a final determination by the President of the United States.

I think that this is a matter that can not be ignored; and I think it is a problem that, if we do not do something in an affirmative way about it, will mean it is being neglected.

There is going to be a serious reaction from the people when they understand this thing and get the facts, and, of course, this will be reflected in Congress, as well.

I support the amendment on the ground that it provides a mechanism that will get at this matter. It would serve on a temporary basis until a real program can be worked out by Congress, which is going to be very much involved. It will take more than a floor amendment on any bill to really set up the structure that I think is eventually going to be necessary.

So, under those circumstances—and I do not know how this would be received in conference or by the membership——

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. STENNIS. Yes, I am concluding.

For the reasons I have given, I am for the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. Five minutes.

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

How much time is left on the other side?

The PRESIDING OFFICER. Sixteen minutes remain.

Mr. STEVENSON. Mr. President, the Senator from Mississippi argues that time is of the essence; he argues rightly that this is a matter of great concern to the country. It is. But it will not be resolved 1 minute faster by acting on this amendment than by acting in the ordinary course of events on the Export Administration Act. That act expires on June 30 of this year. Tomorrow, Mr. President, the Banking Committee will mark up the Export Administration Act. The committee has already held hearings on this subject and has examined the control data situation which has been alluded to. It has held hearings over many months and they will culminate in a markup session tomorrow morning. Within a few days, the Senate will have the opportunity to act on this question. The Export Administration Act is the appropriate vehicle, not the military procurement bill, which has nothing to do with exports.

It will not hasten the resolution of this issue by 1 minute to act in connection with the military procurement bill. It is probable that the extension of the Export Administration Act will take effect before the military procurement bill. The Export Administration Act is not only the appropriate vehicle, but also the vehicle which is most likely to lead to some action. In the meantime, the Republic is not about to collapse because under existing law the Secretary of Defense, along with the Secretaries of Commerce and State, and the Commander in Chief, the President, will have all the necessary authority with which to control all exports, not only to the few countries designated in this amendment, but also to many other countries including the People's Republic of China and other Communist countries.

Mr. PROXMIRE. Mr. President, will the Senator from Illinois yield for a question?

Mr. STEVENSON. I yield.

Mr. PROXMIRE. I have one or two questions on this matter to ask of the Senator from Illinois. He is, as I understand it, the chairman of the International Finance Subcommittee on the Banking Committee. The Banking Committee has jurisdiction over the Export-Import Bank and also on export controls; is that not correct?

Mr. STEVENSON. The Senator is correct. Export control is now authorized by the Export Administration Act, and that act is within the jurisdiction of the Banking Committee, and specifically the Subcommittee on International Finance.

Mr. PROXMIRE. The chairman of that subcommittee, and a responsible member of our committee, acting responsibly in this regard, as I understand it, regards this amendment as usurping the jurisdiction of the subcommittee on a matter on which he is mandated to act and has no option but to act. Tomorrow the bill will be marked up in committee and then will come to the floor within a few days after that. The place for the Jackson amendment is on that bill, and under the law, it must be acted on by the Senate and the House by the end of this month, and it must be in the hands of the President. If we do not take that action, then the law on the books expires, is that not correct?

Mr. STEVENSON. The Senator is absolutely right. The jurisdiction not only of the Banking Committee but the jurisdiction of the subcommittee has been conscientiously exercised over a period of many months and as a result the Senate will be in a position to act responsibly.

Mr. PROXMIRE. I would regard this as an insult, really, to the actions of the Banking Committee to the jurisdiction of the Banking Committee, and to the competence of the Banking Committee, by taking this jurisdiction away from the committee by this kind of action on the floor of the Senate, without giving the Senator from Illinois who has held hearings for weeks and is preparing to mark up the bill any alternative. It is the intention anyway to bring this bill to rapid action on the floor so that it can be extended by the end of June; is that not correct?

Mr. STEVENSON. Yes. I certainly do not think we should be taking a nongermane amendment to this procurement bill when the Banking Committee has been exercising its jurisdiction. The Senate will have an opportunity to face this issue. Even if it were to act on this amendment, it would be an act of futility and probably would go nowhere in the House.

Mr. PROXMIRE. The Senator from Washington and the Senator from Pennsylvania have been serving a very good purpose. There is no Senator who does not agree that we should not export highly technological research to the Soviet Union. I cannot think of anything more stupid, more wasteful, or more dangerous to the national security. All we are asking is that it be handled on the basis of the jurisdiction assigned to the subcommittee and to the various committees.

Mr. JACKSON. If the Senator will yield for purposes of clarification—and I have been working with the Senator from Illinois, and he has done an outstanding job—there is no desire to take jurisdiction away.

Mr. PROXMIRE. But it does.

Mr. JACKSON. It does not. This amendment does not take jurisdiction away. The Secretary of Defense will have the right of veto which the President can override but which would for the first time in our history—we keep talking about giving the President too much authority—give Congress the final say-so. Why should it not be that way?

There is no jurisdictional fight here. The Senator from Illinois deserves great credit. We have been working, of course, for several weeks, the staffs have been working on controls on Eximbank loans.

Mr. PROXMIRE. Well, on something of this kind, why should the Banking Committee not have the opportunity to work together, or to do this together? The issue of whether the Secretary of Defense should have veto power, and then that the President should act, and then that Congress act as the final arbiter, goes very far, and it may or may not be wise, but it profoundly affects our export-import policy. It takes the jurisdiction away from the Banking Committee. It does not give us a chance to make a recommendation.

Mr. JACKSON. Mr. President, the reason is that, under the circumstances with which we are confronted here, we find that the Department of Defense has only an advisory role, even on COCOM cases. COCOM stands for the Coordinating Committee within the Atlantic community, which maintains a list of prohibited exports. Of the 1,500 cases that have been looked at, they have rejected only 44.

I have a letter which I am placing in the RECORD, and I want the Senator to know that.

Mr. STEVENSON. Mr. President, let me read into the RECORD, in connection with the last point made by the distinguished Senator from Washington, a paragraph from a letter by the Secretary of Commerce to the distinguished majority leader. In the letter the Secretary of Commerce objects to this amendment for several reasons.

He states:

> The Jackson amendment would also confer on the Secretary of Defense authority to veto modifications in the list of commodities subject to international (COCOM) control. If enacted, this could have a very damaging effect on U.S. relations with COCOM and on COCOM itself. Member countries who cooperate in the COCOM system voluntarily are likely to resent being subject to the judgments of the Department of Defense.

That is one of the many questions that have been raised by this amendment, all of which deserve very serious consideration. The appropriate committee, as the Senator from Wisconsin has pointed out, is the Banking Committee. All these questions have been considered by that committee over a period of many months. I would not stand on jurisdiction if there was any reason to take action at this moment, but the Export Administration Act is not only a more appropriate vehicle for action; it is also the vehicle that will get action faster since the Export Administration Act expires on June 30, and before June 30 we will have to enact an extension of this law.

Mr. PROXMIRE. Mr. President, on page 2, line 12 of the Jackson amendment the language states:

> Notwithstanding any other provision of law, whenever a request for a license or other authority is required by any person . . .

So this is what knocks out—cancels out—the Export Administration Act.

This is under the jurisdiction of the Banking Committee, the subcommittee headed by the Senator from Illinois. It would take all jurisdiction away, although, as the Senator has pointed out repeatedly on the floor of the Senate, we must act on a bill before the Senator's subcommittee. We are going to mark it up tomorrow. It will be on the floor of the Senate in a few days, and we will have an opportunity then to act in an orderly way, without depriving the Senator of his jurisdiction and without repealing,

in effect, much of the Export Administration Act.

Mr. STEVENSON. The Senator is correct. This amendment might have some effects that are unintended, including the possibility, on the face of it, of repealing all the existing procedures in the law for the licensure of exports to other countries, including the People's Republic of China and other Communist countries.

Mr. President, how much time remains for the opponents?

The PRESIDING OFFICER (Mr. ABOUREZK). Each side has 4 minutes remaining.

Mr. STEVENSON. I yield 3 minutes to the Senator from California.

Mr. CRANSTON. Mr. President, I want to make clear that I oppose the sort of militarily risky "deals" that the Senator from Washington and the Senator from Pennsylvania oppose, namely, transactions that would genuinely contribute to the military potential of other nations.

However, we are talking not only about the jurisdiction of committees. We are talking also about the jurisdiction, in foreign policy and in trade, of the State Department, the Commerce Department, the National Security Council, the White House Council on International Economic Policy, the Export-Import Bank, and other agencies involved in determining what trade policies do and do not benefit the United States.

It seems to me that the amendment as it is now before the Senate would create a weird situation in which the President and the Secretary of Defense could be in disagreement, with each lobbying for a different result on Capitol Hill. That would create chaos.

I have heard from several computer export concerns in California which feel that at present there are too many restrictions on the export of computers, restrictions which make no sense at all and which aid computer manufacturers in other countries.

I read from a letter dated February 18, 1974, signed by an official of Hewlett-Packard, a California company headed by the former Under Secretary of Defense:

> We believe it is high time for another Cocom review and round of reductions to take place. We feel that particular attention should be given in this review to the controls over computers and computer peripheral equipment. As you know, there has been virtually no change in these controls in recent years despite the rapid progress which has been made in the industry in the United States and elsewhere in the Western world, to say nothing of the USSR and many of the other Communist countries. The existing computer controls were obsolescent some years ago. I believe that this is even more so today and, in fact, so far as lower capability computer systems are concerned, I think they are totally obsolete.

David Packard and Hewlett-Packard, the former Under Secretary of Defense, came before House Ways and Means Committee last year and stated:

> It is essential, of course, that military products continue to be rigidly controlled. However, many of the restrictions placed on the sale of high-technology products designed primarily for commercial use are of doubtful utility. Many of these products are standard catalog items which have been restricted on the basis that they might provide some possible military benefits.

Mr. Packard states that we should write proper definitions into the law, but that we should not destroy our ability to export. That is what the Banking Committee will be doing tomorrow, after extensive hearings by the International Finance Subcommittee of the Banking Committee.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. JACKSON. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator from Washington has 5 minutes remaining.

Mr. JACKSON. How much time does the other side have?

The PRESIDING OFFICER. One minute.

Mr. JACKSON. I yield 2 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I speak in support of this amendment.

Self-preservation is the first law of nature. The amendment is merely to assist our country to survive. It provides that the Secretary of Defense can determine whether any weapon or computer or other item will increase the military capability of a recipient. If it will increase the military capability of a recipient, then he can veto its being sent. The President of the United States can overrule it; but if he does, he has to submit his reasons to Congress, and either body can overrule that action.

Mr. President, this brings it right back to Congress. We have been talking about people having too much power. I have heard in the Chamber that the Secretary of Defense has too much power. So this brings it back to Congress if they are not satisfied.

As to the importance of computers, I remind Senators of what Dr. Stephan D. Possony wrote in the magazine Defense and Foreign Affairs Digest:

> Computers are at the core of today's and tomorrow's strategies, for without them there are no modern weapons systems. All of the new technologies have ties to the computer, and even the current computer is built with the aid of computers. It is now in the fabric of things, and the "balance of computer capacity" is the very essence of the balance of power.

Mr. President, nothing is more important today than our computers. We have spent years and years in building technology to make these computers. We are 10 years ahead of the Soviets in this field. If we now agree to sell them to the Soviets or one of the Soviet bloc countries, then we can see the great advantage it gives them.

I hope the Senate will adopt the amendment, because I think that it is vital to our country.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. I yield 1 minute to the Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, I have an article published in the Washington Post of June 6, 1974, captioned "Boeing Signs Air Protocol with Soviets." The first paragraph reads as follows:

> The Boeing Aircraft Co. and the Soviet Union signed, a protocol in Moscow yesterday formalizing discussions on joint civil aviation projects—perhaps including the construction of an American-designed aircraft plant in Russia.

The article discusses wide-bodied aircraft. My point is that during the strategic situation that confronted us in the Middle East, it was the aircargo situation, the airfreight situation, that was ultimately the key to the decisive outcome.

We are now actually proposing to give the Soviet Union that capability, with nobody making a judgment, other than the Commerce Department, whose sole interest is in expanding technology exports. This amendment would stop that.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

BOEING SIGNS AIR PROTOCOL WITH SOVIETS

> The Boeing Aircraft Co. and the Soviet Union signed, a protocol in Moscow yesterday formalizing discussions on joint civil aviation projects—perhaps including the construction of an American-designed aircraft plant in Russia.
>
> Besides the plant, the Soviet news agency Tass said the cooperative agreement could result eventually in the joint design and development of new passenger aircraft and helicopters.
>
> But Boeing discouraged speculation that any big project was imminent. The company said discussions with Soviet officials have been going on since 1971 and the protocol "allows these discussions to proceed in a more formal manner."
>
> Boeing said further that the discussions with the Russians to date "are limited to the exchange of scientific and technical information in the civil aviation field."
>
> Before any aircraft agreements could be made, Boeing would have to receive the approval of the State and Defense departments. One obvious concern of the American military would be whether the Soviet Union would gain valuable technology for its bombers and fighters.
>
> One company official stressed that these and other questions would take considerable time to resolve—meaning the protocol is just one of the early steps toward a significant cooperative agreement.

The PRESIDING OFFICER. The Senator's time has expired. One minute remains to each side.

Mr. STEVENSON. Mr. President, in response to the concern expressed earlier by the Senator from Washington, the Boeing transaction has not been approved and there is absolutely no indication that it will be approved.

I yield the remainder of my time to the Senator from Pennsylvania (Mr. HUGH SCOTT).

Mr. HUGH SCOTT. Mr. President, I oppose the Jackson amendment, which is intended to reduce the possibility of militarily significant exports to Communist destinations. The President and the Secretary of Commerce now have ample authority to prevent such activity, and the amendment would simply cloud our relations with countries which are seeking to normalize relations with us.

First of all, the Secretary of Defense, who is being granted new authority under the Jackson amendment, already plays a significant role in the granting of export licenses. There is simply no need to lock this very elaborate procedure in statutory language.

Second, it is the President of the United States who directs our foreign policy. Congress should not be interposing its judgment with respect to Presidential decisions on a country-by-country basis after the Congress has given him the power to do so.

Third, this amendment should be reviewed by the Senate Banking Committee which has proper jurisdiction over export control matters. The committee should undertake its own study, in conjunction with the Armed Services Committee, to see if there is any merit at all to the Jackson amendment.

Therefore, Mr. President, I move to lay the amendment on the table.

The PRESIDING OFFICER. The motion to lay on the table is not in order until all time has expired.

Mr. HUGH SCOTT. Then I reserve the right to move to table, following the expiration of the time.

Mr. JACKSON. Mr. President, this is a very simple amendment. Senators should realize what is involved here. All we are asking at this time is that the Department of Defense shall have an opportunity to pass judgment on those matters that relate to national defense. If they veto it, then the President can override; and Congress, for the first time, is given the authority to override these transactions.

I would point out that all sorts of proposals are involved here, concerning not only the sale of an aircraft or computers. The Soviets want plants built in the Soviet Union and we are talking about exporting jobs.

Mr. President, I ask unanimous consent to have printed in the RECORD a memorandum relating to the amendment and also a letter from the Department of Defense.

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

MEMORANDUM ON AMENDMENT 1405 (TECHNOLOGY TRANSFER TO SOVIET BLOC COUNTRIES

On Tuesday, June 11 the Seenate will consider amendment number 1405 to the defense procurement bill, an amendment to control the transfer to the Soviet Union and Eastern bloc countries of technology that could significantly increase the military capability of the recipient.

Interest in this amendment arises out of issues brought to light in a preliminary investigation undertaken by the Senate Permanent Subcommittee on Investigations. In the course of that inquiry it became clear that there are, now under consideration, a number of technology transfers that are potentially damaging to our national security. Among them are the following:

1. The construction of an integrated aircraft production facility in the USSR for the production of wide-bodied "commercial" aircraft.

2. The construction in Poland of an integrated circuit manufacturing facility.

3. The sale to Intourist of a large computer complex with a large number of remote terminals.

4. The sale to the Soviet Union of the CDC 7600 computer, the same computer used in the U.S. site defense program.

5. The sale to the Soviet Union of an air traffic control system.

Amendment 1405 would simply enable the Secretary of Defense, in cases where he determines that the granting of an export license would substantially increase the military capability of the recipient, to disagree to any request for such a license. The amendment further provides that the removal of any category of technology from the list of those requiring either an export license or an exemption, would require the approval of the Secretary of Defense.

Of course, a disagreement to a request by the Secretary of Defense would be—and the amendment specifically provides—subject to a final determination by the President. In addition, the amendment will, when it comes to the floor on Tuesday, provide for final Congressional determination after all prior actions by the Departments of Commerce, State and Defense and the President have been taken. This later provision should help to restore Congressional authority in this crucial area.

The greatly increased volume of technology transfers to the Soviet Union and the Soviet bloc countries requires a system of controls that is adequate both to the importance of the issues involved and the escalating level of activity in assessing the the granting of export licenses. As a practical matter these decisions are taken at low and middle levels within the federal bureaucracy. All that amendment 1405 does is to assure that in those few cases where the Secretary of Defense determines that the granting of an export license would substantially increase the military capability of the recipient, approval for the license would require a direct Presidential order and possible Congressional review.

If the five technology transfers now under consideration were to take place, we would be helping the Soviets to:

(1) build 100 wide-bodied aircraft per year with a range, speed and take-off weight greater than anything manufactured in this country. The impact on Soviet military air lift capacity, whose importance was demonstrated during the Yom Kippur war, would be enormous.

(2) Acquire through a Polish production line highly sophisticated integrated circuits. With trivial modification of the production technology whose transfer has been proposed, this facility would turn out crucial elements for missile guidance systems, military weapons control systems for aircraft, etc.

(3) Procure and install a very large, nationwide computer system with a large number of remote terminals in cities throughout the USSR. Such a system could and doubtless would be used by the KGB which dominates the activities of Intourist, the potential purchaser. Such a system in operation could greatly strengthen Soviet totalitarian control of intellectuals, dissidents, persons wishing to emigrate and the 65,000 plus American tourists who visit the USSR each year.

(4) Acquire a CDC 7600 computer, the same computer used in the ballistic missile site defense program now in research and development in this country. Other users of the CDC 7600 in this country are the two nuclear weapons laboratories, the Naval Weapons Research Laboratory, the National Security Agency and similar organizations.

(5) Acquire an air traffic control system utilizing extremely sophisticated technology and procedures. Such a system could control and direct military as well as civilian air traffic.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C.

In reply refer to: I–5330/74.

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

DEAR SENATOR JACKSON: The Secretary of Defense has asked me to respond to your inquiry on technology transfers with respect to the Soviet Union and Eastern Bloc countries.

The Department of Defense is involved in three different ways in the consideration of these export licenses. First, we have an input to the U.S. position on cases in COCOM. This is an interagency body of Western Nations with common interests in controlling exports of potential military significance to the Soviet Union and Warsaw Pact Nations. In addition, there is an interagency group chaired by the Department of Commerce that considers licenses for the export of U.S. technology. Finally, the Department of Commerce refers a number of cases that are not important enough for full interagency review directly to the Department of Defense. Department of Defense involvement in these three approaches is discussed below and specific data are provided for the 1972–74 time period.

During this period of time approximately 1500 cases were considered under COCOM. Of the 1500 *COCOM* cases the Department of Defense concurred in interagency recommendations, approval and disapproval, in all but 44 cases. These cases are identified in Attachment 1.

In 42 of these 44 cases (all of which were approved), Defense preferred that a license not be issued. However, they were not considered to be of sufficient importance to warrant the attention of the Secretary of Defense. Two cases were referred to the Secretary and the final decision was made by the President. In addition, there are currently three cases, listed in Attachment 2, on which no U.S. position has been taken.

In the same time period, the interagency group addressed some 1200 requests for export of U.S. goods. In eight cases DoD preferred that no license be issued but again felt that these cases did not warrant Secretarial review. In one case the Secretary did object and the final decision was made by the President. The nine exceptions are identified in Attachment 3. In addition, there are currently 20 cases, as listed in Attachment 4, on which no decision has been made.

During the same period the Department of Commerce has sought DoD comment on an additional 1800 cases. Those few cases not resolved to DoD's satisfaction were referred to the interagency review group mentioned above.

With respect to the last three questions in your letter, answers to these are provided in Attachments 5, 6 and 7.

I might point out that the information contained in the tabulation of COCOM cases is considered Confidential insofar as disclosure of particular transactions involving individual exporting countries is concerned. On the U.S. cases there is also the question of proprietary information, but we have tried to avoid this problem by omitting from their tabulations the names of the U.S. firms involved.

We trust this is the information you desire.

Sincerely,

AMOS A. JORDAN.

Mr. BENTSEN. Mr. President, I am pleased to cosponsor and support the amendment offered by the distinguished Senator from Washington (Mr. JACKSON).

I believe that the transfer of sensitive and sophisticated U.S. technology to Warsaw Pact countries is a serious prob-

lem that threatens to jeopardize our national security by eroding the technological advantage which is the very foundation of that security. The purpose of the Jackson amendment is to allow the Secretary of Defense who is the Cabinet officer chiefly responsible for determining what is essential to the country's security, to have a strong voice in controlling exports that might undermine our defense.

I have been tremendously concerned by actions of certain U.S. companies and U.S. allies which would affect large-scale transfers to Eastern bloc nations not only of sophisticated U.S. goods and equipment but oftentimes the technological know-how necessary for their manufacture.

At the present time, the Secretary of Commerce has authority to approve commercial exports of controlled items to restricted countries. In the exercise of that authority he acts jointly with the Secretary of State in approving certain exports but the primary responsibility lies within the Commerce Department. The Secretary of Defense is consulted but he has no real authority in determining whether sophisticated technology with possible military applications should be exported to Communist bloc nations. I believe that situation must be changed and that the amendment of the Senator from Washington offers an appropriate solution.

The Secretary of Defense would be given an opportunity to review and disapprove the export of any controlled product to the Communist bloc countries. His decision would be subject to review by the President but his authority would be equal to that of the Secretary of Commerce in determining whether or not a proposed export or technology transfer by a COCOM nation affects the military security of the United States.

Mr. President, I believe this country pursues a shortsighted and dangerous policy when it allows the export of sophisticated technology to foreign nations which will inevitably use that technology to threaten the security of the United States.

We are spending astronomical sums in the bill before us today in order to support the technological and qualitative advances which are the key to our Nation's security. I certainly do not intend to see that security subsequently bartered away to unfriendly nations for a mess of pottage and vague promises of improved relations. I urge the Senate to support the amendment of the Senator from Washington (Mr. JACKSON).

Mr. NUNN. Mr. President, earlier today the Senate passed an amendment offered by the Senator from Washington, which I cosponsored, designed to give the Secretary of Defense the power to veto the transfer of American technology to the Soviet Union when such transfers would accrue to the benefit of Soviet military capability. Further, such vetoes would be subject to review by the President and Congress.

I supported this amendment, and though the amendment was somewhat confused by substitute language passed by another amendment, I am hopeful the strength of it will be restored and emphasized in the conference committee.

Senator JACKSON is correct in asking hard questions about the exporting of U.S. technology to Russia.

At present, to facilitate administration, decisions on exports to the Soviet Union are made at low and middle levels within the Federal bureaucracy, and there is no required review by the Defense Department. However, in some cases—and there are several pending right now—the Soviets stand to reap significant benefits militarily if such transfers are made.

Senator JACKSON'S amendment stems not only from his concern for the decisions pending now and the effect they may have, but also from his concern that many technological transfers in the past have already been used to increase Soviet military might. He pointed out this morning that there seems to be no effective control or monitoring of such transfers by the administration.

A preliminary study, referred to by the Senator from Washington, indicates the flow of military-related technology may be greater than suspected.

All of us welcome any easing of tensions in the world, particularly between the two nuclear powers, the United States and the Soviet Union. Détente is to be encouraged; but if détente means exporting our technology to the U.S.S.R., resulting in the building of their military capability while they drag their feet at the SALT II talks, then I say we cannot afford such exporting, and appropriate controls must be initiated to plug these technological leaks.

Senator JACKSON has called for hearings by the Permanent Subcommittee on Investigations of the Government Operations Committee into this matter, and I support him in this move.

Mr. HUGH SCOTT. Mr. President, I move to lay the amendment on the table, and I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Washington. 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 Idaho (Mr. CHURCH), the Senator from Louisiana (Mr. LONG), the Senator from Montana (Mr. METCALF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from New Jersey (Mr. WILLIAMS) 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 Kentucky (Mr. COOK) and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Kentucky (Mr. COOK). If present and voting, the Senator from Oregon would vote "yea" and the Senator from Kentucky would vote "nay."

The result was announced—yeas 40, nays 50, as follows:

[No. 241 Leg.]

YEAS—40

Aiken	Hansen	Muskie
Bartlett	Hart	Nelson
Beall	Hartke	Packwood
Bellmon	Haskell	Pearson
Biden	Hathaway	Pell
Brooke	Hughes	Percy
Burdick	Humphrey	Proxmire
Case	Javits	Scott, Hugh
Clark	Kennedy	Stafford
Cranston	Mansfield	Stevenson
Fannin	Mathias	Taft
Fulbright	McGovern	Tunney
Goldwater	Mondale	
Griffin	Moss	

NAYS—50

Abourezk	Eagleton	Montoya
Allen	Eastland	Nunn
Baker	Ervin	Pastore
Bennett	Fong	Randolph
Bentsen	Gravel	Ribicoff
Bible	Gurney	Roth
Brock	Helms	Schweiker
Buckley	Hollings	Scott, William L.
Byrd, Harry F., Jr.	Hruska	Stennis
Byrd, Robert C.	Huddleston	Stevens
Cannon	Inouye	Talmadge
Chiles	Jackson	Thurmond
Cotton	Johnston	Tower
Curtis	Magnuson	Weicker
Dole	McClellan	Young
Domenici	McClure	
Dominick	McIntyre	
	Metzenbaum	

NOT VOTING—10

Bayh	Long	Sparkman
Church	McGee	Symington
Cook	Metcalf	Williams
Hatfield		

So the motion to lay on the table was rejected.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the motion to table the amendment was rejected.

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

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I send to the desk an amendment on behalf of the following Senators, in addition to myself: Senators TAFT, PROXMIRE, STEVENSON, MONDALE, MUSKIE, and TUNNEY. It is an amendment to the pending amendment.

The assistant legislative clerk proceeded to read the amendment.

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

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

Mr. JACKSON'S amendment, as amended by Mr. SCHWEIKER and Mr. CRANSTON, is as follows:

On page 17, between lines 20 and 21 insert a new section as follows:

SEC. . (a) The Congress finds that the defense posture of the United States may be seriously compromised if the Nation's goods and technology are exported to a controlled country without an adequate and knowledgeable assessment being made to determine whether export of such goods and technology will significantly increase the military capability of any such country. It is the purpose of this section to provide for such an assessment and to authorize the Secretary of Defense to review proposed export of goods or technology to any such

country and, whenever he determines that the export of such goods or technology will significantly increase the military capability of such country, to recommend to the President that such exports be disapproved.

(b) Notwithstanding any other provision of law, whenever a request for a license or other authority is required by any person to export any goods or technology to any controlled country, the appropriate export control office or agency to whom such request is made shall notify the Secretary of Defense of such request, and such office may not issue any license or other authority pursuant to such request for a period of thirty days after the Secretary of Defense has been notified. The Secretary of Defense shall carefully consider all notifications submitted to him pursuant to this subsection and shall:

(1) Recommend to the President that he disapprove any request for the export of any goods or technology to any controlled country if he determines that the export of such goods or technology will significantly increase the military capability of such country; or

(2) notify such office or agency within such period that he will interpose no objection if appropriate conditions designed to achieve the purposes of this Act are imposed; or

(3) indicate, prior to the expiration of the thirty-day review period, that he does not intend to interpose an objection to the export of such goods or technology.

If the President notifies such office or agency within thirty days after receiving a negative recommendation from the Secretary that he disapproves such export, no authorization may be issued for the export of such goods or technology to such country.

(c) In determining whether the export of any goods or technology to any controlled country will significantly increase the military capability of such country, the Secretary of Defense shall take into account all potential end uses regardless of the end use indicated by the applicant for the export of such goods or technology.

(d) Effective on June 1, 1974, the removal of any category of goods or technology requiring an export license or other authorization shall require the approval of the President.

(e) The President is authorized, on behalf of the United States, to disagree to any modification of the so-called COCOM international lists (or interpretations thereof) if he determines that such modification would likely result in a significant increase in the military capability of any controlled country.

(f) As used in this section—

(1) the term "goods and technology" includes but is not limited to—

(A) machinery, equipment, durable goods, and computer software;

(B) any license or other arrangement for the use of any patent, trade secret, design, or plan;

(C) the so-called know-how or knowledge of any individual, firm, corporation, or other entity;

(D) assistance in planning and joint venture arrangements; and

(E) arrangements under which assistance is provided in developing a manufacturing capability, including so-called turnkey arrangements.

(2) The term "export control office" as used in this section means any office or agency of the United States Government whose approval or permission is required pursuant to existing law for the export of goods or technology.

(3) The term "controlled country" means the Soviet Union, Poland, Romania, Hungary, Bulgaria, Czechoslovakia, and the German Democratic Republic (East Germany).

(g) The Secretary of Defense shall submit to the Congress every six months a report on the implementation and administration of this section.

(h) All actions undertaken pursuant to this section shall be subject to a final determination by the President of the United States.

(i) The provisions of this section shall expire on December 31, 1975.

"(j) Whenever the President exercises his authority under subsection (h) hereof to modify or overrule a recommendation made by the Secretary of Defense pursuant to this section, the President shall submit to the Congress a statement indicating his decision. Either House of the Congress shall have a period of thirty (30) calendar days of continuous session after the date on which the statement is transmitted to the Congress to disapprove by majority vote the action of the President."

Mr. CRANSTON. Mr. President, I ask unanimous consent to offer a brief explanation of the amendment.

Mr. ROBERT C. BYRD. Mr. President, there is a time problem.

I ask unanimous consent that the Senator from California may have 2 minutes and that the Senator from Washington may have 2 minutes.

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

Mr. CRANSTON. Mr. President, all that this amendment does is seek to preserve the preeminence of the President over the Secretary of Defense. It would amend the Jackson amendment to provide that the Secretary of Defense would make recommendations to the President. The President would have the authority to proceed or not to proceed in accordance with the Secretary's recommendations and in accordance with the Schweiker amendment. All the other language in the Jackson amendment, as modified by the Schweiker amendment, has been preserved. All of this would be subject to Congress, so that Congress would have a final voice in these affairs.

Without this amendment that I propose, we would set up a very strange situation in which the Secretary of Defense seems to be put in a superior position to that of the President. If the President overrules the Secretary's veto, the Secretary and the President, at least potentially, could both be up here lobbying for their respective viewpoints.

My amendment would preserve the preeminence of the President. It would also ensure that the Secretary of Defense is on an equal footing with, but is not superior to, the Secretary of State, the Secretary of Commerce, the National Security Council, the Export-Import Bank, and all other agencies presently involved in assessing the wisdom of international transactions.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JACKSON. Mr. President, there is no need for this amendment. Let me explain why.

I think the Senate is entitled to have the independent judgment of the Secretary of Defense. Then if the President does not like his recommendation, we at least ought to protect the integrity of that office and his findings. Then the President can override, and finally Congress will have the authority to make the overall judgment. But why should we not insist that the Secretary of Defense, in an unfettered way, give his judgment only in those areas that relate to this responsibility, not as it pertains to other offices. Finally, Congress has the say-so. As a practical matter, I think Senators know that all the Cabinet officers are under the direct orders of the President of the United States. This amendment simply takes away the opportunity of Congress to have the Secretary of Defense make that independent judgment.

I hope the amendment will be rejected.

I yield back the remainder of my time. The yeas and nays have been ordered.

The PRESIDING OFFICER. Is the Senator asking for the yeas and nays?

Mr. CRANSTON. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that due to the closeness of the votes which will occur that there be a 10-minute limitation for this series of rollcalls.

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

The clerk will call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Montana (Mr. METCALF), the Senator from Alabama (Mr. SPARKMAN), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Louisiana (Mr. LONG) 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 Kentucky (Mr. COOK) and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

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

The result was announced—yeas 47, nays 43, as follows:

[No. 242 Leg.]

YEAS—47

Aiken	Hathaway	Moss
Beall	Hollings	Muskie
Bellmon	Huddleston	Nelson
Bennett	Hughes	Packwood
Biden	Humphrey	Pearson
Brooke	Inouye	Pell
Burdick	Javits	Percy
Case	Johnston	Proxmire
Clark	Kennedy	Roth
Cranston	Mansfield	Scott, Hugh
Fulbright	Mathias	Stafford
Gravel	McGovern	Stevenson
Griffin	McIntyre	Taft
Hart	Metzenbaum	Tunney
Hartke	Mondale	Weicker
Haskell	Montoya	

NAYS—43

Abourezk	Dole	McClellan
Allen	Domenici	McClure
Baker	Dominick	Nunn
Bartlett	Eagleton	Pastore
Bentsen	Eastland	Randolph
Bible	Ervin	Ribicoff
Brock	Fannin	Schweiker
Buckley	Fong	Scott, William L.
Byrd, Harry F., Jr.	Goldwater	Stennis
Byrd, Robert C.	Gurney	Stevens
Cannon	Hansen	Talmadge
Chiles	Helms	Thurmond
Cotton	Hruska	Tower
Curtis	Jackson	Young
	Magnuson	

NOT VOTING—10

Bayh	Long	Sparkman
Church	McGee	Symington
Cook	Metcalf	Williams
Hatfield		

So Mr. CRANSTON's amendment to Mr. JACKSON's amendment, as amended, was agreed to.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the yeas and nays on passage be vacated.

The PRESIDING OFFICER (Mr. ABOUREZK). The yeas and nays have not been ordered on passage.

Mr. ROBERT C. BYRD. The Senator is referring to the Jackson amendment, not to passage. They have been ordered on the Jackson amendment.

The PRESIDING OFFICER. The Chair misunderstood. Without objection, the order for the yeas and nays is withdrawn.

The question is on agreeing to the amendment, as amended, of the Senator from Washington (Mr. JACKSON).

The amendment, as amended, was agreed to.

Mr. CRANSTON. I move to reconsider the vote by which the amendment was agreed to.

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

Mr. AIKEN. Mr. President, I ask for the yeas and nays on the last vote.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. Do I correctly understand that the order for the yeas and nays was withdrawn by unanimous consent?

The PRESIDING OFFICER. The Senator is correct. The order for the yeas and nays was withdrawn by unanimous consent. The request for the yeas and nays is not in order.

Mr. AIKEN. Mr. President, if the Chair had recognized me, he would have found it was not by unanimous consent.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the Jackson amendment was agreed to.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries, and he announced that on June 8, 1974, the President had approved and signed the following acts:

S. 1752. An act prescribing the objectives and functions of the National Commission on Productivity and Work Quality;

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

S. 3373. An act relating to the sale and distribution of the Congressional Record.

REPORT ON FEDERAL ADVISORY COMMITTEES—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. CLARK) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Government Operations. The message is as follows:

To the Congress of the United States:

In accordance with the provisions of section 6(c) of the Federal Advisory Committee Act, the report on the status of advisory committees in 1973 is herewith forwarded.

This is the second annual report and is augmented by indices to afford the public improved access to additional information concerning specific advisory committees.

RICHARD NIXON.

THE WHITE HOUSE, *June 11, 1974.*

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 Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 11873) to authorize the Secretary of Agriculture to encourage and assist the several States in carrying out a program of animal health research; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. POAGE, Mr. STUBBLEFIELD, Mr. FOLEY, Mr. MELCHER, Mr. GOODLING, Mr. MATHIAS of California, and Mr. ZWACH were appointed managers on the part of the House at the conference.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 14368) to provide for means of dealing with energy shortages by requiring reports with respect to energy resources, by providing for temporary suspension of certain air pollution requirements, by providing for coal conversion, and for other purposes.

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.

AMENDMENT NO. 1391

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of amendment (No. 1391) of the Senator from Maryland (Mr. MATHIAS).

The Senate will be in order.

The Senator may proceed.

Mr. MATHIAS. Mr. President, amendment No. 1391 as printed contains a typographical error. At this time I submit a revised amendment.

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator's point is well taken. The Senate will be in order.

Mr. ROBERT C. BYRD. Will the Chair clear the well of staff people, et cetera?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me for a question?

Mr. MATHIAS. I am happy to yield to the distinguished majority whip.

Mr. ROBERT C. BYRD. Mr. President, we have had more rollcall votes than were anticipated, and our time has slipped away. I wonder if the distinguished author of the amendment and the distinguished manager of the bill would be agreeable to cutting the time on this amendment to 45 minutes, instead of 1 hour.

Mr. STENNIS. As long as there is time for reasonable debate on this matter, I think so—45 minutes to a side?

Mr. ROBERT C. BYRD. Yes.

Mr. STENNIS. If that is agreeable to the Senator from South Carolina. I am sure he is available, because he has been here within the last few minutes. Go ahead.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, as I noted, a typographical error appears in amendment No. 1391, as printed. On line 2, at the bottom of the page, appears the figure "$3,177,042,000." It should be "$3,167,042,000." I submit a revised amendment, and at the same time ask unanimous consent to add the names of the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Illinois (Mr. STEVENSON) as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be so modified.

The amendment, as modified, will be stated.

The legislative clerk read as follows:

On page 4, line 9, strike out "$3,151,042,000" and insert in lieu thereof "$3,167,042,000".

Mr. MATHIAS. Mr. President, this amendment, simply stated, adds $16 million to the research and development authorization portion of the military procurement authorization bill. The purpose of the amendment is to authorize the design and development work on a new submarine called the SSBNX which would make use of the existing Narwhal S5G natural circulation reactor. It is in no sense a substitute for the Trident. It

is intended to complement the Trident, meeting strategic needs that do not require a submarine with Trident's capabilities. The S5G reactor has already been proven and has been tested in service for 5 years in an attack submarine with the name Narwhal. The Narwhal reactor is similar in design to the Trident reactor. It has comparable reliability, simplicity of design, and noise reduction characteristics due to the elimination of the need for large reactor coolant pumps. By taking maximum advantage of natural convection to circulate reactor coolants, it eliminates the need for noisy ancillary equipment. While it would be a better submarine than the Polaris Poseidon, it would not have all of the survivability characteristics of the Trident. It would meet the requirements for all circumstances except that required by the most extreme ranges.

The $16 million which was requested by the Department of Defense and approved by the House and which we request the Senate to restore, is an expenditure which we believe would be well spent.

In my view, the request for the development of the SSBNX to complement or as an alternative to the Trident submarine made by the Department of Defense is a sound and reasonable proposition. It would, at cheaper cost, provide an effective replacement, when necessary, to the Polaris and Poseidon fleet which now is the most invulnerable portion of our nuclear deterrent. The hull, it is estimated, would cost less than half of the Trident hull, it would use the Trident I 4,500 mile missile and take advantage of Trident R.D.T. & E. costs in that respect. The SSBNX would cost far less than the Trident.

Mr. President, how much of my time have I consumed?

The PRESIDING OFFICER (Mr. HATHAWAY). The Senator has consumed 3 minutes. He has 20 minutes remaining.

Mr. MATHIAS. I thank the Chair.

Mr. President, I yield myself 1 additional minute, and then I will yield either to the manager of the bill or to the cosponsors.

Mr. President, we can reasonably expect that future agreements attained at SALT might well include an agreement along the lines of the present limit on submarines and total SLBM launchers. The SSBNX, which would incorporate the existing and proven Narwhal reactor, offers a less costly solution to the question of a follow-on to the Poseidon than Trident. The Secretary of Defense and the Navy have made it clear that they believe that research and development on the SSBNX could lead to a less costly submarine with very similar characteristics to the Trident. The Narwhal offers a reasonable complement to the Trident. If a future SALT agreement limits launcher tubes alone, then the SSBNX makes even more sense because we would be able to deploy more submarines at a far lower cost than the Trident. In strategic terms, the more aim points or targets a potential enemy has to worry about reduces the likelihood of any first strike. The Trident which now already costs $1.3 billion per submarine may well, because of cost, prove too costly in quantity. The SSBNX is, in my view, a timely and a sensible R. & D. effort and should be supported at this time.

Mr. President, at this time I yield 5 minutes to the distinguished Senator from Illinois (Mr. STEVENSON).

The PRESIDING OFFICER. The Senator from Illinois is recognized for 5 minutes.

Mr. STEVENSON. Mr. President, the SSBN–X (Narwhal) program should go forward as originally requested in the Defense appropriations bill.

The projected cost of each Trident submarine has risen to over $1.3 billion. This year the Trident program will cost almost $2 billion, and the cost is likely to grow each year for the next decade. The Trident program could cost the United States billions of dollars which could be spent more effectively.

As the Armed Services Committee itself points out, SALT could have a major impact on our submarine-launched ballistic missile (SLBM) requirements. SALT II may result in a limitation on the number of SLBM launchers. In light of recent and projected antisubmarine breakthroughs, it is imperative for the United States to begin development of a submarine which on a cost effective basis would provide the United States with a relatively invulnerable submarine deterrent. The SSNB–X design approach is geared to this purpose.

It would have essentially the same protection against antisubmarine warfare as the Trident submarine. But, it would have the additional strategic value of increasing the number of aim points that an enemy would be required to hit, and thus make it less likely that any enemy could successfully attempt a first strike against U.S. nuclear deterrent forces. The SSBN–X design would better meet the need of strategic survivability, especially within the limits of SALT, and at a lower cost than the projected Trident program.

The committee based its decision to delete funds for SSBN–X, in large part, on the belief that the United States would be able to build and deploy two Trident submarines a year for the next 4 years and one in the fifth year. But it may be that the United States will only be able to build one ship per year. There are only three private shipyards in the country capable of producing nuclear submarines—Litton in Mississippi, Newport News in Virginia, and Electric Boat in Connecticut—and all three are already stretched beyond capacity.

Thus, the Trident program will most likely be slowed down. We should use the lag time in Trident production and deployment to explore other strategic ballistic missile submarine options as well as continue the strategic evaluation of the Trident submarine concept.

For these reasons, I believe that it is extremely important to begin immediately on the SSBN–X program. This amendment does not cut out or slow down the Trident program. It takes immediate advantage of the lag time in the Trident program and insures that the United States has a lower cost alternative, or companion, to the Trident. Sixteen million dollars for initial feasibility and design work on an improved SLBM is a sound investment against the astronomic costs of the Trident program. It would assure us a more survivable and less expensive submarine-based strategic deterrent. This deterrent is essential to our national security in view of the increased Soviet threat to our ICBM forces and new improvements in antisubmarine warfare. Most essential of all is a new recognition that for less money the Nation can buy more security.

Mr. MATHIAS. Mr. President, I now yield 5 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

Mr. MONDALE. Mr. President, this amendment would restore the $16 million that has been cut out of the administration's request for the purpose of starting initial design work on a new low-cost ballistic missile submarine.

This program is based on a submarine which has been in service for 5 years called the Narwhal. Its reactor is of generally the same type as that proposed for the Trident submarine but much smaller in size. The result is that one can achieve most of the quieting effects of the Trident submarine type reactor while not having to construct a mammoth submarine. Large submarines such as the Trident tend to put a large part of our submarine ballistic missile forces in only a few baskets and offer a much more detectable target for Soviet antisubmarine warfare sensors. Admiral Rickover had this to say about the Narwhal. He said that its natural circulation reactor—

offers promise of increased reactor plant reliability, simplicity, and noise reduction due to the elimination of the need for large reactor coolant pumps and associated electrical and control equipment, by taking maximum advantage of the natural convection to circulate the reactor coolant.

The Narwhal has been in service for 5 years and works well. It thus provides a proven basis for a system which could be of much lower cost. It also could take advantage of the research and development being conducted in connection with the Trident system, and could carry ballistic missiles of the range contemplated by the Trident.

But at the same time, the Narwhal will not run the risk of bankrupting the Navy ship construction budget, or squeezing out other important naval construction programs. There is a serious risk that the enormous cost of the Trident program will have this effect or will have to be stretched out, thus putting the United States in a disadvantaged strategic position because of the lack of an adequate submarine based strategic deterrent.

The Armed Services Committee cut out the Narwhal program. The reasons were that the United States would buy 10 Trident submarines. Therefore, it was argued that one did not need to start work on a follow-on to Trident until several years from now. The committee

supported the concept of a lower cost SSBN, but said it was premature.

It is my belief that given the enormous cost of each Trident submarine, $1.3 billion at last count, we cannot afford to put ourselves in a position in which the Trident is the only strategic ballistic-missile submarine program on the way. We must not have the Trident as our only option, particularly when it faces such serious cost problems and such serious questions have been raised about its strategic value.

Therefore, as a matter of prudence, we should start now on the Narwhal program. It will provide us with either a follow-on, a complement, or a substitute for the Trident program, depending on how that program proceeds and depending upon the strategic threat as it evolves.

It has often been said that the Narwhal type SSBN could not accommodate the larger missiles—D–5—contemplated for the Trident submarine. These larger missiles are designed to provide a 6,000 mile range. The design of the Narwhal is, of course, not fixed. The program for such a ballistic-missile submarine is only in its infancy. It would be possible to pursue two options if such a long-range missile is required. One is to modify the hull structure in such a way so as to be able to accommodate the longer length of the D–5 missile. Much in the same fashion as the Soviets have done in accommodating their larger missiles in their D-class submarines. The other approach would be to use the C–4 missile and simply remove some of the planned warheads so that the longer 6,000 mile range would be possible at only a slightly reduced throw weight. What I am saying is that the Trident submarine is not required in order to get a longer range missile submarine ballistic missile force and a larger operating area.

Let me make a final observation concerning SALT. Our submarine forces are now limited by both the number of submarines and the number of ballistic missiles that they can carry. In all likelihood, these kinds of limits will continue. In this context, it is extremely important that we have a submarine force that maximizes the number of aim points that the Soviet Union would have to detect and attack. This will be particularly important if the Soviet Union cannot be convinced to adequately constrain the growth of its ICBM counterforce capability and we find our ICBM's increasingly vulnerable.

Thus, from almost every perspective, prudent strategic policy, prudent strategic system program management, flexibility in SALT, and the providing of options to the Congress and the American people in the event that Trident becomes unbearably expensive, it makes sense to restore the requested $16 million and go forward now with this minimum program of initial conceptual design work on a lower cost alternative ballistic-missile submarine.

I hope very much that the Senate will agree with our position and that we can proceed to this essential research.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, I yield 6 minutes to the Senator from New Hampshire, and I will yield additional time if he requires it.

Mr. McINTYRE. Mr. President, I oppose the pending amendment offered by my good friend, the senior Senator from Maryland. His amendment would restore $16 million to the Navy R.D.T. & E. appropriation to initiate development of an improved strategic nuclear ballistic-missile submarine called the SSBN–X. The Research and Development Subcommittee voted unanimously to delete the money requested for this program and this recommendation was sustained by the full Armed Services Committee.

The issue here does not involve the merits of a new submarine which would be smaller than the costly Trident and which could be a cheaper replacement for the Poseidon submarines when they are retired. This would provide a so-called hi-low mix which has merit because it would be less expensive than an all-Trident submarine fleet. In addition, since the SSBN–X would carry only 16 missiles, as compared with the 24 of the Trident, more submarines could be built if the Interim Agreement on Strategic Arms continues to limit the number of submarine-based ballistic missiles.

The committee fully supports the concept of the SSBN–X and stated in the report that it has merit. The simple reason for deletion by the committee was that it is premature to initiate this program in fiscal 1975. Now, Mr. President, let me explain why.

The Trident submarine is in its early stage of development. In fact, the lead submarine contract has not yet been awarded. This raises the issue of concurrency. Since the plan is to incorporate much of the Trident submarine technology into the SSBN–X, substantial new technology could be derived from another year or two of Trident submarine development. It is axiomatic in the research and development program that if we rush too quickly into a new program we wind up with major technical problems, cost overruns and substantial delays in the program. All of these can be overcome by proceeding in a more orderly manner, and applying the technical lessons which we have learned in other programs. Initiation of the SSBN–X now would start in motion a program whose momentum would be difficult to control. I, for one, would not like to jeopardize this concept of a lower cost alternative by moving in such haste.

I am advised that the start of this program in fiscal year 1975 would be largely a waste of $16 million. There are only two contractors who are able to develop and produce such a system. These are Electric Boat and Newport News Shipbuilding. Both contractors are competing for the initial Trident submarine and both will be engaged in the construction of follow-on Trident submarines. Their design teams are fully occupied and will continue to be so for some period with the Trident submarine. It is highly unlikely that they would divert these highly skilled designers during fiscal year 1975 to the SSBN–X. Most of the $16 million requested, therefore, would wind up being used within the Navy to do in-house studies and support overhead costs. There is serious question as to the value of these efforts during fiscal year 1975.

Assuming that the Trident submarine program is limited to the presently planned 10 ships, which will replace the initial 10 Polaris submarines, there will be no need to initiate the SSBN–X in fiscal year 1975 so as to begin to replace the oldest Poseidon submarines because of aging. This has been examined in detail and the conclusion reached was that on an aging basis the SSBN–X could be started 1 or 2 years later and still provide for this problem.

Of course, if the real purpose or the desire behind this amendment is possibly to cut back on the Trident, the proposed fleet of 10 Trident submarines, that is another question, and I shall deal with that later in the debate.

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

Mr. McINTYRE. I yield.

Mr. MATHIAS. First of all, I was extremely encouraged by the Senator's support in principle for the concept of the SSBN–X submarine.

We all seem to have a common understanding that this is the direction in which we want to go. It is where the Defense Department wants to go. It is where the operating Navy wants to go.

The distinguished Senator, with all the work he has done in the area of research and development, is reassuring when he says that he feels that, on the merits, he wants to go in this direction. But I invite his attention to a letter in the hearing record. It is from Dr. Malcolm R. Currie, Director of Defense Research and Engineering. Dr. Currie is quoted there as saying:

A delay—

That is, a delay in the design and development—

would therefore tend to reduce the potential savings from such an option and dependent upon the extent of the delay, force us to build Tridents as required to insure that fleet readiness is not degraded.

I think that expresses, in the Defense Department's words, exactly what this amendment intends to do. It is to give us options, both economic and military options, which are not available without that readiness condition.

Mr. President, I ask unanimous consent that Dr. Currie's letter be printed in the RECORD.

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

DIRECTOR OF DEFENSE,
RESEARCH AND ENGINEERING,
Washington, D.C., April 18, 1974.

Hon. THOMAS J. McINTYRE,
Chairman, Subcommittee on Research and Development, Committee on Armed Services, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Dr. Schlesinger has requested that I reply in his behalf to your letter of 18 February 1974 concerning the funding for the Trident Weapons System and the smaller advanced SSBN which we currently are calling the SSBN–X.

Attachments 1, 2 and 3 show the funding

profiles for the Trident Program, Trident Backfit Program, and SSBN–X. The escalation rates used in both the current estimates before Congress and the estimates contained in the Deputy Secretary of Defense letter of 14 May 1973 are based on OSD approved indices, with the one exception that MILCON indices are based on "Engineering News Record" escalation data.

However, in both cases, the rates used were consistent with previous experience in similar programs. The differences, you will note, between the current estimates and Alternative II of the 14 May 1973 letter are not caused by different escalation rates, but may be attributed to the following:

(*a*) Cost estimate changes that occurred between 14 May 1973 and submission of the FY 1975 Budget in October 1973.

(*b*) The effect of the lower production rates on unit costs.

(*c*) Changes in the timing of selected MILCON funded projects.

Regarding your specific questions concerning the interrelationship of these programs, I offer the following answers:

Q. How does the previous aging problem of Poseidon impact on the decision to backfit the C–4 missile almost immediately after the Poseidon missile modification is completed in 1977?

A. The aging problem of Poseidon did not impact the decision to advance the backfit of C–4. As you know, the decision to backfit Trident I missiles in Poseidon SSBNs in FY 79 does not imply that those SSBNs converted to Poseidon in FY 77 would be those backfitted with Trident. On the average the SSBNs scheduled for backfit will have had Poseidon missiles for approximately seven years and will be 14 years old at the time, thus providing still a number of years of useful life with Trident.

The decision to slow the Trident building rate from 1-3-3-3 to 1-2-2-2-2-1 with an IOC in FY 1979, and to hold the C–4 missile production rate to at least the minimum practicable level, resulted in the capability to initiate the backfit of C–4 missiles into Poseidon submarines in FY 79 vice FY 82, with attendant gain in survivability due to the greater range missile, while at the same time also permitting a reduction in the total C–3 missile procurement by 61 missiles.

Concerning the Poseidon Missile Modification Program (POMP) it was developed, as you know, to improve the reliability of the Poseidon C–3 now deployed by remedying production defects [deleted]. This is a necessary step in insuring the high reliability of our C–3 missiles is maintained. Even though C–4 backfit commences in 1979, C–3 missiles will still be deployed well into the 1980s.

Q. Why is an advanced SSBN needed at all, and if needed, why start so early in the Trident program?

A. Let me state clearly the context in which currently we view the small submarine. As a fundamental premise, we are concerned about the life of our present missile submarine fleet. We feel the degree to which our nation relies for its security upon the sea-based deterrent mandates that we take every step necessary to preserve its complete integrity. Among other things, this requires that we concern ourself with aging of the submarine itself, and insure that we phase in replacement submarines in time to prevent degradation in reliability simply through factors related to old age. Past experience with our submarines cautions us that we should view an age of 20–25 years as the time when replacement should be effected. Our current fleet of Polaris/Poseidon submarines begins to reach this threshold in the early 1980s. Thus we take as a premise the position that we should have a replacement fleet operational in a time frame appropriate to these factors and dates.

At the present time, we have the Trident submarine in process and planned for deployment commencing in CY 1978. One option available to us, in replacing existing submarines, is to build enough Trident submarines to deploy the requisite (currently SALT-limited) number of launch tubes at sea. Certainly that would meet our requirements and provide an extensive degree of flexibility for potential future missile and ship system advances. With its longer range missiles, it also would provide maximum utilization of sea-room while keeping assigned targets under continuous coverage.

But we believe we should also examine whether other, less costly but still effective, options exist that will serve as a complement to our Trident force and enable us to maintain our sea-based deterrent. It is in this context that we wish to investigate the smaller submarine.

Q. What would be the impact on future fleet readiness of deferring the $16M for the Advanced SSBN for one or more years?

A. The impact should be measured more in terms of potential economy rather than fleet readiness. As pointed out above we can meet our operational requirements with the larger Trident submarine. The spur for the smaller submarine is an attempt to find a lower cost option. A delay would therefore tend to reduce the potential savings from such an option and, dependent upon the extent of the delay, force us to build Tridents as required to insure that fleet readiness is not degraded.

Sincerely,

MALCOLM R. CURRIE.

Mr. McINTYRE. Mr. President, in reply to the distinguished Senator from Maryland, if I understand the point he has raised, Dr. Currie's letter talks about readiness. The readiness problem has been answered very efficiently by a change in the setup of the Navy by going to the retrofit of the Poseidon submarines with the Trident missile. That will handle any national security problem in the late 1970's, and through the 1980's.

Mr. STENNIS. I yield myself 3 minutes.

Mr. President, this is a peculiar situation. The Navy did not originally request this submarine. When they first submitted their budget they did not request this submarine. I am told that is the hard fact developed at the hearings. This provision came in by some power above the Navy. We have the Polaris-Poseidons that are still in the process of being changed over and converted, and they are going to run us over into the 1980's, perhaps the late 1980's. We have the technology of Trident, which is now authorized.

This bill includes a part of the funding for 7 of the 10 Tridents. Trident is so new the Navy has not developed enough of the technology that is going to be used on the additional submarine. In fact, no contract has yet been signed for the prototype of the Trident. The hare is getting far ahead of the hounds here, and I cannot understand why.

The committee decided on the recommendation of the Senator from New Hampshire and his subcommittee that certainly there is time for us to make any move later with respect to still another family of submarines. We have not even let the contract for the Trident, which will total well over $8 billion, even though we partly financed 7 out of the 10.

When it is said that it is going to be a less costly submarine, no one gives any thought to what those figures will be or how much less costly. It seems they will have about the same number of crew members, and so forth. I do not see how it could be that there is any urgency at all to include this submarine in this bill.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. STENNIS. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator is recognized.

Mr. STENNIS. Mr. President, 27 nuclear submarines have already been funded but have not yet been delivered. Thirteen of them have not yet started construction, and they are already building as fast as they can. Design teams are still fully occupied as skilled people on the Trident, and there are none to work on the submarine we are talking about.

So it is as clear as crystal to the committee that this submarine should be left out, and it was left out by unanimous vote.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator is recognized.

Mr. MATHIAS. Mr. President, the distinguished chairman of the committee raises the question as to exactly what is the position of the Department of Defense with respect to this submarine. I think that is very clearly stated in the letter written by Dr. Currie on April 18, which I already have had printed in the RECORD. Also Secretary Schlesinger in his posture statement is clear in his support for the SSBN–X.

Mr. STENNIS. Mr. President, if the Senator will yield, I said the Navy did not recommend this submarine as an original proposition; it was put in by somebody above.

Mr. MATHIAS. I believe, of course——

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. MATHIAS. Mr. President, I yield myself 1 additional minute.

I believe the distinguished chairman knows the Navy's position. I would accept his word on that or on any other subject. But I do have some contacts which lead me to believe there is a strong body of support within the Navy for this ship. As far as the Department of Defense is concerned, Dr. Currie states:

> But we believe we should also examine whether other, less costly but still effective, options exist that will serve as a complement to our Trident force and enable us to maintain our sea-based deterrent. It is in this context that we wish to investigate the smaller submarine.

Mr. President, I submit that this is a project of relatively small cost in comparison with other defense projects. Time is important because of the ongoing program, I hope the Senate will adopt the amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD two fact sheets the second from Jane's, which deal with the basic information on the SS *Novo* type submarine.

There being no objection, the material was ordered to be printed in the RECORD.

FACT SHEET

The Department of Defense, in reviewing requirements for Strategic Offensive Forces during formulation of the FY–75 Defense Budget, examined in detail the economy afforded by preparing for a less expensive follow-on to the Trident submarine. Such a submarine, a smaller ship than Trident and with fewer missile tubes, could represent a more economical replacement for our present SSBNs on a ship-by-ship basis when they reach an age such that their continued operation is no longer economical or safe, or at such time that their eroded survivability in the face of an increased threat might lower the credibility of the submarine deterrent.

The smaller follow-on submarine, which could be available in the 1980's if design commences in FY 75, does not provide the same capability and therefore is not a substitute for the Trident submarine. The present program features 10 of these larger submarines with a capability for a larger, more capable missile than would be possible in a smaller ship, and which can assure a higher degree of survivability. With the very capable Trident force deployed in the Pacific, a smaller, and slightly less capable submarine could complement Trident to produce a very effective mix while simultaneously exercising greater economy. Such a mix, once designed and available, would permit the U.S. to respond flexibly and optimally to developments in SALT or to future moves by the Soviets. A lower cost follow-on to Trident as an ultimate replacement for the entire SSBN force would be a desirable option to have in hand.

The smaller submarine represents a marked improvement over today's SSBNs from the standpoint of survivability. The design will feature a propulsion plant based upon a design employed successfully in the attack submarine, *Narwhal*, advanced sonar, and incorporation of latest quieting features. In size it will more closely approximate today's SSBNs than Trident. Its cost would be somewhat more than an exact copy of today's Polaris submarines, if it were possible to build such a ship, but less than the cost of a follow-on Trident.

In summary, then, Trident represents the more capable but more costly end of a mix of submarines which can be responsive to future SALT limitations or Soviet initiatives. It represents the hard-core keystone of our deterrent system. A smaller, somewhat less capable design can represent the lower-cost end of a future sea-based system, which can be a hedge option with optimum exercise of economy should greater numbers of new ships be required.

NUCLEAR POWERED ATTACK SUBMARINE (SSN): "NARWHAL" TYPE

Name: Narwhal.
No: SSN 671.
Builder: General Dynamics (Electric Boat).
Laid down: Jan. 17, 1966.
Launched: Sept. 9, 1967.
Commissioned: July 12, 1968.
Displacement, tons: 4,450 standard: 5,350 submerged.
Length, feet (*meters*): 314 (*95.7*) oa.
Beam, feet (*meters*): 38 (*11.5*).
Draft, feet (*meters*): 26 (*7.9*).
Torpedo tubes: 4—21 in (*533 mm*) amidships.
A/S weapons: SUBROC and A/S torpedoes.
Main engines: 2 steam turbines; approx. 17,000 shp.; 1 shaft.
Nuclear reactor: 1 pressurised-water cooled S5G (General Electric).
Speed, knots: approx. 20 surface; approx. 30 submerged.
Complement: 107 (12 officers, 95 enlisted men).

The *Narwhal* is a large attack submarine with an improved propulsion system. She is the largest "straight" nuclear-powered attack submarine yet built by the U.S. Navy (slightly shorter than the pioneers *Nautilus* and *Seawolf*, but wider, deeper, and heavier). Authorized in the Fiscal Year 1964 new construction programme.

DESIGN

The *Narwhal* is similar to the "Sturgeon" class submarines in design.

ELECTRONICS

Fitted with BQQ–2 sonar system. See "Sturgeon" and "Permit" classes for general notes.

ENGINEERING

The *Narwhal* is fitted with the prototype sea-going S5G Natural Circulation Reactor. According to Vice Admiral H. G. Rickover, the Natural Circulation Reactor "offers promise of increased reactor plant reliability, simplicity, and noise reduction due to the elimination of the need for large reactor coolant pumps and associated electrical and control equipment by taking maximum advantage of natural convection to circulate the reactor coolant".

Natural circulation eliminates the requirement for primary coolant pumps, the second noisiest component of a pressurised-water propulsion system after the steam turbines.

The Atomic Energy Commission's Knolls Atomic Power Laboratory was given prime responsibility for development of the power plant. Construction of a land-based prototype plant began in May 1961 at the National Reactor Testing Station in Idaho. The reactor achieved initial criticality on Sept. 12, 1965.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, I yield 5 minutes to the Senator from New Hampshire.

Mr. McINTYRE. Mr. President, I would say to the sponsor of this amendment to restore this $16 million that, if the Director of R. & D., Dr. Currie, wants to do some work on the advanced design, we do have such a program on advanced ship design which covers submarines, and whatever studies they want to do could be done in that program.

I believe that what the chairman said to our colleagues today is very important. Actually we are up to our eyebrows in trying to build submarines. To my knowledge the Navy has already been denied one SSN attack submarine for fiscal year 1975 and the previous year they stretched out the program in order to accommodate the heavy workload in the yards. It may be the sponsors of the amendment were motivated and I think they were by the objective of cutting back on the number of Trident submarines from the presently planned 10 approved by the Secretary of Defense.

Mr. MATHIAS. Mr. President, will the Senator yield on that point?

Mr. McINTYRE. I will yield on the Senator's time.

Mr. MATHIAS. Mr. President, I yield myself 3 minutes on my time. I am not trying to cut back on the Trident program. I am trying to give to the Navy a further option that the Department of Defense and other officers knowledgeable in the Navy said they would like to have.

Mr. McINTYRE. And the Subcommittee on R. & D., has not disagreed with that. We say it is too early to be spending $16 million of taxpayer money for no good reason.

I wonder if my colleagues are aware that the bill includes funds to initiate long lead procurement of submarine components for a total of seven Trident submarines, although full funding is authorized in fiscal year 1975 for the first two follow submarines. Therefore, in a practical sense, the ability to make a significant reduction in the number of Trident submarines planned will become increasingly difficult if this is expected to be accomplished in fiscal year 1976 or later. I recognize, of course, that the Congress could deny full funding for ships No's 4 and 5 in fiscal year 1976, but this would result in a very substantial waste of funds which are being applied to support these ships during fiscal year 1975.

This entire question may be academic, Mr. President, since it is my conviction that the practicability of terminating the Trident program with only three submarines is so remote as to be unworthy of serious consideration. Just consider the tremendous investment that will have been made in submarine construction facilities and in support facilities whose economic use could not be justified with a quantity as small as three submarines.

From a strictly national security point of view, the committee considers that the United States retains the option, if the need arises, to continue to build Trident submarines beyond the initial 10 now planned.

Another measure of security is provided by the approved plan to backfit existing Poseidon submarines with the Trident C–4 missile starting in fiscal year 1979. This also would provide a hedge against a possible Soviet breakthrough in antisubmarine warfare technology.

Finally, the concept of the SSBN–X involves the use of the Trident C–4 missile.

This sub will not have the potential or capability to accommodate the long-range and more capable D–5 missile, which will have a 6,000-mile range, and which the Trident submarine is being built to accommodate. Our Poseidons will handle the D–4, with the 4,000-mile range, but it takes the Trident to handle the D–5 with the 6,000-mile range. The SSBN–X will lack this growth potential in the event that it should be needed in the future.

So while the committee does go along with the hi-lo concept, we think, if not next year, within the next 2 years, we could go ahead on the SSBN–X. We cannot see any reason for going ahead this year, when we have not even awarded the first construction contract on the Trident. But we do see merit in this proposal and will proceed to support it within the next year or two.

I thank the Senator for yielding to me.

Mr. STENNIS. Mr. President, I yield 5 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, the Senate Armed Services Committee recommended denial of the $16.0 million requested to initiate the improved strategic nuclear ballistic missile submarine weapon system as premature, but fully supports the concept of a lower cost submarine launched ballistic missile system than the Trident.

The Secretary of Defense decision of January 1974 approved a 10 Trident weapon system program at a rate of 2 per year following the lead submarine, provided for accelerated backfit of 10 Poseidon submarines starting in fiscal year 1979 and completing in fiscal year 1982, and approved the start of feasibility and conceptual design work on an improved SSBN called SSBN–X.

The SSBN–X, which would be a smaller ship than Trident and carry 16 Trident I or C–4 missiles, could be a cheaper replacement for Poseidon submarines on a one-for-one basis. It could be slightly larger than Poseidon but would be unable to accommodate the larger and longer range Trident II or D–5 missile.

The SSBN–X could be available beginning in calendar year 1984, and would provide a hi-lo mix with the 10 Trident weapon systems. The Navy considers the SSBN–X to be a desirable option, but not as a substitute for any of the 10 Tridents.

The committee considers that the concept of the SSBN–X has merit, but the need for initiation in fiscal year 1975 is questioned, particularly because of the early stage of the Trident program. In fact, as of the time of the committee report, the lead submarine contract had not yet been awarded.

It is debatable whether the Poseidon submarines will last longer than the design life of 20 years. Still, the Navy has testified that they may last as long as 25 years, although this cannot be proven because the oldest of the Polaris submarines is 14 years old. The upper estimate of useful service life approaches 30 years.

Under the existing interim SALT agreement the 10 Trident submarines will replace the oldest 10 Polaris submarines which were deployed from 1960 through 1963. This will leave 31 Poseidon submarines in operation, 10 of which were deployed in 1964 with the remainder during 1965 through 1967.

The plan to deploy the SSBN–X starting in 1984, therefore, would coincide with the assumed need to start replacing the oldest Poseidon submarines when they become 20 years old. This is considered to be extremely conservative and unjustifiable. A delay of 1 or 2 years in starting the SSBN–X would still provide ample time to develop them and put them into operation at least several years before obsolescence dictated the orderly replacement of Poseidon. Moreover, there are other important advantages to deferring the start of the SSBN–X. Since it would incorporate much of the Trident submarine technology, more important technology lessons could be learned from another year or two of Trident submarine development. The results of SALT II, which cannot be prejudged, also could have a major impact on the size and composition of the future SLBM fleet and could influence any plan for the SSBN–X.

Mr. President, while I do not support this amendment, I wish to make it clear to the Senate that I will probably support this program in future years; if at that time the facts so justify.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, I do not know of any other Senator who wants to speak on this amendment. I yield myself only 2 minutes.

The PRESIDING OFFICER. The Senator has only 1 minute remaining.

Mr. STENNIS. I thank the Chair.

Mr. President, we have 13 submarines already fully authorized and have appropriated funds for them. A few of them are under process of construction. The rest of them have had contracts let for them but are just standing and waiting to be built. The yards are overrun with contracts, having more or less than they can take care of. At one point, the yards building these submarines refused to submit bids. One of them finally did. That is all in addition to the Trident, which is already on its way, but the contract for even the first one of those has not been let.

Certainly, this matter can be carried on for a year. We are not trying to kill it; we are simply trying to postpone it. It is highly unusual to have an additional family of submarines to be built before we can get one contract let for the newest ones and the others are standing by with not enough of them built.

The PRESIDING OFFICER. The Senator from Maryland has 7 minutes.

Mr. MATHIAS. Mr. President, I am going to try to speak with the same economy of time that the distinguished chairman of the committee has just exhibited here.

We believe that there is a body of support within the Navy that believes we should go forward with it.

I am impressed with the argument of the distinguished Senator from New Hampshire that construction and design facilities are already being utilized and very close to the outside limit of their capacity, but this is not really a question of shipyard availability at this time, because we are talking about research and development. We are talking about design and particularly hull design. We are talking about missile costs, which are already being undertaken and performed and executed as a part of the Trident I missile program.

As the distinguished chairman of the Armed Services Committee knows, about 83 percent of the missile R. & D. costs involved in the amendment we are discussing are absorbed by the Trident program.

I believe this is one of those options that the Navy ought to have, and the way to assure the Navy that this option will be available, which does not mean it is time to go out and hire the band and plan a launching ceremony, but the way to assure the Navy is to approve this amendment and give the Navy that kind of spectrum of options necessary for the strategic deployment of our forces in the very dangerous kind of times in which we live.

I hope the Senate will adopt the amendment.

I make the point of no quorum.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold that point?

Mr. MATHIAS. At the request of the distinguished majority whip, I withhold that suggestion.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from Mississippi, I yield back the remainder of his time.

I ask unanimous consent, Mr. President, that the Senator from South Dakota may have 3 minutes at this time and that the Senator from Mississippi may have 3 minutes on the amendment.

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

AMENDMENT ON POW AWARDS

Mr. McGOVERN. Mr. President, I have an amendment at the desk. I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the end of the bill add the following new section:

"SEC. 703. Notwithstanding any other provision of law, a decoration or device in lieu of decoration which, prior to the date of enactment of this Act, has been authorized by Congress to be awarded to any person for an act, achievement, or service performed while on active duty in the Armed Forces of the United States, or while serving with such forces, may be awarded at any time not later than two years after the date of enactment of this Act for any such act or service performed between July 1, 1958, and March 28, 1973, inclusive, if written recommendation for the award of the decoration, or device in lieu of decoration, is made not later than one year subsequent to the date of enactment of this Act.

Mr. McGOVERN. Mr. President, at present, there are nearly 1,700 cases in which congressional service awards are being denied to American servicemen, all former prisoners of war, solely because of time limitations imposed by law.

Article 6248 of title 10 of the United States Code is an example of the limitation. It provides that:

No medal of honor, Navy cross, distinguished-service medal, silver star medal, Navy and Marine Corps medal, or bar, emblem, or insignia in place thereof may be awarded to a person unless—

(1) the award is made within five years after the date of the act or service justifying the ward; and

(2) a statement setting forth the act or official recognition of it was made by his superior through official channels within three years from the date of that act or service.

The statutes in this area apply solely to congressional awards—the Medal of Honor, the Navy Cross, the Air Force Cross, the Distinguished Service Coss, the Silver Star, the Legion of Merit, and the Distinguished Service Medal. In other cases the service secretaries have authority to suspend the time limitations.

My amendment would make possible the consideration of approximately 627

awards in the Navy, 43 in the Marine Corps, 134 in the Army, and 876 in the Air Force, which cannot now be recommended because the deadlines imposed by law have passed.

These times restrictions are sensible under ordinary circumstances. But they are currently having the effect of ruling out awards to a number of Americans who were held as prisoners of war in Southeast Asia for acts of valor taken while they were confined. Under the circumstances of their confinement, the time limitations of the law obviously could not be met.

The pending amendment would simply suspend the existing time limitation on a one-time basis. Instead, I suggest a provision that for acts or service performed between July 1, 1958, and March 28, 1973, awards may be made within 2 years after the date of enactment of this amendment, if the written recommendation is made within 1 year after the date of enactment.

This amendment is identical to a bill, S. 3192, which has been introduced by the distinguished chairman of the Senate Armed Services Committee, Mr. STENNIS, with the cosponsorship of Senator THURMOND. But since the proposal is so eminently reasonable and is no more than a minor technical change in the law, I think it is entirely appropriate to deal with it as an amendment to S. 3000, rather than going through the lengthy process of hearings and markup.

I strongly urge the support of Senators for this very simple but highly warranted amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the pending amendment be laid aside for 3 minutes, and that the Senator from South Dakota be recognized.

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

AMENDMENT NO. 1422

Mr. McGOVERN. Mr. President, I call up my amendment 1422, cosponsored by the Senator from Massachusetts (Mr. BROOKE) and myself, and I ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

SEC. 202. (a) The Secretary of Defense shall provide for an independent and comprehensive cost-effectiveness study, on a force level basis, of the manned bomber mission of the Air Force. Such study shall include, but shall not be limited to, a consideration of the following alternatives, taking into consideration both nuclear and conventional warfare roles of such alternatives:

(1) the B–1 aircraft;

(2) the existing B–52/FB–111 combination aircraft with appropriate modifications to extend the operational life and strategic utility of the B–52G and the B–52H series aircraft;

(3) the FB–111 aircraft with modifications to provide greater range and increased payload capacity;

(4) a modified version of the B–52;

(5) the M–X or other aircraft-ballistic missile combination designed not to penetrate enemy airspace or terminal defenses but to perform exclusively as a standoff aircraft; and

(6) the complete reliance (no manned strategic bomber) on the modernization of sea-launched ballistic missiles and intercontinental ballistic missiles, within the constraints of negotiated limitations on strategic arms, to provide insurance equivalent to what the manned bomber would provide against any degradation of existing sea-launched ballistic missiles and intercontinental ballistic missiles.

(b) With respect to the nonnuclear missions of the Air Force, the study provided for in subsection (a) of this section shall also include a cost-effective comparison of the B–1 aircraft with currently available tactical aircraft and with tactical aircraft scheduled to become operational within the same time frame as the B–1 aircraft.

(c) Both before and during the study the assumptions and methodology used in the study to measure the cost-effectiveness of strategic bomber options, including the plausibility and practicality of all missions assigned to manned strategic bombers, shall be available for review by the Committees on Armed Services and the Committees on Appropriations of the United States House of Representatives and the United States Senate.

(d) The professional analysts selected by the Secretary of Defense to conduct the study provided for in this section shall be selected solely on the basis of their ability to carry out effectively and impartially the cost-effectiveness study required to be conducted by this section. Not more than one-half of the total number of the analysts selected by the Secretary may be composed of (1) current employees of or persons employed by the Department of Defense within a period of three years prior to the beginning of the study, and (2) persons employed or formerly employed by any business entity who have worked on Department of Defense projects at any time within a period of three years preceding the date of their selection by the Secretary of Defense to help conduct the study required under this section.

(e) The Secretary of Defense shall initiate the study required by this section at the earliest practicable date and shall submit the results of such study to the Committees on Armed Services of the Senate and the House of Representatives not more than twelve months after the date of enactment of this Act.

(f) The expenses incurred in conducting the study required by this section shall be paid for out of funds made available under section 201 of this Act for the B–1 bomber aircraft program.

Mr. McGOVERN. Mr. President, this amendment simply requires a comprehensive new cost-effectiveness study of all the strategic bomber options so that we will have the best and most current possible information before we begin moving toward production of the so-called B–1 bomber or any of the other options.

Mr. McINTYRE. Will the Senator from South Dakota yield?

Mr. McGOVERN. Yes, I yield.

Mr. McINTYRE. As I noted in my remarks last Wednesday on the previous B–1 amendment, I share a great many of the Senator's concerns about this program. Certainly it is a sound idea to update the previous studies.

In fact, as the Senator has noted, the committee report on S. 3000 does encourage the Secretary of Defense to conduct such a study, and suggests that it include participation by the General Accounting Office and independent technical, financial, and management experts.

In response to the points raised by the earlier amendment, No. 1346, as well as this one, Chairman STENNIS has followed through on that language in the report with letters to the Secretary of Defense and to the Comptroller General, specifically requesting that the current Defense Department cost-effectiveness study of the B–1 be reviewed, not only as to conclusions and recommendations but also as to assumptions, by the General Accounting Office, and that the GAO recommendations be reported to the committee by October 1 of this year.

I ask unanimous consent that the letters I have described be printed in the RECORD at this point.

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

JUNE 10, 1974.

Hon. ELMER B. STAATS,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. STAATS: The Department of Defense has been conducting a cost effectiveness study of the B–1 bomber which was started in October 1973. This was recognized by the committee on page 36 of Report No. 93–1035 on the fiscal year 1975 military procurement authorization bill S. 3000, and reads as follows:

"In conclusion, the Secretary of Defense is encouraged to direct that a comprehensive cost effectiveness study be conducted with the option of including participation by the General Accounting Office and independent technical, financial, and management experts. This should include consideration of all other alternatives to the B–1 in preparation for such an eventuality if it should become necessary. The results of such a study would be useful in the consideration of the fiscal year 1976 request."

During the debate on the bill, amendment number 1346 was introduced by Senator McGovern, which, in addition to cutting the B–1 program by $255 million, would have had the effect of directing that a comprehensive cost effectiveness study be conducted with not more than half of the participants involved being personnel of the Department of Defense or of Defense industry. This amendment was defeated, but a commitment was made that the committee would request the General Accounting Office to review the assumptions, as well as the conclusions and recommendations, of the present DOD study and report to the committee in time for consideration of the fiscal year 1976 authorization request.

The purpose of this letter is to request that your office review the DOD cost effectiveness study, when it is completed, to provide an independent assessment of the assumptions, as well as the conclusions and recommendations, and report your findings and recommendations to the committee as early as possible, but not later than October 1, 1974. Independent consultants should be employed, as may be necessary, to assist in the examination of all aspects of the program including technical, financial, management and other appropriate considerations.

Your office should participate in the DOD study consistent with the content of my separate letter to that department, copy of which is attached. Your cooperation will be appreciated.

Sincerely,

JOHN C. STENNIS.

JUNE 10, 1974.

The Secretary of Defense,
Department of Defense,
Washington, D.C.

DEAR MR. SECRETARY: Attached is a copy of a letter to the Comptroller General request-

ing that the General Accounting Office review the assumptions, conclusions, and recommendations involved in the Department of Defense cost effectiveness study of the B–1 strategic bomber which I understand has been in process since October 1973. The letter also encourages GAO participation in the study.

The recent experience involving your cost effectiveness study of SAM–D and including GAO participation, was highly productive in assisting this committee in its consideration of the fiscal year 1975 request for SAM–D.

The same degree of participation by GAO in the B–1 study should provide equally satisfactory results to this committee in its consideration of the fiscal year 1976 request for the B–1. Such participation is not intended to interfere with your study but otherwise should be fully supported by the Department of Defense. In this way, the committee will be assured that the GAO report will represent a complimentary adjunct to your study.

The study is understood to include consideration of other candidate systems such as the "stretch" FB–111 designated the FB–111G, a re-engined and modified B–52 designated the B–521, and the employment of cruise missile carrier wide bodied commercial aircraft as stand-off launchers, and B–52s converted to stand-off cruise missile launchers.

Your cooperation in this matter is appreciated.

Sincerely,

JOHN C. STENNIS.

Mr. McGOVERN. Mr. President, I have also seen those letters, and I think they do nearly all the things that we are attempting to accomplish with this amendment.

I would like some assurance from the Senator from New Hampshire on one point. Is it clear that the contents of these letters do not rule out options other than those specifically mentioned in the letter?

Mr. McINTYRE. That is correct.

Mr. McGOVERN. Mr. President, with that assurance, then, I want to commend the chairman of the full committee, Senator STENNIS, and also the chairman of the Research and Development Subcommittee, Senator McINTYRE, for their efforts in seeing to it that we have carefully studied and evaluated the various options open to us, including the B–1, but all the others as well.

On that basis, on behalf of myself and the Senator from Massachusetts (Mr. BROOKE), I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

CONSIDERATION OF POW AMENDMENT RESUMED

Mr. McGOVERN. Is it in order now to return to the earlier matter with reference to the first amendment?

The PRESIDING OFFICER. The Chair will state that the Senator has returned to the previous business.

Mr. ROBERT C. BYRD. The Senator from Mississippi had 3 minutes remaining.

Mr. STENNIS. Mr. President, if I may interrogate the Senator from South Dakota, the proposal the Senator has called up now pertains to the decorations of POW's and extends the time?

Mr. McGOVERN. That is correct; it extends it for 2 years from the time this amendment is enacted.

Mr. STENNIS. Yes. That is the same as a provision already before our committee. It has not been acted on; is that right?

Mr. McGOVERN. That is correct. The distinguished Senator from Mississippi is the principal author.

Mr. STENNIS. I have no objection to the amendment, of course. I think the committee would unanimously support it. We have not gotten to that bill because of this important procurement bill that we have been considering up to now. Under the circumstances, I yield to the Senator from South Carolina.

Mr. THURMOND. I do not object to it. It is not exactly appropriate to this legislation, but it could be in order.

Mr. McGOVERN. Mr. President, I appreciate the cooperation of the Senator from Mississippi and the Senator from South Carolina. I hope the amendment will be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. STENNIS. Let us have a vote, Mr. President.

The amendment was agreed to.

Mr. McGOVERN. Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order the Senate will now proceed to vote on the Kennedy amendment.

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

Mr. ROBERT C. BYRD. I hope the Senator will not insist on his request. We are acting under a very tight schedule. The time has now arrived for a vote on the Kennedy amendment.

Mr. HELMS. I shall be glad to do that. How long would the Senator be willing to delay it?

Mr. ROBERT C. BYRD. I am not willing to delay for any time. If the Senator would allow us not to delay, we have three back-to-back rollcall votes, and all Senators have been apprised of the fact that the first vote was to occur at this time.

Mr. HELMS. I will withdraw my request.

Mr. ROBERT C. BYRD. I thank my good friend, and he is my friend.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll, and Mr. BAKER voted in the negative.

Mr. STENNIS. Mr. President, a parliamentary inquiry. What is the pending question?

The PRESIDING OFFICER. A response to the rollcall has been made. A parliamentary inquiry is not in order.

Mr. STENNIS. It was my distinct understanding that the Chair would state to the Senate what we were voting on. That was a part of the agreement this morning.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts (Mr. KENNEDY).

Mr. ROBERT C. BYRD. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The clerk will continue with the rollcall.

The VICE PRESIDENT assumed the Chair at this point.

The rollcall was concluded.

Mr. ROBERT F. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Montana (Mr. METCALF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from New Jersey (Mr. WILLIAMS) 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.

On this vote, the Senator from Missouri (Mr. SYMINGTON) is paired with the Senator from Alabama (Mr. SPARKMAN). If present and voting, the Senator from Missouri would vote "yea" and the Senator from Alabama would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Kentucky (Mr. COOK) and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

I further announce that, if present and voting, the Senator from Kentucky (Mr. COOK) and the Senator from Oregon (Mr. HATFIELD) would each vote "yea."

The result was announced—yeas 45, nays 46, as follows:

[No. 243 Leg.]

YEAS—45

Abourezk	Haskell	Montoya
Allen	Hathaway	Moss
Bentsen	Hollings	Muskie
Bible	Huddleston	Nelson
Biden	Humphrey	Pastore
Brooke	Inouye	Pell
Burdick	Javits	Proxmire
Case	Kennedy	Randolph
Clark	Magnuson	Ribicoff
Cranston	Mansfield	Schweiker
Eagleton	Mathias	Stafford
Fulbright	McGovern	Stevenson
Gravel	McIntyre	Tunney
Hart	Metzenbaum	Weicker
Hartke	Mondale	Young

NAYS—46

Aiken	Domenici	McClellan
Baker	Dominick	McClure
Bartlett	Eastland	Nunn
Beall	Ervin	Packwood
Bellmon	Fannin	Pearson
Bennett	Fong	Percy
Brock	Goldwater	Roth
Buckley	Griffin	Scott, Hugh
Byrd, Harry F., Jr.	Gurney	Scott, William L.
Byrd, Robert C.	Hansen	Stennis
Cannon	Helms	Stevens
Chiles	Hruska	Taft
Cotton	Hughes	Talmadge
Curtis	Jackson	Thurmond
Dole	Johnston	Tower
	Long	

NOT VOTING—9

Bayh	Hatfield	Sparkman
Church	McGee	Symington
Cook	Metcalf	Williams

So Mr. KENNEDY's amendment (No. (1425) was rejected.

Mr. STENNIS. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

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

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, the next amendment to be voted on, I believe, is an amendment of mine. I suggest to the leadership, as there was no other Senator here last night, that there be 2 minutes to a side on this amendment.

Mr. MANSFIELD. Mr. President, I make a unanimous-consent request to that effect.

The PRESIDING OFFICER (Mr. HELMS). Without objection, it is so ordered. Under the agreement the amendment will be considered with 2 minutes to a side.

The amendment will be stated.

The assistant legislative clerk 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 Officers Training Corps program, the Department of Defense shall not prohibit or otherwise deny such assistance to any person solely on the grounds that 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 substance of this matter is that the Department of Defense——

Mr. ROBERT C. BYRD. Mr. President, will the Chair maintain order so that Senators can hear what is being said?

The PRESIDING OFFICER. The Senate will please be in order.

The Senator from New York may proceed.

Mr. JAVITS. Mr. President, the amendment is sponsored by 10 Senators. Its purpose is to test the question of whether the Department of Defense should, by denying the necessary financial support, prevent——

The PRESIDING OFFICER. The Senate is still not in order. The Senate will please be in order.

The Senator from New York may proceed.

Mr. JAVITS. Mr. President, as I say, this amendment is sponsored by 10 Senators and seeks as a matter of law to state that the Department of Defense should not deny to those officers who wish to study at given universities, permission to do so and have the necessary financial support even though those universities have abandoned the ROTC program. It involves 12 major universities stretching from California to New York, including distinguished institutions as Harvard, Yale, Columbia, Stanford, Dartmouth, and so forth.

The issue, simply stated, is that the Department is doing this because the chairman of the House Armed Services Committee—and I have no criticism of the committee—in a report declared that he did not want them to finance education at these universities. So they have not done so. There has been no action on it by either House. At least we can settle this question.

I believe in the ROTC, but as between the question of academic freedom or ROTC—that is, to have it or not to have it—and coercion into making them take it, I come down on the side of noncoercion. If they are good studies, Army officers should be entitled to take them without discrimination against the universities. That is what this amendment is all about. I hope that the Senate will support it.

Mr. STENNIS. Mr. President, may we pray for order in the Senate, please, so that Senators can understand what is being said?

The PRESIDING OFFICER. The Senate will please be in order. The Senator is entitled to be heard.

Mr. STENNIS. Mr. President, I yield now to the Senator from Nevada (Mr. CANNON).

Mr. CANNON. Mr. President, this matter was discussed at length last night by the Senators from South Carolina and Arizona, and also by me. The committee is opposed to the amendment. I just heard the Senator say there are 12 universities. I thought last night there were 11—maybe there is a 12th one now. They saw fit to terminate their ROTC programs, yet they want to take advantage of military-sponsored scholarships and aid programs in sending military candidates to the various schools.

This has nothing to do with control of the curriculums in the schools involved. They have the utmost freedom. But if they elect not to have ROTC programs, then they should not benefit from that through various other military programs which are available.

For those reasons, Mr. President, the committee is opposed to the amendment. As has already been stated, the House is adamantly opposed to it. That is the reason for the policy adopted in the past.

We have many fine schools throughout the country that do engage in ROTC programs in full. Some of the schools which dropped them are now back in with them. There are ample programs in the colleges where the Defense Department pays the tab for those who want to be in attendance.

Mr. DOMENICI. Mr. President, I intend to vote against the amendment offered by the distinguished Senator from New York (Mr. JAVITS) despite his eloquent arguments in its behalf. This is a difficult decision as the reasons for the amendment seem to make a great deal of sense and since the amendment attempts to provide a fair and equitable solution to a difficult and uncomfortable situation on our national scene.

My primary reason for voting against the Javits amendment is to allow college and universities which discontinued ROTC at a time of national turmoil and upheaval an opportunity to reevaluate that decision in light of a change in the national situation. If given that opportunity in a somewhat different environment, they had remained steadfast, I would have supported the Javits approach to solve the problem.

Mr. President, I feel that colleges and universities in considering their relationship with DOD ought to consider all aspects of that relationship and that DOD ought to have that same latitude. What is important here, however, and a point the Javits amendment overlooks, is that if it were enacted those schools would no longer be required or even encouraged to consider the DOD relationship as a package even under changed circumstances.

Those schools would simply qualify for what are obviously benefits of the relationship without even considering carrying some of the burdens. That is not logical, Mr. President, and I will join with those opposed to this amendment to give those schools an opportunity to evaluate their position regarding benefits and burdens in a time untroubled by the turmoil and upheaval prevalent during the Vietnam war. I hope they will avail themselves of the opportunity to participate in the ROTC program because, while some may view it as a burden. I wholeheartedly agree with the distinguished Senator from New York who, even though sponsoring this amendment, said yesterday in these Chambers that he likes ROTC programs.

The PRESIDING OFFICER (Mr. MCCLURE). All time on the amendment has now expired.

The question is on agreeing to the amendment of the Senator from New York (Mr. JAVITS).

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 Idaho (Mr. CHURCH), the Senator from Montana (Mr. METCALF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from New Jersey (Mr. WILLIAMS) 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 Kentucky (Mr. COOK) and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

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

The result was announced—yeas 48, nays 43, as follows:

[No. 244 Leg.]

YEAS—48

Abourezk	Hathaway	Nelson
Aiken	Hughes	Packwood
Beall	Humphrey	Pastore
Brooke	Inouye	Pearson
Buckley	Jackson	Pell
Burdick	Javits	Percy
Case	Kennedy	Proxmire
Clark	Mansfield	Randolph
Cranston	Mathias	Ribicoff
Dole	McGovern	Schweiker
Eagleton	McIntyre	Scott, Hugh
Fulbright	Metzenbaum	Stafford
Gravel	Mondale	Stevenson
Hart	Montoya	Taft
Hartke	Moss	Tunney
Haskell	Muskie	Weicker

NAYS—43

Allen	Curtis	Johnston
Baker	Domenici	Long
Bartlett	Dominick	Magnuson
Bellmon	Eastland	McClellan
Bennett	Ervin	McClure
Bentsen	Fannin	Nunn
Bible	Fong	Roth
Biden	Goldwater	Scott, William L.
Brock	Griffin	Stennis
Byrd, Harry F., Jr.	Gurney	Stevens
Byrd, Robert C.	Hansen	Talmadge
Cannon	Helms	Thurmond
Chiles	Hollings	Tower
Cotton	Hruska	Young
	Huddleston	

NOT VOTING—9

Bayh	Hatfield	Sparkman
Church	McGee	Symington
Cook	Metcalf	Williams

So Mr. JAVITS' amendment was agreed to.

Mr. MANSFIELD. Mr. President, what is the next amendment?

The PRESIDING OFFICER. The next vote is on the amendment by the Senator from Maryland (Mr. MATHIAS).

Mr. MANSFIELD. Mr. President, I understand that debate on this amendment was completed this morning, so I ask unanimous consent that there be a 4-minute limitation, the time to be equally divided, as before.

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

Who yields time?

Mr. STENNIS. Mr. President, I think the sponsor of the amendment should proceed first.

Mr. STEVENSON. Mr. President, the Senator from Maryland (Mr. MATHIAS) is the principal sponsor of the amendment. I do not know of any request for additional time. He is not in the Chamber at the moment. I shall be glad to explain what the amendment is about.

Mr. President, the Senator from Maryland has just reentered the Chamber and I yield to my distinguished colleague.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. MATHIAS. Mr. President, this is a very simple amendment. This amendment adds $16 million to the authorization bill for the design and research of a submarine which will have the same missile characteristics as the Trident, but which will have a hull which costs one-half as much as the Trident. The Navy wants it, the Defense Department recommends it. The Secretary of Defense and Dr. Currie, the head of Engineering and Research Division of the Department of Defense, are on record favoring it.

It is an option which is necessary to complement the Trident fleet, and as I said, the Defense Department wants it. In the debate which occurred in the Senate, all Senators who voted to support the amendment and to oppose the amendment agreed that this is a ship that will have to be built. If we delay giving the authorization to design this ship we delay the benefits of having this option and we delay the benefit of having a ship that will complement the Trident fleet. It is an option we want and which could potentially offer great economy and give us versatility in the deployment of strategic weapons in a nuclear submarine fleet.

Mr. STENNIS. Mr. President, the committee is wholly opposed to including this submarine. I ask the Senator from New Hampshire to explain the committee position.

Mr. McINTYRE. Mr. President, the $16 million requested for a new type submarine known as the SSBN–X was unanimously disapproved by the subcommittee as it was later by the full committee. The reason is that it is premature. We have not let the first contract for the lead ship of the Trident submarines. Our yards are right up to their eyebrows taking care of what we have already ordered. We have denied one attack submarine that slipped this year. The Trident submarine program is underway.

We think that behind this move, not particularly by the Senator from Maryland, is an effort to cut back on the Trident submarine. Nothing could be more foolhardy. Funds are provided here for up to No. 7 Trident. We must keep open the options for Trident, and the committee feels that in another year or two we may want to go with the idea of a submarine to replace the aging Poseidon, but it is not needed at this time.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment of the Senator from Maryland. 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 Idaho (Mr. CHURCH), the Senator from Montana (Mr. METCALF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from New Jersey (Mr. WILLIAMS) 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 Kentucky (Mr. COOK), and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Kentucky (Mr. COOK). If present and voting, the Senator from Oregon would vote "aye" and the Senator from Kentucky would vote "nay."

The result was announced—yeas 23, nays 68, as follows:

[No. 245 Leg.]

YEAS—23

Aiken	Gravel	Montoya
Beall	Hart	Percy
Brock	Hollings	Ribicoff
Brooke	Javits	Schweiker
Byrd, Robert C.	Kennedy	Stafford
Case	Mansfield	Stevens
Eagleton	Mathias	Stevenson
Fulbright	Mondale	

NAYS—68

Abourezk	Fannin	Moss
Allen	Fong	Muskie
Baker	Goldwater	Nelson
Bartlett	Griffin	Nunn
Bellmon	Gurney	Packwood
Bennett	Hansen	Pastore
Bentsen	Hartke	Pearson
Bible	Haskell	Pell
Biden	Hathaway	Proxmire
Buckley	Helms	Randolph
Burdick	Hruska	Roth
Byrd, Harry F., Jr.	Huddleston	Scott, Hugh
Cannon	Hughes	Scott, William L.
Chiles	Humphrey	Stennis
Clark	Inouye	Taft
Cotton	Jackson	Talmadge
Cranston	Johnston	Thurmond
Curtis	Long	Tower
Dole	Magnuson	Tunney
Domenici	McClellan	Weicker
Dominick	McClure	Young
Eastland	McGovern	
Ervin	McIntyre	
	Metzenbaum	

NOT VOTING—9

Bayh	Hatfield	Sparkman
Church	McGee	Symington
Cook	Metcalf	Williams

So Mr. MATHIAS' amendment (No. 1391) as modified, was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota is recognized to call up his amendment dealing with a ceiling on total authorizations, on which there shall be 1 hour of debate, with 30 minutes on amendments in the second degree.

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

The yeas and nays were ordered.

Mr. HUMPHREY. Mr. President, I yield now to the majority whip.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. President, according to the program as outlined yesterday and in the whip notice, a vote is to occur on the amendment by Mr. HUMPHREY at the hour of 3:30 p.m. today.

The leadership has just been informed that the distinguished Senator from North Carolina (Mr. HELMS) has an amendment that he wishes to call up. It would be shut out under the order. I propound the following unanimous-consent request which would allow him to bring it up now and get to a vote on it, leaving a motion to table in order.

I ask unanimous consent that at the hour of 3:15 p.m. today the Senator from North Carolina (Mr. HELMS) be recognized to call up his amendment; that there be a limitation thereon of 2 minutes to Mr. HELMS and 2 minutes to Mr. STENNIS; and that upon the disposition of the Helms amendment a vote then occur on the amendment by Mr. HUMPHREY, the so-called ceiling amendment.

Mr. HUMPHREY. Mr. President, does that mean that the debate on the Humphrey-Roth amendment will take place now?

Mr. ROBERT C. BYRD. Yes, the debate on the Humphrey amendment would take place now.

Mr. STENNIS. Mr. President, reserving the right to object, the proposed agreement does not preclude a motion to table the Helms amendment. Does it?

Mr. ROBERT C. BYRD. No, it does not.

Mr. HUMPHREY. Mr. President, may I make the suggestion to the majority whip, Why do we not proceed in order with the Helms amendment first? I am sure my colleague (Mr. ROTH) and I would be more than happy to withhold our amendment until the other amendment is disposed of, and then vote on the ceiling amendment, which would be the final amendment between the third reading and the final action on the bill.

Mr. ROBERT C. BYRD. Under my request, the vote on the ceiling amend-

ment will be the final action before the vote on the bill.

Mr. HUMPHREY. As I understand it, what the Senator is suggesting is that there will be a time period between now and the vote on the Humphrey-Roth amendment in which the Helms amendment will be discussed?

Mr. ROBERT C. BYRD. Yes. There would be a limitation of 4 minutes between the time the ceiling amendment is called up and the vote on the amendment. So many Senators have been called away from the Chamber that they might miss the vote.

Mr. HUMPHREY. The Senator wants us to believe that our persuasive logic in that 4-minute interval would not be lost and that the power of that argument would carry over.

Mr. ROBERT C. BYRD. The Senator is eminently correct.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, on behalf of the Senator from Delaware (Mr. ROTH) and myself, I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read the amendment, as follows:

On page 17, between lines 20 and 21, insert a new section as follows:

SEC. 703. Notwithstanding any other provisions of this Act, not more than $21,622,612,000 may be appropriated to or for the Department of Defense under authority of titles I and II of this Act for the fiscal year ending June 30, 1975.

Mr. HUMPHREY. Mr. President, I yield myself 7 minutes.

I yield now to the Senator from Wisconsin.

PRIVILEGE OF THE FLOOR

Mr. NELSON. Mr. President, I ask unanimous consent that Ray Watts be permitted the privilege of the floor starting at this time and continuing through the completion of the consideration of S. 3523, whenever that is the pending business before the Senate.

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

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Reservation is heard.

Mr. ROBERT C. BYRD. Mr. President, I have no objection.

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

Mr. HUMPHREY. Mr. President, I am sure that we can limit the time on this amendment so that we will be able to expedite action in the Senate.

Will the Chair indicate to the Senator from Minnesota the amount of time which has been reserved for this amendment?

The PRESIDING OFFICER. Each side has 17 minutes under the unanimous-consent agreement.

Mr. HUMPHREY. I thank the Chair.

Mr. President, I have joined with the Senator from Delaware (Mr. ROTH) in offering this amendment which will place a ceiling on titles I and II of the figure of $21,622,612,000.

This sum is, according to the calculations of the staff of the Armed Services Committee, identical to the amounts which have thus far been approved by the Senate.

It might be asked then, Why are we proposing an amendment like this which is identical to Senate action on this bill?

Well, Senator ROTH and I believe that the Armed Services Committee very wisely cut the President's request for this particular bill by $1,400 million. We want this reduction, which was made by the Armed Services Committee, and other matters by the Senate, to stick.

We offer the amendment because we have become a little weary of watching the Senate and the Armed Services Committee make substantial reductions in weapons procurement and defense spending, reductions which we believe are in the national interest and not in any way endangering our national security, and then just have these cuts disappear when we go to conference. In other words, we want the Senate to send a message to the House Armed Services Committee, to the other body, and to the Department of Defense that we will stand firm because there is a ceiling on this bill.

Mr. President, those of us who have served in conference committees know that there is always some adjustment that needs to take place. But we have also witnessed a tremendous lobbying effort by the respective Departments of Government and, in this instance, the Department of Defense, and we want to merely fortify the hands of our Senate conferees and let the other body know—particularly the conferees of the House Armed Services Committee—that the Senate believes that the action it has taken is sound and in the national interest and that we are not going to yield and once again have to accede to the demands of the other body.

I am sure that some Senators will say, "Well, is this amendment really necessary?" But Senator ROTH and I believe that a ceiling amendment is the best way to prevent the House of Representatives from prevailing in the conference committee, as it has done all too often in the past.

Mr. President, I have a chart here on congressional action on military authorization bills starting in 1965. In two of those years, believe it or not, the conference committee came out with more funds authorized than either the House or the Senate had approved individually. For example, last year the conference committee came out with the sum of $21,299,520,000. The Senate had appropriated $20,947,653,000; the House $20,445,255,000.

Exactly the same thing happened in 1966 when the conference committee came out with a larger figure than the respective bodies of the House or the Senate.

So we hope that this amendment will do two things: No. 1, serve notice that we will not stand idly by to see authorizations larger than either the House or the Senate; and, might I say, I realize the unusual circumstances of last year.

Second, we would like to strengthen the hand—

Mr. STENNIS. May we have order. The Senator is entitled to be heard, and Senators who are in the Chamber are entitled to hear him. The staff conferences here are a constant burden that we ought not to have to carry.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HUMPHREY. I thank the Senator from Mississippi.

The PRESIDING OFFICER. The Senator may proceed.

Mr. HUMPHREY. Second, we believe that this amendment will be of help to the Senate Armed Services Committee and its conferees.

As I indicated, in last year's procurement bill—I gave the Senate figure and the House figures—I made note of the fact that by the time the conference had finished with the bill there was a substantially larger amount of money approved than either body had recommended individually.

Only once before in the last 10 fiscal years—and that was in fiscal 1966—has the conference committee done what it did last year, that is, report a bill that was at a higher level than either body had originally passed. But in 7 out of the last 10 fiscal years, the conference level was higher than the Senate-passed bill.

This is not a very good record for the Senate. The time has come for Senate Members to indicate to their distinguished colleagues on the Armed Services Committee that we strongly support their efforts in the conference and that we want them to hold firm and not let the other body have its way to the degree that it has in the conferences in the past. In other words, we want to strengthen the hand of the Senate conferees.

Setting a ceiling on this bill is not establishing a precedent. Congress continually sets ceilings on authorization and appropriation measures to limit spending. It is common practice, widely approved by the membership of both bodies.

If we review the current economic situation, with inflation and tight money and all the other many problems, and the constantly expressed desire of the administration to cut Government spending, this amendment makes even more sense. Here is a place to put the brakes on spending. This is the time when we insist that the conference committee on this legislation not abandon what was accomplished in the Senate, primarily by the Senate Armed Services Committee and, in that sense, strengthened and supported by the action of the Senate itself.

I have to say that when we get down to this business of conference committees and of our efforts to hold in check the authorizations and the spending, we always are around looking for who is responsible for what goes wrong. I am reminded of that mythical philosopher, Pogo, who said, "We have met the enemy, and they is us." In other words, the prob-

lem is "us," and what the Senator from Delaware and the Senator from Minnesota are trying to say here today is that maybe those "us" who have contributed to the problem ought to do something about it.

This amendment would set an aggregate ceiling on procurement and R. & D. line items in titles I and II of the bill.

The aggregate ceiling is equal to the total of the figures for the line items in these titles, as recommended by the Senate Armed Services Committee—except as slightly modified on the floor.

The amendment does not increase or reduce the funding authorized by the bill.

PURPOSE

The Senate should determine how much should be spent on an overall basis on military procurement and R. & D. each year.

Failure to have an aggregate ceiling can result in conference figures higher than either the House or Senate bills.

The ceiling will help the Senate conferees hold the line in conference for the lower Senate figures.

The amendment demonstrates Senate concern for maintaining tight fiscal control over defense while providing funds for a sound national defense at the amount recommended by the committee.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Will the Senator from Minnesota yield to me?

Mr. HUMPHREY. Oh, yes, my coauthor. I yield 5 minutes.

Mr. ROTH. Mr. President, I am happy to join the distinguished Senator from Minnesota in offering this amendment.

The amendment will establish an aggregate ceiling for all procurement and R. & D. items in the bill for the U.S. Armed Forces. The ceiling, as has been pointed out, is set at the $21.6 billion level recommended by the Senate Armed Services Committee as necessary in order to provide a strong national defense. It does not provide for any reduction from the committee bill, but it will help hold the line on defense spending in conference.

I want to compliment the chairman and members of the Armed Services Committee for their careful examination of the Defense Department request and its recommended cuts to reduce waste. I was deeply disturbed by reports that the defense budget request did not get this kind of careful scrutiny by the Office of Management and Budget and that in order to "prime the pump," the request was not cut as much by OMB as it could and should have been.

I was prepared to join a move that would have made this cut if the committee had not taken the action it did. Although this move is no longer necessary, the committee bill still lacks an aggregate ceiling over all the line items contained in the bill, needed to hold the line in conference.

Why is an aggregate ceiling desirable? First of all, I believe in the efficacy of reasonable ceilings as a means of controlling Government spending. It is for this reason that I have urged an overall budgetary ceiling each year since coming to the Senate. The wisdom of this approach is beginning to be recognized by a Congress sick of continued inflationary budget deficits. Congress should set national priorities and, as part of that effort, it should wrestle each year with the question of how much we should spend on military procurement and R. & D.

In the case of this particular bill, because of the lack of an overall ceiling on procurement and R. & D. items, it is possible for the conference figure to be higher than the funds authorized in either the Senate or the House versions of the bill. Senators recognize the need for compromises with the House, but when they vote, they should have some assurance that the compromises will fall between the two bills.

Because there is no ceiling in the House this year, this amendment cannot prevent that situation from happening again. But it will establish the precedent of an aggregate ceiling and show the firm determination of Senators to keep this budget authorization request within fiscally sound limits. The ceiling will strengthen the hands of the Senate conferees in the conference.

It should be crystal clear that the funds authorized under the ceiling will provide for a strong national defense at the level recommended by the committee. We need Armed Forces capable of deterring any aggression against the United States. But national defense cannot be exempt from the need for tight fiscal control. Some improvements in DOD program management have been made, but there is still much more needed to be done. As this year's committee report points out, far too much of the increased costs of defense are "directly attributable to poor program management." Congress must insist that improvements be made.

I am absolutely opposed to using this bill or any bill for pump priming at this time. Defense is not something we buy for its own sake; defense is a burden imposed on us by the nature of the international society we live in. The defense budget should be determined with reference to nature and size of the international threat. To artificially inflate defense spending beyond our needs as a means of stimulating the economy could have the effect of setting in motion forces that will cause other countries to increase their military efforts and contribute to heightened international tensions and a more intense arms race, greatly aggravating our long-range economic problems.

And just as importantly, any kind of "pump priming" is not a solution to today's economic problems; it can only make them worse. As Arthur Burns, among many others, has pointed out, the No. 1 economic problem in the country today is inflation. Those who argue for priming the pump, whether by increasing Federal spending or cutting taxes, are missing an essential point—that the bottlenecks in today's economy are caused by shortages of critical raw materials. Pump priming cannot increase the supply of copper and steel or of petroleum and paper. It cannot produce more jobs or stimulate more production, because the economy needs more raw materials, not more money. A large Federal deficit this year is only going to mean increased Federal borrowing, increasing rates of interest, and further destroying the housing industry. It will induce larger and larger price increases and wage demands and a deepening of the inflationary cycle that is crippling America's economy.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. ROTH. Thirty more seconds.

Mr. HUMPHREY. I yield the Senator 30 seconds.

Mr. ROTH. Pump priming is the wrong solution at the wrong time and in the wrong circumstances. It will be more money chasing the same amount of goods and services—a prescription for inflation, not growth. The only pump that would be primed would be the pump of inflation.

Mr. President, I believe that the Humphrey-Roth amendment will help put defense on a sound fiscal basis, and I urge my colleagues to support it.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, I have some figures here. Figures are always tiresome, but I do want to point out that this bill has two main titles.

In the first place, though, there has not been any substantial sum of money taken out of the bill by the Senate. On the other hand, the Senate voted to recompute pensions. I am not complaining about that, but that adds about $300 million to the bill the first year, and adds $16 billion over the lifetime of the retirees. That is really not reflected in the figures in the bill. These figures represent what I call the hardware.

This amendment, say what you will, whether it is intended to be or not, is an expression of distrust—distrust as to the ability of those who are to be chosen as conferees.

I want to refer at this point to what the committee has already done.

The committee has recommended changes which, when fully effective, would reduce manpower costs, both military and civilian, by about $1 billion. If what the committee did stands up—it has stood up on the Senate floor, but if it stands up in conference and once the changes are effective—there would be a saving below the budget of about $1 billion. But those savings are not reflected in these hardware figures.

The budget provided, for title I—and I shall use round numbers—$13.8 billion. The House of Representatives allowed for that item $13.641 billion, and the Senate committee $12.670 billion, or a little over $29 million more.

For title II, the budget called for $9.3 billion. The House provided $9 billion, and the Senate provided $8.9 billion.

Adding those titles together, the budget calls for $23 billion. The House provided $22.642 billion, and the Senate $21.622 billion. So in those two categories added together, the Senate bill is less than the budget by $1.7 billion already, and it is about $1 billion less than the House bill.

This amendment seeks to mandate the Senate conferees not to go above this total figure. It also would mandate the

House of Representatives not to go above that figure. That cannot be done. This body cannot mandate the House of Representatives.

I do not know whether the authors are trying to do that or not, or whether they realized that that was what they were doing, but they are mandating.

Our system of government has two bodies in the legislative branch, and if we try to carry on an action here without realizing that, we are doomed to defeat; we are sticking our heads in a hole. We are not going to get by with it.

I think, on second thought, everyone knows that. We would be sending conferees over there with orders not to go above $21.6 billion. Then we would be saying to the House of Representatives at the same time, "You are not going to go above that figure."

Mr. President, we cannot get by with that. I think it is ridiculous to send the conferees over there, telling them to stand by this amendment. They would have to yield on this amendment before they would get to first base. I believe, on second thought, that almost everyone will realize that.

We would not let them dictate to us in any such way, and they are not going to let us get by with anything like that. It just will not work.

Now, just a word about last year. I am not blaming anyone. The conference report came back here with a figure above what either body had originally had in its bill. That is an unfortunate situation, but it is by no means a pattern of the operation of these conferences. If we go back and dig out these figures, we will find that the Senate fared all right. I do not have the figures with me; I am calling for them and have not received them yet. But I stand on them. I never look at a conference as winning or losing, anyway. I go there to try to get a sound bill. But I am very serious about this. We will look foolish—and I am not talking about any individual—if we go into conference with a mandate like that. After all is said and done, we will sit down and insist on this $21.6 million. The House would have no choice left except to come within that cover—within that route. The matter would be doomed to defeat from the word "go."

The only way out of the hole would be for the Senate conferees to yield on the point of this amendment. I have never claimed to be a wise man, but I have had some experience in this field. The Senator from North Carolina would say that anyone with one eye and half his senses, who conferred with those splendid men from the House on this kind of bill, would know he would not get anywhere at all—not at all. They would not confer with you, Mr. President, as long as there is attempted a mandate like this.

I personally do not resent this, but I do not see that there is anything to negotiate if we are going to put this kind of mandate on it. The conferees would be just a name because they would not have any power or any authority to confer about anything, unless the House would come to the terms of the Senate on this money. They just will not do it. They just will not do it, I repeat.

If this amendment does pass, I am going to ask that the Senate not immediately appoint the conferees but wait for second thoughts about it, because with this amendment on, the conference would be useless and fruitless until the Senate had yielded.

So, Mr. President, those are the hard facts. That is not logic. It is figures and facts and commonsense.

I am authorized by the distinguished Senator from Arkansas, the chairman of the Appropriations Committee, who is in an important conference elsewhere on official business, to say that he is totally opposed to the amendment. It does not leave any room for negotiation at the conference except of the very slightest kind. If the bill comes back with a mandate on it like this, he does not know where he will be. The Committee on Appropriations will not know where they are, either.

I have served on that committee long enough to know what a problem is presented by this.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. HELMS). Seven minutes remain to the Senator from Mississippi.

Mr. STENNIS. I thank the Chair.

Mr. President, I repeat, if this amendment is adopted—and I know it is being offered in good faith by two outstanding and fine Members of this body—there is nothing to confer on, so far as the House is concerned, until they knuckle under to this figure, and they could confer a little about adjustments of some kind as to the different weaponry. It would not be a conference if they were only going to confer on the total money differences in the bill.

I want to hold this amount down. Every member of the committee has worked hard from January until now trying to do that very thing. We made savings of $1 billion, I repeat, in manpower, and some of you, Mr. President, put on recomputation involving that extra $300 million totaling $16 billion in liabilities. But that is all outside these figures in the bill. We have made the reductions. We are below the budget. We are below the House. Practically speaking, I think that with all the effort combined, and the help of Members of the Senate—not members of our committee—I think we have done some good. But just to tell us that we have got to go to a so-called conference and hold every bit of it and kick the House in the face with this amendment, please do not ask us to do that.

I am not going to accept any such assignment until I have had a chance to consider this matter further, if this amendment should be agreed to. That is not a threat but just a fact of life.

Mr. GOLDWATER. Mr. President, I support the chairman in his arguments. They are sound and cogent arguments against the amendment.

We have been in debate on the bill now for over a week. This is the fifth year in a row that we have had prolonged debate on the military authorization bill. I can remember that prior to that the Senate was willing to take the work of the committee and vote on it, usually without any debate or argument at all.

I know that the proponents of this amendment are serious. They are dedicated Members of this body. But I should like to remind all Senators that, like all committees, this committee works diligently and hard, not just a few months in the year, but around the clock. The work of the members of the committee is not confined only to the committee rooms in Washington. Many of us travel across the country, so that we can see where the money is being spent and how it is being spent. We confer with the manufacturers. We confer with advisers as to how we can save money. I do not know how we can do a more diligent job. We have a competent staff who diligently pursue this work 12 months in the year.

In attempting to amend the bill over 15 years, I do not think there have been more than three amendments that have won on the Senate floor against the arguments of the committee, mainly because of the ability of the chairman and the ability of members of the staff. I think the average Senator recognizes the practical work that is done by this committee. While I realize that trying to put a ceiling on the amount sounds reasonable and probably has a lot of political sex appeal back home, there is no way that the House of Representatives will sit still for a ceiling, which would probably work to the detriment of this body, which has already cut quite a chunk out of it, and which will work to the detriment also of Senators who have been suggesting this amendment, because we may be in the position of bargaining, if we have some freedom to bargain, to cut a little bit here and there in conference.

I have been in conferences with the House, so I can back up what the chairman says. They do not yield easily. In fact, they are the toughest bunch I have ever had to do business with in all my life. Generally, even though we do not like it, they prevail every time.

So, I would go past the suggestion that this amendment be defeated and would seriously urge my friends who propose the amendment to withdraw it, because it will work a real hardship on those who have to work and sit down with Members of the House, trying to work out a bill that both bodies can agree on and that will probably finance the military of this country.

So I back my chairman and urge that the amendment be withdrawn.

Mr. STENNIS. Mr. President, I thank the Senator from Arizona very much.

I want to add one word here. We have this manpower question here. We have made changes which will save about $1 billion. My prediction is that the House will not want to yield on that manpower one bit—not one bit. So far as the cost to the Treasury is concerned, we will have a very hard time and probably not save anything like that much. That is the reality of things in the manpower field.

So I want to emphasize that I am not angry about anything. In fact, I am in a better humor than I usually am. But these are the hard facts of legislative life.

The Senator from Minnesota is an ex-

perienced and highly competent legislator. The distinguished Senator from Delaware has come forward by leaps and bounds in the time he has been here. I ask them both to have second thoughts. This approach will not work. This amendment, well intentioned and all as it is, will not work.

I yield the floor.

Mr. HUMPHREY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. HUMPHREY. Mr. President, I take 2 minutes to say that I fully respect the arguments of the Senator from Mississippi. But, Senator, I have been here long enough to have watched the Senate instruct its conferees to stand by a Senate bill. That happens time after time. It is a routine motion most of the time, but I have, 100 times and more, heard the Senate say, "We instruct our conferees to stand by the Senate amendments."

What this amendment does is to instruct our conferees to stand by the marvelous work this committee has done. Frankly, it should be looked upon as a compliment to the committee, not in any way as a lack of faith or lack of trust in the committee.

I do not want anybody here to try to fool anyone. This is not an unusual procedure. The Senate repeatedly has set ceilings. The Senate repeatedly has instructed its conferees. So we know what we are doing.

So far as the manpower provision is concerned, that is out of this, as the Senator has indicated. We are talking about weapons procurement.

This amendment is designed to back the committee and to do exactly what the Senator from Arizona has indicated—to help it face up to the fact that the House bargainers are tough, and they have been. Over the last 10 years, the House in all but two instances has pushed the Senate back. We have lost in our authorizations $2,479,488,000, and the House has yielded $922 million.

Mr. STENNIS. Mr. President, will the Senator yield on that point?

Mr. HUMPHREY. I yield.

Mr. STENNIS. That is rather strong evidence. Perhaps the Senate worked harder in reducing this bill originally.

Mr. HUMPHREY. The Senator is correct.

All we are trying to do is to give the committee three Hail Marys and a Hallelujah and tell the committee to stand firm. That is all we are trying to do. I cannot understand why anybody takes exception to it.

We are simply trying to say to the Senator that no matter how kindly we may be, some of us here are really mean, and we are not going to give up to the House all the time. They make us give up time after time.

Mr. President, do I have 1 minute left?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. HUMPHREY. I yield 1 minute to the Senator from California.

Mr. CRANSTON. Mr. President, I just want to join in support of this amendment and to point out that not only last year but also in 10 of the last 11 years, we have come back from conference and ultimately adopted a bill that is higher than the Senate figure; and in many of those years, it was higher than the House or the Senate figure.

Mr. STENNIS. If the Senator will yield, I challenge that statement. Someone has given the Senator the wrong facts that this has been true in many recent years.

Mr. CRANSTON. I have a committee print table here, printed for the use of the Senate Committee on Armed Services, which shows the following: In 1966, the Senate authorization was $15 billion; the House authorization, $15 billion; conference, $19 billion. In 1967, Senate, $17 billion; House, $17 billion; conference, $21 billion. Two years ago, 1973, Senate, $20,521,000,000; House, $21,318,000,000; conference $21,588,000,000. Last year, 1974, the Senate authorization was $20,947,000,000; the House, $20,445,000,000; the conference, $21,299,000,000.

It has happened constantly; it happens virtually every year. Now is the time to stop it, and this amendment would stop it.

Mr. President, I ask unanimous consent to have the committee print table printed in the RECORD.

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

[COMMITTEE PRINT TABLE]

PRINTED FOR THE USE OF THE SENATE COMMITTEE ON ARMED SERVICES—CONGRESSIONAL ACTION ON PROCUREMENT AND R.D.T. & E. AUTHORIZATION REQUESTS

Fiscal year	Budget request	Senate authorization	House authorization	Conference	Appropriated
1964	$15, 358, 691, 000	$14, 951, 491, 000	$15, 856, 391, 000	$15, 314, 291, 000	$14, 364, 690, 000
1965	17, 185, 300, 000	17, 040, 140, 000	16, 914, 800, 000	16, 967, 620, 000	16, 722, 391, 000
1966	19, 363, 050, 000	15, 283, 800, 000	15, 303, 400, 000	[1] 19, 468, 250, 000	[1] 19, 320, 550, 000
1967	20, 769, 659, 000	17, 170, 059, 000	17, 858, 059, 000	[1] 21, 404, 459, 000	[1] 21, 057, 559, 000
1968	21, 066, 432, 000	20, 765, 332, 000	21, 481, 032, 000	21, 168, 032, 000	20, 149, 432, 000
1969	22, 385, 052, 000	21, 341, 738, 000	21, 636, 964, 000	21, 625, 750, 000	18, 491, 041, 000
1970	21, 963, 660, 000	19, 988, 886, 000	21, 347, 860, 000	20, 710, 502, 000	[2] 19, 311, 520, 000
1971	20, 317, 430, 000	[3] 19, 242, 889, 000	20, 237, 489, 000	[3] 19, 929, 089, 000	[3] 18, 997, 376, 000
1972	[4 5 7] 22, 359, 129, 000	[6] 21, 016, 417, 000	[5] 21, 252, 682, 000	[6] 21, 316, 870, 000	20, 461, 802, 000
1973	[5] 23, 272, 971, 000	20, 521, 671, 000	21, 318, 788, 250	[9] 21, 488, 747, 000	19, 567, 838, 000
1974 [10]	21, 959, 100, 000	20, 947, 653, 000	20, 445, 255, 000	21, 299, 520, 000	20, 163, 205, 000

[1] Includes supplemental.
[2] Of this amount, $350,000,000 to be derived by transfer from stock funds.
[3] Includes $334,000,000 for Safeguard construction and family housing.
[4] Reflects budget amendment submitted subsequent to House Action (+$111,000,000).
[5] Includes $183,600,000 for Safeguard construction and family housing.
[6] Includes $109,570,000 for Safeguard construction and family housing.
[7] Includes $59,762,000 additional requested for civilian pay increases pursuant to Public Law 91-656.
[8] Includes $3,000,000 for special foreign currency program for Navy under R.D.T. & T. appropriation; Includes fiscal year 1973 budget amendments of $54,000,000 for civilian personnel pay raise, $254,800,000 for various programs, and June 27, 1972, amendment of $770,000,000 for Southeast Asia and SALT related items.
[9] Includes $644,900,000 additional authorization in sec. 801 of Public Law 92-570.
[10] Includes $2,600,000 for special foreign currency program for Navy under R.D.T. & E. appropriation.

Notes: During fiscal years 1964 and 1965 tracked combat vehicles were not subject to authorization action. During fiscal years 1964, 1965, and 1966 the emergency fund under R. & D. was not subject to authorization action. Authorization for other weapons was not required prior to fiscal year 1971. Authorization for torpedoes and related support equipment not required prior to fiscal year 1972.

Mr. STENNIS. Mr. President, in view of the situation, I ask unanimous consent that I may be allowed 2 additional minutes, 1 minute for the Senator from Georgia and 1 minute for the Senator from South Carolina.

Mr. HUMPHREY. I have no objection.

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

Mr. NUNN. Mr. President, I would like to provide a little food for thought. We have a great deal in this bill other than amendments. I know that the Senator from Minnesota is aware of the NATO amendments that get down to the tactical nuclear policy in Europe; the question of shifting supply troops to combat troops; the question of the restructuring of NATO; the commonality of weapons systems.

We also have in the bill the matter of the AT7–A10 flyoff, Senator PROXMIRE's amendment on enlisted aides help, and his amendment on the CIA.

The question is, If we are going to stand firm on money, what are we going to do with all these other things? It is obvious that we are going to lose the whole substance of the Senate bill, if we arbitrarily bind the Senate conferees so that they can have no flexibility as to the amount of money. In other words, Mr. President, if this amendment is adopted, we may win the battle but lose the war, and our conferees may be forced to yield to the House on every matter of substance in the Senate bill.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STENNIS. Mr. President, I yield 1 minute to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I oppose the amendment. It would nullify the conference, for the first time in history, on military procurement and research. It makes a joke of the legislative process. It shows distrust of the Senate conferees. It sets an appropriation ceiling, and this is an authorization bill. It does violence to our system and forces us to surrender legislative prerogatives. It slaps the House Members in the face and disregards the work of that body.

I think this is a very dangerous amendment. Suppose the House were to pass a similar amendment? What would happen? How would we all get together?

The amendment proposes to tell the House that we can give only so much, and the House is going to tell us the same. The purpose of a conference is to discuss matters.

I hope the amendment will be defeated.

The PRESIDING OFFICER (Mr. McCLURE). All time has expired.

Mr. HUMPHREY. Mr. President, I believe we have a minute remaining on this side.

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina is to be recognized at 3:15. That time has arrived.

Mr. HELMS. Mr. President, I think the Senator from Minnesota has 30 seconds remaining.

Mr. STENNIS. Mr. President, I ask unanimous consent that the Senator from Minnesota may proceed for 1 minute.

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

Mr. HUMPHREY. I merely want to make the record clear.

The purpose of the amendment is as an instruction to our conferees. It is to back them up. It is not to humiliate them.

As the Senator from California has indicated, there is reason for this amendment. I have negotiated. I have been on conference committees here for years. This is not a new experience. I know how the House conferees act. We have been through this time after time.

Mr. President, I have been under instruction from this body, as a conferee, and I know that the instruction is no different from this amendment.

The PRESIDING OFFICER. All time has expired.

Under the previous agreement, the Senator from North Carolina is recognized to offer an amendment.

Mr. NUNN. Mr. President, will the Senator from North Carolina yield 30 seconds, so that I can finish the line of thought I had?

Mr. HELMS. I have only 2 minutes. If the Senator could find the time some other way, that would be fine.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I have an unprinted amendment at the desk, which I have submitted on behalf of the distinguished Senator from Oklahoma (Mr. BARTLETT), the distinguished Senator from New York (Mr. BUCKLEY), the distinguished Senator from Kansas (Mr. DOLE), and myself, and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

On page 17, at the end of Title VII, and before line 21, insert an appropriately numbered new section as follows:

SEC. . Notwithstanding any other provision of law, no funds appropriated pursuant to this or any other Act may be used for the purposes of providing abortion referral services or performing abortions; or for the purposes of providing transportation to abortion clinics or abortion referral services; or for medical assistance or supplies used in the performance of an abortion. As used in this section, abortion means the intentional destruction of unborn human life.

Mr. HELMS. Mr. President, last week the Senate overwhelmingly adopted an amendment by the distinguished Senator from Minnesota (Mr. HUMPHREY) to prohibit the Defense Department from using Beagle puppies in poisonous gas research activities. I was happy to join in supporting that amendment after being heavily lobbied by my dog, Patches. [Laughter.]

As the distinguished Senator noted, there was an outcry across the land against the use of man's best friend in such experiments; the Senator noted that our colleagues would be "ashamed that they ever permitted this Government to indulge in such things."

But if it is inappropriate for a Government agency to use Federal funds in such a manner to terminate the lives of puppies, how much more so is it inappropriate for Federal agencies to use the taxpayers' money to terminate the lives of innocent human beings. I refer, of course, to the widespread use of Federal funds for abortion. If it is cruelty to use a dog in chemical gas experiments, what is it to cut a living baby into small pieces with a sharp curette, or to mangle the child in a vacuum apparatus, or to burn him to death with a strong saline solution?

The Department of Defense is in the forefront of this activity. On July 16, 1970, Dr. Louis M. Rousselot, then Deputy Assistant Secretary of Defense, issued an order purporting to authorize the military to violate the States' criminal laws against abortion. The President partially corrected this situation. But the Supreme Court decision, Roe against Wade, left the President's action in doubt, and the services took advantage of the resulting ambiguity to once again start up their abortion mills. I have obtained the official statistics from the Office of the Secretary of Defense, as of May 29, 1974. In fiscal year 1973 and 1974, the average monthly abortions have been running over one thousand per month. Some of these figures include aftercare for spontaneous abortions, but it is clear that the majority of cases are induced abortions.

Mr. President, I ask unanimous consent that the Memorandum on Abortions Performed in Military Medical Facilities be printed in the RECORD at this point in my remarks. The figures cover 204 military hospitals worldwide and some 400 dispensaries and clinics.

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

OFFICE OF THE
SECRETARY OF DEFENSE,
Washington, D.C., May 29, 1974.

Subject: Abortions Performed in Military Medical Facilities.

This is in response to your request concerning the number of abortions performed on a monthly average basis, worldwide, in military hospitals of each service. Also provided is an extract of the Supreme Court's abortion decisions.

There are 204 military hospitals worldwide and some 400 dispensaries and clinics. I point this out only to establish that spontaneous abortions may occur at any type facility and some therapeutic and unspecified abortions may occur in facilities not identified as hospitals but having inpatient capability.

The data provided are for total abortions occurring in all facilities, regardless of type.

AVERAGE MONTHLY ABORTIONS

	Spontaneous	Therapeutic	Unspecified	Total
Fiscal year 1973				
Army	275	151	55	481
Navy	58	53	151	262
Air Force	83	84	163	330
Fiscal year 1974				
Army (as of Feb. 28, 1974)	252	169	37	458
Navy (as of Mar. 31, 1974)	70	60	128	258
Air Force (as of Dec. 31, 1973)	76	98	140	314

Mr. HELMS. Mr. President, this activity flouts the language of the Uniformed Services Dependents' Medical Care Act. Under 10 U.S.C. 1077, the uniformed services are supposed to provide maternity and infant care for dependents of servicemen. In 10 U.S.C. 1079, the Secretary of Defense is authorized to provide medical care contracts for dependents to include complete obstetrical and maternity service, including prenatal and postnatal care. It is surely a perversion of the meaning of these statutes that the care included should be the deliberate destruction of the life of one of the serviceman's dependents, namely, the unborn child.

Mr. President, my amendment would prohibit the use of Federal funds for abortions, abortion referral services, or for providing transportation, medical assistance or supplies used in cases of abortion. As used in my amendment, abortion means the intentional destruction of unborn human life.

This language makes it clear that only induced abortions, that is, the intentional destruction of human life, are prohibited, it would not prohibit aftercare in cases of spontaneous abortion. It would not cover cases where the unborn child dies in the course of treating a pathological condition in the mother. Thus in treating a tubular pregnancy, where surgery is required, the intention is not to kill the child, but to remove the pathological condition that threatens the life of the mother. The child dies as a consequence, but that is not the main intention. Such operations have never been considered abortions under the law of this country. This amendment would not prohibit the use of Federal funds for any necessary and proper medical treatment which attacks a disease and is performed for that purpose, even if the treatment indirectly results in the death of an unborn child. This amendment would, however, halt the use of Federal funds to destroy directly an unborn child for any reason.

Mr. President, in conclusion, I say that the only issue is whether Federal funds can be used for abortions. I am aware that the U.S. Supreme Court has erected an elaborate new doctrine of the right to privacy under which the mother may legally kill her unborn child without sanction of U.S. law. But simply because an action is permitted under the law is no reason to argue that it is good public policy to subsidize it. This amendment will not trespass upon any of the so-called rights set up by the Supreme Court last year. It simply says that the tax-

payers should not have to finance the exercise of that private right. Indeed, if it is a private right, then it should not require public funds for its execution.

The PRESIDING OFFICER. Mr. President, the Senator's 2 minutes have expired. Who yields time?

Mr. STENNIS. Mr. Pesident, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, the amendment applies all across the board to the Federal Government, and not just to this bill. I will have to move to table the amendment in view of that fact alone.

Furthermore, no clinics or doctors are involved here; this bill involves ships, guns, submarines, airplanes, tanks, and rifles. Nothing touches the subject of abortion.

I yield to the distinguished Senator from Arizona, who wishes to ask a question of the Senator from North Carolina.

Mr. GOLDWATER. Mr. President, will the Senator yield for a question on my time?

Mr. HELMS. I am glad to yield.

Mr. GOLDWATER. As I read the Senator's amendment, it applies to the entire population and not just to the military population, is that correct?

Mr. HELMS. The Senator is correct. The amendment reads that way.

Mr. STENNIS. Mr. President, we have just had one amendment that would not let us maneuver, and this one is on another subject matter. It just does not become the Senate, in my opinion, to place amendments like this on a military hardware bill. There are other committees that have jurisdiction.

The PRESIDING OFFICER. All time has expired.

Mr. STENNIS. Mr. President, I move to table the amendment.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from North Carolina. 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 Idaho (Mr. CHURCH), the Senator from Montana (Mr. METCALF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from New Jersey (Mr. WILLIAMS) 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 Kentucky (Mr. COOK) and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Kentucky (Mr. COOK). If present and voting, the Senator from Oregon would vote "yea" and the Senator from Kentucky would vote "nay."

The result was announced—yeas 64, nays 27, as follows:

[No. 246 Leg.]

YEAS—64

Abourezk	Goldwater	Muskie
Aiken	Gravel	Nunn
Baker	Griffin	Packwood
Beall	Gurney	Pearson
Bellmon	Hansen	Pell
Bennett	Hart	Percy
Bible	Haskell	Randolph
Brock	Hathaway	Ribicoff
Brooke	Huddleston	Scott, Hugh
Burdick	Humphrey	Scott,
Byrd, Robert C.	Inouye	William L.
Cannon	Jackson	Stafford
Case	Javits	Stennis
Chiles	Kennedy	Stevens
Clark	Magnuson	Stevenson
Cotton	Mansfield	Taft
Cranston	Mathias	Talmadge
Dominick	McClellan	Thurmond
Eastland	McGovern	Tower
Ervin	Metzenbaum	Tunney
Fannin	Mondale	Weicker
Fong	Moss	

NAYS—27

Allen	Eagleton	McIntyre
Bartlett	Fulbright	Montoya
Bentsen	Hartke	Nelson
Biden	Helms	Pastore
Buckley	Hollings	Proxmire
Byrd,	Hruska	Roth
Harry F., Jr.	Hughes	Schweiker
Curtis	Johnston	Young
Dole	Long	
Domenici	McClure	

NOT VOTING—9

Bayh	Hatfield	Sparkman
Church	McGee	Symington
Cook	Metcalf	Williams

So the motion to lay the Helms amendment on the table was agreed to.

Mr. STENNIS. Mr. President, what is the pending question?

The PRESIDING OFFICER. Under the previous agreement, the pending question is the amendment of the Senator from Minnesota, upon which the yeas and nays have been ordered.

Mr. STENNIS. Mr. President, is this an "up or down" vote? A "yea" vote is a vote for the amendment; a "nay" vote is a vote against the amendment?

The PRESIDING OFFICER. The Senator is correct.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Montana (Mr. METCALF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from New Jersey (Mr. WILLIAMS) 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 New York (Mr. BUCKLEY), the Senator from Kentucky (Mr. COOK), and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Kentucky (Mr. COOK). If present and voting, the Senator from Oregon would vote "yea" and the Senator from Kentucky would vote "nay."

The result was announced—yeas 38, nays 52, as follows:

[No. 247 Leg.]

YEAS—38

Abourezk	Haskell	Muskie
Bible	Hathaway	Nelson
Biden	Hughes	Packwood
Burdick	Humphrey	Pell
Case	Inouye	Percy
Clark	Javits	Proxmire
Cranston	Kennedy	Ribicoff
Dole	Mansfield	Roth
Eagleton	McGovern	Schweiker
Fulbright	Metzenbaum	Stevenson
Gravel	Mondale	Tunney
Hart	Montoya	Weicker
Hartke	Moss	

NAYS—52

Aiken	Dominick	McClellan
Allen	Eastland	McClure
Baker	Ervin	McIntyre
Bartlett	Fannin	Nunn
Beall	Fong	Pastore
Bellmon	Goldwater	Pearson
Bennett	Griffin	Randolph
Bentsen	Gurney	Scott, Hugh
Brock	Hansen	Scott,
Brooke	Helms	William L.
Byrd,	Hollings	Stafford
Harry F., Jr.	Hruska	Stennis
Byrd, Robert C.	Huddleston	Stevens
Cannon	Jackson	Taft
Chiles	Johnston	Talmadge
Cotton	Long	Thurmond
Curtis	Magnuson	Tower
Domenici	Mathias	Young

NOT VOTING—10

Bayh	Hatfield	Sparkman
Buckley	McGee	Symington
Church	Metcalf	Williams
Cook		

So the Humphrey-Roth amendment was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which 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.

Mr. STENNIS. Mr. President, I ask for the yeas and nays on passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 3000) was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. STENNIS. Mr. President, I have several unanimous-consent requests, all going to the parliamentary situation.

I ask unanimous consent that the Chair lay before the Senate H.R. 14592, the House bill, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER (Mr. McCLURE) laid before the Senate a message from the House of Representatives on H.R. 14592, an act to authorize appropriations during 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, which was read twice by its title.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the bill.

Mr. STENNIS. Mr. President, I move to strike out all after the enacting clause of H.R. 14592 and insert in lieu thereof the text of S. 3000 as amended by the Senate.

The motion was agreed to.

Mr. STENNIS. Mr. President, as I understand it, the third reading of this bill is in order.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 14592) was read the third time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the yeas and nays on S. 3000 be transferred to H.R. 14592.

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

PATROL FRIGATE

Mr. MUSKIE. Mr. President, while the military procurement bill is still on the floor, there is one particular item authorized in the legislation that I wish to say a few words about—the patrol frigate program. I would like to address the following comments, on behalf of my colleague from Maine (Mr. HATHAWAY) and myself, to the distinguished Senator from Mississippi.

Mr. President, in late 1970, faced with a growing obsolescence of many of its ships, a declining willingness on the part of the American people to spend large percentages of the GNP on defense, and a virtually unparalleled Soviet maritime construction program, the Navy directed that study begin toward development of a new class of ocean escort, the patrol frigate—or PF as it is commonly called. It was the Navy's intention to have this new class of ships take over the antisubmarine and antiaircraft duties of the World War II destroyers as those 25-year-old ships were retired from the active fleet. It was also the Navy's intention to develop a relatively large number of these new ships—between 30 and 50—at low cost, to meet the projected military needs of this country into the 1980's in the face of a growing Soviet naval capability.

Over the past 3 years, the Navy has presented to Congress a ship acquisition program for PF's that has been successful in holding procurement and life cycle costs to a minimum without sacrifice in mission effectiveness. The rate of ship deliveries has been matched to the capabilities of the shipbuilding industry and its supporting suppliers to produce complex products most efficiently. The procurement system of component parts has been built into the program in such a way as to permit manufacturers to produce at their most economical rate and overcome extended lead times. Work has been spread to several shipyards to reduce risks to the Government and to enhance competition to keep costs to a minimum.

As a result of these acquisition policies, the threshold unit cost for follow-on PF's, originally established by the Pentagon to be $50 million in fiscal year 1973 dollars, is currently $47.7 million in constant dollars, well within the $50 million threshold.

Last October, the contract for the lead PF was awarded to Bath Iron Works in Bath, Maine. Construction of that ship is now due to begin in October of this year, with completion anticipated by the fall of 1977. For fiscal year 1975, the administration requested and the House approved an authorization for seven follow-on ships in the amount of $436.5 million. In explaining its decision to support full funding for the PF program, the House Armed Services Committee emphasized in its report the necessity of the Navy's having "a considerable number of smaller ocean escort destroyers."

The Senate Armed Services Committee, after a great deal of careful deliberation, decided to fund three PF's for fiscal year 1975, recommending $186.5 million in authorizations. The committee has had to work under unusually severe budgetary constraints in the present inflationary period, and I am sure that this had something to do with its funding decision.

Another factor in its thinking concerned the planned fire control system for the PF's. In this regard, the committee noted in its report:

> The Mark-92 fire control system is still in development and will require extensive testing to assure that all requirements are achieved. The committee directs that the contract for the three ships recommended for approval not be awarded until such time as the Mark-92 system has successfully completed the required test and evaluation.

Mr. President, during the past few weeks, I have had the opportunity to discuss the Mark-92 fire control system with the responsible Navy officials, and I would briefly like to bring my colleagues up to date on the latest test results concerning this system. The Mark-92 is a piece of equipment that is Dutch in design. Its acquisition for the PF program, along with that of an Italian gun, is in accordance with the policy of the Secretary of Defense that we buy available foreign equipment, when we do not produce such systems ourselves, in order to forego research and development costs whenever possible. But the fire control system and the gun have to be Americanized in accordance with the congressionally mandated policy that once we decide on a given piece of equipment, we must begin to make it.

The Americanization of the Dutch fire control system is being done at Sperry Gyroscope in Great Neck, N.Y. Sperry has already Americanized a similar fire control system. Earlier this year, Sperry encountered some minor difficulties in their tests of the Mark-92, but I am pleased to report that the Americanization of the fire control system is now on schedule and in the final checkout stages. And the Navy now has every confidence that this system will be completed and tested successfully to meet its scheduled delivery date of August of this year.

Mr. President, it is not very often that we in Congress have an opportunity to authorize moneys for a weapons system that is, on the one hand, relatively inexpensive and on the other hand, vital to our national defense. The PF is just such a program. For the Navy has a critical need to replace those overage destroyers that have been retired en masse during the past 3 years.

I would hope, therefore, that the Congress would go ahead with full funding of the PF program for fiscal year 1975. I am fearful that if we delay the program in the manner recommended by the Armed Services Committee—with the price of materials climbing so rapidly—the construction of the follow-on ships will only cost the taxpayer considerably more in the long-run. So, as the distinguished Senator from Mississippi and his colleagues prepare to go to conference on this bill, I hope they will keep these thoughts in mind and look favorably on the House's decision to fund fully the PF program.

Mr. STENNIS. Mr. President, I assure the Senator that the committee supports the patrol frigate program. I appreciate having the benefit of the Senator's views as we take the bill to conference.

Mr. CLARK. Mr. President, I will vote against the 1975 military procurement authorization bill (S. 3000). At $21.6 billion, it is too much money, too casually spent with too little concern for its impact on the future. This level of spending cannot be justified on either national security or economic grounds.

This year's spending request is a study in irony. This country faces virtually unprecedented inflation—the need to hold the Federal budget in check is obvious—yet the military's budget proposal continues to increase. We have a unique opportunity to improve relations with the Soviet Union, yet the Pentagon proposes a research and development program for ballistic missiles that could touch off another round in the arms race. The Department of Defense is making some gains in efficiency and weapons development, yet those gains are not reflected in the military's budget proposal.

The administration came to the Congress this year with a $23.1 billion budget request for research, development and construction of new aircraft, ships, and missiles for the military. That is an increase of $3 billion over the appropriation approved by Congress last year, an increase of about 15 percent.

As it did last year, the Senate Armed Services Committee made some judicious reductions in that request totaling about $1.4 billion. The committee reduced the authorization for the B-1 bomber by 10 percent, lowered the number of noncombat personnel in the services, and substantially reduced the amount of military assistance to South Vietnam. But like last year, many Members of the Senate felt that additional cuts could be made—cuts that would not adversely affect national security.

A number of amendments were of-

fered—to save money, to control the pace of weapons development, to help guarantee cost efficiency and eliminate wate and duplication, not only this year or next year but for years to come. But each of those amendments was defeated this year, just as each amendment was defeated last year. In both years, the amendments represented lost opportunity.

The military budget is the largest single item of the total Federal budget that Congress can control. It is here that the largest savings could be made. From the Pentagon's own admission, we know that at least $1 billion was added to the military budget to stimulate the economy. But that will only add to the problem of inflation, and the Congress could have done something about it.

Then, there is the question of efficiency and the process of weapons development and procurement. Little more than a week ago, the General Accounting Office released a detailed report on military weapons spending. It found that there has been a cost over-run of $26.3 billion for weapons systems now being developed by the Pentagon. In the last 6 months of 1973 alone, the cost of 55 weapons systems went above the authorized amount by more than $7 billion. But despite those increases, almost half of the systems were behind schedule.

As the Senate has considered this legislation, we have had the chance to encourage efficiency and effectiveness, but we did not take advantage of the opportunities. It is worth reviewing just a few of those amendments:

To reduce funds for the B–1 bomber from $455 million to $200 million. This would have allowed the development of three prototypes as provided for by the committee bill while eliminating costly and unnecessary frills. The initial development of this very controversial plane could have continued while alternatives to the B–1 bomber could have been pursued.

To withdraw 76,000 servicemen from overseas. This reduction would in no way have affected U.S. combat strength, but it would have had a beneficial impact on our balance of payments.

To limit the amount of appropriated funds that could be spent by the military in 1975. This "ceiling amendment" would have lessened the immediate inflationary impact of the bill by deferring some spending until 1976.

To reduce funds for a specific missile research and development program. The Pentagon's proposal calls for greater nuclear accuracy for Minuteman missiles, doubling the yield of their warheads and developing a system to give the missiles pinpoint accuracy. While these three projects do not involve extremely large amounts of money, many Members of the Senate believe that the new "counterforce" strategy they represent would begin to undermine the nuclear balance that now exists between the United States and the Soviet Union, hindering the possibility of an agreement at the SALT II talks.

To reduce U.S. military aid to Vietnam by an additional $150 million. Even though the Armed Services Committee did cut the administration request, military aid will still continue on a massive scale despite reports of widespread waste and corruption in the South Vietnam Army and the resistance of the Thieu government to meaningful peace negotiations.

There are honest and sincere disagreements about the wisdom and impact of this budget request, but two things stand out. First, the American taxpayer is going to pay for these proposals, not only through tax dollars, but through higher rates of inflation. And second, the Congress is committing itself to even greater and greater levels of spending in the next several years.

As the Brookings Institution pointed out in its 1975 budget report, "Setting National Priorities:"

> By 1980, military baseline expenditures could amount to $103 billion in constant dollars of fiscal 1975 purchasing power, and overall military expenditures including retired pay and support of other nations could be $113 billion.

Mr. President, both this legislation and the total military appropriations request for the next year represent significant increases. Given this country's economic problems, that alone ought to be reason enough to hold the line on military spending—especially when it can be done without damaging national security in the least. But perhaps more importantly, this budget request represents another stage in a disturbing trend toward apparently automatic and unjustifiable increases in military spending year after year after year.

And it is for these reasons that I must oppose the bill.

NERVE GAS

Mr. KENNEDY. Mr. President, the Defense Department now is seeking congressional approval of a total of $24.1 million to gear up for the production of its modern version of poison gas. Instead of the poison gas we recall from World War I days, we are now being asked to authorize the addition of a far more deadly modern replacement—binary nerve gas.

Some $6.9 million is specifically requested in this authorization for the research, development, testing, and evaluation of binary weapons. Another $5.8 million is requested in the Defense Department appropriations bill for the actual production of these weapons along with $1 million for their storage.

The Armed Services Committee itself deserves credit for reducing the amount requested for engineering development of these lethal weapons from $4.8 million to $3 million. Its report also expressed concern over the $5.8 million request for production of binary gas projectiles proposed in the upcoming appropriations bill.

I join with the Armed Services Committee in strongly urging the appropriations committee to refuse to approve production funds on this year's request. However, I believe that any action we take in this area, including research and development, should be limited solely for defensive purposes rather than for offensive weapons development.

While I do not intend to offer an amendment at this time, I do want to signal my intention to recommend an amendment to the Appropriations Committee to strike all production funds and to indicate my intention to carry the matter to a vote if funds are included when the bill is reported.

Mr. President, World War I is the last major war in which poison gas was used. Men in the trenches were burned, blinded, and choked to death by it.

Nerve gas produces an even more horrible form of death. One small dot of it on a soldier's skin will throw his muscles out of control. Within minutes, he will be dead.

The Defense Department has large stocks of nerve gas left over from World War II when it was first produced, although not used.

In the past 8 years, there were threats to military personnel, public health, and the environment from leaks or tests of nerve gas stored at Dugway Proving Grounds in Utah, Lexington-Bluegrass Army Depot in Kentucky, Rocky Mountain Arsenal in Colorado, Fort Greely in Alaska, and at a U.S. base in Okinawa.

A storm of protest was raised by an accident that occurred during an open air test of the new binary gas in 1968, causing the deaths of 6,400 sheep grazing on desert lands south of Salt Lake City. Last year, the Army proposed to move nerve gas into Utah for storage. This led Congressman WAYNE OWENS to introduce last November 1 a House resolution that would put the House on record as favoring immediate Senate ratification of the Geneva Protocol of 1925. The House Foreign Affairs Subcommittee on National Security Policy and Scientific Developments has been holding hearings on our entire chemical warfare policies, including the Defense Department's 1975 request for funds for new binary nerve gas weapons.

The Defense Department says it wishes to replace the World War II stocks of nerve gas with the binary form because it is safer in storage and handling. Also, the World War II gas weapons are becoming unreliable with age, and do not fit the modern guns and planes which would dispense them. If the Defense Department's request is granted, it will produce the nerve gas to fit into a variety of new weapons—shells, rockets, bombs, and landmines.

Mr. President, nerve gas in any form is unsafe for personnel in its vicinity, and unsuitable for warfare. I am concerned not so much over cost—although this has been estimated to be as much as $2 billion—as over the fact that production of the new gas will increase the possibility of its use in a future war.

Although some spokesmen for the Defense Department defend binary nerve gas weapons as an essential part of the American "deterrent" armory, other experts point out the dangers they could present to the United States and the world community.

In fact, in testimony before Congress, Acting Assistant Secretary of Defense for

International Security Affairs, Amos A. Jordan, and the Director of the Arms Control Agency, Dr. Fred Ikle, represented diametrically opposed views as to the value and dangers of binary weapons. It appears that there is no agreed administration policy. Mr. Jordan favors keeping the option open; Dr. Ikle is opposed to use of the gas. Dr. Ikle said to the House Armed Services Subcommittee on Arms Control and Disarmament on May 8:

> Keeping in mind the possible contribution of arms control measures to our national security interests in this area, it is my personal judgment that the disadvantages of producing chemical binary weapons at this time outweigh the advantages.

Mr. President, the U.N. Conference of the Committee on Disarmament at Geneva, involving 26 nations, includes the problem of chemical warfare on its agenda.

Many of the participating countries at Geneva have expressed the opinion that the development of binaries will adversely affect the negotiations at Geneva for a comprehensive ban on all aspects of chemical warfare. Rather than strengthing the U.S. negotiation position, they see the development of binaries as an alternative to serious negotiations. They interpret American moves toward making binary nerve weapons as offensive.

Dr. Alfonso Garcia Robles of Mexico accused the United States of initiating a "chemical weapons race." He called the binary nerve gas weapons "disastrous" to any hope that the committee might be able to control proliferation of chemical weapons.

Mr. President, the administration's ambiguity over chemical weapons is reflected in its not having answered the request by the Senate Foreign Relations Committee in August 1970 for reconsideration of its proposal to exclude herbicides and tear gas from the chemical weapons which the United States would promise not to use under the Geneva protocol of 1925.

The United States, which initiated the Geneva protocol, now stands as the only major power in the world that has not ratified it.

Because the Senate regards it as a companion piece to the 1925 protocol, it has not yet ratified a convention that would ban manufacture of biological weapons, although President Nixon in 1969 ordered all such stocks destroyed and has signed the conventions.

The United States has not replied to the 2-year Soviet proposal for a total ban on chemical weapons use and manufacture, apparently because it did not include a verification provision.

However, during congressional hearings Alan R. Pittaway, a former Army Chemical Corps researcher, said that the Soviets had expressed willingness, in the final communique of a private conference in the Pugwash series at Helsinki in April, to consider some onsite verification procedures which the Americans had proposed. Prof. J. P. Perry Robinson, of Sussex, England, University, who attended the Pugwash meeting, confirmed that the scientists there were "encouraged and excited."

Furthermore, the State Department Deputy Director of Politico-Military Affairs recently said that the administration has made no final decision to manufacture new binary chemical weapons, even though Congress has been asked for production money. He said he suspected the Pentagon requested the $5.8 million in production funds "as a hedge" to be ready to move if the administration decides to indeed manufacture binary chemicals.

It is clear that there is conflict within the administration on whether to approve the binaries and that the Pentagon decided to ask for the production funds before the final decision was made.

The Defense Department acknowledges that it does not know whether Soviet capability in this area is an effort to keep open an option to initiate chemical warfare or is purely a defensive hedge against the possibility that the United States might use chemical weapons.

Charles Price of the University of Pennsylvania and former president of the American Chemical Society, testified at the congressional hearing on why the United States has not signed the 1925 Geneva protocol. He believes the administration says it will not sign the agreement unless it can exclude herbicides and tear gas from it because it wants to be free to use them as it did in the war in Vietnam.

At one time, the American Chemical Society supported the administration's position, but Mr. Price testified that the society had changed its stand. The change was brought about, he said, by a study the society conducted, showing long-lasting and detrimental effects suffered in Vietnam after the United States used herbicides to defoliate the jungle.

In response to the argument that halting offensive weapons development would be unilaterally renouncing development of offensive lethal chemical weapons. I point out the parallel between our action with respect to the biological weapons convention and my recommended action to withhold our funding for lethal chemical weapons except for defensive research purposes. In 1969, the United States unilaterally renounced all offensive preparations for biological warfare and began to destroy existing stocks. Soviet actions in this field notwithstanding, the United States confined activities to defensive purposes only. Events on the negotiating front followed. In 1972, the United States and the Soviet Union signed a Biological Weapons Convention which universalized the U.S. position. Here is one clear instance where a U.S. initiative paid off in the negotiating front.

Mr. President, let me summarize the reasons why I believe that we should limit our efforts to research and development on defensive aspects of lethal chemical warfare and why I strongly feel that the funds being sought for production of such binary nerve gas weapons should not be approved.

First, this country has some 40 million pounds of nerve gas, weapons which were manufactured since World War II. Thus, there is no need for any additional weapons of this nature.

Second, these weapons and even the supposedly safe binary nerve gas weapons are unreliable and their storage, testing, and evaluation inevitably carry enormous risks.

Third, the weapons offer little, if any, additional benefit to our national security. We are far less prepared than the Soviet Union to operate in a nerve gas environment because we have done more limited research on detecting, defending against decontaminating, and treating the victims of a nerve gas attack. Thus, it is unlikely that the possession of an offensive nerve gas capacity acts as a deterrent. Our deterrent, as always, is our nuclear deterrent.

Fourth, the continued development of offensive lethal chemical weapons and particularly their production threatens negotiations now in progress at Geneva at the Conference of the Committee on Disarmament. It seems unlikely that we are going to encourage an agreement at the same time that we are suddenly embarking on a new generation of nerve gas weapons. In fact, the head of the Arms Control and Disarmament Agency has testified in opposition to the production of these weapons for that reason.

Fifth, the development of supposedly safe-to-handle binary nerve gas agents will encourage other nations to engage in their own illusions of creating a new weapon that will give them an advantage over an enemy. Our action may prove the impetus for the proliferation of lethal chemical weapons which ultimately can only decrease our security.

Finally, the Defense Department, despite its request for these funds, does not yet have administration support to spend them in this fiscal year. On that basis alone, I believe we should reject their request for appropriations for the purpose of producing these lethal chemical weapons. Also, I am hopeful that the Senate Armed Services Committee will review this program with the view toward limiting all research and development in this area to defensive purposes.

I ask unanimous consent that articles on this subject be printed in the RECORD.

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

[From the Denver Post, May 15, 1974]

STOP! NO MORE NERVE GAS

Quietly, with little public notice, the Defense Department has been seeking approval of a $24.1 million outlay in its budget for a new supply of deadly nerve gas.

Forthrightly, with full public notice, Congress ought to say "No" emphatically to the Pentagon on funds for the nerve gas.

The need for producing and storing nerve gas as a military deterrent no longer is justified at a time when the United States and the Soviet Union have enough nuclear weapons to destroy the world and its inhabitants several times over.

Ironically, the Pentagon is now engaged in a costly operation to destroy old, hazardous nerve gas stored at sites including the Rocky Mountain Arsenal near Denver.

When then should the Pentagon seek to replace outdated nerve gas with a new version that may well have to be disposed of at a later time?

Any new stockpiles of nerve gas could prove—like the old supplies—to be a greater

threat to Americans living near the depots than to any enemy of the United States.

Efforts have been under way in Geneva at a United Nations conference on disarmament to reach agreement on chemical and biological warfare weaponry. The United States and the Soviet Union have been at odds on the matter of verification of the banning of such arms, but hopefully the impasse will be broken.

It makes no sense to go ahead with production of nerve gas, in view of the international attempts to prohibit and destroy such terrible weapons.

The Pentagon ought to withdraw its request for nerve gas funds. And if it does not, Congress ought to refuse appropriations for the project.

[From the Chicago Sun Times, May 11, 1974]

NO MORE NERVE GAS

In a predictable schizophrenic performance, the Defense Department, which is fretting publicly over how to erase the scars made by wartime herbicides on the Indochina landscape, has at the same time issued a plea to Congress for a new family of "deterrent" nerve gases. The department has justified the nerve gas request with the mystifying contention that even if the United States finally ratifies the 1925 Geneva protocol outlawing chemical weapons, the use of herbicides and gases would still be legal.

The Pentagon insists that the new killer gases are necessary to counter what it believes to be a Soviet stockpile of similar weaponry. The position is arguable. It differs with that of the Arms Control and Disarmament Commission and authorities who have testified before a House Foreign Affairs subcommittee on chemical warfare.

But while the Defense Department policies certainly are questionable, there is no question about the immorality of using a type of weapon as dangerous to civilians and the unborn as to enemy forces. The dangers of herbicides—less potential by far than nerve gases—are inscribed on the blighted terrain of South Vietnam and on the bodies of many of its citizens. The Pentagon cannot make a strong enough case to warrant spending another dime on building the capability to do the same thing, or worse, again.

[From the Washington Post, May 12, 1974]

AIR FORCE URGES DISPOSAL OF DEFOLIANT

The Air Force yesterday recommended that 2.3 million gallons of a toxic defoliant used in South Vietnam be disposed of by burning near or on remote Johnston Island in the Pacific.

The Air Force stopped using the so-called orange herbicide after 1970 when government agencies banned a powerful chemical which it contains.

The Air Force scrapped its original plans to burn the defoliant in commercial incinerators near Deer Park, Texas, and Sauget, Illinois, after citizens there objected in 1972.

[From the Baltimore Sun, May 15, 1974]

NO DECISION ON CHEMICAL ARMS MADE

WASHINGTON.—A State Department official said yesterday the Nixon administration has made no final decision to manufacture new binary chemical weapons, even though Congress has been asked for production money.

Leon Sloss, deputy director of politics-military affairs, said U.S. policy on chemical weapons is still under review. He said he suspects the Pentagon requested the $5.8 million in production money "as a hedge" to be ready to move if the administration decides to indeed manufacture binary chemical weapons.

Representative Jonathan B. Bingham (D., N.Y.) said it was clear to him that there is a battle within the administration on whether to approve the binaries and that the Pentagon decided to ask for the production money before the final decision.

The binary weapons keep two harmless chemical compounds in separate chambers, which when mixed together on a battlefield, produce the same nerve gas now in U.S. stockpiles.

[From the New York Post, May 16, 1974]

WAR OF NERVE GAS

Months, if not years, may elapse before the American consumer gets any clear picture of the fuel shortage situation. The government is, however, striving to assure adequate supplies of unnatural gas.

More specifically, the Defense Dept. has budgeted some $5.8 million to produce "binary" nerve gas munitions, an "improved" form of chemical warfare ordnance. Whether the funds should actually be appropriated is now under Executive and legislative review.

Additional chemical weapons stockpiles are 1) not needed, 2) unwontedly expensive and 3) calculated to provoke another subsidiary arms race with the Soviet Union. The latter point has been made, somewhat mildly, by Director Fred Ikle of the Arms Control and Disarmament Agency. The validity of the other two is almost self-evident.

It is within the power of Congress to quash the procurement of any more chemical munitions. Indeed, considering the manner in which the White House has hedged on this area of weapons control, that is a Congressional obligation.

[From the St. Louis Post-Dispatch, May 15, 1974]

PENTAGON SEEKS APPROVAL FOR NEW-TYPE NERVE GAS

(By William McGaffin)

WASHINGTON.—The Department of Defense is worried that congressional opponents may succeed in blocking its plan to begin producing a deadly modern version of poison gas called binary nerve gas.

The Pentagon is seeking congressional approval of the $24,100,000 item in the new defense budget, which would give the military a green light to gear up for production of the gas.

At a series of hearings, a House foreign affairs committee, under the chairmanship of Representative Clement J. Zablocki (Dem.), Wisconsin, has been taking a hard look at the subject.

World War I is the last major war in which poison gas was used. Men in the trenches were burned, blinded and choked to death by it.

Nerve gas, however, brings about an even more horrible form of death. One small dot of it on a soldier's skin will throw his muscles out of control. He will be gripped by nausea, will defecate and writhe in agony—and within minutes he will be dead.

The Defense Department has large stocks of nerve gas left over from World War II. In the last eight years, there have been threats by military personnel, to public health and to the environment from leaks of nerve gas stored at Dugway Proving Grounds in Utah, Lexington-Bluegrass Army Depot in Kentucky, Rocky Mountain arsenal in Colorado, Fort Greely in Alaska and at a United States base in Okinawa.

A storm of protest was raised by an accident that occurred during an open air test of the binary gas in 1968, causing the deaths of 6400 sheep grazing on desert lands south of Salt Lake City.

However, when its components are not mixed together—as they were in that test—binary nerve gas is considered to be a safer weapon in storage and handling than the older types of nerve gas.

That is one reason the Defense Department wants to replace the World War II stocks of nerve gas with the binary form. Another is that the World War II gas weapons are becoming unreliable with age and do not fit the modern guns and plans which would dispense them, according to the Pentagon. Binary nerve gas is made up of two chemicals which are relatively harmless until they are mixed. One is like an organo-phosphate insecticide, according to the Pentagon, while the other is an alcohol reagent.

A metal plate in a nerve gas weapon separates the two chemicals. The force of firing ruptures the plate; and the chemicals mix together on the way to the target to form the savage nerve agent—which, incidentally, is a liquid rather than a gas.

If the Pentagon's plans are approved, it will produce the insecticide and fit it into a variety of new weapons—shells, rockets, bombs and land mines—at the Army's arsenal in Pine Bluff, Ark. It will purchase the alcohol from commercial sources.

Critics, are concerned not so much over cost as over the fear that production of the new gas will increase the possibility of its use in a future war.

The Russians are known to have nerve gas, although probably not of the binary type. They also have produced large quantities of sophisticated equipment to protect their soldiers in a chemical warfare operation. Some of this was spotted in the Soviet equipment used by Arab armies in the last Middle East war.

The Pentagon acknowledges that it doesn't know whether the Soviet capability is an effort to keep open an option to initiate chemical warfare or is purely a defensive hedge against possibility that the United States might use chemical weapons.

Negotiations for a control agreement on chemical weapons have been stalled for nearly two years at the United Nations conference of the Committee of Disarmament in Geneva.

One of the most difficult problems in the Geneva negotiations involves how to verify compliance with an agreement. The Soviet Union has rejected on-site inspection, while the United States insists this is the only workable method.

The United States is the only major nation that has not signed the 1925 Geneva protocol against poisonous and other gases. Nations that have signed it, including the Soviet Union, have pledged that they will not be the first to use poison gas in a war.

Charles Price of the University of Pennsylvania and former president of the American Chemical Society, testified at the congressional hearing on the snag that has kept the United States from signing the 1925 Geneva protocol.

Senator J. William Fulbright (Dem.), Arkansas, chairman of the Senate Foreign Relations Committee, which would play an important role in ratifying the protocol after the United States signed it, said that the protocol should include the use of herbicides and riot control agents.

The Administration says it will not sign the agreement unless it can exclude those items from it. The Administration wants to be free to use them as it did in the war in Vietnam.

At one time, the American Chemical Society supported the Administration's position, but Price testified that the society had changed its stand.

The changes was brought about, he said, by a study the society conducted, showing long-lasting and detrimental effects suffered in Vietnam after the United States used herbicides to defoliate the jungle.

WASHINGTON AT ODDS OVER CHEMICAL WARFARE

(By Dana Adams Schmidt)

WASHINGTON.—Basic questions are being raised here, inside and outside the Nixon

administration, about U.S. policy on chemical warfare.

During four days of hearings before a House Committee, two ranking members of the government publicly disagreed about the value of binary gas—the nerve gas VX in a new format.

The government now is pulling together its own internal review of policy; meanwhile, critics outside the government urge Washington to agree not to use tear gas or herbicides as weapons of war and to reply to a Soviet proposal two years ago for a total ban on chemical weapons use and manufacture.

The two principal components of binary gas, which separately are only mildly toxic, would be kept apart during storage and transport, thereby introducing a new element of safety. They would be combined only in combat. Then the two parts of a gas shell, separated by a membrane, would combine and become lethal.

RESEARCH FUNDED

The U.S. has included in its budget for the coming fiscal year an item of $5.8 million for continuing research on so-called binary weapons, and a similar sum to begin setting up a factory at Pine Bluff, Colo., for their manufacture.

While spokesmen for the Defense Department defended the binary as an essential part of the American "deterrent" armory, the dangers it could present to the United States and the world community were the central theme of a number of experts on chemical warfare.

In fact, in testimony before the House Foreign Affairs subcommittee on national security policy and scientific developments, the Defense Department, represented by Amos A. Jordan, acting assistant secretary of defense for international security affairs, and the director of the Arms Control Agency, Dr. Fred Ikle, represented diametrically opposed views as to the value and dangers of the binary. It appeared that there is no agreed administration policy.

Dr. Ikle is opposed to use of the gas; Mr. Jordan favors keeping the option open.

FULL REVIEW UNDER WAY

Mr. Jordan explained that an interdepartmental committee is engaged in a "comprehensive review," which he expected to be completed "in a month or two."

The initial review will consist only of a catalogue of policy options which has still to be reviewed by the departmental heads who will make recommendations on the basis of which the National Security Council and the President will finally make the decisions.

Mr. Jordan said he hoped Congress would not take any precipitate action on this question of binaries until the administration has completed its policy review.

Some of the 26 participants in the conference of the Committee on Disarmament have interpreted American moves toward making the binary as offensive. Dr. Alfonso Garcia Robles of Mexico accused the U.S. of initiating a "chemical weapons race." He called the binaries "disastrous" to any hope that the committee might be able to control proliferation of chemical weapons.

The White House has never answered the request by the Senate Foreign Relations Committee in August, 1970, for reconsideration of the administration's proposal to exclude herbicides and tear gas from the chemical weapons which the U.S. would promise not to use under the Geneva Protocol of 1925.

The U.S., which initiated the Geneva Protocol, now stands as the only major power in the world that has not ratified it.

Because the Senate regards it as a companion piece to the 1925 protocol, it also has not ratified a convention that would ban manufacture of biological weapons (although President Nixon in 1969 ordered all stocks destroyed.)

The U.S. has not replied to the Soviet proposal for a total ban on chemical weapons use and manufacture, apparently because it did not include a verification provision.

CLIMATE OF HOPE SEEN

The hearings produced one unexpected glimmer of hope.

Alan R. Pittaway, a former Army Chemical Corps researcher, said that "recent events have indicated that if acceptable verification grounds can be developed, perhaps agreements can be achieved."

Under questioning he admitted that his words were based on the fact that the Russians had expressed willingness in the final communique of a private conference in the Pugwash series at Helsinki three weeks ago to consider some on-site verification procedures which the Americans had proposed.

Prof. J. P. Perry Robinson, of Sussex, England, University, who attended the meeting, said the scientists were "encouraged and excited," but he feared that too much talk about it might "blow away the signals."

Mr. PROXMIRE. Mr. President, the distinguished Senator from Nevada has agreed to a brief colloquy to discuss the F–14 program and the recent controversy that has been rekindled. I want to thank Senator CANNON for his willingness to discuss the matter with me in the Senate and also for the cooperation of his very capable staff.

It was through the diligent work of the staff that Grumman's refusal to execute the final agreement was disclosed to the Armed Services Committee and the Senate. I cannot for the life of me understand why the Navy did not communicate the facts about Grumman's action and its demands for additional financing, why the Navy saw fit to conceal the facts for approximately 4 months.

It seems to me that the one good thing to come out of this mess is the knowledge that the Proxmire-Byrd Bailout Control Act is doing an effective job to prevent the Pentagon from providing millions of dollars worth of extra financing to contractors without first obtaining the approval of Congress. Previously, I suppose the Navy would have simply given Grumman the additional advance payments, raising the limits from $54 to $100 million or more without informing Congress until long after the deed was done. It was the fact that the services were using advance payment agreements and other back door methods of financing without explicit congressional approval that led to the Bailout Control Act.

So I want to congratulate the Senator from Nevada for the strong stand he has taken with the Navy, now that the facts have been revealed, and his insistence that the provisions of the Bailout Control Act be complied with.

This case, however, is an example of some of the problems that still plague defense procurement. The fact that the Government is called upon to give advance payments or loans to Government contractors reflects part of the problem. It is one reason why taxpayers' costs for defense contracts continue to mount and why cost overruns seem to grow larger each year.

It seems to me that if we want to preserve the contract system and obtain the benefits of the market economy that both parties to defense contracts—the Pentagon on one side and the private firms on the other—have to live up to their agreements and their responsibilities. Too often the defense contract is transformed into a one way street where the Government complies with its contractual obligations, but the contractors are able to bend, break or escape theirs.

I, therefore, asked for time to ask the distinguished Senator a few questions about the F–14 affair:

Last September 25, when we were debating the issue of funding the fiscal year 1974 F–14 buy you informed the Senate that the new contract with Grumman had been signed 1 day earlier. You stated at the time that the contract was subject to authorization and appropriation of the F–14 funds. Were you aware that there were other conditions attached to the contract, that Grumman would interpret one of those conditions as requiring the Navy to increase the amount of advance payments, and that the contract would not be binding on Grumman unless the Navy so agreed?

Mr. CANNON. I would point out to the Senator that the other condition to which he refers was that there would be no new restrictions placed on the F–14 program in the fiscal year 1974 authorization and appropriations bills. A restriction was placed on the F–14 program when the Byrd-Proxmire amendment was added to last year's bill. It is this restriction, one which requires congressional authorization to continue the advance payments to Grumman, which led to the current situation on the fiscal year 1974 contract.

Mr. PROXMIRE. At the time the contract was signed, last September, did the Navy explain to you, other members of the Armed Services Committee, or the staff that there were conditions attached to the agreement other than the authorization and appropriation of funds, the significance of the conditions, and that Grumman would not be bound by the contract unless the conditions were met?

Mr. CANNON. No, and I also would doubt that the significance of the restrictions was understood by anyone at the time the contract was signed on September 24, 1973.

Mr. PROXMIRE. In the Senator's judgment, was he or the Senate misled as to the nature of the agreement and the fact that it contained a loophole for the contractor?

Mr. CANNON. The answer again is no, and I would point out again that the loophole that the Senator refers to came about when the Byrd-Proxmire amendment was added to the bill after the contract was signed.

Mr. PROXMIRE. There have been conflicting reports in the press about the amount of additional advance payments Grumman is asking for. As I understand it, the present agreement provides up to $54 million in advance payments from the Navy to Grumman, of which about $42 million have been advanced; last year it was indicated in the hearings before your committee that the Navy was considering increasing the amount to about $90 million; and the Navy formally notified the committee on June 4, 1974, that it intends to increase advance pay-

ments to Grumman from $54 to $100 million. Is my understanding of the facts correct?

Mr. CANNON. The Senator is substantially correct. I would add that the June 4, 1974, letter from the Navy states that $90 million will be required to cover the fiscal year 1974 F–14 program and contracts and the $100 million will cover the fiscal year 1975 contracts.

Mr. PROXMIRE. Does the Senator or his staff have any knowledge independent of what the Navy or Grumman may have stated informally about the status of the work on the fiscal year 1974 F–14 buy, whether any delays have occurred, or whether Grumman intends to slow down or stop work on the F–14 or other defense programs if the Navy does not increase the amount of advance payments?

Mr. CANNON. No. It is my information that the fiscal year 1974 production program currently is on schedule, and I have no knowledge of what Grumman's intentions are for the future if the Navy does not or is unable to increase the advance payments above the current $54 million limitation.

Mr. PROXMIRE. The normal policy with regard to progress payments on Navy aircraft contracts is to reimburse the contractor for 80 per cent of costs incurred. The balance is supposed to come out of the contractors working capital. Is it fair to say that the purpose of the advance payments agreement is to increase the Government's side of the financing from 80 to 100 percent, and that Grumman is requesting an increase in advance payments so that the Navy will continue to reimburse it for 100 percent of costs incurred?

Mr. CANNON. The Senator is correct. The Navy is providing progress payments approaching 100 percent by making the advance payments that we are discussing.

Mr. PROXMIRE. Can the Senator explain briefly why Grumman needs 100 percent Government financing and why the Navy is agreeing to provide what I consider a substantial subsidy—100 percent financing rather than the normal 80 percent—to this contractor?

Mr. CANNON. As was brought out in last year's hearings on the F–14 program, Grumman lost over $200 million on the F–14 program, the banks then withdrew their line of credit, and Grumman's working capital was impaired to the point where Government financing, in the form of advance payments, was required.

Mr. PROXMIRE. Is there any quid pro quo for the advance payments subsidy? Is the Government getting anything from the contractor for providing him with 100 percent of his working capital that the Government would not have otherwise obtained?

Mr. CANNON. Yes. The contractor pays interest on the advance payments. Also, the Government gets the airplanes and other defense products built by Grumman. It is necessary for the Secretary of the Navy to make a determination that these airplanes or other products are necessary for the national defense before the Navy can provide advance payments, and such a determination was made when the original advance payments agreement was entered into.

Mr. PROXMIRE. In the excellent statement the Senator made in the Senate last week, he pointed out that the Navy had neglected to inform the Armed Services Committee about Grumman's refusal to execute the agreement and that the need for approval of continuing advanced payments should have been brought to the attention of the committee. You also said you wanted to be informed in writing of the status of the Grumman contract, projections for advanced payments, and when DOD will be notifying Congress of the requirement for the additional advanced payments. If he has received a reply from the Navy will he insert it in the CONGRESSIONAL RECORD so that all Members and the public might have access to it?

Mr. CANNON. I would point out to the Senator that I wrote to the Deputy Secretary of Defense, Mr. Clements, requesting the information he has referred to, I have not yet received a reply from him. However, the committee has received the Navy's official notification of its intent to continue to provide up to $100 million in advance payment to Grumman, and I ask unanimous consent to print that letter in the RECORD at this point in our colloquy.

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

JUNE 4, 1974.

Hon. JOHN STENNIS,
Chairman, Armed Services Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to subsection 2307(d) of Title 10 USC as added by subsection 807(c) of the FY 1974 Defense Appropriation Authorization Act (Public Law 93–155) this is to notify you that the Department of the Navy intends to increase advance payments to the Grumman Aerospace Corporation (GAC) from the presently authorized amount of $54 million to $100 million under contracts placed with Grumman for the Navy's FY 1974 requirements for Models F–14, E–2C, A–6 and EA–6B aircraft.

In its performance under contract N00019–69–C–0422, Lots I through V of the F–14 program, GAC suffered losses in the approximate amount of $220 million. This resulted in a reduction of Grumman Corporation's net worth from a high of $168 million in 1970 to $67 million in 1972. As a consequence, GAC's commercial line of credit was terminated in April 1972. On 8 August 1972, GAC and the Navy executed an Advance Payment Agreement under the authority of 10 USC 2307. This agreement provides for advance payments not to exceed $54 million outstanding at any time. Under the terms of the Agreement, when all payments to GAC (progress, delivery and advances) reach 95% of the price in contract N00019–69–C–0422, no further payments can be made to GAC under that contract and any advances then outstanding go into liquidation. It is now projected that the outstanding advances under the above Agreement will begin final liquidation about 1 September 1974 with all advances liquidated about 1 December 1974. Although no further payments will be made under the initial F–14 contract during this liquidation period, final delivery under the contract will not be completed until April 1975.

It is by reason of losses incurred in the above F–14 contract that GAC continues to be burdened with a cash flow problem. This problem will continue until such time as anticipated profits under all other contracts are, in fact, realized in a sufficient amount to alleviate the present situation. Accordingly, the addition of new contracts will result in concomitant requirements for working capital with which to perform.

This cash flow problem was recognized in the negotiation of contract N00019–74–C–0073 which covered the Fiscal Year 1974 F–14 program (Lot VI). A copy of this contract was furnished to the Senate Armed Services Committee at their request in September 1973. Section J–32 of this contract specifically provides for advance payment financing under the August 1972 Advance Payment Agreement. Since this contract was signed by GAC and the Navy prior to the enactment of the Fiscal Year 1974 Authorization and Appropriation Acts, the contract contained a special clause, Section J–34, providing that the:

"Contract shall come into effect and be binding upon the parties hereto only upon (1) enactment of the Department of Defense Authorization and Appropriation Acts for Fiscal Year 1974, (2) neither of such Acts containing any restrictions or limitation upon the procurement of Model F–14 aircraft during Fiscal Year 1974 in any manner inconsistent with the prior terms and conditions of this contract, and (3) the modification of this contract to establish the 'effective date' thereof. . . ."

Subsequent to the signing of the above contract, subsection 807(c) of Public Law 93–155, DOD Appropriation Authorization Act, 1974, was enacted requiring notification of the Committees on Armed Services of the Senate and the House before any advance payments can be made in the case of any contract in excess of $25 million. Subsection 807(e) is a savings provision which excludes any contract, commitment or other obligation from within the provisions of section 807 which was entered into prior to the date of enactment of this section. While a legal argument can be made supporting the proposition that the Fiscal Year 1974 F–14 contract with its specific provision for advance payments is a contract predating the enactment of section 807, *supra*, or at least a commitment to make advance payments when read with Section J–34 of the contract, the Navy has elected to proceed with the instant notification to resolve any doubts in the construction of subsections 807(c) and 807(e).

In addition to the continuing program for the procurement of F–14's for the Navy, there is presently being negotiated by the Navy an additional contract for 30 F–14 aircraft for the Government of Iran under the Foreign Military Sales Act, 22 USC 2762. In view of this projected buy of additional F–14s, interest was expressed by several banks in reopening limited lines of credit to GAC. While this possibility could not be realized in the context of the present situation, the Navy and GAC are encouraged that commercial credit may become available to assist in meeting GAC's working capital needs. The exploration of arrangements to meet the goal of financing for Grumman independent of U.S. Government advance funding will continue.

GAC's projected cash flow requirements for current contracts, including the Fiscal Year 1974 contracts and the proposed Fiscal Year 1975 programs, have been examined. The requirement for advance payment financing for Fiscal Year 1974 and prior year programs is in the approximate amount of $90 million. To provide for the addition of Fiscal Year 1975 programs, the advance payment requirement will be increased to an amount not exceeding $100 million. These advance payment requirements cover only Navy contracts. Discussions are in progress with Iran to assure a payment schedule pursuant to its purchase contract that will

result in progress and advance payments to GAC on a basis equivalent to that of the U.S.

I am addressing an identical letter to the Chairman of the House Armed Services Committee. Further, by reason of the significance of this matter to the Appropriations Committees of the Senate and House, I am also sending a copy of this letter to the respective Chairmen.

Sincerely,

J. WILLIAM MIDDENDORF II,
Acting Secretary of the Navy.

Mr. PROXMIRE. Do you agree that in view of the Navy's failure to keep the committee and Congress informed, the magnitude of the sums Grumman is requesting, and the seriousness of the issues that remain unresolved—the amount of the interest rate to be charged to the contractor, to mention one such issue—that there ought to be public hearings before the Navy's request is approved so that a complete open record of the testimony of Navy and Grumman officials can be made?

Mr. CANNON. Yes, I do agree that hearings should be held and also that the committee should make a report to the Senate on the Navy's request to continue

Mr. THURMOND. Mr. President, the Defense Department during the budget preparation in the fall of 1973 decided to reduce the Army Reserve and Army National Guard by a total of 48,000 force structure spaces. To understand force structure we need simply to realize that these are the total number of positions in various units and for several reasons the Reserve or Guard have never filled all of these spaces. In other words, there may be a headquarters and headquarters company with 250 spaces, but they traditionally carry a strength of 90 or 95 percent of the force structure spaces, because they could not recruit to 100 percent or there was some other reason they did not man at that level. However, when force structure is cut, entire units and their personnel are removed from the program.

This proposed 48,000 reduction in strength for the Army Guard and the Army Reserve was presented to the Congress in the regular authorization hearing process earlier this year. But the Defense Department could not identify the units which would be eliminated to bring about this 48,000 reduction. The reason was they had not yet identified the units which shows that the cut was an arbitrary one and not based on a study to determine which units should be reduced.

The committee has continued to press for this information, because it does not wish to be in the position of approving a 48,000-force structure reduction in the Army Guard and Army Reserve without having some justification for this reduction. The only support for this cut is word that the top defense officials feel a reduction of this size would not impact on real strength or readiness of the Army Guard or Army Reserve.

During the markup of the bill, a member of the committee proposed that we require the Defense Department to submit to the committee, prior to conference, a list of the units to be eliminated to include their size and location and the justification for such action.

Last Friday, June 7, 1974, the chairman of the committee received from the Assistant Secretary of Defense for Manpower and Reserve Affairs, Mr. Brehm, a letter stating that such a list could not be provided the committee for two reasons: First, it was felt such a list might be made public and do harm to the Reserve or Guard program. Second, while units had been tentatively designated to be inactivated, they still had not reached a final decision on which units were to go nor worked into the decision process the findings of a total force study directed by the Secretary of Defense to be completed August 1, 1974. Mr. President, I ask unanimous consent that a copy of this letter be placed in the RECORD at this point in my remarks.

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

JUNE 5, 1974.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for detailed information regarding implementation of the 48,000 space reduction in force structure of the Army National Guard and Army Reserve.

Although type units and some specific units have been tentatively identified for elimination, the actual units to be inactivated will be determined in the fall of 1974 after evaluation of current readiness and readiness potential during annual unit training. Variations in readiness and other factors may result in redesignation of some units within certain mission areas and even changes of mission for some units whose potential outweighs the low priority of current mission assignment. Premature identification of the tentative selections could result in loss of readiness by units which could otherwise be retained and converted to other missions.

The delay until the readiness evaluations can be considered may permit some interaction with the recommendations of the OSD Study of the Guard and Reserve in the Total Force.

Sincerely,

WILLIAM K. BREHM.

Mr. THURMOND. Mr. President, while it is my feeling that some reductions in all Reserve components could probably be made, on the theory that there is usually some excesses, it is my opinion the committee is making a mistake by giving the Defense Department a blank check to cut 48,000 spaces from the Army Guard and Army Reserve without having any justification for this reduction. This would set a dangerous precedent and run counter to the Reserve Revitalization Act in which the Congress assumed the authority to set strength levels in order to control the Reserve and Guard programs rather than allow arbitrary actions of the Secretary of Defense.

Because Reserve strength is well below desired levels the strength figures approved by the committee in the bill are so low they would not prevent the Secretary of Defense from taking the 48,000 cut which is based on force structure. For instance, the Army Reserve force structure is 276,000, but the Army Reserve has traditionally manned at 260,000. However, the committee only approved 220,000 this year, because the Army Reserve indicated recruiting problems prohibited their being able to man at a higher level. Therefore, there is adequate room between the 220,000 level and the 276,000 level to make a sizable cut in the Reserve force structure.

Mr. President, it is my opinion that the Congress should not interpose its judgment on which specific units should be cut from the National Guard or the Army Reserve or any Reserve component. On the other hand, however, I do not think the Congress should allow a cut of the size proposed by the Secretary of Defense without justification as to the reason for the reduction.

Therefore, Mr. President, it was my intention to propose an amendment to this bill which would place some constraints on the Defense Department and what I consider to be their unusual approach in trying to reduce Reserve forces without addressing the issue fully in the Congress. It was my feeling that if the committee could obtain information about the proposed reductions in time for the conference on this bill it would be possible to give consideration to this matter during the conference. Therefore, no action was planned by me in regard to an amendment to this bill and it was my opinion the committee would be able to obtain this information from the Defense Department.

However, as I have stated the committee learned only Friday this information would not be forthcoming and now it is a very late hour and all of the remaining time on this bill has been allocated. Unfortunately, an amendment cannot be properly considered at this late date and I would not wish to put the Members of the Senate in a position of having to vote without their having an opportunity to give some study and have a complete understanding of this situation.

However, Mr. President, it is my intention by making these remarks in the closing hours of this debate to express my view that the Defense Department has treated this entire Reserve components cut in such a way that it has had the effect of misleading the Congress.

Frankly, I doubt there are 10 Senators on this floor who realize that as a result of the hearings before the Armed Services Committee and the strength levels provided in this bill, the Senate is in effect approving a 7-percent reduction in the Army National Guard and an 11-percent reduction in the Army Reserve for the fiscal year 1975. As one Member of the Senate, I do not support such a reduction as it has not been justified to the Armed Services Committee.

An unusual set of circumstances has made this backdoor reduction possible, because in fiscal year 1974 the Congress set Reserve and Guard strength levels based on recruiting ability. Thus, the levels approved in the bill for appropriations were well below the desired levels but represented those strengths which the Defense Department believed could be recruited successfully. A similar approach was taken with this current bill, however, the 48,000 cut was proposed to be taken between the force structure and the lower levels to which the services could recruit. Thus, it is my concern the Congress is unknowingly approving an

11-percent reduction in the Army Reserve and a 7-percent reduction in the Army Guard.

Mr. President, the Senate should realize that when a 48,000-force structure reduction is taken, the only way to accomplish it is to eliminate units. This means that a number of Reserve units around the country will be eliminated. Although this decision was made by the Defense Department last fall, they claim to this day such units cannot be identified. The reason in this was an arbitrary cut and they have still not located the units to be removed from the program.

When units are removed, people are removed, and while I believe the Defense Department will try to reassign those individuals, such a reassignment is not always possible. For instance, if a unit is eliminated in Baltimore, then the members of that unit might not be willing to drive to Washington to attend a similar unit or relocate in another unit.

Mr. President, the attitude of high defense officials toward the Reserve and Guard is evident in this move. The Secretary of Defense himself has directed a study known as the total force study which is to be completed this fall. But despite this undertaking, they are going ahead and making this arbitrary reduction, which was not based on reducing units which should be inactivated, but rather as an arbitrary elimination of 48,000 from the Reserve and Guard program. This proposal was developed at the highest levels of the Defense Department and was influenced greatly by the systems analysis officials, the same office which advised Secretary McNamara in his efforts to make drastic changes in the Guard and Reserve program in the early 1960's.

It would seem to me the Defense Department should wait until its own study is completed before carrying out any reductions such as proposed during the hearings this winter. My comments on the floor today are directed toward urging the Defense Department to approach any changes in the Guard and Reserve program, some of which may be necessary and useful, in an orderly and responsible manner. There is no reason this 48,000 reduction should not be justified to the Congress, as the authority for such changes clearly rests in the Congress.

In closing, Mr. President, it is my hope the Defense Department will not go forward with this cut before first coming to the Congress and explaining the full justification for these changes.

The PRESIDING OFFICER. The bill (H.R. 14592) having been read the third time, the question is, Shall it pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Montana (Mr. METCALF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from New Jersey (Mr. WILLIAMS) 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.

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

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from Kentucky (Mr. COOK), and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

On this vote, the Senator from Kentucky (Mr. COOK) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from Kentucky would vote "yea" and the Senator from Oregon would vote "nay."

The result was announced—yeas 84, nays 6, as follows:

[No. 248 Leg.]

YEAS—84

Aiken	Fong	Montoya
Allen	Goldwater	Moss
Baker	Gravel	Muskie
Bartlett	Griffin	Nelson
Beall	Gurney	Nunn
Bellmon	Hansen	Packwood
Bennett	Hart	Pastore
Bentsen	Hartke	Pearson
Bible	Haskell	Percy
Biden	Hathaway	Proxmire
Brock	Helms	Randolph
Brooke	Hollings	Ribicoff
Burdick	Hruska	Roth
Byrd, Harry F., Jr.	Huddleston	Schweiker
Byrd, Robert C.	Humphrey	Scott, Hugh
Cannon	Inouye	Scott, William L.
Case	Jackson	Stafford
Chiles	Javits	Stennis
Cotton	Johnston	Stevens
Cranston	Kennedy	Stevenson
Curtis	Long	Taft
Dole	Magnuson	Talmadge
Domenici	Mathias	Thurmond
Dominick	McClellan	Tower
Eagleton	McClure	Tunney
Eastland	McGovern	Weicker
Ervin	McIntyre	Young
Fannin	Metzenbaum	
	Mondale	

NAYS—6

Abourezk	Fulbright	Mansfield
Clark	Hughes	Pell

NOT VOTING—10

Bayh	Hatfield	Sparkman
Buckley	McGee	Symington
Church	Metcalf	Williams
Cook		

So the bill (H.R. 14592) was passed.

Mr. STENNIS. Mr. President, I move that the vote by which the bill was passed be reconsidered.

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

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I move the indefinite postponement of S. 3000.

The motion was agreed to.

Mr. STENNIS. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives 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 (Mr. MCCLURE) appointed Mr. STENNIS, Mr. SYMINGTON, Mr. JACKSON, Mr. CANNON, Mr. MCINTYRE, Mr. THURMOND, Mr. TOWER, Mr. DOMINICK, and Mr. GOLDWATER conferees on the part of the Senate.

Mr. STENNIS. Mr. President, I ask unanimous consent that the bill which has finally been passed be printed in full with all its amendments.

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

Mr. STENNIS. Mr. President, I ask unanimous consent that the Secretary of the Senate may be permitted to make technical corrections in the bill.

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

Mr. STENNIS. Mr. President, I want to express my special appreciation for the cooperation and assistance which has been extended to me by all concerned on this legislation, from the beginning of the Senate hearings and on down until now. I especially want to thank the ranking minority member, Senator THURMOND.

As we all know, both Senator CANNON, chairman of the Tactical Air Power Subcommittee, and Senator MCINTYRE, chairman of the Research and Development Subcommittee, have also carried heavy responsibilities on this entire procurement bill in its preparation and presentation.

I should like to extend the personal appreciation of myself as well as the members of the committee for the consistent hard work performed by the able staff. Floor action is only a small portion of the time consumed in preparation of the bill. The staff worked on hearings totaling more than 5,000 printed pages and a report totaling over 150 pages. The entire staff was involved in this to some degree and I should like specifically to mention their names:

Mr. T. Edward Braswell, Jr., our chief counsel and staff director.

Mr. W. Clark McFadden, Mr. Don Lynch, Mr. Edward B. Kenney, Mr. George Foster, Mr. Hyman Fine, Mr. Charles J. Conneely, Mr. Charles Cromwell, Mr. Robert Q. Old, Mr. Francis J. Sullivan, Mr. John A. Goldsmith, Miss Nancy Bearg, Miss Christine Cowart, and Mr. James Coleman, who has handled the printing of our voluminous hearings.

Mr. President, I may say, without boasting, that members of this staff are unusually able and capable, with special competence in the fields in which they work. This bill has really been to the operating room in the work that they have done on it, in the previous work done on it, and in helping to put it back together again.

Mr. THURMOND. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I yield.

Mr. THURMOND. Mr. President, I wish to express my sincere appreciation to the able chairman for the splendid manner in which he has handled the bill from the very beginning and for his fine performance on the floor of the Senate. This is a good bill. It is not everything some of us wanted, but it is an excellent bill and will serve the country well.

I also want to express my appreciation to the following Senators on my side of the aisle: Senators JOHN TOWER, PETER

DOMINICK, BARRY GOLDWATER, WILLIAM L. SCOTT, and ROBERT TAFT and for the fine work they have done on this bill; also, Senators on the other side of the aisle, who worked together and faithfully to bring out this very good bill. Senator TOWER especially has worked from morning to night defending the committee bill, oftentimes behind the scenes, in a very important way which was reflected in the votes by which the committee prevailed on all major amendments. I commend him for his outstanding efforts in defending this bill.

To the staff I express my appreciation and join the distinguished Senator from Mississippi in his remarks about their efficiency.

Before closing it would not be appropriate to conclude without recognizing by name the able and efficient members of the staff who have worked so diligently to support the members of the committee in this floor debate.

Therefore, at this time I would like to insert in the RECORD the names of those staff members who have assisted during the consideration of this bill:

T. Edward Braswell, Jr., Phyllis A. Bacon, Nancy J. Bearg, Joyce T. Campbell, Doris S. Cline, James F. Coleman, Charles J. Conneely, Doris E. Connor, Charles Cromwell, Marie F. Dickinson, Hyman Fine, George H. Foster, Jr., John A. Goldsmith.

Edward B. Kenney, Mary G. Ketner, Don L. Lynch, W. Clark McFadden II, James R. MacRae, Gordon A. Nease, Robert Q. Old, Dorothy Pastis, Patricia K. Rinaldi, Francis J. Sullivan, John T. Ticer, Carol L. Wilson, E. Christina Winters.

Mr. STENNIS. Mr. President, I thank the Senator from South Carolina very much.

Let me also thank the other majority members of the committee, in addition to the subcommittee chairman, Senators SYMINGTON of Missouri, JACKSON of Washington, ERVIN of North Carolina, BYRD of Virginia, HUGHES of Iowa, and NUNN of Georgia. Our committee had fine cooperation and contributions were made by every member of the committee.

I yield the floor.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, under the order previously entered, the Senate is now to proceed to the consideration of S. 3523. I ask unanimous consent that I may have 2 minutes and that the distinguished Republican whip may have 2 minutes before the Senate proceeds to take up that bill.

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

Mr. ROBERT C. BYRD. Mr. President, I want to express appreciation on the part of the leadership to the distinguished Senator from Mississippi, the chairman of the Committee on Armed Services, for the splendid work that he and his committee have done on the bill that has just been passed by the Senate.

I invite attention to the fact that this bill was called up in the Senate on Friday, May 31, and that the Senate has been debating it now for 8 days.

The Senator from Mississippi has been on the floor early, and he has been on the floor late. He has debated every amendment to the bill that has been called up. He has carried the day, I think, on about every issue that has come up in connection with the bill. It is a tribute to his leadership that the Senate continues to follow his judgment on issue after issue in matters connected with the bill.

I also want to express appreciation to and commend the distinguished Senator from South Carolina (Mr. THURMOND), the ranking minority member. It is a pleasure to work with these two men in connection with this bill. They have cooperated with the leadership in the effort to work out time agreements on the amendments. Whereas it used to take the Senate 6 weeks to act on this bill, in this instance the Senate has acted in 8 days.

I know I speak the viewpoint of the distinguished majority leader in commending highly the manager of the bill and the ranking member, as well as all the members of the committee.

Mr. GRIFFIN. Mr. President, if I may join the Senator from West Virginia in paying tribute to the distinguished chairman of the committee and the ranking minority member, the Senator from South Carolina (Mr. THURMOND), the performance, the effort, the persuasion, the argument, and the result is a tribute not only to them but also to the Senate itself.

The Senate as a whole is to be commended on the bipartisan way that this very important defense bill has been approached. The votes have not reflected any party lines. The votes have reflected the genuine differences of conviction and have indicated that there is a bipartisanship about this very important issue of defense.

If any Senator had any question about the recovery of the distinguished Senator from Mississippi (Mr. STENNIS) and his physical condition, certainly has demonstrated to the Senate and to all that he is back to his old self and is doing the great job that we are accustomed to having him do. His leadership and the leadership of the Senator from South Carolina (Mr. THURMOND) are greatly appreciated by everyone on both sides of the aisle. I commend both Senators.

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

Mr. ROBERT C. BYRD. I yield.

Mr. STENNIS. I thank the Senator from West Virginia for his kind words about our committee. He mentioned that the Senate has spent only 8 days on this bill.

Mr. ROBERT C. BYRD. On the floor.

Mr. STENNIS. If it had not been for the Senator from West Virginia working with the Senator from Montana in arranging the votes and the time limitations, we would have been here 18 days or more. I mean that. I have been in this role before the Senator was able to achieve his formula with respect to these agreements. We once spent 7 weeks on this bill.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. STENNIS. I thank the Senator, and I commend him highly.

I also thank the Senator from Michigan for his fine leadership. He is always helpful and understanding. I appreciate what he has said about the bipartisanship exhibited on the floor. We function that way in our committee, also.

I again extend my thanks to the Senator from South Carolina. There could not be a finer working member on the minority.

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

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Mississippi for his comments.

Mr. President, I yield the floor.

Mr. MANSFIELD. Mr. President, I should like to join in the accolades being strewn about.

Although I have some serious disagreements as to the amount of money being spent and the application of the funds for various purposes, I do want to commend the distinguished Senator from Mississippi, the manager of the bill, and the distinguished Senator from South Carolina, the ranking Republican, for the cooperation, understanding, and consideration they have shown.

I especially thank the assistant majority leader for the many long hours put in, the hard work he performed, and the agreements he reached. Without understanding all around, we would still be on this bill.

I thank all of them, as well as the entire Senate.

Mr. THURMOND. Mr. President, I should like to take this opportunity to express my appreciation to the assistant majority leader and to the assistant minority leader for their splendid cooperation and helpfulness during the consideration of this bill. Both of them certainly have facilitated the passage of this bill.

The assistant majority leader achieved agreements that seemed impossible, but he kept at it which is his usual way of doing things. He persevered and succeeded in having this bill handled in a very reasonable length of time.

I express my appreciation to them both, and I also thank the majority leader.

Mr. PERCY. Mr. President, I ask unanimous consent that I may be recognized in order to comment on this bill.

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

Mr. PERCY. Mr. President, I should like to take this occasion to express my deep appreciation and admiration to the distinguished Senator from Mississippi and the distinguished ranking minority member of the committee.

Some of us who worked hard on the budget reform bill are in the Chamber, and I should like to point out that there was quite a difference of opinion between the House and the Senate as to whether or not we should be directed to enact our bills by May 15 or to report them. It was the strong position of the Senator from Mississippi that the Senate position should prevail. Only because of the very high regard in which he is held by both the House and the Senate were we able

to prevail, by pointing out that this year, with extraordinary effort, it was still only possible to report this very complex bill by, I believe, May 16, but that to mandate that it be enacted by such a date was totally impractical.

I think that because of the extraordinary effort put in this year to meet this deadline date and move our schedules forward, we were able to have the Senate position prevail. We all express deep appreciation for the time, the effort, and the energy put into this complex measure and the dispatch with which it has been handled.

I promised to yield first to the distinguished Senator from Ohio; then I will yield to the distinguished Senator from New Hampshire.

Mr. ROBERT C. BYRD. Mr. President, whose time is running?

The PRESIDING OFFICER. The Senator from Illinois had asked unanimous consent that he be recognized, and he is yielding to Senators.

Mr. ROBERT C. BYRD. Will the Senator put a time limitation on it?

Mr. PERCY. I am happy to yield the floor.

Mr. ROBERT C. BYRD. I have no objection to the Senator having the floor, but could he have, say, 5 minutes?

Mr. PERCY. The Senator from Ohio has asked for a half minute, and the Senator from New Hampshire has asked for 1 minute.

Mr. ROBERT C. BYRD. That makes a total of 5 minutes. [Laughter.]

Mr. PERCY. I yield half a minute to the Senator from Ohio.

PRIVILEGE OF THE FLOOR

Mr. TAFT. Mr. President, I ask unanimous consent that a member of my staff, Rod Solomon, be permitted the privilege of the floor during the debate and vote on S. 3523.

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

Mr. TAFT. Mr. President, as the newest member of the Committee on Armed Services, I would not like to be on the floor and remain silent in the expression of approval and satisfaction with respect to the way in which the committee on which I serve has executed its duties.

I commend the distinguished chairman and the distinguished ranking member and all the members of the committee, as well as the Senate, for the action on the bill.

Mr. PERCY. Mr. President, I yield to the distinguished Senator from New Hampshire.

Mr. COTTON. Mr. President, for quite a number of years—I do not know whether the other Senators know this—the distinguished Senator from Mississippi and I have had breakfast at the same time; and sometime during the morning, before we leave the breakfast room, we always kid each other a little. He has something to say about New England Yankees, and I tell him some anecdote, and we fight the Civil War over again, in a friendly manner.

I never shall forget the days and nights last year when he was in such a serious condition that we all prayed for his recovery. I never shall forget how anxious this Yankee from New England was and how fearful he was, how he hoped and prayed for the recovery of the Senator from Mississippi.

When the Senator from Mississippi returned to the Senate, we could see the effects of the long and strenuous fight he had put up to regain his health. But I have watched him in admiration and amazement the last 8 days. He is back with all his vigor and all his stamina and vitality.

On the subject of our friendly arguments about the North and the South, I just want to say that if he had been living from 1861 to 1865, I do not believe the Yankees possibly could have come out successfully, and Jeff Davis probably would have been President of the entire United States. [Laughter.]

Mr. PERCY. Mr. President, I yield to the Senator from Washington.

Mr. MAGNUSON. I merely want to say that I have listened with great interest to the rollcall votes and have observed the progress of this bill. I have a personal interest in it, as does the Senator from Mississippi. This will be the first time we start to appropriate money with an authorization.

That is a great compliment to the Senator. It has been a problem in the Committee on Appropriations all the time.

Mr. STENNIS. Mr. President, I thank my friend from Ohio. I am delighted to have him as a member of the committee. I thank the Senator from Illinois for his very generous remarks, and our genial friend from New Hampshire (Mr. COTTON), who has meant so much to me. I thank the Senator from Washington for his remarks, as well as the leader, the Senator from Montana (Mr. MANSFIELD). These agreements and the way in which we dispatch the personnel problem are very helpful. I think the arrangement has been outstanding.

NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES ACT OF 1974

The PRESIDING OFFICER (Mr. McCLURE). Under the previous order, the Senate will proceed to the consideration of S. 3523, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 3523) to establish a temporary National Commission on Supplies and Shortages.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce with amendments.

The PRESIDING OFFICER. The time for debate on this bill is limited to 2 hours, to be equally divided between the majority leader and the minority leader or their designees, with 1 hour on any amendment in the first degree, with the exception of an amendment by the distinguished Senator from Wisconsin (Mr. NELSON), on which there is a limitation of 3 hours, with a limitation on any amendment to an amendment of 30 minutes, and 20 minutes on any debatable motion or appeal.

PRIVILEGE OF THE FLOOR

Mr. PERCY. Mr. President, I ask unanimous consent that Mr. Bob Vastine, minority counsel for the Committee on Government Operations, may have the privilege of the floor during the discussion of this matter and votes.

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

Mr. FANNIN. Mr. President, will the Senator yield for a unanimous-consent request?

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, I yield myself 3 minutes on the bill.

The PRESIDING OFFICER. The time is under the control of the majority leader and the minority leader, or their designees.

Mr. MANSFIELD. Mr. President, I yield my time to the chairman of the committee and he, in turn, can keep it or yield to anyone else.

Mr. MAGNUSON. Mr. President, I wish to speak in support of the committee bill and in opposition to the amendment offered by Senators PERCY and ERVIN.

The reported bill in my view strikes a sensible balance between a number of proposals which were referred to the committee. The Mansfield bill as introduced was designed primarily to establish a temporary commission to study whether a permanent agency to monitor shortages should be created, or, if not, whether other institutional changes were needed. It differed significantly from several other proposals before the committee in that these would have established a permanent shortage monitoring entity, either as a new agency or within existing institutions, without further study.

The committee had problems with the Mansfield bill as originally introduced in that its thrust was to authorize yet another study of a matter which in the Committee's view had already been studied to death. The establishment of a shortage monitoring agency has been the recommendation of studies previously conducted by the President's Materials Policy Commission in 1952, the National Commission on Materials Policy in 1973, and the GAO in 1974. On the other hand, it was agreed that the various permanent solutions of the other legislation before the committee could, with the benefit of further study, be improved upon. The committee thus chose to steer a middle ground between the Mansfield proposal and the other bills by creating a 3-year transitional commission first, to study the problem and second, to perform the monitoring function itself until the study produced—and Congress adopted—a better institutional answer. The GAO report and the committee's hearings both documented that the administration's current monitoring machinery is uncoordinated and ineffective—witness the energy crisis, the Russian wheat deal, and other unfortunate developments which might have been avoided with proper economic forecasting. They also strongly supported the view that some centralized agency should at this moment be monitoring for shortages and that, while a permanent solu-

tion is being perfected, something ought to be in place to protect the economy against shortage-caused disruptions. The committee bill is based on these conclusions.

The Percy-Ervin proposal, which closely resembles the original Mansfield bill, is opposed by the committee essentially for two reasons. First, it returns to the notion of a Commission which is designed primarily to study institutional needs. While it is true that the Commission is directed to perform monitoring and reporting functions in addition to its studies, it would be authorized so little money under the terms of the amendment—$500,000 over 1 year—that it is truly difficult to imagine that these functions could amount to very much.

The second problem with the amendment is that under its provisions the Commission would terminate 1 year after the date of enactment. This would be so whether or not Congress had yet acted on its recommendations for permanent institutional changes. It was the committee's view that this was a dangerous way to proceed in view of the risk that Congress might fail to respond quickly to these recommendations—just as it failed to respond at all to the recommendations of the Paley Commission in 1952. To guard against the risks of a gap of several years in our monitoring capability, the committee chose to create the Commission for a 3-year life with the understanding that it would expire earlier only if its recommendations were acted on before that time.

It is this position which I believe prudence dictates and which I strongly hope the Senate will adopt.

Mr. President, I yield to the Senator from California, but I think we should clear this matter up tonight. This is a bill that was developed by the leadership.

Mr. MANSFIELD. In both Houses, with both parties.

Mr. MAGNUSON. Yes; and then it was sent to the Committees on Government Operations and Commerce where we looked it over. I understand that the Committee on Interior and Insular Affairs also has an interest in it.

The Committee on Commerce, being the only committee to report the bill, reported it to the Senate with very minor amendments. We suggested a 3-year period, but the Senator from Illinois and other Senators want the 1-year temporary commission. If this is the case it will only be a study commission. There have been enough studies of this matter.

The Senator from Wisconsin and the Senator from Colorado have an important amendment. It involves recommittal to the committee with substantial changes to the bill.

The Senator from Wisconsin has told me he thinks we will not have a vote tonight on his amendment. I should think that the matter of the time might be put over until tomorrow.

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

Mr. MAGNUSON. I yield.

Mr. MANSFIELD. I hope that we may get a vote on the Percy amendment tonight, because there is a limitation of not to exceed 1 hour. Then there is the Nelson-Haskell amendment, with the time to begin tomorrow.

Mr. NELSON. That is fine. All that I desire is that we may be permitted to place in the RECORD our statements on the bill so they will be available for those who look at the RECORD tomorrow.

We are agreeable to setting a time certain for a vote tomorrow, and we are agreeable to having our time start running tomorrow. We probably will not use the 3 hours.

Mr. PERCY. Mr. President, for clarification, the bill was submitted simultaneously to both committees, the Committee on Commerce and the Committee on Government Operations, on May 22. The Senator asked for recognition for the purpose of submitting an amendment this evening, to have a vote on that amendment; and obviously any other amendments can be laid before the Senate, printed, and studied.

Mr. MAGNUSON. Mr. President, the distinguished Senator from California chaired the hearings on related bills before our committee on this issue. The Mansfield proposal came up quickly, although we had the idea in our committee for a long time. The distinguished Senator from Michigan testified at our hearings and informed us of the leadership meeting. We reported the Mansfield bill with few changes except for the date of the Commission.

I am going to turn over the time I have remaining to the Senator from California, who did the major work on this issue for the Committee on Commerce.

I think we can dispose of the time element tonight, and tomorrow morning we will take up with whatever time limitation the Senate wishes.

Mr. GRIFFIN. Mr. President, if the Senator from Washington will yield to me, I wish to yield to the Senator from Arizona for a unanimous-consent request.

Mr. MAGNUSON. I yield the floor.

Mr. FANNIN. I thank the Senator.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. FANNIN. Mr. President, I ask unanimous consent that Ron Frank, Brad Koontz, Knowland McKean, Fred Craft, and Harrison Loesch may have the privilege of the floor during the discussion of this legislation.

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

Mr. GRIFFIN. Mr. President, I ask unanimous consent that David Clanton be permitted the privilege of the floor during the consideration of this matter.

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

Mr. MAGNUSON. Mr. President, I yield to the Senator from California who, in turn, will probably yield to the Senator from Illinois to present his amendment.

Mr. PERCY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PERCY. Mr. President, it is my understanding that the Senator from Illinois was recognized and that he yielded 2 or 3 minutes to the Senator from Washington. The Senator from Illinois would like to have the floor back so that he can send to the desk an amendment for consideration.

The PRESIDING OFFICER. The time is under the control of the majority leader and the minority leader, or their designees. The majority leader has designated the Senator from Washington, who released his time to the Senator from California, and the minority leader is represented by the Senator from Michigan (Mr. GRIFFIN).

Mr. GRIFFIN. Mr. President, since the major issue today will be the amendment of the Senator from Illinois, I yield the time today to the Senator from Illinois.

Mr. PERCY. I thank the Senator.

Mr. TUNNEY. Mr. President, it is my understanding that the Senator from Washington was recognized and that he yielded his time to me. I should like to present the bill to the Senate before we start amending it. We are going to have amendments, but the bill has not yet been discussed. The committee amendments have yet to be accepted by unanimous consent, so before we start considering other amendments we should make a presentation on the bill.

The PRESIDING OFFICER. The Senator from California has not been recognized by the Chair. The Senator from Illinois had been recognized. Does the Senator from Illinois yield?

Mr. PERCY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PERCY. Mr. President, would it be in order for the Senator from Illinois to offer his amendment and then yield time to the Senator from California for the submission of technical amendments? We have 1 hour on the amendment. The Senator from Illinois would take only 10 to 15 minutes.

The PRESIDING OFFICER. The Chair will state to the Senator from Illinois that it is not in order at this time to offer amendments until the committee amendments have been disposed of.

Mr. PERCY. I see.

Mr. TUNNEY. If the Senator wishes me to proceed I can have the committee amendments accepted and make a brief statement as to the nature of the bill and then yield to the Senator from Illinois. Is that acceptable?

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. NELSON. Mr. President, will the Senator from California yield for an inquiry?

Mr. TUNNEY. Yes.

Mr. NELSON. The Senator from Colorado and I have some material to put in the RECORD that explains our position on the bill. We have a joint statement we would like to have in the RECORD so that it will be available for Senators to read tomorrow morning. I wonder if it would be all right to permit us about 4 minutes before the discussion of the amendment of the Senator from Illinois is started, so that we can get the material into the RECORD.

Mr. TUNNEY. I have already indicated to the Senator from Illinois that

after I complete my brief presentation I will yield to him, so it is up to him.

Mr. PERCY. I have a commitment shortly after 5 o'clock.

I will yield 2 minutes to the Senators to put that material in the RECORD.

Mr. TUNNEY. Mr. President, first I ask unanimous consent that the following staff members be granted floor privileges during debate on the bill and votes: Mr. Len Bickwit, Ms. Linda McCorkle, Mr. Michael Brownlee, Dr. Lawrence Asch, and Mr. Dan Jaffe.

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

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

The PRESIDING OFFICER. Without objection, it is so ordered. The committee amendments agreed to en bloc are as follows:

On page 1, line 3, strike out "SHORT TITLE"; at the beginning of line 4, strike out "SECTION 1. This" and insert "That this"; at the beginning of line 5, strike out "Temporary"; in line 9, after the word "a", strike out "Temporary" and insert "National"; on page 2, line 3, after the word "of", strike out "42" and insert "thirteen"; in the same line, after the word "selected" insert "for a term of three years or for such shorter period of time as such Commission shall continue in existence (except that any individual appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term)"; in line 12, after the word "appoint", strike out "4" and insert "five"; on page 3, line 6, after (1)", insert "of this section"; at the beginning of line 17, strike out "upon completion of its investigation"; in the same line, after the word "make", strike out "a report to" and insert "reports to"; on page 4, line 5, after the word "in", strike out "clause" and insert "paragraph"; in the same line, after "(1)", insert "of this subsection"; after line 7, insert:

(3) existing policies and practices of government which may tend to affect the supply of natural resources and other commodities;

At the beginning of line 11, strike out "(3)" and insert "(4)"; in line 12, after the word "to", strike out "clauses" and insert "paragraphs"; in the same line, after "(2)", insert "and (3)"; in line 13, after the amendment just stated, insert "of this subsection"; in line 17, after the word "a", strike out "continuing and"; in the same line, after the word "comprehensive", insert "data collection and storage system to aid in"; in line 23, after the word "appropriate", strike out "and" and insert "but"; in the same line, after the word "a", strike out "final"; in the same line, after the word "with", strike out "its"; on page 5, line 1, after "December 31", strike out "1974" and insert "1974, and at least once every 6 months thereafter"; in line 11, after the word "regulations", insert "as"; in line 13, strike out "have the power to—"; in line 15, after the word "at", strike out "not to exceed, $40,000 per annum" and insert "the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code"; in line 23, after the word "and", insert "the"; in line 25, after "(2)", insert "be authorized to"; and, on page 6, line 15, after the word "appropriated", strike out "$250,000 as may be necessary to carry out the provisions of this Act" and insert "not to exceed $1,000,000 for each of the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977"; so as to make the bill read:

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

That this Act may be cited as the "National Commission on Supplies and Shortages Act of 1974."

ESTABLISHMENT OF COMMISSION

SEC. 2. (a) There is established as an independent instrumentality of the Federal Government a National Commission on Supplies and Shortages (hereinafter referred to as the "Commission"). The Commission shall be comprised of thirteen members selected for a term of three years or for such shorter period of time as such Commission shall continue in existence (except that any individual appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term) as follows:

(1) The President, in consultation with the majority and minority leaders of the Senate and the majority and minority leaders of the House of Representatives, shall appoint five members of the Commission from among persons in private life.

(2) The President shall designate four senior officials of the executive branch to serve without additional compensation as members of the Commission.

(3) The President of the Senate, after consultation with the majority and minority leaders of the Senate, shall appoint two Senators to be members of the Commission and the Speaker of the House of Representatives, after consultation with the majority and minority leaders of the House of Representatives, shall appoint two Representatives to be members of the Commission. Members appointed under this paragraph shall serve as members of the Commission without additional compensation.

(b) The President, in consultation with the majority and minority leaders of the Senate and the House of Representatives shall designate a Chairman and Vice Chairman of the Commission.

(c) Each member of the Commission appointed pursuant to subsection (a)(1) of this section shall be entitled to be compensated at a rate equal to the per diem equivalent of the rate for an individual occupying a position under level III of the Executive Schedule under section 5314 of title 5, United States Code, when engaged in the actual performance of duties as such a member, and all members of the Commission shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

FUNCTIONS

SEC. 3. (a) It shall be the function of the Commission to make reports to the President and to the Congress with respect to—

(1) the existence or possibilty of any long- or short-term shortages or market adversities affecting the supply of any natural resources, raw agriculture commodities, materials, manufactured products (including any possible impairment of productive capacity which may result from shortages in materials, resources, commodities, manufactured products, plant or equipment, or capital investment) and the reason for such shortages or adversities;

(2) the need for, and the assessment of, alternative actions necessary to increase the availability of the items referred to in paragraph (1) of this subsection, or to correct the adversity affecting the availability of any such items;

(3) existing policies and practices of government which may tend to affect the supply of natural resources and other commodities;

(4) the means by which to coordinate information with respect to paragraphs (1), (2), and (3) of this subsection.

(b) The Commission shall include in its reports specific recommendations with respect to institutional adjustments, including the advisability of establishing an independent agency to provide for a comprehensive data collection and storage system to aid in examination and analysis of the supplies and shortages in the economy of the United States and in relation to the rest of the world.

(c) The Commission may prepare and publish such periodic reports and recommendations as it deems appropriate but shall transmit a report with recommendations, to the President and the Congress not later than December 31, 1974, and at least once every 6 months thereafter.

ADVISORY COMMITTEES

SEC. 4. The Commission is authorized to establish such advisory committees as may be necessary or appropriate to carry out any specific analytical or investigative undertakings on behalf of the Commission. Any such committee shall be subject to the relevant provisions of the Federal Advisory Committee Act.

POWERS

SEC. 5. (a) Subject to such rules and regulations as it may adopt, the Commission, through its Chairman, shall—

(1) appoint and fix the compensation of an Executive Director at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code, and such additional staff personnel as is deemed 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 the General Schedule under section 5332 of such title; and

(2) be authorized to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

(b) The Commission or any subcommittee thereof is authorized to hold such hearings, sit and act at such times and places, as it may deem advisable.

ASSISTANCE OF GOVERNMENT AGENCIES

SEC. 6. Each department, agency, and instrumentality of the Federal Government, including the Congress, consistent with the Constitution of the United States, and independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman, such data, reports, and other information as the Commission deems necessary to carry out its functions under this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There is authorized to be appropriated not to exceed $1,000,000 for each of the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977.

Mr. TUNNEY. Mr. President, the purpose of S. 3523 is to establish a National Commission on Supplies and Shortages to facilitate more effective and informed responses to shortages of natural resources, commodities, and foodstuffs.

The economic and ecological events of the past two decades threaten not only the American standard of living but the survival of man from a world perspective. Shortsighted emphasis on continual growth has led to inflation, shortages and a lower quality of life. In the past year, we have experienced shortages of energy, plastics, fertilizer, and food. Our

Government was totally unprepared to anticipate or avert the severe disruptions caused by these shortages. Our purpose here today is to legislatively create a mechanism which will equip us to better manage shortage situations in the future.

Due to the depletion of our mineral and raw materials deposits, the United States is faced with a growing dependence on foreign producing countries for essential natural resources. For example, the United States is dependent on imports for its major supply of 6 to 13 basic raw materials: Chromium, nickel, rubber, aluminum, tin, and zinc. By 1985, the country will depend on imports for more than half of its iron, lead, and tungsten. By the year 2000, imports will have to supply more than half of our copper, potassium, and sulfur. If present trends continue, we will face a $100 billion deficit in our minerals balance of payments.

In addition, the governments of producing countries are playing a more active role and are trying to increase their profits by considering the creation of international organizations modeled after the oil petroleum exporting countries—OPEC. Copper, bauxite, coffee, and bananas are examples of products where this is being attempted. Government stockpiles of essential resources and materials have been substantially reduced.

Furthermore, the minerals shortage is only part of our problem. Food scarcity is becoming a worldwide crisis. Expotential growth of world population increases the demands on the Earth's resources and broadens the problem to world scarcity. Without proper planning for this explosive growth we are inevitably headed toward disaster. The energy crisis will be only the first in a series of catastrophic events unless we develop the capability to plan ahead to avert future crises of material and resource supply.

Our failure to anticipate the energy crisis was not due to a lack of statistics, but to the absence of a mechanism for coordinating statistics, developing a careful analysis, and presenting the issue forcefully to key decisionmakers in the executive branch and Congress. A lack of coordination and official awareness continues to exist regarding information on other essential resources and products.

Just 6 weeks ago, the General Accounting Office reported the results of a comprehensive, 7-months study of resource information in the Federal Government. The GAO found that although a wealth of information is currently available on resources and industrial supplies, it is scattered among more than 50 agencies of the Federal Government. The dispersion of information and expertise prevents timely identification of future trouble spots or shortages in the economy. Information is not systematically coordinated, analyzed, or disseminated. No one agency is responsible for current and future appraisals of the status of resources. We, as a nation, are not equipped to plan for the next crisis.

The need for wiser policy choices regarding world resources and the need for forecasting the supply and demand of essential resources and foodstuffs has been recognized numerous times. Twenty-two years ago the President's Materials Policy Commission, better known as the Paley Commission, recognized these needs and recommended that a mechanism be established for interrelating supply policies and information on resources.

Similar conclusions were reached in June of 1973 by the National Commission on Materials Policy. It recommended that a Cabinet-level agency be established for materials, energy, and the environment. Realizing the difficulty of an immediate comprehensive governmental reorganization, the Commission recommended creation of an interim agency to coordinate information and policy until permanent changes would be instituted. The Commission report emphasized the need for the immediate development of a continuing organization to anticipate and avert shortages. The legislation before us today would fulfill this goal.

The Commerce Committee endorses S. 3523, with amendments, because we believe further study of whether or not an entity should be monitoring the supply and demand of resources is not needed; 20 years of study is enough. Prior to the introduction of S. 3523 by our distinguished leader from Montana (Mr. MANSFIELD), 3 days of joint hearings were held by the Commerce and Government Operations Committees to consider related legislation—S. 2966, amendments Nos. 1069 and 1195 thereto, and S. 3209. At those hearings all witnesses, other than those for the administration, criticized the processes which now exist for handling shortages. The sentiment expressed by the members of both committees at the hearings was that a new institutional mandate or agency is needed. There is no question in my mind that this is the time to develop a comprehensive materials policy and systematic planning process.

The bill as reported would help Government decisionmakers to better avert or prepare for economic disruptions and possible shortages of essential resources. S. 3523 establishes an independent National Commission to report to the President and Congress on the existence or prospect of shortages of any natural resources, raw agriculture commodities, materials, or manufactured products and to report on institutional adjustments for examining and predicting shortages.

The Commission would be comprised of 13 members, each serving for a 3-year term or shorter period of time if the Commission terminates. Five members would be chosen from private life, four from Congress, and four senior officials from the executive branch of Government. The Commission would be required to report on December 31, 1974, and at least every 6 months for the next 3 years on first, the existence or possibility of shortages or market adversities; second, ways to increase materials in short supply or correct the adversities; third, existing Government policies affecting the supply of resources; fourth, the means for coordinating information on shortages; and fifth, institutional adjustments for handling shortages.

You have before you in addition to the committee bill, a letter dated June 10 from the Senate leaders endorsing an amendment offered by Senator ERVIN and Senator PERCY. The effect of this amendment, as I understand it, would be to limit the Commission's life to 1 year. The Senate should carefully consider the view of the Commerce Committee that a 3-year authorization is essential if we are to avoid creating an agency whose life span is too short to allow it to take meaningful action. We need an agency that can act, not an agency that can only produce just another study. Senator MANSFIELD himself addressed our committee on May 9 on the need for such an instrumentality stating:

> It should be a continuing instrumentality equipped, first, to draw on information from all sources on the status of resources, materials and commodities and other aspects of our economy . . . Secondly, it must have the means to forecast the problems by drawing information out of the present massive but fragmented system. Thirdly, it must have the capacity to convert its projections into recommended policy options that might embrace such measures as conservation, research, stockpiling, allocation, modernization, manpower, export controls, and whatever else may be necessary to keep vital, the nation's economy. Finally, it must be in a position to keep vital, the nation's economy. Finally, it must be in a position to report its findings and an analysis of proposed remedies to the President and the Congress—the ultimate arbiters of policy and the sources of action for the Federal Government.

The committee agrees with these comments. Let me emphasize Senator MANSFIELD'S words that it should be a continuing instrumentality. One year is inadequate. We urge the Senate to adopt the bill as reported.

I reserve the remainder of my time.

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

Mr. PERCY. Mr. President, I send my unprinted amendment to the desk.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk proceeded to read the amendment.

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

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

The amendment is as follows:

On page 2, lines 3 and 4, strike out "a term of three years or for such shorter" and insert in lieu thereof "such".

On page 4, line 14, strike out "include in its reports" and insert in lieu thereof "report within six months of the date of enactment of this Act to the President and Congress".

On page 4, beginning with line 21, strike out all through line 2 on page 5, and insert in lieu thereof the following:

"(c) The Commission may, until June 30, 1975, prepare, publish and transmit to the President and Congress such other reports and recommendations as it deems appropriate."

On page 6, strike out lines 15 through 18 inclusive and insert in lieu thereof the following:

"SEC. 7. There is authorized to be appropriated not to exceed $500,000 for the fiscal

year ending June 30, 1975, to carry out the provisions of this Act."

Mr. PERCY. Mr. President, I have offered, on behalf of Senator ERVIN, the distinguished chairman of the Government Operations Committee, the joint leadership of the Senate, and Senator JAVITS and Senator BROCK, an amendment to S. 3523, as reported by the Commerce Committee on June 5.

S. 3523 was introduced by Senators MANSFIELD, HUGH SCOTT, ROBERT C. BYRD, GRIFFIN, JAVITS, and BROCK on May 22 and referred jointly to the Committee on Government Operations and the Commerce Committee to be reported no later than June 5. The Commerce Committee, which had earlier held hearings on the bill jointly with the Government Operations Committee, reported the bill with amendments.

As introduced, S. 3523 created a 6-month temporary Commission on National Supplies and Shortages, with an authorization of $250,000. The primary responsibility of the temporary Commission was to recommend to Congress, in a final report on December 31, 1974, an appropriate organizational framework to respond to shortages of raw materials. This temporary Commission proposal was fully supported by the administration with whose representatives it had been negotiated by the joint leadership of the Senate and House.

The Commerce Committee amended the bill to create a strikingly different kind of organization.

I am happy to yield to the Senator from Wisconsin for 2 minutes.

Mr. HASKELL. Mr. President, if the Senator will yield, I ask unanimous consent to have printed in the RECORD, in advance of our statement, a letter signed by the Senator from Wisconsin (Mr. NELSON) and myself, dated June 11, and addressed to our colleagues.

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

U.S. SENATE,
Washington, D.C., June 11, 1974.

DEAR COLLEAGUE: The Senate will begin consideration today or tomorrow of S. 3523, a bill to establish a Temporary National Commission on Supplies and Shortages. As reported June 5 by the Committee on Commerce (S. Rept. No. 93-904), the bill would establish a Commission of 13 members, including 4 from the Congress, 4 from the Executive Branch and 5 from the private sector, to study and monitor the world commodities situation in total, global perspective.

No task is more urgent. The world is suffering from shortages of protein, energy and metals, and the situation is more likely to get worse than better. The intention of the distinguished sponsors of S. 3523, and of the Commerce Committee, to respond to the problem of impending crises in resources and materials is admirable. However, we believe that S. 3523 can and should be significantly strengthened before it is passed.

To that end we are proposing major substantive amendments, printed as Amendment No. 1406. This letter summarizes the weaknesses we perceive in the bill as reported, and the ways in which Amendment No. 1406 would lessen or eliminate those weaknesses.

The Committee has recommended that the adjective "Temporary" be dropped from the title of the new Commission—and of the bill. Nevertheless, the charge to the National Commission on Supplies and Shortages, as contained in section 3 of the bill, remains one that better fits a temporary group created to study grave problems for a short time and on a generally academic basis than a permanent agency created to monitor those problems on a continuing and detailed basis.

We find especially unfortunate the direction to the Commission, in subsection (b) of section 3, page 4, lines 16–20, that it report on "the advisability of establishing an independent agency to provide for a comprehensive data collection and storage system to aid in examination and analysis of the supplies and shortages in the economy of the United States and in relation to the rest of the world."

That question has already been answered, again and again, following official studies by competent and prestigious persons. The answer is always: Yes, such a system is needed.

That answer was first given by the President's Materials Policy Commission (the "Paley Commission") back in 1952—22 years ago. Similar recommendations were contained in the 1973 final report of the National Commission on Materials Policy and in the General Accounting Office's April 29, 1974, report entitled "U.S. Actions Needed To Cope With Commodity Shortages."

The materials and resources monitoring system recommended by the Paley Commission is clearly needed today, even more urgently than it was 22 years ago, and is completely practicable. The characteristics and functions of the Paley-recommended system would include the following.

1. It would be a continuing, permanent "mechanism for looking at the problem as a whole, for keeping track of changing situations and the interrelation of policies and programs."

2. It would be "a Federal agency near the top of the administrative structure."

3. It would maintain, on a continuing basis, a forward audit of the resources and materials picture, more detailed than the one-time audit the Paley Commission undertook and expressly "directed at least 10 years ahead of current activity and look as far ahead as 25 years."

4. It would "collect and collate the facts and analyses of various agencies."

5. It would "recommend appropriate action for the guidance of the President, the Congress, and the Executive agencies."

6. It would "be concerned with such subjects as the total pattern of activities in the materials and energy field, the relationships of individual programs to each other."

7. The "scope and dimensions of foreign production materials programs and their relationship to domestic programs" would be among the agency's continuing concerns.

8. It would also continuously consider "the probable effects of current production programs on the long-term materials position (and) the selection and development of current programs in the light of long-term requirements."

9. It would consider "programs for both scientific and technological research on materials, and their interrelations."

10. The "relationship of materials policy to manpower, and to fiscal and foreign policies which may in various measure bear on materials" would be among the permanent concerns of the Paley-recommended agency.

11. And it would "issue periodic reports so that Government, business, and the general public could be kept informed of leading developments in all the related materials fields. It would hold a watching brief for the entire field of materials policy."

These prescriptions of the Paley Commission are cited with approval in the Commerce Committee's report—but they are far from filled by the language of the reported bill.

Even if it is the Committee's thought that secton 3 of the bill—by the most generous, inferential reading—will authorize the new Commission to be and do everything described in the foregoing list, the Committee has not seen fit to give the Commission the tools it would plainly need to be and do so much.

Those tools would include, at a minimum, the power to compel production of documents and testimony from not-always-cooperative but indispensable repositories of vital information; power to make rules and regulations and to issue orders, subject to administrative and judicial review and procedural safeguards; power to establish and operate (as opposed to a direction to report on the advisability of) a sophisticated electronic system for the storage, retrieval and analysis of data; power to generate some original data; and power to verify independently data provided by others.

None of these powers are given to the Commission in the reported bill. In Amendment No. 1406, all of these powers would be given to the Administrator of a National Resources and Materials Information System, which would be established and initiated by the Commission but would outlive it, as a permanent instrumentality.

Also, of course, any such instrumentality would need adequate funding, and the reported bill's authorization of $1 million a year for three years seems clearly inadequate. Amendment No. 1406 would authorize $15 million a year for each of three years, allocated 1/10 each year to the general purposes of the Commission and 9/10 to setting up and operating the electronic data system.

Another shortcoming of S. 3523 is its failure to set out any guidelines whatever on the handling of classified and proprietary data. Amendment No. 1406 addresses this sensitive and important area in detail (in section 208), attempting to strike a reasonable balance between the corporate interests in maintaining as much data as possible in confidence and the public interest in making as much data as possible widely available, to policy makers and to the public itself.

Amendment No. 1406 is patterned on a bill (S. 2782, the "Energy Information Act") in its fifth-draft version in the Interior Committee's still-continuing mark-up process. Hence, this amendment represents a balanced consideration of the suggestion of a wide variety of interests on the many sensitive issues.

Because of its length and important substance, we would not ourselves advocate the adoption of Amendment No. 1406 as a Floor amendment; but, because of the weaknesses of S. 3523 we have described—which seem both unfortunate and unnecessary in this summer of crisis and concern—we also are opposed to passage of S. 3523 as reported.

Accordingly, we intend to seek unanimous consent, and, failing that, formally to move that S. 3523 be recommitted to the Commerce, Government Operations and Interior Committees, with instructions to report the bill back, with the recommendations on our proposed amendment, on or before July 19, the committees to be discharged of the bill and amendment on that date in any event.

By this route, the Senate will have at least explored whether it cannot and should not, as we think it can and should, act this summer on the now-familiar answer ("Yes") to an old familiar question ("Do we need a comprehensive resources and materials information system?") rather than merely asking yet another Commission to study the question yet another time.

We hope that you may be able to support our effort to recommit S. 3523, with instructions.

Sincerely,

FLOYD K. HASKELL,
GAYLORD NELSON,
U.S. Senators.

LET'S GIVE THE SUPPLIES AND SHORTAGES COMMISSION THE TOOLS IT NEEDS TO DO ITS URGENT WORK

Mr. NELSON. Mr. President, I make the following joint statement on behalf of myself and the Senator from Colorado (Mr. HASKELL).

On last Friday, June 7, I sent to the desk, to be printed, an amendment which I intend to propose, on behalf of Senator HASKELL and myself, to S. 3523, a bill to establish a temporary National Commission on Supplies and Shortages. The amendment is numbered 1406.

Unless some such amendment is adopted, I shall, regretfully, be unable to support the bill, despite the enormous importance of its subject and the excellent intentions of its sponsors.

S. 3523 was introduced on May 22 by the Senator from Montana (Mr. MANSFIELD), the majority leader, on behalf of himself and the entire bipartisan leadership of the Senate and the House. It was drafted during and as a result of extended consultations between the congressional leadership and the top officials of the administration concerned with shortages of natural resources and materials, present and threatened.

When the bill was introduced, the distinguished majority leader requested and obtained unanimous consent that it be referred jointly to the Committee on Commerce and the Committee on Government Operations with instructions to report it back to the Senate on or before June 5, or to be discharged on that date, with the bill then being placed on the calendar with or without a committee report; RECORD, May 22, pages 15967–70.

The bill was reported Wednesday, June 5, with amendments, by the Committee on Commerce—S. Rept. No. 93–904—and has been placed on the calendar. The Committee on Government Operations did not join in that report or file one of its own. The bill, nevertheless, is on the calendar and may be considered at any time.

URGENT SUBJECT

The sense of urgency with which, and the high levels at which S. 3523 has been prepared and considered to date are altogether appropriate to its subject.

The subject is less than the essential materials for human survival, let alone progress: food, minerals, fuels, water—every resource and commodity. There is no assurance that we are going to have enough of any of them for an exploding world population. There are strong signs we shall not have enough of many of them. As the distinguished Senator from Montana pointed out when he introduced this bill, the distinct possibility that we will run out of essential resources has been noted by experts for at least 25 years. In fact, the predictions of many experts to that effect date back many decades.

No intelligent person could quarrel with the proposition that it is time, and past time, for the Congress to take urgent action to deal with the problem of resources and materials shortages.

There can also be no serious quarrel with the assumption of S. 3523 that the question of just what to do is sufficiently complex and controversial to warrant referral, with instruction to move quickly, to the type of high-level commission that S. 3523 would set up.

But there can be, there should be, and there will be earnest argument over one of the questions this bill would ask the new high-level Commission on Supplies and Shortages to address.

Under the bill as reported, the commission would be asked to consider and report on:

The advisability of establishing an independent agency to provide for a comprehensive data collection and storage system to aid in examination and analysis of the supplies and shortages in the economy of the United States and in relation to the rest of the world.

Frankly, Mr. President, for the Congress to be referring that question at this hour to a new study commission is astonishing. It is almost dismaying.

Just because a question is troublesome and still politically controversial; just because the answer to such a question is inconvenient or threatening to many persons, is no reason and no excuse to act as though the answer were not yet in, when it is in.

AN ANSWERED QUESTION

Mr. President, the answer to the question, "Is it advisable to establish an independent agency to provide for a comprehensive data collection and storage system to aid in examination and analysis of the supplies and shortages in the economy of the United States and in relation to the rest of the world?" is in. It has been provided to the Congress and the country after thorough study, not once but several times, by learned, competent and prestigious persons.

The answer is "yes."

It is now incumbent on the Congress not to repeat the question but to act upon the answer, to set up the system. I will have to vote against any bill which, in June 1974, asks a new study commission to address that question.

To support such a bill, unamended, would be to condone a substitute for action, a postponement of action, when action itself is what is desperately needed, and when the needed action is well known and entirely practicable.

Mr. President, the majority leader himself recounted, upon introducing S. 3523, some high points in the long history of consideration of that question. In the first column of page S8809 of the May 22 RECORD, Senator MANSFIELD put it, most trenchantly, as follows:

How are we equipped—or ill-equipped—to address the next crisis in resources or materials or commodities that may engulf the Nation? What we have explored in our joint congressional-executive efforts is the possibility of creating an instrumentality which would, first, perceive what the fundamental needs of the Nation will be now and in the years ahead and then sort out the information that relates thereto and, finally, provide alternative policy recommendations that might help us—in the Congress and in the executive branch—to take the action deemed essential to avert catastrophes and to minimize hardships in the future.

That is a generally good statement of the issue. But it should not be put in terms of "exploring the possibility." It not only is possible, but practicable and feasible now.

In the age of the computer, of transportation and exploration by air and by Earth satellite, of light-fast instant communication, of enormous quantities of available and existing data, of large and growing numbers of scientists and other professionals it is completely possible. It also happens to be essential that the Congress, this year, not next year, create, as Senator MANSFIELD put it:

An instrumentality which would, first, perceive what the fundamental needs of the Nation will be now and in the years ahead and then sort out the information that relates thereto and, finally, provide alternative policy recommendations that might help us—in the Congress and in the executive branch . . . to take the action deemed essential to avert catastrophes and to minimize hardships in the future.

In the same column of the CONGRESSIONAL RECORD, Senator MANSFIELD posed that vital question. He pointed out that it had been answered by the President's Materials Policy Commission—the Paley Commission, as it was called—22 years ago, in 1952. And he read that Commission's answer into the RECORD. In Senate report No. 93–904, the Commerce Committee used the same quotation at even greater length, as follows:

For all its wide diversities the materials problem is indivisible. There must be, somewhere, a mechanism for looking at the problem as a whole, for keeping track of changing situations and the interrelation of policies and programs. This task must be performed by a Federal agency near the top of the administrative structure . . .

Please note the reiteration of the word "must," Mr. President:

Such an agency should review all areas of the materials field and determine how they can best be related to each other. It should maintain, on a continuing basis, the kind of forward audit which has been this Commission's one-time function, but more detailed than has been possible here; collect and collate the facts and analyses of various agencies; and recommend appropriate action for the guidance of the President, the Congress, and the Executive agencies.

No single organization is today discharging these overall functions. In this Commission's opinion, this lack must be made good. . . . The forward audit of the proposed organization should be directed at least 10 years ahead of current activity and look as far ahead as 25 years . . .

The organization proposed would be concerned with such subjects as the total pattern of activities in the materials and energy field, the relationships of individual programs to each other; the scope and dimensions of foreign production materials programs and their relationship to domestic programs; the probable effects of current production programs on the long-term materials position; the selection and development of current programs in the light of long-term requirements; programs for both scientific and technological research on materials, and their interrelationships; and the relationship of materials policy to manpower, and to fiscal and foreign policies which may in various measure bear on materials . . .

Such an organization should issue periodic reports so that Government, business, and the general public could be kept informed of leading developments in all the related materials fields. It would hold a watching brief for the entire field of materials policy.

There, clearly and sharply delineated, is the answer. The urgency is far greater

now than 22 years ago. We cannot afford further delay.

The same answer, in substance, was given in the 1973 report of the National Commission on Materials Policy and in the 1974 report on "U.S. Actions Needed to Cope with Commodity Shortages," issued by the General Accounting Office.

In an exhibit to this statement, I am including several extended excerpts from the GAO report; but here is one key conclusion:

We believe that the U.S. Government does not now have an adequate planning, policy analysis, and policy formulation system for basic commodity issues. In our opinion, existing executive branch programs do not provide a coordinated process and mechanism for dealing effectively with short-range commodity problems. . . . They do not provide or coordinate the information needed for adequate forecasting of future supply and demand situations.

While the GAO report does not endorse any specific legislative proposal and does indicate a need for some further study, the Comptroller General himself, Mr. Staats, testifying before the Commerce Committee on April 29, indicated a personal belief that S. 3209, the National Resources Policy Act, came closest to the mark. That bill, and S. 2782, the Energy Information Act, at least have the virtue of proposing distinct action now, whereas S. 3523, while termed an action measure, is in actuality far more a "further study" measure.

SPONSORS' EXPLANATION

Now I completely understand that the bill's sponsors and proponents do not see the bill in quite this way. It is the opinion of the distinguished majority leader and of the Commerce Committee, as I read Senator MANSFIELD'S remarks and the committee's report, that S. 3523 does in fact represent action on the recommendations of the Paley Commission and the later groups, and is not merely a mandate to repeat the earlier studies. As I see it, that perception is partly correct, but in important ways incorrect.

The new Commission which S. 3523 would create is seen by the bill's sponsors and the committee as, first and foremost, an actual resources and materials monitoring agency at the top levels of Government, charged with looking at the total, global picture, and that it, therefore, is in fact an affirmative action response to the Paley Commission's recommendation of 1952, which both Senator MANSFIELD and the committee have quoted with such complete approval and agreement.

If I shared their perception of the Commission's functions and powers as set forth in the bill as reported, not the report language, I would join them in support of this measure. But the fact is that the charge to the Commission and the functions and powers of the Commission, and above all the budget of the Commission, as stated in the reported bill, simply do not fill the Paley Commission's prescription.

A WEAK INSTRUMENTALITY

Let us compare the criteria set forth in the quoted language from the Paley report with the charges to and the functions and powers and budget of the Commission which S. 3523, as reported, would create.

First, the Paley Commission recommended that the instrumentality it envisaged be "a Federal agency near the top of the administrative structure," charged with—

Looking at the problem as a whole, (with) keeping track of changing situations and the interrelation of policies and programs. . . . It should maintain, on a continuing basis, the kind of forward audit which has been this Commission's one-time function.

It is arguable whether a Commission, even with representatives of the Cabinet departments, the public, the Senate and the House among its 13 members, is likely to be widely regarded as or become "a Federal agency near the top of the administrative structure." Even if such a Commission were established as a permanent, continuing body—which this Commission will not be—the fact that all its members were part-time, all with many other and diffuse responsibilities, would militate against its ever acquiring the kind of real power and recognition, expertise and authority that the Paley Commission obviously believed would be needed by the agency it recommended.

In addition to the duties just mentioned, the Paley Commission thought that the permanent agency it wanted to see "near the top of the administrative structure" should be able to conduct its continuing audit of resources and materials on a basis—

More detailed than has been possible here; collect and collate the facts and analyses of various agencies; and recommend appropriate actions for the guidance of the President, the Congress, and the Executive agencies . . .

The organization proposed would be concerned with such subjects as the total pattern of activities in the materials and energy field, the relationships of individual programs to each other; the scope and dimensions of foreign production materials programs and their relationship to domestic programs; the probable effects of current production programs on the long-term materials position; the selection and development of current programs in the light of long-term requirements; programs for both scientific and technological research on materials, and their interrelations; and the relationship of materials policies to manpower, and to fiscal and foreign policies which may in various measures bear on materials.

In response to that 22-year-old prescription, the charge to the new, temporary commission which S. 3523 would create, in the form the bill was reported would be as follows:

SEC. 3. (a) It shall be the function of the Commission to make reports to the President and to the Congress with respect to—

(1) the existence or possibility of any long- or short-term shortages or market adversities affecting the supply of any natural resources, raw agriculture commodities, materials, manufactured products (including any possible impairment of productive capacity which may result from shortages in materials, resources, commodities, manufactured products, plant or equipment, or capital investment) and the reason for such shortages or adversities;

(2) the need for, and the assessment of, alternative actions necessary to increase the availability of the items referred to in paragraph (1) of this subsection, or to correct the adversity affecting the availability of any such items;

(3) existing policies and practices of government which may tend to affect the supply of natural resources and other commodities;

(4) the means by which to coordinate information with respect to paragraphs (1), (2), and (3) of this subsection.

(b) The Commission shall include in its reports specific recommendations with respect to institutional adjustments, including the advisability of establishing an independent agency to provide for a comprehensive data collection and storage system to aid in examination and analysis of the supplies and shortages in the economy of the United States and in relation to the rest of the world.

(c) The Commission may prepare and publish such periodic reports and recommendations as it deems appropriate but shall transmit a report with recommendations, to the President and the Congress not later than December 31, 1974, and at least once every 6 months thereafter.

Mr. President, that charge dilutes and weakens the emphasis on relationships, and especially global interrelationships, which come through so strongly in the Paley report's language. Even more unfortunate, the fourth clause of subsection (a), like the language in subsection 3(b) on which I commented earlier, is a repetition of an already well-answered question.

And how can this commission meet the admitted need for a resources and materials monitoring agency on a basis "more detailed than—was—possible" for the Paley Commission, given a lifespan of 6 months to 3 years, an annual budget of $1 million, and a charge to consider at both the theoretical and factual levels what amounts to the whole structure of Government and industry? If the commission undertakes the necessary and Paley-prescribed, detailed examination of trees, it almost certainly will do an inadequate job on the forest, and vice versa.

In fact, given the framework, the budget and the calendar proposed in S. 3523, the National Commission on Supplies and Shortages can hardly be expected to do more than produce some synthesis or consensus compounded from its members' preexisting preferences and prejudices concerning preexisting studies and reports. It cannot, I think, hope or be expected to be anything close to the agency the Paley Commission said we need, and which we have in fact needed for at least a quarter of a century.

LIMITED VISION

As a further assurance that the new commission will be unable to do, or even get well started on doing the job and being the agency the Paley Commission envisaged, S. 3523 contains no provisions authorizing the Supplies and Shortages Commission to issue subpenas, administer oaths, verify reports received, or otherwise ferret out necessary facts—facts that we can be sure will not always be volunteered, if experience is any guide at all.

Another deficiency of the bill is that it contains no guidelines for the protection of properly confidential information, nor for the public disclosure of information which may be claimed to be—but should not properly be regarded as—confidential or proprietary. The permanent agency contemplated by the Paley Com-

mission should be an agency very much open to public view, both in its operations and in its work products—the facts its collects and the tabulations and analyses it generates.

The broad vision of the Paley Commission, in short, has been substantially narrowed.

LIMITED AIM IS UNNECESSARY

There is no real reason or need for these shortcomings. It is not as if no hard and precise thinking had yet been done on the resolution of the many familiar—and admittedly difficult—questions that must be answered before the Paley-envisaged agency can be born. The thought has been given; detailed proposals do exist; and on some of them there is a growing consensus.

There are probably two dozen or more bills pending in the Senate and House which would set up a permanent agency of one kind or another to do all or substantial parts of the job the Paley Commission told us, back in 1952, this country needs to do.

In my opinion the most responsive and responsible course for the Congress at this juncture would be to perfect and pass one of those bills, or a synthesis of the best ideas in all of them, and enact it.

On the other hand, a bill with the background and sponsorship of S. 3523 cannot and should not be lightly brushed aside, so I would like to suggest an alternative, middle course.

That course would be to set up a national resources and materials information system, which would be charged with being the agency and doing the job the Paley report so eloquently described, but making that new system, for the time being, the charge of the new temporary national Commission on Supplies and Shortages envisaged by S. 3523.

By this means, the new commission, instead of merely theorizing, would be given a real, Paley-type instrumentality to develop and test and perfect, an instrumentality with the powers and the responsibilities to do all—not just part—of the job that thoughtful readers of the Paley report have known since 1952 we would eventually have to do.

By this means, to the extent that the new commission is a study commission, we will transform its studies from what, in university vocabulary, would be called a classroom course into a laboratory course. The test tube will supplement the textbook.

OBJECTIVE OF AMENDMENT

The amendment I am offering would take the Congress on that middleground, alternative course.

The amendment would tansform S. 3523 into a four-title bill. Title I would be, essentially, the text of the bill as reported, amended only to remove that anachronistic charge to the commission to answer the already-answered question whether we need a system, and charging it, instead, to establish and initiate the operations of a permanent national resources and materials information system.

Titles II, III, and IV are based on the latest version—the May 15, 1974, Interior Committee print—of S. 2782, the "Energy Information Act," rewritten to make it a "National Resources and Materials Information Act."

As many Senators are aware, the Interior Committee is at an advanced stage of markup on S. 2782, which would establish a national energy information system. Joint hearings have been held for 3 days by the Government Operations and Commerce Committees on S. 3209, which would set up a national resources information system; on S. 2966, the "Shortages Prevention Act of 1974"; on amendment No. 1069, the "Domestic Supply Information Act;" and on amendment No. 1195, a revised version of the "Shortages Prevention Act of 1974."

As sponsor of both S. 2782 and S. 3209, I have followed closely the progress of both these bills, and the related measures, in the respective committees. As the first introduced, and the first to be taken seriously by the administration and by industry, S. 2782 is farthest along in the legislative process and therefore seemed to me to be the one best suited to serve as a model for the amendment introduced today.

A detailed section-by-section analysis of S. 3523, as it would be revised by this amendment, is in preparation and will be inserted in the RECORD, without objection, when it is complete; but a brief summary is in order at this point.

SUMMARY OF BILL, AS REVISED BY AMENDMENT

At the beginning of the bill, the amendment would insert prefatory sections containing findings, purposes, and definitions. Key definitions would include "resources," "raw materials," "semifinished materials," and "finished materials." These terms would be used for somewhat more prescise stautory management of the sweeping subject matter mentioned in paragraph (1) of subsection 2(a) of S. 3523 as reported.

Title I, as mentioned, would establish the Temporary National Commission on Supplies and Shortages, with a mandate to initiate a new national resources and materials information system, see how it works, and report to Congress its suggestions for improving it.

Title II would contain the authorization for the national resources and materials information system—"the system"—as a permanent, independent instrumentality of the Federal Government, and would describe its functions and powers in detail. Those functions and powers would embrace all of the concepts and concerns of the Paley Commission and would probably encompass, as well, the very cogent concerns expressed by the Senator from Indiana (Mr. HARTKE) in his "additional views" appended to the Commerce Committee's report on S. 3523 (S. Rept. 93–904, p. 13). Title II is adapted from titles I and II of the May 15 committee print of S. 2782. It confers subpena power on the system's administrator and also provides detailed guide lines for the designation of information by categories of use and access.

Title III of the bill, as revised by this amendment, would authorize and direct the Department of the Interior to make regular, recurring surveys of all the natural resources in the public lands of the United States. This section follows very closely title III of S. 2782 in its May 15 committee print version.

Title IV contains provisions for General Accounting Office oversight of the system.

Title IV also authorizes appropriations for 3 years at the rate of $15 million a year, rather than $1 million a year, to be allocated one-tenth to the work of the Commission and nine-tenth to the system. These amounts should be realistic to at least begin the job the Paley Commission recommended.

SUMMARY

The world is running out of the resources, materials, and manufactured products its people need for survival. Protein, energy, and metals are examples with which millions have become painfully familiar in recent months.

There have been warnings, beginning decades ago. The Paley Commission—the President's Materials Policy Commission—sounded the alarm in 1952. That Commission made a strong and eloquent plea for a "mechanism for looking at the problem as a whole—a continuing Federal agency near the top of the administrative structure."

A 281-page report by the General Accounting Office issued only last April 29, 1974, under the title "U.S. Actions Needed To Cope With Commodity Shortages," repeatedly stressed the need for better information. (See exhibit 1.)

The bill before the Senate—S. 3523—has been represented as a response, in 1974, to the Paley report's call made in 1952. But in my judgment it is not an adequate response at this late date.

Its principal shortcomings are:

First, it directs the new National Commission on Supplies and Shortages, which it would create, to recommend on the advisability of establishing an independent agency to provide for a comprehensive data collection and storage system to aid in examination and analysis of the supplies and shortages in the economy of the United States and in relation to the rest of the world.

That is a direction to answer an already answered question. The direction should be changed to have the Commission set up and initiate operation of the system. Amendment No. 1406 would make that change.

Second, S. 3523 contains no provisions empowering the new Commission to compel the production of information from the private sector, notably from the multinational corporations, where most of the most essential information is lodged.

Third, the bill reported to the Senate contains no provisions instructing the commission on what kinds of data may and may not be shared with the public at large, and under what procedural safeguards.

Amendment No. 1406 would cure all of these deficiencies.

Amendment No. 1406 is based upon two detailed bills which have been subjected to considerable refinement in the cruci-

bles of committee hearings and markup, and which enjoy wide support in the Senate and among wide-ranging and diverse American communities. One of these bills is the Energy Information Act, S. 2782, and the other is the National Resources Information Act, S. 3209.

There are now 28 sponsors of S. 2782, in addition to Senator JACKSON and me, the original sponsors. They are: Senators BIBLE, CANNON, CLARK, CRANSTON, EAGLETON, GURNEY, HASKELL, HATFIELD, HATHAWAY, HUGHES, HUMPHREY, KENNEDY, MAGNUSON, MCGEE, MCGOVERN, METZENBAUM, MONDALE, MONTOYA, MOSS, MUSKIE, NUNN, PELL, PROXMIRE, RANDOLPH, RIBICOFF, STEVENSON, TUNNEY, and WILLIAMS.

There are now eight sponsors of S. 3209, in addition to Senator RIBICOFF and me, the original sponsors. They are: Senators BIBLE, COOK, HATHAWAY, HUMPHREY, MCINTYRE, MOSS, PELL, and WILLIAMS.

Eliminating double-counting of Senators on both bills, S. 2782 and S. 3209 together enjoy the cosponsorship of 32 Senators—almost a third of this body.

Under these circumstances, it seems to me that the Senate is in a position to consider, now, not next year, the initial shape of and charge to a permanent resources monitoring system.

Instead of waiting 6 months or perhaps up to 3 years for a commission to tell us what sort of system we need, I suggest that we should give the commission a system to work with, to try out, and to improve. We are ready now for a laboratory experiment, not more theoretical study.

So much thought of individual Senators and Representatives, so much work of committees has gone into proposals, now pending, to set up a permanent, working instrumentality of the type the Paley report recommended, that we ought now to be able to take significantly more definite and affirmative action than is represented by S. 3523 as reported.

To pass S. 3523 now would appear to me to be an avoidance of decision and action, a postponement of decision and action, rather than badly needed decision and action, for that bill is insufficiently comprehensive to meet the issues head on.

PROPOSAL TO RECOMMIT

Accordingly I should like to ask this question of the distinguished majority leader and the other leaders of the Senate who have cosponsored S. 3523:

Would they join me in a unanimous-consent request to have the bill recommitted to the Government Operations, Commerce, and Interior Committees for further consideration, with instructions to report on a date certain?

It is my hope and my belief, given all the work and study these three committees have already given to bills which propose, in considerable detail, various possible permanent resources and materials and energy information systems, that they could now reach firm decisions and make recommendations on the shape of a permanent system which this new commission could set up and get started. Before the commission goes out of business, it could make suggestions for needed improvements in the system and for its final placement in the Federal Government structure.

It seems to me that, by taking this course, the Senate will be doing work that is rightfully its own work to do, rather than postponing decisions and delegating that work. I hope we can face up to our responsibilities and take the indicated, firm, forceful action.

A world that is running out of resources as fast as our world is, deserves from us nothing less.

Mr. President, I ask unanimous consent to insert in the RECORD at this point, as exhibit 1, excerpts from report No. B-114824, a report by the Comptroller General of the United States to the Congress, entitled "U.S. Actions Needed To Cope With Commodity Shortages." The report is dated April 29, 1974.

There being no objection, exhibit 1 was ordered to be printed in the RECORD, as follows:

EXHIBIT 1

[Excerpts from chapter 7 of "U.S. Actions Needed to Cope with Commodities Shortages"]

(Report by the Comptroller General of the United States, Apr. 29, 1974)

CHAPTER 7—OVERALL CONCLUSIONS, AGENCY COMMENTS AND OUR EVALUATION, AND MATTERS FOR CONSIDERATION BY THE CONGRESS

OVERALL CONCLUSION

Shortages of basic commodities have had major domestic and international impact during 1973 and early 1974. The energy crisis has shown how significant and pervasive the impacts of economic or politically induced shortages can be. Shortages or tight supplies of food, mineral, and material commodities have caused sharp price rises and dislocations in domestic and international industrial production, consumer expenditures, trade flows, and economic policies. Increasing concern and debate have focused on national and international policy efforts to resolve scarcity issues.

* * * * *

We believe that the U.S. Government does not now have an adequate planning, policy analysis, and policy formulation system for basic commodity issues. In our opinion, existing executive branch programs do not provide a coordinated process and mechanism for dealing effectively with short-range commodity problems. (See ch. 2.) The programs encountered many difficulties using short-supply export controls (chs. 3 and 4). They do not provide or coordinate the information needed for adequate forecasting of future supply and demand situations. (See ch. 5.) A variety of actions are being taken or considered to deal with long-range implications of resource and commodity problems, but this area too is characterized by fragmented long-range planning responsibility and a lack of established, interrelated, and publicized long-range national policies (see ch. 6).

Our studies of six commodities which have recently been in tight supply in the United States—soybeans, wheat, cotton, fertilizer, cattlehides, and ferrous scrap (app. I)—show the dimensions of the problem for individual commodities.

Interrelationships and dependencies among commodities which increase the severity and complexity of shortage situations.

Limited information on key supply and demand elements.

Continued debate among producers, users, and Government officials as to proper national policy actions for these commodities.

Continued uncertainty about the future economic situation for these commodities.

Effective policy analysis and program management should systematically assess existing situations, identify basic problems and interrelationships, recognize uncertainties and ranges of possible events, seek new alternatives and improve existing ones, and strive to produce explicit, objective, and verifiable analyses. We do not believe that the existing executive branch policy processes for commodities meet these criteria.

The executive branch has taken the following positive commodity policy steps.

An interagency food export control group operated during the period of agricultural export control use in 1973.

Agriculture's ERS has reassessed and restructured its commodity forecasting work.

Proposed a world food conference for late 1974.

Initiated a Government system to monitor export sales of key commodities.

Initiated a reassessment of U.S. export promotion programs.

The State Department has advocated a greater role on its part in future export control decisions.

Working groups for interagency agricultural and minerals and materials policies were established.

The proposed budget for fiscal year 1975 contained (1) extensive programs for a national energy policy and (2) added funds to improve forecasting for major agricultural commodities and to increase research on meat and soybean production.

The annual CEA and CIEP reports in February 1974 contained specific chapters discussing energy and agricultural commodity problems and the concern and uncertainties which these problems create.

Each of these actions is a positive step, but each affects only a segment of the system, has been temporary, or is still only a prospective change. In view of the basic problems and needs of existing commodity policy activities and the serious implications of future commodity problems, we believe that these actions should be only the initial steps in an ongoing effort to improve the Government's commodity policy process.

OVERALL COMMODITY POLICY CONSIDERATIONS

The recommendations we are making to executive branch agencies are directed at improving specific aspects of the Government's commodity policy process. In further assessing this process, we believe that at least five overall considerations are important.

Importance of commodity policy

Commodity policy is only one aspect of the national economic policy process. Monetary and fiscal policies have received the most attention and expertise in recent years. Within the overall economic policy process, however, the commodity problems and impacts of 1973 and early 1974 suggest that increased attention should be given to specific commodity policy needs in the agricultural, mineral, raw material, industrial, energy and service sectors.

In addition, although current concern focuses on commodity shortage problems, an improved national commodity policy process is necessary for anticipating and dealing effectively with commodity dysfunctions of all types, whether shortages or surpluses. An improved process should also be flexible enough to cope with all types of factors underlying basic commodity problems, from short-term probelms, such as currency devaluations, domestic or foreign economic policy changes, or a lack of processing capacity in domestic basic industries; to long-run factors, such as increasing population and world affluence pressures on supply or problems of resource recovery and improved production techniques.

A final point on the importance of commodity policy concerns relative priorities. Energy commodities are essential for operat-

ing modern industrial societies, and it is now expected that billions of dollars of Government funds will be spent to develop U.S. self-sufficiency in energy. The present and future problems and uncertainties of other commodity situations raise the question of what relative amounts should be invested in U.S. programs to assure sufficiency of food, materials, and nonenergy minerals supplies.

Complexity and interrelations of commodity policy

Commodity policy analysis, decisionmaking, and planning cannot be effective if adequate information is not available. Commodity policy decisions can have only limited utility, and may even be counterproductive, if they are not guided by a set of established long-range policies, and extensive data gathering has little value if the data is not effectively used for analysis. Data gathering, analysis, forecasting, decisionmaking, and planning must be considered together for the system to function properly.

In addition, as illustrated in the commodity studies and elsewhere in this report, there are important and complex relationships among commodities themselves. Shortages of one commodity can cause shortages of another, or set off a chain of short- and long-run supply and demand shifts from that commodity to others. Broad and complex relationships also exist between the basic variables of population, capital, food, nonrenewable resources, and environment. It is difficult to form effective national food, environmental, energy, or materials policies and programs, without considering the impact of each policy on the others.

International interdependence

Many recent U.S. commodity problems have been influenced by foreign events. As Government officials and other experts have stressed, there is a growing interdependence among almost all nations in supplying each other with products and resources and no nation can go it alone. These factors have received increasing attention in the executive branch and in the Congress, particularly in the growing emphasis for the pending world trade talks on the questions of access to supplies, and need for new international rules for dealing with commodity supply problems.

Need for commodity information

The Government needs increased information to formulate commodity policy and to improve decisionmaking, forecasting, and the data base for long-range policy planning. In the relationship between Government policy formulation and private sector activities, a difficult policy question is the one of costs and benefits of increased information gathering. The costs, complexities, debates over the propriety of Government intrusion, and administrative burdens of increased Government market information gathering could be considerable for Government and industry. On the other hand, the benefits could be considerable too, in terms of formulating Government national economic policy to better foresee and most effectively deal with such matters as the Russian grain sale, the 1973 soybean export controls, and the current energy shortage problems. The Secretary of Commerce, in congressional testimony in early April 1974, acknowledged that 1973 short-supply decisions had to be made without demand and supply data needed to fully understand the impact a complex combination of factors was having on the domestic market. He said that steps were being considered for correcting this deficiency and that the Bureau of the Census is reviewing steps to:

Initiate a feasibility study to develop a program for collecting monthly quantitative data on selected commodities, covering domestic production and inventories held by manufacturers and wholesale outlets.

Proceed, in cooperation with Customs Service, to explore possible ways to expedite collecting, compiling and upgrading the reliability of monthly U.S. commodity export and import statistics.

Initiate a review of the reporting of trade statistics on selected items by major trading nations, with a view to ultimately develop a methodology for a multilateral uniform data base.

The Secretary said also that, in the meantime, although Commerce recognizes the drawbacks of its ad hoc reporting requirements, it would continue to require reports from industry on short-supply commodities whenever such data was needed for Government decisionmaking.

Domestic and international needs

Possibly the most difficult commodity question concerns the need to insure adequate supplies of commodities at reasonable prices for U.S. domestic, industrial, and consumer use versus national economic growth and production needs and international economic, balance-of-payments, trade, and foreign policy requirements. The extensive debate over the use of export controls has revolved around this basic issue, and a clarification of the specific domestic and international impacts has not yet been developed. Decisions on how to (1) allocate U.S.-produced commodities among domestic and foreign customers, (2) improve access to foreign commodities necessary for the U.S. economy, and (3) balance these outflows and inflows to maintain a healthy U.S. economy in a healthy and balanced world economy will be some of the most difficult and meaningful the U.S. commodity policy system must make.

The Government commodity policy formulation process faces important operating challenges. Economic, social, and political implications of present commodity shortage situations are tremendously complex and diverse. We believe that this report, through focusing attention on the Government commodity policy process and suggesting recommendations and considerations to improve that process, will contribute to Government efforts to deal with these problems.

An effective Government commodity policy system, however, will require continuing debate and discussion among executive branch officials; members and committees of the Congress; and industrial, interest, and public groups to establish national goals for guiding future policy efforts and for developing a Government policy system fully responsive to emerging needs.

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

The yeas and nays were ordered.

Mr. MAGNUSON. Mr. President, I shall take 1 minute to ask the two Senators one question to clarify the record. The amendment they have presented is a motion to recommit with instructions. Is that correct?

Mr. HASKELL. The Senator is correct.

Mr. MAGNUSON. It deals with germaneness, with the whole subject, and goes back to the Paley Commission recommendations and many other commission recommendations. It is a motion to recommit, so tomorrow Senators will know they are not voting on an amendment, but are voting on a motion to recommit with specific instructions which have been referred to in the statement by the two Senators.

Mr. HASKELL. The Senator is correct and, furthermore, the instructions ask that the committees report by July 19.

Mr. MAGNUSON. Yes. This letter that is before us now shows that.

Mr. HASKELL. That is right.

Mr. MAGNUSON. That has been put in the RECORD, has it not?

Mr. HASKELL. It has just been put in the RECORD.

Mr. MAGNUSON. All right.

Mr. NELSON. We are prepared to agree to a time certain to vote tomorrow. Perhaps that agreement will be reached tomorrow morning, but we will agree to a time certain to vote tomorrow.

Mr. MAGNUSON. I thank the Senator from Illinois.

Mr. PERCY. I thank the Senator.

Mr. President, the committee's amendments extended the life of the Commission to 3 years, and authorized $1 million to be spent each year. The Commission was required to report to Congress every 6 months regarding existing or possible shortages, actions necessary to increase supplies, correct organizational adjustments, and other matters. In short, the Commission was charged with a much broader mandate than the recommendation of an appropriate organizational framework. This 3-year Commission in fact is given the responsibilities of a shortage-monitoring agency. In the guise of a "study commission," the bill as amended creates a de facto independent commission to monitor shortages and propose solutions.

Proponents of the bill argue that it is necessary to create some agency to deal with shortages until Congress acts finally to create the appropriate longer-term organization. I argue that creation of a 3-year commission would almost inevitably result in a continuing independent commission to deal with this problem. I disagree strongly that such an independent commission is the correct organizational instrumentality to deal with the shortages problem.

Mr. President, the creation of independent commissions, boards, and agencies is a too-frequent congressional response to difficult problems. These organizations are notoriously poor solutions from a management viewpoint. Already in the first session of this Congress we have created at least 23 new independent units by law and Executive order, from the Arkansas River Basin Compact Commission, to the National Commission on Industrial Peace, to the ad hoc Advisory Group on Puerto Rico. We seem addicted to the establishment of quasi-autonomous Government units whenever faced with a new problem.

I will say very frankly to my distinguished colleagues that I would prefer to decide the correct organizational adjustments necessary to deal with national raw materials shortages in our own committees. I think we have the intelligence and resources available to make these organizational changes without recommendation by any commission, even a temporary one. In this Congress, the Government Operations Committee has already created the Federal Energy Administration, and we are about to bring to the floor bills to create a Consumer Protection Agency, an Energy Research and Development Agency,

and a Nuclear Safety and Licensing Commission—all of which deal with equally, and much more, complex subjects than raw materials shortages.

However, Mr. President, I recognize the nature of the disagreements that resulted in the joint leadership-administration agreement on a temporary commission. Recognizing this, I infinitely prefer the creation of a short-term commission to recommend a definitive organizational solution and then go out of business, to a 3-year commission that will surely perpetuate itself and that may—or may not—provide an adequate solution to the problem.

I also feel that a temporary commission, such as I propose, will have a sense of urgency behind it so that we do not actually prolong the making of recommendations and getting this project underway.

Thus, Mr. President, the amendment I offer has two advantages. First, it provides that within 6 months of the date of enactment, the Commission will recommend the organizational adjustment it deems to be required to deal with shortages problems. Second, it provides up to an additional 6 months—until June 30, 1975—during which the Commission may make additional reports and may monitor the supplies situation, while Congress implements its organizational recommendations.

I submit to my colleagues that the amendment proposes an adequate time frame within which the Commission can do its job. By going out of business at the end of a year the Commission puts the burden squarely back on the shoulders of Congress—where it belongs—to resolve the organizational situation by legislative action, not by default.

What most concerns me, Mr. President, is that when we set up a commission to study a problem—and this, after all, is a commission that would be made up—there is no argument about that—of representatives who are appointed by the President, by the Senate, and by the House, that these will be very busy people. Does this mean then that the Commerce Department, the State Department, and other agencies will feel, "Well, now, this problem has been delegated to a commission, and now we do not have to worry about it."?

The original concept of this temporary commission was right and proper. By taking into the account the thinking of the Comerce Committee, and doubling the time from 6 months to a year, and doubling the amount of money from $250,000 to $500,000, I believe we have taken into account the problems raised by the Commerce Commitee, and we deeply appreciate their giving considered thought to this problem. But I do oppose the 3-year semipermanent commission, costing $3 million, because I think it would delay the solution of the problem rather than expedite that solution.

Mr. TUNNEY. Mr. President, I would like to say to my distinguished colleague from Illinois that I know how deeply concerned he is that we have a mechanism developed in the executive branch to monitor material shortages. Certainly he participated very actively in the hearings that we held. I know of his longstanding interest in the problem. As a former industrialist, he is well aware of what can happen to the industrial base of our Nation if suddenly we are faced with shortages.

I must say, however, that I think that the Senator's amendment is not helpful. I think, if anything, the Senator's amendment will hurt the bill in that by only providing a 1-year commission it is clear that the commission is only going to be able to study whether or not we need a permanent commission to look into these matters, and we have had too many study commissions looking into it, all coming up with recommendations that we need a permanent commission to do this job.

The Paley Commission in 1952 came up with a recommendation that we need a permanent commission to study material shortages.

We had the National Commission on Materials Policy in June of 1973 which came up with a recommendation that we have a commission in being which would provide the study for material shortages.

The committee indicated that there ought to be an interim organization which would immediately be able to make a comprehensive study, so that we would be able to have data and analysis for decisionmakers prior to a materials crisis, such as the oil crisis. We were not even aware of how much oil we had in the pipeline, what the reserves were, what the refining capacity was, et cetera.

We recognized just recently that Jamaica has indicated it was going to increase the price of bauxite, from which aluminum is made, by 400 percent or more, and we may see other government cartels in action around the world as they recognize that the rich nation will give them the kind of foreign aid they need to provide a better standard of living for their people.

So what they are going to do, if they have natural resources, is coerce massive transfers of wealth from the rich nations to the poor nations.

The OPEC countries have done a pretty good job of it. They have raised oil prices about 400 percent in the last year. This has meant a massive transfer of wealth of about $65 billion from the industrial nations to the OPEC nations, and the same thing is going to happen with bauxite, copper, zinc, and all the other materials, and there are going to be shortages, some of them because we just do not have the minerals and the materials.

In other cases, the shortages are going to occur because the materials have been priced out of the marketplace, or at least priced to a point where it is very difficult for the industrial nations to make the purchases.

I would like to quote the words of the Senator from Illinois at the time of our hearings.

Mr. MANSFIELD. Mr. President, will the Senator yield briefly to the Senator from Illinois, as an accommodation to the Senator from New Hampshire?

Mr. TUNNEY. I yield to the Senator from Illinois.

Mr. PERCY. Mr. President, I yield 3 minutes to the distinguished Senator from New Hampshire.

Mr. MANSFIELD. Mr. President, if the Senator will yield to me just a minute, without losing the floor——

Mr. COTTON. Surely.

Mr. MANSFIELD. Mr. President, with the concurrence of the chairman of the committee, and hopefully the ranking Republican member of the committee, the Senator from Wisconsin (Mr. NELSON) will have an amendment, and I understand there will be a motion to recommit; therefore, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 10 o'clock a.m. tomorrow.

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

Mr. MANSFIELD. That at 10:10 a.m. we take up the pending business, which will then be the unfinished business; and that a vote occur on the Nelson-Haskell amendment not later than the hour of 12 o'clock.

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

Mr. MANSFIELD. If the joint leadership finds it necessary, there will be an added extension, but not to extend beyond the hour of 12:30 p.m., though hopefully we can get to a vote before the hour of 12 o'clock.

I thank the distinguished Senator from New Hampshire.

Mr. COTTON. Mr. President, is it the plan of the majority leader that the vote on this amendment will take place tonight?

Mr. MANSFIELD. Yes.

Mr. TAFT. Mr. President, reserving the right to object——

Mr. MANSFIELD. The order for the 12 o'clock vote has been agreed to.

Mr. TAFT. I was on my feet.

Mr. MANSFIELD. Mr. President, I ask that the agreement to my unanimous-consent request be vitiated.

Mr. TAFT. I do not know that I shall object, but I should like to ask for a clarification. The 12 o'clock vote relates solely to the Nelson amendment?

Mr. MANSFIELD. Yes. I understand there will be a motion to recommit.

Mr. TAFT. The business, then, will not be solely the Nelson amendment when we go on the bill in the morning?

Mr. MANSFIELD. We would go on the Nelson amendment at 10:10, and we would vote on it, hopefully, at 12 o'clock, but if necessary not later than 12:30.

Mr. TAFT. May I ask the majority leader what the intentions are with regard to consideration of the bill and amendments this evening?

Mr. MANSFIELD. Does the Senator have an amendment he wishes to offer?

Mr. TAFT. I have two amendments which I may or may not wish to offer, depending on the situation.

Mr. MANSFIELD. I would be guided in large part by the wishes of the distinguished Senator from Ohio in respect to those amendments.

Mr. TAFT. And there will be no time limitation put on the offering of amendments or on the eventual vote on the bill?

There is a 1-hour limitation on amendments; I understand that.

Mr. MANSFIELD. One hour on amendments, I believe, and 30 minutes on amendments to amendments, motions, or appeals.

Mr. TAFT. There is no overall limitation on the bill?

Mr. MANSFIELD. Two hours on the bill, as I understand.

Mr. MAGNUSON. Mr. President, if the Senator from Ohio has amendments, he can submit them after we vote on the Nelson amendment. If the bill is recommitted, it will not be necessary. But if it is not, he can offer them. I think we should not go on with the bill tonight, other than what we are doing here. It is too important. The Senator from Ohio has important amendments.

Mr. TAFT. I concur.

Mr. MAGNUSON. He can submit them after 12 o'clock.

Mr. TAFT. I concur. I withdraw my reservation of objection. I believe we can take them up after the Nelson amendment.

Mr. MAGNUSON. After the Nelson amendment. The Senator would not want to be shut in between.

Mr. TAFT. Yes. I withdraw my reservation.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? Without objection, the unanimous-consent request is agreed to.

Who yields time?

Mr. COTTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. COTTON. I think the Senator from Illinois had yielded to me out of his time when this colloquy started. I do not know whether we have used up my time, or whether I still have it.

The PRESIDING OFFICER. The Senator is correct. The Senator from Illinois has the floor, and the Senator from Illinois has yielded to the Senator from New Hampshire.

Mr. PERCY. I have yielded 3 minutes, or whatever time is needed, to the Senator from New Hampshire.

Mr. COTTON. Mr. President, I merely wanted to say, in order that the working relationship that has continued so long between my chairman, the Senator from Washington (Mr. MAGNUSON), and myself may not be discontinued or interrupted, that I know his action in this matter was entirely inadvertent. But the Senator from New Hampshire, who is the ranking Republican member of the Committee on Commerce, was not present at the committee meeting when this change was made from 6 months to 3 years.

The reason was that the Senator from Washington and I were conducting an HEW appropriation hearing which we have been doing recently hour after hour and day after day. Suddenly, the Senator from Washington realized there was an executive session of the Committee on Commerce, at which the pending bill, S. 3523, was scheduled to be considered. So he said, "You stay here and hold the fort and, if I need you, I will send for you." I remained to chair the HEW appropriation hearing and the Senator from Washington (Mr. MAGNUSON) proceeded to the Commerce Committee executive session. I guess he did not need me because he did not send for me. I found out later—I believe the next day—that this action had been taken by the Commerce Committee, to extend the life of this proposed National Commission on Supplies and Shortages. It was perfectly inadvertent, I am sure. But the truth is that, had I been there, I would have rather strenuously advocated that the life of his proposed commission be very brief.

I have served on three of these commissions. I remember early in my Senate career here—back in the Joe McCarthy days—serving on a commission established to decide what kind of loyalty test should be required for Government employees.

There were two Senators. I believe the Senator from Mississippi (Mr. STENNIS) and I were on it. There were two from the House of Representatives. We also had public representatives. The total membership of the commission was some 12 or 15 members.

We kept getting extensions of time to complete our assigned task. We took almost 3 years before we submitted a report. We reported some definite recommendations, which were printed and then put away, never to be acted upon. They are still on the shelves in the the Archives.

That is typical. Twice since then I have served on similar study commissions, which I shall not go into. But this situation, which has to be dealt with, is not going to be resolved in a mass meeting. But it has to be dealt with.

Now, the distinguished Senator from California (Mr. TUNNEY) has made two or three illuminating statements. One that impressed me greatly was when he said it has been ascertained that some 50 agencies could be involved in this problem.

It seems to me that the task of this proposal commission is to undertake an examination of the problem and come in very quickly with recommendations about how to deal with it. If we have a 3-year commission and spend money on it, we will have another study and another report sometime in the next 3 years. But it, too, will repose in the Archives, as in the case of my earlier experience, and that is all that will come of it.

Therefore, for those reasons, I wish the original 6 months for the commission to act had not been abandoned. I also doubt whether a commission of 13 members will be able to do anything very expeditiously or wisely I therefore tend to agree with the Senator from Illinois and the Senator from California that this matter probably could be settled right now in one of our committees. We are competent to handle it more expeditiously.

Frankly, I hope there will be no commission at all. But, if there is going to be one, let us constitute it for but a brief period of time. Let it report on specific matters; otherwise, we are just going all around Robin's barn.

I thank the Senator for yielding.

Mr. PERCY. Mr. President, I express deep appreciation to the Senator from New Hampshire. He has the ranking position on the Commerce Committee and has understanding and insight. From a practical standpoint he has incisively gone to the heart of the problem. It would be a delusion to set up a commission or imply it will handle a tremendous problem like this.

We will not argue who should be on the commission or how it should be made up. The bill provides for 13 members, 5 to be appointed by the President from private life. I do not imagine the President intends to appoint unemployed persons to that commission. They will be busy industrialists, or labor leader or academicians or consumer spokesmen, busy people who will jet into Washington for a commission meeting and return to their regular work.

The bill provides that four members shall be from the executive branch. These are also four officials burdened down with other responsibilities, and every commission meeting will come out of the ordinary executive responsibilities they are carrying on now.

I ask my distinguished colleague from California, who has had experience with the Senator from Illinois in serving on the board of directors of the Kennedy Center for the Performing Arts: How many times are we able to give undivided attention—here it is, right in the city of Washington—how much time can we as U.S. Senators, representing the Senate on that board, give? The Senator from Illinois was not even able to go to the meeting the other day that involved the liability suit against members of the board of trustees, a half a million dollar suit against us, because the work of the Senate in other areas was more pressing; yet two Members of the House and two Members of the Senate will be given this responsibility.

We are fortunate even to get them to a meeting, much less give any attention to a particular problem. Not one of us will be experienced in this field. We have people from business and industry in the Senate and in the House, but I know, having been out of industry now for 8 or 10 years myself, that the Senator from Illinois is not intimately acquainted with materials problems, shortages, and the related nuances.

We should address ourselves to one task on a short-term basis and thus utilize the best talents of all the commission members. That task should be to decide the correct organizational structure and quickly recommend it to Congress.

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

Mr. PERCY. I yield.

Mr. MANSFIELD. Mr. President, I have long held to the thesis that instead of the executive branch and the legislative branch of this Government operating at arm's length, or on an adversary basis, we should work together in the common interest. Unfortunately, that has not been the case down through the years. Administrations come and go, and while they are in they look upon Congress as the enemy. Suggestions made by Congress are paid too little attention. Suggestions and proposals of the admin-

istration are, in all too many instances, rammed down our throats.

For the first time that I can recall, the joint leadership of both Houses, Democratic and Republican, have gotten together with executive branch members and have been able to come up with the proposal which is now before us for consideration.

There is going to be an attempt made tomorrow to recommit the bill. I hope that the attempt will fail.

We have to consider what the House will do. This commission will not be a study group. We have studied and studied and studied until facts and figures about shortages and oversupplies are coming out of our ears. We do not need any more studies but we do need something to point the way, to chart the course, and to come up with alternatives, substitutes, or something so that we will not be caught again, as we were caught in the petroleum embargo last year and early this year.

I would hope that the proposal of the distinguished Senator from Illinois (Mr. PERCY) would be agreed to, because I think we have to be careful, we have to have a transitory, a temporary commission. We have to move not with speed, not impetuously, but with care and caution and, hopefully, to build a strong base on which this commission can function so that it can chart a course for all of us.

There are over 50 bureaus, offices, and whatnots in the Federal Government today. I do not know what they all do—study shortages, I suppose; but they are not charting a course.

Here for the first time, on the basis of a legislative-executive partnership, we are in the position where we can do something and I hope most sincerely that they will begin by reducing the 3-year period to 1 year.

I disagree with the Senator from Illinois in that, as I understand it, as I came in late, when he said that Members of this body would not be qualified to serve on that commission and he cited the fact that he had been out of touch with the business world, I believe he said for about 11 years or more, and that even he was beginning to feel he was a little bit away from these problems.

I do not agree with the Senator on that, because I think Senators in this body are just as cognizant of the needs of the country, just as qualified—perhaps, I would say, not too qualified, not overqualified, and there are too many people in that category who I do not think are qualified because of the amount of expertise which is theirs as they become immersed in what they think is right. They see the tree here and there but they do not see the whole forest.

I would hope that the amendment would be agreed to as a step in the right direction, and that we will then be able to get action in the other body.

Mr. PERCY. I thank the Senator for his incisive comments. We are not at all in disagreement as to the qualifications of Senators and Representatives. We have on the temporary commission——

Mr. MANSFIELD. Or a permanent commission if it comes to pass.

Mr. PERCY. The Senator from Illinois has no doubt it will serve for a period of 1 year. Consider only the organizational aspects of it, and Senators and Representatives are fully qualified to do so, but probably do not have the time to do that; but if we take into account the full nature of a 3-year commission, which is a shortage monitoring agency in effect, and which is in the judgment of the Senator from Illinois, a de facto commission to actually monitor shortages, and propose solutions. If that is the kind of commission seated, then, in the judgment of the Senator from Illinois, it would be very difficult for Senators and Representatives over that period of time to spare that much time, to effectively administer a commission with a $3 million budget.

Mr. MANSFIELD. Does the Senator mean to leave the legislature out, when the legislature initiated the idea?

Mr. PERCY. No. The Senator from Illinois would not do that.

I reiterate that there is no question about the qualifications to serve on the commission as it was originally intended by the distinguished majority leader. But we have grave doubts about Senators and Representatives serving on a 3-year commission that would be as deeply involved as this particular commission would be in the material-shortage problems.

Also, I think we have to take into account that such a commission would not have the same degree of cooperation that the temporary, 1-year commission would have from the executive branch. That was worked out, as the majority leader has indicated, in the negotiations that have taken place over months, between the joint leadership of both bodies and the executive branch. It has their full cooperation, their full support.

A 3-year commission would be opposed, and it would be impossible for that commission to have the same kind of close working relationship that has been achieved over a period of months in the discussions between the joint leadership and the administration.

The PRESIDING OFFICER. The time of the Senator from Illinois has expired.

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

Mr. PERCY. I yield the floor.

Mr. TUNNEY. I yield to the Senator from Washington.

Mr. MAGNUSON. Mr. President, I do not think this is worth being excited about. The Committee on Commerce has had some experience with commissions. We handle approximately 80 percent of the regulatory commissions.

When we have a short-term commission of 6 months or 1 year—as in the Percy amendment—they hardly have time to get organized. We have created commissions for which it has taken the administration a year to recommend commission members.

We are not arguing about the makeup of the commission. We just think that this is too short a time. Time is required for some of the things that need to be done, rather than just to have an interim period in which they would come up with a recommendation on institutional adjustments. We thought that perhaps over a period of 2 or 3 years some of these things might be handled by the commission, such as the reporting and monitoring of shortages and it might do both.

If there is a shortage of copper, I do not know that somebody is going to start a new copper mine. That is not the point. The point is that we want to know when the shortage of copper shows up. The purpose of the interim committee was to warn us of ending shortages so that some action might be taken. This applies to all the shortages and all the materials.

I do not think it is fatal as to whether it is 1 year or 2 years. It will be 6 months before the 1-year commission is even appointed or finds a place to meet.

I do not say that this administration is wholly at fault. We have found, in the case of shortages, that the administration, the executive department of the Government, has failed to see them, and we have been voices crying in the wilderness.

Let us consider the matter of power. How many years have we talked about the shortage of hydropower in my section of the country, but nobody has paid attention to it?

So we all agreed to combine the membership with the executive department and some Members of Congress. Perhaps they are not too smart—I think they are—but they will be a pike in a carp pond. That is the purpose.

This matter could remain downtown for 6 months with nothing happening; but when there was a shortage of minerals or other materials, the people involved would swarm down here and say, "Wait a minute. This may affect the stock market. It may affect what we are going to do. It may affect what we are going to spend for capital investments." That is the problem with respect to shortages.

Nobody wants to recognize shortages ahead of time, for fear that it might upset some economic applecart. We thought there might be some permanency with which to point out some of these shortages.

The Senator from Illinois, the Senator from California, and I want to do the same thing. It is high time we put somebody in charge of this. It cannot be left up to any executive department. I do not care whether they are Republicans or Democrats. They become enmeshed in their own feelings about it. As the majority leader said, some of them have their experts, and they do not want to listen to anybody else. Somebody has to point out these things.

The Senator from Illinois is a champion of small business. The big guys know where the shortages are. We do not need a commission to tell a hundred corporations in this country that deal with raw materials when the shortages are going to occur. They hire experts; they hire researchers. It is the little guy who does not know about the shortages. All of a sudden he wakes up and finds that they will not fill his order, and he has to lay off a hundred people in a 200-employee plant. We do not have to do this for the big business people.

The copper people and the silver people in my State know where the shortages are. They know how much silver they are going to have for the next 25 years. It is the small plant in Providence that makes silverware which does not have the information, and that is all we want to point out.

As the Senator from Illinois knows, there probably are some thing we can do. It is not necessarily the legislation. It may be many things. It may be interpretation of administrative rulings under any administration.

I was fearful that a 1-year commission would not get off the ground. I hope it will. Part of our railroad problem is related to the U.S. Railway Association Board's failure to act quickly. Now we have to spend days and weeks in the Committee on Commerce, trying to untangle the web and the problems.

That is our only purpose for making the life 3 years rather than 1 year. I think we are all trying to do the same.

I hope the amendment of the Senator from Wisconsin will be defeated, too. That would start off some real problems. There would be nothing but fights going on. There would be no shortage of fights or arguments; we would have plenty of them.

Mr. PERCY. Mr. President, may I have 1 minute on the bill?

Mr. TUNNEY. Mr. President, I yield to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I would like 1 minute on the bill to reply to the comment of the Senator from Washington.

With respect to the temporary nature of the commission, the administration agreed it should be a short-range structure. I think knowing it is a short-term commission would be helpful. If it were a 3-year commission it might take months to get the appointments. With that amount of time there would be a sense of leisure, but with a requirement for a 6-month report I feel the administration would surely try to designate their appointees in weeks and we could get underway quickly. With a $3 million budget there is needed housing and matters of a more permanent nature, and more money would be spent. With a smaller amount of money they can operate much more quickly.

Mr. TUNNEY. Mr. President, I would like to make a few comments with regard to the Percy amendment. I recognize that the Senator is attempting to prevent from happening in the future what happened in the past to the Paley Commission report, and the report that was transmitted to Congress by the National Commission on Material Policy in June 1973. Nothing has been done.

As the Senator knows, we who serve on the Committee on Commerce had legislation we were considering. I introduced a bill last December which was the first bill on an oversight policy relating to those shortages. Other Senators later introduced legislation. I know that the Senator from Washington had a substantial amendment to my bill.

It is clear we were developing in the committee with the hearings we were holding a policy for consideration of a proper mechanism in order to monitor these shortages. I do not think we had reached an agreement in committee, nor do I think there was a consensus on how to establish that mechanism, but at least we were studying it and coming closer to the point where decisions were going to be made.

Then the administration met with the leadership, and they came up with an agreement that is the subject of the legislation before us today.

The National Commission on Material Policy stated:

We realize that the Executive and Congressional reorganizations we have just recommended will not come about overnight. They would in any case require careful study, elaboration, and refinement. It is the principles of organization in relation to policy that concern us, not specific details. We believe, however, that some action must be taken promptly toward rationalizing the policy-making process in the materials, energy, and environment areas, and coordinating interacting activities of existing agencies.

We recommend that 11.3 . . . a temporary Natural Resources Coordinating Committee be established on an interim basis at the highest policy-making level, to begin the task of integrating materials, energy, and environment policy.

This Committee might, for example, be composed of the Secretary of the Interior, the Director of the recently created National Energy Office, and the Chairman of the Council on Environmental Quality, and perhaps the heads of other departments or agencies. In addition, the Committee would need a small but highly competent staff to assist it. Such a staff should be capable of taking authenticated data and information from the professionals in the operating agencies as well as from disinterested experts outside of government, and distilling from them the broad questions of public policy. The principal function of such a staff would be the sifting of policy options for the Committee and the President on those issues which cannot be settled by the heads of existing agencies. The Committee could be abolished at such a time as a comprehensive resource agency was created, for its coordinative function would be assumed by such an agency. It might be reconstituted, however, in some forme, in association with the new agency.

Mr. President, the point is that we need an agency now to start monitoring the shortages. Surely such a commission could be involved in studying the kind of institutional changes that are needed in order to establish a mechanism, a commission, or coordinating counsel on a permanent basis. This could be one part of the study, but the other part should be the coordination of data from the agency and trying to distill it and explain it to Congress with regular reports and to the executive branch.

Mr. President, the Senator from Illinois made a statement at our hearings, and I quote from that statement. He stated:

When we make all the reports—what happened to the Paley Commission Report in the early 1950s? The evidence was there, but nobody did anything about it.

What can we do to insure that once we get the data and get the information on critical shortages that we actually are going to do something unless faced with an immediate crisis on hand which requires that we act?

Mr. President, in that statement the Senator recognized clearly that what we cannot afford is another study. The problem with the Senator's amendment is that he provides a 1-year study commission, and it is going to be at least another year after that 1-year study commission has submitted its report before we legislate on that report and have another commission appointed to do the monitoring. So it will take the Congress a minimum of 2 years in attempting to get the kind of monitoring of material shortages we need now.

The Senator can see that we do not take away from the commission any power to start monitoring now the data on material shortages. But the Senator has cut back funding from $1 million a year as it was in the Commerce Committee bill, to $500,000 for 1 year. That is such a small amount it probably means there will be a staff of only six or seven professionals and that there will be no way that the staff is going to be able to coordinate the collection of data from the various agencies and start monitoring the material shortages that exist and at the same time prepare a study on the kind of institutional changes needed.

That is where I feel the Senator from Illinois is going off in opposite directions. I think it is too bad because I know how sincerely interested he is in the problem.

However, if Senators read the recommendation of the National Commission on Materials Policy, they will find that a 3-year commission follows very closely these recommendations. When the Senator from Illinois is saying that what we need is another study. This will be the fourth study we have had about the need to have the commission to monitor these shortages. This will be the fourth study. What we are saying in this bill is that the commission would have a double responsibility. It would have an opportunity to study what is needed and to collect the data. We give them enough money to do it. We give them a million dollars a year. I shall just have to oppose the amendment, and at the appropriate time I shall offer a substitute amendment which, in effect, will provide for a 2-year commission, instead of the 3-year commission.

I have accepted in my substitute language the Senator's language that there should be a report to the President and to Congress within 6 months of the date of enactment of this act as to what kind of commission is needed.

I yield 3 minutes to the Senator from Ohio (Mr. TAFT).

Mr. PERCY. Mr. President, will the distinguished Senator permit me, because former Secretary Romney is waiting to see me, make a brief comment?

Mr. TAFT. I yield.

Mr. PERCY. I would like to answer the question. It is true that the Senator made some comments at the hearings. To be precise, I said at that time:

As we go through these hearings, I think we have not only an obligation to set up a proper government structure interrelated with the private sector for gathering this information, but also to keep in mind everlastingly when we get that information let's

do something about it even if we don't happen to have a crisis at that particular moment.

I did not at that time prejudge the nature of the organization to be created I did not agree to the creation of an independent commission. I merely said we should decide.

I ask unanimous consent that the joint leadership letter dated June 10, 1974, sent to all Senators, and signed by Senators MANSFIELD, ROBERT C. BYRD, HUGH SCOTT, and GRIFFIN, be printed at this point in the RECORD.

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

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, D.C., June 10, 1974.

DEAR COLLEAGUE: The bill establishing a temporary Commission to examine the issue of supplies and shortages (S. 3523) was reported last week by the Committee on Commerce and will be called up for consideration in the next day or so. This measure arose out of efforts undertaken by the Joint Leadership in cooperation with the Joint Leadership of the House, and with Secretary Simon, Director Ash, Chairman Dunlop, Chairman Stein and Chairman Flanigan.

As it was agreed to by all concerned and as it was introduced in the Senate by the Joint Leadership, this bill was designed to establish a temporary Commission comprised of representatives from the Congress, the Executive and the private sector to recommend institutional changes in order to equip the Nation with an adequate coordinated information system regarding resource, material and commodity needs, to provide a facility that might forecast future areas of potential crisis with respect to the availability of these items and to provide the Congress, the Executive and the public with analyses of policy options that might be involved today in order to offset or mitigate any potential crisis. To accommodate this purpose the original bill contemplated that the temporary Commission itself take on the fundamental tasks by way of examination and within six months, give Congress and the President its recommendations as to what, if any, specific institutional needs are required to carry on these functions on a continuing basis.

The Commerce Committee has amended the original proposal to give the "temporary" Commission a three-year life and $3 million to undertake its examination. While we respect and appreciate the Committee's contribution to this effort, we feel that it is essential to preserve the joint Executive-Congressional cooperation achieved with this initial step on this vital issue.

The Joint Leadership therefore opposes this Committee amendment and intends to join in an amendment to be offered by Senators Percy and Ervin that would first restore to six months the time in which the Commission must make its specific recommendations for permanent institutional adjustments—time enough in view of the three major studies of this issue that have been conducted in the past twenty-two years. The amendment will also provide that the temporary Commission terminate its interim crisis forecasting operations at the conclusion of one year—allowing it to perform these tasks only on a transitional basis pending Congressional action on the Commission's specific recommendations for permanent institutional adjustments required to carry on these functions on a continuing basis.

Finally, because this proposal was fashioned out of a cooperative endeavor between branches, between Houses and between parties, in addition to supporting the Percy-Ervin amendment, it will be the Joint Leadership's intention to endeavor to preserve the proposal intact by opposing any further substantive modifications. We feel that the cooperation exhibited in taking this first step with regard to future crises that confront the Nation is of paramount importance. Continued cooperation of this nature on this issue is essential if we are ultimately to provide an effective facility with which to help the Congress, the Executive and the National deal with this vital aspect of our economy.

We thus urge you to join us in supporting the Percy-Ervin amendment and in opposing any further attempts to modify this bill when it is called up.

Sincerely,

ROBERT P. GRIFFIN.
ROBERT C. BYRD.
MIKE MANSFIELD.
HUGH SCOTT.

Mr. PERCY. I think that letter makes perfectly clear that we are not attempting, and the original concept was not, to have a monitoring commission that would take an extensive staff and would take a great deal longer. The whole intent and purpose was to take a look objectively at the organizational structure of government and then make recommendations as to how it should be reorganized. It is not intended to be another, fourth study commission. We know we have a problem. We think the structure of government is adequate. The very fact that the executive branch of government has offered to cooperate as extensively as it can with a temporary 1-year commission would make available to the commission those resources of the executive branch of the government cooperatively, willingly, and exhaustively, but they have indicated they would not support a 2- or 3-year commission. Obviously, if it is passed into law, the law will be observed, but we have an agreement worked out which is a delicately balanced agreement.

Mr. MAGNUSON. Does the Senator have a statement that they would not accept it?

The PRESIDING OFFICER. Who yields time?

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

I would just like to ask the Senator from Illinois if he is aware of the language which I just read from the 1973 study of the National Commission on Materials Policy and the import of that langauge when they recommended that—

A temporary Natural Resources Coordinating Committee be established on an interim basis at the highest policy-making level, to begin the task of integrating materials, energy, and environmental policy.

The point is that the need for positive action was recognized back in 1973. It was recognized by Paley in 1952. But there is a need now to start integrating. If the Senator's amendment is accepted, that process for integration is not going to take place now. It will take place 2 years from now, because it is going to take 1 year, with the $500,000 that would be given to the commission, to make recommendations on the structure of the permanent commission, and then it would take anywhere from 9 months to a year to get the recommendations through Congress, and signed by the President, and get the commission set up. So we are talking about a delay of 2 years.

I would like to ask the Senator if he does not agree that by accepting his amendment we are in fact saying that the commission's recommendation is not appropriate; that the Congress feels we should not act on its recommendation.

Mr. PERCY. Actions have been taken. The Council on Energy Policy has been created. We have established the Federal Energy Administration, providing coordination in energy and natural resources. We have agreed for the first time on an Under Secretary of State for Economic Affairs. We are beefing up substantially the Economic Bureau in the Department of State. I have no doubt that the Commerce Department has beefed up its particular activities. So actions have been taken, as former Secretary Shultz has indicated in his talk to the Comptroller General of March 27.

Mr. TUNNEY. I am talking about materials.

Mr. PERCY. A temporary commission should settle that. That is what we are trying to do here.

Mr. TUNNEY.But we are talking about materials; we are not talking about energy. What you are saying is that we are not going to accept the recommendation on materials of the task force. The task force went on to say that if the temporary commission was set up to integrate these various policies and to monitor the gathering of the data, it could be abolished as a comprehensive resource agency was established. They recognized it would be abolished at that time.

I think one of the great problems with the Senator's amendment is that it does not provide for an on-going monitoring process during that period of time when the permanent commission is being set up. If we extend it for 2 years—forget the 3 years; say we extend it for 2 years—and we have a report from the commission within 6 months recommending a permanent commission, then during the next 18 months Congress is acting on that proposal and that permanent structure is being set up, there would still be a commission which would be monitoring the data, and that would be right in line with the June 1973, Materials Commission report.

I yield to the Senator from Ohio.

Mr. TAFT. I thank the Senator for yielding.

Mr. President, I want to express at the outset my acceptance of the logic of the distinguished chairman of the committee and the Senator from California.

It seems to me, first of all, that it does not make a terrible amount of difference what exact period we arrive at, but that the year or 6-month period to me seems to be wholly inadequate.

I have noted in the discussion of the bill by the distinguished Senator from Illinois that it seems to me he has narrowed the scope of the bill in his discussion a great deal more than the language of the bill itself states.

The language of the bill gives responsibility with regard to materials of all kinds, I might say, not just particular metals or supply shortages of that type, but agricultural commodities, manufactured products, and many other items. I will have an amendment to discuss later in this regard which deals with questions of shortages due to more than the lack of supply of basic raw materials. For example, it deals with prices, as I think it should.

Many of the shortages depend upon economic conditions. There is no ammonia shortage in the world, and yet one of the most serious shortages is that of ammonia fertilizer. There is all the ammonia we need if we had the finances and the fuel to get it. We have not geared ourselves to making an adequate supply actually available to meet the needs, and we did not project the needs correctly. This commission is given that particular type of responsibility in the body of the bill.

The PRESIDING OFFICER. All time on the amendment has expired.

Who yields time?

Mr. TUNNEY. I yield 3 minutes to the Senator on the bill.

Mr. TAFT. I thank the Senator for yielding. I would just make this point: these are broad responsibilities. There is nothing in the bill to prevent the commission from reporting within 6 months and from reporting on what the Senator from Illinois wishes them to report on; that is, the best structure of the future for an agency to monitor these areas, to give us the warning signs, to do some planning and to make some recommendations to Congress and to the executive branch.

I think it would be a great mistake to cut the commission off at that point. If we are going to cut it off, we ought to amend all the language of the bill to narrow the scope very strictly down to recommendations as to structure. We would have to narrow it, I think, a great deal as to the materials that are covered.

I think we must really move on this because there is a tremendous problem today that we have come to recognize. I am not for setting up another commission merely to make another report on which Congress will eventually act. I think we have got to go further than that and set up a commission that has some responsibility for doing something about these problems, and for making reports not just as to structure but also as to substance. This is going to take a more comprehensive and better-financed commission than would be provided by the amendment of the Senator from Illinois.

At this point, for the information of the Senate, I shall make a statement with regard to my amendments 1408 and 1409, which I expect to bring up tomorrow.

Mr. President, I wish to explain the amendments to S. 3523 which I plan to offer tomorrow.

Amendment 1408 would allow the President to enforce the commitments to inflation restraint actions, including some commitments to expand productive capacity or to limit exports and thus combat domestic supply problems, which were given by industries and firms during the price decontrol process. I do not think many Members of the Congress fully realize that commitments were obtained voluntarily from hundreds of firms in various industries by the Cost of Living Council during the decontrol process. In 17 sectors of our economy, the Council obtained such commitments from the leading firms to take serious and constructive measures to alleviate various inflation-related problems existing in their industry. In all but two, fertilizer and zinc, the major firms committed themselves voluntarily to some degree of price and/or profit restraints.

Commitments to increase production and to expand capacity—exactly what the bill before us is all about—were agreed upon by firms producing fertilizer, cement, zinc, semiconductors, petrochemicals, tires, and tubes, canned fruits, and vegetables, and coal. Firms in industries such as fertilizer, petrochemicals, paper, and aluminum, made various commitments designed to limit exports or to maintain historic patterns of domestic sales, which are also in keeping with the purposes of this bill. Improved price reporting to the Bureau of Labor Statistics was agreed upon by firms producing cement, semiconductors, and tires. Firms in the petrochemical sector committed themselves to preparing customer allocation plans, and to submit these plans to the Government.

I believe that for Congress not to provide the Government machinery to monitor and enforce these commitments is to weaken the fight against inflation and to undermine further the Government's credibility. The recent announcement by the Ford Motor Co. of price increases which could conceivably be in compliance with such a commitment only through an escape clause, with mere prior notice and alleged justification to the Government, should serve as an indication of the fragility of these commitments unless specific legislation is passed.

I cannot emphasize too much that my amendment involves more than a question of economics, although it could certainly make a contribution to inflation control. Americans are already questioning the Government's resolve and ability to combat inflation, while at the same time the effectiveness of the entire Government is brought under heavy fire. This Senate in its action on S. 2986 tabling the entire proposal after frustrating debate, helped confirm that impression. Yet, in the case where an agency of the Government already has taken actions which will help somewhat to restrain prices, the Congress has not taken the first steps either to back up these actions or to protect companies which adhere to their commitments from competitors which may not do so. The message to the American people about Congress' resolve to fight inflation and to enforce the Government's own earlier actions is unmistakably clear.

My amendment would insure that these agreements with the Government are legally binding as they should be, particularly since they were made voluntarily in exchange for specific Government actions. It does so in a manner which takes into account objections expressed about previous proposals. While the Muskie amendment debated last month provided unlimited authority to reimpose controls on violators of decontrol commitments and thus spurred fears of irresponsibly punitive Government actions, my amendment limits use of this remedy "to the extent necessary to apply appropriate corrective action" and requires a statement from the President explaining how he has complied with this requirement. In recognition of industry's arguments that major changes in the economic picture necessitate changes in the terms of various decontrol commitments, the President is given explicit authority to modify any commitment if he determines that modification is in the national interest and publishes the reasons for that determination in the Federal Register. However, although the President could receive advice on such matters from affected industries, the decision to modify a commitment would clearly be the Government's alone.

With these modifications I can see no further objections to the provisions specifically allowing enforcement of decontrol commitments. Furthermore, I believe that S. 3523 is an ideal vehicle for this amendment. As I have pointed out, some of the decontrol commitments deal directly with the problem of alleviating future domestic shortages and were designed to increase domestic supplies. Others generally deal with the goal of facilitating domestic price stability, a major goal also of the Temporary National Commission on Supplies and Shortages.

Amendment 1409 would make the directive of the Temporary National Commission on Supplies and Shortages both more realistic and more responsive to perhaps the principal problem which generated this bill, even though the word is not mentioned once in the text—inflation.

The first change faces up to the fact that our domestic supply problems may not totally be described as the result of "shortages or market adversities." Although the latter term is fuzzy enough to leave some doubts.

The amendment states specifically that the Commission shall report upon wage, price, and business practices which also may contribute to supply problems. It is no secret for example, that the sales and goods distribution policies, investment decisions, and collective bargaining structures in particular industries may have just as much to do with adequate supplies of various items in a given area as actual shortages. When one reflects that supply problems, and shortages for that matter, are often questions of price rather than actual inability to obtain needed items, the necessity of including wage, price, and business practices within the purview of the Commission becomes even more clear. While this is always a touchy area for politicians to act upon, it is one which must be included and emphasized if the Commission is to seek answers to supply and inflation related problems in a realistic and comprehensive manner.

The second basic change makes clear that the Commission is not just to explore the extent of supply-related problems. But also to assess their adverse effect, or possible adverse effect, upon consumers in terms of price and lack of availability of desired goods. The Commission also would be charged with assessing alternative actions necessary to mitigate these effects.

This change would emphasize that the Commission should be oriented toward the people problems associated with short supplies, as well as the actual logistical problems of increasing the amount of goods available. The extent to which shortages are a problem depends largely upon the impact of these shortages on Americans' jobs and pocketbooks. Although the question of jobs is treated in the bill through mention of possible impairment of productive capacity, the possible effects of supply problems on consumers are not treated specifically. Most Americans will feel the impact of shortages in the pocketbook, as they have this year. My amendment will help assure that the Commission assesses the magnitude of and deals with this problem.

That the Commission confront the inflation issue is all the more imperative because actions which would often increase supplies effectively—price increases—are inflationary in themselves. It is imperative that these kinds of tradeoffs be considered carefully and as a priority of the Commission.

The amendment also adds to the bill by emphasizing that there are answers to short supply problems other than increasing availability of the goods in question, such as conservation efforts. Like the other changes, this research, and stockpiling provision of the amendment recognizes the complexity of the Commission's job and should help to foster a more realistic approach to it.

Mr. TUNNEY. Before yielding to the Senator from Alaska, I am going to send to the desk, a substitute for the amendment of the Senator from Illinois, and I ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. TUNNEY's amendment follows:

Strike the final two paragraphs of the amendment and substitute in lieu thereof:

"On page 6, strike line 18 and insert in lieu thereof 'June 30, 1975 and June 30, 1976.'."

Mr. TUNNEY. I will explain the substitute. Basically what the substitute does is to restore the $1 million per year funding, and it makes the commission's life 2 years.

Now I yield to the Senator from Alaska.

Mr. STEVENS. May I ask if there is time on this substitute? All the other time was yielded. Is there time on the substitute?

Mr. TUNNEY. How much time do we have on the substitute? Do we have any time on the substitute?

The PRESIDING OFFICER. Thirty minutes remain.

Mr. TUNNEY. To each side, or total?

The PRESIDING OFFICER. Fifteen minutes to a side.

The Chair will state that the amendment submitted by the Senator from California is not a proper substitute, but it can be offered as an amendment to the amendment.

Mr. TUNNEY. I offer it as an amendment to the amendment.

The PRESIDING OFFICER. There are 15 minutes to each side on the amendment.

Mr. TUNNEY. I yield 3 minutes to the Senator from Alaska.

Mr. STEVENS. I would like to say to my friend from California that, for the reasons just stated by the Senator from Ohio, I agree with what the Commerce Committee has done, and I support the conclusion that we have reached that we need some organization that can take some action now and, hopefully, guide us through a very difficult interim period as far as materials are concerned.

Having been in this town and having watched what happened to the Paley Commission report in 1952 because there was a change in administration, I urge Senators to reconsider the 2-year period because I think it should be at least 2½ years.

I am very hopeful, of course, that the party of my choice will control the administration in 1977. But I do not want to see a report come into Congress in the middle of the campaign year of 1976. Win or lose, I do not care who it is, I think it is going to be ignored.

I do believe there should be on the desk of the new President in 1977 a report that will be a guideline for action, and that by some time at the end of the 2½-year period—I suggest a 2½-year period—there be some constructive suggestions to us for action, and that the commission should be authorized to recommend that action in the meantime, if there are any interim steps we can take.

I firmly believe that as we consider in the Commerce Committee, as we have, a bill to deal with recycling, these bills to deal with these problems of natural gas and the problems of the oil industry that we face, that we are just closing our eyes if we say that all we can do now is to create a commission to tell us what the structure of government should be to deal with the most pressing problem the Nation has.

Mr. TUNNEY. Mr. President, will the Senator yield in order that I may request the yeas and nays?

Mr. STEVENS. I yield.

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

The yeas and nays were ordered.

Mr. STEVENS. I shall not take much longer, because I know we should get a vote on this amendment tonight. But again I hope that the Senate will recognize what the Commerce Committee tried to do, and that was to really meet the middle ground, to have a commission that will study this structure problem but, at the same time, will monitor the material shortages, will be able to make recommendations, and will be able to come up with some concrete recommendations for permanent solutions to the most vexing problems that we have. As far as I am concerned, they are in the minerals and metals field. I do not think the energy crisis is anything like what the materials and metal crisis is going to be in the 1980's, and we ought to get going on that now and not just sit around and study what kind of governmental structure ought to be studying this problem.

Mr. TUNNEY. I want to thank the Senator from Alaska for his statement.

I do not choose to amend my amendment because we are trying to get a middle ground in between the 3 years—that is the committee position—and the 1 year that is the Percy position, and I think that 2 years does represent that middle ground.

I would prefer the 3 years. I would prefer that we work out a permanent commission in our legislative committees, and within the next month or 2 bring a bill to the floor that would have created a permanent commission. But we are going the route we are going. It so happens that the agreement was made with the congressional leaders and the administration. So I think we have to do the best we can with that understanding and agreement. But 2 years is an absolute minimum, it seems to me, and I will be very disappointed if we lose.

I understand where the power is, and I understand that the leadership is supporting the Percy amendment.

As the person who sat at those hearings, every one of them and listened—I think I am the only person here who can say that in the entire Senate, who sat through all those hearings and listened to every witness—it is clear that we need a permanent commission now, that we need to have monitoring now, and it is also clear to me that if the Percy amendment carries what we are going to have is a delay of about 2 years before anything is done, and that is a tragedy, in my mind.

I will just say this: That every witness, except for the administration witnesses—and if I am wrong I hope the staff will correct me—said that we needed such a commission to monitor the materials shortages. The administration witnesses opposed it. But every other witness drawn from industry and academia said we needed such a permanent commission. That is why we put out the 3-year bill.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BROCK. I yield myself such time as I may consume on the substitute perfecting amendment.

Mr. President, the Senator from Alaska, I think, made an important point when he talked about the time limit of this particular amendment. The amendment would bring this commission to a conclusion in the summer of 1976. I wonder if anybody honestly believes anything is going to happen to that report at that time. I do not. I would be very much surprised if many Senators who are here in a Presidential year would.

I think the point is absolutely accurate. I am not so sure that I honestly think that the 3-year period is a whole lot better, although it certainly is preferable to 2 years, because I am a little concerned in light of our past experience

with the Paley Commission report and others that a new President is going to want a new commission that he appointed and in whom he might have greater confidence.

I am afraid this commission report is going to gather a lot of dust on the shelf without any positive result if we do not act on it quickly. The reason why I support the Percy amendment is that we are limiting with this amendment the functioning of the commission to 1 year.

I would point out not only is there a political logic to trying to get our answers quickly so that we can be more responsive in a legislative sense, but I think we are trying as well to deal with the point raised by the Senator from Ohio, and I think that clearly spells out the distinction between the two approaches.

The Senator from Ohio said we were—in the amendment of the committee or the bill of the committee—not so concerned as to the structure as we were to the substance of the problem.

It is the substance of the problem that is giving us a headache, and yet we cannot deal with it because there is no structure. That is the problem. That is the essence of it.

How the Senator can say he is going to set up a commission for 2 years, 3 years, or any period of time that does nothing but monitor and really get at the root cause of a material shortage I do not understand.

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

Mr. BROCK. I yield.

Mr. TAFT. I would just like to comment to the Senator from Tennessee that in my remarks I pointed that out very clearly that I think there is a good deal in what the Senator from Illinois says.

There is absolutely nothing in this legislation to stop the commission from making a report on structure within 6 months. I think they should do so, and it would be ideal if they would do so. But the bill is not related just to structure. That is just one small paragraph. The commission has many other responsibilities.

I think that perhaps the amendment of the Senator from California might better be taken up by Congress and by a congressional committee today, without waiting. But irrespective of that issue, as I say, I think there is nothing to prevent the commission from making a report on structure, and at the earliest possible date, which I hope they will do.

Mr. BROCK. I expect they will do so, and as a matter of fact, the amendment of the Senator from California requires that they do so within 6 months. But the fact that structure, as the Senator says, is only a small part of this, is exactly what is wrong with it, because it is structure or the lack of it which impedes the resolution of the problem.

What the proposal before us today would do is set up a superstructure to monitor without any continuum, without any real reliability, and without any study, frankly, as to what the means are.

I wonder, as to some of the comments that were made on the floor by the Senator from California—he says the Senator from Illinois does not have enough money in the bill, that we cannot, with a half-million dollars, decide what the best mechanism is for dealing on a continuing basis with the problem—if sufficient thought has been given to what we have available to us right now in terms of assistance and in terms of information.

We have the Office of Business Research Analysis, which does, I think, a remarkable job in commerce, largely on a voluntary basis. We have the Bureau of Economic Analysis, the Bureau of the Census, the Bureau of Mines, the Geological Survey, and the Economic Resources Survey in Agriculture. We have in EPA something which I think is absolutely incredible, and essential if we are to have an intelligent rational Federal policy, called the strategic environmental assessment system to evaluate the effect of environmental policies to production, income, and employment.

Nowhere in this bill, Mr. President, are any of these things. Nowhere is there any adequate consideration to the resources that are available to us now; wholly absent is any semblance of coherence or a fulcrum through which we can focus and channel the information on which to act.

That is what the Senator from Illinois is trying to do with his amendment. He is advocating structural change. He is trying to find a mechanism to achieve structural change, and that is the essence of our problem here today. That was the essence of the bill which the majority leader, the minority leader, and a number of us introduced. To say we are not going to deal with structure is incredible to me. I think it is self-defeating. That is what we have been doing for years.

When do we get to the structural question? That is what the Senator from Illinois is trying to do, in my opinion.

So I hope very much that the perfecting amendment of the Senator from California, compromise though it may be—I do not consider it as such—will be defeated. I think it is counter-productive.

Mr. PERCY. Mr. President, will the Senator yield for a brief comment?

Mr. BROCK. Yes.

Mr. PERCY. The Tunney perfecting amendment would provide that the commission report by midsummer 1976. I ask, from a practical standpoint, knowing that that is a Presidential year, what possible legislative resolution could be accomplished then?

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

Mr. PERCY. I believe the so-called Percy amendment has the advantage of this intangible ingredient, that can hardly be measured, of what would be termed full and complete cooperation.

As the majority leader has pointed out, this cooperative agreement has been worked out between the executive branch and the legislative branch of the Government. What we would have is the active participation of the Director of the Office of Management and Budget, the availability of its highly skilled assistance. What we would have is full cooperation of the Secretary of Commerce and the Secretary of State, whose experts would be available to this commission.

That is why I obviously much prefer my amendment and will oppose the perfecting amendment as proposed by the distinguished Senator from California.

Mr. TUNNEY. Mr. President, will the Senator yield just for a point of clarification?

Mr. PERCY. Mr. President, unless the Senator from Tennessee wishes to make further comments, this side is prepared to yield back the remainder of its time.

Mr. TUNNEY. I am prepared to yield back the remainder of my time also, but I yield myself 30 seconds.

The Senator said that the report of the commission under my perfecting amendment would be in June 1976. That is not true. The report on structure would be 6 months from the time the bill passes and is signed into law by the President.

Mr. BROCK. Mr. President, the point is not the report. The point is that the commission expires at that time, and that is a very poor time for it to go out of business, when we are in the heat of a major Presidential campaign. Either we should continue it or we should not.

Mr. TUNNEY. Mr. President, I yield back the remainder of my time.

Mr. PERCY. I yield back the remainder of my time.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. PERCY. It is the understanding of the Senator from Illinois that if the perfecting amendment offered by the Senator from California is defeated, the vote would follow immediately, all time having expired, on the Percy amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. TUNNEY. But we do not yet have the yeas and nays ordered.

Mr. PERCY. I ask for the yeas and nays on the pending perfecting amendment.

The PRESIDING OFFICER. The yeas and nays have been ordered on both the Percy amendment and the perfecting amendment.

All remaining time having been yielded back, the question is on agreeing to the perfecting amendment of the Senator from California (Mr. TUNNEY). 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 Nevada (Mr. BIBLE), the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. LONG), the Senator from Montana (Mr. METCALF), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alabama (Mr. SPARKMAN), and the Senator from New Jersey (Mr. WILLIAMS) 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.

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

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from Kentucky (Mr. COOK), the Senator from Oregon (Mr. HATFIELD), and the Senator from New York (Mr. JAVITS) are necessarily absent.

On this vote, the Senator from Kentucky (Mr. COOK) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from Kentucky would vote "yea" and the Senator from Oregon would vote "nay."

The result was announced—yeas 28, nays 53, as follows:

[No. 249 Leg.]

YEAS—28

Abourezk	Humphrey	Montoya
Burdick	Inouye	Moss
Cranston	Jackson	Pastore
Domenici	Johnston	Pell
Eastland	Kennedy	Stevens
Hart	Magnuson	Stevenson
Hartke	McClellan	Taft
Haskell	McGovern	Tunney
Hollings	Metzenbaum	
Hughes	Mondale	

NAYS—53

Aiken	Dole	Packwood
Allen	Dominick	Pearson
Baker	Ervin	Percy
Bartlett	Fannin	Proxmire
Beall	Fong	Ribicoff
Bellmon	Goldwater	Roth
Bennett	Griffin	Schweiker
Bentsen	Gurney	Scott, Hugh
Brock	Hansen	Scott, William L.
Brooke	Hathaway	Stafford
Byrd, Harry F., Jr.	Helms	Stennis
Byrd, Robert C.	Hruska	Talmadge
Cannon	Mansfield	Thurmond
Case	Mathias	Tower
Chiles	McClure	Weicker
Clark	McIntyre	Young
Cotton	Muskie	
Curtis	Nelson	
	Nunn	

NOT VOTING—19

Bayh	Fulbright	Metcalf
Bible	Gravel	Randolph
Biden	Hatfield	Sparkman
Buckley	Huddleston	Symington
Church	Javits	Williams
Cook	Long	
Eagleton	McGee	

So Mr. TUNNEY's amendment was rejected.

Mr. PERCY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the yeas and nays on the Percy amendment be vacated.

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

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, I should like the RECORD to show that I voted "no" on the amendment.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR). Who yields time?

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

The PRESIDING OFFICER. On whose time?

Mr. ROBERT C. BYRD. I ask that the time be charged to both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered

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.

The Chair asks the Senator from West Virginia whether he wants the time to run against the bill.

Mr. ROBERT C. BYRD. I ask unanimous consent that no time be charged to either side on the bill for the remainder of this day.

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

ORDER FOR ADJOURNMENT TO 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 a.m. tomorrow.

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

ORDER FOR RECOGNITION OF SENATOR PROXMIRE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on tomorrow, Mr. PROXMIRE be recognized for not to exceed 15 minutes.

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

ORDER FOR CONSIDERATION TOMORROW OF S. 3523, NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES ACT OF 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the remarks by Mr. PROXMIRE on tomorrow, the Senate resume the consideration of the pending business and that the amendment of Mr. NELSON become the question before the Senate.

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

Mr. ROBERT C. BYRD. Mr. President, do I correctly understand that the amendment by Mr. NELSON is to be voted on, by virtue of an order already entered, not later than 12 o'clock tomorrow?

The PRESIDING OFFICER. The Senator's understanding is correct.

ORDER FOR RECOGNITION OF SENATORS ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Thursday, after the two leaders or their designees have been recognized under the standing order, Mr. JAVITS, Mr. HUMPHREY, and Mr. ROBERT C. BYRD be recognized in that order, each for not to exceed 15 minutes.

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

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

Mr. ROBERT C. BYRD. I yield.

Mr. HUMPHREY. Mr. President, have we a time agreement on other amendments to the pending business, S. 3523?

Mr. ROBERT C. BYRD. Yes; there is a general agreement on this bill, with an hour on each amendment, with the exception of an amendment by Mr. NELSON, on which there is a maximum of 3 hours.

Mr. HUMPHREY. I have two amendments, so they would be covered by the general agreement.

Mr. ROBERT C. BYRD. They would be.

Mr. HUMPHREY. I will not need that much time on my side, but they would be covered within the framework of an hour, equally divided.

Mr. ROBERT C. BYRD. They certainly would.

Mr. HUMPHREY. I thank the Senator.

H.R. 14434—ENERGY APPROPRIATION BILL—ORDER FOR TIME LIMITATION AND VOTE ON QUESTION OF GERMANENESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow at such time as the energy appropriation bill is laid before the Senate, which I understand will be at 1 p.m., there be a limitation of 20 minutes, to be equally divided between Mr. FONG and Mr. MUSKIE for further debate on the question of germaneness; and then I ask unanimous consent that at the conclusion of the 20 minutes the vote occur on the question of germaneness.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9:45 a.m. tomorrow .

After the two leaders or their designees have been recognized under the standing order, the distinguished senior Senator from Wisconsin (Mr. PROXMIRE) will be recognized for not to exceed 15 minutes.

Following the conclusion of Mr. PROXMIRE's remarks, the Senate will resume the consideration of S. 3523, a bill to establish a Temporary National Commission on Supplies and Shortages. At that time the question before the Senate will be on the adoption of the amendment by Mr. NELSON. In accordance with an order previously entered, at the request of the distinguished majority leader, the vote will occur on the amendment by Mr. NELSON not later than 12 o'clock noon tomorrow.

I ask the Chair whether I am correct.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Then, upon the disposition of that amendment, other amendments to the

bill will be in order until the hour of 1 o'clock p.m. At that time the Senate will resume the consideration of H.R. 14434, the energy appropriation bill.

There will then be a period of 20 minutes for debate on the question of germaneness which has been raised by the distinguished Senator from Hawaii (Mr. FONG). A rollcall vote will occur at the hour of 1:20 p.m. on the question of germaneness.

Amendments to the bill will then be in order. It is my understanding that several amendments are to be offered. Yea-and nay votes will occur during the afternoon on that bill.

Hopefully, the Senate will complete action on the energy appropriation bill tomorrow.

As for Thursday and Friday, the schedule has not become clear, but Senators will be appraised of the schedule for those 2 days at the earliest possible moment. Several bills are on the calendar awaiting action. Conference reports can be called up at any time. There is business aplenty, and rollcall votes are expected both Thursday and Friday.

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

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

ADJOURNMENT TO 9:45 A.M.

Mr. GRIFFIN. Mr. President, in accordance with the previous order, I move that the Senate stand in adjournment until the hour of 9:45 a.m. tomorrow.

The motion was agreed to; and at 6:25 p.m. the Senate adjourned until tomorrow, Wednesday, June 12, 1974, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate June 11, 1974:

IN THE AIR FORCE

The following officer to be placed on the Retired List in the grade indicated under the provisions of section 8962, title 10 of the United States Code:

To be general

Gen. Theodore R. Milton, [redacted] FR (major general, Regular Air Force), U.S. Air Force.

The following officer under the provisions of title 10, United States Code, section 8066 to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Ray B. Sitton, [redacted] FR (major general, Regular Air Force), U.S. Air Force.

IN THE NAVY

Rear Adm. Pierre N. Charbonnet, Jr., U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

HOUSE OF REPRESENTATIVES—*Tuesday, June 11, 1974*

The House met at 12 o'clock noon.

The Chaplain, the Reverend Edward G. Latch, D.D., offered the following prayer:

I will lift up mine eyes unto the hills, from whence cometh my help.—Psalms 121: 1.

Eternal Father, in this hallowed moment at the beginning of the day, dedicated to the upward look we bring our frail and faltering hearts to the rich resources of Thy redeeming grace. Give to us the invisible means of support we need to triumph over the trials of these troubled times. Steady us with Thy spirit that we may maintain our integrity unsullied by selfish ambitions and unspoiled by unworthy endeavors.

As we work to shape the shining future of our beloved land, grant unto us the courage, the vision, and the wisdom to labor for liberty and justice and peace for all and in all. To this end may we fail not man nor Thee.

In the spirit of Him who walked the upward way we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Heiting, one of his secretaries, who also informed the House that on June 8, 1974, the President approved and signed bills of the House of the following titles:

H.R. 1817. An act to provide for the striking of national medals to honor the late J. Edgar Hoover;

H.R. 6979. An act for the relief of Monroe A. Lucas;

H.R. 8215. An act to provide for the suspension of duty on certain copying shoe lathes until the close of June 30, 1976, and for other purposes;

H.R. 10972. An act to delay for 6 months the taking effect of certain measures to provide additional funds for certain wildlife restoration projects;

H.R. 11223. An act to authorize amendment of contracts relating to the exchange of certain vessels for conversion and operation in unsubsidized service between the west coast of the United States and the territory of Guam;

H.R. 12466. An act to amend the Department of aircraft, missiles, naval vessels, Act of 1973 to authorize additional appropriations for the fiscal year 1974, and for other purposes;

H.R. 12565. An act to authorize appropriations during the fiscal year 1974 for procurement of State Appropriations Authorization tracked combat vehicles, and other weapons and research, development, test and evaluation for the Armed Forces, and to authorize construction at certain installations, and for other purposes;

H.R. 12925. An act to amend the act to authorize appropriations for the fiscal year 1974 for certain maritime programs of the Department of Commerce; and

H.R. 14013. An act making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate insists upon its amendment to the bill (H.R. 12471) entitled "An act to amend section 552 of title 5, United States Code, known as the Freedom of Information Act," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. HART, Mr. BAYH, Mr. BURDICK, Mr. TUNNEY, Mr. MCCLELLAN, Mr. THURMOND, Mr. MATHIAS, Mr. GURNEY, and Mr. HRUSKA to be the conferees on the part of the Senate.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 7130, CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the managers have until midnight tonight to file a conference report on H.R. 7130, Congressional Budget and Impoundment Control Act.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CONFERENCE REPORT (H. REPT. No. 93-1101)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7130) to improve congressional control over budgetary outlay and receipt totals, to provide for a Legislative Budget Office, to establish a procedure providing congressional control over the impoundment of funds by the executive branch, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLES; TABLE OF CONTENTS

SECTION 1. (a) SHORT TITLES.—This Act may be cited as the "Congressional Budget and Impoundment Control Act of 1974". Titles I through IX may be cited as the "Congressional Budget Act of 1974", and title X may be cited as the "Impoundment Control Act of 1974".